

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

**Case No. CGRF/ AZ/ AUR/ U / 641/ 2017 / 34
Registration No. 2017060050**

Date of Admission 27.06.2017
Date of Decision 29.08.2017

Dr. Hedgewar Hospital,
Dr. Ambedkar Vaidyakiya Pratishthan,
Gajanan Maharaj Mandir Road,
Garkheda Parisar,
Aurangabad 431005.
(Consumer No. 490019040320)

COMPLAINANT

VERSUS.

The Executive Engineer (Administration)
Nodal Officer, O/O Superintending Engineer ,
Urban Circle, MSEDCL, Aurangabad.

RESPONDENT

CORAM

Shri Laxman M. Kakade,

Chairman (I/c)

Shri Laxman M. Kakade,

Member Secretary

Shri Vilaschandra S. Kabra

Member.

CONSUMER GRIEVANCE REDRESSAL DECISION

The applicant Dr. Hedgewar Hospital, Dr. Ambedkar Vaidyakiya Pratishthan, Gajanan Maharaj Mandir Road, Garkheda Parisar, Aurangabad is a consumer of Mahavitaran having Consumer No. 490019040320. The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Urban Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure(A) on 27.06.2017.

The brief details of the complaint are as under.

The complainant states that the Grievance is for refund of excess amount collected due to premature billing. Based on MERC Order No. 95 dtd. 26 June 2015, due to non compliance of MSEDCL to refund premature billing amount.

IGRC, Urban Circle Aurangabad has heard the matter on 12th April 2017 ,but till date order is not given.

Regarding AEC-1, AEC-2, AEC-3 and AEC-4 charges.

- 1) The MERC issued Suo –Moto order in case No. 95 of 2013 on 5th September 2013 and allowed MSEDCL to recover accumulated under recovery of Rs. 2037.78 crore occurred till the month of August 2013 from its consumer for the period of 6 months with effect from September 2013 till the month of February 2014 as Additional Energy Charge (AEC-1)

- 2) Commission further allowed MSEDCL to recover monthly fix expenses of Rs. 235.39 crore from its consumer starting from the month of September 2013 till further tariff determination for MSEDCL as Addl. Energy Charge(AEC-2).
- 3) Commission issued the order in case No. 28 of 2013 on 03.09.2013 and allowed MSPGCL to recover the amount of Rs. 628.9 crore from the MSEDCL in 6 equal monthly installments starting from October 2013. The commission further allowed the respondent MSEDCL to recover the variation in fixed cost component of consumer. The Commission further said that the variation in the cost of Generation is to be passed through FAC mechanism as additional energy charge (AEC-3).
- 4) The Commission in it's order dated 04.09.2013 allowed fix charges of Rs. 596.12 crore , to be paid by Respondent MSEDCL to MSPGCL for year 2012-13 in 6 equal monthly installments from Oct. 2013 onwards as additional energy charge (AEC-4).

Additional FAC :

The commission vide its order in case No. 44 of 04.09.2013 allowed MSPGCL to recover the under recovered fuel cost i.e. 28.05 crore for infirm power supplied to MSEDCL in 3 monthly installments, after issue of this order and MSEDCL can recover this cost through FAC mechanism.

MERC Order dtd 26.06.2015 case No. 95 of 2013 & M.A. 187 of 2014, Shri. Sanjay Gupta V/s MSEDCL.

Commission has already given guidelines In para 13.25, On the basis of the order in case No 95 of 2013, MSEDCL should have started levying AEC only from Sept 2013 but MSEDCL started recovery from August 2013, itself thereby violating the Commission's directives. During proceeding MSEDCL submitted that it had rectified the error in levy of AEC and refunded the amount erroneously charge to consumers during August 2013, in the billing month of February 2014.

Commission directs MSEDCL to review the refunds made by it so far on account of wrongful premature billing, and to make any remaining refunds to consumers in the next billing cycle.

Nobody has power to change the Commission's orders for methodology of AEC calculations and approved recovery schedule. MSEDCL has not filed review petition nor challenged the same order of Commission to appropriate authority. MSEDCL is duty bound to comply the commission's directions in right spirit.

Applicants representation with CGRF is for billing dispute, wrong interpretation and implementation of the directions of the Commission issued in its order in case No. 95 of 2013 Dtd. 05.09.2013, Case No. 44 of 2013 Dtd 04.09.2013, Case No.28 of 2013 Dtd. 03.09.2013 and finally order in case No. 95 of 2013 and M.A. 187 of 2014 Dtd. 26.06.2015 .

In the matter of wrongful premature billing as per say of MSEDCL dtd. 23.06.2016 para 8, MSEDCL has already refunded AEC and Additional FAC charges which was prematurely charged from 1198 nos. consumers, in the month of February 2014 , the Complainant has not received the amount as per the say and MSEDCL has denied to refund the same. As per Electricity Act “While fixing charges a Distribution Licensee shall not show undue preferences to any person or class of persons or discrimination against any person or class of person” .

Consumers representation is only for premature billing. Commission has issued order in case No. 95 of 2013 and M.A. No. 187 of 2014 dtd 26.06.2015 and clearly given the guidelines in para 13.25 . Commission directs MSEDCL to review the refunds made by it so far on account of wrongful premature billing, and to make any remaining refunds to consumers in the next billing cycle. MSEDCL has denied to refund the same as per commission’s order dtd. 26.06.2015. MSEDCL has indulged in discrimination in case of consumers whose refund is not made which is not permissible by law.

