

CONSUMER GRIEVANCE REDRESSAL FORUM
(Established under the section 42 (5) of the Electricity Act, 2003)
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
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No. / CGRF /Nashik/Nagar Circle /Sangamner Dn./597/73-2016-17/

Date: 05/04/2017

(BY R.P.A.D.)

In the matter of

Excess collected amount towards transmission charges and wheeling charges

Date of Submission of the case : 15/02/2017

Date of Decision : 05/04/2017

To.

1 M/s. D.J. Malpani,
Malpani Estate,
Akole Road, Sangamner,
Dist. Ahmednagar
(Con.No. 155049004600)

Complainant

2 Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Circle office, Ahmednagar,

Distribution Company

3 Executive Engineer,
Maharashtra State Electricity Distribution Com. Ltd.
Sangamner Divn. Office
Dist. Ahmednagar.

DECISION

M/s. D.J. Malpani . (hereafter referred as the Complainant). Sangamner is an open access consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against MSEDCL for refund of excess collected amount towards transmission charges and wheeling charges for the open access period. The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. But not satisfied with the decision of the Respondent , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.33 of 2017 on 15 /02/2017.

The Forum in its meeting on 17/02/2017, decided to admit this case for hearing on 10/03/2017 at 11.30 am in the office of the forum . A notice dated 22/02/2017 to that effect was sent to the appellant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Circle Office Ahmednagar for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri. J.S.Chavan , Nodal Officer represented the Distribution Company during the hearing. Shri B.R. Mantri appeared on behalf of the consumer.

Consumers Representation in brief :

The complainant noticed that MSEDCL has charged **Wheeling charges and Transmission charges** on the total units after consideration of losses. As per MERC regulation, (wheeling charges and transmission charges,) should be charged on adjusted units, i.e. on the actual energy drawn at the consumption point as provided in Regulation 15 and 16 of the DOA regulation.

A. The complainant has submitted the June -2016 open access transaction for information at the time of hearing :

In this month, consumer open access demand as per below:

Total Contract demand: 1000 KVA

MSEDCL Contract demand: 1000KVA

Open Access demand: Non-Conventional: 2200 KVA (wind)

OA Billing Details:

	Wind
A. Export Unit:	440299
B. Units for OA Adjustment (KWH)	440299
C. Units after transmission loss (KWH)	385085
D. Units after Distribution loss	400672
E. Final Units	385085
F. Units adjusted against OA (KWH)	155751
G. Over Injected unit	181230

1. Our wind generating as per (B) Units for OA Adjustment (KWH).
2. MSEDCL system credit unit by wind generating as per (B) Units for OA Adjustment (KWH).
3. Total loss of units in MSEDCL Tr&Wh: (B) Units for OA Adjustment (KWH) – (f) Units adjusted against OA (KWH).
4. MSEDCL adjusted units against Open access (F) Units adjusted against OA (KWH).
5. Wind generation over injected unit in MSEDCL system and banked units carried forward with specific banking conditions and after the financial year MSEDCL has purchased at lowest rate. We have already paid the wheeling and transmission charges on over injected unit. When, there is sale to MSEDCL no wheeling and transmission charges are applicable.

Actual Charges levied by MSEDCL for Open access units as per below:

1. Wheeling charges:

Non-Conventional units: = (B) Units for OA Adjustment
=440299

Total units = 440299 @ 0.83 = Rs. 365448.17

2. Transmission charges:

Non- Conventional (D) Units after Distribution loss: 400672 @ 0.26 = Rs.104174

Total WC + TC already charged= Rs.469622.89

From the above, it seem that

1. For charging of wheeling charges, MSEDCL has wrongly considered the wheeling charges including loss of units. As per MERC ruling, consumer has to bear the losses and to pay the wheeling charges on actual drawal units at consumption end.

Under MYT Regulation 12.1 Part C of the Maharashtra Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2005 notified on 26th August 2005, stipulates that the Commission shall determine the tariff for following matters under a multi-year tariff framework with effect from 1st April, 2006:

- a) Supply of Electricity by a Generating Company to a Distribution Licensee
- b) Intra-State transmission of Electricity
- c) Wheeling of Electricity
- d) Retail Sale of Electricity

Hon'ble Commission has introduced the wheeling charges and transmission charges from the tariff order of MSEDCL for FY 2006-07 based on MERC (Terms and condition of tariff) Regulation 2004.

