

BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM

M. S. ELECTRICITY DISTRIBUTION CO.LTD.

(NAGPUR ZONE – RURAL) NAGPUR.

Application/Case No. CGRF/NZ/Rural/ **191 of 2009**

- Applicant : M/S. Jejani Pulp & Paper Mills Pvt. Ltd.,
Armori Road, Wadasa, District-Gadchiroli.
-- VS --
- Non-applicants. : 1.Executive Engineer,C.C.O&M Dn., MSEDCL,
Gadchiroli.
2.Executive Engineer/Nodal Officer
Internal Grievance Redressed Cell,
Circle Office, MSEDCL, Gadchiroli.
- Present : 1.Shri V.R.Khobragade,Chairman
2.Shri S.F.Lanjewar, Member-Secretary,
3.Shri M.G.Deodhar,Member
- Appearance. : 1. Shri R.B.Goenka , Representative .
2. Shri Sharad Jejani,the Applicant .
For Applicant .
1. Shri D.K.Choudhari, N.O./E.E.
2. Shri S.S.Kolte, Jr.Law Officer.
3. Shri P.J. Tundulwar,Jr.Mgr(F&A).
For Non-Applicants.

ORDER

(Passed this 11th day of February, 2010)
(Per Shri V.R.Khobragade, CHAIRMAN)

- 1) M/S. Jejani Pulp & Paper Mill Pvt. Ltd., Armori Road, Wadasa, District-Gadchiroli filed an application before this Forum in form Schedule 'A' on date. 14th December,2009 through its representative M/S. R.B.Goenka for redressing the issue raised in the application. The Maharashtra State Electricity Distribution Co.Ltd. hereinafter shall be termed as 'MSEDCL'/N.A. and M/S. Jejani Pulp & Paper Mills Pvt. Ltd., be as 'Applicant'.
2. On receipt of this application, the Forum gave acknowledgement to Applicant, called parawise comments from non-applicants, on receipt of parawise comments from non-applicants, copy of the same was sent to Applicant alongwith notice for

hearing. The Forum issued and served the notices to both the parties for hearing. Shri R.B.Goenka, Representative, appeared for Applicant with Shri Shard Jejani, the Applicant. Sarvashri D.K.Choudhari, E.E./N.O., S.S.Kolte, Jr.Law Officer, and P.J.Tundulwar, Jr. Manager (F&A) appeared for the non-applicants(MSEDECL) on **4/2/2010** for hearing. Shri Goenka argued elaborately on behalf of the Applicant. Shri S.S.Kolte, Jr.Law Officer argued at length on behalf of the MSEDCL. Thus the Forum followed the procedure as laid down under Regulation 6.10 to 6.15 of the Regulations in terms of the rule of natural justice. The Forum gave fair and reasonable opportunity of hearing to both the parties.

3. The Applicant has submitted his written submission as follows. The Applicant is a paper industry situated at Armori road, Wadsa, District-Gadchiroli and is a consumer of N.A. with a contract demand of 1000 KVA connected at 33 KV feeder. The MERC specified tariff on date. 20/10/2006 and was applicable from 1/10/2006 where tariff for energy charges for continuous industry was specified as Rs. 2.15 per KWH and for non continuous industries the rate specified were Rs. 2.85 per KWH. There was another provision of charging Additional supply cost and Incremental additional supply cost in the tariff depending on whether the industry was connected on express feeder or non-express feeder. For express feeder 42% consumption was considered as ASC consumption and non non express feeder 28% consumption was considered as ASC consumption which was charged @ Rs. 5.15. MSEDCL was not charging continuous process industries tariff to the Applicant hence Applicant submitted a certified from DIC date. 21/2/2007 certifying applicants industry as continuous process industry.(Ex.1). The S.E., MSEDCL vide letter date. 22/5/2007 informed the Applicant to submit continuous process certificate on or before 15/6/2006 in light of MSEDCL circular No.47 date. 4/11/2006 (Exhibit 2). On submission of continuous process certificate, the Applicant vide letter date. 31/5/2007 requested D.L. to refund excess billed amount of Rs. 14,99,433/- considering tariff of continuous process from Dec,06 to Apr,07. Copy of letter and copy of bills from

