

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Secretary/MSEDCL/CGRF/BNDUZ/

Date:

Case No. 261

Hearing Dt.06/05/2009

In the matter average billing

Shri Jamil Mohd. Momine.

- Applicant

Vs.

MSEDCL (TPL) - Bhiwandi

- Opponent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri R.M. Chavan, Chairman/Member Secretary, CGRF, Bhandup.
- 2) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On behalf of consumer

- 1) Shri Jamil Mohd. Momine, Consumer.
- 2) Shri Shakeel Ansari, Consumer representative

C - On behalf of Utility

- 1) Shri Gautam Gaurav, Legal Officer, M/s. Torrent Power Ltd., Bhiwandi
- 2) Shri Jeevan Clerk, Nodal Officer, M/s. Torrent Power Ltd., Bhiwandi

Preamble :

Consumer registered his grievance on 15/04/2009 with this Forum for interim order as there was a threat for disconnection of supply from M/s. T.P.L. and hence interim hearing was held on 18/04/2009. As per interim order consumer should pay 50% of balance bill, billed by M/s. T.P.L. i.e. Rs. 99,969/- immediately and zerox copy of the paid receipt should be produced before this Forum on or before 24th April 2009 and utility should not disconnect his supply for non-payment of balance 50% amount. Final hearing was fixed on 06/05/2009. Both the parties were present during the hearing.

Consumer's say :

!) Shri Jamil Mohd. Momine is having power loom unit at Bhiwandi, near Kabarastan, Tal. Bhiwandi with sanctioned/connected load of 28 HP vide consumer no. 13010109315/5 and also having lighting connection vide consumer no. 13010109323/5.

2) Consumer had given a complaint on 28/03/2007 for replacement of meter, inspection of actual load and clouser of unit to TPL. In his complaint he mentioned that his factory unit was closed due to non availability of workers from 01/05/2007. He also informed the utility to check his connected load and replace the meter after inspection of his premises

3) As per consumer his meter reading on 01/05/2007 was 81324 units.

4) His meter was replaced on 13/03/2008.

5) After a month the surveyor came to his premises, he requested surveyor to inspect his meter and provide him actual load (M.D. load). But no cognizance was taken.

6) As per circular no. 375 of 2004, utility was failed to take actual load of his unit. Instead of taking actual load, TPL was sending him high tariff bills. Hence as per MERC directives and E.A. 2003 section 142 & 149 utility (TPL) should be penalized.

7) Utility (TPL) sent him the bills on average basis from Feb.-2007 to Feb.-2008. Hence as per MERC regulation S.O.P. for 12 months should be awarded to him.

8) From Feb.-2007 to Jan.-2009 (29 months) the actual units consumed by the consumer/occupier was 15446 units where as TPL charged him 79493 units, which is in excess of 64047 units. Interest and DPC has been charged wrongly by TPL.

9) Consumer had paid Rs. 80945/- to utility (TPL) upto date

10) As his factory was not working on regular basis, it was absolutely wrong and totally misleading to charge him on average basis as per 150 units/per month which is not acceptable to the consumer. Bills should be prepared on actual meter reading.

Utility Say:

1) Complainant filed his complaint directly to the C.G.R.F. instead of filing it at IGRU of TPL. Hence it should be dismissed.

2) The grievance filed by Shri Shakeel Ansari is not signed by original consumer. Hence the authenticity of the documents is doubtful.

3) Complainant is failed to comply the interim order given by C.G.R.F. on 18/04/2009. The consumer failed in making payment within stipulated time given by CGRF, on this ground case should be dismissed.

4) As non compliance of CGRF interim order utility (TPL) disconnected his supply on 27/04/2009. On payment of Rs. 50,000/-, utility (TPL) reconnected his supply immediately.

5) Consumer made a complaint on 23/08/2007 for replacement of meter, to which a receipt was duly given to the consumer as per company's policy.

6) Now, to get some benefit from the company through the order of Forum the consumer had intentionally drafted a letter, claiming to be drafted on

23/08/07, which according to the consumer was sent to the company of which the complainant didn't receive the acknowledgement from the company. The said letter was actually drafted latterly on 28/03/2009, when the complainant was drafted as proved from the date on top of the letter. On the basis of this letter the consumer is claiming that he had also served the said letter dtd. 28/03/09 on 23/08/07 but does not provide any proof thereof. Thus the consumer is not only making false statements, but also filed false documents before the Forum. Thus, the consumer should be punished and penalized for the same

7) Consumer is regular defaulter. The consumer is in huge arrears of MSEDCL i.e. Rs. 1164162/- and was in TPL arrears of Rs. 99485.53 at the time of filing the complaint.

8) The consumer was billed on assessed basis for certain months as the meter was faulty, the bill was prepared as per MERC order in case no. 36 of 2002 dtd. 21/02/03 @ 150 units/HP and as per sanctioned load of the consumer and as per tariff order dtd. 18/05/07. The consumer is rightly been given with the monthly bills as accruing from time to time. Even otherwise the part of the grievance of the consumer in respect of the circular no. 375 of 2003 is beyond the period of limitation and hence no relief as such should be granted

9) Further, the consumer neither made an application for reduction of load nor moved any other application claiming that he is using less number of power looms than as per the sanctioned load. The company is not bound to check the load of the consumer under any Regulation to the best of our knowledge. If the consumer wants to reduce his load, he has to apply for load reduction as per clause 6.8 of the MERC supply code. Thus, even otherwise the consumer prayer for reduction of load does not arise at all.

Observations :

Representative of utility stated that the consumer approached directly to the CGRF instead of filing complaint before the ICGRC and also stated that the grievance filed to CGRF is not signed by the consumer and the authorization given to Shri Shakeel Ansari not signed by the consumer. Hence authenticity of documents is doubtful.

Consumer approached the CGRF for interim order against the threat of disconnection and hence Forum is bound to take the cognizance of grievance filed by the consumer, which is as per Regulation 8.3 of MERC and E.O. Regulation 2006.

As per E.A. 2003 sub section 43 and as defined in MERC Regulation "occupier" using electricity in the premises is considered as a consumer and schedule 'A' and authority is signed by an occupier. Hence Forum does not find any substance for dismissal of case

From the facts of the case on record and submission made by both the parties, Forum observed that consumer was failed to make the 50% of balance payment Rs. 99485.77 within stipulated time given by the Forum i.e. before 24/ /2009. He made the payment after the disconnection of his supply by utility (TPL) on 27/04/2009. Hence utility has right to disconnect the supply for non compliance of C.G.R.F. order. This shows that consumer is of attitude to breach the regulations and there by the order passed by the Forum. Complainant consumer stated that he had submitted the complaint letter to utility on 23/08/2007 for misc. complaints. This complaints consists of replacement of meter, inspection of actual load and clouser of unit. He also stated that utility TPL gave him the acknowledgement slip for his complaint. He did not received any duplicate copy of his complaint letter. Forum asked the utility to submit the original complaint of the consumer. After observing the same it reveals that the complainant made a complaint for misc. defects but TPL acknowledged the complaint only for replacement of meter. Hence utility is not accepting the fact that the unit was closed from 01/05/2007.

Forum feels that the procedure adopted by the utility for acknowledgement of complaint itself is not correct which create the disputes whether the complaint is only for meter replacement or also for the clouser of unit. In such circumstances Forum rely on the copy of complaint produced by the consumer. However, Forum could not accept the date mentioned for the clouser of unit from 01/05/2005, which also admitted, by the consumer as a typographical mistake during the course of hearing. Hence the date on which the consumer intimated to the utility (TPL) for clouser of unit is considered for the purpose of billing. During the course hearing the representative of utility (TPL) stated that the consumer is build as per MERC order in case of 36 of 2003 in respect of Hilar's

case i.e. @ 150 units/HP/month as per sanctioned load of the consumer. But Forum feels that the above order is in respect of faulty meter and that too restricted only for three months as given in MERC Regulation 15.4.1. But in this case Forum concluded that consumer's unit was closed from date of intimation by the consumer i.e. 23/08/2007. Hence the above order passed by the MERC in case of 36 of 2003 is not applicable to this consumer/occupier.

As per consumer's rejoinder dtd. 05/05/2009 consumer's final reading before closure of his unit was 81324 units. But no supporting documents were produced by the consumer, hence Forum could not rely on submission of the consumer. Hence as per Forum's view the bills from Feb.-2007 to August-2007 should be rectified on the average consumption of preceding 12 months consumption during the working period of meter.

Forum feels that there is no need of S.O.P. for average billing as partial bills are squashed and remaining are to be rectified.

After observing the CPL of the consumer for the period of MSEDCL Forum observed that huge amount is pending as an arrears on account of consumer. Hence utility should take the necessary action as per rules and regulation for the recovery of the same.

ORDER

- 1) Average billing for the period of Sept.-2007 to Feb.-2008 should be squashed.
- 2) Average billing of Feb.-2007 to August-2007 should be rectified on average consumption of past 12 months during the working period of meter.
- 3) No order as to cost.

Both parties be informed accordingly.

Compliance should be reported to the Forum with a month

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 26th of May 2009.

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

2) If utility is not satisfied with order, it may go in appeal before the Hon. High Court within 60 days from receipt of the order.

For Non compliance of Forum's order applicant can approach to Hon'ble MERC.

Address of the Hon'ble MERC

The Secretary,
13th Floor, Centre No. 1,
World Trade Centre,
Cuffe Parade, Colaba,
Mumbai – 400 005

**MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP**

**R.M. CHAVAN
MEMBER SECRETARY
I/C CHAIRMAN
CGRF, BHANDUP**