

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/053/2008

- Applicant : M/s. HARDOLI Paper Mills Ltd.,
At Rokade Sadan, Bhawsar Chowk,
Central Avenue,
NAGPUR through Director
Shri A.M. Lakhotiya represented by
Shri Omprakash D. Rathi
- Non-applicant : MSEDCL represented by
Superintending Engineer, NRC
Shri Bhagat
and Assistant Engineer Mrs. Parihar
NUZ, Nagpur.
- Quorum Present : 1) Shri S.D. Jahagirdar,
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 3) Shri S.F. Lanjewar
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 31.12.2008)

This grievance application is filed on 06.10.2008
under Regulation 6.4 of the Maharashtra Electricity

Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The applicant's grievance is in respect of non-sanction and non-release of load enhancement and non-refund of penal charges erroneously levied in the monthly energy bills for exceeding contract demand.

The applicant has prayed for granting following relief's :-

- A) To direct MSEDCL to enhance the applicant's contract demand from 600 KVA to 1000 KVA as per his application dated 08.01.2008.
- B) To direct MSEDCL to refund penal charges levied for exceeding the contract demand along-with interest @ 18% as per Section 62 of the Electricity Act, 2003.
- C) To direct MSEDCL not to levy any penalty till sanction for enhancement of load is received by the applicant and till the load is released.

The applicant is aggrieved by the non-applicant's decision communicated to him under Superintending Engineer NRC's letter, being letter no. 2367 dated 29.03.2008, intimating that enhancement of applicant's load from 600 KV to 1000 KVA is not technically feasible from the existing system.

The matter was heard on 18.11.2008, 02.12.2008 and 29.12.2008.

The present grievance application is filed on 06.10.2008. Hence, in terms of Regulation 6.18 of the said Regulations, the Forum has to pass appropriate order on the

grievance for its redressal within a maximum period of two months from the date of receipt of the grievance by the Forum. Hence, in normal circumstances, this grievance application should have been decided by this Forum on or before 06.12.2008. However, there is a delay of 25 days in passing this order. This delay is caused because of the specific request from the applicant's side made by him on the date of hearing i.e. on 02.12.2008 by which the applicant insisted upon giving at-least three week's time to offer his comments on the documentary evidence produced on record by MSEDCL. This is mainly the reason why the date of hearing subsequent to 02.12.2008 came to be fixed on 29.12.2008. The delay in passing this order has, therefore, occurred for sufficient reasons.

The applicant's case was presented before this Forum by his nominated representative one Shri Omprakash D. Rathi while the Superintending Engineer NRC Shri Bhagat and Assistant Engineer Smt. Parihar and the Law Officer Miss. Bangade represented the non-applicant Company.

It is the submission of the applicant that he applied for enhancement of load from 600 KVA to 1000 KVA on 08.01.2008. Till 29th March, 2008, MSEDCL did not communicate anything to him. The S.E. NRC informed the applicant on 29.03.2008 that the applicant's request for enhancement of load is not technically feasible from the existing system. No reasons, whatsoever, have been mentioned in this letter explaining as to how the applicant's request is not technically feasible.

He added that as per MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 (for brevity SOP Regulations), a time period of 10 days is prescribed for completion of inspection of the applicant's premises from the date of receipt of application. However, no inspection has been carried out not only within the prescribed period of 10 days meant for rural area but thereafter also. A time period of 20 days is prescribed in respect of rural areas for intimation of charges to be borne by the applicant from the date of receipt of application in case connection is to be from the existing network. Where extension of distributing main or commissioning of sub-station is required, this time period is of 30 days. The applicant strongly contended that the non-applicant has miserably failed to meet the aforementioned standards of performance.

He further stated that charges to be borne by the applicant are communicated to him on 02.12.2008 i.e. during the pendency of this grievance application. He has also made payment of the charges on 12.12.2008. According to him, time period for provision of supply from the date of receipt of application is one of one year where commissioning of sub-station is required. This time limit is of one month or three months respectively in case connection is to be given from the existing network or where extension or augmentation of distributing main is required.

The applicant's say is that he had applied for enhancement of load from 600 KVA to 1000 KVA on 08.01.2008 and as such power supply should be provided on or

before 08.01.2009 presuming but without admitting that the commissioning of a sub-station is required in this case. The applicant also strongly contended that power supply for enhancement of the load sought should have been released from the existing network only and further that the MSEDCL's claim that the release of additional load is not possible because of voltage Regulation being 15.89% on the 33 KV Kondhali-Bazargaon Feeder is without any basis. He claims that it is very much possible to release the applicant's additional load from the existing network only without going in for creating additional infrastructure in the shape of a new 33KV Gondkhari Sub-station. The applicant's representative submitted that creation of infrastructure is the sole responsibility of the distribution licensee and the electricity consumer cannot be denied provision of power supply on the ground that the existing infrastructure is inadequate. As laid down in Section 43 of the Electricity Act 2003, the applicant's load should have been released by MSEDCL within a period of one month from the date of receipt of application.

He continued to submit that during the period after submission of his application, the applicant had visited the office of MSEDCL from time to time and satisfied queries on technical issues raised by it after 08.01.2008. The applicant's Company placed orders for various machineries and also installed them. However, though a period of more than 11 months has lapsed, MSEDCL has not taken steps to augment supply arrangement immediately after it received the applicant's application.

The applicant added that during his visit to the MSEDCL office he was informed that the voltage Regulation has come down to 10.4 which was within the permissible limit as prescribed by SOP Regulations. After receipt of his application dated 08.01.2008, MSEDCL has already sanctioned power to various consumers in this situation when the voltage Regulation percentage was above nine and below twelve. He strongly contended that MSEDCL should have sanctioned the enhancement of load within 20 days from the date of receipt of his application. He does not accept the non-applicant's contention that infrastructure was not available for meeting the demand. The required infrastructure should have been provided by now for enabling MSEDCL to release the additional load.

On the point of penal charges levied by the distribution licensee i.e. MSEDCL, the applicant strongly contended that levy of penal charges w.e.f. June 2008 towards exceeding the sanctioned contract demand is without any basis and the same is unjust, improper and illegal. The reason, according to him, is that he has already applied in January, 2008 for releasing the additional load and MSEDCL failed to comply his request till the end of May, 2008. He denied the non-applicant's allegation that he has indulged in illegal practice while exceeding the sanctioned contract demand w.e.f. June, 2008. According to him, nothing wrong has happened in exceeding the contract demand since the applicant has already applied on 08.01.2008 for releasing the additional load which as per the provisions of the Electricity Act 2003 and Regulations of MERC should have been sanctioned much

earlier to May, 2008. No penal charges can be levied by the MSEDCL when his application for enhancement of load is pending final decision. The applicant is hurt by the allegation levied against him that he has violated provision of Section 126 of the Electricity Act, 2003 and that he indulged himself in illegal Act. According to him, the entire fault lies with MSEDCL in not sanctioning the enhancement of load within the prescribed time limit and that the applicant cannot be penalized for the inaction or wrong doing of the distribution licensee.

He prayed for granting relief's sought by him in the prayer clauses 1,2,3 of his grievance application.

The non-applicant has submitted his parawise report dated 14.11.2008. A copy of this report has been given to the applicant. Similarly, a list of categorywise connections released after 08.01.2008 and the rejoinder dated 06.12.2008 were also given to the applicant and the applicant was given opportunity to offer his say on these documents.

The non-applicant has contended that the applicant is an existing HT consumer on the 33 KV Kondhali-Bazargaon Feeder with sanctioned contract demand of 600 KVA and connected load of 450 KW. The applicant applied on 08.01.2008 for releasing additional contract demand of 400 KVA and connected load of 550 KW totalling to CD of 1000 KVA and connected load of 1000 KW. An estimate was accordingly framed and it was observed that voltage regulation is beyond permissible limit i.e. V.R. percentage of 33KV Kondhali-Bazargaon Feeder on which the applicant is connected is 15.89%. The applicant was accordingly informed

on 29.03.2008 that the proposal of load enhancement is not technically feasible and the same cannot be sanctioned.

He added that a new 33 KV Gondkhairy sub-station is sanctioned in infrastructure scheme with 5 MVA capacity. After its commissioning, load of Bazargaon substation will be shifted to the new 33 KV Gondkhairy S/stn. Thereafter surplus capacity will be available on the existing feeder and additional load demand of the present consumer can be catered.

On the point provision of supply to the applicant, the non-applicant has stated that time period prescribed by SOP Regulations is of one year from the date of receipt application in case commissioning of substation is necessary due to non-availability of supply from the existing distributing main. He, therefore, contended that additional contract demand to the tune of 400 KVA as sought by the applicant can be released only after commissioning of new 33 KV Gondkhairy 5 MVA capacity S/stn.

On the point of voltage regulation, he has stated that MSEDCL cannot sanction load to any consumer in case voltage regulation is not conforming to the prescribed limits.

He has submitted detailed list of categorywise connections released after 08.01.2008. This includes single phase DL and CL connections released after 08.01.2008 monthwise, agricultural pump connections released after January, 2008 till November, 2008. A voltage regulation sheet for the 33 KV Bazargaon S/stn. emanating from 132 KVA Katol S/stn. is also produced on record. He has explained in the sheet how the voltage regulation comes to 15.89%.

According to him, the proposed 400 KVA load enhancement is not technically feasible since the voltage regulation works out to 15.89% which is more than the permissible limit of 12% for HT consumers. He continued to submit that the 33 KV Kondhali-Bazargaon Feeder is not covered under load shedding protocol and as such, the applicant is drawing uninterrupted power supply for his continuous industry. The applicant has illegally enhanced 400 KVA load from this feeder from June, 2008 and because of this, the voltage at the receiving end of 33 KV Bazargaon S/stn. is dropped from 33KV to 31 KV on 20.09.2008 as evidenced by the record.

The voltage level on the feeder in question has been brought down to 30 KV on 13.11.2008 between 14-15 hrs, again to 30 KV on 14.11.2008 between 9-11 hrs., 30 KV on 17.11.2008 between 8 to 11 hrs.

This voltage drop was due to unauthorized and continuous load drawn by applicant. The applicant was also intimated about this requesting him to restrict his load to the existing quantum of sanctioned contract demand of 600 KVA but the applicant exceeded the contract demand forcibly without obtaining prior sanction thereto. He has also stated that complaints have arisen from the tail-enders about the less voltage.

Giving the break-up of LT connections released from 08.01.2008 to November, 2008, the non-applicant stated that 380 nos. of D.L. connections with load of 115.84 KW, 22 nos. of C.L. connections with load of 20.64 KW and 43 nos. of agriculture connections with load of 107.05 KW have been sanctioned. The total load sanctioned comes to 243.53 KW. The

above LT connections have been released as per capacity of the transformer of Kondhali S/stn. which is within limit. These 445 LT connections are non-continuous, seasonable loads and load shedding is being carried out. Hence, considering the diversity factor of the above LT connections, the load varies from time to time. The 380 DL connections being domestic connections never run at a time. They are mainly used from 6 to 10 p.m. During the period of load shedding, these consumers remain is dark. All the aforesaid connections are on LT side and load of these LT connections does not cognizably affect the voltage regulation on 33 KV line since these are all non-continuous and seasonal loads. The maximum load released on 07.01.2008 was 218 Amp. on 33 KV side on 33 KV Kondhali-Bazargaon feeder at 15.00 hrs.

The non-applicant further submitted that exceeding the existing contract demand without prior sanction is not proper and legal. The penal charges levied upon the applicant are, therefore, proper and correct and as per rules.

The non-applicant has also intimated the applicant by his letter dated 02.12.2008 charges to be borne by the applicant vide his application dated 08.01.2008. It has been mentioned in this letter that any variation in charges while executing the work or subsequently as per the change in the MSEDCL's policy during the release of connection will be binding upon the applicant.

The non-applicant has relied upon provisions in the MSEDCL's Code of Commercial Instructions in respect of unauthorized extension of connected load exceeding the contract demand and in respect of penalty for exceeding

contract demand. Since the applicant is a HT consumer who exceeded sanctioned contract demand. He stated that since the applicant is a HT consumer who exceeded sanctioned contract demand, he has rightly been billed for the appropriate penal charges for the excess load at the rate of 150% of the prevailing demand charges.

He lastly prayed that the grievance application may be rejected.

In reply to the non-applicant's submissions, the applicant reiterated that by denying the enhancement of load to him, MSEDCL has violated Section 43 of the Electricity Act, 2003. He raised a question as to how MSEDCL is going to act upon his application when the new substation is not likely to be commissioned in new future and when existing voltage regulation does not permit enhancement of load. The time limit of one year for provision of supply from the date of completed application is not applicable to him since the proposed new sub-station is being installed under infrastructure development and not exclusively for his Unit and that the non-applicant is trying to mislead the Forum. He also contended that the voltage regulation is a non-issue and it must be rejected in Toto as the SOP Regulations have been violated at each step of performance i.e. site inspection, intimation of charges etc.

He lastly urged that the relief's sought for may be granted.

It is an undisputed fact in this case that the applicant is an existing HT consumer who applied for enhancement of existing sanctioned contract demand of 600

KVA to 1000 KVA and also that he is availing uninterrupted power supply without any load shedding. It is also a factual position that the applicant applied on 08.01.2008 for release additional contract demand of 400 KVA and connected load 550KW totalling to the contract demand of 1000 KVA and connected load of 1000 KW. It is the claim of the non-applicant that the applicant's request for additional load cannot be catered from the existing network. He stated that the applicant's additional load will be sanctioned after commissioning of new 33 KV Gondkhairy substation. The applicant's strong contention is that he should have been sanctioned the additional load within one month as per Section 43 of the Electricity act, 2003 and as per SOP regulations. In one of his submissions, he also stated that the voltage regulation is a non-issue and the non-applicant is bound to provide additional power supply within the time period prescribed under SOP Regulations.

This Forum has observed from the record produced by the non-applicant that the voltage on the 33 KV Kondhali-Bazargaon feeder dropped down to 31 KV on 20.09.2008 and 27.10.2008, 32 KV on 31.10.2008 and 03.11.2008 and to 30KV on 30.10.2008, 01.11.2008, 13.11.2008, 14.11.2008 and 17.11.2008. There is no reason to disbelieve these details. From the voltage regulation sheet produced on record it is also clear that the voltage regulation percentage was 15.89% on 08.01.2008. It is thus seen that the voltage at the receiving end at 33 KV Bazargaon substation is below 33 KV on various dates because of enhancement of 400 KVA load by the applicant on 33 KV Kondhali-Bazargaon feeder. This is

because the applicant is availing an uninterrupted and continuous power supply for his industry. It is also not disputed that this feeder is not covered under load shedding protocol. This Forum is fully convinced about the fact that the prescribed voltage on the feeder in question has not been within the prescribed limits as per Regulation 5.1 of the SOP Regulations which states that the distribution licensee shall not permit the voltage at the point of supply to vary from the declared voltage as under:-

- i) In the case of low or medium voltage, by more than 6%, or;
- ii) In the case of high voltage, by more than 6% on the higher side or by more than 9% on the lower side;
- iii) In case of extra higher voltage, by more than 10% on the higher side or by more than 12.5% on the lower side.

In the present case since the percentage of voltage regulation is 15.89%, it is beyond the permissible limit.

As regards release of load after 08.01.2008, the non-applicant has furnished information about 445 nos. of connections with a sanctioned load of 243.53KW after 08.01.2008. All these connections are on LT side and they are basically non-continuous and seasonal loads. Moreover, as stated by the non-applicant load shedding is being carried out for these LT connections. Hence, considering diversity factor of the above released load it varies from time to time. The load of these LT consumers also do not cognizably affect V.R. on 33 KV Line. As against this position, the applicant is getting continuous power supply without any load shedding along with

other HT consumers through tapping supply on the 33KV line. The non-applicant has convincingly explained in the voltage regulation sheet as to how he has arrived at voltage regulation percentage of 15.89 through a proper diagram. There is no reason to disbelieve the various details explained in this V.R. sheet.

Hence, release of additional load to the applicant was not permissible under the existing network. In such a situation, the next question that comes up for decision is as to the time period for provision of supply to the applicant.

In this respect, Appendix "A" of the SOP Regulations clearly provides that time period for provision of supply from the date of receipt of completed application and payment of charges is of one month in case connection is to be from existing network. This time period is of three months where extension or augmentation of distributing main is required. Further, this time period is of one year where commissioning of substation is required. The words "from the date of receipt of completed application and payment of charges" are very important. In the present case the non-applicant has intimated charges to be borne by the applicant on 02.12.2008 and these charges have also been paid on 12.12.2008 as stated by him. Hence, it follows that the outer time limit for provision of supply to the applicant shall be one year from 12.12.2008 i.e. to say that the non-applicant shall be bound to release the additional load sought by the applicant on or before 12.12.2009. The Superintending Engineer NRC representing the non-applicant Company when

asked by us stated that the additional load sought by applicant would be released before the end of April, 2009.

Appendix "A" also provides that time-period for completing inspection of applicant's premises is of 10 days from the date of receipt of application and the time period for intimation of charges to be borne by the applicant from the date of receipt of application is of 20 days in respect of rural areas in case connection is to be from the existing network. This time period of intimation charges is of 30 days where extension of distributing main or commissioning of substation is required. It is in this respect that the non-applicant has failed to meet the prescribed standards of performance. The non-applicant has intimated charges to be borne by the applicant on 02.12.2008. The date of receipt of application is 08.01.2008. Hence, the non-applicant ought to have intimated charges to be borne by the applicant on or before 08.02.2008 i.e. within 30 days as stated above. Hence, delay has occurred from 08.02.2008 till 02.12.2008 in respect of intimation of charges. Hence, the applicant is entitled to receive compensation @ Rs. 100/- per week or part thereof of delay as stated in Appendix "A" aforesaid. The non-applicant shall be bound to pay this compensation to him. Similarly, there has been a failure on the part of the non-applicant to meet the standard of performance in respect of completing inspection of applicant's premises. In fact the non-applicant has not been able to produce any record to pinpoint the exact date of inspection of applicant's premises. Since intimation of charges to be borne by the applicant is given to him on 02.12.2008, this Forum observes that delay on account of inspection is deemed

to have occurred from 18.01.2008 till 02.12.2008. Hence, compensation @ Rs. 100/- per week or part thereof of delay shall be payable to the applicant for non-inspection within time.

In this regard, Regulation 4.7 of the SOP Regulations clearly provides as under:-

“Where the supply to an applicant requires extension or augmentation of distributing main or commissioning of a new sub-station, the Distribution Licensee shall complete the inspection of premises within seven days and intimate the charges to be borne by such applicant within thirty days from the date of submission of such application for supply regardless of whether the application is deemed to be complete under Regulation 4.2”

In view of above provision, the non-applicant shall be bound to pay the compensation on the two items of inspection and intimation of charges as elaborated above.

The applicant's contention is that Section 43 of the Electricity Act, 2003 provides that the Distribution Licensee shall provide power supply on demand of consumer and that the MSEDCL cannot deny sanctioning of additional load to him. However, first proviso to Section 43 also provides that where such supply requires extension of distribution mains or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the appropriate Commission.

In the present case since MSEDCL is unable to provide additional supply to the applicant from the existing

network because of voltage problem and since commissioning of a new sub-station is required, time period of one year from the date of completed application and from the date of payment of charges shall be applicable as prescribed by SOP Regulations.

It is true that MSEDCL cannot totally deny sanction of additional power to the applicant. MSEDCL has to sanction additional load to the applicant within the prescribed time period of one year as stated in sub-item no. (iii) of item 1 of appendix "A" of the SOP Regulations.

As regards the penal charges levied upon the applicant for exceeding sanctioned contract demand, this Forum holds that nothing wrong has happened in this respect. It is an undisputed fact that the applicant's sanctioned contract is of 600 KVA while the applicant has availed of excess demand over and above this quantum in the billing months of June, July and August, 2008. The applicant cannot take a stand that since he has already applied for release of additional load on 08.01.2008 and since the same is still pending, he is authorized to exceed the existing sanctioned contract demand on the presumption that his additional load should have been sanctioned within one month from the date of his application. The stand taken by him has no legal basis. No consumer is allowed to exceed his sanctioned contract demand without prior sanction of the Distribution Licensee. In case, this happens, the D.L. is entitled to levy the prescribed penal charges towards exceeding the contract demand as per the rules of the Company. Hence, we hold that there is no

substance in the arguments advanced by the applicant on the point of refund of the penal charges.

As a matter of fact it is because of exceeding the existing contract demand by the applicant that voltage level has dropped down on certain occasions below the prescribed 33KV level on the feeder in question. The applicant's request for refund of penal charges along-with interest cannot be granted and the same stands rejected. His request made in prayer clause (3) to the effect that no penalty should be levied till the sanction is received and the load is released is also without any basis and the same also stands rejected.

As regards the prayer clause (1), this Forum directs MSEDCL that enhancement of the applicant's load as per his application should be sanctioned within the prescribed period of one year i.e. on or before 02.12.2009. This time limit is permissible to the non-applicant under the SOP Regulations. However, the non-applicant shall pay compensation to the applicant as per SOP Regulations towards the non-inspection of the applicant's premises within the prescribed period of 10 days and non-intimation of charges to be borne by the applicant within the prescribed period of 30 days.

A point has been raised during hearing by the applicant that energy bills issued to the applicant clearly make a mention of the applicant's Unit getting power supply on express feeder while it is not in fact the Express feeder. However, the non-applicant stated that the mention of express feeder in the energy bill is not correct and that the feeder in question is not an express feeder and further that the

applicant is being charged as a continuous industry only @ Rs. 4.30 per unit for consumption. This is, therefore, a non-issue.

All the other points raised by the applicant do not survive in the circumstances of the case.

The grievance application is thus partly allowed and it stands disposed of accordingly.

The non-applicant shall carry out this order and report compliance in respect of payment of compensation to the applicant on or before 31.01.2009. He shall also report compliance in respect of provision of supply to the applicant on or before 12.12.2009 as and when the supply is actually released before 12.12.2009

Sd/-	Sd/-	Sd/-
(S.F. Lanjewar)	(Smt. Gauri Chandrayan)	(S.D. Jahagirdar)
Member-Secretary	MEMBER	CHAIRMAN

**CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR.**

Member-Secretary
Consumer Grievance Redressal Forum,
Maharashtra State Electricity Distribution Co.Ltd.,
Nagpur Urban Zone, NAGPUR.