

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM  
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/ARC & AUC/701/2018/41  
Registration No. 2018100085**

Date of Admission : 30.10.2018

Date of Decision : 05.03 .2019

- 1) M/s. Nirlep, Paithan, : COMPLAINANT  
(Cons No. 497779040340 )
- 2) Dr. Hedgewar Hospital,  
(Cons No. 490019040320 )
- 3) M/s. Nirlep, Aurangabad,  
(Cons No. 490019009413 )
- 4) M/s. Garware, Waluj Plant,  
(Cons No. 490019001706 )
- 5) M/s. Garware, Chikalthana Plant,  
(Cons No. 490019000505

**VERSUS**

- 1) Maharashtra State Electricity Dist. Co. Ltd., : RESPONDENT No. 1  
through it's Nodal Officer, EE(Admn),  
Urban Circle, Aurangabad.
- 2) Maharashtra State Electricity Dist. Co. Ltd., : RESPONDENT No. 2  
through it's Nodal Officer, EE(Admn),  
Rural Circle, Aurangabad.

For Consumer : Shri Harshad Seth,  
For Licensee : 1) Shri Babar, EE(Admin),  
Urban Circle, Aurangabad.  
2) Shri Y.B. Nikam,  
Rural Circle, Aurangabad.

**CORAM**

Smt. Shobha B. Varma, Chairperson  
Shri Laxman M. Kakade, Tech. Member/Secretary  
Shri Vilaschandra S. Kabra Member.

**CONSUMER GRIEVANCE REDRESSAL DECISION**

- 1) (1) M/s. Nirlep, Paithan, (Cons No. 497779040340 )  
 (2) Dr. Hedgewar Hospital, (Cons No. 490019040320 )  
 (3) M/s. Nirlep, Aurangabad, (Cons No. 490019009413 )  
 (4) M/s. Garware, Waluj Plant, (Cons No. 490019001706 )  
 (5) M/s. Garware, Chikalthana Plant, (Cons No. 490019000505)  
 are consumer of Mahavitaran having Consumer No. 490011955786. The applicants have filed a complaint against the respondent Maharashtra State Electricity Distribution Company Limited through the 1) Executive Engineer i.e. Nodal Officer, MSEDCL, Urban Circle, Aurangabad & 2) Executive Engineer i.e. Nodal Officer, MSEDCL, Rural Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 30.10.2018.

**BRIEF HISTORY & FACTS RELATING TO THE GRIEVANCE:**

- 2) The complainants have filed following cases before Hon'ble MERC :-

<b>Sr. No.</b>	<b>Case No. of MERC</b>	<b>Name</b>	<b>Case No. of CGRF, Aurangabad Zone</b>
1)	80 of 2018	Nirlep paithan	643 / 2017 dt 12.09.2017
2)	81 of 2018	Dr. Hedgewar Hospital	641 / 2017 dt 29.08.2017
3)	82 of 2018	Nirlep Aurangabad	642 / 2017 dt 29.08.2017
4)	87 of 2018	Garware Waluj Plant	638 / 2017 dt 22.08.2017
5)	88 of 2018	Garware Chikalthan Plant	637 / 2017 dt 22.08.2017

- 3) Hon'ble MERC in para 22 of the judgment in aforesaid 5 cases has made following observations

*"In view of the submissions of both the parties, the Commission directs both the parties to approach concerned CGRF regarding the settlement of difference in calculations of either the refund or recovery amount after*

considering AEC, Additional FAC and FAC.” Accordingly present petition is filed.

4) It is pleased that :

MERC has not allowed consumer's demand of refund for

- AEC 1 to 4 for period from 1 Aug' 2013 to 31 Aug' 2013 except for case no 81
- AEC 3 & 4 for period of September 2013
- Interest on refund.

And to approach CGRF for balance refund as below.

5) Refund details of Nirlep App.Paithan to be made by Aurangabad Rural circle

- Addl. FAC charges recovered for Aug' 13 & Dec' 13 – **Rs. 18,321.16 .**
- FAC charged excess to be refunded – **Rs. 6,696.10**
- **Total Refund – Rs. 25,017.26**

6) Refund details of Dr. Hedgewar hospital to be made by A'bad Urban circle

- AEC 1 to 4 for period from 24 July' 13 to 31<sup>st</sup> Aug' 13 – **Rs. 2,38,418.20**
- Addl. FAC charges recovered for Aug' 13 & Dec' 13 – **Rs. 52,242.95**
- FAC charged excess to be refunded – **Rs. 22,042.00**
- **Total Refund – Rs. 3,12,703.15**

7) Refund details of Nirlep Aurangabad to be made by A'bad Urban circle

- AEC 1 to 4 for period from 24 July' 13 to 31<sup>st</sup> July' 13 – **Rs. 1,03,127.17**
- Addl. FAC charges recovered for Aug' 13 & Dec' 13 – **Rs. 89,821.23**
- FAC charged excess to be refunded – **Rs. 38,599.06**
- **Total Refund – Rs. 2,31,547.46**

8) Refund details of Garware PolyesterWaluj to be made by A'bad Urban circle

- AEC 1 to 4 for period from 24 July' 13 to 31<sup>st</sup> July' 13 – **Rs. 20,21,014.11**
- Addl. FAC charges recovered for Aug' 13 & Dec' 13 – **Rs. 20,15,056.54**

- FAC charged excess to be refunded – **Rs. 10,32,545.24**
  - **Total Refund – Rs. 50,68,615.89**
- 9) Refund details of Garware chikalhana to be made by A'bad Urban circle
- AEC 1 to 4 for period from 24 July' 13 to 31<sup>st</sup> July' 13 – **Rs. 6,34,051.59**
  - Addl. FAC charges recovered for Aug' 13 & Dec' 13 – **Rs. 5,85,364.19**
  - FAC charged excess to be refunded – **Rs. 2,86,221.23**
  - **Total Refund – Rs. 15,05,637.01**
- 10) The Petitioners claim that,
- a) Refund of AEC 1 to 4 premature recovery of period 23 July 13 to July 13.
  - b) Refund of Addl. FAC charges prematurely collected for two months.
  - c) Refund of excess collected FAC for billing month of December 2013.
- As above may be granted.
- 11) Respondent No. 1, Urban Circle has submitted say (Page No. 146)
- a) Respondents state that, so far as claim in respect of FAC is Concern, the Respondent is Reviewing the FAC amount calculation for Period Dec-2013 as per MSEDCL Cir. No. 189 Dated. 24.12.2013.
  - b) Respondent state and submit that the issue regarding addl. Energy Charges (AEC1,2,3,4) is Sort by MSEDCL and there is no any amount remained to be refunded to all above Consumer. The said fact is also admitted the consumer representative during the meeting Called by Respondent MSEDCL, SE,AUC, Aurangabad on 22.11.2018 and the issue is settled between the complainant and Respondent.
  - c) Respondent states that, in respect of the Addl. FAC is concern, as per the order of MERC in case No. 44 passed on dated 04/09/2013 MSPGCL was allowed to recover the under recovered fuel cost for infirm power supplied to MSEDCL in 3 monthly installments. There on

MSEDCL has recovered the same from consumer in subsequent billing for refunding the same to MSPGCL through FAC mechanism.

- d) Respondent states that it has not recovered any excess amount in respect of Addl. FAC as allowed by Hon. MERC but the consumer has filed complaint before CGRF claiming the refund of Addl. FAC recovered by MSEDCL for the month of Aug-2013 and Dec-2013.

Proper orders may be passed.

- 12) Respondent No. 2, Rural Circle, Aurangabad has submitted say (Page No. 131) as under :

- a) Respondent state that, so far as order of CGRF in respect of FAC is concern, the Respondents vide there bill Aug-2017 has refunded amount of Rs. 6696/- to the consumer against FAC of Dec-2013 excess charged as per MSEDCL Circular No.189 dtd 24.12.2013.
- b) Further, in respect of the Add. FAC is concern, as per the order of MERC in case no 44 passed on 04.09.2013 MSPGCL was allowed to recover the under recovered fuel cost for infirm power supplied to MSEDCL in 3 monthly installments. There on MSEDCL has recovered the same from the consumer in subsequent billing for refunding the same to MSPGCL through FAC mechanism.
- c) That MSEDCL has not recovered any excess amount in respect of Addl.FAC as allowed by Hon. MERC but the consumer has filed complaint before CGRF claiming the refund of Addl.FAC recovered by MSEDCL for the month of Aug-2013 and Dec-2013.

- 13) The Petitioners have filed rejoinder on 04.12.2018 (Page No. 148) on dtd. 11.12.2018 (Page No. 162) raising following contentions :

- a) MSEDCL has replied to MERC vide its letter dt 02.10.2018 that it is in the process of refunding excess FAC charged in December 2013 in the ensuing bills of consumers. Aurangabad Rural circle has already refunded excess FAC in August 2017. So MSEDCL A'bad Urban circle has agreed to MERC & also to this Forum that excess FAC for Dec' 2013 will be refunded.
- b) MSEDCL both circles have given wrong information that " MSEDCL has not recovered any excess amount in respect of Additional FAC in Aug' 2013 & Dec' 2013." MSEDCL has agreed that it was to be recovered in 3 installments, but Respective months of bills of MSEDCL confirm that it has recovered for 5 months i.e. Aug'13, Sept'13, Oct' 13, Nov' 13 & Dec' 13. Copies of bills are already submitted of Oct' 13 ( Addl FAC of Aug'13 is debited in bill of Oct' 13 ) & Dec'13 of all 5 consumers showing Addl FAC recovered.
- c) In case of Hedgewar Hospital, (MERC case no 81 & CGRF order no 641) consumer is continuously clarifying that it falls under HT (public services) for which GR 278 of subsidy was not applicable. AEC 1 to 4 is recovered & refund is not given in Feb' 2014. So October 2017 effect of refund of AEC 1 to 4 of Aug' 13 & recovery of Feb' 2014 is mistake of MSEDCL. (Statement submitted by MSEDCL at page no 7 shows this transaction) So refund of AEC 1 to 4 before 1st Aug' 13 is to be made by MSEDCL.
- d) In case of Nirlep Aurangabad, Garware Waluj & Garware Chikalthana unit, before 31st August 13, total 37 days recovery is made by MSEDCL out of which 30 days refund of Aug'13 / recovery of Feb' 14 is adjusted in October 2017. But MSEDCL has not given any clarification

on the refund to be made for premature recovery of 7 days from 23rd July to 31st July 2013. Any amount recovered before 31st August 2013 is declared as premature by MERC vide case No 78 / 2016 of Paul strips. So MSEDCL Aurangabad Urban circle has to clarify its recovery status for this period.

14) The Respondent No. 1 (Urban Circle, Aurangabad) has submitted following additional reply on 26.12.2018 & 08.01.2019 (Page No. 165 to 169) & stated that :

- a. That, the issue regarding the Add. Energy Charges (AEC 1, 2, 3 and 4) is already sort by MSEDCL and the necessary credit is given by the all the complainants in Oct-2017. The said fact is also admitted by the consumer representative during the meeting called by respondent MSEDCL Supt. Engineer, A'bad Urban Circle and the issue is settled between the complainants and the respondents.
- b. That, the issue regarding the FAC and Add. FAC, respondent is relying on the approved FAC order passed by Hon'ble MERC in Ref. No. MERC/FAC/20152016/01469 Dated 11.02.2016 which clarifies that there are no any outstanding under the heads of the FAC and Add. FAC are remained to be refunded to the complainants. The relevant portion of the above referred Approved FAC order is reproduced as below :

*“ 9.3 MSEDCL in its letter dated 26.03.2014 submitted the FAC calculation for the period Sep-13 to Dec-13. In this letter MSEDCL has stated that there was possibility of under recovery of **Add. FAC** (payable to MSPGCL as per order 04.September 2013 in case no 44 of 2013) and AEC 1 to 4 (as per Order dated 05 September 2013 in case no 95 of 2013) for Aug-2013 and Sep- 2013 against higher refund of*

FAC due in Dec-2013. Hence instead of refunding Rs. 267.55 Crore in Dec-2013 and Rs. 90.89 Crore in Jan-2014, MSEDCL continued refunding Rs. 32.17 Crore (Which is approved FAC Refund to be levied in Nov-2013) in these months. Further, MSEDCL has not levied FAC of Rs. 74.74 Crore in Feb-2014.

In its letter dated 26.03.2014 MSEDCL has provided the reconciliation (Provided in the below table) of FAC Refundable / recoverable amount for the period pertaining to Sep.-2013, Dec-2013 with the actual refunded/recovered in the period Dec-2013 to Mar-2014. MSEDCL has also provided details of the under recovery of **Add. FAC**(allowed as per MERC order dated 03. Sep. 2013 in case no 28 of 2013) in the following table.

Month	FAC to be levied (Rs. Crore)	FAC billed in the Month	FAC amount levied/ (refunded) (Rs. Crore)	Balance FAC amount to be adjusted in MAR 14	Under recovery of FAC 2 (Rs. Crore)	FAC to be billed in MAR-2014 (Rs. Crore)
Aug-2013	(32.17)	Nov-2013	-	-	82.13	
Sep-2013	(267.55)	Dec-2013	(32.17)	(235.39)	18.48	
Oct-2013	(90.89)	Jan-2014	(32.17)	(58.73)	34.84	
Nov-2013	74.74	Feb-2014	0	74.74	39.81	
Dec-2013	61.388	Mar-2014	-	61.88	13.35	
<b>Total</b>				<b>(157.50)</b>	<b>188.62</b>	<b>31.12</b>

Based on the above reconciliation MSEDCL, has arrived at and FAC outstanding of Rs. 31.12 crore which was levied in MAR-2014.

The commission observes that the period of reconciliation is limited and effect of the same has been passed on the consumer within three months hence the commission has allowed the same.”



Hence, it is clear that Hon'ble MERC has approved the reconciliation submitted by MSEDCL in respect of the FAC and Add. FAC. and there is no any outstanding are remained to be refunded to the complainants under the heads of FAC and Add. FAC. The FAC order Ref. No. MERC/FAC/20152016/ 01469 Dated 11.02.2016.

Hence the complaint may be dismissed in view of the settled proposition established by the Hon'ble MERC. Also the complainant is not having any cause of action and legitimate claims with respondent.

15) Respondent No. 2, Rural Circle Aurangabad has submitted in their say dtd 26.12.2018 (Page No. 210) as under :-

a) That, the Respondent vide their bill Augsut 2017 has refunded Rs. 6,696/- to the consumer against FAC of December 2013 excess charged as per MSEDCL Circular No. 189 dtd. 24.12.2013.

The contents of post facto approval referred in above paras are also raised by Rural Circle, Aurangabad.

16) The complainant has submitted rejoinder dtd 29.12.2018 (Page No. 241) dtd 08.01.2019 & (Page No. 259) wherein following submissions are made :-

a) Consumer is repeatedly submitting that MSEDCL has recovered AEC 1 to 4 prematurely for 37 days i.e. from 23 July to 31 August 2013. But in October 2017 it has settled AEC of only 30 days as per **Anx A**. So balance 7 days AEC is to be refunded.

b) Post facto approval of FAC (Anx. B) submitted by MSEDCL is statistics for the entire state of Maharashtra & not of Aurangabad circle. Aurangabad Rural circle has already refunded excess FAC in August 2017. Out of 56 petitions, filed with MERC & heard in common, 45 other petitions were on the same subject where FAC was excess charged, is

refunded to all 48 consumers. So Aurangabad Urban circle is giving false submission in this regard.

- c) Additional FAC was to be recovered in 3 installments, but total 5 installments are collected which is illegal. MSEDCL reference of Anx. B in their reply is un related & for entire state & details are related to FAC. So this is misleading statement from MSEDCL. MERC 56 cases decided in one hearing as common matter. Out of 56 petitions, 45 other petitions on the same subject where Addl FAC of 2 months i.e. August 13 & Dec' 13 is refunded to all 48 consumers. So those cases are not redirected by MERC to CGRF again. Attaching list of cases. This concludes that In the name of Post facto approval of FAC by MERC, MSEDCL is wrongly adding Addl. FAC.
- d) Post facto approval is dated 11<sup>th</sup> Feb' 16 & all consumers have applied for refund within 2 years from this approval date, so issue of cause of action does not arise.
- 17) MSEDCL has replied to MERC vide its letter dt 02.10.2018 that it is in the process of refunding excess FAC charged in December 2013 in the ensuing bills of consumers. Aurangabad Rural circle has already refunded excess FAC in August 2017. So MSEDCL, Urban Circle, Aurangabad has agreed to MERC & also to this Forum that excess FAC for Dec' 2013 will be refunded.
- 18) MSEDCL has given wrong information that "MSEDCL has not recovered any excess amount in respect of Additional FAC in Aug' 2013 & Dec' 2013."\_ MSEDCL has agreed that it was to be recovered in 3 installments, but Respective months of bills of MSEDCL confirm that it has recovered for 5 months i.e. Aug'13, Sept'13, Oct' 13, Nov' 13 & Dec' 13. Copies of bills of Oct' 13 ( Addl FAC of Aug'13 is

debited in bill of Oct' 13 ) & Dec'13 of all 5 consumers showing Addl FAC recovered are on record.

19) In case of Hedgewar hospital, ( MERC case no 81 & CGRF order no 641) consumer is continuously clarifying that it falls under HT (public services) for which GR 278 of subsidy was not applicable. AEC 1 to 4 is recovered & refund is not given in Feb' 2014. So October 2017 effect of refund of AEC 1 to 4 of Aug' 13 & recovery of Feb' 2014 is mistake of MSEDCL. So refund of AEC 1 to 4 before 1<sup>st</sup> Aug' 13 is to be made by MSEDCL.

20) In case of Nirlep Aurangabad, Garware Waluj & Garware Chikalthana Unit, before 31<sup>st</sup> August 13, total 37 days recovery is made by MSEDCL out of which 30 days refund of Aug'13 / recovery of Feb' 14 is adjusted in October 2017. But MSEDCL has not given any clarification on the refund to be made for premature recovery of 7 days from 23<sup>rd</sup> July to 31<sup>st</sup> July 2013. Any amount recovered before 31<sup>st</sup> August 2013 is declared as premature by MERC vide case No 78 / 2016 of Paul strips. So MSEDCL Aurangabad Urban circle has not clarified its recovery status for this period.

20) Refund details are given in the petition.

21) The Respondent, Urban Circle, Aurangabad has given say (Page No. 269 to 270) as under :-

That, the issue regarding the Add. Energy Charges (AEC 1, 2, 3 and 4) is already sort by MSEDCL and the necessary credit is given to all the complainants in Oct-2017. As consumer said & submits that, MSEDCL has recovered the AEC-1 to 4 charges prematurely for 37 days for Aur-2013 & Mar-2014. This office has already submitted the IT statement With Excel sheet for period Aug-2013 to Feb-2014 the details are as below:-

- A) Aug-2013 i.e. in Urban circle the billing cycle is start from 24th day of every month & MSEDCL has credited the Whole Amt for Aug-2013 in the month of Oct-2017 i.e. billing date to billing date (23/07/2013 to 23/08/2013) which is shown in IT report statement which is already produced.
- B) SEP-2013 MSEDCL has credited AEC-1 to 4 for period (23/08/2013 to 31/08/2013) which is shown in IT report statement which is already produced.
- C) Mar-2014 MSEDCL for Billing period date (23/02/2014 to 24/03/2014) has collected the AEC-1 to 4. The actual recovery was for only 6 Six days in that month i.e. for period 23/02/2014 to 28/02/2014 which can be seen from the IT Reports are already submitted.

Hence, it is incorrect statement made by consumers that, the AEC is recovered for prematurely period.

- D) It is submitted that, it is admitted to the consumer representative, that the HT consumer M/s. Hedgewar Hospital is under Tariff HT-IX- Public Services and for the same relief provided under the Govt. GR No. 278 dt. 29/01/2014 this consumer was only applicable to commercial and industrial consumers. Hence MSEDCL has not received the Govt. subsidy against this type of (public services Category) consumer. Hence the question regarding refund of AEC-1 to 4 in month of Feb-2014 doesn't exist.

22) We have gone through the application, say, rejoinder & all documents placed on record by both the parties. We have heard both parties, Consumer Representative Shri Harshad Sheth & Respondent Shri Y. B. Nikam, Executive

Engineer(Admin), Rural Circle, Aurangabad & Shri Babar, I/c Executive Engineer(Admin), Urban Circle, Aurangabad. Following points arise for our determination & its findings are recorded for the reasons to follow :-

Sr. No.	POINTS	FINDINGS
1)	Whether consumers are entitle for refund of AEC 1 to 4 charges ? 1) Dr. Hedgewar Hospital, Rs. 2,38,418.00 (24 July 2013 to 31 August 2013) 2) M/s. Nirlep, Aurangabad, Rs. 1,03,127.00 (24 July 2013 to 31 July 2013) 3) M/s. Garware, Waluj Plant, Rs. 20,21,014.11 (24 July 2013 to 31 July 2013) 4) M/s. Garware, Chikalthana Plant, Rs. 6,34,051.00 (24 July 2013 to 31 July 2013)	Already complied
2)	Whether consumers are entitle for refund of Additional FAC charged for recovered for two months August 2013 & December 2013? 1) M/s. Nirlep, Paithan, Rs. 18,321.00 2) Dr. Hedgewar Hospital, Rs. 52,242.00 3) M/s. Nirlep, Aurangabad, Rs. 89,821.00 4) M/s. Garware, Waluj Plant, Rs. 20,15,056.00 5) M/s. Garware, Chikalthana Plant, Rs. 5,85,364.00	Yes
3)	Whether consumers are entitle for refund of FAC charged excess for December 2013? 1) M/s. Nirlep, Paithan, Rs. 6,696.00 2) Dr. Hedgewar Hospital, Rs. 22,042.00 3) M/s. Nirlep, Aurangabad, Rs. 38,599.00 4) M/s. Garware, Waluj Plant, Rs. 10,32,545.00 5) M/s. Garware, Chikalthana Plant, Rs. 2,86,221.00	Yes
4)	What order?	As per final order

**REASONS**

23) **Point No. 1 :-** The petitioners 1 to 5 have claimed refund of AEC 1 to 4 charges as follows :-

- 1) Dr. Hedgewar Hospital, Rs. 2,38,418.00 (24 July 13 to 31 August 13)
- 2) M/s. Nirlep, Aurangabad, Rs. 1,03,127.00 (24 July 13 to 31 July 13)
- 3) M/s. Garware, Waluj Plant, Rs. 20,21,014.11 (24 July 13 to 31 July 13)
- 4) M/s. Garware, Chikalthana Plant, Rs. 6,34,051.00 (24 July 13 to 31 July 13)

24) After the issuance of tariff order for MSEDCL on 16<sup>th</sup> August 2012, the MERC has passed orders in relation to MSPGCL & Intra State Transmission System. The MERC directed vide order dtd 05.09.2013, in Case No. 95/2013, MSEDCL to recover additional charges a) AEC-1 Rs. 2,037.78 Cr in equal installments & b) AEC-2 Rs. 235.39 Crs on monthly basis till issue at MYT Tariff order from the consumers, in the form of Additional Energy Charges.

25) MERC vide order dtd. 31.09.2013 in case No. 28/2013 has allowed MSPGCL to recover the total amount of Rs. 628.90 Cr. The fixed charges are to be recovered through AEC-3. In case No. 44/2013, the MERC by its order dtd 04.09.2013, determined the fixed charges are to be recovered through AEC-4. Accordingly MSEDCL vide Circular No. 209 dtd 07.09.2013 raised demand for AEC 1 to 4 & Additional FAC. There is no mention of month from which these charges are to be recovered.

26) MSEDCL started recovery from August 2013 instead of September 2013 bill in case of some consumers. Few of them approached to MERC for erroneous levy of AEC & Additional FAC. MSEDCL agreed about erroneous recovery & refunded the amounts in their cases. The Hon'ble commission decided these petitions i.e.

case No. 184/2013 M/s. Eurotex Industries & Export Ltd, decided on 27 March 2014 & M/s. Balbir Alloys & others Case No. 110-115 of 2013, 122-127 of 2013, 131,136-137, 146, 149 of 2013, decided on 27 March 2014.

27) Later the MERC order dtd 05.09.2013, in case No. 95/2013 was challenged by M/s. Tata Motors Ltd. with ATC & it was remanded to MERC. Therefore Hon'ble MERC has decided the matter on 26.06.2015. It was directed by the Commission to Distribution Company.

*“17- However, MSEDCL shall review the refunds made by it so far as on account of wrongful premature billing & make any remaining refunds due to consumers in the next billing cycle.”*

28) In case of M/s. Paul stripes & Tubes Pvt. Ltd., by order dtd 26<sup>th</sup> June 2015 regarding AEC, the Commission has directed MSEDCL.

1) to take review of refunds made by it on account of premature billing of AEC & to make any remaining refund to consumers in the next billing cycle & to submit details about total No. of consumers from whom AEC for August 2013 (in September 2013) recovered, how many of them have been refunded & reasons of not refunding to balance consumers if any.

29) It is clear that applying charges for bill of August 2013 was premature recovery.

30) The applicants have demanded the amounts of premature recovery as shown above. MSEDCL, Urban Circle has given detail table of refund of these charges made by them at (Page No. 286 to 289)

Name of Consumer	AEC-I to 4 Period claimed by consumer	AEC-I to 4 Refund/ Recovered claimed by consumer	Amt. Already Refunded to consumer in Oct-2017	Details of Refund
M/s. Hedgewar Hospital Aurangabad	24/07/2013 to 31/08/2013	RS.238418.20	Rs.272016.71	RS.208246.67 (22/07/13 to 22/08/2013) & 22/08/13 to 22/09/13) RS.63770.04 IT report already submitted to • Hon'ble CGRF in SAY dt. 26/12/2018 with IT report
490019040320	AEC Recovered for FEB-2014	Rs.249849.30	Recovered as per paul- strips order 78/2016 dt. 03/07/2017	The AEC-1 to 4 Recovery applicable for all Category consumers Hence MSEDCL has recovered RS.249849.30 IT Report Already submitted on dt.26/12/2018 SAY to Hon'ble CGRF.
		<b>Total AEC Refunded/ Recovered</b>	<b>Rs. 22167.41</b>	
M/s. Nirlep Applicences	24/07/2013 to 31/08/2013	Rs. 103127.17	Rs. 387419.70	RS.3010072.12 (22/07/13 to 22/08/2013) & 22/08/13 to 22/09/13) RS.86347.58 IT report already submitted to Hon'ble CGRF in SAY dt. 26/12/2018 with IT report
490019009413	AEC Recovered for FEB-2014	Rs. 300706.98	Recovered as per paul- strips order 78/2016 dt. 03/07/2017	The AEC-1 to 4 Recovery applicable for all Category consumers Hence MSEDCL has recovered RS. RS.300706.98 IT Report Already submitted on dt.26/12/2018 SAY to Hon'ble CGRF.
		<b>Total AEC Refunded/ Recovered</b>	<b>Rs. 86712.12</b>	



Name of Consumer	AEC-I to 4 Period claimed by consumer	AEC-I to 4 Refund/ Recovered claimed by consumer	Amt. Already Refunded to consumer in Oct-2017	Details of Refund
M/s. Garware Polyester Ltd Waluj	24/07/2013 to 31/08/2013	RS.2021014.11	Rs. 7335142.48	RS.5840782.63 (22/07/13 to 22/08/2013) & 22/08/13 to 22/09/13) RS.1494359.85 IT report already submitted to Hon'ble CGRF in SAY dt. 26/12/2018 with IT report
490019001706	AEC Recovered for FEB-2014	RS.7852986.33	Recovered as per paul- strips order 78/2016 dt. 03/07/2017	The AEC-1 to 4 Recovery applicable for all Category consumers Hence MSEDCL has recovered RS.7852986.33IT Report Already submitted on dt.26/12/2018 SAY to Hon'ble CGRF.
		<b>Total AEC Refunded/ Recovered</b>	<b>Rs.517843.85</b>	
M/s. Garware Polyester Ltd Chikalthana	24/07/2013 to 31/08/2013	RS.634051.59	Rs. 2377284.61	Rs. 1841846.17 (22/07/13 to 22/08/2013) & 22/08/13 to 22/09/13) Rs.535438.44 IT report already submitted to Hon'ble CGRF in SAY dt. 26/12/2018 with IT report
490019000505	AEC Recovered for FEB-2014	Rs 2042368.06	Recovered as per paul- strips order 78/2016 dt. 03/07/2017	The AEC-1 to 4 Recovery applicable for all Category consumers Hence MSEDCL has recovered Rs 2042368.06 IT Report Already submitted on dt.26/12/2018 SAY to Hon'ble CGRF.
		<b>Total AEC Refunded/ Recovered</b>	<b>Rs.334916.35</b>	

31) In support of aforesaid information, Urban Circle, Aurangabad has produced on record, the detail monthwise report enclosed with IT report of each above consumer at Page No. 272 to 281 & Page No. 286 to 304.

32) The Applicants in their submissions dtd 15.02.2019 (Page No. 322) admitted of receiving refund of AEC 1 to 4, of 4 units namely 1) M/s. Nirlep, Paithan, 2) M/s. Nirlep, Aurangabad, 3) M/s. Garware, Waluj Plant, 4) M/s. Garware, Chikalthana Plant. That AEC 1 to 4 refund of 30 days is adjusted in October 2017 bill and 8 days refund is given by MSEDCL in October 2017 bill as per the statement. It is stated that now, there is no dispute for AEC about these four consumers. In view of said submission, we hold that AEC 1 to 4 charges already refunded to these consumers.

33) The applicant Dr. Hedgewar Hospital refund of AEC 1 to 4, according to applicant, it is wrongly adjusted by MSEDCL, Urban Circle, Aurangabad. Since consumer is categorized under public services for which GR 278 was not applicable. So according to applicant entire 37 days AEC premature recovery has to be refunded.

34) In respect of Dr. Hedgewar Hospital (Consumer No. 490019040320) following refund of AEC 1 to 4 is claimed. AEC 1 to 4 for the period (24 July 13 to 31 August 13) is Rs. 2,38,418.00

35) On perusal of audit report (Page No. 280 & 281) amount was refunded to consumer through adjustment AEC 1 to 4 for the month of August 2013 (22 July 2013 to 22 August 2013) of Rs. 2,08,246/- & refunded through adjustment , AEC 1 to 4 for the month of September 2013 (22.08.2013 to 22.09.2013) of Rs. 63,770/-. Hence, prayer of Dr. Hedgewar Hospital for 24 July 2013 to 31 August 2013 of Rs. 2,38,418/- is found already complied. Respondent has already taken action as per HO(IT) program & debit adjustment found correct.

36) It is submitted by the applicant that the petitioner Dr. Hedgewar Hospital is categorized under tariff of HT-IX-Public Services & had not applicability of the subsidy mentioned in GR. No. 278 dtd 29 January 2014. MSEDCL has already

recovered the subsidy in February 2014 but failed to refund it. According to applicant, therefore October 2017 effect of refund of AEC 1 to 4 of August 2013 & February 2014 is mistake of MSEDCL. So refund of AEC 1 to 4 before 1 August 2013 is to be made by MSEDCL. It is important to note that Dr. Hedgewar Hospital being not eligible for grant of Government subsidy, because the subsidy was only applicable to commercial & industrial consumers, as such MSEDCL has not received the Government subsidy of this type of consumer i.e. (Public Services category). Therefore, refund of AEC1 to 4 in the month of February 2014 does not exist. We are in complete agreement with submission made by MSEDCL. We hold that AEC1 to 4 is properly & already refunded to all (Five) applicants. We accordingly answer point No. 1 in the affirmative.

37) **Point No. 2 :-** The claim of Additional FAC charges is made in respect of Applicants 1 to 5 for the months of August 2013 & December 2013 as follows. Its detail Specifications are given at Page No. 320 to 325.

The specification is given as under :-

HEDGEWAR HOSPITAL AURANGABAD MERC 82 / 2018 Con. No. - 490019 040 340							
Statement of refund OF AEC, Addl FAC & FAC as per CGRF Aurangabad Order vide MERC case no 78 & MSEDCL H O Decision implemented for Addl FAC & FAC							
	AEC paise per month	70.65	57.14	9.47	22.26	22.45	
Month	Consumption	AEC 1	AEC 2	AEC 3	AEC 4	Addl FAC	FAC Excess
Aug' 13 AEC 1 TO 4	1,18,678	83,846.01	67,812.61	11,238.81	26,417.72		
Aug' 13 Addl FAC	1,18,678					26,643.21	
Dec' 13	1,14,030					25,599.74	
Dec'13 FAC							22,042.00
AEC 1, 2, 3 & 4					1,89,315.15		
Addl FAC						52 242.95	
FAC							22,042.00
<b>Total of AEC 1, 2,3 &amp; 4 + Add FAC &amp; FAC =</b>				<b>2,63,600.09</b>			
GR 278 was not applicable to Public services. Consumer has paid entire amount So July 23 to Aug 31st 2013 AEC 1 to 4 is refundable							

<b>NIRLEP PAITHAN</b>	<b>MERC 80 / 2018</b>		<b>Con. No. - 494779 040 340</b>
Addl FAC	Units	18.57 paise per unit	MSEDCL was to recover only 3 installments but wrongly recovered 5 installments
Month	Consumption	ADDL FAC	
Aug' Addl AC recovered in Oct 13	57,377	10,654.91	Excess recovered vide MSEDCL cir 209
Sept' 13 Addl FAC	50,726	9,419.82	Correctly recovered vide MSEDCL co- 209
Oct' 13 Addl FAC	51,725	9,605.33	Correctly recovered vide MSEDCL cir 209
Nov' 13 Addl FAC	35,192	6,535.15	Correctly recovered vide MSEDCL Dr 209
Dec' 13 addl FAC	41,283	7,666.25	Excess recovered vide MSEDCL cir 209
Addl FAC		18,321.16	Excess of Aug'13 & Dec' 13
<b>Total refund to be given</b>			<b>18,321.16</b>

<b>NIRLEP AURANGABAD</b>	<b>MERC 82 / 2018</b>		<b>Con. No. - 490019 009 413</b>	
Addl FAC	Units	18.57 paise per unit	MSEDCL 'was to recover only 3 installments but wrongly recovered 5 installments	
Month	Consumption	ADDL FAC		
Aug' Addl FAC recovered in Oct 13	2,45,718	45,629.83	Excess recovered vide MSEDCL cir 209	
Sept' 13 Addl FAC	2,43,006	45,126.21	Correctly recovered vide MSEDCL cir 209	
Oct' 13 Addl FAC	2,64,738	49,161.85	Correctly recovered vide MSEDCL cir 209	
Nov' 13 Addl FAC	2,22,186	41,259.94	Correctly recovered vide MSEDCL cir 209	
Dec' 13 Addl FAC	2,37,972	44,191.40	Excess recovered vide MSEDCL cir 209	
Addl FAC		89,821.23	Excess of Aug'13 & Dec' 13	A
As per MERC FAC for Dec' 13 credit of 22.46 paise per unit was to be given but MSEDCL gave credit of 6.24 paise per unit only. so difference of 16.22 paise per unit to be refunded				
FAC	Consumption	FAC Excess		
Dec' 13 FAC	2,37,972	38,599.06	Recovered excess for Dec'13	B
<b>Total of A + B - refund to be given</b>			<b>1,28,420.29</b>	

GARWARE WALUJ		MERC 87 / 2018		Con. No. - 490019 001 706	
Addl FAC	Units	20.57 paise per unit	MSEDCL' was to recover only 3 installments but wrongly recovered 5 installments		
Month	Consumption	ADDL FAC			
Aug' Addl FAC recovered in Oct 13	46,56,496	9,57,841.23	Excess recovered vide MSEDCL cir 209		
Sept' 13 Addl FAC	45,82,159	9,42,550.11	Correctly recovered vide MSEDCL cir 209		
Oct' 13 Addl FAC	49,94,036	10,27,273.21	Correctly recovered vide MSEDCL cir 209		
Nov' 13 Addl FAC	43,91,743	9,03,381.54	Correctly recovered vide MSEDCL cir 209		
Dec' 13 addl FAC	51.39,598	10 57 215.31	Excess recovered vide MSEDCL cir 209		
Addl FAC		20,15,056.54	Excess of Aug'13 & Dec' 13		A
As per MERC FAC for Dec' 13 credit of 28.06 paise per unit was to be given but MSEDCL gave credit of 7.97 paise per unit only. so difference of 20.09 paise per unit to be refunded					
FAC	Consumption	FAC excess			
Dec'13 FAC	51 39,598	10,32,545.24	Recovered excess for Dec' 13		B
<b>Total of A+B – refund to be given</b>			<b>30,47,601.77</b>		

GARWARE CHIKALTHANA		MERC 88 / 2018		Con. No. - 490019 000 505	
Addl FAC	Units	20.57 paise per unit	MSEDCL' was to recover only 3 installments but wrongly recovered 5 installments		
Month	Consumption	ADDL FAC			
Aug' Addl FAC recovered in Oct 13	14,21,023	2,92,304.43	Excess recovered vide MSEDCL cir 209		
Sept' 13 Addl FAC	14,24,491	2,93,017.80	Correctly recovered vide MSEDCL cir 209		
Oct' 13 Addl FAC	14,58,029	2,99,916.57	Correctly recovered vide MSEDCL cir 209		
Nov' 13 Addl FAC	13,80,713	2,84,012.66	Correctly recovered vide MSEDCL cir 209		
Dec' 13 addl FAC	14,24,695	2,93,059.76	Excess recovered vide MSEDCL cir 209		
Addl FAC		5,85,364.19	Excess of Aug'13 & Dec' 13		A
As per MERC FAC for Dec' 13 credit of 28.06 paise per unit was to be given but MSEDCL gave credit of 7.97 paise per unit only. so difference of 20.09 paise per unit to be refunded					
FAC	Consumption	FAC excess			
Dec'13 FAC	14,24,695	2,86,221.23	Recovered excess for Dec' 13		B
<b>Total of A+B – refund to be given</b>			<b>8,71,585.42</b>		

38) Urban & Rural Circle have also produced table of Addl. FAC (Page No.320)

<b>M/s HEDGEWAR HOSPITAL HT CONSUMER NO. 490019040320 under Aurangabad Urban circle</b>						
Sr. NO	Month	Unit billed	Add FAC Amt Claimed by Consumer	Rate	Add FAC Amount Charged BY MSEDCL	Remark/ Refund
1	Aug-13	118678	26643.21	0.2245	26643.21	MSEDCL Charged in oct-2013 bill
2	Dec-13	114030	25599.74	0.2245	25599.74	MSEDCL charged in DEC-2013 bill
<b>Total Amt Recovered</b>			<b>52242.95</b>		<b>52242.95</b>	
Sr. NO	Month	Unit billed	FAC Amt Claimed by Consumer	Rate	FAC Amount Charged BY MSEDCL	Remark/ Refund
<b>M/s Nirlep Appliances Ltd. HT consumer No.490019009413 under Aurangabad Urban circle</b>						
Sr. NO	Month	Unit billed	Add FAC Amt Claimed by Consumer	Rate	Add FAC Amount Charged BY MSEDCL	Remark/ Refund
1	Aug-13	245718	45629.83	0.1857	45629.83	MSEDCL Charged in oct-2013 bill
2	Dec-13	237972	44191.40	0.1857	44191.40	MSEDCL charged in DEC-2013 bill
<b>Total Amt Recovered</b>			<b>89821.23</b>		<b>89821.23</b>	
<b>M/s GARWARE POLYSTER LTD. Waluj HT consumer No. 490019001706 under Aurangabad Urban circle</b>						
Sr. NO	Month	Unit billed	Add FAC Amt Claimed by Consumer	Rate	Add FAC Amount Charged BY MSEDCL	Remark/ Refund
1	Aug-13	4656496	957841.23	0.2057	957841.23	MSEDCL Charged in oct-2013 bill
2	Dec-13	5139598	1057215.31	0.2057	1057215.31	MSEDCL charged in DEC-2013 bill
<b>Total Amt Recovered</b>			<b>2015056.54</b>		<b>2015056.54</b>	

M/s GARWARE POLYSTER LTD. Chikalthana HT Cons. No.490019000505 under Aurangabad Urban circle						
			Add FAC Amt Claimed by Consumer	Rate	Add FAC Amount Charged BY MSEDCL	
Sr. NO	Month	Unit billed	Amt Claimed by Consumer	Rate	Amount Charged BY MSEDCL	Remark/ Refund
1	Aug-13	1421023	292304.43	0.2057	292304.43	MSEDCL Charged in oct-2013 bill
2	Dec-13	1424695	293059.76	0.2057	293059.76	MSEDCL charged in DEC-2013 bill
<b>Total Amt Recovered</b>			<b>585364.19</b>		<b>585364.19</b>	

39) Urban & Rural Circle, Aurangabad both have raised contention that as per the order of MERC in case No. 44 dtd 04.09.2013, MSPGCL was allowed to recover the under recovered fuel cost for infirm power supplied to MSEDCL in three monthly installments. Thereon MSEDCL has recovered the same from the consumer in subsequent billing for refunding the same to MSPGCL through FAC mechanism.

40) It is contended that MSEDCL has not recovered any excess amount regarding Additional FAC as allowed by MERC.

41) It is further submitted that, as per MERC order Ref. No. MERC/FAC/2015-2016/ 01469 dtd 11.02.2016 , clarifies that there are no any outstanding under the heads of FAC & Additional FAC. The relevant portion of FAC order is at Page No. 213 to 237 reproduced as under, which is referred in the say (Page No. 167). The below clause is at Page No. 228.

*“9.3 MSEDCL in its letter dtd 26.03.2014 submitted the FAC calculation for the period September 2013 to December 2013. In this letter MSEDCL has stated that, there was possibility of under recovery of Additional FAC (Payable to MSPGCL as per Order 4 September 2013 in case No.*

44 of 2013) & AEC 1 to 4 (as per order dtd 5 September 2013 in case No. 95 of 2013) for August 2013 & September 2013 against higher refund of FAC Due in 2013. Hence instead of refunding Rs. 267.55 Crore (Which is approved FAC refund to be levied in November 2013) in these months. Further MSEDCL has not levied FAC of Rs. 74.74 Crore in February 2014.”

42) In its letter dtd. 26.03.2014 MSEDCL has provided the reconciliation (provided in the table) of FAC refundable / recoverable amount for the period pertaining to September 2013, December 2013 with the actual refunded / recovered in the period December 2013 to March 2014. MSEDCL has also provided details of the under recovery of Additional FAC ( allowed as per MERC order dtd 3 September 2013 in case No. 28 of 2013 in the following table.

Month	FAC to be levied (Rs. crore)	FAC billed in the Month	FAC amount levied / (refunded) (Rs. crore)	Balance FAC amount to be adjusted in Mar 14 (Rs. crore)	Under recovery of FAC 2 (Rs. crore)	FAC to be billed in March 14 (Rs. crore)
Aug 2013	(32.17)	Nov2013	-		82.13	
Sep 2013	(267.55)	Dec 2013	(32.17)	(235.39)	18.48	
Oct 2013	(90.89)	Jan 2014	(32.17)	(58.73)	34.84	
Nov 2013	74.74	Feb 2014	0	74.74	39.81	
Dec 2013	61.88	Mar 2014	-	61.88	13.35	
<b>Total</b>				<b>(157.50)</b>	<b>188.62</b>	<b>31.12</b>

43) It is also submitted that based on the above reconciliation. MSEDCL has arrived at & FAC outstanding of Rs. 31.12 Crore, which was levied in March 2014.

44) The Commission observes that the period of reconciliation is limited and effect of the same has been passed on the consumer within three months, hence the commission has allowed the same.



45) It is submitted by MSEDCL representative Shri Nikam, EE(Admin), Rural Circle, Aurangabad & Shri Babar, Dy. EE, Urban Circle, Aurangabad that, MERC has approved that reconciliation submitted by MSEDCL in respect of FAC & Additional FAC, there are no outstanding remained to be refunded to the applicants. The FAC order, reference No. MERC/FAC/2015-2016/01469 dtd 11.02.2016 is produced at (Page No. 182 to 209).

46) As against this Consumer Representative Shri Harshad Seth has submitted that, Additional FAC was to be recovered in three installments, but total five installments are collected, which is illegal. Above referred order has no relevance with the present dispute as it is for entire state & details are related to FAC. Out of 56 petitions 45 other petition on the same subject where Additional FAC of two months i.e. August 2013 and December 2013 is refunded by CGRF.

47) It is further submitted by Consumer Representative, Shri Sheth that, post facto approval is dtd 11 February 2016 and all consumers have applied within two years from the date of approval, so issue of cause of action does not arise.

48) It is important to note that as per circular NO. 209 dtd 11.09.2013 FAC was to be recovered in three installments, but total five installments are collected by MSEDCL in contravention of MERC order. The bills are produced on record at page No. 151 to 160, so excess recovery for August 2013 & December 2013 needs to be refunded.

49) Post facto approval is dtd 11.02.2016 & all consumers have thereafter applied within two years. In following 49 cases commonly disposed of by Hon'ble MERC ON 12<sup>TH</sup> October 2018 are 182/2017 & others.

<b>Sr. No.</b>	<b>Case No.</b>	<b>Petitioner</b>	<b>CGRF Case Numbers &amp; Dates of Orders</b>	<b>Circle of MSEDCL</b>
1	182 of 2017	M/s. Vidhata Metals Pvt. Ltd.	a)1329/2016-17 dtd. 10.08.2017 b) 1338/2016-17 dtd. 16.08.2017 c)1356/2016-17 dtd. 23.08.2017 d) 1347/2016-17 dtd. 14.09.2017	Vasai
2	188 of 2017	M/s. Suraj Industries Unit 2	1144/2015-16 dtd. 1.9.2017	Vasai
3	190 of 2017	M/s. Kundan Engineering Works	a) 1328/2016-17 dtd. 10.8.2017 b) 1337/2016-17 dtd. 16.8.2017 c)1355/2016-17 dtd. 23.8.2017 d) 1346/2016-17 dtd. 14.9.2017	Vasai
4	1 of 2018	M/s. Sun Diapet	1147 dtd. 1.9.2017	Vasai
5	2 of 2018	M/s. SVP Packing Industry Pvt. Ltd.	1164 dtd.1.9.2017	Vasai
6	3 of 2018	M/s. Agrawal Fasteners Pvt.Ltd.	1149 dtd. 1.9.2017	Palghar
7	4 of 2018	M/s. Ambernath Paper Mills Pvt. Ltd.	1168 dtd. 1.9.2017	Kalyan
8	5 of 2018	M/s. Savex Seal Pvt.Ltd.	1165 dtd. 1.9.2017	Vasai
9	6 of 2018	M/s. A. B. Corporation	1166 dtd. 1.9.2017	Vasai
10	7 of 2018	M/s. MIRC Electronics Ltd.	a) 1367 /2016-17 dtd. 16.8.2017 b) 1374 /2016-17 dtd. 16.8.2017 c) 1388/2016-17 dtd. 23.8.2017 d) 1381/2016-17 dtd. 14.9.2017	Vasai
11	8 of 2018	M/s. Vista Packaging Pvt. Ltd.	a) 1335 /2016-17 dtd. 23.8.2017 b) 1344 /2016-17 dtd. 16.8.2017 c) 1362/2016-17 dtd. 23.8.2017 d) 1353/2016-17 dtd. 14.9.2017	Vasai
12	9 of 2018	M/s. First Winner Industries Ltd.	1170 dtd. 1.9.2017	Palghar
13	10 of 2018	M/s. First Winner Industries Ltd. Plot No. N-66	1169 dtd. 1.9.2017	Palghar
14	11 of 2018	M/s. RLC Engineers Pvt. Ltd.	1146 dtd. 1.9.2017	Vasai
15	12 of 2018	M/s. Rajesh Plastics	a) 1333 /2016-17 dtd. 10.8.2017 b)1339 /2016-17 dtd. 16.8.2017 c) 1357/2016-17 dtd. 23.8.2017 d) 1348/2016-17 dtd. 14.9.2017	Vasai
16	13 of 2018	M/s. Shreenath Chemicals	1161 dtd. 1.9.2017	Palghar

<b>Sr. No.</b>	<b>Case No.</b>	<b>Petitioner</b>	<b>CGRF Case Numbers &amp; Dates of Orders</b>	<b>Circle of MSEDCL</b>
17	14 of 2018	M/s. SSB Metal Works	1143 dtd. 1.9.2017	Vasai
18	15 of 2018	M/s. First Winner Lifestyle Ltd.	1171 dtd. 1.9.2017	Palghar
19	16 of 2018	M/s. Industrial Engg. Corporation	1139 dtd. 1.9.2017	Vasai
20	17 of 2018	M/s. Arlex Chemi Pvt. Ltd.	1162 dtd. 1.9.2017	Palghar
21	18 of 2018	M/s. Raychem RPG Ltd.	a) 1401 /2017-18 dtd. 10.8.2017 b) 1403 /2017-18 dtd. 16.8.2017 c) 1407/2017-18 dtd. 23.8.2017 d) 1405/2017-18 dtd. 14.9.2017	Palghar
22	19 of 2018	Mr. Arjun Raheja	1156 dtd. 1.9.2017	Vasai
23	20 of 2018	Mr. Amit Raheja	1157 dtd. 1.9.2017	Vasai
24	21 of 2018	Mr. Arjun Raheja	1155 dtd. 1.9.2017	Vasai
25	22 of 2018	M/s. J.D.Exports	1140 dtd. 1.9.2017	Vasai
26	23 of 2018	M/s. R.P.Industries	1154 dtd. 1.9.2017	Vasai
27	24 of 2018	M/s. R.P.Industries	1145 dtd. 1.9.2017	Vasai
28	25 of 2018	M/s. Aditti Die Case	1159 dtd. 1.9.2017	Vasai
29	26 of 2018	M/s. Bhulani Steel	1151 dtd. 1.9.2017	Palghar
30	30 of 2018	M/s. Bharat Rubber Works Pvt. Ltd.	a)1370/2016-17 dtd. 10.08.2017 b)1377/2016-17 dtd. 16.08.2017 c) 1391/2016-17 dtd. 23.08.2017 d) 1384/2016-17 dtd.14.09.2017	Vasai
31	31 of 2018	M/s. Spectrum Scan Pvt.Ltd., Plot 31	1474 dtd. 1.11.2017	Vasai
32	32 of 2018	M/s. Infra Industries	1150 dtd. 1.9.2017	Vasai
33	33 of 2018	M/s. U.V. Metallising (India) Pvt.Ltd.	a)1334/2016-17 dtd 23.08.2017 b)1343/2016-17 dtd 16.08.2017 c) 1361/2016-17 dtd 23.08.2017 d) 1352/2016-17 dtd 14.09.2017	Vasai
34	34 of 2018	M/s. Vivek Polymer India	1152 dtd. 1.9.2017	Vasai
35	35 of 2018	M/s. Bharat Plastopack Pvt.Ltd.	a) 1371/2016-17 dtd 10.08.2017 b) 1378/2016-17dtd 16.08.2017 c) 1392/2016-17 dtd 23.08.2017 d) 1385/2016-17 dtd 14.09.2017	Vasai
36	36 of 2018	M/s. Nakki Hospitality Pvt.Ltd.	a)1330/2016-17 dtd 10.08.2017 b)1340/2016-17 dtd 16.08.2017 c) 1358/2016-17 dtd 23.08.2017 d) 1349/2016-17 dtd 14.09.2017	Vasai

<b>Sr. No.</b>	<b>Case No.</b>	<b>Petitioner</b>	<b>CGRF Case Numbers &amp; Dates of Orders</b>	<b>Circle of MSEDCL</b>
37	37 of 2018	M/s. Paradise Packaging Pvt.Ltd.	a) 1336/2016-17 dtd 9.08.2017 b) 1345/2016-17dtd 16.08.2017 c) 1363/2016-17 dtd 23.08.2017 d) 1354/2016-17dtd 14.09.2017	Vasai
38	38 of 2018	M/s. Maharashtra Packaging Pvt. Ltd.	a)1439/2017-18 dtd 10.08.2017 b)1441/2017-18 dtd 16.08.2017 c) 1445/2017-18 dtd 23.08.2017 d) 1443/2017-18 dtd 14.09.2017	Vasai
39	39 of 2018	M/s. Barcom Industries Pvt.Ltd.	a) 1438/2017-18 dtd 10.08.2017 b) 1440/2017-18 dtd 16.08.2017 c) 1444/2017-18 dtd 23.08.2017 d) 1442/2017-18 dtd 14.09.2017	Vasai
40	40 of 2018	M/s. Mega Rubber Technologies Pvt.Ltd.	1142 dtd. 1.9.2017	Vasai
41	41 of 2018	M/s. Siyasha Industries	1153 dtd. 1.9.2017	Vasai
42	42 of 2018	M/s. Royal Garden Resort	a) 1332/2016-17 dtd10.08.2017 b)1342/2016-17 dtd 16.08.2017 c) 1360/2016-17 dtd 23.08.2017 d)1351/2016-17 dtd 14.09.2017	Vasai
43	43 of 2018	M/s. Mega Rubber Technologies Pvt. Ltd.	1141 dtd. 1.9.2017	Vasai
44	44 of 2018	M/s. Spectrum Scan Pvt.Ltd., Plot 64	1473 dtd. 1.11.2017	Vasai
45	54 of 2018	M/s. Taprath Polymers Pvt. Ltd.	a) 1415/2017-18 dtd 10.08.2017 b) 1416/2017-18 dtd 16.08.2017 c) 1418/2017-18 dtd 14.09.2017 c) 1417/2017-18 dtd 13.08.2017	Vasai
46	55 of 2018	M/s. Harman Plastic Industries	1148 dtd. 1.9.2017	Vasai
47	56 of 2018	M/s. Shredevi Tools Engineering Pvt. Ltd.	a) 1368 /2016-17 dtd. 16.8.2017 b) 1375 /2016-17 dtd. 16.8.2017 c) 1389/2016-17 dtd. 23.8.2017 d) 1382/2016-17 dtd. 14.9.2017	Vasai
48	57 of 2018	M/s. Swasan Chemicals Pvt. Ltd.	a) 1402/2017-18 dtd 16.08.2017 b) 1404/2017-18 dtd 16.08.2017 c) 1408/2017-18 dtd 23.08.2017 d) 1406/2017-18 dtd 14.09.2017	Vasai
49	58 of 2018	M/s. Jigar Plast (India)	a) 1331/2016-17 dtd 10.08.2017 b) 1341/2016-17 dtd 16.08.2017 c) 1359/2016-17 dtd 23.08.2017 d) 1350/2016-17 dtd 14.09.2017	Vasai

50) It is important to note that in the aforesaid cases CGRF Vasai, Palgahr, Kalyan, Baramati, Osmanabed & Nashik Circles passed an order of FAC. Para 4.6.2 of the Common Order passed in aforesaid cases goes to show that Additional FAC was refunded by Kalyan, Baramati, Osmanabad & Nashik Circles in all above cases. However, Vasai Circle did not comply the CGRF orders regarding Additional FAC. Therefore the petitioners in those case demanded refund with interest.

51) It is important to note that, in the aforesaid 49 cases Hon'ble MERC did not remand the cases on the point of post facto approval. So also has not observed about non execution on the ground of post facto approval. As such claim of the 49 petitioners referred above were executed by way of refund. Rather pertinent to note that, even after post facto approval, which was subject before Hon'ble MERC, those 49 petitioners by order of CGRF and MERC, received the refund. Then all other petitioners who are on equal footing can't be discriminated. All petitioners whose cases are pari materia with those 49 cases are to be treated equally and they are therefore entitle to receive the Addl. FAC charges August 2013 & December 2013 based on above circumstances.

52) Further the post facto approval does not prove as on obstacle for refund of Additional FAC charges claimed by the consumer. As such we are in disagreement with the contentions raised by MSEDCL that in view of post facto approval, Additional FAC can't be granted.

53) At this juncture, it is necessary to note that out of the five cases referred before this Forum in case No. 643/17 (M/s. Nirlep, Paithan) there was order passed by IGRC Cell in case No. SE/ARC/Consumer/2017-18/ Case 108/2017 dtd 26.05.2017 for refund of Additional FAC & all other charges. In rest of the four cases bearing

No. 641/2017 (M/s Hedgewar Hospital)

No. 642/2017 (M/s Nirlep, Aurangabad)

No. 638/2017 (M/s Garware Polyester, Waluj Plant)

No. 637/2017 (M/s Garware Polyester, Chikalnatha Plant)

There was no specific order of refund passed by IGRC or CGRF. However this Forum has passed following order in all these five cases.

*“Forum is directed to MSEDCL/ Licensee to take review of AEC levied in this case & accordingly take corrective steps as per Hon’ble MERC order & Head Office, MSEDCL directions.”*

54) The order passed by CGRF in all these five cases are produced on record. It appears that in those cases MSEDCL has submitted that, it shall take review of refunds made so far on account of wrongful billing & make remaining refunds to consumer in next billing cycle as per latest MERC order case 78 dtd 13.07.2017. In the light of such submission though orders were passed for taking corrective steps by MSEDCL but non compliance on their part was the cause for submitting application before MERC. In view of remand of the case by MERC for settlement of difference the entitlement of the petitioners are also concluded.

It is pertinent to note that, the order passed by IGRC, Rural Circle as referred above is not set aside. Not only that, the said order is acted upon by Rural Circle, Aurangabad by paying refund of excess FAC Rs. 6,696.10, this fact is not disputed by both the parties. As such, Urban & Rural Circle, Aurangabad also has to treat all consumers uniformly & can’t discriminate.

Equally, it is to be noted that Section 62(6) of Indian Electricity Act provides as follows :-

*“If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall*



M/s Nirlep Appliances Ltd. HT consumer No.490019009413 under Aurangabad Urban circle								
Sr. NO	Month	Unit billed	FAC Rate billed in Dec-2013 by MSEDCL	Amt Charged in Bill	As per Cir 189 Dt. 24/12/2013 FAC Rate Applicable Amt	Amt applicable as per Cir 189 of 24/12/2013	Difference of FAC Amt. For Dec-2013 claimed by consumer	Remark/ Refund
			<b>FAC RATE</b>		<b>FAC RATE</b>	<b>Amt.</b>	<b>Amt.</b>	
1	Dec-13	237972	-0.0624	-14849.45	-0.2246	-53448.51	-38599.06	MSEDCL Charged FAC in dec-2013 & FAC Reconciliation submitted Vide order No. MERC/FAC/20152016/0 1469 Dt. 11/02/2016 accepted by Hon'ble commission & submitted to Hon'ble CGRF/AZ Aurangabad for kind consideration please.

M/s GARWARE POLYSTER LTD. Waluj HT consumer No. 490019001706 under Aurangabad Urban circle								
Sr. NO	Month	Unit billed	FAC Rate billed in Dec-2013 by MSEDCL	Amt Charged in Bill/ credit given	As per Cir 189 Dt. 24/12/2013 FAC Rate Applicable Amt	Amt applicable as per Cir 189 of 24/12/2013	Difference of FAC Amt. For Dec-2013 claimed by consumer	Remark/ Refund
			<b>FAC RATE</b>		<b>FAC RATE</b>			
1	Dec-13	5139598	-0.0797	-409625.96	-0.2806	-1442171.20	-1032545.24	MSEDCL Charged FAC in dec-2013 & FAC Reconciliation submitted Vide order No. MERC/FAC/20152016/0 1469 Dt. 11/02/2016 accepted by Hon'ble commission & submitted to Hon'ble CGRF/AZ Aurangabad for kind consideration please.



M/s GARWARE POLYSTER LTD. Chikalhana HT consumer No.490019000505 under Aurangabad Urban circle								
Sr. NO	Month	Unit billed	FAC Rate billed in Dec-2013 by MSEDCL	Amt Charged in Bill/ credit given	As per Cir 189 Dt. 24/12/2013 FAC Rate Applicable Amt	Amt applicable as per Cir 189 of 24/12/2013	Difference of FAC Amt. For Dec-2013 claimed by consumer	Remark/ Refund
			<b>FAC RATE</b>		<b>FAC RATE</b>			
1	Dec-13	1424695	-0.0797	-113548.19	-0.2806	-399769.42	-286221.23	MSEDCL Charged FAC in dec-2013 & FAC Reconciliation submitted Vide order No. MERC/FAC/20152016/0 1469 Dt. 11/02/2016 accepted by Hon'ble commission & submitted to Hon'ble CGRF/AZ Aurangabad for kind consideration please.

58) Excess FAC of Rs. 6,696/- is already refunded by Rural Circle, Aurangabad which is fact is admitted by the petitioner at Page No. 162.

59) As already discussed above post facto approval does not bar refund of excess FAC charges. So, also referring to order passed by Hon'ble MERC (Page No. 3 to 19) para 21 carries following observations :-

*"21 – Petitioners in the instant cases have also contended that MSEDCL has not refunded FAC & Additional FAC. MSEDCL in response has stated that it has reviewed the excess FAC charged in December 2013 & is in process of refunding the same in the ensuing energy bills of the petitioners."*

60) Considering such statement made by MSEDCL, the Respondent is under obligation to comply & refund excess FAC.

61) The aforesaid difference amount of all five petitioners are verified by both the Respondents & submitted about their correctness. The excess FAC in case of M/s Nirlep Paithan Rs. 6,696/- is already refunded by MSEDCL the relevant document is at Page No. 162. Considering this aspect we answer point No. 3 in the affirmative.

**Dissenting Opinion regarding point No 2 & 3 of Mr. L.M. Kakade,**

**Technical Member / Secretary in case No. 701/2018**

1) I have gone through the application, say, rejoinder & all documents placed on record by both the parties. I heard both parties. Complainant Representative Shri Harshad Seth & Respondent Representative Shri. B.D. Babar, I/c EE (Admin) Urban Circle, Aurangabad & Shri. Y. B. Nikam, EE(Admin), Rural Circle, Aurangabad. I disagree with opinions of Chairperson & CPO **regarding point No. 2 & 3**. Following are my findings against point raised by Chairperson & CPO.

2) **Regarding Point No. 1, Consumer's** prayer was for refund of AEC 1 to 4 for following connections :-

- 1) Dr. Hedgewar Hospital, Aurangabad. (Cons No. 490019040320),
- 2) M/s. Nirlep, Aurangabad. (Cons No. 490019009413),
- 3) M/s. Garware, Waluj Plant. (Cons No. 490019001706),
- 4) M/s. Garware, Chikalthana Plant. (Cons No. 490019000505).

From submission of Executive Engineer (Adm), Urban Circle, Aurangabad dtd 08.01.2019 AEC 1 to 4 are properly refunded in the month of October 2017. Account & IT reports confirms it, hence I agree with opinions of Chairperson & CPO and answer point No. 1 accordingly as it is already complied.

3) **Point No. 2 :- Regarding Additional FAC recovered for two months August 2013 and Dec 2013 & Point No.3 Regarding FAC charged excess:-**

These two points framed are regarding FAC mechanism hence answered together. The Hon'ble Commission vide its order in case No. 44 of dtd. 04.09.2013 allowed MSPGCL to recover under recovered fuel cost i.e. 28.05 Crore for infirm power supplied to MSEDCL in 3 monthly installments. MSEDCL can recover the cost through FAC mechanism.

4) Hon'ble MERC order in case No. 80,81,82,87 & 88 of 2018 in present dispute, directed this case to CGRF Aurangabad and accordingly consumer filed complaint before CGRF. The para 22 of order is reproduced here " In view of the submissions of both the parties, the Commission directs both the parties to approach the concerned CGRF regarding the settlement of difference in calculations of either the refund or recovery amount after considering AEC, Additional FAC and FAC."

In para 17 Hon'ble MERC order states that, "The Commission is of the view that MSEDCL has complied with the CGRF orders and the order of the Commission in Paul Strips case in an appropriate manner"

5) In the present dispute of consumers the journey of grievance is as follows.  
1. M/s. Nirlep, Paithan (Consumer No. 497779040340), IGRC, Rural Circle, passed order on dtd. 15.05.2017.

*"a) MSEDCL should refund amount AEC1 and AEC2 recovered wrongly for billing month of August 2013 & AEC3 & AEC4 wrongly collected for the billing month of August 2013 to September 2013.*

*b) MSEDCL should refund Additional FAC collected for the billing month of August 2013 & December 2013.*

*c) MSEDCL should refund Excess FAC charged for the month of December 2013 as per Commercial Circular 189 of MSEDCL, adjust ensuring bill after order & refund amount with interest as per provision of Section 62 (6) of Electricity Act 2003."*

*"Due to non compliance of IGRC order consumer filled case in CGRF, Aurangabad Zone on dtd. 27.06.2017 and CGRF passed order in case 643 on dtd 09.09.2017 as "Forum is directed to MSEDCL / Licensee to take review of*

*AEC levied in this case and accordingly take corrective steps as per Hon'ble MERC order & Head Office, MSEDCL directions."*

6) CGRF, Aurangabad passed order on dtd 09.09.2017 considering directions of Hon'ble MERC in case No. 78 of 2016 order dtd 13.07.2017 on basis of the order in case No. 95 of 2013 clarified AEC applicable and also considering MSEDCL directives regarding refunds. CGRF order is silent about Additional FAC & excess FAC allowed in IGRC order dtd 15.05.2017 and issued fresh order in accordance with direction of Hon'ble MERC, hence it is clear that IGRC order is not upheld and CGRF has issued fresh order accordingly.

7) During hearing at CGRF Aurangabad, On dtd 26.11.2018 (Page No. 131) Respondent Representative, Executive Engineer, Rural Circle, Aurangabad has submitted for above case in Rural Circle, Aurangabad that in respect of Additional FAC charges recovered for August 2013 & December 2013 as per the order of MERC in case No. 44 passed on dtd 04.09.2013 MSPGCL was allowed to recover the under recovered fuel cost for infirm power supplied to MSEDCL in 3 monthly installments. Thereon MSEDCL has recovered the same from the consumer in subsequent billing for refunding the same to MSPGCL through FAC mechanism and his stand that MSEDCL has not recovered any excess amount in respect of Additional FAC as allowed by MERC.

8) In other four cases.

1) Dr. Hedgewar Hospital, Aurangabad (Cons No. 490019040320 )

2) M/s. Nirlep, Aurangabad, (Cons No. 490019009413 )

3) M/s. Garware, Waluj Plant, (Cons No. 490019001706 )

4) M/s. Garware, Chikalthana Plant, (Cons No. 490019000505)

IGRC, Urban Circle, Aurangabad had not passed any order within two months, hence consumer filed cases before CGRF and CGRF Aurangabad passed

order for consumer Dr. Hedgewar Hospital in case No. 641 on dtd 29.08.2017, for consumer M/s Nirlep, Aurangabad in case No. 642 dtd 29.08.2017 for consumer M/s Garware, Waluj Plant in case No. 638 on dtd 22.08.2017 & for consumer M/s Garware, Chikalthana plant in case No. 637 on dtd 22.08.2017

9) Above four cases are on equal footing, hence CGRF passed same order as

*"Forum is directed to MSEDCL / Licensee to take review of AEC levied in this case and accordingly take corrective steps as per Hon'ble MERC order & Head Office MSEDCL directions."*

10) Respondent representative Executive Engineer (Admin) Urban Circle submitted reply for above four cases under Urban Circle, Aurangabad on dtd 26.12.2018 & produced post facto approval copy of Hon'ble commission dtd 11.02.2016. It is reproduced here

*"9.3 MSEDCL in its letter dated 26 March, 2014 submitted the FAC calculations for the period of September 2013 to December 2013. In this letter, MSEDCL has stated that there was a possibility of under-recovery of Additional FAC (payable to MSPGCL as per Order dated 4 September, 2013 in Case No. 44 of 2013) and AEC 1 to 4 (as per Order dated 5 September, 2013 in Case No. 95 of 2013) for August 2013 and September 2013 against higher refund of FAC due in December, 2013. Hence, instead of refunding Rs. 267.55 crore in December, 2013 and Rs. 90.89 crore in January, 2014, MSEDCL continued refunding Rs. 32.17 crore (which is approved FAC refund to be levied in November, 2013) in these months. Further, MSEDCL has not levied FAC of Rs. 74.74 crore in February, 2014.*

*In its letter dated 26 March, 2014, MSEDCL has provided the reconciliation (provided in the below table) of FAC refundable/recoverable amount for the period pertaining to September 2013 to December 2013 with the actual refunded/recovered in the period December 2013 to March 2014. MSEDCL*

has also provided details of under-recovery of additional FAC (allowed as per MERC Order dated 3 September, 2013 in Case No. 28 of 2013) in the following table.

Month	FAC to be levied (Rs. crore)	FAC billed in the Month	FAC amount levied / (refunded) (Rs. crore)	Balance FAC amount to be adjusted in Mar 14 (Rs. crore)	Under recovery of FAC 2 (Rs. crore)	FAC to be billed in March 14 (Rs. crore)
Aug 2013	(32.17)	Nov2013	-		82.13	
Sep 2013	(267.55)	Dec 2013	(32.17)	(235.39)	18.48	
Oct 2013	(90.89)	Jan 2014	(32.17)	(58.73)	34.84	
Nov 2013	74.74	Feb 2014	0	74.74	39.81	
Dec 2013	61.88	Mar 2014	-	61.88	13.35	
<b>Total</b>				<b>(157.50)</b>	<b>188.62</b>	<b>31.12</b>

Based on the above reconciliation, MSEDCL has arrived at an FAC outstanding of Rs 31.12 Crore which was levied in March 2014.

The Commission observes that the period of reconciliation is limited and effect of the same has been passed on to the consumers within three months. Hence, the Commission has allowed the same".

11) Respondent representative Executive Engineer (Admin) Urban Circle stated for four cases in Urban Circle, that MSEDCL has not recovered any excess amount in respect of Additional FAC & Excess FAC as allowed by Hon'ble MERC. Issue regarding the FAC and Additional FAC respectively is lying on the approved FAC order passed by Hon'ble MERC in reference No. MERC/FAC/2015 2016/01469 dtd 11.02.2016 clarifies that there are no any outstanding under the heads of the FAC and additional FAC are remained to be refunded to the complainant.

12) MSEDCL has provided before Hon'ble MERC reconciliation of FAC refundable / recoverable amount for period September 2013 to December 2013

with actual refunded /recovered in period December 2013 to march 2014 and also provided under recovery of additional FAC and on the reconciliation MSEDCL has arrived at FAC outstanding of Rs. 31.12 crore, which was levied in March 2014. The Commission observed that, period of reconciliation is limited and effect of same has been passed on the consumer within three months. Hence commission allowed upto June 2014,.

13) Consumer Representative of above cases submits rejoinder on dtd 29.12.2018 and stated that (Page No. 251)

a) Post facto approval of FAC ( Anx. B ) submitted by MSEDCL is statistics for the entire state of Maharashtra & not of Aurangabad circle. Aurangabad Rural circle has already refunded excess FAC in August 2017. Out of 56 petitions, filed with MERC & heard in common, 45 other petitions were on the same subject where FAC was excess charged, is refunded to all 48 consumers. So Aurangabad Urban circle is giving false submission in this regard. We reject MSEDCL Submission in this regard.

b) Additional FAC was to be recovered in 3 installments, but total 5 installments are collected which is illegal. MSEDCL reference of Anx. B in their reply is un related & for entire state & details are related to FAC. So this is misleading statement from MSEDCL. We refer to MERC 56 cases decided in one hearing as common matter. Out of 56 petitions, 45 other petitions on the same subject where Addl FAC of 2 months i.e. August 13 & Dec' 13 is refunded to all 48 consumers. So those cases are not redirected by MERC to CGRF again. This concludes that In the name of Post facto approval of FAC by MERC, MSEDCL is wrongly adding Addl. FAC also.

- c) Post facto approval is dated 11th Feb' 16 & all consumers have applied for refund within 2 years from this approval date, so issue of cause of action does not arise. All claims are legitimate & reject entire submission of MSEDCL being un related on the claims demanded by consumer.
- 14) It is crystal clear that before Hon'ble MERC above referred consumers had approached under Section 142 and 149 of the Electricity Act 2003 for non compliance of the concern Consumer Grievance Redressal Forum. out of 56 petitions before Hon'ble MERC 45 petitions on the same subject where Addl. FAC of 2 months i.e. August 2013 and December 2013 allowed by concerned CGRF refunded as per order passed by concern CGRF.
- 15) MERC Order in Case No. 182, 188 and 190 of 2017, 1 to 26,30 to 44 8 of 2018 – relevant part is reproduced here.

“17. Vide its individual/common Orders, CGRF has directed MSEDCL to refund Additional Energy Charges that were recovered wrongly for the billing month of August, 2013, CGRF also directed MSEDCL to refund the Additional FAC recovered wrongly for the billing months of August, 2013 and December, 2013. Further, CGRF has also directed MSEDCL to verify the claim of the consumer as per post facto approval given by the Commission and to refund / adjust the amount with electricity Duty alongwith interest at the Bank rate of RBI till the date of refund.”

This clears that CGRF order for verification claim as per post facto approval given by Commission shall be considered.



16) Hon'ble MERC redirected these 5 cases to CGRF, Aurangabad which are not on same subject with other orders, hence same analogy is not applicable in present cases. Regarding FAC charges Hon'ble Commission approved reconciliation for period August 2013 to December 2013 and also allowed to recover FAC outstanding of Rs. 31.12 in further months March 2014, April 2014 and May 2014.

It clear that Additional FAC & excess FAC of December 2013 of August 2013 & December 2013 recovered are not liable to refund to consumers.

17) The respondent, s submission before Hon,ble MERC in present case “He has reviewed the excess FAC charged in DEC 13 and in progress of refunding the same in the ensuring energy bills of petitioner “ it shall be considered as it is in progress and truth comes out as no any excess FAC is recovered as per & Hon’ble MERC post facto approval for period Aug.2013 to Dec. 2013. In such circumstances Consumers demand for refund of Additional FAC for period Aug.2013 to Dec. 2013 & Excess FAC for December 2013 for cannot be accepted. All recovered / balanced FAC reconciliation is prepared at state level for all consumers. Also important thing that FAC recovered is not premature recovery case. MSEDCL has provided the reconciliation of FAC refundable/recoverable amount for the period pertaining to September 2013to December 2013 with the actual refunded/recovered in the period December 2013 to March 2014. MSEDCL has also provided details of under-recovery of additional FAC (allowed as per MERC Order dated 3 September, 2013 in Case No. 28 of 2013) Based on the above reconciliation, MSEDCL has arrived at an FAC outstanding of Rs 31.12 Crore which was levied in March 2014. & Hon’ble MERC approved this to recover in three months i.e. from April to June 2014

18) Executive Engineer(Admin), Rural Circle, Aurangabad state that for consumer M/s. Nirlep, Paithan FAC of December 2013 amount Rs. 6,696/- is refunded in August 2017.

19) The order passed by Hon'ble MERC in reference No. MERC/FAC/2015 2016/01469 dtd 11.02.2016 clarifies that there are no any outstanding under the heads of the FAC and additional FAC are remained to be refunded to the complainant hence this amount shall be recover from Consumer M/s. Nirlep, Paithan FAC of December 2013 amount Rs. 6,696/-.

20) Hence I answer point No. 2 & 3 in negative means there are no any outstanding under the heads of the additional FAC and excess FAC are remained to be refunded to the complainant.

**22) Hence the order in my opinion**

- A) Point No. 1 regarding AEC-1 to AEC-4, I concurred with Chairperson & CPO as refund is already made to above four consumers.**
- B) The claim of Additional FAC for month August 2013 & December 2013 of above five consumers stand dismissed.**
- c) The claim of Excess FAC for month December 2013 of above five Consumers stand dismissed.**
- d) Excess FAC amount Rs. 6,696/- refunded to M/s. Nirlep Appliances, Paithan be recover by MSEDCL.**

Sd/-

Laxman M. Kakade  
Member / Secretary

Hence the order as per Majority.

**ORDER**

Petition is hereby allowed in the following terms :-

- 1) It is hereby declared that AEC 1 t 4 charges are already refunded by MSEDCL to above four petitioners.
- 2) The MSEDCL Rural and Urban Circle, Aurangabad are hereby directed to refund following Additional FAC charges to the petitioners 1 to 5.

(1)	M/s. Nirlep, Paithan,	Rs. 18,321.00	To be complied by Rural Circle, Aurangabad
(2)	Dr. Hedgewar Hospital	Rs. 52,242.00	To be complied by Urban Circle, Aurangabad
(3)	M/s. Nirlep, Aurangabad	Rs. 89,821.00	To be complied by Urban Circle, Aurangabad
(4)	M/s. Garware, Waluj Plant,	Rs. 20,15,056.00	To be complied by Urban Circle, Aurangabad
(5)	M/s. Garware, Chikalthana Plant	Rs. 5,85,364.00	To be complied by Urban Circle, Aurangabad

- 3) The MSEDCL Urban Circle, Aurangabad is hereby directed to refund excess FAC charges to the following petitioners.

(1)	Dr. Hedgewar Hospital	Rs. 22,042.00
(2)	M/s. Nirlep, Aurangabad	Rs. 38,599.00
(3)	M/s. Garware, Waluj Plant,	Rs. 10,32,545.24
(4)	M/s. Garware, Chikalthana Plant,	Rs. 2,86,221.00

- 4) All refund amounts be adjusted in the ensuing bills of all the petitioners.
- 5) Parties to bear their own costs.
- 6) Compliance be reported within 30 days of the date of receiving copy of the order

Sd/-  
Shobha B. Varma  
Chairperson

Sd/  
Vilaschandra S.Kabra  
Member