

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

Case No. CGRF(NUZ)/029/2007

Applicant : M/s. Shivmal Ispat Pvt. Ltd.,
Bunglow-19, H.B. Town,
Old Pardi Naka,
Nagpur-440009.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Division No. I, NUZ,
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 05.07.2007)

The present grievance application has been filed on
18.05.2007 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 excessive and incorrect demand note amounting to Rs.42,71,100/- charged and recovered from the applicant vide the non-applicant's load sanction order bearing no. 2789 dated 27.04.2005 towards sanction of new power supply at 33 KV to the applicant's Unit at Village Marodi, Tahsil, Mouda, Dist. Nagpur for contract demand of 3000 KVA. His grievance also is in respect of excessive amount charged to the applicant towards demand charges in the first energy bill for the month of June, 2005.

The applicant has sought for grant of reliefs from this Forum on the following points:

- 1) The MSEDCL be directed to refund to the applicant the difference of SLC and cost of estimate amounting Rs. 11,42,640/-;
- 2) The MSEDCL be directed to collect 15% supervision charges on labour component of estimate for new connection and shifting of line and to refund excess amount charged to the applicant.
- 3) The MSEDCL be directed to refund the excess demand charges amounting to Rs. 3,57,336/- charged to the applicant in the month of June, 2005.

Before approaching this Forum, the applicant addressed a letter, being letter no. 085 dated 02.05.2005, to the Superintending Engineer, NRC MSEDCL, Nagpur on the subject of discrepancies in the

load sanction letter dated 27.04.2005 and brought to his notice a number of discrepancies in the sanctioned estimate of work as elaborated in this letter. The applicant also informed the Superintending Engineer that he was making payment of the demand note amount under protest and requested him to revise the estimate and to refund the excess amount charged and already paid. A second intimation being, intimation no. 213 dated 24.06.2005, was given by the applicant to the Superintending Engineer again requesting for revising the estimated cost with a request to refund excess amount charged after revising the estimated amount based on works executed by the applicant. A grievance in respect of erroneous and excess demand charges for the month of June, 2005 was also submitted by the applicant to the S.E. NRC MSEDCL, Nagpur under his letter, being letter no. 331 dated 13.08.2005. Despite this position, no remedy was provided to the applicant's grievance. Hence, the present grievance application.

The intimations given to the Superintending Engineer, NRC as aforesaid are deemed to be the intimation given to the Internal Grievance Redressal Cell (in short, the Cell) in terms of Regulation 6.2 of the said Regulations. For this reason, the applicant was not required to approach the Cell again for the purpose of redressal of his present grievance.

In view of this position, the applicant's grievance application was registered by this Forum under the said Regulations and the matter was fixed for hearing.

The matter was heard on 13.06.2007 and 20.06.2007.

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

The applicant's representative contended that the applicant applied for sanction of electric load for contract demand of 3000 KVA vide his application dated 30.09.2004. The Assistant Engineer, MSEDCL, Mouda prepared an estimate of the works to be executed and the estimated cost worked out was Rs.9,46,483/-. The Executive Engineer concerned revised the estimate and prepared a new estimate for Rs.5,55,700/- by changing quantity of cable without any reason. The MSEDCL (erstwhile MSEB) issued load sanction order dated 27.04.2005 with a demand note of total charges of Rs.42,71,100/- which included Rs. 29,55,620/- as security deposit, Rs.70,000/- as service connection charges, Rs.11,42,640/- as difference of SLC and cost of estimate, Rs.54,800/- as 15% supervision charges as per SE's sanction dated 25.04.2005, Rs. 48,000/- as charges for cost of meter and 15% supervision charges for the 33 KV indoor cubicle with CTR and Rs.40/- as cost of agreement. The applicant paid the demand note amount vide his letter on dated 02.05.2005 under protest since there were discrepancies in the demand note. The MSEDCL did not respond to the applicant's letter dated 02.05.2005 and hence, the applicant issued a notice under Section 142 of the Electricity Act, 2003 on 24.08.2005 initiating the grievance. Though all the discrepancies were pointed out to the non-applicant, there was no response from him. The supply release letter was issued to the applicant on 24.05.2005 and supply was connected on 26.05.2005. The applicant received his first bill for the month of June, 2005. Excess amount was charged towards demand charges in this bill as pointed out by the applicant's letter dated

