



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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No. K/E/1034/1245 of 2015-16

Date of Grievance : 16/03/2016

Date of Order : 11/01/2017

Total days :

IN THE MATTER OF IN GRIEVANCE NO. K/E/1034/1245 OF 2015-16 IN RESPECT OF M/S. TECHNOCRAFT IND (I) LTD. C-5, MIDC, MURBAD, DISTRICT THANE, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING REFUND OF FAC.

M/s. Technocraft Ind (I)Ltd.,
C-5, MIDC,
Murbad, Dist-Thane.

(Consumer No.018013014343) (Hereinafter referred as consumer)

V/s.

Maharashtra State Electricity Distribution
Company Limited through its
MSEDCL, Kalyan Circle-II

(Hereinafter referred as Licencee)

Appearance : For consumer–Shri B.R.Mantri-Consumer’s representative.
For Licensee - Shri Palange- Nodal Officer.

[Coram- Shri A.M.Garde-Chirperson, Shri L.N.Bade-Member Secretary and
Mrs.S.A.Jamdar- Member (CPO)].

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission.

Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014'.

2] Short issue involved in this case is whether the Licensee -MSEDCL has charged and recovered FAC strictly as per the post facto approval of Commission.

3] In particular the consumer herein bearing No. 018013014343 MSEDCL Kalyan Circle-II alleges that FAC charged by MSEDCL for the period of November-2013 to August - 2014 is not according to the relevant circulars viz.

- 1] MERC/FAC/Fy - 2013-14/1350 dated 18/12/2014
- 2] MERC/FAC/Fy -2015-16/01469 dated 11/02/2016
- 3] MERC/FAC/Fy -2015-16/01481 dated 16/02/2016

It is prayed that the said bills for the said period be revised accordingly.

4] We have heard both sides.

5] Considering the argument on either side. We are of the opinion that the grievance can be disposed of by giving directions to the Licensee MSEDCL to recalculate the FAC strictly as per approval of the Commission and within a fixed time limit.

This matter could not be decided within time as the Hon'ble Chairperson took charge on 20/9/2016 of this Forum and the matter was reheard today itself.

Hence the order.

ORDER

1] MSEDCL is directed to verify the claim of the consumer as per post facto approval given by the Commission and refund / adjust the amount, if any due. This exercise be completed by the Licensee – MSEDCL within one month from the date of receipt of this order.

2] Compliance be reported within a period of two months from the date of receipt of this order.

Date: 06/01/2017.

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(L.N.Bade)
Member Secretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan.

NOTE

a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.

2] Consumer M/s Balbir Aloys Pvt. Ltd., holding HT connection with consumer No.018019020297 at Addl. MIDC Murbad, has submitted his grievance in Schedule – A dated 15/6/15. The Forum observed that consumer has not approached previously to IGRC. When the Forum enquired with CR of consumer, he replied verbally on 26/6/15 that Office of the Superintending Engineer, KCII has already communicated his matter to the Head Office vide Letter No.47821 dated 8/12/14 and hence he approached to the Forum without submitting any more X Form to IGRC again.

The Forum registered his grievance by allotting No.K/E/897/1096 dated 26/6/15 and the hearing was scheduled on 20/7/15 at 12:30 hrs. The letter for hearing vide No.203 dated 1/7/15 was served to the Nodal Officer of the KCII with its copy to the consumer.

The hearing was conducted on 20/7/15 and then was adjourned to 12/8/15, 1/9/15, 22/9/15, 6/10/15, 15/10/15 and lastly on 5/11/15.

The consumer in his Schedule-A sought nature of relief from the Forum as given below:

He prayed that amount charged by MSEDCL on account of AEC 1,2,3 & 4 and Additional FAC for the period from September 2013 to February -2014 should be refunded with interest from the date of levy till the date of refund. He claimed for the total refund of amount Rs. 1,98,05,453.21 Ps.

The consumer contended that he is claiming the above amount as per Appellate Tribunal Judgment dated 22/8/2014 in Appeal No.295 of

2013 and as per the order of Hon'ble MERC passed on 26/6/15 in Case No.95/2013 .

