

CONSUMER GRIEVANCE REDRESSAL FORUM
(Established under the section 42 (5) of the Electricity Act, 2003)
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
JALGAON ZONE

Office of the
Consumer Grievance Redressal Forum
Ajantha Chauphuli , Old M.I.D.C.
Jalgaon 425 003

No. / CGRF /JLGZ/JLG Circle/JLG U Dn/C.No.09-2016-17 /
(BY R.P.A.B.) No 00074 Date: 30 SEP 2016

Date of Submission of the case : 12/08/2016
Date of Decision : 30/09/2016

To.

1) Sri Guruprabha Power Ltd,
Gat No.125/1, At.Wakadi village,
Post-Mhasawad,Taluka, Dist-Jalgaon.425001

Complainant

- 2) Executive Engineer & Nodal Officer ,
Maharashtra State Electricity Distribution Co LTD.
Circle office, Jalgaon.
- 3) Executive Engineer ,
Maharashtra State Electricity Distribution Com. Ltd.
Division office, Jalgaon Urban.

Distribution Company



DECISION

Sri Guruprabha Power Ltd, Wakadi village. At.Post-Mhasawad,Taluka.Dist-Jalgaon is a co-generation unit supplying power (hereafter referred as the Complainant) to the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company) has filed a complaint regarding adjustment of amounts of the units generated and supplied to the Distribution Company. The grievance was submitted to the Internal Grievance Redressal Cell at Jalgaon Circle Office. But as there was no decision from the IGRC. The consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at inward no.81 on 12/08/2016.

It was decided to admit this case for hearing after consulting the Forum . The matter was fixed for hearing on 09/09/2016 at 01.00 P.m. in the CGRF Office, Jalgaon and a notice to that effect was sent to the complainant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Circle Office , Jalgaon for submitting para wise comments to the Forum on the grievance within 15 days under intimation to the consumer. The copy of this notice was also endorsed to the Superintending Engineer, Circle Office ,Jalgaon and Executive Engineer ,Jalgaon Division.

Shri Sanjay M. Aakode, Superintending Engineer ,Jalgaon Circle, Shri.N. B. Chaudhari Add. Executive Engineer, &S.D.Darvade, Add. Executive Engineer, Jalgaon Division, Shri S. S. Muley, Dy, Executive Engineer (R) Sub Division Jalgaon, Shri N.D.Narayane, Executive Engineer (Adm), Shri R.F Pawar, Dy. Executive Engineer, Shri Y. S. Amritkar, Dy, Manager (F&A), Jalgaon Circle office, represented the Distribution Company during the hearing. Shri M. Sheshavatharam, Director and Shri.V.S.Apar represented on behalf of the complainant.

Consumer's Representation in Brief :

The complainant has entered in the contract with MSEDCL as per PPA for 10MW dtd 10.07.2009. Their plant is for non conventional energy generation, (Bio-mass Energy Generation Plant) having title as Sri Guruprabha Power Ltd situated at gat no 125/1A Wakadi village Tal.&Dist. Jalgaon. For this plant the HT connection no 110019005060 is allotted. The purpose of

this connection is for power generation. For aforesaid connection, the meter is installed by MSEDCL and the said meter records the energy imported from MSEDCL and energy exported by our plant in MSEDCL system.