Complainant vide application 19.08.2017 asked MSEDCL to refund the amounts as follows.

a) AEC Charges and Additional FAC Charges Rs. 3,33,03,369.71

AEC-1 and AEC-2 charges for month of August 2013 for Period from 24 July 2013 onwards. (Said recovery is done in the billing month of Oct. 2013 by way of debit bill adjustment) so, refundable period is 24 July 2013 to August 2013.

AEC-3 & AEC-4 charges from billing month of August 2013 for period from 24 July 2013 onwards, so refundable period is 24 July 2013 to 30 September 2013.

b) FAC charge excess to be refund Rs. 22,042.00

Addl. FAC Charges - Vide MSEDCL Circular NO. 209, said charges were to be recover in 3 months installments but said charges are collected for 5 months from billing month of August 2013 to December 2013, so charges collected in the month August 2013 and December 2013 are to be refund.

Complainant in his rejoinder on dtd. 19.08.2017 said that reply of MSEDCL regarding refund of AEC and FAC given in MSEDCL letter dtd. 01.08.2017 is not in line with our claim. We have not demanded for refund of AEC recovered in the billing month of January 2014, since vide subsidy circular, it is not applicable to public utility services. MSEDCL submission is misleading that we are still demanding refund of AEC recovered in January 2014. We have demanded refund of charges collected prematurely by MSEDCL. Till date our refunds are balance .

Say of Executive Engineer, Nodal Officer, Aurangabad Urban Circle.

Executive Engineer, Nodal Officer, Aurangabad Urban Circle on Date 11.07.2017 states that, in the grievance in respect of Dr. Hedgewar Hospital, Aurangabad HT Consumer No. 490019040320 consumer demanded for refund of AEC-1, AEC-2, AEC-3 and AEC-4 but as per Govt. Circular No. 278 sub section para No. 4 dtd. 29.01.2017, the said consumer is billed under category HT-IX B tariff and HT public Services is not applicable for this subsidy.

The decision for credit adjustment of FAC September 2013 and due in December 2013 vide MSEDCL Circular No. 189 dtd. 24.12.2013 for credit adjustment has been given by Head Office. But it is not being implemented in the billing program and credit adjustment is pending all over Maharashtra. The letter in this respect of consumers of Aurangabad Urban Circle area is given to the MSEDCL Head Office.

Regarding refund of FAC for the month of September 2013 to be refund in December 2013 vide MSEDCL Commercial Circular No. 189 dtd. 24.12.2013 , his office is taking guidelines for refund of the FAC from Head Office. The Superintending Engineer, Urban Circle, Aurangabad sent Letter No. SE/AUC/Accts/2677 dtd. 05.07.2017 to Head office, Mumbai .This amount will be adjust as per the directives form the Chief Engineer (Comm.), MSEDCL, HO, Mumbai.

He also state that MSEDCL shall take review of refunds made so far on account of wrongful billing and make remaining refunds to consumer in next billing cycle as per latest MERC Order case 78 dtd. 13.07.2017.

Observations of the Consumer Grievance Redressal Forum.

- 1) MERC has given guidelines In para 11, in CASE No 78 of 2016 order 13.07.2017, On the basis of the order in case No 95 of 2013, clarified that AEC was applicable for the electricity consumption from 1 Sept 2013 to 28 Feb 2014 .The levy of AEC on electricity consumption prior to or after that period is not mandated by commission's order. The commission direct MSEDCL to take review

of the AEC levied on its consumer and to take corrective steps accordingly. Thus for instance if MSEDCL has recovered AEC in six installments on electricity consumption of August 2013 to January 2014, it needs to refund the AEC collected in the month of August 2013 as per consumption of this month and recover the AEC for consumption of February 2014.

- 2) MERC has given guidelines In para 14, in CASE No 78 of 2016 order 13.07.2017, On the basis of the order in case No 95 of 2013, clarified period and quantum of any subsidy under section 65 is a matter between the State and MSEDCL.
- 3) MERC has given guidelines In para 12, in CASE No 78 of 2016 order 13.07.2017, On the basis of the order in case No 95 of 2013, clarified Any correction required in levy of AEC should be effected in all cases by the second billing cycle from this order.
- 4) Executive Engineer, Nodal Officer, Aurangabad Urban Circle states that AEC-1, AEC-2, AEC-3 and AEC-4 are not refunded to consumer as per Govt. Circular No. 278 Sub Section para No. 4 dated 29.01.2017 because said consumer is billed under category HT-IX B tariff as HT Public services is not applicable for Govt. subsidy. . As Govt. Subsidy as per Circular No. 278 dtd. 29.01.2017 is given in month of February 2014 for consumer in commercial, Industrial and agriculture Category and public services, public water supply abstract list, Railway are excluded. The Executive Engineer, Nodal Officer had not clearly mentioned in his application dtd. 01.08.2017, regarding

month of AEC for which consumer is demanding refund. The consumer is demanding refund of premature billing for AEC 1 & 2 from 24th July 2013 to 31 August 2013, AEC 3 & 4 from 24th July 2013 to 30th September 2013 & excess FAC recovered August 13 & December 2013 alongwith interest as per 62(6) of Electricity Act 2003.

- 5) Executive Engineer, Nodal Officer, Aurangabad Urban Circle also said that MSEDCL shall take review of refunds made so far on account of wrongful billing and make remaining refunds to consumer in next billing cycle as per latest MERC Order case 78 dtd. 13.07.2017.

In view of the above submissions made by applicant, Respondent during the hearings and the observations of the CGRF this Forum passes the following order.

ORDER

- 1) Forum is directed to opponent 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.
- 2) No any other cost.

Sd/-
Laxman M. Kakade
Chairman I/c

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/
Vilaschandra S.Kabra
Member