

**CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.**

“ Vidyut Bhavan ” Ratanlal Plots, Akola : 444001 Tel No 0724 .2434476

Dt.15/12/2015

Complaint No.25 / 2015

Grievance pertaining to incorrect electric bills, on account of excesses F.A.C.

Quorum

Shri T.M.Mantri, Chairman

Shri. R.A. Ramteke ,Member-Secretary

Shri. D.M.Deshpande-Member (CPO)

M/s. Ruhatiya Spinners Pvt.LTD, Kirana Bazar, Akola.
Consumer No:- HT-I 311039001468

Complainant

.....Vrs.....

Superintending Engineer, MSEDCL,Akola Circle.....

Respondent

Appearances :

Complainant Representative: Mr. A.P.Agrawal.

Respondent Representative: Shri. Kamble, Superintending Engineer. MSEDCL. Akola.

1. The complainants case in brief is that since 1998 it is a H.T. consumer paying regular monthly bills. It is alleged that the N.A. has not charged F.A.C. charges from Aug-2013 to Jan-2015 as per circulars issued by the Mumbai office and according to it an amount of Rs.622725.18/- has been charged in excess. Reference has been made to approach to IGRC Akola and vide order dt.20/03/2015 the said IGRC directing the N.A. to charge F.A.C. charges as per circular and to issue corrected bill to the consumer. In spite thereof neither the difference amount of F.A.C. has been refunded nor adjusted in any bill. Similarly the N.A. has not made any compliances so far, hence compelled to approach this forum seeking the reliefs prayed for. Along with the complaint bunch of documents including the statement of F.A.C. charges for the period, are filed alongwith various circulars, electric bills and order of IGRC.

2. After the receipt of notice of this forum calling upon it to submit its reply to the complaint, the N.A. has sought time for submitting reply. There after the reply came to be filed, stating that the F.A.C. has been charged as per the circulars. The additional F.A.C. has been charged vide circular no. 209 dt. 07/09/2013 along with regular F.A.C. No excess F.A.C. is recovered from the consumer, hence refund of F.A.C. is not applicable. Copy of circular no.209 has been annexed with the reply.
3. The matter was then posted for arguments, at that time on behalf of N.A., after the submission made by the complainants representative, an application has been filed requesting for submitting additional reply. The complainant has opposed it. After hearing both the parties, the said application was allowed. Copy of the additional reply has been given to the complainant. Along with the said reply copies of circulars have been filed (the complainant had already filed those circulars on record with complaint). It is clear that the grievance pertains to levying of incorrect and excess F.A.C. charges. It is an admitted portion that F.A.C. is part of tariff and the same is determined by the M.E.R.C. So without sanction/ approval of the M.E.R.C, there can not be any charge/ alteration. The complainant has filed the details of the alleged excess recovery, made by the N.A. in the chart with complaint. Here it is pertinent to note that the complainant after raising grievance with the N.A. approached IGRC. The complainants submission is that inspite repeated approaches to the office/ officers of the N.A. nothing has been explained about the manner and mode of lavying of excess F.A.C, none was giving any reply to the complainant hence it approached IGRC. Even before IGRC, according to the complainant, neither reply has been filed nor in presence of the complainant any submission has been made from the side of the N.A. This argument of the complainant has not been controverted from the side of N.A. The record also clearly depicts such position. The IGRC in its order dt.20/03/2015, directed the N.A. for charging F.A.C as per circular with further direction of issuing corrected bill to the complainant. So it is clear that even according to IGRC, there was need and requirement and correction of the electric bill of the complainant, resulting issuing of such direction. The complainants version that even order of IGRC has not been

complied, which is not disputed/ controverted from the side of N.A. Neither in the original reply nor in the additional reply of the N.A. before this forum, anything has been stated in this regard. The argument advanced by the learned representative of the complainant that the N.A. has kept mum all the time, intentionally and not given any reply. This submission is also not controverted from the side of the N.A. There appears to be substance in the submission of the complainant that the entire conduct on the part of N.A. is not just and proper. It was necessary and expected to give reply to the queries raised from the side of the consumer, time and again. The action on the part of N.A. to keep silence, cannot be said to be just and proper. For the first time in reply, which has been also filed late, the N.A. has not dealt with the complainants averments about approaches made time and again in office, of the N.A. and then before IGRC. Nothing has been stated as to what steps have been taken after the order of IGRC but vague reply has been filed before this forum without giving any details.

4. If one goes through the available material on record as well as the submission admittedly earlier after 3 months period F.A.C. used to be levied as per circulars. At this stage it will be just and proper to go through circular no.209 dt.03/07/2015 issued by Chief Engineer commercial where in after making observations of the earlier practice and deviation there from. In the above mentioned circular it has been held that such deviation has resulted in certain anomaly about levying of F.A.C. It has been further categorically mentioned in the said circular that it has been decided to again switchover to the earlier practices of levying of F.A.C. So one thing is sure from this circular also that during the relevant period there was deviation in the manner and mode of levying of F.A.C.
5. On going through the circular no.209 dt.07/09/2013 it is clear that it also deals with F.A.C. MERC has allowed to recover under recovered dues cost of 28 Cores in 3 Monthly installments. In the said circular under the head of impact of the order is as follows, particular are given-----“Under recovered fuel cost for infirm power (to be recovered in 3 months through F.A.C.) Rs.28 Crs.”

