

**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./550/26-2016-17/ Date: 27/10/2016

**(BY R.P.A.D.)**

**In the matter Of**  
**Refund Of The Penal Charges Levied For Exceeding The Contract Demand**

**Date of Submission of the case : 06/09/2016**  
**Date of Decision : 27/10/2016**

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.

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**DECISION**

M/s. D.J. Malpani . (hereafter referred as the Complainant ). Sangamner is the industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against the Distribution Company for refund of the penal charges levied for exceeding the contract demand and to pay the compensation. 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 IGRC , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No148 of 2016 on 06 /09/2016.

The Forum in its meeting on 14/09/2016, decided to admit this case for hearing on 27/09/2016 at 12.00 pm in the office of the forum . A notice dated 15/09/2016 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 complainant .

**Consumers Representation in brief :**

The complainant has applied for additional load on date 25/06/2015. M.S.E.D.C.L. has not processed the request for enhancement of demand in time. The sanction of additional load was delayed. There is an internal dispute of M.S.E.D.C. about who has to sanction. The consumer has suffered for that . MSEDCL has given the sanction & release letter but not effected in the bill.

**Consumer's Demands :**

1. M.S.E.D.C.L. should refund the penal charges levied for exceeding the contract demand and pay compensation for delaying the sanction of additional demand .
2. To give orders for sanction of addl, demand w.e.f. next month of application and refund the excess collected amount with interest as per Act.

**Arguments from the Distribution Company:**

The Distribution Company submitted a letter dated 26/09/2016 from the Nodal Officer Ahmednagar Circle, MSEDCL, and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

1. Consumer M/s. D. J. Malpani has submitted on line application on date 25/06/2015 for enhancement of contract demand of consumer No. 155049006680 instead of open access consumer correct consumer No. 155049004600.
2. Open access consumer M/s. D.J. Malpani, Con. No. 155049004600, Kasar Dumala Tq. Sangamner, Dist. Ahmednagar has submitted complete A1 application form with documents for enhancement of contract demand from 1000 KVA to 1500 KVA on date 03/07/2015.
3. Consumer requested to give the effect of enhancement of contract demand w.e.f. next month of application i.e. w.e.f. Aug. 2015, which is not possible because as per MERC Distribution open Access Regulation 2014, SEM (Special Energy Metering ) to be installed by the consumer itself & expenses for the same to be born by the open access consumer only. For enhancement of contract demand from 1000 KVA to 1500 KVA it was necessary to replace existing 11 KV CTs of CTR 50/5 A by CTR of 75/5 A ratio 0.2s class, 15 VA for main & check metering at consumer premises & sanction to be given after observing technical feasibility.
4. Vide letter dated 30/07/2015, the Circle office requested CE. (Comm.) to issue guideline regarding enhancement of contract demand in r/o open access consumer M/s. D. J.Malpani, as the consumer is in open access & OA permission are already issued by CE (Comm.) for the period 01/04/15 to 31/03/16 but guideline not received.
5. Vide letter dated 21/09/2015 , SE (TQA) Pune has given specification of SEM. CT's & PT's in r/o M/s. D. J. Malpani. As per letter existing CT ratio of 50/5 A to be replaced by CTR of 75/5 A ratio 0.2s class, 15 VA for main & check metering at consumer premises.
6. Vide letter dated 29/10/2015 , load was sanctioned & issued to the consumer for the payment of recoverable charges as additional security deposit & other charges on date 04/11/15.
7. Vide letter dated 27/11/2015 , consumer submitted application along with requisite documents for release of enhancement of contract demand.
8. Vide letters dated 10/12/2015 & 18/12/2015 the office released additional load (extension of CD only) from 1000 KVA to 1500 KVA in r/o M/s. D. J.Malpani but this office was not aware regarding letter dated 12/09/2012 from CE (Com) , due to which load enhancement was released without permission of CE(Comm.). On date 26/12/2015, old CT's of ratio 50/5 A changed to 75/5 A hence MF changed from 10 to 15.
9. Enhancement of contract demand carried out on 26/12/15 but change in contract demand from 1000 KVA to 1500 KVA was not done due to non availability of amendment in OA permission issued previously.
10. Vide letter dated 07/01/2016, this office requested CE (Comm.) to issue guideline for the same.
11. Vide letter dated 03/03/2016 , CE(Comm.) informed that while releasing enhancement of contract demand circular issued vide letter CE (Comm.)/CP/Wind/OA/Self use/09546 dtd. 30/03/15 was not followed by Circle office & also enhancement of contract demand done without enhancement of connected load of consumer hence instructed not to grant enhancement of contract demand.
12. Vide letter dated 04/03/2016, the consumer requested to give effect of change in the contract demand (1000-1500 KVA) w.e.f. 26/12/15 (date of replacement of CT's). Consumer stated that in past (before July 15), due to recession in the market, manufacturing activities were curtailed to reduce the financial losses. Now due to change in market position, we need to utilize full load & due to utilization of full load contract demand of 1000 KVA being exceeded from July 15 to Dec. 15 ( 6 months) & Feb.16 recorded max demand exceeded by us & we are being penalized for the same hence enhancement of contract demand from 1000-1500 KVA is required.
13. Vide letter dated 17/03/2016, consumer submitted on line A1 application form vide service request ID No.3711121 for enhancement of connected load from 1750 KW to 1800 KW.

14. Considering request application from consumer vide letter dated 04/03/2016, this office submitted post facto approval proposal to CE (Comm.) vide letter dated 22/03/2016 & requested to accord post facto approval of enhancement of contract demand in r/o. D.J. Malpani, Con. No. 150049004600 w.e.f. Jan 2016 .
15. Vide letter dated 27/04/2016, CE (comm) instructed to submit the justification of load enhancement carried out at Circle level without taking the approval of competent authority i.e. CE(Commercial) in r/o open access consumer M/s. D. J. Malpani.
16. Vide letters dated 29/04/2016, OA permission are issued by CE(Comm.) for the period 01/04/2016 to 31/03/17 withdrawal consumer contract demand as 1000 KVA.
17. Vide letter dated 02/06/2016 , this office submitted the justification for non-taking the approval before release of load extension to CE(Comm.) stating that this office was not aware regarding the CE (Com) letter dated 12/09/2012 & due to which load extension released by mistake without taking the approval of competent authority & also submitted compliance of letter dated 03/03/2016.
18. Vide letter dated 26/07/2016 , CE(Comm.) has informed that competent authority has not given approval to the grant of the post facto proposal & instructed to submit fresh proposal of enhancement of contract demand for approval of competent authority.
19. After release of enhancement of contract demand by this office, consumer has exceeded contract demand of 1000 KVA in the month Feb.16 & Aug. 16. Recorded maximum CD is 1011 KVA 1002.75 KVA in Feb, 16 & Aug. 16 respectively.
20. Vide letter dated 22/09/2016 , this office submitted fresh proposal to CE(Commercial) for enhancement of connected load from 1750 KW to 1800 KW & contract demand from 1000 KVA to 1500 KVA in r/o open access consumer M/s. D.J. Malpani Con. No. 155049004600' Kasar Dumala Tq. Sangamner , Dist. Ahmednagar w.e.f. Jan.2016.
21. Vide letter dated 16/04/2016, IGRC has given decision as "after receipt of approval of sanction for enhancement of load (contract demand) from CE(Commercial), necessary changes will be carried out immediately.

**Observations by the Forum:**

1. The complainant is an HT industrial consumer since 04/02/2000 with Connected Load 1750 KW and Contract Demand 1000 KVA . It applied for open access to the Distribution Company and the Chief Engineer (Commercial) .Mumbai has sanctioned Medium Term Open Access permission for wind power source for self use under letter dated 26/03/2015 for the period 01/04/2015 to 31/03/2016. The capacity applied was 1.5 MW and 1.5 MW is allotted.
2. The complainant later demanded enhancement in contract demand (CD) from 1000 KVA to 1500 KVA as per application dated 25/06/2015 (received by the concerned office on 03/07/2016). Being an open access consumer , the case was referred for guidelines by the Superintending Engineer, Ahmednagar Circle to the Chief Engineer (Commercial) .Mumbai vide letter dated 30/07/2015. ,But no guideline/reply was received.
3. Later Superintending Engineer, Ahmednagar Circle sanctioned the additional CD vide letter dated 29/10/2015 and the complainant was asked to pay the necessary charges of Rs. 11,47,560/-, to replace the CTs of ratio 50/5A by 75/5A and 0.2s class main & check metering at consumer premises.. The consumer paid the necessary charges on 05/11/15 by Demand Draft.
4. The Superintending Engineer ,Testing & Quality Assurance Circle, Pune issued NOC after inspection of the installation vide letter dated 10/12/2015 for commissioning of the additional load . Then the Superintending Engineer ,Ahmednagar Circle directed the Executive Engineer, Sangamner vide letter dated 18/12/2015 to release the load extension from 1000 KVA to 1500 KVA as the consumer has completed all the formalities such as documents, payment and executed agreement.
5. However the extension of the load was not effected in the bill and hence the excess load penalty was charged whenever the CD exceeded the previous sanctioned 1000 KVA level. The complainant exceeded the CD of 1000 KVA for July 15 to December 15 (6 months) and in February 16 (1 month).
6. The Chief Engineer (Commercial) intimated the Superintending Engineer, Ahmednagar through letter dated 03/03/2016 (after lapse of about 8 months) that as per letter no. 26138 dated 12/09/2012 from the Chief Engineer (Commercial) the cases for enhancement of contract demand are to be referred to the Chief Engineer (Commercial) and shall not be dealt at the field level. It was

also pointed out that the enhancement of contract demand can not be sanctioned without increase in the connected load of consumer as per MSEDCL procedure. Hence it was instructed not to grant enhancement of contract demand to M/s D.J.Malpani.

7. After perusing the letter no. 26138 dated 12/09/2012 of the CE(Com) it is seen that the field offices were directed to refer the cases of all the open access consumers to the CE(Com) and not to deal them at the field level. It was however mentioned that all open access cases which are decided at the field level shall be informed to the Chief Engineer (Commercial).
8. The Superintending Engineer , Ahmednagar clarified that his office was not aware of the letter no. 26138 dated 12/09/2012 and submitted proposal to CE (Comm.) for post-facto approval vide letter dated 22/03/2016., The circle office also submitted vide letter dated 02/06/2016 the justification for non-taking the approval before release of load extension and in addition submitted compliance of letter dated 03/03/2016. But the CE (Comm.) has not agreed and asked the Superintending Engineer , Ahmednagar to submit a fresh proposal . The same has been submitted by his office vide letter dated 22/09/2016 which is still pending.
9. The open access regulations do not mention any guideline regarding the enhancement of the contract demand. Neither there is any condition about necessity of the increase in load for enhancing the contract demand as mentioned in the CE (Com) letter dated 03/03/2016. However there is a regulation for reduction of the contract demand. As per regulation 4.2.1 of the Distribution Open Access Regulations, 2014 *"a consumer of the Distribution Licensee, who is eligible under Regulation 3.1, applies for Long-term or Medium-term or short-term Open Access to the distribution system so as to obtain supply from a Renewable Energy generating plant identified as 'Non firm power' under MERC (Terms and conditions for determination of RE Tariff) Regulations, 2010, as amended from time to time, the Distribution Licensee shall reduce the contract demand/sanctioned load to the extent of Capacity Utilisation Factor (CUF) (approved by the Commission in latest Renewable Energy Tariff Order) of the installed capacity of Non-firm Renewable Energy Generator."*
- 10 The MERC has notified on 25/06/2014 the Distribution Open Access Regulations, 2014 and the MSEDCL has issued procedure for open access permission based on the same . The regulations are subsequently revised by the Distribution Open Access Regulations, 2016 notified on 30/03/2016 .
- 11 Based on the facts as above and the documents available , the Forum records following findings in this case:
  - ✓ This is case of withholding/reverting a decision taken by the subordinate office by the higher authority on the ground of the empowerment. But in the entire process the consumer is suffering without his fault.
  - ✓ In fact the Chief Engineer (Commercial) should have directed the Superintending Engineer and the Consumer on receipt of the reference dated 30/07/2015 to submit the proposal to him. But there was no guidance issued for about 8 months and later the objection was raised after the extension of the load was actually released after making the necessary payment and all the formalities including replacement of CTs etc. Hence this grievance has arisen.
  - ✓ The consumer should not be penalized for the lack of the communication/understanding between the Circle Office and the Head Office. It is their internal administrative problem and it is not fair to revert the decision after it is implemented .
  - ✓ In fact the letter no. 26138 dated 12/09/2012 of the CE(Com) quoted for objecting the decision , itself provides the solution in such a situation In this letter , it is accepted that there are cases of open access approved at the field level and it was directed in this letter to inform about such cases. The present case can be treated in this category .
- 12 In view of all these facts, the Forum directs the Distribution Company to give effect to the enhanced contract demand from the billing cycle falling after the month in which the extension of the Contract Demand is released i.e. December 2015
13. The regulation 4 and 5 of the MERC ( Electricity Supply Code & Other Conditions Of) Regulations 2005 provide detailed guide lines for an application for supply or for additional load. The regulation 4 of the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 mandates norms as under in respect of *"New Connection (including Temporary Connection)/Additional Load/ Reduction of Load"*

4.1 The Distribution Licensee shall, on an application made by post or by hand by the owner or occupier of any premises, give supply of electricity to such premises after receipt of the application by chronological order of receipt of its complete application requiring such supply.

4.2 The application referred to in Regulation 4.1 shall be deemed to be received on the date of receipt of the duly completed application in accordance with the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 including any amendments thereto in force from time to time.

4.3 The Distribution Licensee shall complete the inspection of the premises related to an application for supply of electricity not later than seven (7) days from the date of submission of such application for supply in Class I cities and Urban Areas and within ten (10) days from date of submission of such application for supply of electricity in Rural Areas, regardless of whether such application is deemed to be complete under Regulation 4.2.

4.4 Where the supply of electricity to an applicant is to be given from an existing network of the Distribution Licensee, the Distribution Licensee shall intimate the charges to be borne by the applicant not later than fifteen (15) days from the date of submission of such application for supply of electricity in Class I cities and Urban Areas and within twenty (20) days from the date of submission of such application for supply of electricity in Rural Areas, regardless of whether such application is deemed to be complete under Regulation 4.2.

4.5 Where the supply of electricity to an applicant requires extension or augmentation of distributing mains, the Distribution Licensee shall intimate the charges to be borne by such applicant within thirty (30) days from the date of submission of such application, regardless of whether such application is deemed to be complete under Regulation 4.2.

4.6 Where an applicant seeks Dedicated Distribution Facilities (DDF) to its premises as defined under Regulation 2.1(g) of the MERC (Electricity Supply Code and other Conditions of Supply) Regulations, 2005 including any amendment thereto, in force from time to time, the Distribution Licensee shall intimate the charges to be borne by such applicant within thirty (30) days from the date of submission of such application, regardless of whether such application is deemed to be complete under Regulation 4.2.

4.7 The Distribution Licensee shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one (1) month after receipt of the completed application and payment of charges for requiring such supply, if the supply to an applicant is to be given from an existing network of the Distribution Licensee.

4.8 Where the supply of electricity to a premise requires extension or augmentation of distributing mains, the Distribution Licensee shall give supply to such premises within three (3) months from the date of receipt of the completed application and payment of charges. The extension or augmentation of distributing mains includes the extension of HT, LT lines and augmentation of distribution transformer substation.

These regulations provide for compensation to be paid to the consumer in case of the failure of the Distribution Company to observe the above norms. But as per the regulation 12.2 of the said regulations " any person who is affected by the failure of the Distribution Licensee to meet the standards of performance specified under these Regulations and who seeks to claim compensation shall file his claim with such a Distribution Licensee within a maximum period of sixty (60) days from the time such a person is affected by such failure of the Distribution Licensee to meet the standards of performance "

In the extant case, the complainant applied for extension of the CD on 03/07/2015, the intimation of the charges was given by the Distribution Company through the sanction letter dated 29/10/2015, the consumer paid the necessary charges on 05/11/2015 and completed all the formalities as informed under his letter dated 27/11/2015. The load was released on

18/12/2015. As the load was released within one month after completion of all the formalities , there is no violation of regulation 4.7 of the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014. However the intimation of charges is delayed beyond the norm of 20 days . For the application received on 03/07/2015, the intimation of the charges should have been done before 23/07/2015 as mandated in the regulation 4.4 quoted above. The intimation was given on 29/10/2015 involving delay of 14 weeks . The complainant would have been entitled for compensation in this regard had there been a claim within 60 days from the date 29/10/2015. As the complainant has not filed any claim in this regard within the prescribed time limit , the compensation can not be now granted

After considering the representation submitted by the consumer, comments and arguments by the Distribution Licensee, all other records available, the grievance is decided with the observations and directions as elaborated in the preceding paragraphs and the following order is passed by the Forum for implementation:

#### **ORDER**

1. The Distribution Company to give effect to the enhanced contract demand from the month of January 2016 and withdraw the penal charges applied for exceeding the contract demand and refund them with the interest till the date of refund , at bank rate as per section 62 (6) of the Electricity Act, 2003.
2. As per regulation 8.7 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 , order passed or direction issued by the Forum in this order shall be implemented by the Distribution Licensee within the time frame stipulated and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum within one month from the date of this order.
3. As per regulation 22 of the above mentioned regulations , non-compliance of the orders/directions in this order by the Distribution Licensee in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Maharashtra Electricity Regulatory Commission can initiate proceedings *suo motu* or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Electricity Act, 2003.
4. 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

**( Hari V. Dhavare )**  
Member-Secretary

**(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 .