



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/199/223 OF 2009-2010 OF
MRS. REKHA N. DEDHIA, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

Mrs. Rekha N. Dedhia
Gala No.20, Indira Udyog,
Golani Complex, Waliv
Vasai (E), Dist.Thane 401 208

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
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 20 KW consumer of the licensee with C. D. 29 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 04.03.2009 for Excessive Energy Bill. The details are as follows: -

Name of the consumer :- Mrs. Rekha N. Dedhia

Address: - As given in the title

Consumer No : - 001840855879

Reason of dispute: Excessive Energy Bill.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/211 dated 04/03/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/(E)/B/2764, dated 07/04/2009.

- 4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 27/12/08. The IGRC did not decide the grievance made by the consumer within 60 days & therefore, the Consumer has registered the present grievance before this forum on 04/03/2009.

- 5). The Members of the Forum heard both the parties on 06/04/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri A. R. Thote, Jr..Engr.,& Shri S.B. Hatkar, Asstt.Acctt., representatives of the licensee attended hearing.

Minutes of the hearing are recorded and 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 consumer has raised the following grievances in its letter dated 27/12/08 sent to the concerned Executive Engineer and of which copy the consumer has attached with the grievance made before this forum, and in the rejoinder dated 06/04/09, and considering the reply dtd 06/04/09 with CPL filed by the licensee, and submissions made by the parties, record produced by the parties, the finding or resolutions on each of such grievance is given against it, for the given reasons.
- 7). **As to grievance No. (a) to (f) - Refund of excess amount recovered by applying MD based tariff, PF penalty etc.** - The Consumer Representative (CR) submits that the licensee has charged MD based tariff to the consumer without 100% metering and its such action is illegal. He relies on zerox copy of operative order dtd.20.6.08 of MERC in case No.72 of 2007, MSEDCL circular No.81 dt.7.7.08 in support of his such contention. He further submit that as per order dated 12.9.08 of MERC in case 44 of 2008, the licensee can not impose MD based fixed charges, PF penalty and demand penalty/incentive without MD based tariff being made applicable to the concerned consumer but in the instant case, the licensee has applied the above charges or penalties without MD based tariff being applicable to it and hence such action of licensee is illegal. He further submit that thus the licensee has violated the Act, rules and orders of MERC and hence is liable for action under section 142 and 146 of the Electricity Act 2003. He further submits that therefore the licensee be

directed to refund the amounts of such illegally recovered charges together with interest at the rate which it applies to the defaulting consumer.

-As against above contention, the LR submits that the licensee has applied MD based tariff from Aug.08 on completion of 100% TOD metering and as per directives given in Clause 10.5 of Com. Circular No.81 dt.7.7.08. He therefore submits that whatever charges based on MD based tariff, are recovered by the licensee from the consumer are correct and legal and therefore the question of refunding the same to the consumer does not arise.

8). (View of Mrs. V. V. Kelkar, Member) As per licensee's reply on the subject referring circular No.81, clause No.10.5, they stated that the "the MD based tariff is applied to consumer from Aug.08." Clause No.10.5 is as follows:

"MSEDCL is thus allowed to charge MD based tariff immediately on completion of 100% metering. All Zonal Chief Engineers to immediately inform the IT centre under their jurisdiction about such completion and may also send certificate immediately to that effect to Chief Engineer (Dist).

The clause clearly states that after completion of the 100% metering the Zonal Chief Engineers are required to immediately inform IT centres under their jurisdiction about such completion for the change in charges of MD based tariff.

The licensee did not submit any letter / reply regarding above subject till to-day. Under the above circumstances I come to the conclusion that as the licensee is not able to substantiate this statement of 100% metering completion of their area, I also have a meter replacement report submitted by the licensee in another similar case No.K/E/177/201 M/s.

Maharashtra Pencil Factory, which indicates that the Electro Mechanical meter was replaced by static meter (Secure make) on 05/02/09. The date of replacement of meter is much later as compared to the period of grievance, in the present case. This confirms that the licensee has not installed the meter 100% (As per circular dated 5.2.09). Therefore the work is not yet completed and hence they can not charge MD tariff to the consumer from 05.07.08 to 05.08.08. The excess amount charged under this tariff from the consumer should be adjusted in the bills, with interest @ RBI Bank rate at rate prevailing at the date of decision of the forum.