Dec,06 to Apr,07 is enclosed in Ex. 3, 4, 5, 6, 7 and 8. The Applicant submitted reminder to DL to refund excess amount charged in energy bills vide letter date. 16.8.2008 (Ex.9) Second reminder date. 23/9/2008 was submitted by the Applicant (Ex.10). SE, MSEDCL vide letter date. 10/10/2008 informed Applicant that energy bills from 1/10/2006, 30/4/2007 are being revided in light of circular 52 & MERC order date. 20/10/2006 (Ex.11) MSEDCL issued a bill date. 23/12/2008 for Rs. 686833/- against the differential amount for period dec,2006 to April,2007 considering continuous process tariff (Ex.12) and issued calculation sheet on date. 24/12/2008 for Rs. 686833/- (Ex.13). The MSEDCL in its revised calculation bill date. 24/12/2008 did not consider the correct IASC charges as per vetting report of the Commission and in light of commissions above refered order the Applicant is submitting details of IASC charged by D.L. and which was to be charged as per commissions order (Exhibit 20). As per correct calculations MSEDCL has charged an excess amount of Rs. 263759/- which is to be refunded to the Applicant (Exhibit 21). The Applicant registered his grievance with IGRC, Gadchiroli on 22/9/2009 (Exhibit 22). The grievance was heard by IGRC on 6/11/2009 but even after 2 months order is not passed by the IGRC, Gadchiroli hence the Applicant in light of clause 6.4 of MERC(CGRF & EO)Regulations,2006 requested Forum to admit grievance application for redressal to the Forum to direct MSEDCL to withdraw the illegal and wrong bill for Rs. 686833/- issued on date. 23/12/2008 and to refund an amount of Rs. 263759/- alongwith interest under section 62(6) of Electricity Act,2003.

4. In the parawise reply of E.E., O&M Dn., Gadchiroli vide letter No. EE/O&M/Dn/G'roli'Tech/14 date. 4/1/2010 submitted his submissions as follows. That M/s. Jejani Pulp & paper Mill , Wadsa is consumer No.450019005180 a H.T. consumer. In response to circular No.52 date. 7/5/2007 the intimation was given to the consumer to submit the certificate of continuous or non-continuous process industry from competent authority (N.A.Ex.1) Consumer has submitted certificate from compentent authority vide letter No. JPPMPL/07-08/P-047 date. 31/5/2007 (NA Ex 2 & 3) Consumer has claimed for

refund of Rs. 14.99 lakhs between continuous and non-continuous tariff by considering the energy charges factor only vide his office letter No.134 date. 31/5/2007 (Ex.2) While calculating the energy bill all the applicable parameter of tariff such as energy charges, FCA, ASC, Incentive and other charges are to be considered but it seems that consumer has considered only energy charges hence his claims of Rs. 14.99 lakhs is wrong and can not be refunded. According to letter No. SE/O&M/Cir/G'roli/Tech/6778 date. 10/10/2008 difference between continuous and non-continuous tariff have been carried out for the period Dec,06 to April,07 and submitted to the Applicant by letter letter No. SE/O&M/Cir/G'roli/A/Cs/ HT/8141 date. 24.12.2008 for Rs. 686833/- for payment (Ex-5 & 6). At the time of new connection, the consumer had applied for continuous supply and this office had sanctioned the case accordingly vide sanction No. SE/O&M/Circle/G'roli/T/291 date. 19/1/2001 therefore, since date of connection no staggering day and load shedding is availed on 33 KV Laheri feeder. The consumer has submitted details information of trippings only. This can not be a reason for withdrawal of energy bill raised against continuous supply tariff.. The consumer has claimed of refund of Rs. 2.64 lakhs against wrong application of incremental ASC charges for the period of Dec,06 to Apr,07 as stated in letter of application No. P-007 date. 29/9/2009 (Ex.8). Consumer considered the ASC charges one to one basis for calculation of energy bill however it has to be charged on corresponding month The reply is already given by this office vide letter No. 7011 date. 1/10/2009 wherein it is said that the bill is in order and requested to pay in time (Ex.9) However the bill Rs. 6.86 lakhs is not paid by the consumer till this date and liable for payment immediately. On behalf of Non-applicants, Shri Kolte, Jr.Law officer in his oral submissions said that bills charged for the months of Dec,06 to Apr,07 are in order and as per circular Nos. 56, 57, 58, 61 and 62.

5. On going through the case record carefully, it reveals that the Applicant produced continuous process industry certificate on 21/2/2007 as asked by the D.L. vide its letter dated illegible and requested D.L. to refund excess billed amount of Rs.

14,99,433/- considering tariff of circular produced from December,2006 to April,2007. Since his request was unheard, the Applicant repeatedly made correspondence to the D.L. for refund of excess bill amount and finally went to I.G.R.C., Gadchiroli on 22/9/2009 (Ex.22). The matter was heard but failed to pass an order within stipulated time prescribed by the Rules and Regulations in force. The Applicant has therefore come to C.G.R.F. on 14/12/2009. An ample and adequate fair and reasonable opportunity was offered to both the parties. The Forum, however, observed unpreparedness on the part of non-applicants. The Forum hence lastly adjourned the matter held hearing on 4/2/10. The arguments advanced by the learned representative of the Applicant was vastly based on the verdict delivered by Hon'ble M.E.R.C., Mumbai in case No. 45/2007 and invited in details Forum's attention to the point mentioned at Para 15 & 16 of the said order and further contended that the said order in case 45/2007 passed by M.E.R.C. on 12/9/2008. has not been challenged by the D.L.so far. The plea taken by the non-applicants that the billing in dispute e.g. Oct,07 to April,07 was charged in accordance with the instructions contained in the Circular Nos. 56, 57, 58, 61 and 62 and expressed no knowledge if any appeal preferred by D.L. against the order passed in case No. 45/2007. Having gone through the order carefully to general and para 15 & 16 in particular it is noticed by Forum that issue involved in the case No. 45/2007 and the present second application before Forum is one of the same. The perusal of the prayer made by L.S.I.L. under its petition before M..E.R.C. rules as follows.

“ The Hon'ble Commission is requested to issue clarification order directing M.S.E.D.C.L. to charge IASC charges calculated for a particular month based on the cases and consumption of that month and not on the consumption of the month in which it is billed’’. In the instant matter the Applicant came to Forum on the same issue and requested to direct the D.L. to charge the IASC charges for a particular month based on the consuming of consumption of that month and non on the consumption of the month in which it is billed. The non-applicants admitted that they have calculated IASC charges on the consumption

of the months billed for Oct,2006 to Jan,2007 and supported the billing claimed correctly on the basis of circular Nos. 56, 57 58, 61 & 62 issued by the D.L.'s Head Office , Mumbai. Hon'ble M.E.R.C., Mumbai vide its order date. 17/9/2008 passed in case No.47/2007 directed under para 15 as under ' It is felt necessary to direct MSEDCL to undertake the necessary changes to its billing software within the next thirty (30) days. MSEDCL is directed to rrefund the Incremental ASC for the period from October,2006 to April,2007 to all the consumers who which contributed towards ASC, on a one to one basis in the next billing period (October,2008), in accordance with their ASC consumption in the corresponding month from October,2006 to April,2007, rather that the month of refund.'" Hon'ble M.E.R.C. further directed under para 16 that " the clarificatory order would apply to all the consumers entitled to refund to IASC".

6. Under the circumstances as mentioned above, Forum opine that the Applicant is entitled to get refund of excess IASC for the month of Oct,2006 to Jan,2007 and therefore pass the following order as enlisted below--

-: ORDER :-

1. The Applicant is entitled to get refund of IASC of amount of Rs. 2,63,759/- The Forum found bonafide mistake on the part of non-applicants keeping reliance on the instructions contained in circular Nos. 56, 57, 58, 61 and 62 while billing IASC for the period in dispute and also lacking knowledge of the order and clarificatory directives issued on the same issue in case No. 45/2007. The Forum , therefore, find no reason to consider the request for payment of interest on the refundable amount.
 - 1) There is no order as to cost.

SD/-	SD/-	SD/-
CHAIRMAN	MEMBER	MEMBER/SECY
CONSUMER GRIEVANCE REDRESSAL FORUM		
M.S.E.D.C.L.(NAGPUR ZONE – RURAL)NAGPUR		
-o0o-		

NO. CGRF/NZ/R/

Date::

Certified that this is the true and correct copy of the above order passed on **dtd. 11^h February,2010 in case No. 191/2009.**

Member-Secy/ Exe.Engineer,
C.G.R.F.(NZ-R)MSEDCL
N A G P U R

Copy to:

1. M/S. Jejani Pulp & Paper Mills Pvt. Ltd., Armori Road, Wadsa, District-Gadchiroli. .
2. The Chief Engineer,Nagpur Zone (Rural)MSEDCL, Vidyut Bhavan,Katol Road, Nagpur.
3. The Chief Engineer(Commercial), MSEDCL,Prakashgad,Head Office, Mumbai.
4. The Exe.Engineer/N.O., O&M Circle Office, MSEDCL.Gadchiroli --
5. The E.E.,C.C.O&M Dn., MSEDCL, Gadchiroli for information and necessary action.

Address of the Ombudsman is given as below.

Office of - The Ombudsman,
Maharashtra Electricity Regulatory Commission,
606-608, Keshava Building,
Bandra-Kurla complex,
MUMBAI- 400 051

TEL.- 022 - 26592965 (Direct)
022 - 26590339 (Office)

