

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/03/2007

Applicant : M/s. Co-operative Ginning & Pressing
Society Ltd.,
Baidhynath Chowk, Grate Nag Road,
NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Mahal Division, NUC,
Nagpur.

Quorum Present : 1) Shri S.D. Jahagirdar,
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

3) Shri S.J. Bhargawa
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 20.03.2007)

The present grievance application has been filed
on 02.02.2007 under Regulation 6.4 of the Maharashtra
Electricity Regulatory Commission (Consumer Grievance

Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of erroneous and excessive billing raised for applicant's Unit at the rate of 75% of the contract demand during the months of January, February, March & April, 2006 which, according to him, were declared as off season months for the applicant's seasonal Industry and also in respect of non-reduction of load to 90 HP from 120 HP with LT supply effective from 21.10.2006.

The applicant has prayed for grant of following reliefs.

- 1) To issue an interim order under Regulation 8.3 of the said Regulations restraining the non-applicant from disconnecting power supply as threatened by notice dated 24.01.2007.
- 2) To refund the excess demand charges along with interest as applicable considering the applicant as seasonal Industry and the off-season to be from May 2005 to November, 2005 and June 2006 to November 2006.
- 3) To accord sanction to reduction to 90 HP load with LT supply effective from 21.10.2006 i.e. 30 days from the date of receipt of application by the non-applicant and to revise energy bill considering reduced load of 90 HP from the next billing cycle i.e. from 25.10.2006.
- 4) To refund excess energy bill paid by the applicant alongwith interest considering 90 HP as sanctioned load effective from 21.10.2006.

- 5) To raise demand note for HT supply as per Schedule of charges decided by MERC on 08.09.2006.
- 6) To penalize the MSEDCL for not performing its duties and provide compensation to the applicant as per provisions of the Electricity Act, 2003 and the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 hereinafter referred-to-as the SOP Regulations.

The applicant before approaching this Forum had applied to the Superintending Engineer MSEDCL, NUC Nagpur on 31.01.2006 requesting him to issue bills for the off-season as declared by him as per Maharashtra Electricity Regulatory Commission's (hereinafter referred-to-as the Commission) tariff order based on the actual usage of electricity. The applicant had informed the non-applicant details of season and off-season months of working in the format prescribed vide his letter dated 18.01.2006 for the calendar year 2006. The applicant had also applied to the non-applicant for reduction of his contract demand from 120 KVA to 90 HP at LT line vide his application dated 19.09.2006. However, no cognizance of his requests was taken and hence, this grievance application.

The intimations given to the Superintending Engineer as stated above are deemed to be the intimation given to the Internal Grievance Redressal Cell (in short the Cell) under the said Regulations. Hence, the applicant was not

required to approach the Cell again under the said Regulations.

The matter was initially fixed for hearing on 09.02.2007 and both the parties were heard on this date on the applicant's prayer No. 1 for granting interim stay in terms of Regulation 8.3 of the said Regulations against the threatened disconnection of his power supply. Upon hearing both the parties, interim stay was granted till 28.02.2007 subject to the applicant depositing 50% of the disputed bill amount of December 2006 immediately vide this Forum's order dated 09.02.2007. Accordingly, it was reported that the applicant has paid 50% amount of the disputed energy bill and the notice dated 24.01.2007 was not acted upon.

The matter was subsequently finally heard on 27.02.2007 on merits.

The applicant's case was presented before this Forum by his nominated representative one Shri R.B. Goenka.

The Superintending Engineer, NUC, MSEDCL, Nagpur and the Nodal Officer i.e. Executive Engineer, Mahal Division MSEDCL, NUZ, Nagpur presented the case of the non-applicant Company.