The part of his submission in his reply dated 21/7/15 is reproduced below:

Paragraph 13.25 at page 12 of the order in issue 4 under the caption of issue of refund of any excess amount charged to consumers with carrying costs ; it has been held as follows-

“..13.25 As regards the first point, the issue of over-recovery in terms of difference in time period of recovery considered by MSEDCL and that approved by the Commission had come up before the Commission in 19 identical Petitions filed by various consumers. In these Petitions, it was submitted that, on the basis of the Order in Case No. 95 of 2013, **MSEDCL should have started levying AEC only from the month of September, 2013. However, MSEDCL started recovery from August, 2013 itself, thereby violating the Commission's directives under that Order. During the proceedings of those Cases, MSEDCL submitted that it had rectified the error in levy of AEC, and refunded the amount erroneously charged to consumers during August, 2013 in the billing month of February, 2014. That has been reflected in the Commission's Orders dated 27 March, 2014 on those Petitions. However, during the present proceedings, Shri Sanjay Gupta, Ashok Hotel, Nagpur has raised the matter of refund of the excess amount recovered by MSEDCL due to early billing. Therefore, the Commission directs MSEDCL to review the refunds made by it so far on account of wrongful premature billing, and to make any remaining refunds due to consumers in the next billing cycle...**”

The Order in paragraph 17 thereafter holds that –

“17. However MSEDCL shall review the refunds made by it so far on account of wrongful premature billing and make any remaining refunds due to consumers in the next billing cycle”

Thus the conjoint reading of paragraph 13.25 and 17 makes it amply clear that the MSEDCL is under an obligation to review the refunds made by it so far to its consumers on account of wrongful premature billing and make any remaining refunds due to consumers in the next billing cycle. It is submitted on behalf of the consumer that though the MERC order has now reaffirmed the recovery of AEC1 and 2 what is required to be seen that the starting point of Levy of AEC must be from the month of September 2013 and not from the month of August 2013. The consumer submits that MSEDCL has no authority to levy and recover from the consumer AEC1 and 2 from the month of August 2013 but from September 2013.

Therefore the claim of the consumer for an amount of Rs. 23,32,646/- (Rs Twenty Three Lacs Thirty Two Thousand Six Hundred Forty Six only) along with 18% interest from the date of levy till the date of refund is liable to be refunded to consumer which was wrongfully charged on account of premature billing on these accounts.

The submissions as regards AEC 3 & AEC 4, it is submitted on behalf of consumer that Hon'ble Electricity Ombudsman, Nagpur vide its Order dated 22/12/2014 in Representation No. 68 of 2014 and other companion representations held that the consumer in those proceedings were entitled to the refunds of the amount of AEC 3 and 4 for the month prior to October 2013. The said order in no uncertain terms held in paragraph 17 of the order in that A careful perusal of the orders of MERC in Case No.28 of 2013 and 44 of 2013 shows that AEC3 and AEC4 were permitted to be recovered in six equal monthly installments starting from October 2013 onwards. However, the respondent raised demand in September 2013 in electricity bill for the month of August 2013. In fact the respondent should not have raised demand before October 2013. So the amount of AEC3 and AEC4 which was recovered prior to October 2013 cannot be retained. The said amount will have to be refunded to the appellants and that too with interest as per the provisions of 62(6) of the Electricity Act, 2003.

Also the contentions made by consumer in his letter dated 17/8/15 is narrated below:

As regards of AEC 1 & 2, The MERC vide its orders in case no. 95 of 2013 dated 05.09.2013 were permitted to be recovered from September, 2013 onwards. However, the MSEDCL raised demand in electricity bill for the month of August, 2013. (The said order is enclosed herewith for your ready reference)

Therefore, the Commercial Circular No. 209 dated 07.09.2013 issued by MSEDCL on the basis of the above order specifying the recovery of AEC's is violating the directions of MERC.