9). As far as the grievance of consumer to the effect that the Licensee has recovered electric charges as per M. D. based tariff for the month of August 08 illegally is concerned Shri Shivdas, Member Secretary, differed from the above view taken by Sau. V. V. Kelkar, Member and therefore, the view taken and the reasons given by him for such view are separated recorded as under.

10). Para 47 of the Operative Order dt. 20/06/2008 of MERC in Case No. 72/2007, on the basis of which the licensee/MSEDCL issued Commercial Circular No. 81, dt. 07/07/08, reads as under

“47. In line with Commission’s ruling in the MYT order, since MSEDCL is yet to achieve 100% MD metering for LTV industrial consumers above 20 KW (around 97% completion has indicated by MSEDCL till date), the MD tariffs for LTV industrial consumers will not be made effective. Till the MD meters are installed, MSEDCL will be allowed to charge only the earlier HP based tariffs, though the revenue has been assessed based on MD based tariffs”.

It is clear from the above order that while passing the said order or giving the said directions, MERC relied on the report about completion of 97% given by MSEDCL/licensee, without insisting for proof about it. It is clear from Clause No. 10.5 in commercial circular No. 81, dt. 07/07/2008 issued by the MSEDCL/licensee, reproduced in above para 18 (i) that in view of the above referred order in para 47 of order dt. 20/06/2008 of MERC in case No. 72/2007, the MSEDCL/licensee issued directives to all Zonal Engineers to immediately inform IT centres under their jurisdiction about such completion and further directed that they may also send a certificate immediately to that effect to Chief Engineer (Dist). The MSEDCL/licensee through Dy. Executive Engineer, MSEDCL Vasai Road (E) S/Dn. vide say cum letter dt. 9/2/2009, claims that on completion of 100% TOD metering and as per the directives given in circular No. 81, clause No. 10.5, the MD based tariff is applied to the consumer from August 2008. Moreover, the licensee in it's circular No. PR-3/Tariff, dt. 05/02/2009 clearly stated that the MSEDCL has completed the 100% work of installation of TOD meters to LTV industries having load more than 20 KW. MSEDCL is a public institute and therefore, the same or it's officers have no personal interest to falsely say that 100% TOD metering was completed and therefore MD based tariff is applied to the concerned consumers i.e. LTV Industries above 20 KW consumers. Under such circumstances, in my opinion, it would not be proper to insist for filing of documents about 100% completion of TOD metering. Therefore I accept the contention of MSEDCL that 100% TOD metering was completed by the end of July 2008.

- 11). It is clear from the provisions of 3.4.1 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code & other conditions of Supply) Regulations, 2005 that MSEDCL/licensee can recover charges for the electricity supplied as per the tariffs fixed by the Commissioner (MERC) from time to time. It is clear from the order dated 20/06/2008, passed by MERC in case No. 72 of 2007 that the Commission (MERC) fixed tariffs for LT-V industries above 20 KW consumers on HP basis as well as on MD TOD basis with a direction that the TOD tariff shall be applicable after installation of MD meters. It is true that as per para 47 in the said order, the Commission (MERC) at that time allowed the licensee to charge as per earlier HP based tariffs but it was because at that time the licensee reported that the work of MD metering was completed to the extent of 97% only. It is further made clear in the said para 47 of the said order that till the MD meters are installed, MSEDCL will be allowed to charge only the earlier HP based tariffs. Moreover, the fact that the Commission (MERC) in the said order also fixed & finalized the MD tariff or TOD tariff clearly show that the licensee was permitted to charge electricity charges as per the MD metering or TOD metering immediately after completion of 100% work of installation of MD meters, as clearly stated in the Commercial circular No. 81, dt. 07/07/2008 by the licensee. In view of this, and since in my opinion the licensee has already completed 100% installation of MD meters as discussed above, in my opinion the licensee has correctly charged the electricity charges to the consumer as per MD tariff and therefore, such charging cannot be said to be illegal as alleged by the consumer. Moreover in my opinion, the consumer should have approached the Commission (MERC) for his such grievance instead of this

forum, as the Commission (MERC) is the Competent Authority to decide as to whether the licensee has applied the tariff correctly. For all above reasons, the consumer is not entitled for refund of or adjustment of any amount on such count. Hence I hold accordingly.

- 12). Clause 8.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum) & Electricity Ombudsman) Regulations 2006, reads as under :

"On completion of proceedings conducted under Regulation 6, except where the forum consist of a single member, the forum shall take a decision by majority of votes of the members of the forum & in the even of equality of voles, the Chairperson shall have the second & casting vote."