The applicant's representative has contended that the applicant's Industrial Unit is a seasonal Industry and the applicant submits details of season and off season months every year to MSEDCL. The applicant's contract demand is of 120 KVA and connected load 201 KW. The applicant availed of supply of electricity of 11 KV. The applicant declared season and off-season months to MSEDCL on 07.04.2005 for the calendar year 2005 and again on 31.01.2006 for the calendar

year 2006. In these declarations it is shown that the applicant's industrial Unit would not work from May, 2005 to Nov. 2005 and from January 2006 till November 2006. The applicant also applied for reduction of contract demand from 120 KVA to 90 HP at LT supply vide his application dated 19.09.2006. Further, the applicant, on 21.11.2006, pointed out to the MSEDCL that the applicant's industry was closed in the previous season also and even then, the MSEDCL erroneously charged 75% of contract demand as billing demand. The applicant also reminded him about its application for reduction of contract demand. The MSEDCL did not take any cognizance of the application for reduction of contract demand. A reminder letter dated 22.12.2006 was also submitted for reduction of load to 90 HP. Despite this position, the non-applicant issued the energy bill for the month of December, 2006 based on 75% of contract demand of 120 KVA amounting to Rs.42,810/-. The applicant did not make payment of this exorbitant and wrong bill and subsequently MSEDCL issued 15 days' notice on 24.01.2007 threatening power disconnection.

He vehemently argued that all the actions of the non-applicant are unjust, improper and illegal.

He cited the Commission's first tariff order dated 05.05.2000 and contended that there was no provision for seasonal tariff and as such a number of applicants filed a review petition to the Commission. On 13.12.2000, the Commission passed order introducing seasonal tariff. He stressed upon the specific observation of the Commission that Cotton Ginning and Pressing Factories were treated as

seasonal consumers. As per the tariff order, Cotton Ginning & Pressing factories were categorized under HTP-I and HTP-II category. The Commission also held that there is some justification in the high-tension seasonal consumers' demand for continuation of a separate tariff category and accordingly, the Commission made the following amendments with respect to the tariff order on 05.05.2000.

“ The Commission defines a “Seasonal Consumer” as one who works, depending on weather conditions, during a part of the year upto a maximum of 9 months, such as Cotton Ginning Factories, Salt Manufacturers and Oil Mills and such other consumers as may be approved by the Commission from time to time.”

The Commission issued a second tariff order dated 10.01.2002 and has retained the seasonal category of seasonal consumers rationalizing demand charges and energy charges for this category as has been illustrated at Pages 33 and 34 of the tariff order. Subsequently, the Commission issued corrigendum and clarifications to the tariff order dated 10.01.2002, vide its letter dated 29.04.2002 addressed to the Chairman, MSEB, in which at page 2, applicability of tariff to seasonal consumer has been clarified. The Commission issued another order dated 04.06.2002 in the petition filed by different consumers observing that the matter of declaration of “Season” in the month of April, as earlier directed by the Commission is of administrative nature and the MSEB (now MSEDCL) at its divisional level can sort out such issues itself and further that, based on historical data, the seasonal consumer can project its plan as they plan their all other

aspects of operation to facilitate the supplier's (MSEB's) planning of power plants maintenance etc.

The MSEDCL issued Departmental Circular No. 668 dated 30.07.2002 based on the Commission's tariff order and has defined the Seasonal Consumer on the lines of Commission's definition.

The applicant's representative further relied upon the Commission's next tariff order dated 10.03.2004 in which it held that "the Seasonal category will include all consumers who opt for a seasonal pattern of consumption, without the need for further approval from the Commission. The consumers should approach the MSEB for classification under the seasonal category if their business is such that electricity requirement is seasonal in nature. The shift from seasonal to normal connection and vice-versa, can be done only once each year, at the beginning of the year"

He added that the MSEB (now MSEDCL) issued HT tariff booklet effective from 01.12.2003. The billing demand for seasonal consumers has been decided in the tariff booklet as under.

"(B) As exclusively applicable to seasonal consumers, means the demand issued for billing purposes and computed as the highest of the following.

I) For the declared season

- a. Actual established demand, during the period 06-00 hrs to 22-00 hrs.
- b. 75% of the contract demand
- c. 50 KVA.

(II) For the off-season;

Actual established demand during the period 06–00 hrs. to 22-00hrs.”

Relying on the above pleadings, the applicant’s representative strongly submitted that the MSEDCL has erroneously charged 75% of contract demand in the months of January, February, March and April, 2006 which were declared as off season vide his declaration dated 31.01.2006. According to him, this act of MSEDCL is against the provisions of tariff order of the Commission. He has produced on record copies of energy bills in question.

On the grievance of non-reduction of applicant’s load from 120 KVA at 11 KV to 90 HP at LT supply, the applicant’s representative argued that the applicant’s application dated 19.09.2006 for reduction of load was duly received by Superintending Engineer, MSEDCL, Nagpur Rural Circle on 21.09.2006. According to him, this reduction should have been effected after expiry of 30 days from the date of receipt of application i.e. from 21.10.2006 and that all subsequent energy bills should have been based on reduced connected load with LT tariff. However, the MSEDCL did not issue order of reduction of load till the date of filing the present grievance application and this has resulted in miscarriage of justice.

He added that the non-applicant has violated Regulations 4.4 and 9.3 of SOP Regulations. He continued to submit that the non-applicant did not care to follow the SOP Regulations even after the applicant reminded him subsequently. It is on this ground that he vehemently contended that the non-applicant is liable for payment of

compensation to the applicant as per clause 7 of Appendix "A" of the SOP Regulations. He also relied upon the provision of Section 43 (1) of the Electricity Act, 2003 and further contended that the licensee i.e. the non-applicant is liable for a penalty as per Section 43(3) of the Electricity Act, 2003.

Based on the above submissions, he requested that the excess amount charged to the applicant from the second billing cycle after the date of receipt of his application should be refunded to him along with interest.

Quoting the Commission's tariff order dated 08.09.2006, he added that the non-applicant may raise demand note based on the schedule of charges decided by the Commission in the tariff order. According to him, the charges specified are Rs.6500/- for motive power above 67 HP upto 107 HP for overhead connection for LT supply.

He further pointed out that the applicant was not required to pay the erroneous energy bill for the month of December, 2006.

He lastly prayed that the reliefs asked for by the applicant in his prayer clauses of the grievance application may be granted.

The Superintending Engineer, Nagpur Urban Circle has filed on record his parawise comments dated 23.02.2007 on the applicant's grievance application.

In this report, it is stated that the applicant was served with 15 clear days' notice for disconnection of HT supply rightly since he did not pay bill amount of Rs.42,810/- for the month of December, 2006. He has added that this notice may now be ignored subject to final decision in the

matter since the applicant has paid 50% of the bill amount on 12.02.2007 as ordered by this Forum earlier on 09.03.2007.

He further stated that the applicant gave a declaration dated 07.04.2005 declaring therein the off-season months as well as season months and based on that proper billing was done for the financial year 2005-06. The billing done in the financial year 2006-07 was also based on the declaration given by him for the financial year 2006-07 on 31.01.2006. The applicant again applied on 21.11.2006 stating therein that due to non-availability of Cotton in the Ginning Factory it was decided to stop the work for Ginning & Pressing in the Unit during the season from 01.11.2006 to 30.10.2007. He submitted that the applicant's request cannot be considered as most of the billing of financial year 2006-2007 has been done and the energy bills issued in this regard were also paid by the applicant without raising any protest. He, therefore, vehemently stated that the applicant's request for refund of excess energy charges does not deserve any consideration.

On the applicant's grievance of non-reduction of his load from 120 KVA at 11KV to 90 HP at LT supply, the Superintending Engineer has stated that the applicant had applied on 19.09.2006 for reduction of his load. The applicant has subsequently, on 04.01.2007, submitted an application on plain paper demanding reduction of contract demand from 120 KVA to 50 KVA instead of to 90 HP. The Superintending Engineer laid stress on this point and contended that the applicant has changed his mind and in that, he submitted revised application amending his earlier application dated

19.09.2006. The applicant required HT supply considering his revised application in place of LT supply as earlier prayed for by him. He vehemently argued that it was the applicant who created confusion in the matter by submitting a revised application subsequently, and therefore, a letter, being letter dated 12.02.2006 came to be issued to him for submission of application in the prescribed format and asking him to deposit processing fee of Rs. 1000/- as per Commission's tariff Order dated 08.09.2006 and the MSEDCL's Circular, being Circular no. 43 dated 27.09.2006. His office issued a letter, being letter No. 964 dated 12.02.2007, communicating to him that if supply is required at LT, he will have to apply for disconnection of HT supply and then his application for LT supply can be processed.

He lastly prayed that the applicant's application may be dismissed.

The applicant's first main grievance is in respect of excessive billing charged @ 75% of the contract demand during the months of January, February, March and April, 2006. The applicant in this respect had referred to application dated 07.04.2005 and another dated 31.01.2006 by which information regarding season and off-season working has been furnished for calendar years 2005 and 2006 respectively. In the application dated 07.04.2005, the applicant has stated that the applicant's Unit generally works from December to April every year i.e. for 4 to 5 months. The applicant also furnished a statement informing that season months shall be January, February, March, April and December in the calendar year 2005 while the off-season months shall be from May to

November, 2005. Accordingly, billing has been done for the calendar year 2005. There is no dispute in respect of the calendar year 2005.

The limited dispute is for the months of January, February, March and April, 2006.

The non-applicant has raised bills to the applicant treating these four months as season months while the applicant wants billing to be done considering these four months as off-season months. In this respect, the intention conveyed in declaration made by the applicant vide his application dated 31.01.2006 is important. In this application, the applicant has clearly mentioned that raw cotton has not arrived till 31.01.2006 in the season 2006 in the factory compound for processing and that there is no possibility of its arrival in the remaining season. The applicant has, therefore, requested the non-applicant to take actual reading and bill him as off season months. In the tabular statement embodying this application, the applicant has given details monthwise from January, 2006 to December, 2006 and in that, it is declared that months of May to November, 2006 shall be off season months and also that the applicant's Unit will not be working during the season months of January to April, 2006. The working season shall be only December, 2006.

Months of January to April, 2006 are mentioned as season months in this tabular statement. However, there is a specific note that the applicant's unit will not be working in these four months. What is important in the this context is the intention of the applicant and meaning of his intimation. The crystal clear meaning of the declaration dated 31.10.2006 is

this that the applicant's Unit would not be working in the months of January, February, March and April, 2006. The applicant, as a matter of fact, should have indicated these four months in the column of off-season months. However, the entire text of the application dated 31.01.2006 amply clarifies that the applicant's factory will not be working as a seasonal Industry during these four months.

The Superintending Engineer has referred to the applicant's declaration dated 07.04.2006 and another dated 31.01.2006 as declarations for the financial years 2005-06 and 2006-07 respectively. However, these declaration are meant for the calendar years 2005 and 2006 respectively and not financial years. The non-applicant ought to have solicited information from the applicant before the beginning of financial years 2005-06 and 2006-07 asking him to declare its season and off-season for these respective financial years. However, the record shows that non-applicant, by its letter dated 18.01.2006, solicited information from the applicant about season and off-season months for calendar year 2006 and not for the financial year 2006-07. Similar is the case with the preceding financial year 2005-06. Here also, there is a letter, being letter dated 17.02.2005, of the non-applicant which solicited information from the applicant for the calendar year 2005 and not the financial year 2005-06.

This Forum observes that a mistake was committed by the non-applicant in seeking declarations for the calendar years instead of financial years. May that be the case, the Forum considered the declarations made for calendar

years 2005 & 2006 as per record as detailed in the preceding paragraphs.

The applicant, on his part, has diligently replied the non-applicant in response to the later's letter dated 18.01.2006 and furnished information regarding season and off-season months for the calendar year 2006.

In view of above position, we hold that the non-applicant ought to have treated months of January, February, March and April, 2006 as off-season months and ought to have billed the applicant accordingly. It, therefore, follows that the billing done in these four months of the applicant @ 75% contract demand was clearly erroneous and improper.

We now direct the non-applicant to revise the energy bills issued to the applicant for these four months treating them as off-season months and refund excess amounts recovered alongwith interest.

The applicant's representative, during the course of hearing, submitted that the applicant by his letter dated 21.11.2006 informed the non-applicant that the working of ginning and processing of cotton would be closed from 01.11.2006 till 30.10.2007. In that, he has specifically made a request to treat December, 2006 as off-season month. Despite this position, the non-applicant wrongly billed the applicant treating month of December as season month. He solicited relief from this Forum for the month of December, 2006 also However, we hold that the billing already done to the applicant treating December, 2006 as season month needs no correction in as much as the applicant by his letter dated

31.01.2006 had already earlier declared month of December, 2006 as a working season month. The declaration once made for the calendar year 2006 in the present case can not be allowed to be changed during the calendar year 2006. The Commission in its letter No. 0418 dated 29.04.2002, addressed to the Chairman, MSEB has amply clarified that the declaration made by every seasonal consumer cannot be changed during the financial year.

The amendment proposed by the applicant by way of his application dated 21.11.2006 requesting for changing his declaration for the month of December, 2006 as off-season month, therefore, cannot sustain. We hold that the non-applicant rightly did not consider this application.

As regards the second main grievance of non-reduction of applicant's load vide his application dated 19.01.2006, this Forum observes that it is the applicant who created confusion in the matter vide his subsequent letter dated 04.01.2007. The applicant by his earlier application dated 19.09.2006 had requested for reduction of load from 120 KVA at 11 KV to 90 HP at LT supply. However, subsequently on 04.01.2007, the applicant demanded reduction of contract demand from 120 KV to 50 KVA. Had he not submitted this revised application dated 04.01.2007, the non-applicant was bound to abide by all the provisions by SOP Regulations. Hence, no fault can be attributed to the non-applicant for not reducing the applicant's load as per his earlier application dated 19.09.2006. The non-applicant was, indeed, not sure whether the applicant wants reduction of load from 120 KVA to 90 HP (73.80 KVA) or 50 KVA (67 HP) in view of the

applicant's letter dated 04.01.2007. On receipt of application dated 04.01.2007, the non-applicant has asked the applicant by letter dated 12.02.2007 to submit application in the prescribed form and further asking for depositing amount of Rs.1000/- as application processing charges as per the Commission's tariff order and MSEDCL's Circular, being Circular no. 43 dated 27.09.2006.

The applicant's representative has submitted before this Forum on 27.02.2007 a copy of applicant's letter dated 26.02.2007 addressed to the Superintending Engineer under which the applicant's letter dated 04.01.2007 for reduction of load from 120 KV to 50 KVA has been withdrawn. The contention of the applicant's representative is that the letter dated 04.01.2007 was a simple letter on a plain paper and it was not in the format prescribed by MSEDCL and as such, the non-applicant should not have considered the application made on plain paper. However, we are unable to agree with this submission. What is important is the meaning conveyed by the applicant vide his letter dated 04.01.2007. In that, it has clearly been mentioned that the applicant wanted reduction of load from 120 KVA to 50 KVA thus materially revising its earlier application.

The applicant's representative has made a submission that the processing fees of Rs.1000/- shall be paid in case this Forum decides that such fees is required for reduction of load also. In this respect, looking to the provision contained in Regulations 6.8 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 hereinafter referred-to-as the Supply Code Regulations, this

Forum holds that processing fees of Rs.1000/- shall be necessary as per the Commission's tariff order dated 08.09.2006 in as much as request made for reduction of contract demand / sanctioned load has to be treated as an application. There is, therefore, nothing wrong if the non-applicant has asked the applicant for depositing processing fees of Rs.1000/-.

Thus, we find no substance in the applicant's second main grievance and it stands rejected.

In view of above position, the non-applicant is not liable for payment of any compensation to the applicant in terms of SOP Regulations neither can he to be held responsible for failure in terms of Section 43 of the Electricity Act, 2003 as claimed by the applicant.

The non-applicant should follow the Commission's orders while raising demand note for reduction of load for HT / LT supply, as the case may be, once all the required formalities are completed.

In the result, the grievance application is partly allowed and it stands disposed of in terms of this order. All the applicant's prayers stand answered in the above referred elaboration.

The interim order issued by this Forum on 09.02.2007 stands revoked in view of final decision in this case.

The non-applicant shall report compliance of this order to this Forum on or before 15.04.2007.

Sd/- (S.J. Bhargawa) Member-Secretary	Sd/- (Smt. Gauri Chandrayan) MEMBER	Sd/- (S.D. Jahagirdar) CHAIRMAN
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**CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR.**

**Member-Secretary
Consumer Grievance Redressal Forum,
Maharashtra State Electricity Distribution Co.Ltd.,
Nagpur Urban Zone, NAGPUR**