



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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No.K/E/866/1060 of/2015-16/

Date of Grievance: 20/04/2015  
Date of order : 21/05/2015  
Total days : 32 days

**IN THE MATTER OF GRIEVANCE NO. K/E/866/1060 of /2015-16 IN RESPECT OF NRC LTD. OF MOHANE, KALYAN (E) REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING REFUND OF AMOUNT RECOVERED TOWARDS AEC1,2,3,& 4 AND OTHERS.**

M/s.NRC Ltd.,

Village Mohane, Tal.Kalyan,  
District-Thane  
Pin Code 421 102

(Consumer No.020169009628 HT connection)

(Hereafter referred as  
consumer)

Versus

Maharashtra State Electricity Distribution  
Company Limited through its

Executive Engineer, Kalyan –Circle-1,Kalyan .... (Hereinafter referred as  
Licensee)

Appearance : For Consumer–Shri Killedar -General Manager  
Shri Tulsidas Manager-

For Licensee Shri Lahange- Nodal Officer and Executive Engineer  
Shri Barambhe – Dy.Ex.Engineer  
Shri Sakpal-Account Officer.

(Per Shri Sadashiv S.Deshmukh, Chairperson)

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 Redressal 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. 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 and Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014'.

2] This grievance is brought before us by consumer on 20/4/2015, alleging that licensee recovered amount towards AEC 1&2 as per the order of MERC in case No. 95/2013 dated 5.9.2013. However said order is set aside by Appellate Tribunal for Electricity Authority in appeal No. 295/2013 . In the same fashion towards AEC 3&4 amount was to be recovered as per order MERC in case No. 28/2013 & 44/2013 from October 2013 but recovery is done for previous months. It's refund is also sought. Thirdly claim is made for revising the bill from October 2014 giving credit of 39711.82 units.

In this matter copy of grievance applications along with its enclosure sent to the Nodal Officer, vide this Office Letter No.104 dated 24/4/2015.

3) In response to it, Nodal Officer attended and filed the reply on 20.5.2015 after taking adjournment on 6.5.2015. Further gave additional reply on 21.5.2015 taking information about order of ombudsman. Further sought more time towards third prayer . Considering the prayer for further adjournment and more time as already elapsed after approaching licensee on 16/09/2013 and IGRC on 20/02/2014 . The said third prayer allowed to be segregated by allotting new number taking one more set of

this grievance application. Hence this grievance application heard towards refund claim of AEC.

- 4) We heard both side at length. There is no dispute about the factual aspect pertaining to order passed by MERC in case No. 95/2013 towards recovering AEC 1&2 and that said order is set aside by the appellate authority in appeal No. 295/2014 on 22.8.2014 . As per the said order matter is remanded to MERC which is still pending with MERC . On behalf of licensee it is pointed out that Misc. Application is filed for expeditious hearing of that matter on 3.11.2014 . It is submitted that accordingly matter is subjudice . It is also submitted at any moment order of MERC is expected . Accordingly it is submitted on behalf of licensee that this grievance be rejected towards refund of AEC 1&2 . Secondly it is submitted amount recovered towards AEC 3&4 is correct and no refund can be allowed.
- 5) On behalf of consumer its General Manager heavily relied on the order of Hon'ble ombudsman Nagpur dtd 22.12.2014 in representations No. 68/2014 , 88/2014 to 96/2014 , 117/2014 & 122/2014 , 127/2014. In the said order Hon'ble ombudsman Nagpur allowed the refund of AEC 1&2 which is recovered by licensee as per the order of MERC in 95/2013 as is set aside by appellate authority. Matter remanded to MERC is also noted . Accordingly it is contended that as the order of MERC is set aside , any amount recovered as per the order needs to be refunded . It is submitted that there is no any stay to the refund of amount, already recovered as per the order of MERC. It is submitted that no such stay is granted by appellate authority. Even it is submitted in respect of refund towards AEC 3&4 recovered prior to October 2013 is allowed by Hon'ble Ombudsman Nagpur . General Manager of Consumer submitted that in this case though refund of two months sought, it be allowed for one month i.e. recovered in September 2014 .
- 6) On behalf of licensee submission is made, contending that against the order of Hon'ble Ombudsman referred above, review petition is filled on 21.1.2015 hence that order being sub-judice it cannot be relied on.
- 7) Aforesaid position is clear, order of MERC 95/2013 is set aside hence not subsisting n Matter is remanded to MERC. Yet there is no order of MERC after remand. Hence amount recovered under such non subsisting order towards AEC 1&2 cannot be retained by the licensee. More particularly as there is no any stay

to refund or direction to not to refund the amount. Further we find as soon as order is passed by MERC, in the light of remand order, it will be effective. For the aforesaid conclusion there is support of order of Hon'ble ombudsman. Through review is sought towards it , there is no stay to the order already passed .

Accordingly we find legal position is clear, amount recovered under order which is not existing cannot be retained. Hence amount recovered from consumer towards AEC 1&2 is to be refunded.

8) It is also a fact that towards AEC 3&4 orders are passed by Hon'ble MERC in case No. 28/2013 and 44/2013 respectively on 3.9.2013 and 4.9.2013. These orders are clear, for recovering the amount from the month of October 2013 but in this matter amount is recovered on these counts for the month of September 2013 hence said amount of Sept 2014 is also to be refunded to the consumer. This conclusion is supported by aforesaid order of Hon'ble Ombudsman Nagpur.

9) As noted above grievance is to be allowed. Consumer has quantified the refund on this count to the tune Rs. 21,45,128/- However it is submitted that in the said amount towards refund of AEC 3&4, two months amount is included which is to be now made limited to one months and approximately it comes to Rs. 90486/-. Accordingly it is submitted as per the claim of consumer refund is quantified to Rs. 21,45,128 - Rs. 90486 = 20,54,642/- We find consumer is entitled for refund of said amount with interest as per Bank Rate from the date of demand i.e. 16.9.2014 . Consumer has sought interest at a higher rate than RBI Bank Rate. We find amount of refund is not towards any excess recovered , but it was as per the order of MERC which is subsequently set aside in Appeal.

10) Consumer in his grievance application referred to notice of licensee dtd 31.3.2015 issued under section 56 of Electricity Act . We find said notice is already dealt by this forum now no any discussion required on that count .

Hence the order for the reasons stated above.

### **Order**

Consumers grievance towards refund of AEC 1&2 is totally granted as prayed. Prayer of consumer towards refund of AEC 3&4 granted only for one month i.e. recovered in the month of September 2014.

Licensee to refund aforesaid amount of AEC as discussed above and adjust it in the ensuing current bills. Said refund be worked out verifying and

considering the calculation as stated above in para 9. Said refund should include interest under Section 62 as per Bank Rate i.e. RBI Rate from the date of demand till to the date of payment.

Licenses to report the comply within 15 days after aforesaid adjustment. As discussed above in para 3, third prayer allowed to be agitated separately.

**Date : 21.5.2015**

**I agree**

**I agree**

**(Mrs.S.A.Jamdar)**  
**Member**  
**CGRF,Kalyan**

**(Chandrashekhar U. Patil)**  
**Member Secretary**  
**CGRF,Kalyan**

**(Sadashiv S. Deshmukh)**  
**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 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”*

c) 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.

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