- 1) It is to state that the reading are taken monthly for export and import units and the payment for export units is made to us after deduction of units imported from MSEDCL. However every month the billing for the imported units have been done and HT bill served to us vide consumer no 110019005060 without understanding that the imported units are already adjusted from the total export units as such the bills raised to them are incorrect. (For this purpose enclosing exhibit no 1 for period Dec.2009 To Feb 2011).The credit was not given / the imported units for above period was adjusted from export units for above period. But 3 billed again through above connection no. which is corrected in May-2012 and adjustment of Rs. 9007935.65/- is given as credit.
Again for further period the imported units are deducted from our export units, and payment for net export units upto Sept.2013 have been released to us. But the imported units which are duly netted are again billed through HT connection which means undue billing is raised and they are threatened for disconnection of supply. (For this purpose enclosing exhibit no 2). As per this exhibit the billing upto Sept.13 i.e. imports units recorded are 244500 which are deducted from our exports units 427700 and net exports is $427700 - 244500 = 183200$ units. The payment for net exports units 183200 has been made to us but again 244500 units are debited to us in above period through HT bill which is totally wrong and not corrected so far. (enclosing with exhibit no 03) As HT bill raised to us up to March 2016 for Rs. 27350470/- and exhibit no 04 .which is a unsigned chit demanding Rs. 20428831/- as arrears of the said HT bill without any proper study. It is to state that in this bill of March 2016. The total interest of Rs 7458817.37/- is charged which is totally incorrect as the timely adjustment of imported units is not considered while preparing the HT bill. This amount of interest is to be withdrawn. Hence this grievance. It is to state that the unsigned chit states the credit of 6791779/- and demand of administration charges of Rs. 2 lacks and security deposits of 4 Rs 272600/- which is totally wrong as these charges are levied on the base of HT billing which is wrong itself, this is not thought over. It is to state that the units imported as per exhibit no 02 are 244500 which are adjusted while making payment for export units but not adjusted in HT bill in the period as per exhibit 02.
- 2) Enclosing herewith exhibit no 05 giving summary of monthly imported units stated. In this statements for June 2014 to Dec 2014 per month imported units consumed are shown 14000 units per month, it is not known whether these units are as per actual imports units as shown by meter or average units charged. The average charged should be withdrawn as there was no generation in this period.
- 3) Enclosing the complaints and request letter stating the issue and protests .
- 4) The second issue is regarding expenditure incurred by for the work carried out of 33 kv lines- 3.5 km, Railway crossing-1 no, 33kv feeder bay- 1no,in 33/11kv Mhasawad S/stn etc, amounting to Rs. 5839830/- for carrying out this work at Gat no 125 Wakadi Village required for Evacuation of Power being generated by us, ie by M/s Shri Guruprabha Power Ltd for which the S.E. Jalgaon Office has sanctioned the estimate vide Ir no SE/JLG/THT/6926/dt 26.10.09. as this work is done for non conventional generation of 5 energy the refund of above amount under Green Cess Funds for non conventional energy is necessary and it is learned the funds from government is been transferred to MSEDCL but not credited to us which may kindly be looked into for this purpose a certificate from SE Jalgaon is attached herewith as exhibit no 08 for reference.
- 5) With this application and facts enumerated as above we states that the billing as per HT connection upto Sept 2013 should be nullified as the imported units upto Sept 2013 are duly adjusted as per certificate submitted as exhibit no 02. They are ready to pay the bill from Oct-2013, and onward after verifying and confirming the billing is done as per actual units imported and recorded by meter and not on average basis.
- 6) They have submitted the grievance, to IGRC Cell, Jalgaon on Dt. 30.04.2016, The Hearing Date was given on 31.05.2016, however the letter was not served and no intimation was given to us in time. Again the date for hearing in July 16 was given due to their difficulties, they have asked further date & been given as 11.08.2016.
As the issue was pending till date, in between the disconnection notice dated 30.06.2016 served to them on 30.07.2016 by hand & disconnection effected on 04.08.2016, without resolving our grievance. Further it is to point out that as the notice, received by us on 30.07.2016 15 clear days should have been given to us for making payment, which is not considered, & same is illegal as per consumer's rights-statement, as such it is requested to connect the supply & issue a legitimate bill, for Oct 2013 to this date.

- 7) As the payment for generation is made for the export units upto Sept 2013, after netting the import up to Sept 2013, as such the previous arrears shown in the bill of Oct 2013 stands adjusted of arrears & nullified which is not in existence as already netted for import & export of total power consumption was done.
- 8) In the bill of Sept 2013 the bill is raised for 29000 units, as import & in same bill arrears of Rs.89.87 lakhs shown, & forwarded in Oct,13 bill. As the netting upto Sept-13 been done not arise the question of arrears, as the payment is made for netting, after settling the issue of import unit upto Sept 2013 your honor is requested to please look in to the matter positively and considering legal aspects and justice may kindly be awarded to us and oblige.

