

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

Case No. 08/2017

Date of Grievance : 16.01.2017

Date of Order : 16.03.2017

In the matter of wrongly sanctioning of technical estimate for giving power supply to residential bungalows under DDF scheme by paying 1.3% Supervision charges on the normative charges of the estimate & SOP compensation for delay.

M/s. Green Scape Reality Pvt. Ltd.,
S.No.117/2, Pune Tal. Maval,
Dist.- Pune.

Complainant

(Herein after referred to as Consumer)

Versus

The Executive Engineer,
M.S.E.D.C.L.,
Rajgurunagar 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. Mahadar (Representative)

For Respondent

Mr.Manish Thakare, Ex. Engr.,
Rajgurunagar Dn.
Mr.Ravindra Bhujbal, AEE,
Lonavala Sub-dn.

- 1) The Consumer has filed present Grievance application under regulation No. 6.4 of the MERC (CGRF & E.O.) Regulations, 2006.
- 2) Being aggrieved and dissatisfied by the Order dated 09.01.2017 passed by IGRC, PRC, Pune, thereby rejecting the grievance, the consumer above named prefers present grievance application on the following amongst other grounds.

- 3) The papers containing the above grievance were sent by the Forum to the The Executive Engineer, M.S.E.D.C.L., Rajgurunagar Divison, Pune vide letter no. EE/CGRF/PZ/Notice/08 of 2017/20 dtd.17.01.2017. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 17.02.2017.
- 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 may be stated as under :

The applicant namely M/s.Green Scape Reality LLP is a developer & developing a residential complex at S.No.117/2, Pune Tal. Maval, Dist. Pune. The said project is near Lonavala. The project consists of 33 nos.of Banglow connections & three nos. of common connections total connected load is 1079 KW. The applicant submitted application to the Licensee for electrical connection to the said complex on 7.6.2016. The Licensee sanctioned estimate on 26.11.2016. The said estimate is sanctioned in two parts A & B. The part-A of estimate includes the work to be done in the premises of the consumer which is required for giving electricity supply. The consumer agreed for the same & executing the said work. The part B of the estimate work is not responsibility of the consumer since it is the work of system improvement & which is not on the electric line from which supply is to be provided to the consumer but on the other line. Therefore the consumer requests that the Licensee be directed to reconsider Part B of the estimate and to get cancelled the same.
- 6) The consumer representative Mr.Ajit Mahadar submitted that the said consumer is developing a residential complex at 117/2, Punegaon, Tal. Maval, Dist.Pune & has applied for electric supply 1079 KW load on 7.5.1996. The concerned section officer prepared the estimate stating feasible on present net work, but the same was not considered and additional work on line was proposed by the Addl.Ex.Engineer, Lonavala Sub/dn. Thereafter the consumer received the sanctioned estimate on 26.11.2016 the said sanctioned estimate is in two parts of A & B :

- A) The work to be done from existing line of MSEDCL to consumer premises which includes 2 nos. 630 KVA, T/F 22KV U.G.cables & LT cable. The consumer has no any objection for this part.
- B) This estimate includes the work on existing M.S.E.D.C.L. 22KV Line which includes the 6 nos. RSJ poles, Disk Insulator 72 nos.conductor 0.54 KV total cost in 3.29 Lakhs. The consumer has objection for this part of work.
- 7) Mr.Mahadar further submitted that the work of developing infrastructure is the responsibility of the Licensee as per provisions of the Electricity Act, 2003. The Licensee has issued circular in this regard vide No.CE/Dist./D-III-25859 dated 16.06.2007. Though load is more than 500 KVA to be availed to cater to the exclusive requirement of complex of the consumer in the form of dedicated networks, the consumer is supposed to do the work required in the premises upto existing 22KV line of the Licensee. The cost of augmentation of 22 KV Line is not responsibility of the consumer. But the Licensee in part-B of the estimate has shown the work of Rs.3.29 Lakh to be done by the consumer. On the contrary it is the responsibility of the Licensee to do the said work. Therefore Mr.Mahadar submits that Part-B in the estimate has been arbitrarily included by the concerned SDO with intention to harass the consumer & to prolong the work of the said scheme.
- 8) Mr.Mahadar further submits the IGRC misinterpreted the circular No.22197 dated 20.5.2008 & erroneously held that the said estimate sanctioned as per the guidelines given in the Circular No.22197. Mr.Mahadar further submits that the estimate prepared by the SDO was not scrutinized at the division or Circle level. Therefore it resulted into the wrong sanctioning of part-B of the estimate. Therefore he submits that the Licensee be directly to cancel the Part-B of the estimate the delay in the process resulted in procuring the material & consequently caused the monetary loss about Rs.70,000/- & therefore SOP be implemented against the Licensee.

