

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

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**Case No. CGRF(NZ)/60/2017**

Applicant : M/s Mahamaya Agro Industries,  
Kh No. 32, PH No.73,  
Ramtek Road, Tal Mauda,  
Dist. - Nagpur

Non-applicant : Nodal Officer,  
The Superintending Engineer,  
Nagpur Rural Circle,  
MSEDCL. Nagpur

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Applicant: - Shri. Suhas Khandekar Applicant's representative.

Non-applicant:- 1) Shri. Harish Gulhane Dy EE, (NRC), MSEDCL. Nagpur

2) Shri S.S.Sadamate EE Adm, (NRC),MSEDCL.Nagpur

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**Quorum Present** : 1) Mrs. V.N.Parihar,  
Member, Secretary  
& I/C.Chairman.

2) Shri N.V.Bansod,  
Member

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**ORDER PASSED ON 31.07.2017**

1. The applicant filed present grievance application before this Forum on 26.05.2017 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).
2. Non applicant, denied applicant's case by filing reply dated 14.07.2017.
3. Forum heard arguments of both the sides and perused record.

**4. Brief of history of the case filed by applicant**

a) Applicant has been a consumer of Non-applicant having a sanctioned demand of 450 KVA. They had applied for reduction of CD to 200 KVA vide their application submitted on 2.8.2016.

b) They received a letter from Non-applicant dt. 14.12.2016 to deposit a sum of Rs. 24107.00 as per following details –

<b>S.No</b>	<b>Particulars</b>	<b>Amount in Rs.</b>
1	Cost of agreement	200.00
2	Application processing fee	1700.00
3	1.3% supervision charges against the estimate	1507.00
4	Testing of CTs & PTs	18000.00
5	Service Tax @ 15%	2700.00
	Total	24107.00

c) .According to the Applicant, out of all the above charges, only the application processing fee of Rs. 1700.00 is in line with order of MERC dt. 16.8.2012 in case no. 19 of 2012. It was also observed by applicant that,

1. The estimate, on the basis of which the supervision charges have been calculated, is prepared for the material needs to be installed for changing the meter, which includes cable, earthing sets, CTS, PTs etc.worth Rs. 1.05 lakhs.

2. Being an existing running unit, HT cable, earthing sets etc. already exists.

Since there is a reduction in demand, there was no need to change the cable, as a cable that can cater to higher load obviously will cater to a lower load. Inclusion of these items in the estimate is therefore an attempt to fleece the consumer. In fact for reduction of demand it is only the CTs, which may have to be replaced, and that too if the CT ratio is not palatable with the reduced demand. Nothing else needs to be replaced.

3. CTs & PTs are integral parts of the metering cubicle, and Non-applicant being the owner of the meter; it is their responsibility to change them. The cost cannot be recovered from the consumer. Hence the entire estimate as well as the supervision charges are incorrect and have to be deleted.

4. Also, the existing CTs and PTs are the property of Non-applicant and will be taken in the custody of Non-applicant but after replacement this is not reflected anywhere. If Non-applicant is charging a consumer for the new CTs and PTs, it should also give credit for the CTs and PTs for taking them into its custody.

5. They were surprised by the amount shown chargeable for the inspection of CTs and PTs, since as per the order of MERC in case 70 of 2005, this has to be carried out by MSEDCL at its own cost and not payable by the consumer.

6. As per Sr. No. 4.14 of SOP regulation, the contract demand of the consumer is to be reduced before the expiry of the second billing cycle after the receipt of such request, which is their date of application as on dt.2.8.2016, In terms of the SOP, they should therefore be given a reduction in their contract demand with retrospective effect from the bill of September 2016. As non-applicant has failed to do so, they are entitled for compensation as per 8(ii) of the SOP regulation.

7. With the above grievances, they applied to IGR cell on 18.1.2017, the hearing was held in due course, and in its order dated 17.2.2017, the IGR cell partially allowed their grievances, and directed the Non-applicant to revise estimate. On the basis of the above order of IGR cell, a revised order of Non-applicant dated 20.3.2017 has been received by them, asking them to pay Rs.23451.00, as per following details –

<b>S.No</b>	<b>Particulars</b>	<b>Amount in Rs.</b>
1	Cost of agreement	200.00
2	Application processing fee	1700.00
3	1.3% supervision charges against the estimate	851.00
4	Testing of CTs & PTs	18000.00
5	Service Tax @ 15%	2700.00
	Total	23451.00

d) They have also received an estimate for purchase of CTs & PTs etc.worth Rs. 65450.00 which Non-applicant expects them to procure at their cost. Hence :-

1. It is observed from the revised order of the Non-applicant that, their grievance has still not been fully resolved. In their grievance application, they had pointed out to Non-applicant, that except for Rs. 1700.00 payable by them towards the processing fees, none of the charges were in line with the order of MERC. The same can be seen one by one as follows-

**A] Cost of Agreement** - No such cost has been approved by MERC in any of its orders, and MSEDCL cannot recover any charges on its own without the approval of MERC.

**a] 1.3% supervision charges of Rs. 851.00** – These are included based on their estimate considering that the new CTs & PTs are to be purchased by the consumer. In this context, they stated that, CT and PT being an integral part of Non-applicant's meter, they are the property of the Non-applicant. As per MERC's order in case 70 of 2005, metering cubicle is to be provided by Non-applicant at its cost. Hence due to change in ratio if any CT/PT is required to be replaced, the same should be purchased by Non-applicant only. Secondly, since there is no change in the voltage level, no change is required in the PT on account of reduction in CD of the consumer. If Non-applicant desires to change the PT for some other reason, they should procure the new PTs themselves, and not ask the consumer to purchase it. As far as changing of CT is concerned, in fact even that is not required owing to the fact that, the CTs originally installed are capable of measuring the current corresponding to 0 to 450 KVA. They are therefore definitely suitable for measuring current corresponding to the range of 0 to 200 KVA.

Thirdly, the existing CT and PT, which are the property of Non-applicant, are in working condition, and after replacement with new CTs & PTs will be in their custody for use in future. If Non-applicant is asking a consumer to bear the cost of the new CTs and PTs, logically it should also give credit for the old CTs and PTs which they are taking into its custody. This is not reflected anywhere in their letters. Fourthly, changing of CTs and PTs is not a "work" as contemplated in the rules and

Regulations. Hence, the charges of Rs. 851.00 are incorrect.

**b] Testing of CTs and PTs** – As per the Electricity Act 2003, it is the duty of Non Applicant to install a duty tested meter, and the cost of testing has to be borne by Non-applicant only. In its order, in Para 4, the IGR cell has contended that *“this is not a new connection, and Non-applicant is allowed to charge testing fees as per rule 53 of IE rules”*. This contention of IGR Cell is incorrect. The testing mentioned under rule 53 is the testing of the consumer’s installation. It does not relate to the meter, which is owned by Non-applicant. Moreover, as per circular No.PR-3/COS/ 19478 dt.20.06.2016 even the testing of installation is not to be carried out by MSEDCL

**C] Service Tax-** Since the testing charges for CTS & PTs are not payable by the Consumer, the service tax also would not be payable.

**e) Nature of relief sought from the forum-**

They request the forum to advise the Non-applicant so as to provide relief as follows-

1. To issue them a demand note of Rs. 1700.00 only for the reduction in MD.
2. To sanction reduced MD with retrospective effect, i.e. from the bill for the month of August 2016.
3. To revise the bills considering reduced MD with effect from the bill for Aug. 2016, and refund the excess amount recovered from them.
4. To pay them a compensation of Rs. 5000.00 due to unnecessary harassment faced by them, as they felt that the estimates have been prepared by Non-applicant’s officials mechanically, without applying their mind.

5. To pay them Rs. 5000.00 towards the cost of this unnecessary litigation.
6. To recover the costs under S. No 4 & 5 from the officers responsible for this.
7. Specify the time period in which the above should be complied.

5. The non-applicant denied the claim of the applicant by filing reply on dated 14.07.2011. Non-applicant filed in their written submission as under:-

A] M/s Mahamaya Agro Industries bearing consumer no.410039013110 have been sanctioned load 450 KVA, They applied for reduction in C.D. from 450 KVA to 200 KVA on dt.02.08.2016.The consumer has been asked to pay Rs.200/- towards cost of agreement. As per MERC SOP regulation 2014 at clause no.4.14 for reduction of Load which reads as under:-

*“Upon receipt of request by a consumer for reduction of contract Demand/sanctioned load of such consumer, the Distribution Licensee(DL) shall, unless otherwise agreed, so reduce the contract demand/sanctioned load of such consumer before the expiry of the second billing cycle after the receipt of such request. Provided that DL and consumer should execute fresh agreement for such revised load before the second billing cycle.”*

As per this clause MERC's SOP regulation, applicant has not executed the agreement,hence their load could not be revised.

B] As applicant applied for CD reduction from 450 KVA to 200 KVA, it entails work of change of CT and PT, hence 1.3 % supervision Charges of Rs.851/-is Payable by Applicant. As per case 70 of 2005 at page no 27, regarding Cost of meter and meter box it is mentioned that”-

*“As per section 55 of the Act, it is the responsibility of Licensee to Supply electricity through installation of correct meter in accordance with the regulations made in this regard by the authority i.e. CEA. The above provision implies that meter for new connection should be provided by the licensee and cost of meter and meter box shall be borne by the licensee, except where a consumer elects to purchase meter from licensee.*

Hence this being case of reduction of load and not a new connection to ensure correct metering installation of correct ratio of CTs and PTs is necessary.

As regarding to 1.3 % of supervision charges of Rs.851/-& cost of CTs and PTs payable applicant, it is very clear from the clause 6.8 of MERC's supply code regulation which reads as under:-

*“The Distribution Licensee shall increase or reduce the contract demand/ sanctioned load of the consumer upon receipt of an application for the same from the consumer. Provided that where such increase or reduction in contract demand/ sanctioned load entails any works, the Distribution Licensee may recover expenses relating thereto in accordance with the principles specified in Regulation 3.3, based on the rates contained in the schedule of charges approved by the Commission under Regulation 18.”*

So far as testing fees of the CTs & PTs sanctioned under 1.3% DDF, the testing is essential & it is as per MERC Case no.70 of 2005. Sr. No. 7.3 Commission Ruling which is as under:-

*“The Commission directs MSEDCL not to charge any amount for first inspection and testing of consumer's installation at the time of giving new connection. For all the*



*subsequent tests & inspection of the consumer's installation as per the provisions under rule 53 of I E Rules, 1956, the charges proposed by MSEDCL are approved.*

Hence it is very clear that the fees proposed are not for new connection but for the reduction of load & it is as per the departmental circular CE/Dist-II/SOC/24500 dt 30.08.2012, Miscellaneous & General charges at Sr.no.(f).

Hence in view of aforesaid contention, they reiterated that, the applicant is entitled to pay the amount of Rs.23451.00. Further it is therefore prayed that other claim of applicant may be rejected and grievance application may be dismissed.

6. With the above grievances, Applicant applied to IGR cell on 18.1.2017, the hearing was held, the IGR cell in its order dated 17.2.2017, partly allowed their contention and ordered non-applicant to revise an estimate. On the basis of the above order of IGR cell, a revised sanctioned order dated 20.3.2017 has been issued asking them to pay Rs.23451.00. Aggrieved by this instead of challenging the revised estimate in IGRC,,the applicant filed for relief directly to this forum.

7. During hearing on dt 14.06.2017 Non-applicant sought adjournment till 10.07.2017 and on dt.10.08.2017 Applicant's representative sought adjournment till 18.07.2017. At the hearing on 18 July, 2017, the Parties were informed of the expiry of term of Chairperson of the Forum on dt 30.06.2017, consequent to which the matter would now be heard by the two remaining Members. At the time of hearing

**Quorum present was**

- 1) Member Secretary & I/C. Chairman.
- 2) Member (CPO).

As per in clause 4.1(c) of MERC (CGRF & EO) Regulation 2006 which reads as under,

4.1(c) *“Provided also that where the Chairperson is absent from a sitting of the Forum, the technical member, who fulfills the eligibility criteria of sub-clause (b) above, shall be the Chairperson for such sitting”.*

Needless to say that, in absence of Hon’ble Chairman, Member Secretary is In-Charge Chairman. There is difference of opinion amongst the two. Since I/Charge. Chairman has one additional casting vote, therefore as per provision given in clause 8.4 of MERC (CGRF & EO) Regulation 2006 which reads as under,

8.4 *“Provided that where the members differ on any point or points the opinion of the majority shall be the order of the Forum. The opinion of the minority shall however be recorded and shall form part of the order”.*

Hence, the Judgment is based on majority view of I/C chairman and Member Secretary. However the separate dissenting note of Hon’ble Member (CPO) is noted in the judgment and it is part and parcel of the judgment. But the judgment is based on majority view and reasoning thereof is as under:

8. Forum heard the arguments of both the parties and perused the documents on record.

A). Whether applicants request to sanction reduced MD with retrospective effect, i.e. from the bill for the month of Sept-2016 & to revise the bills considering reduced MD with effect from the bill for Sept-2016, and refund the excess amount recovered from them can be granted?--No

As per MERC SOP regulation 2014 at clause no.4.14, for reduction of Load which is clear and reads as under:-

*“Upon receipt of request by a consumer for reduction of contract demand/sanctioned load of such consumer, the Distribution Licensee (DL) shall, unless otherwise agreed, so reduce the contract demand/sanctioned load of such consumer before the expiry of the second billing cycle after the receipt of such request. Provided that Distribution Licensee and consumer should execute fresh agreement for such revised load before the second billing cycle.”*

As per this regulation, Non-applicant correctly held that it is mandatory for applicant to execute the agreement ,for which cost of agreement 200/- is payable by the applicant as the same is allowed as per the order of the Electricity Ombudsman case no. 7of 2016 dated 08.11.2016 ,M/s Chanvim Engineering Pvt.Ltd. Vs SENRC,Nagpur. As applicant has not paid Rs.200/-which is cost of agreement, consequently failed to execute the agreement which was necessary as per clause no 4.14 MERC’s SOP regulation. Therefore Non-applicant’s request to sanction reduced MD with retrospective effect, i.e. from the bill for the mouth of Sept-2016 cannot be granted.

B) Whether applicants request for exemption for payment of 1.3% supervision charges of Rs. 851.00 and exemption of Testing charges and Service tax can be granted?---No

a] As applicant applied for CD reduction from 450 KVA to 200 KVA, it entails work of change of CT and PT, hence 1.3 % supervision Charges of Rs.851/-is charged by the Applicant. It is very clear from MERC’s case no. 70 of 2005 at page no 27, regarding Cost of meter and meter box it is mentioned that”-

*“As per section 55 of the Act, it is the responsibility of Licensee to Supply electricity*

*through installation of correct meter in accordance with the regulations made in this regard by the authority i.e. CEA. The above provision implies that meter for **new connection** should be provided by the licensee and cost of meter and meter box shall be borne by the licensee, except where a consumer elects to purchase meter from licensee.”*

Hence in order to ensure correct metering, it is the responsibility of Non-applicant to install correct capacity of CT's and PT's which are part and parcel of metering arrangement. As far as payment of cost of CTs and PTs are concerned, non-applicant correctly held that this being the case of reduction of load and not a new connection charges are recoverable from applicant, as per clause 6.8 of MERC's supply code regulation which reads as under:-

*“The Distribution Licensee shall increase or reduce the contract demand/ sanctioned load of the consumer upon receipt of an application for the same from the consumer. Provided that where such increase or reduction in contract demand/ sanctioned load entails any works, the Distribution Licensee may recover expenses relating thereto in accordance with the principles specified in Regulation 3.3, based on the rates contained in the schedule of charges approved by the Commission under Regulation 18.”*

b) As regards to testing of CTs & PTs, payment of the testing fee is essential, which is as per Section (7.3) & Section III(7)(iv) Commission's Ruling as under **(7.3)** *“Commission directs MSEDCL not to charge any amount for first inspection and testing of consumer's installation at the time of giving new connection. For all the subsequent tests & inspection of the consumer's installation as per the provisions*

*under rule 53 of I E Rules, 1956, the charges proposed by MSEDCL are approved.”*

**Section III(7)(iv)** *“The testing charges approved shall be applicable only in case the consumer requests the Licensee to test the meter as mentioned above and expenditure towards first testing prior to release of new connection and all routine testing as per regulation 14.4.1 shall be borne by MSEDCL” .*

In view of this Non-applicant 's demand towards testing fees for Rs.3000/- for each CTs and PTs is as per Schedule of charges approved by MERC order in case no.19 of 2012,dt.16.08.2012 and specified in Annexure 4 of dept. circular no. 24500 dt.30.08.2012 is justified. Being a reduction of load, this authorizes the Distribution Licensee to recover all expenses toward testing of CTs and PTs.

Accordingly applicants request for exemption for payment of 1.3% supervision charges of Rs. 851.00 and Testing charges and Service tax cannot be granted. It is therefore clear that an allegation of applicant that Inclusion of items such as cost of agreement, testing fees for cubicle, 1.3% supervision charges of Rs. 851.00 in the estimate is therefore is an attempt to fleece the consumer is baseless. Therefore Applicant has to make its payments. Therefore on merit grievance application is rejected, the applicant is not entitled to other claims from Non-applicant,

**Separate dissenting note of Hon'ble Member (CPO) is given as under.**

**Dissent note By Member (CPO) Mr. Naresh Bansod Dated 26.07.2017 in case No. 60/2017**

1. We heard arguments on 18.7.2007. Case file received at 1.30 pm on 25.07.2017 and asked back at 4 pm & A file given on 26.07.2017 at 11 am for writing Dissent Note without discussion on submissions etc by both parties or discussion on point or points of Difference as per expectation of provision of Reg. 8.4 of MERC

(CGRF &EO) Reg.2006.

2. On perusal of order of IGRC dated 2.2.2017 having quorum of Mr. H.M.Gulhane (member), Mr. J.G.Thakre (chairman). During Arguments, I have brought to the notice of Non Applicant that Mr. Gulhane being member of IGRC, he cannot defend the Non applicant which is predetermined mind set of IGRC and applicant's representative Mr. Suhas Khandekar also strongly objected but so called member secretary or self imposed Incharge chairman allowed Mr. Gulhane to continue even though I have pointed out the observation in the last Para of Daily order of MERC dated 30.5.2017 in the petition of case No. 29/2017 M/s Ankur Seeds Pvt Ltd. Basic moto of IGRC to screen the complaints at the level of Distribution Licensee but purpose get defeated due to irregularities in working of IGRC.

The Grievance of Applicant is as under.

1] The applicant is Consumer of Non Applicant having sanctioned demand of 450KVA and applied for reduction of MD to 200KVA on 2.8.2016. Non Applicant vide letter dated 14.12.2016 advised the applicant to deposit sum of Rs. 24107/- as per following details.

<b>S.No</b>	<b>Particulars</b>	<b>Amount in Rs.</b>
1	Cost of agreement	200.00
2	Application processing fee	1700.00
3	1.3% supervision charges against the estimate	1507.00
4	Testing of CTs & Pts	18000.00
5	Service Tax @ 15%	2700.00
	Total	24107.00

2] Applicant submitted that out of above charges, application processing fee of

Rs. 1700/- is as per order of MERC dated 16.8.2012 in case no 19 of 2012 and as per Non applicant estimate, Supervision charges have been calculated, material worth Rs. 1.05 Lakhs needs to be installed for changing the meter includes, cable, earthing sets, CT's & PT's set.

3] As there is no change in the voltage level, no change is required in PT's on account of reduction in MD of the consumer and if MSEDCL desires for some other reason, to procure New PT's themselves & not to ask consumer to purchase as well as CT's originally installed are capable of measuring the current corresponding to 0 to 450 KVA. And same will also suitable to range of 0 to 200KVA. Existing CT's & PT's are property of MSEDCL are in working condition & in future will be in custody of MSEDCL and if Non Applicant Ask consumer to bear cost of new CT's& PT's and credit of CT's & PT's (Replaced) in their custody should be given and denied the charges of Rs.851/- as changing CT's, PT's is not a work as per rules & Regulations.

4] Testing of CT's & PT's is duty of MSEDCL to install duly tested meter & cost to be borne by MSEDCL. IGRC in Para 4 contended as not a new connection and allowed to charge testing fees as per rule 53 of IE rules and applicant denied contention of IGRC and testing relates to consumer's installation & does not relate to the meter Owned by MSEDCL. As per circular no. P R – 3/COS/19478 dated 20.6.2016, testing of installation is not to be Carried out by MSEDCL.

Since testing charges for CTs & PTs are not payable by consumer, service tax not be payable.

5] Applicant prayed to advise MSEDCL to issue demand note of Rs. 1700/- only for reduction in MD and Sanction reduced MD with retrospective effect from the bill

of Aug 2016, as well as revise the bills presuming reduced MD with effect from bill of Aug 2016 & refund excess amount recovered and compensation of Rs. 5000/- for harassment to applicant due to non applying the mind & cast of litigation Rs. 5000/- and Same to recover from responsible officers.

3. Applicant admitted that processing of Rs. 1700/- is permissible to be recovered as per order of MERC mentioned above

4. IGRC in their order dated 2/2/2017 (Page No. 31&37) instructed to verify & submit the revised estimate within 3 days of the issue of this order, accordingly as per revised estimate 1.3% supervision charges against the estimate were reduced from Rs. 1507/- to Rs. 851/- and demand of non applicant is reduced from Rs.24107/- to Rs 23451/- out of which processing fee is admitted by the applicant. Hence Now Grievance remains for demand as under.

S. No	Particulars	Amount Rs.
1	Cost of agreement	200.00
2	1.3% supervision charges against the estimate	851
3	Testing of CTs & Pts	18000
4	Service Tax @ 15%	2700
	Total	Rs. 21751

5. We heard the arguments of both the parties and perused all the papers on record and referred orders of the EO. & MERC.

A] Non Applicant in reply said that the cost of Agreement is as per the MERC SOP Regulation 2014 Sr. No.4 clause No. 04.14-Reduction in load- and admitted that reduction in load for such consumer before the expiry of the second billing cycle



after receipt of such request. Provided that Distribution Licensee & consumer should execute the fresh agreement for such revised load before the second billing cycle.

B] Applicant in rejoinder in addition to application stated that the agreement has not been executed and there is no hindrance from the consumer for signing the agreement and never expressed unwillingness to sign the agreement related to revised load. On the contrary, MSEDCL who provide the necessary form of agreement, have never sent any intimation for signing the agreement. Applicant has not received demand note from MSEDCL and non signing of agreement cannot be a relevant reason in this case. I agree with submission of Applicant and Reply of Non Applicant is just formal reply with no documentary evidence.

Secondly the grievance of the applicant is regarding cost of agreement Rs. 200/- as SOP Regulation is silent on the point of charges and cost of agreement of Rs. 200/- is nowhere approved by the MERC. It is prudent practice of every private or Government establishment used to execute agreement of terms and conditions supply etc to create binding effect on the consumers to protect their own interest. Hence perception of Non Applicant to recover "cost of Agreement" Rs. 200/- is untenable in the eyes of law as not approved by MERC and cannot be insisted to be paid by consumer and allegation of non signing agreement is baseless.