The Commission has considered the approved wires and Supply ARR, past period adjustment and Energy Sales at various voltage levels as approved by the Commission while deciding the voltage wise cost of Supply.

The Commission has determined the wheeling charges for use of wire network for eligible open access consumers for each voltage level based on the voltage-wise asset base and capacity levels at each voltage, as submitted by MSEDCL, with certain assumptions.

The Commission prescribes that the distribution system users who are eligible for open access to the distribution system of MSEDCL in accordance with the Distribution Open Access Regulations, 2005 would be required to pay the wheeling charges and bear wheeling losses in kind as determined.

From the tariff order FY 2009-10, the Commission has determined the wheeling charges in terms of energy unit sRs/KWH instead of Rs/KW/month for 33 kV, 22 kV/11 kV and LT level, based on the allocation of asset base and **considering sales at respective voltage levels.**

As per D O Regulation, consumer has to pay the wheeling charges on drawal units at consumption end (Sales unit) and to bear the wheeling loss on the adjustment of extra units for losses.

We have already borne the distribution loss with % of loss units which are credited in to MSEDCL system. So MSEDCL has wrongly charged wheeling charges on loss of units. MSEDCL has to charge wheeling charges as per actual drawal of energy at the consumption end (Sales end).

1. For charging of transmission charges, MSEDCL has wrongly considered the transmission charges including loss of units. As per MERC ruling, consumer has to bear the losses and to pay the transmission charges on actual drawal units at consumption end.

For charging of transmission charges, MSEDCL has to consider the MERC ruling as below:

MERC Order in Case No. 58 of 2005 dated 27/06/2006 for development of "Transmission Pricing Framework" for the State of Maharashtra and other related matters: in this order the Commission has devised a composite scheme for pricing of 'Intra-State Transmission system'. In this policy, Commission has decided the recovery of revenue in Para 4.2.7.

4.2.7 "Further, the Transmission Tariff has been designed such that recovery of revenue requirement of transmission licensees is achieved only through **drawal of energy**, i.e., all off-takers (licensee, open access users) shall bear the transmission tariff. The generating company should be charged for **injection of energy** only if they seek open access for sale to consumers/licensees **outside the state.**

4.2.10 "Transmission loss shall be borne by all TSU (off-takers) on prorata basis based on their energy drawal depending on actual transmission loss level.

We have already borne the transmission loss with % of loss units which are credited in to MSEDCL system. So MSEDCL has wrongly charged transmission charges on the injection points. MSEDCL has to charge as per drawal of energy at the consumption end.

MSEDCL has to revise the charges levied for wheeling and transmission at actual drawal (sales point – Consumption end) as below:

1. Wheeling charges: (F) Units adjusted against OA (KWH)
= 244320 @ 0.82= Rs.200342.40
2. Transmission charges:
(F) Units adjusted against OA
= 244320@ 0.26 = Rs.63523.20

Total WC + TC to be charged = Rs.263865.60

MSEDCL has to refund the excess collected charges for the billing month of June 2016 as below:

= Already charged (Rs. 469622.89) - To be charged (263865.6)

=Refund Rs.205757.29

Enclosing Jun 2016 bill copy and open access consumption data details

B. The complainant has further submitted as under:

THE ELECTRICITY Act 2003 is landmark legislation in that it opens the power sector to a number of players by laying down provisions for a power market and competition. As per Electricity Act 2003 Open Access is "*Non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Appropriate Commission*".

1. The term of Distribution system, open access and wheeling as defined In E.A. 2003 as below:

"Distribution system" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers.

"Open access" means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Appropriate Commission.

"Wheeling" means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62.

2. MERC Order in Case No. 58 of 2005 dated 27/06/2006 for development of "Transmission Pricing Framework" for the State of Maharashtra and other related matters: in this order the Commission has devised a composite scheme for pricing of 'Intra-State Transmission system'.

In this policy, Commission has decided the recovery of revenue in Para 4.2.7.

4.2.7 "Further, the Transmission Tariff has been designed such that recovery of revenue requirement of transmission licensees is achieved only through **drawal of energy**, i.e., all off-takers (licensee, open access users) shall bear the transmission tariff. The generating company should be charged for **injection of energy** only if they seek open access for sale to consumers/licensees **outside the state**.

4.2.10 "Transmission loss shall be borne by all TSU (off-takers) on prorata basis based on their energy drawal depending on actual transmission loss level.

3. Under MYT Regulation 12.1 Part C of the Maharashtra Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2005 notified on 26th August 2005, stipulates that the Commission shall determine the tariff for following matters under a multi-year tariff framework with effect from 1st April, 2006:

- a) Supply of Electricity by a Generating Company to a Distribution Licensee
- b) Intra-State transmission of Electricity
- c) Wheeling of Electricity
- d) Retail Sale of Electricity

Hon'ble Commission has introduced the wheeling charges and transmission charges from the tariff order of MSEDCL for FY 2006-07 based on MERC (Terms and condition of tariff) Regulation 2004.

Hon'ble Commission's principles for Determination of Wheeling Charges form FY 2006-07:

The Commission has determined the wheeling charges in accordance with the provisions of law and has given due consideration to the following principles:

Section 61 (g) of EA 2003: "...that the tariff progressively reflects the cost of supply of electricity..."

Section 62 (3) of EA 2003: "The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required"

Section 42 (3) of EA 2003: "Where any person, whose premises are situated within the area of supply of a distribution licensee, (not being a local authority engaged in the business of distribution of electricity before the appointed date) requires a supply of electricity from a generating company or any licensee other than such distribution licensee, such person may, by notice, require the distribution licensee for wheeling such electricity in accordance with regulations made by the State Commission and the duties of the distribution licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access."

The Commission has considered the approved wires and Supply ARR, past period adjustment and Energy Sales at various voltage levels as approved by the Commission while deciding the voltage wise cost of Supply.

The Commission has determined the wheeling charges for use of wire network for eligible open access consumers for each voltage level based on the voltage-wise asset base and capacity levels at each voltage, as submitted by MSEDCL, with certain assumptions.

The ARR of MSEDCL has been segregated between wires business and retail supply business in accordance with the principles adopted by the Commission.

Consumers connected directly to the transmission network would not be required to pay the wheeling charges. Open access consumers will pay the wheeling charges and the wheeling loss in kind linked to distribution loss at respective voltage level.

Initially, in first stage, From FY 2006-07, The Commission has determined the **wheeling charges** for use of wire network on **Rs/KW/month** for 33 KV, 22 KV/11KV and LT level based on the allocation of asset base considering **sales** at respective voltage levels.

The Commission prescribes that the distribution system users who are eligible for open access to the distribution system of MSEDCL in accordance with the Distribution Open Access Regulations, 2005 would be required to pay the wheeling charges and bear wheeling losses in kind as determined.

4. Tariff order FY 2009-10:

In the tariff order for FY 2009-10 for calculation of wheeling charges and loss compensation, Commission stated as "In MYT orders, Hon'ble Commission had directed to maintain separate accounting of network related cost and supply related cost, which is essential for un-bundling of cost and tariff components and is a pre-requisite for appropriate determination of wheeling charges. Also, network cost needs to be segregated in terms of voltage level (33KV, 22KV/11KV, and LT). But MSEDCL

has not maintained it. In the absence of accounting information for related cost, the Commission has considered allocation of various cost component of ARR between network related cost and supply related cost, in line with the principles outlined under MYT order for MSEDCL.”

The Commission has determined the wheeling charges for 33 kV, 22 kV/11 kV and LT level, based on the allocation of asset base and **considering sales at respective voltage levels**. The ARR has been segregated between wheeling business and retail supply business based on the submissions made by MSEDCL. The total ARR of the Wires business as computed above has been apportioned to various voltage levels (i.e., 33 kV, 22kV/11 kV and LT) **in the ratio of sales at respective voltage levels**, and the wire costs at higher voltage levels has been further apportioned to lower voltage levels, since the HT system is also being used for supply to the LT consumers. Further, so far the Commission has been denominating wheeling charges in Rs/kW/month terms in line with the Tariff Policy recommendations, so as to achieve uniformity in transmission pricing and wheeling charges. However, the Commission is of the view that in order to simplify the operationalisation of open access transactions, it is beneficial to denominate the wheeling charges in terms of energy units (i.e., Rs/kWh).

The Commission has also stipulated wheeling charges in respect of other distribution licensees such as TPC-D and RInfra-D in terms of Rs/kWh.

Accordingly, on the same principle, the Commission has stipulated wheeling charges for use of wire network of MSEDCL for FY 2009-10 in terms of Rs/kWh at various voltage levels. The per unit wheeling charge (Rs/kWh) at each voltage level has been derived as the ratio of apportioned network wheeling cost at each voltage level and energy units handled at respective voltage level.

From the tariff order FY 2009-10, Commission has decided the wheeling and transmission charges in each tariff orders for use of wire network, considering sales at respective voltage levels.

5. Commission has notified the Distribution Open access regulation, 2014.

In this DO regulation, section 16.1 (a) has specifically mentioned that “Provided that the wheeling charges shall be payable only on the basis of actual energy flow at the consumption end. (Sales point).

6. Commission has notified the Transmission Open access regulation, 2014.

In this TO regulation, section 18.2 (i) has specifically mentioned that “In case of short term open access the charges shall be payable based on actual energy flow.” (i.e. at Sales point).

7. The MERC transmission pricing framework dated 27/06/2006 has already decided the pricing on drawal of energy point. (i.e on Sales point).

8. The same concept of transmission pricing is continuing in DO and TO regulation 2016.

9. From the tariff order of FY 2009-10, The Commission has calculated the wheeling charges on the basis of voltage wise ratio and **estimated Sales** at the respective levels.

Example: 11KV/22KV Open Access Consumer FY 2015-16

1. Base Consumption at drawal point (Consumer end) X : 100 units
2. Wheeling Loss A = 9%
3. Energy Injected in to transmission to Distribution system: $B = X / (1-A/100)$
 $= 100 / (1 - 9/100)$
 $= 109.89 \text{ KWH}$
4. Transmission Loss C = 3.89%
5. Energy Injected in to generation to transmission system: $D = B / (1- C /100)$
 $= 109.89 / (1-3.89/100)$
 $= 114.34 \text{ KWH.}$
6. Total energy injected to DL system: 114.34 KWH

7. Generator unit credit note to DL : 114.34 KWH
8. Total loss of energy in to DL system: 14.34 KWH
9. Total actual energy drawal at consumer end: 100 KWH
10. Total payment to open access consumer to generator = 114.34 KWH
11. Total payment wheeling charges to DL = $100 \times 0.83 = \text{Rs.}83/-$
12. Total payment transmission charges to DL = $100 \times 0.28 = \text{Rs.} 28/-$

10. The same has clarified by MERC vide order dated 17/05/2016 in Case No.137 of 2015 in the matter of M/s. Ghodawat Energy Pvt. Ltd.
11. The same concept has continued to all consumers from the tariff order for FY 2016-2017 to FY 2019-20. In this tariff orders Commission has separated the voltage wise wheeling and supply business. Same principle has adopted which has considered earlier for open access consumers.
12. MSEDCL has charging wheeling and transmission charges considering injection points at transmission and generation with consideration of loss factor. Whereas, from the tariff order FY 2009-10, MSEDCL also projected wheeling charges on the base of sales and Commission has decided the wheeling charges on the base of Sales. Due to this, Open access consumer has burden of loss of units and also wheeling and transmission charges on loss of unit.

Relief Sought :

Refund the excess collected amount with interest as per Electricity Act 2003 from the date of deposit of excess payment to refund date.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 09/03/2017 from the Nodal Officer Ahmednagar Circle. MSEDCL, and other relevant correspondence in this case. The Distribution Company stated that:

1. M/s. D.J. Malpani Con. No. 155049004600 is open access consumer since April 2015.
2. Consumer complained that MSEDCL has recovered excess amount against wheeling charges, transmission charges on the basis of energy generation units recorded at source of meter including line losses, since from beginning, when this charge allowed by commission. Consumer also stated that as per MERC DOA Regulation 2016, wheeling charges, transmission charges should be charged on adjusted units, i.e. On the actual energy drawn at the consumption point as mentioned in regulation.
3. Consumer complained that MSEDCL has levied temporary tariff for excess drawal units during the period April 15 to March 16 but MERC has allowed for penalty on excess demand instead of temporary tariff.
4. Consumer requested to verify the charges levied as per MERC order and refunding of excess amount with interest as per IE Act. 2003, from the date of deposit of excess payment to refund date.
5. As per MERC DOA Regulation 2016, regulation 14.6a an Open Access Consumer Generating Station or Licensee, as the case may be, using a Distribution System shall pay to the Distribution Licensee such wheeling Charges, on the basis of actual energy drawal at the consumption end, as may be determined under the Regulations of the commission governing Multi-Year Tariff. Details regarding levy of transmission charges on the actual energy drawn and non levy of temporary tariff to excess drawal units not found in MERC DOA Regulation 2016.
6. As the consumer is in open access & open access billing procedure/methodology framed by the CE(Comm.), H.O. Mumbai, vide this office Letter SE/ANRC/TECH/HT/DY.EE AMR/635 dtd. 10/01/2017, requested CE(Comm.) HO Mumbai for issuance of guidelines regarding recovery of wheeling charges, transmission charges and temporary tariff charges levied to open access consumer M/s. D.J. Malpani, .S.No. 52/1/1 A, Kasar Dumala Tq. Sangamner Dist. Ahmednagar, consumer NO. 155049004600. This office not received guidelines regarding above said matter.

