



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph: – 2210707 & 2328283 Ext: - 122

IN THE MATTER OF GRIEVANCE NO. K/ E/260/286 OF 2009-2010 OF
VANITA SURESH PATEL, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

Vanita Suresh Patel
Gala No.02 M.L.K.Ind.Estate
Satali Road, Gokhiware,Vasai (E)
Dist.Thane



(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer, MSEDCL
Vasai Road (East) Sub-Dn.
Vasai, Dist. Thane.



(Here-in-after
referred
as licensee)

- 1) Consumer Grievance Redressal Forum has been established under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the

grievances of consumers. This regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

- 2) The consumer is a L.T.V above 67 HP consumer of the licensee with C. D. 56 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 08/06/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- Vanita Suresh Patel

Address: - As given in the title

Consumer No : - i). LT-V : 001590791187

ii). 1 ph.(com) : 001590791195

Reason of dispute: Excessive Energy Bills and PD of 1 ph. connection.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/532 dated 8/6/2009 to Nodal Officer of licensee. The licensee through Dy.Ex.Engr. MSEDCL Vasai Road East Sub Division filed reply vide letter No. DYEE/VSI/ B//4985, dated 26/06/2009.
- 4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 12.3.09. The said Internal Redressal Cell did not give any hearing to the consumer & also did not send any reply resolving the said grievances to the consumer. Therefore, the consumer has registered the present grievance before this forum on 08/06/2009.
- 5). The forum heard both the parties on 26/06/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri R.G. Gharat, UDC representative of the licensee,

attended hearing. Minutes of the hearing including the submissions made by the parties are recorded and the same are kept in the record. Submissions made by each party in respect of each grievance shall be referred while deciding each of the grievances to avoid repetition.

- 6). The following grievances raised by the consumer in its letter dated 05/03/09 sent to the concerned Executive Engineer of which copy the consumer has attached with the grievance made before this forum, arise for consideration, and considering the reply dtd. 26/06/09 filed by the licensee, record produced by the parties, and submissions made by the parties, the finding or resolution on each of such grievance is given against it, for the given reasons.
- 7). As to grievance No. 1- Regarding bill adjustment :- The consumer claims that the licensee has added the debit bill adjustment charges of various amounts such as Rs.877.32, Rs.1056.32 and Rs.973.61 in the bills for the billing periods Sept.07, Aug.07, and Mar 07 respectively. The licensee should justify such adjustments and refund if the same are not justified. The licensee claims that the first amount is of TOSE for Mar 06 to Sept.06, second amount is of TOSE of the period from Set.05 to Feb.06 and third amount is of FAC2 and IASC charges for Jan.07 respectively. The CR has relied upon the order dated 24th May 2005 passed by MERC in case No. 28 of 2004 in support of his contention that the licensee has earlier refunded the TOSE charged for the above referred periods as per the above referred order, but has again charged the same as above without any further order of MERC about it. The licensee has not filed any such order of MERC passed after the above order which enabled it to recharge the TOSE. In view of the facts as discussed above, the licensee is

directed to give in writing an explanation as to how it has recharged TOSE as claimed particularly in reference to the order dated 24/05/2005 passed by MERC in case No. 28 of 2004, to the consumer within a period of 30 days & on failure to do so, or in case of unsatisfactory explanation, refund the excess amount if any, recovered as above together with interest at the bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after 30 days from the decision in this case.

8). As to grievance (2) – Regarding refund of Excess SD & interest on SD :

The consumer claims that the licensee gave the said connection to it on 23/01/04. The licensee has collected SD of Rs. 18,000/- + Rs. 10800/- = Rs. 28800/- at the time of taking new connections to industrial consumers with 60 HP during the said period. Therefore the consumer takes that it has also paid the SD of such amounts at the time of taking new connection on 23.01/04. However, bills upto Nov.06 were showing SD as zero. Thereafter the licensee collected Rs.2100/-+ Rs.1260/-= total Rs.3360/- as SD in Sept.07 from the consumer while enhancing the load to 67 HP. Thereafter the licensee also collected ASD to make the total ASD as Rs.30,390/- which is presently displayed in the bill. Therefore the licensee be directed to refund Rs. 28,800/- and the interest of Rs.8789/- on the total SD. As against this, the licensee claims that the connection has been given on 23/1/04 for 60 HP load. The total Security Deposit paid at the time of connection i.e. Rs. 28800/- is not displayed in the bill. The consumer has to submit original receipts to the Sub Division office and after verifying the facts, action will be taken accordingly. In view of the above contentions of the parties, the licensee is directed to verify the correct amounts of SD from time to time from its record and the record with

consumer, display the correct amounts of SD, calculate the proper SD at this stage & refund the excess amount of SD & the interest at Bank rate of RBI on such amounts of SD at the prevailing rate, by giving it's credit to the consumer, in the ensuing bill after a period 30 days from the date of decision in this case.

- 9). As to grievance No. 3 - Regarding refund of difference of MD based charged and HP based charges from Oct.06 to Mar 07 : The consumer claims that the licensee was to refund an amount of Rs.11,295.86 on this count as the charges of the relevant period were reverted back to the HP based tariff from MD based fix charges, due to non completion of installation of MD meters in entire Maharashtra. The licensee however refunded an amount of Rs.8305.28 only. Therefore the licensee be directed to refund the remaining amount of Rs.2990.58 with interest. As against this, the licensee claims that it has refunded such remaining amount in the billing month of June 09. The licensee, however, did not produce on record CPL of the said month or any other document to show that it has really paid such remaining amount to the consumer. Therefore the licensee is directed to again verify as to whether it has paid such remaining amount on this count to the consumer and if not, refund such remaining amount together with interest at the bank rate of RBI to the consumer by giving its credit to the consumer in the ensuing bill after period of 30 days from the date of decision in this case.
- 10). As to grievance No.4 – Regarding refund of ASC charged in the month of Oct.06.:- The consumer claims that the charging of ASC started from Oct.06. The consumer's BC was then 5157 units and consumption in the said month was 3440 units. Therefore the licensee could not charge ASC in

the said month. However, the licensee charged ASC for 413 units and therefore the licensee be directed to refund an amount of Rs.474.95 on this count. As against this, the licensee claims that in Oct.06, ASC charges were applied as per MERC's operative order dt.29.9.06 in case No.54 of 2005, but again the MERC issued clarificatory order and difference was given in the energy billing month Jan.07. The licensee however, did not produce on record CPL for the month of Jan.07 or any other document to show such fact of refund of the said amount of Rs. 474.95 of ASC. Therefore the Licensee is directed to again verify as to whether the said amount of ASC has been refunded to the consumer and if not, refund the same together with interest at the bank rate of RBI by giving its credit to the consumer in the ensuing bill after 30 days from the date of decision in this case.

- 11). As to grievance No.5 – Regarding refund ASC charged in Dec.06:- The CR claims that the 3 months average consumption shown in the bill for the month Dec.06 was below the expensive power range and therefore the licensee could not charge ASC to the consumer. However the licensee has charged ASC to the consumer in the bill for the said month. Therefore the licensee be directed to refund an amount of Rs.391/- with interest on this count. As against this, the licensee claims that recalculation of ASC charges for average units will be done if the case is not time barred. It is however, clear from the contention of consumer that the consumer has claimed refund of ASC charge in the bill for the month of Dec.06 for the first time before the Ex. Engr. on 12.3.09 in its letter dated 5.3.09. As per the copy of the said bill for the month of Dec.06 (Annexure-3c), the last date of payment of said bill was 21.12.06 and therefore the consumer must have

received the said bill prior to or at the most on the said date. Thus the cause of action for claiming refund of the said ASC charged in the said bill, arose on 21.12.06 and therefore the grievance or claim made by the consumer for its refund, before the concerned Ex. Engr. on 12.3.09 and subsequently before this forum on 8.6.09, is definitely made after period of more than two years from the cause of action and therefore this forum can not consider it as per Regulation 6.6 of MERC (CGRF and Electricity Ombudsman) Regulation 2006 and therefore the consumer's such claim is rejected as barred by limitation.

- 12). As to grievance No.6 – Regarding refund of ASC charged in the months May to July 07 : The consumer claims that the licensee has shown average consumption of three months in the bills for the said months from May to July 07 and charged ASC. However, the licensee could not charge the ASC in the said months. Therefore the licensee be directed to refund an amount of Rs.401.20 on this count. As against this, the licensee claims that recalculation of ASC charges for average units will be done, if the case is not time barred. The cause of action for claiming refund of ASC charged in May 07 to July 07, has arisen after the consumer received electric bills for the said respective months, and therefore the claim made by the consumer for its refund in the beginning before the concerned Ex. Engineer on 12.3.09 was made within a period of limitation of two years and therefore in our opinion the claim made by the consumer for the refund of said ASC charged in the said month is not barred by the limitation. Therefore such contention of licensee is rejected. It is clear from the CPL for the months of May 07 to July 07 that the bills for the months of May and June 07 have been issued by showing average consumption, whereas the

bill for July 07 has been issued for actual consumption as per previous reading as the same previous reading shown in the CPL for May 07. The licensee also appears to have given credit of Rs.37293.18 (of previous two months) in the month July 07. It is, however, not clear as to whether the licensee has given advantage of cheap power of previous two months. Therefore, the licensee is directed to find out the actual consumption in each of the month from May 07 to July 07 by retrieving MRI report of the said meter about consumption and then calculate ASC for each of the said month considering such actual consumption of the respective month, and then refund excess ASC recovered, if any, together with interest at the bank of RBI, by giving credit of such amount to the consumer in the ensuing bill after a period of 30 days from the date of this decision.

- 13). As to grievance No.7 - Regarding refund of IASC recovered in the bill of Feb. 07. The consumer claims that the licensee is to refund IASC charges recovered in the bill for Feb. 07 as per order dated 15.9.08 passed by MERC in case No.45 of 2005, and such amount is Rs. 113.85, and therefore licensee be directed to refund the said amount to the consumer. The licensee claims that the MSEDCL has filed a petition in MERC case No.42 of 2008 and accordingly MERC vide order dated 10th Dec.08 directed the MSEDCL to file the new petition for commercial approval indicating category wise IASC refund. The licensee however did not file copy of any such order dt. 10/12/08 passed by MERC. Moreover, it claims that the MERC has directed the licensee to file new petition for commercial approval indicating category wise IASC refund. It has not made clear as to whether it has filed any such petition as directed by the MERC. Moreover, until the MERC passes different fresh order, it's earlier order will have to be

followed. It is clear from the above referred order dated 17.09.08 passed by MERC in case No.45 that the MERC directed the licensee to refund the incremental ASC for the period Oct.06 to Apr 07 to all the consumers who have contributed towards ASC. Therefore licensee is directed to refund the IASC of Rs.113.85 charged in the bill for the month Feb.07, as per directions given in the above referred order of MERC to the consumer, by giving credit of such amount together with interest at the Bank rate of RBI to the consumer in the ensuing bill after 30 days from the date of this decision.

- 14). As to grievance No.8 – Regarding refund of excess ASC charged in the bills for the months Feb.08 and Mar 08:- The consumer claims that in the bills for the above two months, the licensee has shown average consumption but considered cheap power of only one month and charged excess ASC and therefore it be directed to refund such excess ASC of Rs.4561.44 together interest of Rs.273.68 till filing of the grievance application. The licensee did not give any say on this point in its reply dated 26.6.09. It is clear from the copies of the bills for the months Feb.08 and Mar 08 that the bill for Feb.08 is issued for average consumption 5671 with ASC charges for 2317 units and BC as 3769 units, and the bill for the month Mar 08 is issued for total consumption of 8955 units as per the previous meter reading as on 2.1.08 (though it is wrongly written in the said bill that the said reading was of 2.2.08) and the current as on 3.3.08, with ASC charges for 5601 units as BC as 3769 units. Thus it is clear that the licensee while calculating ASC in the bill for Mar 08, considered the total consumption of two months and cheap power of one month only. Therefore, the licensee is directed to find out actual consumption in each of

the said two months i.e. Feb.08 and Mar 08 by retrieving MRI reports of the concerned meter of the said two months, and then recalculate ASC chargeable in each of the said month, and refund excess ASC recovered, if any, together with interest at the bank rate of RBI, by giving credit of such amount to the consumer in the ensuing bill after 30 days from the date of decision in this case.

- 15). As to grievance No.9 – regarding compensation for not taking meter reading from May 08 to Oct.08 :- The consumer claims that the licensee did not take reading of the meter from May 08 to Oct.08 issued bills by showing zero consumption. Therefore the licensee be directed to pay compensation of Rs.900/- and to refund the amount recovered on account of FAC, TOD, duty etc. The licensee did not give any say on this point in its reply dated 26.6.09. It is clear from CPL for the month April 08 that bill for the said month was issued as per actual consumption with current reading as 166979. It is clear from the CPL for the months May 08 to Oct.08 that the bills for all the said months were issued for zero consumption and the previous and current readings in each of the said month is shown as 166979 which was the current reading in the CPL for the month April 08. It is also clear from the CPL for the month of Nov.08 that the bill for the said month was issued for actual consumption units, with previous reading as 166979 which was the current reading in the CPL for the month of April 08, and current reading as 188075. In the CPL of none of the above referred months, it is mentioned that the reading could not be taken as locked, or that the meter was faulty. The CPL for the above months also shows that the meter was properly working during the said months. However, inspite of the above facts, same reading is shown as the previous reading and

current reading in the column of such readings in the CPL for the months from May 08 to Oct.08 and therefore the only inference which could be drawn from the said fact is that the said readings are mentioned without taking actual readings in the said months. Thus the licensee failed to take actual meter reading of the consumer from May 08 to Oct.08 i.e. for six months. Therefore the licensee is directed to pay compensation of Rs700/- (Rs. Seven hundred only) to the consumer for not taking the actual meter reading for the said six months, as per Clause-7 (i) of Appendix A to the MERC (SOP etc.) Regulation 2005.

- 16). The consumer further claims that due to the failure on the part of licensee to take actual meter reading from May 08 to Oct.08, and issuing bill with zero consumption for the said months, and issuing bill for the month Nov.08 for the total consumption of the said seven months, the licensee has charged excess FAC, TOD, Duty etc. in the bill for Nov.08, and therefore the licensee be directed to refund such excess FAC, TOD, Duty etc. to the consumer. The above contention of the consumer appears to be correct. Therefore, the licensee is directed to find out actually consumption of each of the said month from May 08 to Nov.08 by retrieving MRI report of the concerned meter and then recalculate the charges including FAC, TOD, Duty etc. of each of the said months, and refund such excess recovered charges, if any, together with interest at the bank rate of RBI by giving its credit to the consumer in the ensuing bill after a period of 30 days from the date of **decision in this case.**
- 17). As to grievance No.10 – Regarding disconnection of single phase commercial having consumer No. 001590791195 : The consumer claims that it has demanded disconnection of the said single phase commercial

supply since according to it in view of the clause 19.1 of MERC (ESC & OCS) Regulation 2005 implemented from 20th Jan. 2005, all irrational circulars & orders of MSEDCL are invalid, & tariff booklet definition & MERC operative order says that supply at low voltage except use of agricultural pump is allowed under LT-V & therefore, it does not need separate single phase commercial supply. It has also mentioned the same reason in support of his request/demand for disconnection in it's letter dated 7/03/09 about it to the Executive Engineer Vasai Division. The consumer also claims that in the said connection, the licensee has recovered excess electric charges in the month of July 08 and other charges on the basis of average consumption.

Clause 19.1 of above referred Regulations 2005, on which the consumer relies, reads as under :

“19.1 : Any terms or conditions of the Distribution Licensee, whether contained in the terms & conditions of supply & / or in any circular, order, notification or any other document or communication, which are inconsistent with these regulations shall be deemed to be invalid from the date on which these regulations come into force.”

The consumer has not made clear in his grievance as to exactly what type of activities it is carrying on in the premises for which it has earlier taken the said supply for commercial purpose. The CR also could not show any recent circular or order by which at present the supply given for Industrial purposes can also be used for commercial purpose also. Therefore, earlier restrictions if any, about it, cannot be said to be invalid on the basis of above referred Clause 19.1. However, it is a matter of commonsense that, a person cannot be forced to continue to have particular type of supply

against its wishes. Therefore, the licensee is directed to disconnect the said supply of consumer No. 001590791195 to the consumer permanently at the risk of consumer within 30 days from the date of decision in this case, & recalculate the electric charges of the concerned months about which the consumer has made grievances in its letter dated 7.3.09 made for the permanent disconnection of the said connection to the Dy.Ex.Engr. MSEDCL Deepashri Bldg. Sub Division Vasai (E), Dist.Thane, and prepare the recent bill as per the actual meter reading and there after transfer the excess amount, if any, SD amount together with interest till the date of such PD & all other credits including the amount of RLC as per MERC operative order 77 of 2007, if any, of the consumer in the said connection, to its other industrial connection bearing consumer No. 001590791187, within a period of 30 days from the date of decision in this case.

- 18). In view of the findings on the grievances of the consumer as above, the forum unanimously passes the following order.

O-R-D-E-R

- 1) The grievance application is partly allowed.
- 2) The licensee to comply the directions given in above para Nos. 07 to 10 and 12 to 17.
- 3) The licensee to pay compensation of Rs.700/- (Rs. Seven hundred only) to the consumer for not taking the actual meter reading for the said six months, as per Clause-7 (i) of Appendix A to the MERC (SOP etc.) Regulation 2005 within 90 days from the date of decision in this case.
- 4) The grievance No.5 is rejected as observed in above para No.11.

5) The Compliance should be reported to the forum within 90 days from the date of decision.

6) The Consumer can file representation against this decision with the Ombudsman at the following address.

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

Representation can be filed within 60 days from the date of this order.

7). Consumer, as per section 142 of the Electricity Act, 003, can approach Maharashtra Electricity Regulatory Commission at the following address:-

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

for non-compliance, part compliance or delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003”

Date : 23/07/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan