



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/283/311 OF 2009-2010 OF
M/S. BOMBAY DYEING & MANUFACTURING CO. LTD. PATALGANGA,
TAL : KHALAPUR, DIST : RAIGAD, REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
NON COMPLIANCE OF IGRC DECISION.

M/s. Bombay Dyeing & Manufacturing Co. Ltd.
A-1, Patalganga Industrial Area,
Tal : Khalapur, Dist : Raigad – 410 220

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer
Pen Circle, Pen

(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 conformed 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 H.T. consumer of the licensee with C. D. 9700 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 21/07/2009 for Non compliance of IGRC Decision. The details are as follows: -

Name of the consumer :- M/s. Bombay Dyeing & Manufacturing Co. Ltd.

Address: - As given in the title

Consumer No :- 031129011281

Reason of dispute: Non compliance of IGRC Decision.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/652 dated 21/07/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. SE/PC/HTB/5056, dated 10/08/2009. The consumer registered his grievance with IGRC on 18/03/09. The IGRC passed decision on 06/06/09 but due to non compliance of IGRC's decision, consumer registered his grievance with this Forum on 21/07/09.

- 4) The sequence and order of event are as follows :

- a) The consumer M/s. Bombay Dyeing & Mfg. Co. Ltd. is an existing consumer No. 031129011281 having contract demand of 10200 KVA. They were given an additional sanction contract demand of 13000 KVA. The additional CD was made effective/released in the billing month of Oct. 06.

- b) Consumer received a bill in the billing month of Dec. 06, an amount of Rs. 33,38,441 was charged as ASC on 1543340 units of consumption. This was not acceptable to the consumer and they took up the matter with the licensee and finally registered their grievance with IGRC Pen Circle on 18/03/09.
- c) The IGRC passed it's decision in this case on 06/06/09 as given below :
"The monthly energy bills of M/s. Bombay Dyeing & Mfg. Ltd. for the period from Oct. 06 to April 07 be revised as per the Hon. Commission's clarificatory order dt. 16/02/07 at Sr. No. 4 (a). For calculation of ASC charges the reference period be taken as per the consumption of April 07 i.e. 8267000 KWH units."
- d) The consumer has accepted the order passed by IGRC. However, as the order was not been implemented by the licensee, as the consumer received vide letter No. 4578, dt. 20/07/09 stating that the bill under dispute have been checked and found to be correct. This letter is to ignore IGRC decision and nullified it.
- 5) The original hearing was scheduled to be held on 11/08/09 at 16.00 hrs. However, the hearing in the said case has been postponed on 13/08/09 at 16.00 hrs. The forum heard both the parties on 13/08/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri D. R. Bansode, Nodal Officer, Shri P. M. Peshattiwari, D. A.. representatives of the licensee, & Shri S. P. Parkar and Shri S. S. Atkekar, representatives of the consumer attended hearing.
- 6) The Consumer Representative (CR) submits that they had applied for additional power of 13,000 KVA raising their Contract Demand (CD) from 10,200 KVA to 23,200 KVA. This additional CD of 13,000 KVA was

sanctioned by licensee on 07.04.06. This addl. CD has been made effective from Oct.06 billing month. For Dec.06 billing month an amount of Rs.33,38,441 has been charged as Additional Supply Charges (ASC) by licensee which as per licensee is based on MERC order dated 21.2.06, Clause-4 (case No.35 of 2005). The Dec.06 billing month licensee has charged Rs.33,38,441/- as ASC on 15,43,340 units consumed based on Oct.06 billing month consumption of 4,16,000 units, which as per licensee is based on MERC order on Load Shedding. They duly increased their CD in the month of Oct.06 to cope up with their future requirement of power in view of the up gradation of the plant. The consumption in Oct.06 was just trial, precommissioning and testing of the new plant, keeping the main plant under shutdown and therefore was bare minimum consumption. The plant of such a large magnitude and complexities needed a careful handling. Even from the safety point of view it was not possible to take complete load within a short span of time. The licensee started levying ASC on us by taking reference period as Oct.06, when we duly increased our CD but the consumption was on lower side. Being aggrieved, we took up the matter with MERC in the month of Jan.07. The Commission taking due cognizance of their representation and similar ones from other consumers, issued a clarificatory order dt.26.2.07, setting aside the provisions of (h) of order dt.21.02.06 and granting a retrospective effect from 01.10.06 to provisions of this order dated 26.02.07. The consumer made correspondence with licensee with reference to the provisions of this order dated 26.02.07 and requested to revise the bills from Oct.06 and refund the sum paid in excess. The consumer received a reply from licensee vide L.No.7390 dt.11.04.08 which was not acceptable to the consumer.

- 7) The CR said the Commission is issued directives from Feb.07, we claimed from June 07 it should be paid. SE written, the reply is same as earlier given. Simply saying "it is correct there" has no meaning. The licensee should justify with calculations and give audited statement and then justify that it is correct. The IGRC order is very much clear and perfect. How it is not implemented. If it can not be implemented, then the IGRC order will have to be withdrawn.
- 8) The CR further stated that the Hon. Commission has given the directives for the benefit of the consumer. But the licensee interpreted the orders and taken reverse action with an intention to create hardships and loss to the consumers. When the consumer not used 75% of the increased CD within six months, hence they are charging ASC is not a natural justice. Therefore forum may decide and remove the injustice done to the consumer.
- 9) The LR in his reply submits that M/s. Bombay Dyeing & Mfg. Co. Ltd. have enhanced their CD from 3000 KVA to 23000 KVA from, Oct.06 in Sept.06. The consumer has not utilized the 75% of the increased CD within six months, hence for charging of ASC charges, ASC consumption calculated as per the provision given in Section "h" of Hon. MERC clarificatory order dt.21.2.06 in case No.35 of 2005 which is read as *"In case of Temp. connections in the corresponding period of 2005 which were made permanent thereafter, or if the nature of the connection had otherwise changed as compared to that period, then the reference period may be taken as the last bill period (as in the case of new consumers). This would include cases of consumers whose sanctioned load/contract demand had been duly increased after the billing month of Dec.05"*

As per the above Clause by considering the current month consumption as a reference period and charge 42% ASC units for the period from Oct.06 to Mar 07.

The Hon. Commission has issued the clarifications to the order dt.21.2.06 in case No.35 of 2005 vide MERC clarificatory order dt.26.2.07 in case No.54 of 2005 at Section 4(a) which read as “ *In case of consumers whose sanctioned load/contract demand had been duly increased after the billing month of Dec.05, the reference may be taken as the billing period after six months of the increase in the sanctioned load/contract demand or the billing period of the month in which the consumer has utilised at least 75% of the increased sanctioned load/contract demand whichever is earlier*”

- 10) The LR further stated that the consumer has not utilised the 75% of the increased CD within six months, hence for charging of ASC charges for the month of April 07, the reference period is taken as April 07 consumption i.e. the billing period of six months of the increase in the sanction load/contract demand. Accordingly the Competent Authority i.e. Superintending Engineer Pen Circle, Pen informed the consumer vide L.No.SE/PC/HTB/4578 dt.20.7.09, that the bills prepared for the period from Oct.06 to April 07 are verified and found correct on the basis of MERC clarificatory order dt.21.2.06 in case No.35 of 2005 and MERC by its operative order dt.29.9.06 and MERC clarificatory order dt.26.02.07 in case No.54 of 2007 and therefore the decision given by the Chairman, IGRC Pen dt.6.6.09 is not implemented.
- 11) The CR said ref. Consumption will be considered for next bill that was to be considered by licensee. Earlier period will be treated as new consumer.

- 12) CR asked why they have revised December bill. After issue of clarificatory order, they should cancel all earlier orders. Clarificatory order say whatever done earlier should be revised. Instead of showing this calculation, they have to make calculation as per the IGRC order. IGRC wanted to refer clarificatory order if necessary. CR said the licensee was to charge incentive wise , if consumption less, than reference consumption. The consumption is not reached at 75% of the CD because consumer less consumed, so charging 42% ASC instead of incentive wise billing cause hardship to the consumer.
- 13) The LR said whatever it may be, we have to observe the MERC's order. On this the CR asked licensee has to observe the MERC order's then why not observe the IGRC's their own orders.
- 14) The LR said the established consumption will be within 6 months, development period. After six month whatever consumption, will be further period not for back period. The established consumption is Oct. 06 instead of 6 months calculation. Clarification was received immediately after 4 months. The consumer has gone enhancing and reducing their contract demand. Therefore effect of the consumer will be Nov.06. 75% consumption will be reference for future. Oct.06 will be next calculation upto 6 months only. Again base changed in April as per clarificatory order. Para (h) is applicable for 6 months. Para 4 (a) is applicable after 6 months, it is submission of licensee.
- 15) **Forum's Findings** : From the study of papers submitted by licensee forum findings are as follows :
- a) Bill for the month of Dec. 06 with ASC charges was issued to the consumer in line with the MERC case No. 35 dt. 21/02/06 and reference billing period

for consumption was taken Oct. 06. The consumption during this period was only 416000 (as per record submitted by the licensee).

- b) It is also noted from the consumption pattern of the consumer that the consumption has picked up drastically from 416000 KWH in Oct. 06 to 8267000 KWH in March 07.
- c) It was brought to the notice to the MERC that the interpretation of the clause for considering reference billing period is causing hardship to the consumers having new connection/additional load sanction, after Dec. 05. As they are not able to utilize the contract demand which is short span of time, they were forced to share costly power for a much higher level than peak level of 42% considered by the Commission. Therefore, in continuation to it's order in case No. 35, dt. 21/02/06 the Commission issued the further clarificatory order dt. 26/02/07, clause No. 4 states that "In continuation to its Order dated 20th October 2006 in Case No. 54 of 2005 and clarificatory order dt. 21st Feb. 2006 in case No. 35 of 2006, the Commission hereby issues the following clarifications :

 - (i) In case of consumers who sanction the load/contract demand had been duly increased after the billing month December 05, the reference period may be taken as the billing period after six months of the increase in the sanctioned load/contract demand or the billing period of the month in which the consumer has utilized atleast 75% of the increased sanctioned load / contract demand, whichever is earlier."
 - (ii) The Commission has also given an example to illustrate the implementation of the above clause in their order in point No. 5.

- (iii) The Commission has also directed the licensee MSEDCL to give effect to the corrigendum and the clarification with retrospective effect from 1st Oct. 06.
 - (iv) From the study of consumption pattern it is observed that the consumer has not been able to utilize the 75% of the enhance contract demand within a period of six months against the revised sanction of 23200 KVA MD. The consumer could establish demand of 12430 KVA in March 07 and 13590 KVA in the month of April 07 and corresponding consumption during the above period was 6964000 in March 07 and 8267000 in April 07. Hence in line with the revised clarificatory order dt. 26/02/07 the bench mark consumption for the consumer is 8267000 KWH in April 07.
 - (v) In light of above, it is observed that the order issued by the IGRC is correct and should be upheld.
- 16) Since the Chairman has tendered his resignation to the post of Chairman, this decision is given by Member Secretary & Member of the Forum.
- 17) 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 allowed.
- 2) The licensee should revise the bills as under :

The monthly energy bills of M/s. Bombay Dyeing & Mfg. Ltd. for the period from Oct. 06 to April 07 be revised as per the Hon. Commission's clarificatory order dt. 26/02/07 at Sr. No. 4 (a). For calculation of ASC charges the reference period be taken as per the consumption of April 07

i.e. 8267000 KWH units. Further licensee should pay the interest on refund amount to the consumer at the Bank rate of RBI. The refund amount (after revision of bills) should be given within 30 days from the date of this decision.

3) The compliance should be given within 60 days from the date of this decision.

4) 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.

5) Consumer, as per section 142 of the Electricity Act, 2003, 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 : 17/09/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan