



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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IN THE MATTER OF GRIEVANCE NO. K/E/295/325 OF 09-10 OF  
M/S. RUBY MILLS LIMID (DHAMNI) SAVROLI, DIST.RAIGAD,  
WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN  
ZONE, KALYAN ABOUT EXCESSIVE BILLING.

M/s. Ruby Mills Ltd. (Dhamni)  
Village Dhamni, Savroli Kharpada Road,  
Tal. Khalapur, Dist.Raigad

} (Here in after  
referred to  
as Consumer)

Versus

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

} (Here in after  
referred to  
as Licensee)

- 1) Consumer Grievance Redressal Forum has been established under regulation of "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 (MERC) vide powers

Grievance No. K/E/295/325 of 2009-2010  
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 having contract demand 4250 KVA and 8115.93 KW load of the Licensee. The consumer is billed as per industrial tariff. The consumer registered grievance with the Forum on 28/08/2009 against excessive billing. The details are as follows: -

Name of the consumer : M/s. Ruby Mills Limited

Address: - As above

Consumer No : 0309017951

Reason for Dispute : - Charging of 2% extra units on the energy units consumed by the consumer.

- 3) The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/748 dt. 28/08/2009 to the Nodal Officer of the Licensee, and the Licensee through Nodal Officer MSEDCL Pen Circle filed reply vide letter No. SE/PC/HTB/CGRF/16042 dated 19/09/09.

- 4) The Member Secretary and Member of the Forum heard both the parties on 22/09/2009. Grievance application was fixed for hearing initially on 18/09/09 at 15.00 hrs due to local holiday declared in Raigad District, it was postponed and took place on 22/9/09 at 16.00 Hrs. Shri V.Y.Tamhane, appeared as consumer Representative (CR) and Shri R.J.Patil, AE. Shri V.R.Gokhale, AE, and Shri P.M.Peshattiwari, DA., representatives of the licensee, attended the said hearing.

- 4). The consumer registered his grievance with IGRC on 27.5.09 and IGRC passed decision on 22.7.09 with an order of charging

2% extra tariff without the authority of MERC. Aggrieved by this decision, the consumer registered his grievance with forum on 28.8.09.

- 5). The CR submits that M/s. Ruby mills limited is a MSEDCL consumer since last 17 years. At that time the supply was given on 22 kV. Subsequently the consumer requested to increase the load from 2500 to 3750 KVA. As per MERC Regulation 2005 – the licensee was required to supply power on 33 kV for all installations with Contract Demand above 1500 KVA and upto 5000KVA. But the licensee sanctioned enhancement upto 3750 KVA on 22 kV voltage level since there was no 33 kV level available in the vicinity. After enhancement of 3750 KVA, the licensee asked the consumer to go for express feeder. Accordingly the consumer said to have spent Rs.150 crores for purchasing equipments etc required for 22 kV express feeder with the full knowledge of licensee. The CR said in 2007, when the consumer applied for additional of 500 KVA more, the licensee started to demand 2% additional tariff for sanction of addl. Load. As per MERC Regulation 2005, the licensee should have given supply on 33 kV level. They could not do it. The consumer compelled to avail 4250 KVA load on 22 kV because there is no other solution. Followed with it, the licensee demanded an affidavit on stamp paper that the consumer is ready to pay 2% extra charges. There is no any directives from MERC in this regard. The licensee can not charge extra 2% without the decision of the MERC. However, the CR said, the consumer paid the extra 2% assessment without prejudice

because there was no choice before the consumer. Then licensee said you have given the undertaking so you have to pay the same. The CR submits that the licensee is fully aware that they can not charge anything excess without MERC's permission. Licensee need not to charge extra 2% as there is no loss to them. MERC have considered all the aspects of the additional loss being incurred in the event of power being drawn on 22 KV. There is no decision /permission of MERC or not given clearance to charge higher rate from consumer who is drawing 22 KV. The CR submits that the MSEDCL has filed writ petition to allow to charge 2% extra.

- 6). As against this the LR claimed that as per guide lines given in Comm.Circular No.15, the Circle Office is not empowered to sanction the load above 3000 KVA on 22kV voltage level. Being the case of power supply release on lower voltage than the specified norms as per MERC Regulation 2005, the same will be dealt at HO level only. Therefore the proposal has been submitted to HO vide letter No.4080 dt.1.6.07. The competent authority has sanctioned the addl. Load with a condition that ***“the consumer has to pay for an additional charge of 2% extra units on the energy units consumed during the month till time the MERC determines additional surcharges for the power supply on the lower voltage than the prescribed voltage as per Standard of Performance”***. Moreover the consumer has given undertaking on Rs.200/- stamp paper on 31.10.07 stating that ***“we do hereby undertake and affirm to pay an additional 2% extra on Energy units consumed by our Plant till such time MERC determine change on or before power supply on low voltage than the prescribed voltage as per the stand of***

**performance**". Hence 2% extra units on the energy units consumed during the month is being charged from billing month Dec.07 and onwards. In the load sanction letter issued by HO vide No.Co.Ord.cell/Ruby mills/24080 dt. 01.06.07 specifically stipulated the said Clause at (a) and confirmed the charging of 2% extra units on the energy units consumed each month, which also consumer accepted.

- 7). The forum asked the CR that while agreeing to pay 2% extra units on the energy units had you not been asked about any proof for charging 2% extra. The CR said "no". It was the licensee's stand that if we not give the affidavit, they will not release the supply. The CR said they have paid the extra assessment (@ 2% extra) under "protest". However, the LR said the consumer has paid the amount without any "Protest", or not objected the same at the time of payment.
- 8). Forum asked the LR that consumer has demanded enhancement from 2500 to 3750 and from 3750 to 4259 KVA on 33 kV voltage level. The licensee has no 33 kV level available at the vicinity. Therefore the licensee released the demanded enhanced load time to time on 22 kV voltage level. But the metering of the consumer is on HT side. Since the metering is on HT side, the reading gets with losses. The LR accepted the same.
- 9). The LR further added that if this high voltage load is supplied through 33 kV level, there would not have been any loss. But this HT load is given through 22 KV LT side, hence there is loss to the MSEDCL. To compensate this loss, 2% extra charged as per

Com.Cir.15. Hence submitted a proposal to HO as it is a case of power supply release on lower voltage than the specified norms as per MERC Regulation, 2005(Supply Code).The MSEDCL i.e. CE (com) has incorporated the condition in the Load Sanction letter No.24080 dt.1.6.07 that *“the Competent authority has recorded approval additional load of 500 KVA (totally 4250 KVA Contract Demand) on existing 22 kV level (network), with the conditions that the consumer will be charged for additional 2% extra unit on the energy units consumed by their plant/unit in monthly energy consumed (i.e. 2% extra unit on the energy consumption will be added for computing in the energy bill) till time the MERC determine additional surcharges on for the power supply on lower voltage than the prescribed voltage as per the standard of performance)*. The same order is accepted by the consumer. Therefore 2% extra units on the energy units consumed during the month is being charged from billing month December 07 onwards. The difference amount would be around Rs.2 lakhs. Also the supply is given from General feeder, not from express feeder (dedicated feeder).

- 10). The forum asked the LR to submit the permission from MERC regarding tariff for charging 2% extra within 10 days. The consumer representative was also agreed to submit the copy of writ petition filed by consumer to MERC in the matter of 2% extra energy charges, to the forum, The consumer submitted the copy of writ petition on 03.10.09.
- 11). Forum observations are as follows:

a). The M/s. Ruby Ltd. is a HT consumer since 1992 having existing contract demand 4250 KVA with 8115.93 KW connected as on to-day. The above load was sanctioned in steps over a period of time as per the table given below.

<b>Sr.No.</b>	<b>Date of sanction</b>	<b>Contract demand</b>	<b>Connected load</b>
<b>1</b>	<b>March 1992</b>	<b>1700 KVA</b>	<b>2064 KW</b>
<b>2</b>	<b>Jan.1998</b>	<b>1250 KVA to 1700 KVA</b>	<b>2064 KW</b>
<b>3</b>	<b>June 2001</b>	<b>1250 KVA to 1500 KVA</b>	<b>2064 KW to 2480 KW</b>
<b>4</b>	<b>March 2004</b>	<b>1500 KVA to 2500 KVA</b>	<b>2480 KW to 4028 KW</b>
<b>5</b>	<b>March 2005</b>	<b>2500 KVA to 3750 KVA</b>	<b>4028 KW to 5737 KW</b>
<b>6</b>	<b>Dec. 2007</b>	<b>3750 KVA to 4250 KVA</b>	<b>5735 KW to 8115.93 KW</b>

- b). From 1992 onwards till 2008 the consumer was getting the supply from licensee a 22 KV network on a general feeder. At the time of getting addl. Sanction /enhancement from 2500 KVA to 3750 KVA the sanction was given on general feeder.
- c). The consumer made necessary arrangement for utilizing the sanction of 3750 KVA at 22 KV level. Equipments were purchased and installation was carried in line with 22 KV supply voltage.
- d). In Oct.06 the consumer again applied for enhancement of contract demand of 500 KVA with 2380.93 KW additional load vide their letter 26.10.06. This increase was approximately 13 % of their existing demand. The increase was also to be taken on the existing general feeder.
- e). In response to the application load sanction order was released vide letter No.03227dt.6.6.07. As per HO letter No.24080 dated 1.6.07, the licensee accorded the sanction stipulating the following condition as “(a) the Competent authority has recorded approval additional load of 500 KVA (totally 4250 KVA Contract

Demand) on existing 22 KV level (network), with the conditions that the consumer will be charged for additional 2% extra unit on the energy units consumed by their plant/unit in monthly energy consumed (i.e. 2% extra unit on the energy consumption will be added for computing in the energy bill) till time the MERC determine additional surcharges on for the power supply on lower voltage than the prescribed voltage as per the standard of performance). (b) Further you shall abide to pay the addl. Surcharge, whatever determined by MERC for the power supply on lower voltage level than the prescribed voltage as per standard of performance. (c). Since the addl. Load of 500 KVA Contract Demand with existing 3750 KVA contract demand (i.e. total load 4250 KVA) is sanctioned on 22 KV level as per your request the quality of power supply on 22 KV level may not be reliable as 33 KV supply and may cause voltage dip /interruption for which Company (formerly MSEB) will neither be responsible /nor pay any compensation for the same. (d). Since the addl. Load is bring proposed to be released on 22 KV level, you shall neither make complaint on whatsoever nature regarding low voltage etc, nor claim any compensation for the same in future and you shall submit an unconditional undertaking on the stamp paper of Rs.200/- to that effect.

- f). As the consumer has no alternative except the above mentioned condition and gave an under taking "without prejudice" to avail the power sanction on a Rs. 200/- stamp paper.
- g). It is worthwhile to note that the licensee does not have the infrastructure for the distribution and supply of power in line with



the MERC (standard performance) Regulation 2005. The licensee had given the sanction for the additional power on 22 KV feeder which is lower than the prescribed level of 33 KV as per MERC (SOP) Regulation 2005. As per letter No. SE/PC/Tech/PNL/Con.192/06341, dt. 06/10/2009 the licensee replied that the said feeder is sanctioned for two consumers, (1) M/s. Ruby Mills Ltd., (2)M/s. Navnitlal Ltd. with due consent from M/s. Ruby Mills Ltd. At that time the total load on the feeder was 5735 KW with 3750 KVA (+) 2881 KW with 1975 KVA. After that M/s. Ruby Mills Ltd. applied for an additional load of 2380.93 KW with 500 KVA making total 8115.93 KW with 4250 KVA. Now total load on feeder is 10996.93 KW with 6225 KVA.

- h). The consumer is availing the enhanced load of 8115.93 KW from Dec.07, and approached the IGRC for extra 2% charging energy consumed by the consumer on the above load, but he raised the grievance in IGRC on 27.05.09 i.e. after 22 months.
- i). The LR was asked by the forum to submit the documentary evidence from MERC for charging 2% extra unit on the energy consumed by the consumer, as this is the case related to tariff within a 10 days. The licensee has submitted the documents (1)Letter No. P.Com/Cos/33281, dt. 14.10.05, from Executive Director (I) (Dist. Com. Coordinator) addressed to secretary MERC regarding proposal for levy of voltage surcharge to consumers who are supplied at lower voltage than the prescribed voltage as per SOP. (2)Copy of petition filed with MERC on 14/06/2006 regarding the proposal for levy of voltage surcharge to consumers who have supplied power at low voltage

than prescribed voltage as per SOP Regulations. The MERC replied vide letter No. MERC/Legal-129/Standards of Performance/0036, dt. 06/01/2006 and informed to MSEDCL (a).....

(b)As regards MSEDCL's proposal for levy of voltage surcharge, this being tariff related issue MSEDCL may incorporate this proposal in their application for ARR/Tariff determination.

On the basis of above, the MSEDCL again submitted the proposal for consideration to Hon. Commission and the same is pending with Hon. Commission.

- j). The consumers' Mill Owner's Association Mumbai has also filed Case No. 116 of 2008 to MERC on 06.6.09 against charging of 2% extra units consumed by consumer, is also pending with MERC for which a public hearing was held on 01.07.09.
  - k) The licensee and the consumer have approached to the MERC on the same issue, and the petition/case of both the parties are pending with MERC. Till the decision is passed by MERC, the licensee is not entitle to charge 2% extra energy charges to the consumer.
- 12). Under the above circumstances forum has to rely upon the documents submitted by both the parties and forum has passed the following order unanimously.

### O-R-D-E-R

- 1) Grievance application is allowed.
- 2) The decision given by the IGRC dt. 22.07.09 is quashed and set aside.

- 3) The licensee is not entitled to charge 2% extra units on the energy consumed by the consumer unless it is approved by MERC.
- 4) The licensee should give credit to the consumer in ensuing bills after 30 days together with interest at the Bank rate of RBI from the date of decision in this case.
- 5) Compliance should be reported within 60 days from the date of decision in this case.
- 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, 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 : 07/10/2009

(Sau.V.V.Kelkar)  
Member  
CGRF Kalyan

(R.V.Shivdas)  
Member Secretary  
CGRF Kalyan