It is also submitted as regards AEC 1 & 2, paragraph 13.25 & para 17 in case no. 95 of 2013 and Miscellaneous Application No. 187 of 2014 **Hon'ble MERC has directed MSEDCL to review the refunds made by it so far on account of wrongful premature billing and make any remaining refunds due to consumers in the next billing cycle.** (The said order is enclosed herewith for your ready reference) Hon'ble Electricity Ombudsman, Nagpur vide its Order dated 22/12/2014 in Representation No. 68 of 2014 and other companion representations held that the consumer in those proceedings were entitled to the refunds of the amount of AEC 3 and 4 for the month prior to October 2013. The said order in no uncertain terms held in paragraph 17 of the order in that A careful perusal of the orders of MERC in Case No.28 of 2013 and 44 of 2013 shows that AEC3 and AEC4 were permitted to be recovered in six equal monthly installments starting from October 2013 onwards.

However, the respondent raised demand in September 2013 in electricity bill for the month of August 2013. In fact the respondent should not have raised demand before October 2013. So the amount of AEC3 and AEC4 which was recovered prior to October 2013 cannot be retained. The said amount will have to be refunded to the appellants and that too with interest as per the provisions of 62(6) of the Electricity Act, 2003.

18. In view of the above discussion, I pass the following order:-

- a) *The Representations are partly allowed.*
- b) *The Orders of the Forum are set aside.*
- c) *The respondent is directed to refund the amount of AEC-1 & AEC-2 to the appellants with interest at Bank Rate under Section 62 (6) of the Electricity Act, 2003.*
- d) *The respondent is further directed to refund the amount of AEC-3 & AEC-4 to the appellants which was recovered from them prior to October, 2013 with interest at Bank Rate under Section 2 (6) of the Electricity Act, 2003.***

The above order of the Electricity Ombudsmen, Nagpur is squarely applicable to the present case. The consumer therefore deserves to be granted refund of the recoveries made prior to October 2013.

Therefore, the claim of the consumer for an amount of Rs. 23,32,646/- (Rs Twenty Three Lacs Thirty Two Thousand Six Hundred Forty Six only) towards AEC 1 & 2 and Rs. 11,33,648/- (Rupees Eleven Lacs Thirty Three Thousand Six Hundred Forty Eight only) towards AEC 3 & 4 in aggregate (23,32,646+11,33,648= **Rs. 3466294**) along with 18% interest from the date of levy till the date of refund is liable to be refunded to consumer, which was wrongfully charged on account of premature billing on these accounts. (Revised calculation chart is enclosed).

Licensee contended their submission vide letters No. 2852 dated 17/7/15, 3238 dated 12/8/15, 3492 dated 1/9/15 and 4100 dated 19/10/15 . The Licensee in their reply referred the following Hon'ble MERC orders and their Departmental Circular.

- 1] MERC Case No. 28 of 2013 dated 3/9/2013 (AEC-3 & 4)
- 2] MERC Order in Case No. 44/13 dated 4/9/13 (FAC).
- 3] MERC Case No. 95/2013 dated 5/9/13 (AEC 1 & 2).
- 4] MECDCL Commercial Circular No.209 dated 7/9/13.
- 5] MERC Order in Case No.144/13 dated 27/3/2014.
- 6] MERC Order in Case No.95/2013 dated 26/6/15.

The Licensee contended that MSEDCL vide its Circular No.209 dated 7/9/13 have included and combined all the Additional Energy Charges (i.e. AEC 1 to 4) under the single head, i.e. AEC which will be indicated on the energy bill. The Licensee further contended that in the orders in case No. 28, 44 and 95 of 2013, MERC ruled that from the respective Order onwards MSEDCL will recover the variation in energy charge component of the amount billed by MSPGCL to MSEDCL as approved by MERC from the consumers through the FAC mechanism. Further, MERC also allowed MSEDCL to recover the variation in fixed charge component of the amount billed by MSPGCL and amount billed by MSETCL to MSEDCL as approved by MERC from the consumers in proportion to the approved Average Billing Rate of respective consumer categories, under intimation to MERC.

