

Before Maharashtra State Electricity Distribution Co. Limited Consumer Grievances Redressal Forum, Pune Zone, 925, Kasabapeth Building, IInd fl. Pune-11

Case No. 08/2014

Date:- 24/7/2014

In the matter of
M/s.Bharat Forge Limited,
S.No.72-76, Mundhwa,
Pune-411036

- Complainant

V/S

The Superintending Engineer,
M.S.E.D.C.L.
Rastapeth Urban Circle,
Pune.

- Opponent

Quorum

Chair Person	Shri.S.D.Madake
Member/Secretary,	Shri.N.S.Prasad
Member	Shri.Suryakant Pathak

1. M/s.Bharat Forge Limited, Mundhava is consumer of MSEDCL vide No.170019000438 since 1.8.1964 having contract demand 48653 KVA.
2. The complainant filed application in form Schedule 'A' on 9.5.2014 being dissatisfied by order passed by IGRC on 25.3.2014 denying the prayer for recalculation of electricity bills for power factor incentives for a period between 1.8.2009 and 30.11.2011 as per new method by adopting followings formula.

Average Power Factor = Total (KWH)/Total (KVAH)

Wherein KVAH= $\sqrt{\sum (KWH)^2 + \sum (RKVAH)^2}$

(i.e. square root of the summation of the square of KWH and RKVAH)

3. According to complainant in Feb.2012 application was made to

- MSEDCL to recalculate the power factor incentive as per order of MERC dated 12.5.10 in case No.116 of 2008. M.S.E.D.C.L. informed on 28.2.2013 that difference of power factor incentive amounting to Rs.96,93,841.82 (Rs. Ninety Six Lakh ninety three thousand eight hundred forty one & eighty two paise only) will be given in the bill of next month after verification.
4. According to complainant an amount of Rs.20,46,675=20 (Rupees Twenty Lakh Fourty Six Thousand Six Hundred Seventy Five & Twenty paise only) was refunded in the month of April-2013.
 5. Complainant averred that several letters were sent from time to time for taking appropriate decision for refund of amount, however no action was taken by M.S.E.D.C.L.
 6. Complainant contended that M.S.E.D.C.L. all of a sudden changed the stand and informed that meter installed was displaying average power factor there is no need to calculate power factor by formula.
 7. According to complainant how measurement of total KVAH is made by meter installed which is manufactured by M/s. Eister metering Pvt. Ltd. It is contended that average P.F. displayed on the meter is not correct value for adopting for calculation PF incentive.
 8. Consumer contended that as per MERC Order revised tariffs are to be made applicable from 1.9.2010 however same was made applicable from Dec.2011.
 9. According to complainant M.S.E.D.C.L. is not entitle to adopt formula from Dec.2011 and it is necessary to adopt from 1.8.2009.
 10. Complainant prayed that order of IGRC be set aside and respondent be directed to recalculate the power factor incentive for a period between 1.8.2009 to 30.11.2011 as per formats.
 11. MSEDCL filed written statement 23.6.2014 and denied the claim. It is alleged that amount claimed is frivolous. It is admitted that on

- 29.2.2012 complainant requested to recalculate the power factor from April-2011 to Jan.2012.
12. M.S.E.D.C.L. alleged that the formula has been adopted as per MERC Order dated 12.5.2010 in Case No.116 of 2008 since Dec.2011.
 13. M.S.E.D.C.L. contended that claim towards the difference of power factor for a period between Aug.2009 to Nov.2011 is barred by limitation as provided in Reg.6.6 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations-2006. Complaint is filed after five years from the date of cause of action.
 14. It is prayed that complaint be dismissed.
 15. On pleadings of parties the following points arise for our determination:
 - (i) Whether M.S.E.D.C.L. is liable to recalculate the power factor incentive for the period between 1.8.2009 to 30.11.2011 as per adopting formula as per MERC Order?
 - (ii) Whether the complaint is barred by law of limitation as per Reg.6.6 of MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Reg.2006.
 - (iii) What order.
 16. Our findings are –
 - 1) In the negative
 - 2) In the affirmative
 - 3) As per final order

REASONS

17. We have heard learned consumer representative Shri.D.S.Kulkarni for complainant as well as Shri.Prakash S.Jamdade and Legal Advisor Anju Phuke for M.S.E.D.C.L. We have perused the documents produced on record by complainant particularly-MERC Order dated 17.8.2009. MERC clarification Order 12.5.2010, Circulars issued by M.S.E.D.C.L., letter dated 28.3.2013 issued by M.S.E.D.C.L. to consumer etc.
18. We have perused the documents filed by M.S.E.D.C.L. namely agreement

dated 16.12.2011, agreement dated 10.4.2008, agreement dated 29.4.2005. We have perused order passed by IGRC dated 25.3.2014 and all documents produced on record.

19. The first issue is, whether complainant is entitle for formula for power factor calculation since 1.8.2009. We have perused relevant part of Annexure-II : Approved Tariff schedule at Page No.239 in case No.116 of 2008 decided on 17.8.2009. The said part is reproduced below as under :

Power factor calculation:

Wherever, the average power factor measurement is not possible through installed meter, the following method for calculating the average power factor during the billing period shall be adopted.

$$\text{Average Power Factor} = \frac{\text{Total (KWH)}}{\text{Total KVAH}}$$

Wherein the KVAH is = $\sqrt{\sum (\text{KWH})^2 + \sum (\text{RKVAH})^2}$

(i.e. Square Root of the summation of the squares of KWH and RKVAH).

20. We have perused all the documents and papers regarding reading consumption on installed meter. The burden to prove that average power factor measurement is not possible through installed meter is on the complainant. There is no evidence to prove the said fact. The M.S.E.D.C.L. on the other hand filed on record the documents to prove that Meter NO.057-04953984 which is D + ABB displays average power factor. In view of this complaint is not entitle for the relief.
21. We have perused the detail order passed by IGRC dated 25.3.2014 Learned IGRC has given anxious consideration to all submissions made by both sides and reached to just and proper conclusion. The order also high-lights on the point of payment of about Twenty lakhs refunded to consumer in bill of April-2013.
22. The M.S.E.D.C.L. has taken policy decision to adopt power factor formula

with effect from Dec.2011 uniformly to all consumers so consumer cannot claim the said benefit since-2009.

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23. The complainant has prayed the relief for direction to M.S.E.D.C.L. to recalculate the power factor incentive for the period 1.8.2009 to 30.11.2011. The order on which complainant relies is passed by MERC on 17.8.2009. The date of original intimation to IGRC is 8th Jan.2014. Therefore the complaint is not filed within prescribed period of limitation. It is settled law that if the party is not vigilant about right it is necessary to explain every days delay. There is no explanation for not filing complaints within limitation. There is no application for condonation for delay even though MSEDCL raised issue of limitation in written statement dated 23.6.2014.
24. Learned consumer representative submitted that the claim is for a period between 2009 to 2011 and application is filed in 2012 i.e. well within the limits of three years is not legally justifiable, when statute provides two years period of limitation. The consumer representative submitted that cause of action in the present case is the date of decision of IGRC which is not legally correct as per Reg.6.6.
25. In the result complaint is barred by limitation.

ORDER

Complaint is dismissed with no order as to cost.

N.S.Prasad,
Member/Secretary

Suryakant Pathak
Member

S.D.Madake
Chair Person

Date: 24/07/2014

