



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/340/384 OF 2010-2011 OF
M/S. P. H. POLYPLAST, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. P. H. Polyplast
Plot No. 06, Nr. Neelima Motors,
National Highway No. 8,
Village Sativali, Vasai(E),Dist.Thane

(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 consumer of the licensee with C. D. 54 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 11/06/2010 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. P. H. Polyplast

Address: - As given in the title

Consumer No : - 002170783584

Reason of dispute: Excessive Energy Bills.

- 3) The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/229 dated 11/06/2010 to Nodal Officer of licensee. The licensee filed reply vide letter No. IGRC/VC/CGRC-0340/0384/2010-11/4627, dated 02/07/2010.
- 4) The forum heard both the parties on 12/07/2010 @ 14.30 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, Shri Vinit Sheth representatives of the consumer & Shri S. R. Purohit Nodal Officer and Shri S. M. Bangar, Dy. Ex. Engr. representatives 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.
- 5) Consumer has taken electricity from the Distribution licensee in the company premises situated at Sativali Vasai (East). According to

consumer officials of the Dist. Licensee wrongly charged power factor (P.F.) penalty and the same needs to be refunded. In the month of March 2010 wrongly charged P.F. penalty was refunded by the licensee, however again in the month of May 2010 reverted back the same without intimation to the consumer. Due to mismatched data and display of low P.F. penalty was imposed wrongly. Considering reading of KWH, KVAH & RKVAH for the months July, August and September 2009 the power factor comes to 0.67 but however Dist. Licensee (DL) erroneously imposed penalty based on 0.5 power factor (PF) Rs. 7296/- (+) Rs. 3685/- = Rs. 10,981 and claimed interest thereon Rs. 8,736/-.

- 6) In so far Additional Security Deposit (ASD) and Security Deposit (SD) it is averred by the consumer company that 65 HP connection was given on 14/06/05 on depositing S.D. (+) A.S.D. i.e. Rs. 19,500/- (+) Rs. 11,700/- = Rs. 31,200/- but not shown the said amount in the bill therefore additional SD Rs. 40,000/- was collected and shown in the bill. It is contended that keeping the amount of Rs. 40,000/- shown in the bill, SD and ASD already collected Rs. 31,200/- be refunded with interest from 14/06/05.
- 7) According to consumer some of the receipts of SD & ASD have been misplaced/lost for which they were ready to furnish indemnity bond however the officials insisted original receipts. It is contended verifying F-1 register amount deposited by consumer towards SD & ASD is required to be refunded with interest. Vide letter dt. 08/02/10 consumer requested the officials of licensee to that effect but not complied. In short, according to consumer licensee is liable to refund total Rs. 50,917/- on the above aspects. By letter dt. 23/01/10 addressed to the Dy. Ex. Engr. consumer claimed the same and later on by letter dt. 08/02/10 however, by letter dt. 28/05/10 their request was eventually turned down by the Distribution

licensee (DL) therefore consumer approached the IGR Cell but in vain. Consumer therefore lodged this grievance with prayer to direct the licensee to refund the amount of SD & ASD with interest, and in case of lost/misplaced receipts on furnishing indemnity bonds co-operating them amounts be released and further to charge PF penalty following correct procedure laid down by the Hon. MERC.

- 8) Licensee opposed the contentions raised above by filing reply dt. 02/07/10. It is contended that charged P. F. penalty was refunded to the consumer in March 2010, however during the re-checking of B-80 fed to the computer it is revealed that refund as above was given by mistake and after rectification it was taken back rectifying the billing with intimation to the consumer's representative. So far PF penalty it is contended calculation enumerated in MERC tariff case No. 116/2008 was imposed using RKVAH as one of its parameter and not RKVAH (Lag) and that RKVAH is not equal to RKVAH (Lag) only but it is the vector sum RKVAH (lag) and RKVAH (lead) therefore calculation as suggested by the consumer to bill the PF penalty is erroneous and inconsistent with the directions given by the Hon. MERC consequently their contention in this context is not acceptable and that the licensee correctly charged PF penalty.
- 9) So far refund of SD & ASD without the production of receipts based on F-1 register as suggested by consumer it is averred that at times, registers are not preserved in the event it is risky to refund the amount. In this context it is contended that the case filed by Akhil Bharatiya Grahak Manch before the Hon. MERC bearing No. 93/08 is awaiting decision. In short, according to licensee they have correctly charged PF penalty and that presently without production of receipts SD & ASD cannot be refunded in so far

supply of update CPL has already been given and in this context grievance application being devoid of substance be dismissed in limine.

- 10) On perusal of the record and hearing both the parties following points arise for the consideration of Forum and findings thereon for the reasons recorded below :

Points	Findings
a)Whether licensee correctly charged PF penalty ?	Yes
b)Whether it is proper to refund the amount of S.D. and ASD without the production of receipts ?	No
c)Whether licensee is liable to refund the amount of SD & ASD with interest ?	Yes
d)What Order ?	As per Order below

Reasons

- 11) The main grievance of the consumer is that licensee charged P.F. penalty contrary to the directions given by the Hon. MERC in Tariff Case No. 116, dt. 01/08/2009. Learned representative for the consumer inviting our attention to the application made to IGRC dt. 23/01/2010 submitted that KVAH is to be calculated using RKVAH Lag. displayed on the bill. He contended that in the month of July and August 2008 & July 2009 KVAH consumed was wrongly entered and without considering the calculation mentioned in the order as above, licensee charged PF penalty and the same needs to be refunded. In contra, learned representative for the licensee pointing calculation depicted by the consumer urged with force that RKVAH is to be used as one of it's parameter and not RKVAH (Lag) and further submitted that RKVAH is not equal to RKVAH (Lag) only but it

is the vector sum RKVAH (Lag) and RKVAH (Lead). In reply dt. 02/07/10 Nodal Officer in detail pointed out the power factor calculation in the light of MERC Tariff Order mentioned supra. Needless to say Dist. Licensee has to follow the directions given by Hon. MERC. We have gone through the detail order of Hon. MERC dated 17/08/2009 page 239 and also subsequent clarificatory order dt. 12/05/10. In clarificatory order Hon. MERC on page 3/4 stated vide chart :

Power Factor Penalty (Applicable for HT-I, HT-II, HT-IV, HT-V and HT-VI categories, as well as LT-II (B), LT-II (C), LT-III and **LT-V** (B) categories). Whenever the average PF is less than 0.9, penal charges shall be levied at the rate of the following percentages of the amount of the monthly bill including energy charges, reliability charges, FAC and Fixed/Demand Charges, but excluding Taxes and Duties :

Sr.No	Range of Power Factor	P. F. Level	Penalty
1	0.895 to 0.900	0.90	0%
2	0.885 to 0.894	0.89	2%
3	0.875 to 0.884	0.88	3%
4	0.865 to 0.874	0.87	4%
5	0.855 to 0.864	0.86	5%
6	0.845 to 0.854	0.85	6%
7	0.835 to 0.844	0.84	7%
8	0.825 to 0.834	0.83	8%
9	0.815 to 0.824	0.82	9%
10	<u>0.805 to 0.814</u>	<u>0.81</u>	<u>10%</u>

Executive Engineer Vasai Circle by reply dt. 20/08/2010 placed on record pointed out calculation as regards charging of PF penalty and going through the directions in the order of Hon. MERC referred to supra we find force in the submission of the learned representative for licensee. On the premise contention of the learned representative for the consumer that licensee incorrectly charged PF penalty is hard to digest therefore question of refund of PF penalty as claimed in the grievance application, does not arise.

- 12) So far refund of SD and ASD amount in the event of misplaced/lost receipts verifying the F-1 register on furnishing indemnity bond in the light of update CPL amount as urged by the learned representative for the consumer it is seen Dy. Executive Engineer Vasai Road Sub Division by letter dt. 28/05/10 informed them to submit the original receipts for verification. During the course of hearing learned representative for the licensee was directed to supply update CPL and accordingly vide reply dt. 02/07/2010 Nodal Officer supplied update CPL to the consumer. It is high time to direct the licensee to supply update and correct CPL so as to enable them to put forth their grievance properly. In the event misplaced/lost SD & ASD receipts, point arises whether without receipts amount thereof can be refunded on furnishing indemnity bond. Learned representative for the licensee submitted that at times F-1 registers are not preserved therefore it is rather risky to refund amount without receipts. He pointed out that "Akhil Bharatiya Grahak Manch" has filed case No. 93/2008 involving this vital point and it is under consideration of the Hon. MERC and till then point as regards payment of money in case of lost/misplaced SD & ASD receipts cannot be considered. It is pointed out by the representative for consumer that F-1 Register is maintained in the Office in which entry of consumer's

number, name, date of release of connection, details of S.D. and ASD etc. is recorded and on verifying the records in the presence of consumer or his representative, amount of lost/misplaced SD & ASD with interest can be refunded. When matter pertain to this vital point referred to supra is under consideration of the Hon. MERC, we find difficult to give any directions in this context.

- 13) It is seen from the application of consumer dt. 08/02/10 even on production of 65 receipts of SD/ASD payment is not made by the licensee. In representation No. 23 of 2009 Hon. Electricity Ombudsman in the matter of Natural Sugar & Allied Industries Ltd. V/s. MSEDCL in para 20 observed that amount of additional security deposit if unpaid not to be shown in the main bill nor to treat it as arrears and consequently directed the licensee to refund the same with interest. This clearly shows amount of SD & ASD is not to be shown in the main bill. If that is so, such amounts are required to be refunded with RBI rate of interest. Points are answered accordingly.
- 14) While parting to the matter it is to be noted that this reference was submitted by the consumer before the Forum and was registered on 11/06/2010. Vide para 6.18 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 Forum to decide the grievance within a period of two months from the date of receipt. Learned representative for the licensee sought time to file written argument and submitted the same on 20/08/2010, therefore delay is caused in deciding the grievance. Hence the order :

O-R-D-E-R

- 1) The grievance application is partly allowed.
- 2) Licensee is directed to refund amount of S.D. and A.S.D. with RBI rate of interest as per rules.
- 3) Licensee to furnish update and correct CPL to consumer as and when required.
- 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 Bldg, 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 : 31/08/2010

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan