

(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. 95/2016

Hearing Dt. 26/10/2016

In the matter SOP and Claiming supplementary bill difference Industrial to commercial

**M/s. Nelco Pvt Ltd.,
EL-6, Electronics Zone
TC INDL. AREA MAHAPE
NAVI MUMBAI**

- Applicant

Vs.

M.S.E.D.C.L. Vashi sub division

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

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

B - On behalf of Appellant

- 1) Shri. Suraj Chakraborty –

Consumer Representative

C - On behalf of Respondent

- 1) Shri. D.B. Pawar, Executive Engineer, Vashi Circle, Nodal Officer,Vashi.

Consumer No. 00014901867 category of consumer HT N Contract Demand 1250 KVA & 1404 KW date of connection 18-09-1993 meter No.076-00381921

1. Above named consumer using the supply for the purpose of business. The category was allocated and release by consumer industrial corporate business practice. The consumer using the said supply from respondent utility MSEDCL

electric power supply at 22KV level under contract demand 1.250 KVA at that time connecting load is 1404KW since then the tariff was charge to consumer as per industrial supply prevailing as per rules and regulations. On dated 29.02.2016 consumer filed application No.8437181 to the office of Superintending Engineer MSEDCL,Vashi in prescribe format and requested for reduction of contract demand from 990 KVA of certain activities of business of discontinued/ restricted in view to save the cost load at demanded requirement considering the difference between billing and actual demand. Consumer along with the application process charges and estimate cost which is collected by respondent utility but not acted upon the demand of consumer for reduction of contract demand unnecessary delay is cause in the process additional cost of Rs 28600/- per month basis was charge against the consumer without as its fault. Consumer demanded compensation and reserve his right to claim the said cost.

2. It is further alleges by the consumer instated of approaching and giving sanction and approval for reduction of contract demand depended respondent utility issued supplementary bill claim amount Rs. 73,11,428.05/- on the base of inspection carried out on 19.06.2014 by respondent utility MSEDCL. On dated 30.06.2016 letter of SE/VC/HTV 3371 issued by Superintending Engineer respondent utility issued supplementary plain recovery bill to the consumer for payment of amount for Rs. 73,11,428.05/-. On basis of report after visit of Additional Executive Engineer, Flying Squad Vashi on dated 19.06.2014 almost after 2 years and thereafter. It is alleged by the consumer the respondent utility threaten consumer for disconnection of power supply raising exorbitant illegal supplementary bill claim if not paid. Consumer submitted that on dated 4 ,11 21 July and 27 July 2016 represented the case of the consumer alleging that claim of the respondent utility is not proper and not legal on the basis of inspection report. On dated August 2016 respondent utility issue the bill aggregate amount of Rs. 90,96,690/- on 21.09.2016 in spite of order pass by this Forum and claim

supplementary bill .Consumer alleged that in view of decision of this Forum earlier in Case No.653/ 2015-16 connecting to the Vashi Sub-Division. The respondent utility issued the bill to the consumer on 31.07.2016 and 20.08.2016 required to be paid on or before 14.09.2016.As the claim already raise under the dispute consumer not paid the same .As per the Regulation No.6.5 of CGRF Regulation 2006 consumer raised the dispute before this Forum directly without approaching to the IGRC cell on the ground of respondent utility gave the threat of disconnection. It is claim of the consume that respondent utility raises supplementary bill after the lapse of 2 years which is time barred under section 56(2). Consumer pray that the respondent utility not acted on the request of consumer for reduction of load and issued supplementary bill which is illegal cannot be recovered in view of rules and regulation. It is submitted by consumer that letter issued in June 2014 the consumer was required to produce valid registration Certificate issued competent authority IT/ITES and which was submitted on 27.02.2015. The respondent utility apply industrial tariff prior to Jan. 2016 as the consumer was having manufacturing and processing data electronic product and which remote diagnosis and repair services and therefore industrial tariff was applicable. Consumer requested to 29.02.2016 was reduction of load instated of that not acted on the request and therefore committed violation of SOP rules and regulation 4.14 also consumer pray for taking suitable action against respondent utility. Consumer claim release at in view of decision of MERC 75 of 2007, 62/2009 and 98 of 2012. The competent authority explains the cases in 121 of 2014 and therefore action of the respondent utility of claiming supplementary bill is illegal and improper. Therefore consumer pray for giving direction to respondent utility for considering the request of reduction of load as per contract demand also stating aside the claim of supplementary bill of respondent utility Rs.73,11,428-/ for the period 30.6.2016 and grant of suitable relief. Consumer relied on correspondence letter issued by respondent utility in his favor application in format along with budget estimate load production

requirement supplementary bill claim recovery letter dated 25.08.2016, extract of bill is 30.06.2016 and details of claim bill from June 2014 to Jan. 2015 difference

3. After filing the said the dispute before this Forum notice was issued to the respondent utility on 20.09.2016. Respondent utility after service of notice appeared and filed reply para wise on 28.09.2016. It is contention of respondent utility giving details of consumer and report of flying squad Additional Executive Engineer, dated 19.10.2014 in which following details are given. Respondent utility submitted that after the scrutiny of documents filed by consumer the memorandum of acknowledgement part two district industries Thane dated 26.02.2014 issued Certificate to the consumer on following address having date of commencement 30.03.2001 also another issued by District Industries, Thane dated 19.01.2015 .On 18.05.2015 the activities carried out on the premises is remote diagnosis and repair services network support and date of commencement is 01.02.2015. The Certificate filed on dated 20.01.2015 the activities of consumer found remote diagnosis and repair services NOC issued by MDIC Mumbai having reference letter MIDC/TTC plot No. EL6 12925/2015/0060 expansion of industrial unit in related to IT/ITES remote diagnosis and repair services Certificate was issued on 20.01.2015 to the consumer Nelco Ltd. by MIDC authority .As per the guidelines issued by MSEDCL, Commercial Circular No.212/01.10.2013. in accordance with ITITES policy 2009 Govt. of Maharashtra MERC order 90/2012, 75/2007, 62/2009 which says consumer is using the supply to IT/ITES activity but not having LOI registration certificate for IT/ITES purpose issued by competent Govt. authority then commercial tariff should be apply to such consumer till the date of submission of LOI/ Registration Certificate by consumer to MSEDCL .Therefore on review of the documentary inputs available as per prevailing rules and standing guidelines in the subject matter respondent utility by exercise provision condition 13 of Electricity supply code and other condition of supply regulation of

2005 issued supplementary bill of plain recovery difference of HT industrial to HT Commercial from 19.06.2014 to Jan.2015 and was propose and vigilance recovery work out Rs. 73,11,428/- against consumer M/s. Nelco Ltd. The respondent utility reserve right to claim additional recovery if any accordance with tariff fix by time to time by commission.

4. It is submitted by respondent utility consumer Nelco Ltd., submitted application for reduction of connected load 1404KW to 1160KW and contract demand 1250KVA to 990KVA. Accordingly consumer gave consent to work out and execute work for reduction of contract demand and admitted at their own by paying supervision charges 1.3% technical estimate cost. After due scrutiny of application of consumer M/s Nelco disputed supplementary bill for plan recovery of tariff difference estimate reduction of load sanction by respondent utility authority on 04.07.2016. The said disputed supplementary bill is issuing plan recovery of difference considering estimate sanction letter and permission to execute the work and estimate work cost in due replacement of CTPT and HT metering cubicle of new specification provided by Executive Engineer testing division. After technical scrutiny applicant proposal as per rules and regulation in this subject matter. On 12.7.2016 consumer has not executed new power supply agreement for revised load demand and nor reported completion of work hence consumer is at fault and responsible for delay so the allegation made by the consumer is wrong and not mentionable. Respondent utility relied the provision of section 56 (2) and submitted that date of the supplementary bill period calculated 19/6/2014 to Jan. 2015 for the period of six month then is became dues and therefore the said dues are recoverable from the consumer on 30.06.2016 .Respondent utility prayer for dismiss of the grievance application with cost. Respondent utility relied and filed the document Annexure A to E which is as under

i) Annexure A-ENTERPRENEURS MEMORANDUM AQCKNOWLEDGEMENT

PART II Dtd 07.02.2014

ii) Annexure B-IT and IT Enabled Services (ITES) Policy-2009

iii) Annexure C-IT and IT Enabled Services (ITES) Policy-2015

iv) Annexure D-ENTERPRENEURS MEMORANDUM AQCKNOWLEDGEMENT

PART I Dtd 19.01.2015

v) Annexure E -ENTERPRENEURS MEMORANDUM AQCKNOWLEDGEMENT

PART II Dtd 18.05.2015

After perusing of ravel claim of consumer and the respondent utility following point arose for our consideration to which I have recorded by findings to the point for the reason given below.

- a) Whether respondent utility entitled to recover the difference of tariff from HT industrial to HT commercial bill amount Rs.73, 11,428.05/-?
- b) Whether the supplementary bill is legal valid and proper?.
- c) Whether the consumer is entitled for compensation for delay in taking action of reduction of load proposal?.
- d)Whether consumer is entitled for any relief?
- e) What order?

Reasoning

5. I give opportunity to the consumer and his representative and heard argument point wise. The issued in involved under the dispute place before the Forum initially consumer filed application for reduction of load in month of Feb.2016 conversation of connected load 1404KW to 1160KW and contract demand 1250KVA to 990KVA.Consumer was directed to fulfill all the requirement for effect of reduction of load and to do the necessary changes required to be carried out at the premises estimated cost and quotation for execution of work

utility deposit to 1.3% supervision charges & consumer was also directed to deposit necessary cost and entering to an agreement utility produce all the relevant correspondence giving the such direction to the consumer but on the part of consumer no compliance was made within stipulated period the consumer failed to execute agreement and followed the direction of utility. In this circumstances claim raise by the consumer against the respondent utility for violation of SOP does not stands any cause of action as I have find out the utility is not at the fault when proposal of the consumer for reduction of the load was sanction and further necessary direction already given to the consumer. I found no substance in allegation made by the consumer for violation of SOP and claiming any compensation or damage against the utility. Therefore prayer of the consumer unnecessary charging amount in the bill form the date of application onwards and consumer was required to pay the same cannot be recovered of consider for giving any relief. Therefore allegation made by the consumer dis entitled to them to seek any relief for damages and compensation against the utility.

6. Second grievance raised by the consumer that he acquired licenses from competent authority and supplementary bill raised by the utility after lapse of 2 year under section 56 of I.E.A. 2003. The claim raised by the utility form 19.06.2014 according to consumer beyond the period of limitation. I have perused letter issued to consumer by respondent utility official dated 25.08.2016 reason for claiming supplementary bill as per commercial circular number 212 dated 01.10.2013 and the ground of claim the consumer failed to produce any documentary evidence for conducting the activities define under the IT/ITES policy at the relevant period. The document which is already produce by the consumer was scrutiny made by the respondent utility minutely .The licenses for earlier period produce by the consumer was not included the activity for which competent authority issued the licenses the said defect was cared by the

consumer after production of valid licenses for the activity of remote diagnosis and repair service no objection certificate and license for expansion of existing industrial unit was issued on dated 20.01.2015. At the time of inspection on dated 19.06.2014 when the inspection was carried out by competent authority the consumer failed to produce valid licenses which is required to for the said activity was permitted by lawful authority during the relevant period from the date of inspection earlier period and further extended till the date 20.01.2015. The respondent utility followed the direction of Commercial Circular and access the use of power supply otherwise then the purpose of sanction obviously the activity alleged to be carried out by consumer at relevant period for which no valid licenses was produce or shown to the official for this purpose. I have verified and considered the document at the time of hearing consumer representative produce another valid license Form No. 18900 activity undertaken by the consumer at relevant period as mention in the certificate which is as under assembling testing of GPS system, CCTV based surveillance system ,security surveillance system, V –SAT Network , un attended ground sensors for electro fencing system this activity does not include remote diagnosis and repair services for which the supply was used by the consumer therefore the contention raised by the consumer cannot be accepted as no praima-faice case is made out. However, in the interest of justice I gave minute consideration of detail bifurcation of supplementary bill and claiming tariff recovery difference. It is submitted by utility giving chart wise classification for the relevant period as mention in the supplementary bill entire unit supply was charge under commercial tariff and amount of Rs. 73, 11,482/- was claim payable by the consumer only for the reason at the time of relevant period the consumer was not having proper and valid licenses to conduct the activity of remote diagnosis and service repair activity.

7. For this purpose I have gone through carefully guideline of IT/ITES policy 2009 which is referred in government of Maharashtra MERC order 90/2012 ,75/2007 and 62/2009 even in recent policy in 2015. The document which is supplied by consumer place before the Forum system integrated service provider activity is covered in the same guideline other service provided with intent of use of computer including telly medicine services, remote fiber services and remote diagnosis and repair services activity are included to be access and direction is given to distribution licenses to charge the penalty or provide incentive of low high power factor for harmonics in according to order of commission. Obviously the activity is permitted subject to valid licenses at referred in guideline also the main important issue that consumer was not having valid and proper licenses for conducting the activity of remote diagnosis and repair services work activities and use of the said activity and power unit consume should be charge as per the assessment permission given to respondent utility MSEDCL licenses but entered unit was charge under commercial rate. To my view merely violation of breach of condition 17.5 service condition supply MERC Electric supply code regulation 2005 as mention in supplementary bill later so charging of entire unit under commercial rate cannot be said to be proper. The respondent utility is required to access the proportioned use of power unit for the activity which is not validly license should only be charge at commercial rate and therefore amount mention in supplementary bill Rs.73,11,428.05/- need to be revised and reassess. For substantiated this observation, I have carefully gone through the supplementary bill dated 30.06.2016 charge provided on 15.06.2016 along with supplementary bill giving bifurcation of unit and claiming other recoverable charges detail. For the detail of existence of power supply, I perused inspection note prepared by flying squad dated 19.06.2016 and the power connecting load and use of unit area wise was examine and access by the respondent utility according to utility 95% of supply is used for un license activities. To my view this submission is required to be re verified after valid licenses produce by consumer which was

issued by the competent authority date 07.02.2014 and consumer also produce another valid license issued by same competent authority. During the said relevant period which was issued for conducting the activity under category 1 the subsequent valid licenses produce defined serial no. 6 activity of 2 for services. But the category of service for which the licenses issued by competent authority does not include remote diagnosis and repair services system which was subsequently produce by consumer along with no objection form MIDC and valid licenses by DIC and therefore the respondent utility rightly access the subsequent period from the date of production valid license dated 20.01.2015 and charge consumer with appropriate tariff. In these circumstances, it appears that the supplementary bill issued by the respondent utility charging entire unit as per commercial rate could not seems to be proper. Hence, the supplementary bill required to be reassess and re-verified accordingly. It is obvious by claim of the supplementary bill amount Rs. 73,11, 428.05/- does not seem to be legal, valid and proper.

8. I have given minute consideration of objection raised by the consumer the effect of charging the difference of tariff as per commercial rate from the date of inspection 19.06.2014 to 20.01.2015 proportioned unit to be access by respondent utility by applying correct method review and reassess the unit and charge only be with commercial rate would be proper.

Hence I am inclined to allow the claim of the consumer partly and proceed to pass following order.

ORDER

1. The consumer complaint No.95/2016 is partly allowed.
2. Respondent utility directed to reassess and verify supplementary bill and revised bill only for the use of un-license activity should be access as commercial rate.

3. Rest of the claim made by the consumer stands dismiss.
4. The consumer is not entitled for charge of any compensation or violation of SOP action against the utility.

No order as to the cost.

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**