The MSEDCL vide its letter dated 23/9/13 already apprised the Hon'ble Commission about the said Circular and the recovery mechanism mentioned therein. The Hon'ble Commission in its order (Case No. 144 dated 27/3/14) has allowed the said mechanism.

Below related paras mentioned by Hon'ble MERC in case No.144/13 are reproduced below:

4. The Respondent MSEDCL in its reply to the Petition dated 11 November, 2013 submitted that:-

a) Based on the Orders issued by the Commission i.e., Orders in Case No. 28 of 2013, Case No.44 of 2013 and Case No. 95 of 2013, the consolidated amount of Rs. 5342 crore for entire recovery to be done by MSEDCL from its consumers in line with said Orders. Total amount of Rs. 5342 crore is to be recovered from consumers of MSEDCL by the ways of Additional Energy Charges (i.e. AEC-1 to AEC-4) and Additional FAC. The Respondent MSEDCL combined all the charges under one head and indicated it as AEC in energy bills.

b) In Respondent MSEDCL Circular No.209 dated 7 September, 2013, the Respondent MSEDCL indicated the category-wise Additional Energy Charges (AEC) and additional Fuel Adjustment Charges (FAC) to be levied on all consumer categories, which are in accordance with the directions issued by the Commission.

c) *The Respondent MSEDCL in its Reply also clarified the recovery mechanism for implementation of the Commission's various directions. The relevant submission is reproduced below:*

23. It is important to mention here that MSEDCL vide its letter dated 23.09.2013 had appraised this Hon'ble Commission about the said Circular No. 209 dated 07.09.2013 and the recovery mechanism mentioned therein. In the said letter MSEDCL had also categorilly stated that in order to avoid complications in implementation of Order dated 3rd, 4th and 5th September, 2013, MSEDCL will be levying all AEC (i.e. 1 to 4) under one head of AEC. Further, MSEDCL in the said Letter had also mentioned that; as this Hon'ble Commission has allowed MSPGCL to recover its amount from MSEDCL from October, 2013; MSEDCL had started charging the consumers from September from September, 2013 itself.....

25. It is submitted that in the petitions the petitioners have erroneously claimed that the Order dated 05.09.2013 allows MSEDCL to recover the respective AEC (AEC 1 to AEC 2) from the billing month of September, 2013 will suffer huge financial consequences, as the bills for September, 2013 will be raised in the month of October, 2013 and the recovery due to the billing cycle stating in the month of September, 2013. MSEDCL will suffer carrying costs and shortage of working Capital and the same cost will ultimately be passed on to the Consumers, which is avoidable in the present case as no prejudice will be caused to the consumers as the recovery is being done on an average billing cycle to be recovered in equal installments."

In the case 144, the Hon'ble MERC has considered the submission of Licensee (mentioned above) and considering it, ruled in the order at Clause No.10 which is reproduced below:

10. Taking into consideration, the Commission rules the following:-

a) MSEDCL has rectified the error of levy of AEC and additional FAC and has refunded back the amount which was erroneously charged to the Consumers in the billing month of February, 2014.

b) The Commission observed that there is no need to invoke provisions of Section 142 and Section 146 of the Electricity Act, 2003 in this matter as the issues of applicability of Additional Energy Charges (AEC) as per the Commission's Order had been followed by the MSEDCL.

With the above observations the Commission dismissed the present Petition in Case No. 144 of 2013.

The Officers of the Licensee also produced the contents of Hon'ble MERC order in case No.95/2013 dated 26/6/15, the part of which is reproduced below: -

Clause 13.13 : Vide its Order dated 5 September, 2013, the Commission had allowed MSEDCL to levy category-wise AEC-1 & AEC-2 from all consumer categories in proportion to the approved Average Billing Rate (ABR) of the respective consumer categories. In view of this, MSEDCL determined the category-wise rates of AEC-1 & AEC-2, published them vide Circular No. 209, and started levying the same from consumers.

Clause 13.16 : The amount and the principles approved by the Commission regarding AEC-1 & AEC-2 in the impugned Order were as below:

"a. To recover the accumulated under-recovery of Rs. 2037.78 Crore accrued till the month of August 2013, which shall be levied by MSEDCL for a period of six (6) months with effect from the month of September 2013 till the month of February 2014. Category wise Additional Energy Charge (AEC-1) to be levied to all consumer categories in the

proportion to the approved Average Billing Rate of respective consumer categories, under intimation to the Commission.

b. To recover monthly fixed expense of Rs. 235.39 Crore. This shall be levied by MSEDCL from the month of September 2013 to its consumers on a monthly basis till further determination of MSEDCL tariff by this Commission. Category wise Additional Energy Charge (AEC-2) to be levied to all consumer categories in the proportion to the approved Average Billing Rate of respective consumer categories, under intimation to the Commission.

c. Further, the Commission hereby rules that from this Order onwards MSEDCL will recover the variation in energy charge component of the amount billed by MSPGCL to MSEDCL as approved by the Commission from the consumers through the FAC mechanism. Similarly, the Commission allows MSEDCL to recover the variation in fixed charge component of the amount billed by MSPGCL and amount billed by MSETCL to MSEDCL as approved by the Commission from the consumers in proportion to the approved Average Billing Rate of respective consumer categories, under intimation to the Commission.”

Clause 13.25 : As regards the first point, the issue of over-recovery in terms of difference in time period of recovery considered by MSEDCL and that approved by the Commission had come up before the Commission in 19 identical Petitions filed by various consumers. In these Petitions, it was submitted that, on the basis of the Order in Case No. 95 of 2013, MSEDCL should have started levying AEC only from the month of September, 2013. However, MSEDCL started recovery from August, 2013 itself, thereby violating the Commission’s directives under that Order. During the proceedings of those Cases, MSEDCL submitted that it had rectified the error in levy of AEC, and refunded the amount erroneously charged to consumers during August, 2013 in the billing month of February, 2014. That has been reflected in the Commission’s Orders dated 27 March, 2014 on those Petitions. However, during the present proceedings, Shri Sanjay Gupta, Ashok Hotel, Nagpur has raised the matter of refund of the excess amount recovered by MSEDCL due to early billing. Therefore, the Commission directs MSEDCL to review the refunds made by it so far on account of wrongful premature billing, and to make any remaining refunds due to consumers in the next billing cycle.

Summary of Rulings

15. The cost components of AEC-1 & AEC-2 were approved by the Commission in the respective Orders following due regulatory process. However, these cost components were not allowed to be recovered by MSEDCL from its consumers in those Orders. The Commission is of the view that allowing the recovery of these costs to MSEDCL is justifiable and necessary.

16. The Commission has scrutinised the rates at which AEC-1 and AEC-2 were applied by MSEDCL in terms of the principles adopted by the Commission. The total category-wise AEC charged by MSEDCL is less than the amount of costs allowed to be recovered, and the category-wise rates levied are also lower than if the principles had been correctly applied. Hence, the question of allowing carrying cost for over-recovery does not arise.

17. However, MSEDCL shall review the refunds made by it so far on account of wrongful premature billing, and make any remaining refunds due to consumers in the next billing cycle.

The Forum has observed that the matter decided by Hon’ble Commission in the case of petitioner Shri Sanjay Gupta, Ashok Hotel, Nagpur is not relevant and hence same is not applicable in the present grievance. In this case, the petitioner specifically prayed before the Hon’ble Commission for refund of AEC collected in the month of August-2013,

which means the consumption of July 2013 billed in August 2013 and not the consumption of August 2013 billed in September 2013.

The Licensee therefore requested to the Forum that considering the above referred orders passed by the Hon'ble Commission in various petitions, the grievance application of the applicant in the present case may be rejected as it is frivolous, vexatious and devoid of merits.

FORUM'S OBSERVATION –

After going through the series of the orders including order of ATE dated 22/8/14 in Appeal No. 295/2013 and thereafter orders of Hon'ble MERC

- (a) in case No. 110 to 115, 122 to 127, 131, 136 to 137, 146 to 149 of 2013 dated 27/3/2014 (The common petitions)
- (b) in case No. 144/13 dated 27/3/14 and
- (c) in case No. 95/13 dated 26/6/15, it is observed by this Forum that

1] Recovery of the accumulated under recovery for MSPGCL of Rs. 2037.78 Crores accrued till the month of August 2013 is allowed by the Hon'ble MERC. Further Hon'ble Commission has allowed MSPGCL to recover the amount from MSEDCL in Six months starting from October 2013, hence MSEDCL has started charging the same from the billing month of August 2013, i.e. from the month of September 2013 (August 2013 billed in September 2013).

The Licensee has started charging the consumers as above from September 2013 itself as the bills for September 2013 are getting raised in the month of October-2013 and recovery of these amounts in the month of October 2013 will suffer huge financial consequences. This fact is brought by the Licensee before the Hon'ble MERC in their submission dated 11/11/13.

2] The Licensee in its reply to the petition dated 11/11/13 in case No.144 has appraised to the Hon'ble MERC about its circular No. 209 dated 7th September 2013 (appraised vide its letter dated 23/9/13) and about the recovery mechanism adopted by it. The amount towards AEC -1 to AEC-4 and additional FAC is being recovered by combining all these

charges under one head and indicated it as AEC in energy bills. Accordingly, MSEDCL had started charging the consumer's from September 2013 itself.

In the common petitions decided by Hon'ble MERC on 27/3/14, there was a prayer before Hon'ble Commission to quash and set aside the above commercial circular of MSEDCL bearing No. 209 vide which the recovery mechanism was elaborated and appraised by MSEDCL before Hon'ble MERC.

In the decision dated 27/3/2014, the Hon'ble MERC observed that MSEDCL has followed the directions given in the Commission's order in the matter of applicability of AEC and additional FAC, and hence ruled that there is no need to invoke provisions of Section 142 and Section 146 of the Electricity Act 2003.

3] In the order dated 27th March 2014 (common petition of 2013), at Sr. No.5, the Hon'ble Commission directed the MSEDCL to take necessary actions and to rectify the wrong bills issued to some of the consumers in the State of Maharashtra for the consumption in the month of July 2013.

In compliance of the above Commission's directions, the respondent-MSEDCL refunded the one month AEC and FAC to all such 1198 consumers in the billing month of February 2014, where an error in the applicability of AEC and FAC had taken place as mentioned in the above para, i.e. for the consumers wrongly billed for the consumption in the month of July 2013.

Accordingly, in the above referred order dated 27th March 2014, the Hon'ble Commission in its ruling also mentioned at Clause 10-(a) that MSEDCL has rectified the error of levy of AEC and Addnl. FAC and has refunded back the amount which was erroneously charged to the consumers for the consumption of July 2013 billed in August 2013.

4] The recovery mechanism adopted by MSEDCL in reference to above said charges from the month of September 2013 is again reflected in the MERC case No.95 dated 26/6/2015.

In case No. 95/2013 dated 26/6/15 at Clause 13.16 (a),13.16 (b) and 13.25, the Hon'ble MERC clarified that MSEDCL should have started levying AEC only from the month of September 2013. The Hon'ble MERC directed the Licensee to refund the amount erroneously charged to consumers during August 2013 (i.e. consumption of July 2013 billed in August 2013), i.e. the refund of amount on account of wrongful premature billing.

The decision cited of MERC in case No. 1102, 115 of 2013 and others are in support to the MSEDCL's submission that MSEDCL has already refunded the AEC (1 to 4 & Additional FAC) wrongly charged in the billing month of July 2013 to the 1198 consumers.

The Hon'ble MERC in its order dated 26/6/15 in case No. 95/2013 has further given the directions to MSEDCL at Clause 13.25 to review the refunds (review of such refunds) made by it so far on account of wrongful premature billing (in cases where MSEDCL has started recovery from August 2013 itself – i.e. for July 2013 billed in August 2013 consumers).

5] From the above, it is clear that the recovery mechanism adopted by the Licensee from the month of September 2013 itself is as per the directives given by Hon'ble MERC as it is reflected in the Commission's Summary of Rulings at Clause 15 (Case No. 95) in which it is mentioned that “ The Commission is of the view that allowing the recovery of this costs to MSEDCL is justifiable and necessary ”.

In reference to the above, the Hon'ble Commission in its order dated 26/6/15 in case No. 95/2013 has clarified that, “13.26 – there is no

over-recovery on account of the AEC. On the contrary, MSEDCL has recovered a lower amount. Thus, the question of refund with carrying cost does not arise ”.

Of course the above ruling of Hon’ble MERC is after reading MSEDCL’s Circular No. 209 and after considering the compliance of Licensee regarding the refund of wrongful / prematured amount for the month of July 2013 billed in August 2013 to 1198 consumers.

In view of the above, no question will arise towards refund of amount recovered for AEC – 1, 2, 3,4 and additional FAC which is levied by MSEDCL in the month of September 2013 (i.e. for August 2013 billed in September 2013).

This matter could not be decided within time as Licensee was to provide the details sought from time to time, those were provided on 05/11/2015 and their submissions are heard on that day and clarification taken on 29/3/2016. **Moreover, the Forum is functioning in absence of regular Chairperson and the Member Secretary is discharging the additional work of Chairperson along with the regular work of Member Secretary.**

Hence, the grievance of the consumer demanding the refund of AEC 1,2,3 & 4 and additional FAC recovered in the month of September 2013 cannot be upheld.

(Chandrashekhar U.Patil)
Executive Engineer-cum- Member Secretary-cum-Chairperson
CGRF, Kalyan.

Per Member – CPO, Mrs. S.A.Jamdar -

I, Respectfully disagree with the above observations and the conclusion for the reasons stated below...

Hon'ble MERC in its order dated 26/6/15 in case No. 95/2013 and MA No. 187/2013 in point No.13 .25 has clearly directed MSEDCL to review the refunds made by it so far on account of wrongful premature billing, and to make any remaining refunds due to consumers in the next billing cycle.

When the question / objection of violating the Commission's directive was raised under the order of 95/2013 dated 5/9/13 Licensee had submitted that it had rectified the error in the levy of AEC and refunded the amount erroneously charged to the consumer during August 2013 in the billing month of February 2014. According to my opinion, the above submission of MSEDCL was related to the case No. 95/2013 dated 5/9/13, because Hon'ble Commission further stated in the same para that " the above submission of MSEDCL is reflected in its order dated 27/3/14 in case No. 144 /13." Which means that there is no need of same submission in the present case.

However, when the question of refund of excess amount recovered by MSEDCL was again raised by the authorized CR in the proceeding of 95/13 dated 26/6/15, Hon'ble Commission directed MSEDCL to review the refund made by it so far on account of wrongful premature billing and to make any remaining refunds due to consumer in **the next billing cycle.**

According to my opinion, the present consumer comes under the " remaining refunds category. " Hence his grievance application should be allowed.

(Mrs.S.A.Jamdar)

Member
CGRF, Kalyan

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ORDER

*** As per section 8.1 in the event, where the Forum consists of a single member, the Chairperson shall have the second and casting vote.**

**** In the sitting of Forum, the Chairperson is not available. As per MERC Regulations (2006), Clause 4, the technical member shall be the Chairperson of such sitting in which Chairperson is not available and hence in the present case, the technical member performed the role of Chairperson of the Forum .**

***** Order is placed under the provisions of MERC Regulations – 2006, Section 4 (c) and Section 8.1.**

The grievance application of the consumer for the refund of AEC-1, 2, 3,4 and Additional FAC which is levied by MSEDCL in the month of September 2013 (August 2013 billed in September 2013) is hereby rejected.

Date: 11/04/2016.

(Chandrashekhar U.Patil)
Executive Engineer-cum - Member Secretary -cum - Chairperson
CGRF, Kalyan

NOTE: -

- e) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- f) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part

compliance or delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- g) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.

