

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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Consumer Grievance Redressal Forum
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No. / CGRF /Nashik/Nagar circle/Nagat UCR Dn./608/83/2016-17/ Date: 16/05/ 2017
(BY R.P.A.D.)

In the Matter of
Excess Recovery of Fuel Adjustment Charges

Date of Receipt :10/04/2017
Date of Decision :16/05/2017

To.

1. M/s. Ambica Waste Management Pvt. Ltd.
L-154 MIDC
Ahmednagar 4141111
(Con.No. 162019001482)

Complainant

2 Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Circle office, Ahmednagar
3 Executive Engineer (UCR)
Maharashtra State Electricity Distribution Com. Ltd.
Ahmednagar

Distribution Company

DECISION

M/s. Ambica Waste Management Pvt. Ltd . (hereafter referred as the Complainant). Ahmednagar is the H.T. industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against MSEDCL for excess recovery of Fuel Adjustment Charges (FAC) to the Internal Grievance Redressal Cell (IGRC) of the Maharashtra State Electricity Distribution Company Ltd. But as the IGRC did not provide any remedy for more than 2 months , the consumer has submitted representations to the Forum in Schedule "A". The representations are registered at serial No. 55 Of 2017 on 21 /03/2017.

The Forum in its meeting on 21/03/2015, decided to admit this case for hearing on 11/04/2017 at 12.00 pm in the office of the forum . A notice dated 24/03/2017 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, Ahmednagar Circle Office, 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 :

1. M/s. Ambica Waste Management Pvt Ltd consumer No. 028619025980 is a High Tension (HT) industrial consumer having 13500 KVA sanctioned Contract Demand.
2. The Commission issued the order in Case No. 43 of 2012 on 15th June, 2014 and permitted MSEDCL to recover the un-recovered FAC amount of Rs.1483 Crore from its consumers through monthly bills in 6 equal instalments. The recovery amount was Rs. 247 Crs.in each month from June, 2012 to November, 2012. The amount of Rs. 247 Crore per month was to be recovered proportionately from the consumers as per their respective category and slab in conformity with the principle specified in Regulation 82.10 of the Maharashtra Electricity Regulatory Commission (Terms and Condition of Tariff) (Amendment) Regulations, 2011. MSEDCL accordingly issued Circular No.162 dated 19th June, 2012 for recovery of the additional FAC to be levied in the billing month June, 2012 and the remaining was to be recovered in the bills for the month of July, August, September, October and November of 2012.
3. The details of billing period of additional FAC recovered are as under:-

Bill for The month	June-2012	June-2012	July-2012	August-2012	September 2012	October 2012	November 2012
Types of bill	Regular	Regular	Supplementary	Regular	Regular	Regular	Regular
Billing Period	08.5.2012 to 07.6.2012	07.6.2012 to 07.7.2012	07.7.2012 to 01.8.2012	01.8.2012 to 31.8.2012	31.08.2012 to 01.10.2012	01.10.2012 to 31.10.2012	31.10.2012 to 30.11.2012
MSEDCL circular no.	162	163	163	165	166	168	169
Bill date	16.6.2012	17.7.2012	11.8.2012	11.9.2012	08.10.2012	06.11.2012	10.12.2012

4. As per the order of the MERC, the recovery was to be made only in 6 equal monthly instalments starting from June, 2012 to November, 2012, i.e. from 1st June, 2012 to 30th November, 2012. MSEDCL has recovered additional FAC for more than 6½ months for the period from 8th May, 2012 to 01 December, 2012. MSEDCL has shifted the billing period during the FAC recovery and as a result recovery is made for more than six months. As per the Circular dated 13th April 2012, the auto reset was to be done from 1st May, 2012 and accordingly the billing period for June 2012 would have been from 1st June to 30th June, 2012.
5. MSEDCL has not charged addl. FAC as per recovery mechanism approved by the Commission vide order dated 15/06/2012. This has been noticed after order of Electricity Ombudsman dated 22/07/2015.
6. After the order of Electricity Ombudsman, we checked our bills with other circles, Pen, Vasai and Nasik and found that MSEDCL has collected the excess amount from us. MSEDCL has charged correctly to Pen, Vasai and Nasik circles consumers for six month only.
7. MSEDCL has indulged in discrimination in case of consumers, some consumers charged for six months and some consumer has charged more than six month, which is not permissible in law.
8. MSEDCL has submitted compliance report to Commission that MSEDCL has recovered the Addl. FAC in Six months from the consumer for the period June 2012 to Nov.2012. MSEDCL has not informed to Commission that for some consumers has been charged more than Six months.
9. During hearing MSEDCL has submitted that recovery has been done as per MSEDCL circulars to charge in the respective billing month. In this billing period MSEDCL has issued the seven bills instead of six and for two billing cycle bills MSEDCL has charged as per one circular.
10. The additional FAC recovered for the period from 8th May, 2012 to 31st May, 2012 to be refunded with interest at the rate of PLR of SBI from the date of deposit of excess payment to till date of refund..

Relief Sought:

Refund of Addl. FAC charges collected more than six month for the billing period of June 12 to Nov. 12 along with 9% interest as per Electricity Act. 2003 in next billing cycle.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 19/04/2017 from the Nodal Officer, MSEDCL, Ahmednagar Circle Office and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

mijkdR xtgdkph oht gh dā uhpā i jhi =kdkuq kj oGkoGh >kysyh vkgS I njgq xtgdkl dks kR; kgh i dckjph t knk vkdkj.kh >kysyh ukgh

During the hearing the Forum noticed that the above reply is very brief. Hence the Distribution Company was asked to submit detailed para wise reply before 27/4/2017. In response to this the Nodal officer again submitted a letter dated 25/04/2017 stating that :

mijkdR xtgdkph oht vkdkj.kh gh egkjK^v jkT; fo|r forj.k dā uhpS i = dā 17073 fn-19@06@2012]ifji =d dā 162 uq kj vfrfjDr vf/kHkkj tµ 2012 ikl µ vkdkj.kh >kysyh vkgS rjh I njgq xtgdkl dks kR; kgh i dckjph t knk vkdkj.kh >kysyh ukgh o xtgdkl vkdkj.; kr vkysyh oht fcys ; kX; vkgr-

Action by IGRC:

- 1 The complainant has submitted grievance to the Internal Grievance Redressal Cell Ahmednagar Circle on 21/01/2017.
- 2 But the IGRC has not taken any action for more than 2 months.

Observations by the Forum:

1. The Commission has issued an order in Case No. 43 of 2012 on 15th June, 2012 and permitted MSEDCL to recover the un-recovered FAC amount of Rs.1483 Crore from its consumers through monthly bills in 6 equal installments starting from the month of June 2012 to November 2012. The amount of Rs. 247 Crore per month was to be recovered proportionately from the consumers as per their respective category and slab in conformity with the principle specified in Regulation 82.10 of the Maharashtra Electricity Regulatory Commission (Terms and Condition of Tariff) (Amendment) Regulations, 2011.
2. MSEDCL accordingly issued General Circular No.162 dated 19th June, 2012 for recovery of the additional FAC to be levied in the billing month June, 2012 and the remaining was to be recovered in the bills for the month of July, August, September, October and November of 2012.
3. As per the order of the MERC, the recovery was to be made only in 6 equal monthly installments starting from June, 2012 to November, 2012, i.e. from 1st June, 2012 to 30th November, 2012. But the bills reveal that in this case, the Distribution Company has recovered additional FAC for more than 6½ months for the period from 8th May, 2012 to 30th November 2012. As a result recovery is made for more than six months. Thus extra recovery is made for additional FAC for the period 8th May, 2012 to 31st May 2012 (24 days). The complainant needs to be refunded this extra amount computed on pro rata basis. .
4. The complainant has demanded the interest on the refund . But it is seen from the documents submitted to the Forum that the demand of the refund related to June 2012 has been raised first time in January 2017 with the IGRC. The entitlement to interest needs to be considered against the fact that the claim of refund filed by the complainant is belated. The Distribution Company can not be held responsible for the delay . The Forum is inclined to take the view that the refund be given with interest at Bank Rate from February 2017 till the date of refund.

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 should refund extra recovery made for additional FAC for the period 8th May, 2012 to 31st May 2012 (24 days) computed on pro-rata basis by adjustment in the ensuing bill after the date of this order, along with the interest at Bank Rate from February 2017 till the date of refund.
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', BandraKurla 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

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

(Suresh P.Wagh)
Chairman

Consumer Grievance Redressal Forum Nashik Zone

Copy for information and necessary action to:

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