13.08.2005. According to him, the MSEDCL has charged amount of Rs.3,57,336/- in excess as demand charges.

After having pointed out the aforesaid sequence of events, the applicant's representative argued that the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 hereinafter referred-to-as Supply Code Regulations came into force w.e.f. 20.01.2005 and as such, the non-applicant was duty bound to follow scrupulously the legal provisions of Supply Code Regulations. However, instead of following these legal provisions, the non-applicant erroneously adhered to the erstwhile conditions of supply of electrical energy which in the present matter were inconsistent with Supply Code Regulations.

He laid stress on Regulation 3.3 of Supply Code Regulations meant for recovery of expenses for giving supply. His submission is that the applicant never required dedicated distribution facility for his Unit. Hence, the non-applicant's claim that dedicated feeder was provided for giving supply is not correct.

He added that legal provision contained in Regulation 3.3.4 of Supply Code Regulations provides that "where the provision of supply to an applicant entails works, not being works referred to in Regulation 3.3.2 and Regulation 3.3.3, for augmentation of the distribution system, the Distribution Licensee shall be authorized to recover from the applicant such proportion of the expenses reasonably incurred on such works as the load applied for bears to the incremental capacity that will be created by augmentation of the distribution system:

Provided that where the load applied for does not exceed 25% of the capacity that will be created by augmentation of the distribution system, the Distribution Licensee shall not be entitled to recover any expenses under this Regulation 3.3.4:

Provided further that any dispute with regard to the need for and extent of augmentation of the distribution system under this Regulation 3.3.4 shall be determined in accordance with the procedure set out in the Consumer Grievance Redressal Regulations”.

The applicant’s unit was given supply from the existing feeder and no works were required to be executed for augmentation of the distribution system. Hence, the non-applicant was not at all authorized to recover expenses towards difference of SLC and cost of estimate and other ineligible expenses.

He also relied upon Regulation 3.3.8 which provides that where the Distribution Licensee permits an applicant to carry out works under Regulation 3.3 through a Licensed Electrical Contractor, the Distribution Licensee shall not be entitled to recover expenses relating to such portion of works so carried out by the applicant:

Provided, however, the Distribution Licensee shall be entitled to recover, from the applicant, charges for supervision undertaken by the Distribution Licensee, at such rate, as may be approved in the schedule of charges under Regulation 18, not exceeding 15% of the cost of labour that would have been employed by the Distribution Licensee in carrying out such works. According to him, in the present case, the applicant carried out the work of shifting of service line and other works through a licensed electric contractor. Hence, the Distribution Licensee is not entitled to recover expenses relating to works carried

out by the applicant. The licensee did not carry out any work of augmentation of the distributing main for giving supply to the applicant and as such difference between SLC and cost of estimate amounting to Rs.11,42,640/- is not recoverable. He further submitted that the non-applicant should have charged supervision charges @ 15% on labour component only as provided in Regulation 3.3.8 As such, supervision charges amounting to Rs.54,800/- and Rs. 48,000/- charged @ 15% of the estimated cost for giving supply and shifting of lines are charged in excess in violation of Supply Code Regulations. He requested that the excess supervision charges recovered from the applicant be refunded to him after proper calculation of these charges based on labour component of the estimate.