- 9) On the other hand Mr.Thakare, Ex. Engr., Rajgurunagar Dn. submitted that the present applicant is not a consumer of the Licensee. The Licensee has not yet released the supply to the consumer. Therefore the grievance cannot be entertained before the Forum & hence it is to be rejected. He further submits that as per Circular No.22197 dated 20.5.2008 for the load above 500 KVA, the infrastructure is to be developed by the applicant. The application is for the load above 500 KW & hence as per the field requirement, the estimate framed by the SDO is correct & therefore the said application be rejected.
- 10) According to the Licensee electric supply is not yet provided to the said applicant therefore presently the applicant is not a consumer of the Licensee & therefore the said application cannot be entertained before the Forum. Therefore we have to consider whether such grievance can be entertained before the Forum. Definition of consumer is given under Section-2 (15) of the Electricity Act-2003 which reads as under :

“ consumer “ means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

- 11) The word grievance is defined under Reg.No.2.1 (c) of MERC (Consumer Grievance Redressal Forum And Electricity Ombudsman) Regulations, 2006 as under :

“ Grievance” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in Supply Code or in relation to standards of performance of Distribution Licensees as specified by the Commission and includes interalia (a) safety of distribution system having potential of endangering of life or property and (b) grievances in respect of non-compliance of any order of the Commission or any action to be taken in

pursuance thereof which are within the jurisdiction of the Forum or Ombudsman, as the case may be.

12) Therefore according to said definition any fault, im perfection short coming or inadequacy in the quality, nature & manner of performance undertaken to be performed by the Licensee in pursuance of License, contract in relation to electricity supply code or in relation to standards of performance of Distribution Licensee is a grievance. MERC (Standards of Performance of Distribution Licensees, period for giving supply & determination of compensation) Regulations, 2014 provides Appendix-A for level of compensation payable to consumer for failure to meet standards of performance. As per this Regulation standard of performance begins from the date of receipt of application for releasing of supply. Such standards of performance as regards provision of supply on the part of Licensee can elaborately be laid down as under :

Level of compensation payable to consumer for failure to meet standards of performance.

Supply activity/event		Standard	Compensation payable
Provision of supply			
(i)	Time period for completion of inspection of applicant's premises from date of receipt of application	Seven(7) days (towns & cities) Ten(10) days (rural areas)	Rs.100 per week or part thereof of delay.
(ii)	Time period for intimation of charges to be borne by applicant from date of receipt of application : - in case connection is to be from existing network -Where extension of distribution main or commissioning of sub-station is required.	 Fifteen (15) days(town & cities) Twenty(20) days (rural areas) Thirty (30)days.	Rs.100 per week or part thereof of delay.
(iii)	Time period for provision of supply from date of receipt of completed application and <u>payment of charges:</u> - in case connection is to be from existing network. Where extension or augmentation of distributing main is required Where commissioning of sub-station is required	 One (1) month Three (3) months One (1) year	Rs.100 per week or part thereof of delay.

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- 13) The consumer submitted the application for electric connection to its complex on 7.5.2016. Thereafter the Licensee sanctioned the estimate on 26.11.2016 amounting to Rs.70380/-. The consumer paid 1.3% Supervision charges amounting to Rs.70380/- on 7.12.2016 vide receipt no.9377725. The consumer also paid 1.3% Supervision charges amounting to Rs.1876/- on 7.12.2016 against the quotation issued by the Licensee for shifting of DTC vide receipt No.9377726. The consumer as per the DDF facility has partly executed the work and ready to execute further work. However the supply is not yet provided to the consumer. Therefore there is imperfection short coming or deficiency on the part of Licensee for provision of supply within stipulated time as per MERC SOP Regulations,2014. However it is brought to our notice that the consumer failed to produce proposed line map of within the time. It was submitted on 18.10.2016. Therefore estimate was sanctioned on 26.10.2016. We find substance in the said submissions. Therefore consumer is not entitled to get SOP compensation.
- 14) Section 46 of the Electricity Act, 2003 empowers the distribution Licensee to recover expenditure from a person requiring supply of electricity any expenses reasonably incurred in providing any electric line or plant used for the purpose of giving that supply. Section 46 of the Act reads as under :
- The State Commission may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.*
- 15) According to the Licensee the said estimate was sanctioned as per the guidelines given by the Licensee in Circular No.22197 dated 20.5.2008. For the purpose of present grievance relevant guidelines of the said circular are reproduce as under :

