

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No. 30/2017

Date of Grievance : 10.01.2017

Date of Registration: 01.03.2017

Date of Order : 09.03.2017

In the matter of refund of security deposit alongwith SOP Compensation.

M/s. Indus Towers Limited,
2010, E-Core, 2nd floor,
Marvel Edge, Vimanagar,
Pune - 411014.

Complainant
(Herein after referred to as Consumer)

Versus

The Executive Engineer,
M.S.E.D.C.L.,
Nagarroad Division,
Pune.

Respondent
(Herein after referred to as Licensee)

Quorum

Chairperson	Mr. S.N.Shelke
Member Secretary	Mrs. B.S.Savant
Member	Mr. S.S.Pathak

Appearance

For Consumer	Mr.Sachin Mahangade Mr.D.S.Talware (Representative)
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For Respondent	Mr.Lakhe,Dy.Managaer,Nagarroad Dn. Mr.Kamthe, A.A.Wadgaonsheri Dn.
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- 1) The Consumer has filed present Grievance application under regulation No. 6.4 of the MERC (CGRF & E.O.) Regulations, 2006.
- 2) The present consumer had filed grievance before IGRC, Rastapeth Urban Circle on 19.9.2016. But the IGRC did not decide the said grievance within stipulated period of two months, therefore the consumer filed grievance before this forum on 10.1.2017.

- 3) The papers containing the above grievance were sent by the Forum to the The Executive Engineer, M.S.E.D.C.L.,Padmavati Division, Pune vide letter no. EE/CGRF/PZ/Notice/05 of 2017/15 dtd.09.01.2017. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 04.02.2017.
- 4) We heard both sides at length and gone through the contentions of the consumer and reply of the respondent and the documents placed on record by the parties.
- 5) Facts giving rise to the grievance are stated as under :

The consumer M/s. Indus Towers Ltd. having consumer No.160230603267 with connected load 07.50 KW was connected on 27.04.2004 in the tariff category LT-V B II. The said consumer surrendered the connection since its business at the said location was stopped. Then the consumer applied alongwith required documents for refund of security deposit of Rs.14290/- on 29.06.2015 to the S.D.O Wadgaonsheri. However the Licensee did not give any reply despite no any compliance was pending on the part of consumer. Thereafter the consumer approached to the IGRC for refund of security deposit vide complaint dated 19.09.2016. The IGRC failed to decide the said grievance within stipulated period. Therefore the consumer approached to Forum with this grievance for refund of security deposit with SOP compensation as per rules.
- 6) The consumer representative Mr.Lakhe, Dy.Manager, Nagarroad Dn. submitted that the above named consumer having consumer No. 160230603267 has surrendered the connection & then applied for refund of security deposit of Rs.14290/- on 29.06.2015. However the Licensee did not give any reply or taken any action for refund of S.D. Thereafter the consumer approached to the IGRC with complaint for refund of S.D. on 19.09.2016. However the IGRC failed to decide the grievance within stipulated time. Therefore the consumer filed this grievance before the Forum against the Licensee for claiming refund of S.D. alongwith interest & SOP compensation for delay in refund of S.D. The consumer did not get

refund of S.D.till date. Therefore Mr.Talware submits that the grievance be allowed with cost.

- 7) On the other hand Mr.Lakhe, Dy.Manager, Nagarraod dn. submitted that the said connection is standing in the name of M/s. BPL Cellular Ltd. but the complainant made application for refund of security deposit in the name of Indus Towers Ltd. on 29.6.2015. The present consumer has no any legal right to claim refund of S.D. standing in the name of another consumer. Moreover arrears of Rs.16156/- is outstanding against the consumer whereas the S.D. of Rs.14,290/-. Therefore there is no question to refund S.D. amount.
- 8) It is necessary to take into consideration provisions of supply code Regulations, regarding refund of security deposit.

Regulation No.11.9, 11.11 and 11.12 of MERC (Electricity supply code & other conditions of supply) Regulations, 2005 herein after referred to as supply code, 2005 read as under :

11.9 Upon termination of supply, the Distribution Licensee shall, after recovery of all amounts due, refund the remainder amount held by the Distribution Licensee to the person who deposited the security with an intimation to the consumer, if different from such person.

11.11 The Distribution Licensee shall pay interest on the amount of security deposited in cash (including cheque and demand draft) by the consumer at a rate equivalent to the Bank rate of the Reserve Bank of India:

Provided that, such interest shall be paid where the amount of security deposited in cash under this Regulation 11 is equal to or more than rupees fifty.

11.12 Interest on cash security deposit shall be payable from the date of deposit by the consumer till the date of dispatch of the refund by the Distribution Licensee.