The applicant's representative has submitted a detailed submission indicating that an amount of Rs.13,08,187/- has been charged in excess. His request is that this amount be refunded to the applicant. The break-up given by him of this amount is as under.:

- 1) Service connection charges not payable Rs. 70,000/-
- 2) Difference of SLC and estimate Rs. 11,42,640/-
- 3) Supervision charges of estimate Rs. 51,147/-
- 4) Supervision charges of metering system Rs. 44,800/-

Total Rs.13,08,587/-

As regards his grievance about the excess demand charges recovered from the applicant in the month of June, 2005, the applicant's representative's submission is that supply was connected to the applicant's Unit on 26.05.2005 and the meter reading was taken on 20.06.2005. The KVA MD recorded on 20.06.2005 was 2748 KVA. This

MD should have been charged on proportionate basis for 24 days only. Hence, for 24 days, the MD charges should have been charged as

$\text{Rs. } 2748 \times 330 \times 24 = \text{Rs. } 7,45,472/-$ As against this, the Distribution
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Licensee has charged an amount of Rs.10,03,208/-. Hence, according to him, excess amount of Rs.3,57,336/- should be refunded to the applicant. In this respect, he relied upon definition of word "Month" made in Regulation 2.1 (i) of Supply Code Regulations which provides that the month in relation to billing of charges, means the English Calendar month or any period of thirty days.

According to him, recovery of demand charges is unjust, improper and illegal.

In reply, the non-applicant has stated in his parawise report dated 12.06.2007 that initially estimate of HT line prepared by the Assistant Engineer concerned was of Rs.9,46,483/-. On physical verification of the site, actual requirement of HT cable was assessed and the estimated amount revised to Rs.5,55,700/- It was subsequently sanctioned by the S.E. NRC for Rs. 4,20,200/- which included cost of material + 15% supervision charges.

The reduction of cost of estimate is due to correction carried out costwise, quantity-wise at divisional and circle level. He denied that revision of estimate was carried out intentionally in order to enhance the difference between the SLC & cost of estimate.

The metering arrangement was required to be provided by the consumer at 4 pole structure for cross checking. This requirement was informed to the applicant vide letter dated 21.05.2005. The applicant agreed to provide the same and gave consent for it vide his

letter dated 21.05.2005. However, the same is not provided by the applicant till date.

While justifying the correctness of charges, the non-applicant has stated that the service line charges are of Rs. 15,08,040/- while the cost of estimate of works is Rs.3,65,400/- excluding 15% supervision charges. Hence, the difference of SLC and cost estimate amounting to Rs.11,42,440/- was correctly charged in the sanction letter dated 27.04.2005. Supervision charges included in the estimate were Rs.54,800/-.

He added that as back-up metering arrangement is not provided by the applicant though agreed, the cost of CT PT, control cable and TOD meter cannot be considered. Hence, cost of Rs. 78,148/- towards this arrangement was deducted from the total cost of estimate. After deducting this cost, actual cost of estimate works out to Rs.2,87,252/-. Thereby, SLC will have to be revised to Rs.12,20,788/-. Out of this amount, the applicant has already paid amount of Rs.11,42,640/- and hence, difference of SLC and cost of estimate amounting to Rs.78,148/- is required to be paid by the applicant. Else, the applicant will have to provide metering arrangement as agreed by him for cross checking.

The quantum of 15% supervision charges is now revised by the non-applicant to Rs.4982/- as against the amount of Rs.54,800/- charged earlier to the applicant erroneously. The non-applicant admitted that an amount of Rs.49,818/- is charged in excess towards supervision charges in the load sanction letter dated 27.04.2005. This amount will be refunded to the applicant. However, an amount of Rs.78,148/- towards non-provision of back-up metering arrangement by

the consumer is still outstanding. Hence, according to him, a net amount of (Rs.78,148 – 49,818 to be refunded to the applicant =) Rs. 28,330/- is still to be recovered from the applicant. Since there is a recovery of Rs.28,330/- from the applicant, no amount is refundable from MSEDCL to the applicant.

On the point of energy bill for the month of June, 2005 issued to the applicant, the non-applicant's contention is that the first energy bill was issued on 01.07.2005. The reading date for the month of June was 20.06.2005. The recorded demand was 2748 KVA. Hence, demand charges were calculated for the period from 26.05.2005 to 30.06.2005 for 36 days and proportionate amount for 30 days for Rs.10,88,208/- was correctly charged to the applicant for 6 days of month of May + 30 days of month of June. According to him, no excess amount is charged and hence, question of refund does not arise.

In his additional written statement dated 20.06.2007, the non-applicant has reiterated all his submissions made in his earlier parawise report. He has also denied the applicant's claim that difference of SLC and cost of estimate cannot be recovered. It is his strong submission that all the charges excepting the supervision charges mentioned in the sanction letter dated 27.04.2005 are justified. According to him, facility of dedicated feeder has been provided to the applicant. The non-applicant has admitted that supervision charges amounting to Rs.49,818/- were charged in excess erroneously and that this will be refunded to the applicant. According to him, net amount still payable by the applicant comes to Rs.28,330/-.

We have considered all the submissions, written & oral, made by the both the parties before us.

In the instant case, the applicant has challenged the basic concept of recovering difference of service line charges and cost of estimate amounting to Rs.11,42,640/- which has been paid by him under protest to the non-applicant. His submission is that such a recovery is not permissible under the provisions of Supply Code Regulations meant for recovery of charges. He has also stated that the cost of estimate earlier prepared by the Assistant Engineer concerned has been reduced intentionally in order to recover high amount from the applicant. The non-applicant's argument is that all these charges are justified. The non-applicant's submission is that facility of dedicated feeder is provided to the applicant while the applicant has totally denied this. The applicant's representative has also submitted that there was no augmentation of distribution system as laid down in Regulation 3.3.4 of Supply Code Regulation and as such recovery of proportionate expenses incurred by the non-applicant are not permissible from recovery point of view.

The definition of the dedicated distribution facility has been made in Regulation 2.1 (g) of Supply Code Regulations. The 33 KV feeder line from which supply was connected to the applicant's Unit cannot be treated as dedicated distribution facility since it has not been clearly and solely dedicated to the supply of electricity to a single consumer i.e. the applicant or a group of consumers, on the same premises or contiguous premises. This Forum observes that non-applicant's claim that this was a dedicated distribution facility provided to applicant does not hold any substance. The applicant never required any such facility nor can it be treated as dedicated facility to the applicant.

The applicant's contention based on Regulation 3.3.4 of the Supply Code Regulations that there was no augmentation of the distribution system is also correct because the applicant was connected on the existing system. There is no evidence of augmentation of the existing distribution system for giving supply to the applicant.

Although it is true and correct that Regulations 3.3.3 and 3.3.4 are not attracted in the present case, the fact remains that there are other Regulations meant for recovery of expenses for giving supply and they are Regulations 3.2 (a), 3.3.1 and 3.3.2. Under these Regulations, the Distribution Licensee is permitted to recover expenses in accordance with the principles contained therein based on the rates in the schedule of charges approved by the MERC under Regulation 18.

In the instant case, stress is laid by the applicant's representative that the erstwhile conditions of supply which were in force prior to 20th January 2005 on which date the Supply Code Regulations have come into force are not applicable to the applicant's case. He has vehemently argued that the erstwhile conditions of supply which are made applicable to the applicant's case are inconsistent with provisions contained in Supply Code Regulations and as such they are invalid and inapplicable. For this purpose, reliance is placed by him upon provisions of Regulation 19.1 of Supply Code Regulations.

Against this back ground, it is necessary to see whether the non-applicant's action of recovering the difference of SLC and cost of estimate is correct and legal or not. This Forum observes that Regulation 18.4 of Supply Code Regulations clarifies the issue

