

Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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|-------------------------------------|----------------------|--------------|
| No. K/E/1277/1507 of 2017-18 | Date of registration | : 19/01/2018 |
| | Date of order | : 05/02/2018 |
| | Total days | : 17 |

IN THE MATTER OF GRIEVANCE NO. K/E/1277/1507 of 2017-18 OF SUN DIAPET, PLOT NO.1 & 2, KHOKHANI INDUSTRIES COMPLEX, SATIVALI, TAL. VASAI, DIST.PALGHAR, PIN CODE- 401 208 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING BILLING DISPUTE.

Sun Diapet,
Plot no.1 & 2,
Khokhani Industries Complex,
Sativali, Tal. Vasai, Dist.Palghar,
Pin Code- 401 208.

(consumer no. 001849025930)

... (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution
Company Limited,
Through it's Nodal Officer,
Vasai Circle, Vasai

... (Hereinafter referred as Licensee)

Appearance : For Licensee - Smt.R.S.Desai, Dy.Manager, Vasai Circle

For Consumer - Shri. Hardhad Sheth (C.R.)

[Coram- Shri A.M.Garde- Chairperson, Shri A.P. Deshmukh-Member Secretary]

1) Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressed Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

- 2) The grievance of the consumers in all the cases pertaining to FAC recoveries are taken up for decision. The grievance is that the Licensee has not charged and recovered the FAC strictly as per post facto approval of Commission for the period of June 2014 to June 2015. The consumers, therefore, prayed to give directions to the Licensee to recalculate the FAC and refund excess amount collected from them together with electricity duty and interest as per RBI rate.
- 3) Hence we would like to elaborate observations as under:

- a) The Hon'ble Commission has issued post facto approvals for FAC to be charged by MSEDCL as per letters below:-

| Letter No. | Dated | Billing Months of |
|------------|------------|----------------------------|
| 1469 | 11/02/2016 | Jan-2014 to June 2014 |
| 1481 | 16/02/2016 | July 2014 to December 2014 |
| 265 | 03/06/2016 | Jan-2015 to June-2015 |

- b) According to these letters the FAC approved by the Hon'ble Commission for HT industrial consumers is as under :

| Billing Month | | FAC approved by the MERC HT I C | FAC approved by the MERC HT I N |
|---------------|------|------------------------------------|------------------------------------|
| December | 2013 | -28.06 | -22.46 |
| January | 2014 | 0 | 0 |
| February | 2014 | 0 | 0 |
| March | 2014 | 4.74 | 4.28 |
| April | 2014 | 17.11 | 16.41 |
| May | 2014 | 3.64 | 3.36 |
| June | 2014 | 14.77 | 13.62 |
| July | 2014 | 38.98 | 34.92 |
| August | 2014 | 13.01 | 11.18 |
| September | 2014 | 36.64 | 32.93 |
| October | 2014 | 60.43 | 55.05 |
| November | 2014 | 21.22 | 20.19 |
| December | 2014 | 51.92 | 42.59 |
| January | 2015 | 90.52 | 81.38 |
| February | 2015 | 22.92 | 24.89 |
| March | 2015 | 16.74 | 8.75 |
| April | 2015 | 140.20 | 126.60 |
| May | 2015 | 140.20 | 124.45 |
| June | 2015 | - 43.44 | - 45.59 |
| July | 2015 | 55.46 | 54.89 |

It is prayed that the said bills for the above said period be revised accordingly.

4) We have heard both sides and gone through the above referred post facto approvals given by the Hon'ble MERC and same is mentioned in the above table.

So-far as the FAC charging rate during the period from June -2014 to June-2015 is concerned, it is different from the post facto approval given by the Hon'ble MERC, which is due to change in philosophy for applying FAC vide different circular issued by the Licensee are as under :

- i] Circular No. 189 dated 24/12/2013,
- ii] Circular No.190 dated 10/03/2014,
- iii] Circular No.191 dated 05/04/2014 and
- iv] Circular No. 219 dated 03/07/2015.

5) After considering above facts, letters and circulars, this Forum has come to the conclusion that the Licensee should strictly apply the FAC charge as per post facto approval given by the Hon'ble MERC.

6) The point of limitation is raised by the Licensee. It is contended that the grievances have been filed after the period of two years hence, there is bar of limitation under Section 6.6 of MERC (CGRF & Ombudsman) Regulations 2006. The cause of action arose in June-2014 but the grievances filed before Licensee on 15/11/2017 and before CGRF on 19/01/2018. Licensee relied on the order of Hon'ble Ombudsman, Mumbai in Case No.125/2016 dated 22/2/2017. However, as the post facto approval of FAC for the month of January-2014 to June-2014 is given vide Ltr. No. 1469 dated 11/02/2016 Hence the cause of action arose on 11/2/2016, such as the applications filed in the month of January-2018 are also within limitation even as per Section 6.6 of MERC (CGRF & Ombudsman) Regulations,2006.

7) Thus, to conclude, the Licensee has to verify the claim of the consumer for the month of June -2014 to June-2015 and recalculate the FAC as per post facto approval given by the Hon'ble MERC and refund any excess amount recovered from the consumer.

Hence the order.

ORDER

- 1) The Grievance application of consumer is here by allowed.
- 2) MSEDCL is directed to verify the claim of the consumer as per post facto approval given by the Commission and refund / adjust the amount, as found due with Electricity Duty and interest at bank rate of RBI.
- 3) Needless to say that whatever amount is payable to the consumer, the same needs to be refunded /adjusted in ensuing bills from the date of receipt of this order.

- 4) Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date:

(A.P.Deshmukh)
Member Secretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan.

NOTE

- a) *The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.*

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- b) *Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or*

- c) *delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-*

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- d) *It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.*