

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

Case No. CGRF(NUZ)/307/2014

Applicant : Dr. Vinay B. Nangia,
Plot No. 559, New Colony,
Byramji Town,
Nagpur.

Non-applicant : Nodal Officer,
The Superintending Engineer,
(Distribution Franchisee),
MSEDCL,
NAGPUR.

Quorum Present : 1) Shri Shivajirao S. Patil,
Chairman.

2) Adv. Subhash Jichkar
Member.

3) Shri Anil Shrivastava,
Member / Secretary.

ORDER PASSED ON 19.1.2015.

1. The applicant filed present grievance application before this Forum on 29.11.2014 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

2. The applicant's case in brief is that normal assessment bill Dt. 27.8.2014 for Rs. 744483/- (Rs. Seven Lac Forty Four Thousand Four Hundred Eighty Three only) for a period of 40 months issued by

the Vigilance Head of SNDL on 27.8.2014 is unjustified and illegal. This is a case of faulty metering of energy consumption i.e. discrepancy since C.T. of the meter was found to be burnt. Applicant has therefore, stressed that considering his meter as faulty, assessment only for 3 months should have been charged to him in terms of regulation 15.4.1 of MERC's Supply Code Regulations 2005 and applicant requested to set aside the disputed bill and charge him only for 3 months consumption.

3. It is further submitted by the applicant that Mr. Purohit, Vigilance Head assured him to reduce the period of assessment from 40 months to 24 months and that he would give him 15 % additional discount if the applicant comes to him with a blank cheque for making payment on spot, and this verbal request of Shri Purohit was illegal. Applicant approached to I.G.R.C. Being aggrieved by the order passed by Learned I.G.R.C. Dt. 8.11.2014 in case No. 943/14, he approached to this Forum.

3. Non applicant denied applicant's case by filing reply Dt. 16.12.2014. It is submitted that applicant is consumer bearing No. 419993286436. The said connection is given for commercial purpose since 30.1.2002. On perusal of CPL, it is observed that energy bills were issued to the applicant as per actual meter reading he has paid the energy bills. The Vigilance Officials visited the applicant's premises on 26.8.2014. During the inspection as per MRI report, "R" phase C.T. was found to be burnt and normal assessment bill for Rs. 744483/- for a period of 40 months issued by Vigilance Head on 27.8.2014. The applicant was not satisfied with assessment bill and he filed grievance application to Learned I.G.R.C., SNDL, Nagpur. As per

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Vigilance Head e-mail Dt. 7.11.2014, purpose of use of power is for Hospital. He had agreed to revise the bill for 24 months only & as per management policy, the applicant was offered 10-15 % discount if the bill is paid in one stroke. Applicant claimed revision of bill under regulation 15.4.1 of MERC's Supply Code Regulations 2005, but it is not applicable because though "R" phase of C.T. was found burnt due to overheating. In such case at the most, meter would have recorded less consumption though the consumer has utilised more power.

4. It is further submitted that purpose of uses of power is for Hospital and as such the correct tariff category of the applicant as per MERC's tariff order is LT X B) (Public Service) for the entire period of 24 months and not L.T. II (B). As per section 56 (2) of Electricity Act 2003, Distribution Licensee / Franchisee can recover any such amount for a period of 24 months. Therefore Learned I.G.R.C. directed the Vigilance Head to revise the said assessment bill as per order dt. 8.12.2014. Assessment bill in question is set aside by Learned I.G.R.C. & Vigilance Head is directed to revise assessment amount considering the period of assessment for 24 months i.e. from September 2012 to August 2014. Since the purpose of use of power is for Hospital, applicant's relevant category as per MERC's tariff order Dt. 16.8.2012 is LT X(B)(Public Service). As order of Learned I.G.R.C., normal assessment bill for a period of September 2012 to August 2014 for tariff LT-II(A) to LT X (B) on 24.11.2014 amounting to Rs. 320403/- (Rs. Three Lac Twenty Thousand Four Hundred Three only) is issued to the applicant. As per order of Learned I.G.R.C. assessment bill revised as per Section 56 (2) of Electricity Act 2003, assessment bill issued to the applicant for 24 months is correct. Grievance application deserves to be dismissed.