This provision lays down that the existing schedule of charges of the Distribution Licensee shall continue to be in force until

such time as the schedule of charges submitted by the Distribution Licensee under Regulation 18.1 is approved by the Commission. It is a matter of record that the MSEDCL's (erstwhile MSEB) schedule of charges which were in force prior to the MERC's Order dated 08.09.2006 passed in case no. 70 of 2005 in the matter of approval of MSEDCL's schedule of charges were indeed applicable in the year 2005 when the applicant's matter was being finalized. As per the schedule of charges in force that time, recovery of difference of SLC and the cost of estimate was permissible. Hence, the contention of the applicant's representative that the non-applicant issued the sanction letter on 27.04.2005 in violation of the Supply Code Regulations is not correct and legal and as such, it is not acceptable to this Forum. It will be interesting to note that even the applicant while addressing his first letter dated 02.05.2005 to the Superintending Engineer concerned did not make a claim that difference of SLC and cost of estimate is not recoverable. His claim that time was that cost of estimate prepared by the Sub-Division Mouda of Rs.9,46,483/- was drastically reduced without any reason by the higher authority with a view to recover higher amount from the applicant towards difference of SLC and cost of estimate. The aspect of reasonableness of the cost estimate has been dealt with separately by this Forum in the succeeding paragraphs. The basic point this Forum aims to drive at is that the schedule of charges that were in force in the year 2005 cannot be said to be violative of Supply Code Regulations after coming into force thereof particularly because the previous schedule of charges in existence were valid until the issuance of the MERC's Tariff Order dated 08.09.2006. The Commission in its order dated 08.09.2006 has done away with recovery

of service line charges from the prospective consumers except in cases of consumers requiring dedicated distribution facility. The Commission's ruling is as under:-

“The Commission totally rejects MSEDCL's proposal to recover Service Line Charges from the prospective consumers except in cases of consumers requiring dedicated distribution facility. As per the provisions of the Act, developing infrastructure is the responsibility of Licensee. The Commission, therefore directs that the cost towards infrastructure from delivery point of transmission system to distributing mains should be borne by MSEDCL. The recurring expenses related to the capital investment on infrastructure shall be considered during ARR determination”.

This amply clarifies that recovery of SLC is not permissible after issuance of the MERC's order dated 08.09.2006. What is important to be noted is that recovery of SLC was permitted in the year 2005 as per schedule of charges of the distribution licensee which were in force in the year 2005. Hence, in terms of Regulation 18.4 of the Supply Code Regulations, the non-applicant was legally authorized to recover the SLC from the applicant. The applicant's representative did not offer any comments on the quantum of SLC. His thrust is on the point that SLC is not at all recoverable from the applicant. The SLC calculated is of Rs.15,08,040/-. The non-applicant in his sanction letter dated 27.04.2005 has directed the applicant to make payment of difference of SLC of Rs.15,08,040/- and cost of estimate amounting to Rs.3,65,400/-.

The submission of the applicant's representative in respect of cost of estimate is that the cost was deliberately reduced to Rs.4,20,200/- with a view to recover more differential amount from the applicant. In this respect, it is a matter of record that the Assistant Engineer, Mouda

originally prepared estimate of the works of Rs. 9,46,483/-. This estimate was revised to Rs.5,55,700/- by the Executive Engineer. The applicant's representative's submission is that the Executive Engineer reduced the amount of original estimate by changing quantity of cable without any reason. In this respect, the non-applicant's submission is that the Executive Engineer on physical verification of the site, on the basis of actual requirement of HT cable revised the original cost to Rs.5,55,700/-. The quantity of cable as per Assistant Engineer's estimate was 200 mtr. while the Executive Engineer upon site inspection concluded that 70 meters of cable length will be required. No cogent and convincing reasons has been advanced by the applicant's representative to substantiate the applicant's claim that the Executive Engineer reduced the estimated cost without any valid reasons. This Forum observes that the estimate finally sanctioned by he S.E. generally needs no interference. Consequently, the difference between the service line charges of Rs.15,08,040/- and the cost of estimate of Rs.3,65,400/- = 11,42,640/- was correctly shown as recoverable in the load sanction order dated 27.04.2005. The applicant's claim for refund of difference of SLC and cost estimate amounting to Rs.11,42,640/- thus cannot be granted by this Forum.

The second aspect of the applicant's grievance is about erroneous recovery of supervision charges amounting to Rs. 54,800/- on the sanctioned estimate and about supervision charges of metering system amounting to Rs. 48,000/-. His request is to charge the supervision charges on the labour component of estimate for new connection and shifting of line and to refund excess amounts charged & recovered.

The load sanction order dated 27.04.2005 makes a mention of recovery of amount of Rs.54,800/- towards 15% supervision charges as per the estimate sanctioned on 25.04.2005. The technical sanction accorded for Rs.4,20,200/- by the S.E. includes this amount. The applicant's representative contended that as per Regulation 3.3.8 of Supply Code Regulations, the distribution licensee is entitled to recover from the applicant charges for supervision undertaken by the licensee, at such rate as may approved in the schedule of charges under Regulation 18 not exceeding 15 percent of the cost of labour that would have been employed by the licensee in carrying out such works. The applicant has carried out the work through a Licensed Electrical Contractor. The non-applicant has also admitted this position. Hence, it follows that the non-applicant was entitled to recover supervision charges @ 15% of cost of labour only. In the instant case, the quantum of 10% labour charges included in the sanctioned estimate is of Rs. 33,210/-. Hence, 15% of Rs.33,210/- should have been charged as supervision charges which comes to Rs.4,981/-. Hence, the Superintending Engineer ought to have charged Rs.4,981/- as supervision charges and not Rs.54,800/- as has wrongly been shown in the load sanction letter. Here, while accepting the contention and claim of the applicant's representative, this Forum holds that excess amount of Rs. 54,800 – 4981 = 49,819 should be refunded to the applicant. The claim of the applicant in this respect is of Rs.51,147/- which, according to us, is not correctly arrived at by him.

The load sanction letter dated 27.04.2005 includes amount of Rs. 48,000/- to be recovered from the applicant towards charges for cost of meter and 15% supervision charges for the 33 KV Indoor cubicle

with CTR 100/5A. Here, the applicant's representative has claimed refund of Rs. 44,800/- on the ground that the non-applicant is entitled to recover 15% supervision charges on labour component only of the estimate towards metering arrangement. It is a matter of record that the Superintending Engineer sanctioned estimate of Rs.4,20,200/- which includes amount of Rs. 15,000/- towards cost of TOD meter. Hence, charges for cost of meter cannot be recovered again from the applicant in the amount of Rs.48,000/-. This amount of Rs.15,000/- is thus not chargeable to the applicant. The question now remains is about propriety of recovery of residual amount of Rs. 48,000-15,000 = Rs. 33,000/-. The load sanction letter issued by the S.E. has put a condition that the applicant will have to procure the HT cubicle as per the Company's specification (0.5 class accuracy) of approved make etc. The exact cost of Indoor cubicle is not forth coming from the record shown to us. This needs to be identified by the non-applicant. This Forum, therefore, holds the view that if "X" is the actual cost of HT cubicle which is already installed by the applicant, then the non-applicant shall be entitled to recover supervision charges @ 15% on the 10% labour cost of "X".

Obviously, the amount of Rs. 48,000/- charged by the S.E. in his load sanction letter is wrong and excessive. Accordingly, the non-applicant shall recover 15% supervision charges over 10% labour component of the cost of cubicle and the differential amount should be refunded to the applicant. The applicant's claim of refund is of Rs. 44,800/- in this respect. This should be dealt with by the non-applicant as stated above.

As regards shifting of 33 KV feeder line, the applicant has requested that 15% supervision charges on only labour component of estimate for shifting of line are liable to be paid by the applicant. As against this, excess amount has been charged and hence the excess amount charged should be refunded to the applicant.

It is a matter of record that the original 33 KV feeder line was passing through the applicant's plot. This line was required to be shifted at the applicant's behest for the purpose of giving supply to the applicant. The Superintending Engineer's technical sanction accorded on 25.04.2005 does not rightly include the cost of estimate meant for shifting of service line since it is an altogether an independent issue. The original estimate prepared by the Assistant Engineer includes the cost of shifting of this service line. However, the exact cost of shifting of the service line is not readily forthcoming from the record produced. This work has been carried out by the applicant. The non-applicant has also admitted that the applicant was permitted to carry out the work of shifting of the service line at his own cost and that the work of shifting of the line was executed through a Licensed Electrical Contractor in terms of Regulation 3.3.8 of Supply Code Regulations. Hence, 15% supervision charges on the labour component of the estimate of shifting service line should be ascertained by the non-applicant and recovered from the applicant.

The next aspect of the applicant's grievance is about erroneous recovery of Rs.70,000/- towards service connection charges.

According to the applicant's representative's submission, these charges are not payable by the applicant as the applicant has

carried out all the works in this regard. He also stated that under Supply Code Regulations, these charges are not recoverable.

The service connection charges were levied by the non-applicant as per the conditions of supply which were in force as per the erstwhile MSEB's Commercial Circular no. 624 dated 30.06.1999. Accordingly, for the demand of first 1000KVA, or part thereof, the prescribed rate was Rs.30,000/- and for each additional KVA, demand over 1000KVA, it was Rs.20/- per KVA. The applicant's contract demand is of 3,000 KVA and as such the non-applicant has charged Rs.70,000/- towards service connection charges as per this formula.

These were the standard service connection charges recovered by the non-applicant from its HT consumers as per conditions of supply in force in the year 2005 irrespective of any other things. As held by us, Regulation 18.4 of Supply Code Regulations provides that the existing schedule of charges of the distribution licensee shall continue to be in force until such time as the schedule of charges submitted by the licensee under Regulation 18.1 is approved by the Commission.

The schedule of charges existing in the year 2005 underwent some changes upon issuance of the Commission's order dated 08.09.2006 in the matter of approval of MSEDCL's schedule of charges. Hence, it is clear that recovery of service connection charges was correct and legal. The applicant's claim of refund of this amount, therefore, cannot be accepted by this Forum.

The last point is about the demand charges amounting to Rs.10,88,208/- recovered from the applicant in his first energy bill issued on 01.07.2005 for the recorded demand of 2748 KVA.

The non-applicant has urged in this respect that the amount charged was correct and no excess amount was recovered. According to him, the date of connection was 26.05.2005 and reading was taken on 20.06.2005 for the month of June, 2005. The MD recorded was 2748 KVA. Hence, demand charges were calculated from the date of the connection viz. 26.05.2005 to 30.06.2005. This period is of 36 days and hence demand charges were calculated as shown below.

$$\frac{\text{Recorded demand of KVA } 2748 \times 330 \times 36 \text{ days}}{30 \text{ days}} =$$

10,88,208/-. According to him, no refund is involved.

The contention of the applicant's representative is that MD should have been charged on pro-data basis for 24 days from 26.05.2005 to 20.06.2005. The pro-rata MD charges for this period of 24 days, according to him, comes to $\text{Rs. } 2748 \times 330 \times 24 = \text{Rs. } 7,25,472/-$.

30 the distribution licensee has charged an amount of Rs.10,83,208/-. Hence, excess amount of Rs.3,57,336/- charged to the applicant should be refunded to him, He has relied upon definition of word "Month" made in Supply Code Regulations. This definition lays down that "**Month**", in relation to billing of charges, means the English Calendar month or any period of thirty days.

In this respect, the limited issue is about correctness or otherwise of demand charges levied in the the first energy bill of the applicant.

On this issue the Chairman & Member Smt. Gouri Chandrayan expressed concurrent views and finding while a different view is expressed by the Member-Secretary. The concurrent finding and decision of Chairman and the Member is as under:

Meter reading in this case was taken on 20.06.2005. Hence, the billing period of month of June relates upto 20.06.2007. Supply was connected on 26.05.2005 and hence, this billing period is from 26.05.2005 to 20.06.2007 i.e. for 26 days. The energy bill was issued on 01.07.2005 but the period of this bill remains intact & it is of 26 days. Subsequent readings have been recorded on 20th of each succeeding months. Hence, it follows that the demand charges ought to have been charged as mentioned below.

$$\underline{2748 \times 330 \times 26} = \text{Rs. } 7,85,928/-$$

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The non-applicant has thus wrongly recovered Rs.10,83,208/- towards demand charges. The excess amount of Rs.2,97,280/- should be refunded to the applicant. The explanation given by the non-applicant for charging amount of Rs. 10,83,208/- is without any basis & justification. The applicant's calculation of billing period of 24 days from 26.05.2005 to 20.06.2005 is also not correct. It is in fact 26 days.

The member-Secretary expressed a different view in this regard. His finding & decision is as mentioned below.

“The excess amount charged of Rs. 3,57,336/- is towards MD charges it being amount of MD collected on calendar month basis and first bill was issued in the month of July. The MD charges were collected for the month of June for 30 days and 6 days of May (connection is released on 26.05.2007). This is correct. In fact, if, Company would have issued bill for the 6 days in June (for six days of May 2005) of Rs. 1,81,368/- would have been deposited in the month of June such that one month earlier. Hence this relief of MD should not be

given and it should be rejected and company MSEDCL may be directed to issue two bills of May & June, 2005 for M.D. charges”.

As laid down in Regulation 8.1 of the said Regulations, the Forum shall take a decision by a majority of votes of the Members of the Forum. Two members including the Chairman expressed a concurrent finding & decision. The decision given by majority will thus be the final decision in this regard. Accordingly, the decision is that amount of Rs.2,97,280/- recovered in excess from the applicant towards demand charges in the month of June, 2005, should be refunded to the applicant.

A point of back-up metering arrangement has also arisen in this case. According to the non-applicant, this metering arrangement has not been provided by the applicant though he had agreed to provide the same on his own. Cost of this arrangement according to him is Rs.78,148/-. In this respect, the applicant's representative admitted that the applicant on his own did give his consent for providing this back-up metering arrangement and also for incurring expenses to provide this arrangement on his own and at his cost. Hence, here also, the non-applicant shall be entitled to recover 15% supervision charges on the labour component of the estimate. Both the parties shall take action accordingly.

In the net result, this Forum passes the following Order.

- (1) The basic concept of recovering difference between service line charges & cost of estimate of works followed by the non-applicant is correct & legal. This difference amounting to Rs.11,42,640/- is recoverable from the applicant and

consequently, question of refund of any amount in this regard does not arise.

- (2) Amount of Rs.49,819/- charged & recovered in excess towards 15% supervision charges on the cost of estimate of works should be refunded to the applicant.
- (3) Amount of Rs.15,000/- charged and recovered towards cost of TOD meter included in the amount of Rs.48,000/- as per load sanction letter should be refunded to the applicant. The cost of HT Indoor cubicle as per Company's specification already installed by the applicant at the applicant's cost should also be ascertained and the applicant be charged only 15% supervision charges on the labour component of this cost and difference between Rs.33,000/- and these supervision charges should also be refunded to the applicant.
- (4) Amount equivalent to 15% supervision charges of labour component of estimate for shifting of service line (cost of which to be ascertained by the non-applicant) should be recovered from the applicant.
- (5) The non-applicant shall work-out the exact total amount to be refunded to the applicant keeping in view the directions given in (2), (3) & (4) above and refund the same to the applicant.
- (6) Service connection charges of Rs.70,000/- are recoverable from the applicant and question of refund of any amount out of this does not arise.
- (7) Excess demand charges amounting to Rs.2,97,280/- for the month of June, 2005 should be refunded to the applicant.

- (8) The applicant shall execute the work of installing back-up metering arrangement (costing Rs.78,148/-) at his cost as already proposed on his own by him and the non-applicant in that case shall be entitled to recover 15% supervision charges on labour component of the estimate.

In the result, the grievance application is partly allowed and it stands disposed off accordingly.

Both the parties shall report compliance of this Order to this Forum on or before 31.07.2007.

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