Sr.No.	Particulars	Recovery of charges
3.	Group of LT consumers in Non domestic, Residential complex where the load is equal to or more than 500 KVA.	Generally, the loads of 500 KVA and above are availed to cater to te exclusive requirement of complex in the form of Dedicated Networks to such complex and in most of the cases the infrastructure including the transformer, lines and other allied equipments are required to be installed in the developer's premises itself and remains for the exclusive use of the complex. Therefore, the developer or the group of consumers shall be given connection as Dedicated Distribution Facility (DDF) which will not include the cost settling up or augmentation of 33/11 or 22/11KV Sub-station. The Line will remain dedicated to the consumers in future.

- 16) Definition of dedicated distribution facilities is provided under Reg.No.2.1(g) of MERC (Electricity Supply Code & Other conditions of supply) Regulations, 2005 as under :

“Dedicated distribution facilities” means such facilities, not including a service line, forming part of the distribution system of the Distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises:

- 17) The Commission in its order dated 8th Sept.2006 on Schedule of charges has dispensed the proposal of recovery of service Line charges to be recover from the prospective consumers. The Commission's ruling on the said point is as under :

The Commission totally rejects MSEDCL's proposal to recover Service Line Charges from the prospective consumer except in case of consumers requiring dedicated distribution facility. As per the provisions of the Act, developing infrastructure is the responsibility of Licensee. The transmission system to distributing mains should be borne by MSEDCL. The recurring expenses related to the capital investment on infrastructure shall be considered during ARR determination."

- 18) The Licensee in pursuant to the Commission's Order dated 8th Sept.2006 issued Circular No.25859 dated 16th June 2007 for the guidelines. The relevant guideline is as under :

All such expenses incurred against release of connections shall be claimed in ARR which is as per MERC order dated 8th Sept.2006 on schedule of charges.

- 19) According to the consumer the sanctioned estimate vide No.SE/PRC/T/LS/Green Scape Reality LLP/DDF/5771 dated 26th Oct.2016 is in two parts. As regards Part-A of the estimate, the consumer has no any objection. But as regards Part-B which includes work on existing MSEDCL 22KV Line & includes 6 nos. RSJ poles, Disk Insulator 72 Nos. conductor 0.54 KV, total cost of Rs.3.29 Lakhs, the consumer has strong objections that the said estimate was prepared by the concerned SDO but it was not scrutinized at the Division or Circle level. The Licensee has misinterpreted the Circular No. 222197 dated 20.5.2008. That the guidelines of MERC vide order dated 8.9.2006 & subsequent circular thereto issued by Licensee No.25859 dated 16.6.2007 have not taken into consideration which resulted into wrongly sanctioning of Part-B of the estimate. That it is the responsibility of the Licensee for developing of infrastructure as per the Act & the Regulations. That the said Part-B of the estimate has deliberately included in the estimate to harass the consumer. Therefore the consumer insists to cancel the Part-B of the said estimate. It is to be noted that sanctioning of estimate is the duty of the Licensee & the forum cannot interfere in the said work. But so far as wrongly issuance of estimate

despite the provisions of Act & Regulations and so far as deficiency in the services on the part of Licensee the Forum can exercise jurisdiction over the matter to the extent of giving directions to the Licensee to review the said B part of the estimate in terms of provisions of the Electricity Act & Rules & Regulations. Under such circumstances we proceed to pass following order:

ORDER

1. Grievance of the consumer is partly allowed.
2. The Licensee to review the Part-B of the estimate dated 26.10.2016 issued to the consumer in terms of Section 46 of the Electricity Act & MERC order dated 8th Sept.2006 alongwith Circulars No. 22197 dated 20.5.2008 & Circular No.25859 dated 16th June 2007 issued by the Licensee & to issue the revised estimate.
3. The Licensee to report compliance within 15 days from the receipt of this order.

Delivered on: - 16.03.2017

S.S.Pathak
Member
CGRF:PZ: PUNE

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

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.