So from the above its clear that the direction in the order is about recovery of 28 Crs. of under recovered fuel cost in 3 months by way of F.A.C. Here as per N.A. so also the details given by the N.A., additional F.A.C has been billed and recovered in 5 monthly installment. So said action of the N.A. cannot said to be in terms of the said direction. Therefore the alleged billing and recovery of additional F.A.C. exceeding 3 monthly installments does not appear to be correct. So it is clear that the N.A. has recovered in excess under 2 monthly installment that can be said to be Nov-2013 and Dec-2013 i.e. Rs.72,161=17/- and Rs. 81462=88/- totaling to Rs.1,53,624.05/- as shown in the details filed by the N.A. on record as F.A.C. charged. In view of the order and direction of MERC the excess amount recovered as additional F.A.C., exceeding 3 monthly installment i.e. Rs.1,53,624.05/- needs to be refunded by way of adjustment in the bill of the complainant.

6. As per as the grievance of the complainant of not applying the circulars correctly by the N.A. resulting in incorrect/ excess recovery from the complainant through monthly electric bills, this forum has gone through the copies of various circulars issued by the office as well as copies of bills filed on record. There seems to be certain anomaly's in respect of lavy of F.A.C by the N.A. While going through the circular no.190 onwards. It is clear that for Dec-2013 circular no.189 has been made applicable correctly. From the details given by the N.A. as well as complainant it is correct that in Jan-2014 no. circular was issued hence no F.A.C was levied. The difference and controversy is relating to applicability of further circulars issued there after. It has been admitted that one circular is applicable for a month and there can not be applicability of 2 circulars for the same month. If one minutely goes through the details given by the N.A. it is clear that circular no.190 and 197 have been made applicable for two months i.e. Feb/March-2014 and Jun/July-2014 respectively. Apart from that it is clear from the record though there of copies of circular no.194 and 198 to be made applicable for particular months respectively mentioned there in, they have been not made applicable for any month. This is clear from the details given by the N.A. on record in additional reply. From the record it appear that by not making applicability of correct circular for the

month it was applicable, the amount of F.A.C. has not been calculated/ levied correctly resulting in incorrect amount of F.A.C. in such electric bills of the complainant. On going to the record it also appears that by making applicability of improper/incorrect circulars the bills of under recovery came to be issued to the complainant which means thereby the actual amount of the bills of the complainant is less (under recovered) than what actually it ought to have been, Such as the electric bills of Oct-2014 and Jan-2015, in Oct-2014 the circular shown to be applicable as circular no.202 instead of 201 and in Jan-2015 circular no.205 instead of 204. By applying incorrect circular no. for this 2 months Oct-2014 and Jan-2015 there seems to be under recovery of 126418.04/- and 202045.02/- respectively. It appears from the record that by not making application of the circulars correctly for the month which ought to have been, there is difference of amount of F.A.C. in some of the bills Feb-2014 onwards till Jan-2015. In some months the excess F.A.C. charges have been levied and recovered where as in some bills under recovery of F.A.C. has been made. In view there of the defence and stand of the N.A. that the impugned bills are correct does not appear to be correct. Therefore it is necessary to direct the N.A. to make correction in the monthly electric bills from Feb-2014 onwards till Jan-2015 by correctly applying the respective circulars for the respective month as mentioned there in and by making revision in the bills accordingly, to account for and the amount recovered in excess toward F.A.C. to be refunded by making adjustment in the forth coming bills payable by the complainant.

7. On going through the record it has to be observed that the amount of RS.6,22,725.18/- as alleged by the complainant recovered excess in the bills, does not appear to be correct. Even during the course of argument the learned representative of the complainant has admitted that it has committed mistake as mentioned excess recovery for five months, which ought to have been for 2 months, in the details given with the complaint. So upon considering the available material on the record it is necessary to direct the N.A. to refund/ adjust the amount of additional F.A.C. Rs.1,53,624.05/- and difference of amount of excess

F.A.C. billed and recovered by making incorrect application of circular no. as observed above. The N.A./ concerned officer to take note of the observations made in this order in respect of not giving of any attention to the grievance made by the consumer and the fact of not giving any reply to queries raised by the consumer. Had it had been promptly attended the grievance could have been resolved there itself. So it will be also necessary to give directions/ instructions to all the concerned for taking cognizance of the grievances of the consumer, promptly and properly. With such observations following order is passed.

ORDER

1. The complaint no. 25/2015 is hereby partly allowed.
2. The N.A. is directed to refund/ adjust the amount of additional F.A.C. Rs. 1,53,624.05/-. So also to refund/ adjust the amount excess F.A.C. billed and recovered by making in correct application of circular no. from Feb-2014 to Jan-2015 as detailed in the above order, in forth coming bills of the complainant, along with 6% interest per annum on such entire amount till the date of adjustment/payment, from the date of this order.
3. That the Compliance report to be submitted within a period of one month.

s/d
Member/ Secretary

s/d
Member(CPO)

s/d
Chairman

Contact details of Electricity Ombudsman appointed by MERC (CGRF&EO) Regulations 2006 under Regulation 10:

No.CGRF / AZ/ Akola/ 834

Dt. 15/12/2015

TO
The Nodal Officer,
Superintending Engineer

O & M Circle,
MSEDCL,
Akola.

The order passed on 15-12-2015 in the Complaint No. 25/2015, is enclosed herewith for further compliance and necessary action.

Secretary,
Consumer Grievance Redressal Forum,
MSEDCL, Akola Zone, Akola

Copy fwc to:

1. M/s. Ruhatiya Spinners Pvt.LTD, Kirana Bazar, Akola.