

Maharashtra State Electricity Distribution Co. Ltd.

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REF. PR-3/COS/ASD/ No 2 3 8 3 3

DATE: 16 JUL 2009

COMMERCIAL CIRCULAR No. 95.

Subject: Recovery of Additional Security Deposit.

Modification in the Commercial Circular no. 57 dt. 07/07/2007 in view of the decision of Ombudsman in representation No. 23/2009 dt. 26/3/09.

- Ref. :** i) No. PR-3 COS/ASD/27929 dt. 07.07.2007. (Commercial Circular No. 57)
ii) Order of the Ombudsman in case No.23/2009 dt. 26.03.2009.

1) Background :-

It is necessary for an Utility to securitize the amounts for the electricity that is being supplied to the consumers. The Electricity Act, 2003 and the subsequent Regulations had addressed this issue in detail. Considering the dynamic nature of electricity usage, the Act and / or the Regulations have incorporated the provisions of Additional Security Deposit and have ruled that the same shall be payable within a stipulated time frame. Thus, it is extremely important to recover the Security Deposit / Additional Security Deposit as envisaged in an Act as well as Regulations so that the dues of MSEDCL are securitized.

It is further to inform that the Public Undertaking Committee has taken a very serious view on failure of non-recovery of Additional Security Deposit in some case.

Mostly non-recovery of Additional Security Deposit for any reasons whatsoever is against the financial interest of MSEDCL.

2) Legal Provisions :-

The Section 47 (1) of the Electricity Act, 2003 stipulates that a reasonable security has to be given by the consumer as determined by the Regulations. Further, the **Section 47 (3)** stipulates that if the person fails to give such security, the Distribution Licensee, if he deems fit, discontinue the supply of electricity for the period during which the failure continues.

Based on the above provisions of the Electricity Act, 2003 and the Regulations under the Electricity Supply Code, 2005 of MERC stipulates under Section 11, the various provisions in respect of Security Deposit. The salient features of the Electricity Supply Code Regulations, 2005 with regards to Security Deposit are as under :-

- 11.2 *The amount of the security referred to in Regulation 11.1 shall be an equivalent of the average of three months of billing or the billing cycle period, whichever is lesser. For the purpose of determining the average billing under this Regulation 11.2, the average of the billing to the consumer for the last twelve months, or in cases where supply has been provided for a shorter period, the average of the billing of such shorter period, shall be considered.*
- 11.4 *The Distribution Licensee shall re-calculate the amount of security based on the actual billing of the consumer once in each financial year.*
- 11.5 *Where the amount of security deposit maintained by the consumer is higher than the security required to be maintained under the Regulation 11, the Distribution Licensee shall refund the excess amount of such security deposit in a single payment.*
- 11.6 *Where the amount of security re-calculated pursuant to Regulations 11.4 above, is higher than the security deposit of the consumer, the Distribution Licensee shall be entitled to raise a demand for additional security on the consumer.*

Provided that the consumer shall be given a time period of not less than thirty days to deposit the additional security pursuant to such demand.

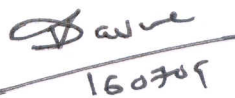
As can be seen from the above main features, it is mandatory for MSEDCL to securitize the amounts that may become due from the consumers. This aspect is covered under Regulation 11.6 and the provision of this Regulation stipulates the time period of 30 days towards payment of this Additional Security Deposit.

3) Recovery of Additional Security Deposit :-

Based on the above background and the legal framework, it is mandatory for MSEDCL to recover Additional Security Deposit as per the Act / Regulations. The methodology / procedure to be followed with regards to recovery of Additional Security Deposit is revised & the Circular No. 57 conveyed vide No. PR-3/COS/ASD/27929 dt. 07.07.07 stands withdrawn in view of the order of the Ombudsman in case No. 23/2009 dt. 26.03.2009. The revised guidelines are as under :

- a) The demand for Additional Security Deposit will be raised at the beginning of every financial year and the due date of the same will be 30 days from the date of issue of such demand.
- b) The amount against this Additional Security Deposit if objected by the consumer with valid reasons in writing, suitable action for correction of Energy Bill (if revision of S.D. is necessitated due to revision/correction in past energy bills) and Additional S.D. bill amount should be done immediately before next billing cycle and corrected demand of SD be issued immediately.

- c) In case the amount remains unpaid after due date i.e 30 days from the date of issue of this demand for any reasons, 15 days notice has to be given as mandated in the Electricity Act, 2003, Section 56 after expiry of 30 days. After expiry of 15 days notice period, the electricity supply of the consumer should be disconnected for the period till such time Additional SD payment is made in full.
- d) Reconnection charges as per schedule of charges approved by Hon'ble Commission be recovered from consumer prior to reconnection after Additional SD payment is effected.
- e) Before reconnection, (after payment of SD arrears) it should be ensured that the arrears against regular energy bill is paid by the consumer. Separate 15 days notice has to be given for payment of regular energy bill arrears.(if any)
- f) The field Officers are informed that the Additional Security Deposit is a legitimate and mandatory amount payable by the consumer without exception. The recovery of Additional Security Deposit shall be governed by Regulation (11.1 to 11.12) of the Electricity Supply code Regulations 2005 as amended from time to time.
- g) Necessary action may be taken in this regard to ensure that the Additional Security Deposit due from the consumer is recovered in the stipulated time.
- h) The arrears of regular energy bills shall attract DPC & interest as per provision of supply code regulation of MERC.
- i) Past cases will not be reopened.
- j) This circular comes into force with immediate effect.


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Director (Operation), MSEDCL

Copy f. w. cs. to:-

- 1) The C.G.M. (IT), MSEDCL, Prakashganga, Bandra Kurla Complex.
- 2) The Chief Engineers of All O & M Zones, MSEDCL.

Copy to:-

- 1) The Superintending Engineers of All O & M Circles, MSEDCL.
- 2) The Executive Engineers of All O & M Divisions, MSEDCL.
- 3) The Dy. Executive Engineers of All O & M Sub-Divisions, MSEDCL.
- 4) The Assistant Engineers of All O & M Sub-Divisions, MSEDCL