It is clear from the above clause 8.1 of the Regulations 2006 that the Chairperson has been given a second or casting vote, in case of equality of votes, & it clearly means such equality of votes is meant to be equality of the votes of other two members.

- 13). In the instant case, there has been difference of opinion or view amongst two members, & therefore, Shri M. N. Patale, as a chairperson will have to give the second or casting vote & the view out of the different views taken by two members, seconded by Shri M. N. Patale Chairperson will become the view of the majority & hence such view will be the decision of the forum.

- 14). Shri M.N. Patale, after giving due consideration to the different views expressed by two members as above, approves or supports the view taken by Shri R. v. Shivdas to the effect that considering the tariff order issued by the Commission (MERC) & circular No. 81 issued by the licensee, read with the circular dated

05/02/2009 referred & other facts discussed by him it is clear that the licensee has completed 100% installations of meters & therefore correctly recovered the electric charges as per MD tariff or TOD tariff from the consumer & therefore the consumer is not entitled for any refund or adjustment of any amount on such ground.

- 15). As to grievance (g) – Regarding Security Deposit". The consumer claims that the consumer has paid Earnest Deposit Rs. 10,500/- and Rs.6,300/- i.e. total Rs.16,800/- at the time of taking new connection in Oct.03, but the bills were showing Deposit as Nil. Further the consumer paid SD of Rs. 7,200/-. The said amount is displayed on the bill. The licensee should verify the total amount of SD and should give credit of compound interest on it, to the consumer. The consumer also claims refund of excess SD. As against this, the licensee claims that the connection has been given to the consumer on 24.10.03. The SD paid at the time of connection was not displayed on bill. The interest will be paid as per rules. Considering the average bill, the balance amount will be refunded for which the consumer should produce original receipts. Considering 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.
- 16). As to grievance (h) – Refund of MD based fix charges from Oct.06 to Feb.07: The consumer has claimed refund of an amount of Rs. 6,229.60 on this count as the tariff 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 claims that it has refunded of such difference in the month of May 07. The licensee, however, did not give details of such refunded amount and the way in which the said amount was refunded. Therefore the licensee is directed to give detailed calculations of the amount of such refund, the exact amount and the way in which it was refunded, and refund the balance amount, 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.

17). As to grievance (i) – Bill adjustment charges:

The consumer claims that the licensee has added the debit bill adjustment charges of various amounts such as Rs.272.68, Rs.102.40, and Rs. 80.08, Rs. 410.11, in the bills for the billing periods Sept. 07, Aug. 07, July 07 & March 07 respectively. The licensee should justify such adjustments and refund, if the same are not justified. The licensee has claimed that the above mentioned debit adjustments are of TOSE @ of 4 np p/u for March 06 to Sept. 06, and TOSE @ of 4 NP p/u for Sept. 05 to Feb.06, tariff adjustment and current bill adjustment 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 recharge the TOSE. The licensee has also not given details of the third and fourth amount. Therefore, the licensee is directed to give explanation in writing

giving details about the third and fourth amount & 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, by giving it's credit to the consumer in the ensuing bill after 30 days.

- 18). As to grievances of (k) – Incremental ASC charges.:- The consumer claims that the licensee should refund incremental ASC for following period as per MERC order in case No.45 dt.17.9.08.

Feb.07 136.85

Mar 07 114.84

Apr 07, 093.72

May 07 109.20

As against this, the LR submits that matter is being confirmed from IT.

The licensee is directed to verify incremental ASC charges recovered from the consumer during the above referred months and refund the same as per MERC order No.45 dt.17.9.08, if not refunded earlier, alongwith 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 this decision.

- 19). **As to grievance (l) - Refund of ASC :** The consumer claims that the licensee should refund total Rs. 292.40 towards ASC for the month of Nov.06 and July.07 to Sept. 07. According to consumer, the licensee has considered different Benchmark consumptions for calculation of ASC charges for above mentioned period. The licensee claims that after confirmation of Benchmark consumption, the action will be taken, if applicable. Therefore, licensee is hereby directed to verify the Benchmark

Consumption (i.e. consumption period of Jan.05 to Dec.05) and recalculate the ASC charges for above period, and if found any excess, same may be refunded to the consumer with the interest at the bank rate of RBI within 30 days from the date of this decision.

- 20) The consumer, at the time of hearing, filed rejoinder dt. 06/04/09 with some grievances and requested to consider the same on the ground that the consumer could not raise the same earlier as the licensee did not provide him the CPL earlier. It is a fact that the licensee supplied the CPL to the consumer on the date of hearing and therefore, such additional grievances made by the consumer are considered and the licensee was directed to submit it's reply to the same and the LR undertook to submit such reply subsequently. However, the licensee did not file any reply to the said rejoinder till this date.
- 21) Grievance numbers 1 to 4 in rejoinder dated 06/04/09 – The consumer has pointed out some anomalies in the entries regarding KWH, KVAH, and PF in the bills for the months August 08, Sept. 08, Oct. 08 and Nov. 08 and submits that considering the said anomalies, the electric charges claimed by the licensee during the said months must be incorrect and therefore, the licensee be directed to refund the excess charges recovered by it. The perusal of the copies of the bills of the above referred months do show some such anomalies and therefore, there is a possibility of some mistake in calculating the electric charges of the said months. Therefore, the licensee is directed to retrieve the MRI report of the said meter in the said months and confirm the readings of KWH, KVAH, PF and MD and accordingly revise the bills of the electric charges of the said months and in case there has been some excess recovery during the said months,

refund the said amount which is recovered in excess 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 date of this decision.

- 22) As to grievance no. 5 : The consumer claims that the licensee has illegally charged ASC for the months of Feb. 08, March 08 and April 08 and the same is result of "Lock" readings for Feb. and March 08 bills. Thus the consumer claims refund of the amount of ASC charged during the period Feb. 08 to April 08. It is clear from the copies of bills for the months Feb. , March and April 08 that in the bills for Feb. and March 08 the meter is reported to be "Locked" since Feb. 08 and the said bills are issued for average consumption. The bill for the month of April 08 show that the meter gave some reading. The bills of all the above three months show that ASC is charged to the extent of Rs. 3,918.16, Rs. 3,939.60 and Rs. 2529.92 for the said months Feb. to April 08 resp. Thus it appears that ASC is charged for the months Feb. and March 08 on average consumption. However, considering the grievance (doubt) of consumer, the licensee is directed to verify the ASC charged during the said three months and refund excess recovery if any, together with interest at the Bank rate of RBI, by giving it's credit to the consumer in the bill after 30 days.
- 23). As to grievance no. 6 and 7 : These grievances of the consumer are of the period more than two years earlier from the date on which the consumer has registered it's grievances before IGRC and also before this Forum and hence are time barred. Moreover, the consumer has not raised these grievances before IGRC and also in original grievance registered with this Forum. Therefore, these grievances are not considered by this Forum.

- 24) As to grievance no. 8 : The consumer has claimed compensation for not taking meter readings by the licensee. However, as per the consumer the meter is shown as locked in the said bills. However, the CPL for Dec. 08 shows the readings with consumption of two units whereas the CPL for Jan. 09 shows the same as previous and current reading. The CPL for Feb. 09 also show some readings with consumption of 410 units. Thus it can be positively said that reading was taken in the billing period for billing month Feb. 09. Thus since the reading was not taken for one month only, the request of consumer for compensation is rejected.
- 25). There has been no. of holidays and consequently less working days during last month. There has also been sudden increase in registration of grievances by the consumers before this forum since last two months, as result of which this forum is forced to hear arguments in two cases on every day and also to decide such a cases at the same rate. Therefore, there has been some delay in deciding this case.
- 26). After hearing both the parties, studying all available documents submitted by licensee as well as consumer & considering the majority view on the point of charging as per M. D. Based tariff, and unanimous decision on other points as above, the forum passes the following order.

ORDER

- 1) Prayer of consumer for the refund of the amount of electric charges recovered by licensee as per MD based tariff or TOD based tariff is rejected.

- 2) Licensee should follow the directions given in above para numbers 15 to 19, 21 and 22.
- 3) The consumer's claim for an amount of Rs. 5000/- towards the compensation is hereby rejected.
- 4) The Compliance should be reported to the forum within 90 days from the date of this decision.
- 5) The Consumer can file representation against this decision to the Ombudsman at the following address.

*“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.

- 6) Consumer can approach Maharashtra Electricity Regulatory Commission on the following address :

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

for compliance in case of non-compliance, part compliance or delay in compliance of this decision passed under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003”, under Section 142 of the Electricity Act 2003.

Date : 06/05/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan