

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

---

**Case No. CGRF(NUZ)/035/2007**

- Applicant : M/s. RAMSONS TMT Pvt. Ltd.,  
At, A-301, Neeti Gaurav,  
Ramdaspeth,  
Central Bazar Road,  
NAGPUR.
- Non-applicant : MSEDCL represented by  
the Nodal Officer-  
Executive Engineer,  
Division No. iL, 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 20.07.2007)**

The present grievance application has been filed on 22.06.2007 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 excess amount charged towards additional supply charges (in short ASC) from the month of October, 2006 onwards. He has requested to refund to him excess amount of Rs.24,54,602/- charged towards ASC w.e.f. October, 2006 alongwith interest at Bank rate.

Before approaching this Forum, the applicant had filed his complaint on the same subject-matter of the present grievance before the IGRC (in short, the Cell) on 09.04.2007 under the said Regulations. The Cell rejected his request and hence, the present grievance application.

The matter was heard on 10.07.2007.

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

The case of the non-applicant Company was presented before this Forum by its Nodal Officer i.e. Executive Engineer, Dn.-II MSEDCL, NRC, Nagpur.

The applicant's representative stated that the applicant is a mini steel plant and is a consumer of MSEDCL having sanctioned contract demand of 3000 KVA with a sanctioned load of 3250 KW at 33 KV. This load was released to the old consumer in the name of Nishant Tubes Pvt. Limited at Bazargaon on 06.09.2005. The present applicant purchased the plant and Company on 07.12.2005 and took possession of the plant on the same day. Copies of possession letter from the old owner, abstract from board meeting for change of directors and name of new & old directors in the prescribed 32 under

the Company Act, 1956 have been produced on record by him. He added that the applicant also informed the Superintending Engineer MSEDCL NRC, Nagpur regarding taking over of Company and change of directors on 06.01.2006. Fresh Certificate of Incorporation consequent upon the change of name is also obtained by the applicant from the Ministry of Company Affairs, Govt. of India on 14.11.2006.

According to the applicant's representative, consumption of energy increased because of stepped up performance after the new Company took over the plant from January, 2006. He has produced a tabular statement showing energy consumption from September 2005 upto February 2007 along with copies of energy bills. The average consumption from September 2005 to December 2005 was 520037 KWH per month but after the new Company took over the plant the consumption has increased to the range of 14-15 lakhs units per month. In the month of February 2006, the consumption was 1523220 KWH. Consumption in the sixth month i.e. in June 2006 from take over of the plant by the new Company was 1441680 KWH.

The applicant's representative has relied upon the tariff order dated 20.10.2006 applicable from October 2006 issued by the MERC (in short, the Commission). He has also relied upon clarificatory orders issued by the Commission on 13.01.2006, 21.02.2006 and 26.02.2007. He has also produced on record relevant extracts of these orders.

He drew our attention to the Commission's observation made at page 159 of its order dated 20.10.2006 the text of which is as under:

“ The Commission is of the opinion that consumers should be incentivised to respond to the additional supply charges. Therefore, the Commission directs MSEDCL to assess the consumption of the consumer as against the monthly average of previous years’ consumption (January 2005 to December 2005) while billing the consumer for ASC. For instance, if a commercial consumer located in industrial and urban agglomeration reduces the consumption by 5% as against the average of previous years’ consumption, then only 14% (19% - 5%) of his current consumption should be billed at ASC. This shall not only incentive the consumers to conserve energy and eventual procurement by MSEDCL from costly sources but also reduce the tariff impact on the bills of consumers. For computation of previous years’ average, the clarifications issued by the Commission through its clarificatory orders dated 13.01.2006, 21.02.2006 in Case No. 35 of 2005 shall apply. . . . .”

Relevant text of the Commission’s calificatory order dated 13.01.2006 relied upon by the applicant is as under:

“The Commission specifies that,

- (a) the period for reference will be three month billing period from October to December 2005.
- (b) the monthly consumption in the billing period of February 2006, is to be compared against the average monthly consumption over the three month billing period from October to December 2005 in MU terms.
- (c) in case of new consumers, who have not completed three months from the date of energisation of the

connection, the reference period for comparison of consumption may be taken as the last bill period.”

The Commission’s calificatory order dated 21.02.2006 quoted and relied upon by the applicant’s representative specifies that,

- “b) the period for reference for comparison of consumption has been modified from the three month billing period from October to December 2005, to the twelve month billing period from January to December 2005.
- c) the monthly consumption in the billing period of February 2006, is to be compared against the average monthly consumption over the twelve month billing period from January to December 2005, in MU terms. Similarly, this comparison shall be carried out in each billing month commencing from March 2006 against the average monthly consumption over the twelve month billing period from January to December 2005, in MU terms.
- h) In case of temporary connections in the corresponding period of 2005 which were made permanent thereafter, or if the nature of the connection had otherwise changed as compared to that period, then the reference period may be taken as the last bill period (as in the case of new consumers). This would include cases of consumers whose sanctioned load / contract demand had been duly increased after the billing month of December 2005.

- i) In case of temporary connections in the corresponding period of 2005 which were made permanent during the period January to December 2005, or if the nature of the connection had otherwise changed during this period, then the reference period may be taken as the billing period after the change in the nature of the connection. This would include cases of consumers whose sanctioned load / contract demand has been duly increased during the billing period of January to December 2005.”

The text of the Commission’s clarificatory order dated 26.02.2007 relied upon by the applicant’s representative runs as under:

“In case of consumers whose sanctioned load / contract demand had been duly increased after the billing month of December 2005, the reference period may be taken as the billing period after six months of the increase in the sanctioned load / contract demand or the billing period of the month in which the consumer has utilized at least 75% of the increased sanctioned load / contract demand, whichever is earlier.

The following examples illustrate the above clause for ease of understanding and implementation:

Case	Increase in sanctioned load/contract demand	At-least 75% of increased sanctioned load/contract Demand is utilised	Billing period after three months of increase in sanctioned load/contract demand	Reference billing period for comparison
1	October 2006	Nov. 2006	Jan.2007	Nov. 2006
2	October 2006	June 2007	Jan. 2007	April 2007

Relying on Commission's Orders referred to above, the applicant's representative strongly contended that the MSEDCL should have affected the change in ownership and signing fresh agreement within 30 days of his application dated 06.01.2006 i.e. before 06.02.2006 and the applicant should have been treated as a new consumer. Relying on the Commission's clarificatory order dated 26.02.2007 in particular, the submission of the applicant's representative is that the reference period for computation of ASC should have been taken from the month in which 75% of contract demand was utilized or sixth month from the date of taking over of the Company by the applicant i.e. June, 2006. The meaning of 75% utilization of contract demand, according to him, relates to 75% load factor calculated based on consumption and contract demand. The applicant is having contract demand of 3000 KVA. Hence, 75% load factor shall correspond to  $3000 \times 24 \times 30 \times 0.75 = 1620000$  KWH but the applicant did not reach this level of consumption in any month. Hence, the month of June 2006 i.e. sixth month after the applicant has taken over the plant should be considered as reference period or bench mark for calculating ASC percentages and ASC should have been charged accordingly. The consumption in the month June 2006 was 1441680. The percentage of ASC applicable from October 2006 should have been considered by MSEDCL as per the below mentioned table:

Month	Consumption KWH	Percentage compared to June 06	Less consumption percentage compared to June 06	ASC percentage charged in energy bill	ASC percentage to be charged	ASC Units charged	ASC Units to be charged	Extra ASC Units charged	Extra amount charged
June 06	1441680	100	0	---	---	----			
July 06	1434840	100	0	---	---	----			
August 06	1422120	99	1	---	---	----			
Sept.06	1093080	76	24	---	---	----			
Oct. 06	1163040	81	19	42	23	297971	160851	137120	411359
Nov.06	1323660	92	8	42	34	555937	447579	108359	325076
Dec.06	1101840	76	24	42	18	462773	203042	259731	779194
Jan. 07	1247972	87	13	42	29	524148	356467	167681	593590
Feb. 07	1364040	95	5	42	37	572897	499438	73459`	304854
Mar 07	1430520	99	1	42	41	600818	589745	11074	40529

Total Refundable Amount

till March 2007.

Rs. 24,54,602

He added that the MSEDCL has charged 42% consumption as ASC which was erroneous and on a much higher side as indicated in the table above. The applicant's representative's strong submission is that an amount of Rs.24,54,602 has been charged in excess towards ASC. He requested that this amount may be refunded to the applicant along with Bank interest rate as provided in Section 62 (6) of the Electricity Act, 2003.

The Cell, in its order passed on 08.05.2007, has held that change in ownership or change in Board of directors does not effect the status of the Company since the Company has its own existence. Hence, according to it, ASC charged



considering the applicant as existing /old consumer was in order.

The non-applicant has submitted parawise report dated 09.07.2007 which is on record. He has stated that supply of HT consumer namely M/s. Nishant Tubes Pvt. Ltd, consumer no. 420819006530, was released on 06.09.2005 with contract demand of 3000 KVA and connected load of 3250 KW initially. The applicant did not inform about taking over of the Company. However, he informed about change of directors and change of address for correspondence vide his letter dated 06.01.2006. Accordingly, the applicant's request for change of address has been considered and energy bills from the month of January, 2006 and onwards were issued at the new address. The applicant applied for additional load on 27.01.2006. However, the required formalities were completed by him on 15.02.2006. Accordingly the load was enhanced to 4500 KVA vide his order dated 26.02.2007 and agreement was executed by the new directors in the name of M/s. Nishant Tubes Pvt. Ltd. He strongly submitted that the applicant has never applied before for change in the name of enterprises M/s. Nishant Tubes Pvt. Ltd. Hence, as per the departmental circular no. 36 dated 25.07.1963 issued by the erstwhile MSEB, procedure meant for change of name / ownership ought to have been followed by the applicant. This procedure was not completed by the applicant earlier. The applicant submitted his application for change of name vide his letter dated 03.04.2007 and effect of the same is being given from the billing month of July 2007 vide his letter dated 30.05.2007. He further submitted that change of name cannot be treated as

the criteria for considering the Company as a new consumer since the old Company remains the same and it can only change its name. According to him, the ASC charged to the applicant considering the Company as existing unit is correct.

He lastly prayed that the applicant has no case and that there is no need to revise ASC.

In this case, the applicant's submission is that ASC ought to have been charged at 23%, 34%,18%,29%,37% and 41% respectively for the month of Oct.06, Nov. 06, Dec.06, Jan.06, Feb.06 and March 2007. His submission is also that ASC charged at 42% in these months were unjust & improper and they were not in tune with the orders of the Commission. His thrust is mainly on the clarificatory order dated 26.02.2007 issued by the Commission the relevant text of which has been produced on record. It has, therefore, become imperative to see whether the clarificatory order dated 26.02.2007 is applicable to the instant case. This clarificatory order deals with cases of consumers whose sanctioned load / contract demand had been duly increased after the billing month of December 2005. The Commission has directed that in such cases, the reference period may be taken as the billing period after six months of the increase in the sanctioned load / contract demand or the billing period of the month in which the consumer has utilized at-least 75% of the increased sanctioned load / contract demand, whichever is earlier. What is seen in the instant case is that the applicant's sanctioned contract demand was 3000 KVA and this contract demand has not been duly increased till March 2007. The non-applicant has made it clear in his parawise report that the applicant's

load / contract demand has been enhanced to 4500 KVA vide its order dated 26.02.2007. This means that the sanctioned contract demand of the applicant had remained the same at 3000KVA till March 2007. Evidently, since the applicant's contract demand was not duly increased till March 2007, question of applicability of the Commission's clarificatory order dated 26.02.2007 does not arise. This clarificatory order cannot, therefore, come to applicant's rescue. The prerequisite essentially required for the applicability of this order is that the sanctioned load / contract demand is duly increased. This essential precondition is absent in this case. Hence, the applicant's representative's submission that based on the Commission's clarificatory order dated 26.02.2007, the reference period for charging ASC should have been taken from the month in which 75% of contract demand was utilized or the sixth month from the date of take over of Company is misconceived for the simple reason that there was no increase duly sanctioned in respect of the applicant's existing contract demand of 3000 KVA till March 2007. Hence, we hold the view that the ASC charged at 42% from October 2006 to March 2007 was quite in tune with the Commission's Orders. The applicant's representative's contention that excess charges towards ASC were billed to the applicant is, therefore, not correct.

The applicant's representative has also tried to make a point that the applicant's average consumption has been stepped up from 520037 KWH per month during the September 2005 to December 2005 period to 14 – 15 Lakhs KWH per month after the new Company has taken over the

plant and hence, there has been an increase in the utilization of contract demand and that as such the Commission's clarificatory order dated 26.02.2007 is applicable to the instant case. However, increase in the quantum of consumption within the sanctioned contract demand of 3000 KVA does not mean that his sanctioned contract demand has been duly increased. What is increased is the quantum of consumption. The improvement in the performance by the new Board of directors from point view of utilization of the sanctioned contract demand of 3000KVA cannot be termed as due increase in the sanctioned contract demand.

The applicant's representative has also submitted that the meaning of 75% utilization of contract demand relates to 75% load factor calculated based on consumption and contract demand. It is in this respect that he made a statement that considering 75% load factor, the applicant's consumption corresponds to  $3000 \times 24 \times 30 \times 0.75 = 1620000$  KWH and that the applicant never reached this consumption level in any month and, therefore, the month of June 2006, i.e. sixth month after the applicant has taken over the plant should be considered as reference month for calculating ASC percentage. However, we are unable to subscribe to this view because in the first place the Commission's clarificatory order dated 26.02.2007 is not applicable in the instant case up to March 2007 and secondly, because the basis of 75% load factor is also not correct it being hypothetical.

Since the clarificatory order dated 26.02.2007 issued by the Commission is not applicable to the instant grievance till March 2007, the applicant's grievance about

excess charges recovered by the non-applicant towards ASC holds no substance. Consequently, his request for refund of Rs.24,54,602/- cannot be granted by this Forum.

The applicant's representative's other submission based on the Commission's clarificatory order dated 21.02.2007 is that the nature of connection had been changed as compared to the corresponding period of January to December 2005 and hence, the reference period may be taken as the last bill period as in the case of new consumers. In that, he pointed out the Commission's observation made in clause (h) of the order.

We are of the view that the nature of connection was not otherwise changed in this case till March, 2007. Consumption of higher quantum of energy within the existing sanctioned contract demand of 3000KVA after the Company was taken over by the new owner, by no stretch of imagination can be regarded as change in the nature of the connection. What is important to be seen is that the applicant's connection is the same and even the sanctioned contract demand was also the same till March 2007 even after the new owner took over the plant in December 2005. The contract demand of the applicant's unit has been duly increased to 4500 KVA in March 2007 and as such till then, the nature of connection was not changed. In view of this position, the applicant's representative's contention that because the new owner has stepped up performance resulting into higher consumption of KWH units compared to the previous period's consumption amounts to change in the nature of connection cannot be accepted by us.

The applicant's representative's another submission is that since the new Company has taken over the plant on 07.12.2005, it should be treated as a new consumer. In the instant matter, Regulation 10 of the MERC (Electricity Supply Code & Other Conditions of Supply ) Regulations, 2005 hereinafter referred to as the Supply Code Regulations deals with the aspect of change of name Regulation 10.1, in particular, stipulates that the connection may be transferred in the name of another person upon death of the consumer or, in case of transfer of ownership or occupancy of the premises, upon application for change of name by the new owner or occupier; It is the owner who is changed and not the connection.

In the instant case, the owner has changed and hence, this provision is attracted. For this purpose, application in the prescribed forms is required to be made by the new owner as per the non-applicant Company's procedure. This procedure has also been completed by the new owner i.e. the applicant in the instant case. The non-applicant has also made a statement that effect of change of name is been given from the billing month of July 2007. However, change of name is not affecting the status of the connection. As such no benefit can be drawn by the new owner in respect of ASC charges so long as the contract demand of 3000 KVA was not duly increased.

In the light of above, the relief's sought by the applicant in respect of refund of ASC along with interest at Bank rate cannot be granted by this Forum.

The grievance application thus stands rejected.

Sd/-	Sd/-	Sd/-
<b>(S.J. Bhargawa)</b>	<b>(Smt. Gauri Chandrayan)</b>	<b>(S.D. Jahagirdar)</b>
Member-Secretary	MEMBER	CHAIRMAN

**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**