- 9) Admittedly, the Licensee has not refunded the S.D.as claimed by the consumer till date. According to the Licensee they could not process the application for refund of S.D. due to change in the name of consumer. The

said connection is standing in the name of M/s.Bharati Airtel Ltd. but name of present consumer is M/s.Indus Towers Ltd. On the contrary, the consumer submitted that in the amalgamation process the Companies namely M/s.Hutchison Issar Cellular Ltd., M/s.Bharati Airtel Ltd., M/s.BPL Cellular Ltd. have been merged in the present Co. namely M/s.Indus Towers Ltd. All assets & liabilities of the old companies have been taken over by the present consumer. Moreover the present consumer was paying energy bills standing in the name of old consumers. The consumer in support of its contentions produce the order dated in the Case No.

- 10) The Licensee is liable to pay the security deposit to the consumer upon termination of supply as per regulation no.11.9 of MERC Supply Code Regulations, 2005. The present consumer after termination of contract has applied for refund of S.D. of Rs.14290/- on 29.6.2015 however the Licensee has not refunded the said security deposit till date. Therefore the consumer is entitled to get S.D. alongwith interest equivalent to the Bank rate of RBI as per Reg. No.11.9, 11.11 & 11.12 of MERC supply code regulations, 2005. Since the Licensee did not refund the S.D. within stipulated period, the Licensee is liable to pay SOP compensation to the consumer of Rs.100/- per week or part there of of delay as per Appendix-A, Item No.8 (II) of MERC SOP Regulations, 2014. The refund of S.D.was due in the second billing cycle from the application dated 29.6.2015. It is brought to our notice that arrears of Rs. 16156/- are outstanding against the said consumer whereas S.D. is of Rs. 14290/-. Therefore the Licensee is to adjust amount of S.D. of Rs.14,290/- against the arrears & to inform the consumer accordingly. Similarly the Licensee is to calculate SOP from the date of application of the consumer till the date of payment/adjustment of S.D. as per rules as mentioned above.
- 11) According to consumer, they have made grievance before IGRC, for refund of S.D. on 17.9.2016. The said application was received by the Licensee on 19.9.2016. But the IGRC failed to decide the said grievance within

stipulated period. Therefore the consumer required to approach before CGRF with the present grievance. The consumer produce the copy of the said application which shows the endorsement of the Licensee having received the said application on 19.9.2016 with rubber stamp of Licensee impressed on it. On the contrary, the Licensee submitted in the course of hearing that the consumer has not filed said grievance directly to the office of IGRC, but in the other department of Licensee. Therefore it was not received by the IGRC. In this regard it is necessary to reproduce provisions of Reg.No.6.2 of MERC (CGRF & EO) Regulations, 2006 which reads as under :

A consumer with a Grievance may intimate the IGR Cell of such Grievance in the form and manner and within the time frame as stipulated by the Distribution Licensee in its rules and procedures for redressal of Grievances. Provided that where such Grievance cannot be made in writing, the IGR Cell shall render all reasonable assistance to the person making the Grievance orally to reduce the same in writing. Provided also that the intimation given to officials (who are not part of the IGR Cell) to whom consumers approach due to lack of general awareness of the IGR Cell established by the Distribution Licensee or the procedure for approaching it, shall be deemed to be the intimation for the purposes of these Regulations unless such officials forthwith direct the consumer to the IGR Cell.

Therefore as per Reg.No. 6.2 of MERC CGRF Regulations, 2006 the intimation given to officials for not part of IGRC, it shall be deemed to be the intimation to the IGRC. Hence the IGRC should have been decided the said application of the consumer within stipulated period. The IGRC failed to decide the grievance within such time. Therefore the Licensee to make enquiry why the said grievance was not decided within the time and thereafter to take necessary action against the defaulting officials of the Licensee & to submit its report to the Forum.

11. The Grievance is liable to be allowed. Hence we proceed to pass following order.

ORDER

1. The grievance of the consumer is allowed with cost.
2. The Licensee is to adjust S.D. of Rs.14290/- against the arrears of energy bills of Rs.16156/- and to inform the consumer accordingly. Vide Reg.No.11.9 of MERC Supply Code Regulations,2005.
3. The Licensee to pay SOP compensation to the consumer from the date of application for refund of S.D. till the date of adjustment of S.D. by way of deducting from arrears at the rate of Rs.100/- per week or part thereof of delay as per Appendix-A, Item No.8 (II) of MERC SOP Regulations, 2014.
4. The Licensee to make enquiry why the grievance of the consumer was not decided by the IGRC within stipulated period & to take necessary action against the defaulting officials & to submit report thereof to the Forum.
5. The Licensee to report compliance within one month from the date of receipt of this order.

Delivered on: - 09.03.2017

Sd/-
S.S.Pathak
Member
CGRF:PZ: PUNE

Sd/-
B.S.Savant
Member/Secretary
CGRF:PZ: PUNE

Sd/-
S.N.Shelke
Chairperson
CGRF:PZ:PUNE

Note: - The consumer if not satisfied may filed representation against this order before the Hon'ble Ombudsman within 60 days from the date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Bldg.,
Bandra Kurla Complex, Bandra (E), Mumbai-51.