6. Non Applicant in reply to Para 4 & 5 stated that reduction of load from 450 KVA to 200 KVA requires to change the existing CT's & PT's as per testing report and hence charges of 1.3% Supervision charges against the estimate i.e. Rs. 851/- is proposed as per MERC case No 70 of 2005 regarding cost of meter & meter Box.

A] Non Applicant admitted that it is their responsibility to supply electricity

through installation of correct meter in accordance with the regulation & Section 55 of the Electricity Act and further admitted that consumer meters shall generally be owned by the licensee and above provision is for meter for new connection to be provided by MSEDCL & cost of meter and meter box shall be borne by the licensee. Non applicant invited attention to MERC supply code regulation Sr. No. 6 (agreement) clause 6.8.

Provided that where increase or reduction in contract demand/sanctioned load entails any work, the Distribution licensee may recover expenses as per regulation 3.3 on approved charges.

B] Applicant in rejoinder stated that issue of cost of meter & meter Box is unrelated and I of the opinion, that new introduction is to deviate the main grievance of the Applicant. Hence does not require any consideration.

Applicant further said that Hon'ble Electricity Ombudsman has already classified this issue long ago in order dated 27.8.2008 in representation No. 46 of 2008 of M/s Unijules Life Sciences. Applicant also said that in grievance application under 1(b) and 1(c), detailed explanation regarding replacement of CT's & PT's and why the consumer cannot be asked to bear the charges for the same and no specific reply to these aspects by non applicant.

Hence in the absence of specific reply by non applicant in reply on point 1 b & 1c of grievance of Applicant and his rejoinder, It can be very well be inferred that submission of Applicant is formal and presumption goes in favour of Applicant.

Applicant specifically mentioned in Application that their unit is existing running unit and HT cable, earthing sets etc already exist and for reduction of

demand, there is no need to charge the cable, as a cable that can cater to higher load will obviously cater to a lower load and inclusion of items is an attempt to fleece the consumer and for reduction of demand only CT's, which may have to be replaced that too if the CT ratio is not palatable with reduced demand & nothing needs to be replaced.

CT's & PT's are integral parts of metering cubical, and MSEDCL being the owner of the meter, it is MSEDCL's responsibility to change them and cost cannot be recovered from the consumer. Hence entire estimate as well as the Supervision charges are incorrect and CT's & PT's are property of MSEDCL, after replacement if any, will be in custody of MSEDCL. Hence charges for inspection of CTs & PTs, as per order of MERC in case No. 70 of 2005 has to be carried out by MSEDCL at its own costs as not payable by consumer.

Applicant referred point No. 4 of Non Applicant's reply regarding testing under 1.3% DDF charges and how "DDF" can come in picture. The testing charges referred to by MSEDCL as "testing charge for installation" which are not actually testing charges of an installation. Applicant said, the latest testing charges approved by MERC are given a page 248 of MERC Tariff order and the charges for inspection of installations of RS.350/- (Page 97).

The term "DDF" is defined in 'I' of SOP regulations 2014 in Reg. No.2.1 on bare perusal of the same, I am of the opinion that Non Applicant has deliberately tried to divert the entire issue under 1.3% DDF Which is bad in law and against the spirit of Provisions of Regulations. Hence submission of non applicant deserves to be discarded as does not carry any evidential or persuasive value.

7. On Perusal of order of Electricity Ombudsman dated 27.8.2008 in representation No. 46 of 2008, of M/s. Unijules Life Science, entire submission of Non Applicant is without application of mind and referring the above said order, I am of firm opinion that submission of Non Applicant is baseless.

8. Applicant file the copy of order of this forum in case No CGRF (NUZ) 031/2009, dated 26.6.2009 in an identical case M/s Zim laboratories ltd V/s MSEDCL for enhancement of load in which present member secretary mrs Vandana Parihar of (the then represented MSEDCL) MSEDCL on relying on Electricity Ombudsman's decision in Representation No 67 of 2008 of M/s vaibhav Plastomoulds Pvt Ltd Nagpur dated 20.10.2008 and in order it is noted as under "We have given their acceptance to return the said amount but no interest will be paid. Forum ordered to refund or pay service connection charges, testing of CTs, 15% supervision charges and cost of CTs incurred by Applicant etc totaling Rs 26775/-

The order in representation No. 67 of 2008, all aspects are considered and same are accepted by the MSEDCL in above case of forum by the same (mrs Vandana Parihar representative of MSEDCL) by MSEDCL & member secretary is with ulterior motive opposing the applicant and issue of service Tax does not arise or does not survive .

Application of the applicant is deserves to be allowed and hence the following order

In view of the above observation, Non applicant shall issue demand note of Rs 1700/- for processing charges consented by Applicant and Not to insist or pressurize the applicant to pay cost of agreement, 1.3% supervision charges, Testing of CT's &

Pt's and service charges amounting Rs. 21751/- as proved illegal in the eyes of law. Non applicant violated the provision of SOP regulation 4.14 and failed to act to execute agreement as well as non reduction of load before 2<sup>nd</sup> billing cycle after 2.8.2016 (date of application), and non applicant is liable to pay Compensation as per "Appendix A" 8 (ii). Of SOP regulation 2014 @ Rs 100/- per week or part thereof for delay after 2<sup>nd</sup> billing cycle. It is obvious that Applicant suffered unnecessary harassment and dragged to unnecessary litigation. Hence Non Applicant is liable to pay consolidated compensation & cost of litigation of Rs.7500/- as per provisions of Reg. 8.2 of MERC (CGRF & EO) Reg. 2006. Non Applicant is also liable to reduce MD with effect from Aug 2016 and refund any excess amount recovered from the applicant.

The Compliance of this order shall be done within 30 days from the dated of this order.

Member Secretary claims to be in charge chairperson. As per Reg. 4.1 (c) last provision means that when chairperson is appointed in the CGRF and he is absent from sitting of the forum, then technical member, shall be the chairperson for such sitting (during leave, sick leave etc) but presently the Chairperson's post is vacant in the forum on date of sitting, so the technical member and member (CPO) can continue to run sitting and decides the cases as per 5.2 of Regulation but technical member does not get position of Chairperson and second & casting vote, which is done in earlier cases after 16/5/2017, Which is illegal as per me because in case of vacant post of Chairman of MERC, Hon'ble Shri Ajij Khan & Mr. Deepak Lad Saheb sign as member and not any one as chairman as per seniority or

Regulations. Hence order of the Technical person or so called member secretary cannot be a "Majority order".

Naresh Bansod

Member (CPO)

9. Before reaching to the final order, it is necessary to decide the matter within two months from the date of filing of the application. Applicant filed application on 26-05-2017. Therefore it was necessary to dispose of the application on or before 26-7-2017. Term of Chairperson In charge of the Forum expired on dt.30 June 2017. Forum heard argument on 18-07-2017 due to adjournment taken by Non-applicant on dt.14.06.17 and Applicant on dt.10.07.2017. The separate dissenting note of Hon'ble Member (CPO) is given on dt.29.07.2017 due to both the reasons, there is delay in deciding the matter.

10. In view of the majority we hold that applicants request for exemption for payment of 1.3% supervision charges of Rs. 851.00, Agreement fee, Testing charges and Service tax and to grant retrospective effect of reduced MD from the Energy bill of Sept-16 cannot be granted. The recovery of charges are in accordance with MERC's regulations only therefore, applicant has to make its payments, Therefore Grievance application deserves to be dismissed.

Thus we proceed to pass the following order.

### ORDER

1) Grievance application is dismissed.

sd/-

(Shri.N.V.Bansod)

MEMBER

sd/-

(Mrs.V.N.Parihar),

MEMBER/SECRETARY

& I/C. CHAIRMAN