4. Forum heard argument of non applicant and perused record.

6. Close scrutiny of the entire record shows that purpose of use of power in this case is for Hospital. During the pendency of the matter before I.G.R.C. it was admitted to revise the bill in question for 24 months only and as per management policy, the applicant was offered 10 – 15 % discount if the bill is paid in one stroke. However, it is the contention of the applicant that he should have been charged for 3 months only, on the ground of faulty meter as per regulation 15.4.1 of MERC Supply Code Regulations 2005. However, in our opinion, this contention of the applicant is not tenable at law because though “R” phase of the C.T. was found burnt due to overheating this no way can adversely affect the applicant’s meter. In such a case, at the most, meter would record less consumption though the consumer has utilised more power. In no case, the meter in such an event, would record high quantum of consumption. In other words, consumption quantum can not shoot up because of burnt “R” phase of the C.T.

7. The assessment bill issued by Vigilance Head of SNDL discloses that applicant had exceeded the quantum of his sanctioned load beyond 20 kW from March 2011 to July 2014 every month. The assessment amount includes the penalty on excess demand and difference in energy charges due to change of applicant’s category from LT II (A) to LT X (B) (public service) i.e. (more than 20 kW and less than 50 kW) in the commercial category of the consumer. It is noteworthy that the period of assessment of disputed bill is 40 months. Documentary evidence regarding drawal of excessive demand since last 40 months was called for, by Learned I.G.R.C. from the Vigilance Head

and in reply Vigilance Head has forwarded copies of M.R.I. report since April 2012 to August 2014 in support of his assessment bill to Learned I.G.R.C.

8. Close scrutiny of all the MRI reports discloses that applicant has continuously drawn more power and exceeded his sanctioned demand of 18 kW i.e. 23 kVA since last more than 2 years preceding the date of inspection i.e. since prior to 26.8.2014.

9. As per MRI report, maximum demand utilised by the applicant is up to 49.67 kVA in the month of May 2014 and the Vigilance Head has considered M.D. of 42 kVA (on the date of inspection) on average basis for calculation of assessment. Actually the consumer is billed through out under L.T. II (A) (0 to 20 kW) category and demand based tariff is applicable in case of L.T. II (B) (more than 20 kW and less than 50 kW) category of the consumer.

10. For this purpose this Forum placed its reliance on the order passed by MERC in its order dated 10.9.2009 in case No. 46 of 2009 in the matter of petition filed by Reliance Infrastructure Ltd. for classification of tariff order issued by the Commission on R-Infra-D's APR petition for financial year 2008-2009 in case No.121 of 2008. This issue has already been amply clarified by Hon'ble MERC in the said order. The Commission's ruling and classifications are as under (vide page 6 of the order)

"It is clarified that the penalty for exceeding Contract Demand is applicable only for consumers availing demand based tariff and where Maximum Demand meters are installed. Since, for LT II (A) and LT III

categories, the fixed charges are levied on per connection basis, it is clarified that there is no penalty in case the consumer exceeds the “Sanctioned Load”, as the same can not be recorded with the existing metering facility. However, if the Utility has clear evidence to show that the actual load is higher than the sanctioned load, then the consumer’s sanctioned load will have to be restated”.

11. Facts of the present case and facts of the authority cited supra are similar and identical and therefore the said ruling of MERC is squarely applicable to the case in hand. From the above clarification, it is crystal clear that tariff category of the consumer can be changed from LT II (A) to LT X (B) or for that matter from LT X (A) to LT X (B) when there is clear evidence to show that actual load used is higher than sanctioned load. In the instant case, MRI report clearly shows that the applicant has utilised higher load (beyond 20 kW) than his sanctioned load every month and in fact it is also breach of agreement.

12. It is noteworthy that Hon’ble Electricity Ombudsman Mumbai has also passed the order dated 29.3.2012 in representation No. 21/12 and clearly ruled that the Distribution Licensee / Franchisee can charge assessment by reclassifying the category of consumer based on actual demand utilised by the consumer especially when it is more than sanctioned load, provided that the maximum period of such assessment should not exceed 24 months preceding the month of assessment (as per Section 56.2 of E.A. 2003). In this order it is further clarified that assessment should be limited to those months only in which the demand is exceeded than the sanctioned load and not the entire period of 24 months.

13. It is noteworthy that M.S.E.D.C.L. has issued a detail commercial circular No. 25230 Dt. 5.9.2013 based on MERC's tariff order Dt. 16.8.2012 (Case No. 19/12). In that, under the caption of "Miscellaneous and General Charges" under the sub head "Penalty for exceeding Contract Demand" at Page No. 21, it has been laid down that in case consumer (availing demand based tariff) exceeds his contract demand, he will be billed at appropriate demand charge rate or the demand actually recorded and will additionally be charged @ 150% of prevailing demand charges (only for excess demand over the Contract Demand).

14. In case, any consumer exceeds demand on more than 3 occasions, in a calendar year the action taken in such cases would be governed by the Supply Code. It is noteworthy that as per regulation 13 of MERC's Supply Code Regulations 2005, Distribution Licensee / Franchisee, may classify or reclassify the consumer into various Commission's approved tariff category based on the purpose of uses of supply by such consumer. The gist of the above citation is that if the consumer of L.T.II(A) commercial category or for that matter LT X(A) (public service category), whose sanctioned load is less than 20 kW exceeds his load beyond 20 kW but less than 50 kW in any month and it is so proved on the basis of documentary evidence (like MRI reports), then his tariff category shall be changed from L.T. II(A) to L.T. II (B) category or for that matter from LT X (A) to LT X (B) tariff category and he shall be billed according to change of reclassified category and also that if such consumer exceeds his sanctioned load as stated above for more than 3 occasions in a calendar year, he can be charged penalty as is applicable to demand based tariff category for the demand actually recorded i.e. 150% of the prevailing Demand Charges only for

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the excess demand over the sanctioned one. On this basis, Vigilance Head of SNDL was empowered to issue assessment bill on account of utilization of excess demand by changing the tariff category.

15. So far as number of months of excess demand is concerned, it is crystal clear from MRI report that demand is increased for the entire period of 24 months per month continuously more than 20 kW and less than 50 kW. It is noteworthy that purpose of use of power in this case is for Hospital and as such, the correct tariff category of the applicant as per MERC's tariff order is LT X(B) (public service) for the entire period of 24 months and not LT II (B).

16. We have closely scrutinized entire order passed by Learned I.G.R.C. Learned I.G.R.C. had already set aside assessment bill in question and directed the Vigilance Head of SNDL to revise assessment amount considering period of assessment for 24 months i.e. from September 2012 to August 2014 in terms of the said order and since the purpose of use of power is for Hospital the applicant's relevant category as per MERC's tariff order Dt. 16.8.2012 is L.T. X (B) (public service) (more than 20 kW and less than 50 kW and therefore ordered that assessment should be recalculated as per LT X (B) category and not LT II (B) i.e. commercial category along with imposition of penalty as per the tariff order.

17. On close scrutiny of entire record, relevant regulations and cited rulings this Forum is of considered opinion that order passed by Learned I.G.R.C. in case No. 943/14 Dt. 8.12.2014 is perfectly correct, legal and valid. Therefore it needs no interference.

18. For these reasons, in our opinion grievance application deserves to be dismissed. Resultantly, Forum proceeds to pass the following order :-

ORDER

- 1) Grievance application is dismissed.

Sd/-
(Anil Shrivastava)
MEMBER
SECRETARY

Sd/-
(Adv. Subhash Jichkar)
MEMBER

Sd/-
(Shivajirao S. Patil),
CHAIRMAN