Arguments from the Distribution Company:

The Superintending Engineer, Jalgaon Circle has submitted a point wise written reply to the Forum by letter no. 4542 dated 08.09.2016 which states as under:

Points raised in brief	Say of the Distribution Company
A) Action by IGRC	<ul style="list-style-type: none"> ✓ He filed application to Internal Grievance Redressal Cell for grievance on date 04.05.2016. ✓ Then Internal Grievance Redressal Cell gave Hearing Notice Dte 18.05.2016 to MSEDCL and Sri.Guruprabha Power Limited for the hearing on date.31.05.2016. ✓ On date 31.05.2016 Executive Engineer Jalgaon requested to postpone the Hearing date for collected documents regarding the case. ✓ Then again Internal Grievance Redressal Cell gave Re-Hearing Notice date.07.07.2016 to MSEDCL and Sri Guruprabha Power Limited, for the same matter hearing on date 13.07.2016 ✓ On dtd. 12.07.2016 Mr. M.Sheshavatharam Director, Sri Guruprabha Power Limited has given a letter stating that he is unable to attend due to urgent hospitalization of his family member. ✓ Then again Internal Grievance Redressal Cell had given Re-Hearing Notice to MSEDCL and Sri Guruprabha Power Limited vide Hearing Notice Dated-22.07.2016 for the hearing on date 11.08.2016. ✓ The Hearing was taken on date 11.08.2016 both the party were present however due to absence of one IGRC member the case was proposed on next date with confirmation of both the parties. As the absent member of IGRC was called by HO for Accounts submission and in HO extra work came in priority so the delay was on that day. ✓ The point raised by Sri Guruprabha Power Limited is incorrect that IGRC has delayed the hearing, and from above points it is clear that IGRC was giving full justice to the grievance raised by the party.
B) Say on the Grievance	<ol style="list-style-type: none"> 1. The Sri Guruprabha Power Limited is not a MSEDCL Consumer as he is a Co-Generator of the power and the said consumer has entered into an EPA (Energy Purchase Agreement with MSEDCL on Dtd 18th October 2006. 2. The said matter is only related to performance & Non Performance of the EPA terms and conditions, in Energy Purchase Agreement as there is a clause no 20.2 which is quoted below for ready reference “ 20.2-Dispute resolution-any dispute arising out of, in connection with or respect to this agreement the subject matter hereof, the performance or non performance of any obligation hereunder that cannot be resolved by negotiation among the parties within 60 Days, Shall be exclusively adjudicated before the MERC and the order of the MERC in such reference shall be final unless set aside by the appellate authority.” 3. Hence it is requested that the said consumer grievance should be referred to MERC.

Points raised in brief	Say of the Distribution Company
C) Point wise reply Point no. 1	<ul style="list-style-type: none"> ✓ M/s. Sri. Guruprabha Power Ltd, having Consumer No. 110019005060 has taken HT auxiliary supply to Power generator from 30th November 2009 . As this connection was release for startup power supply on 33 KV level to non conventional energy generator (Bio-mass Energy Generation Plant) at Wakadi Tal. & Dist-Jalgaon. Being M/s.Sri Guruprabha Power Ltd. Is a power generator. The agreement of power purchase has been done on dated 18 th October 2006inbetween MSEDCL and M/s Sri Guruprabha Power Ltd. ✓ The EPA terms and conditions, in Energy Purchase Agreement a there is a clause no 12.1which is quoted below for ready reference. "12.1- Sale and purchase –d) The quantum of energy purchased and /or the quantum of energy sold to MSEDCL shall be the Net committed energy supplied by the project holder as per the terms and conditions of this agreement". ✓ On this term the MSEDCL has already paid all dues against their generation and netting which they had pointed out and as per MSEDCL rules in time to time. ✓ Secondly , as per office documentary evidence, which shows the generation period from 30th November2009 to February -2011 and April-2012 to May -2013 as well as September 2013 respectively. The MSEDCL ha credited the amt of Rs. 90,07,935.65/- in the month of May 2012 for the above respective period. It was given vide by letter no. :-CE/JAGZ/Accts/B-80/No.1364 dated 04 th May 2012, (by filling the B80)the letter which is enclosed as per documentary evident. As per EPA if there is no generation made by same plant in period March-2011 to March 2012 and still the energy is supplied by the MSEDCL to M/s Sri Guruprabha Power Ltd. Then it is binding for the party to pay the Bill to MSEDCL. ✓ Still in Period April -2012 to May 2013 and September 2013 for making generation the Billing/netting was still considered by MSEDCL as per their letter the amount for 67,91,780/- was credited/ adjusted in billing month May -2016 (calculating up to date interest last billing cycle of May 2016. After giving credit of Rs 90,07,935.65/- & 67,91,780/- for the imported units during generated period the outstanding dues payable to MSEDCL is Rs. 1,99,56,231/- as on March-2016.
Point no. 2	<ul style="list-style-type: none"> ✓ In this period the Party was in the custody of M/s CGL and consumption for the month of Jun-2014 till March 15 was done by M/s CGL the justification for it as below. ✓ For billing period July-2014 the units billed are 14000 units as per the party the bill it is 14000 units, in the month of Oct 14 the units billed are 14000 units as per the party and as per the bills it is 15200 units from this evidence (enclosed) it is clear that the party is misleading to the forum and unnecessary blaming the MSEDCL for their profits.
Point No. 3	The point no C (1 & 2) is the answer for it.
Point No. 4	For this point there is no documentary evidence from the party hence it is treated as invalid.
Point No. 5	As per EPA if there is no generation made by same plant in period March -2011 to March 2012 & June 13 to Aug-2013 and still the energy is supplied by the MSEDCL to M/s Sri Guruprabha Power Ltd then it is binding for the party to pay the Bill to MSEDCL. As he has not paid the bills raised by MSEDCL regularly time to time so the arrears was increasing and the arrears was carried forward in nest billing cycle also, hence his bills for nonpayment of arrears cannot be nullified, so for this after giving disconnection notice the supply was disconnected as on 04/08/2016.

Points raised in brief	Say of the Distribution Company
Point No. 6	The Point is Cleared in (A)
Point No. 7	The point is cleared in C (5)
Point No. 8	As per the EPA if there is no generation made by same plant in period March-2011 to March -2012 & June 13 to Aug-13 and still the energy is supplied by the MSEDCL to M/s Guruprabha Power Ltd. Then it is binding for the party to pay the bill to MSEDCL. As he has not paid the bills raised by MSEDCL regularly time to time so the arrears was increasing and the arrears was carried forward in next billing cycle also, (Oct 2013) hence his bills for nonpayment of arrears cannot be nullified. So for this after giving disconnection notice the supply was disconnected as on 04.08.2016.

Observations by the Forum:

On going through the contents of the grievance and the documents submitted by the complainant and the Distribution Company it is seen that :

1. the complainant is co-generation company which has entered into Biomass Energy Purchase(EPA) Agreement with the MSEDCL on 10/07/2009[reported as 18th October 2006 in the say of the Distribution Company].
2. the grievance is regarding the disputed adjustment of amounts of the units generated and supplied to the Distribution Company. The issue is related to the observance of the terms and conditions of the EPA
3. the EPA provides a clause no. 20.2 for **Dispute Resolution** which reads as :
"Any dispute arising out of, in connection with or respect to this agreement the subject matter hereof, the performance or non performance of any obligation hereunder that cannot be resolved by negotiation among the parties within 60 Days, shall be exclusively adjudicated before the MERC and the order of the MERC in such reference shall be final unless set aside by the appellate authority."
4. The Consumer Grievance Redressal Forum can handle the only "Grievance" defined in the regulation 2.1(c) of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 as under:
"Grievance" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to standards of performance of Distribution Licensees as specified by the Commission and includes inter alia (a) safety of distribution system having potential of endangering of life or property, and (b) grievances in respect of non-compliance of any order of the Commission or any action to be taken in pursuance thereof which are within the jurisdiction of the Forum or Ombudsman, as the case may be.

Hence it is not a matter falling within the jurisdiction of the Forum hence rejected.

ORDER

1. The grievance is rejected.
2. If aggrieved by the non-redressal of his Grievance by the Forum, the appellant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', BandraKurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

(RAJAN S. KULKARNI)
MEMBER

(P.J.PAWAR)
MEMBER-SECRETARY

(SURESH P.WAGH)
CHAIRMAN

Consumer Grievance Redressal Forum
Jalgaon Zone

Copy for information and necessary action to:

1. Chief Engineer , Maharashtra State Electricity Distribution Company Ltd. , Jalgaon
2. Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. , Jalgaon.