

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

**Case No. CGRF/ AZ/ AUR/ U / 642/ 2017 /35
Registration No. 2017060051**

Date of Admission 27.06.2017
Date of Decision 29.08.2017

M/s. Nirlep Appliances Pvt. Ltd.,
B-5, MIDC, Near Railway Station,
Aurangabad 431005
(Consumer No. 490019009413)

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 M/s. Nirlep Appliances Pvt. Ltd., B-5, MIDC, Near Railway Station, Aurangabad is a consumer of Mahavitaran having Consumer No. 490019009413. 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 3rd May 2017, but till date order is not given.

Regarding AEC-1, AEC-2, AEC-3 & 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 asked MSEDCL to refund the amounts as follows.

a) AEC Charges and Additional FAC Charges Rs. 5,70,140.70.

AEC-1 and AEC-2 charges for month of August 2013 for Period from 2 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 22 July 2013 onwards, so refundable period is 24 July 2013 to 30 September 2013.

b) FAC charge excess to be refund Rs. 38,599.06.

In the month of January 2014 Govt. of Maharashtra declared subsidy, on 29 January 2017 in respect of above AEC and Additional FAC Charged vide GR No. 278 but in the mean time said charges were recovered in the bill of January 2014, so they were refunded in the billing month of February 2014 under the way of debit bill adjustment. It is not refund of premature billing of August 2013.

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. 22.08.2017 said that reply of MSEDCL regarding refund of AEC and FAC given in MSEDCL letter dtd. 01.08.2017 is wrong & mismatching. We have demanded refund of charges collected prematurely by MSEDCL. Till date our refunds are balance .

Complainant further said that bill of January 2014 showing charges collected for AEC is Rs. 3,24,200.33 and additional FAC for Rs. 45,629.83, total Rs. 3,24,200.33. Bill of February 2014 showing refund of AEC and

additional FAC of January 2014 for Rs. 3,60,077.11. It is clear that due to subsidy declaration by Govt. of Maharashtra said amount collected in January 2014 was refunded in February 2014, it is not premature charges refund.

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

Executive Engineer, Nodal Officer, Aurangabad Urban Circle on Date 01.08.2017 states that, In the grievance of M/s. Nirlep Appliances Pvt. Ltd., Aurangabad the amount is already credited to said consumer in the month of HT Bill February 2014. Details are as follows.

AEC 1, AEC2, AEC3 & AEC4 -Total Rs. 3,23,733.46 which is charge consumer in the billing month of October 2013 & credit is given in the billing month of February 2014 of Amount Rs. 3,15,196.00 vide Govt. Circular No. 278 dtd. 29.01.2014.

Add FAC of September 2013, which is charged in the billing month Oct-2013 Rs. 45,629.83 and credit given in the billing month February 2014 rs. 44,426.00 vide Govt. Circular No. 278 dtd. 29.01.2014.

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.

Additional FAC difference for January 2014 Rs. 11,30,849.33 is already credited to the consumer in the month of February 2014. Total adjustment of Rs. 87,92,824.76 is credited in the month of February 2014.

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 for this issue period of billing is M/s. GTL he is taking guidelines for refund of the FAC from Head Office letter is already given. Amount will be adjust as per direction from Chief Engr. (Comm), 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 credit of total amount AEC Rs 3,15,196.00 & FAC 44,226.50 is given in the month of Feb 2014, He has taken reference of Govt. Circular No. 278 dtd. 29.01.2014, hence it seems that credit is taken in the month of February 2014 due to Govt. subsidy.
- 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