

(A Govt. of Maharashtra Undertaking)

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Consumer Grievance Redressal Forum

“Vidyut Bhavan”, Gr. Floor,

L.B.S.Marg, Bhandup (W),

Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date

Case No. 632

Hearing Dt. 29.01.2016

In the matter of refund of 2% voltage surcharge with interest illegal charge of 2% voltage surcharge due for the period April 2010 to May 2014

M/s. Technova Imaging Systems (P) Ltd.,

- Applicant

Vs.

M.S.E.D.C.L. Vashi Circle.

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri. Ravindra S. Avhad, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Archana Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. Satish Shah – Consumer Representative
- 2) Shri. T.N. Agrawal

C - On behalf of Respondent

- 1) Shri. S.S.Patil, Executive Engineer, Vashi Circle, Nodal Officer.
- 2) Shri. A.A. Jagtap, Addl. Dy. Executive Engineer, Vashi Circle.

ORDER (31.03.2016)

Consumer No. 028619009276

1. Above named consumer (consumer No.028619009276), contract demand 4,950 KVA, availing power supply 22KV on Express feeder line coming from

220/22KV Taloja S/S) having supply to his Industrial unit situated on the above said above since 2008. He has filed this complaint against respondent utility.

He has submitted that the standby source is operated with prior permission from MSEDCL, only if main supply from 220KV S/S get interrupted. Consumer is a non-SOP consumer of MSEDCL, as contract demand is more than 3,000 KVA and on this express feeder he is the only consumer drawing power.

Hence, the tariffs should have been charged on the basis of consumption recorded by the meters installed at the source of supply (EHV) Level) and at the consumer end premises, whichever is higher, without levy of any voltage surcharge 2%.

2. It is submitted that respondent utility issued notice and charged bill along with 2% voltage surcharge since earlier than 2009. In fact as per MERC's order, MSEDCL is not entitled to recover 2% voltage surcharge till 5th March - 2010 from consumers connected on any kind of feeder i.e. express and non-express. According to consumer MSEDCL is not entitled to charge 2% voltage surcharge prior to March-2010 as per MERC's order dated 05.03.2008 for case No. 71 of 2009 and clarification order dated 09.11.2010 for case No. 52 of 2010. Therefore it is contention of consumer that 2% voltage surcharge leived by the utility from April 2010 onwards i.e. up to May- 2014 is not applicable to consumer. Therefore consumer prayed for refund of 2% Voltage surcharge with interest.
3. The consumer already filed grievance before IGRC on 27.08.2015. The notice was issued of hearing dated 11.09.2015, but till date IGRC has not gave the decision. Therefore consumer has filed this consumer complaint on 05.12.2015.
1. After fling the said complaint notice was issued to respondent utility.

2. Along with this consumer has filed copy of complaint in Form - X on 24.08.2015, Letter dt. 12.05.2015 to SE, Vashi, statement of refund claim for 2% voltage surcharge for period April-2010 to May – 2014, Electricity bill for the month of May-2013, Sep.2013, May 2014, MERC's Order 71/2009,52/2010,31/2011& 151/2013 in support of the complaint.
3. After service of this notice respondent utility appeared and filed its reply. Respondent utility raised objection stating that the dispute raised is time barred. As per the regulation 6.6 of MERC (CGRF and Electricity Ombudsman) Regulation 2006, the Forum shall not admit any grievance unless it is filed within 2 years on the date of which the cause of action arose.
4. The respondent submitted the two judgments, which are not applicable. The consumer is availing HTPS on 220KV Voltage level having double feeder arrangement (one express and other General Feeder). That means the consumer is availing supply at voltage lower than those prescribed by the commission in the SOP Regulations. The present consumer has Double Feeder supply arrangement- one through dedicated express feeder 22KV new Technova feeder from 220KV Taloja, EHV substation and a standby arrangement from 220KV Exide feeder from 220KV, Taloja EHV substation. Therefore, the contention of the consumer not to be charge 2% voltage surcharge as per MERC's order dtd. 05.03.2010 is not applicable to this consumer, as the consumer receiving the supply from the both the period.
5. Therefore the provision as per SOP and direction of MERC is not applicable to this consumer as this consumer availing facilities of supply on dedicated feeder so also on standby feeder. Therefore consumer is not entitled to any benefit.

It is also contention of respondent utility that the consumer is trying to take the benefit which is already given by MERC in case N0. 71/2009. The respondent utility prayed for the dismissal of grievance of consumer with cost.

6. After perusing the rival contentions of consumer and respondent utility, following points arose for our consideration:

1] Whether 2% voltage surcharge levied by the respondent utility since April 2010 onwards is legal and proper with interest.

2] Whether consumer complaint is within limitation.

3] Whether consumer is entitled to any relief.

Our answer along with the reasoning is as follows:

7. We have given opportunity to consumer and his Representative to raise the issue. The issue raised is about charging 2% additional voltage surcharge since April 2010 to May 2014.

8. About the question of limitation, we hold that the cause of action is continuous as recovery was continuously demanded in subsequent bills till May 2014. The ending date of cause of action appears in the case in May 2014 and dispute is filed earlier before IGRC in month of August 2015. The action of respondent utility demanding the bill till month May 2014 is continuous. Therefore, to my view objection regarding limitation cannot be accepted as it is continuous cause of action at end of respondent utility.

9. Therefore we have arrived at a conclusion that the dispute filed by consumer is within limitation and objection raised by respondent utility as to the limitation has no substance. Hence rejected.

10. Even otherwise IGRC entertained the dispute on 28.05.2015 but failed to deliver the judgment within stipulated period of 2 month, for the reason best known to themselves.

11. No harassment should be caused to the consumer therefore this Forum chose to entertain the complaint. This Forum finally concluded the complaint in

the month of February 2016 as the Forum was not sitting in the month of February and March.

12. Coming to the main dispute in this case, consumer relied on the judgment in case 71/2009 and demanded refund of 2% voltage surcharge, total claim amounting to **Rs.9,82,2,156/-**
13. In the case No. 71/2009, before MERC, the submission of MESDCL was that ***“The levy of 2% extra units on the monthly energy consumed by the applicant is in line with the Tariff Philosophy. The consumers availing supply at voltage lower than those prescribed by the Commission cause additional technical loss, which would not have existed in case the load was availed by the consumer at the specified voltage level. Also, this additional loss results in revenue shortfall to that extent and this revenue shortfall needs to be met. The additional loss incurred on account of particular consumers cannot be recovered from the rest of the consumers of Maharashtra through a common pool. Thus, the loss incurred by the distribution licensee due to a particular consumer availing power at lower voltage needs to be made good by the same consumer. The only other option available with the consumer would be to avail supply at proper voltage, i.e., at higher voltage level.”***

“It cannot be denied that the distribution losses, including transformation losses, will increase on account of supply to consumers at voltages lower than that specified in the SoP Regulations. Accordingly, till such time as the detailed technical study is undertaken and the Commission approves the levy of Voltage Surcharge based on detailed deliberations in this regard, the Commission approves MSEDCL's request for interim relief seeking permission to levy Voltage Surcharge of 2% additional units to be billed, for supply to the consumers at voltages lower than that specified in the SoP Regulations. It is clarified that this Voltage

Surcharge shall apply from the date of issue of this Order, till such time as the Commission issues further orders.”

14. The matter is subjudised before Hon'ble Apex Court on the issue of charging 2% surcharge to be recovered/refunded. Stay granted against the MSEDCL. MERC has refused to entertain the dispute pending before them as it is subjudised before the Higher court.
15. Therefore, till the decision is pending before the Hon'ble Apex Court, we cannot decide the same.
16. Thus, I am not inclined to exercise the power of CGRF and to grant any relief for refund of any voltage surcharge.
17. Hence consumer complaint stands disposed off.

ORDER

1. Consumer complaint 632 of 2015 is stands disposed off.
2. No order as to the cost.

Proceedings closed.

Both the parties be informed accordingly.

The order is issued under the seal of Consumer Grievance Redressed Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

- 1) If Consumer is not satisfied with the decision, it may proceed 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 file representation before the Hon. High Court within 60 days from receipt of the order.

I Agree/Disagree

I Agree/Disagree

**DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP**

**ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**