Action by IGRC:

1. Internal Grievance Redressal Cell Ahmednagar Circle conducted hearing on 21/01/2017 for the complaint submitted on 07/12/2016 M/s. D.J. Malpani (Con.No. 155049004600) and others .
2. After hearing both the parties IGRC gave a decision as per common order dated 25/01/17 as under:
Lknjh y xtgdkpl oxbkjh o xtgdkl vdklj.; kr vkysyh fotns d ; kx; o cjkcj vkgr- R; kpi ek.ks xtgcd da 155049004600 ; k oht tkm.khl yko.; kr vkysys Transmission & Whiling charges gs eq; dk; ky; kP; k l pui ek.kp yko.; kr vkysys vkgr o rs ; kx; vkgr-

Observations by the Forum:

1. The grievance is regarding the charges levied for wheeling and transmission by the Distribution Company for open access consumer.
2. The MERC has framed the MERC (Distribution Open Access), Regulations, 2016 ('DOA Regulations') notified on 30th March 2016 . These regulations provide directives for the levy of Wheeling Charges on Open Access Consumers . Also the MERC (Transmission Open Access) Regulations, 2016 ('TOA Regulations') notified on 30th March 2016 provide for the levy of Transmission Charges on Open Access Consumers. The section 32 of the 'DOA Regulations' states that "any dispute under these regulations shall be adjudicated upon by the Commission."
3. This being a dispute related to the DOA and TOA regulations , the Forum does not have jurisdiction to resolve it.
4. The complainant has referred a decision by MERC in Case no. 137 of 2015 in the matter of Petition of Ghodawat Energy Pvt. Ltd. for removal of difficulties in Distribution Open Access Regulations, 2014 and argued that the CGRF has jurisdiction regarding this grievance. However the relevant portion of the decision in this case is as under:
".....7. If (as implied by GEPL) those of the above provisions which are relevant to its consumers are not being followed by MSEDCL, the consumers have recourse to the CGRF since such grievances would be in the nature of billing disputes which are to be addressed through that mechanism. ..."
A plain reading of the above decision will reveal that petitioner (GEPL) is the energy provider and this directive is regarding the consumers of GEPL The disputes of the its consumers can be resolved through this mechanism.
5. It has been reported by the Distribution Company that they have sought guidance from the CE (Commercial) Mumbai by a letter dated 10/01/2017 regarding recovery of wheeling charges, transmission charges and temporary tariff charges levied to open access consumer M/s. D.J. Malpani. There is no reply yet. The Forum is amazed to note that the IGRC has rejected the grievance outright instead of waiting for the guidance from the CE (Commercial).
6. The MERC has also issued Practice Directions under order dated 08/03/2017 which contains the following directives regarding Wheeling Charges or Transmission Charges:

A STOA Consumer, Generating Station or Licensee using a Distribution System shall pay Wheeling Charges or Transmission Charges, as the case may be, on the basis of the actual energy drawal at the consumption end on Rs/kWh basis. The Distribution Licensee shall refund any amounts recovered in excess of these stipulations within a month, with applicable interest, without requiring such refund to be applied for.

The Distribution Company may decide the grievance in the light of these directives. . If the complainant is not satisfied with resolution . the Hon'ble Commission may be approached as provided in the DOA regulations.

The case is disposed off with the above observations.

If aggrieved by the non-redressal of his Grievance by the Forum, the Complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

(Rajan S. Kulkarni)
Member

(Sandeep D.Darwade)
Member-Secretary
& Executive Engineer

(Suresh P.Wagh)
Chairman

Consumer Grievance Redressal Forum Nashik Zone

Copy for information and necessary action to:

- 1 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. , Vidyut Bhavan, Nashik Road 422101 (For Ex.Engr.(Admn)
- 2 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. , Vidyut Bhavan, Nashik Road 422101 (For P.R.O)
- 3 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. , Circle office, Ahmednagar .