

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

Case No. CGRF(NUZ)/149/2014

Applicant : M/s. Tapadia Polysters Pvt. Ltd.,
Plot No. N-86,
MIDC Industrial Area,
Hingna Road,
Nagpur.

Non-applicant : Nodal Officer,
The Superintending Engineer,
Nagpur Urban Circle,
MSEDCL,
NAGPUR.

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

2) Adv. Subhash Jichkar
Member.

3) Shri Anil Shrivastava,
Member / Secretary.

ORDER PASSED ON 22.7.2014.

1. The applicant filed present grievance application before this Forum on 16.6.2014 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 applicant M/s. Tapadia Polysters Pvt. Ltd. is consumer of M.S.E.D.C.L. connected at 33 kV voltage. The applicant has a contract demand of 2500 kVA. M.S.E.D.C.L. issued energy bills for August 2013 by adding AEC 1,

AEC 2, AEC 3 & AEC 4 charges amounting to Rs. 1383291.84. As per Hon'ble Commission's order in Case No. 95/13, AEC 1 & AEC 2 are to be charged from the billing month of September 13 & other amount i.e. Rs. 106.44 crores, Rs. 628.90 crores are to be collected from the consumer in six months from October 2013, as per order of Hon'ble Commission in Case No. 28/13 and are to be collected as FAC charges. Similarly, amount of Rs. 596.12 crores which shall be recovered by M.S.P.G.C.L. from M.S.E.D.C.L. as annual fixed charges of Khaperkheda unit No. 5 for financial year 2012-13 was to be recovered in six equal monthly installments starting from the month of October 2013 & M.E.R.C. allowed it to recover from the consumers the fixed charges component billed by M.S.P.G.C.L. vide order in Case No. 44/13. M.S.E.D.C.L. issued Circular No. 209 Dt. 7.9.2013 based on Commission's above referred order specified AEC & FAC without mentioning month of applicability of these charges. Applicant paid energy bill of August 2013 under protest & submitted request letter dated 10.9.2013 to M.S.E.D.C.L. to issue corrected energy bill for August 2013.

3. M.S.E.D.C.L. issued energy bill for September 2013 again adding AEC amount of 1432992.59 in violation of Commission's order. M.S.E.D.C.L. did not issue corrected energy bill for August 2013 & September 2013 & again added wrong AEC in September 2013 energy bill. Therefore applicant filed grievance application with I.G.R.C. on Dt. 10.12.2013. However, IGRC did not provide any hearing even after more than 2 months. Therefore applicant filed present grievance application before this Forum with a request to direct M.S.E.D.C.L. to issue corrected bill for August 2013 & September

2013 and to refund excess amount paid by the applicant along with interest.

4. Non applicant denied applicant's case by filing reply dated 14.7.2014. It is submitted that M/s. Tapadia Polysters Pvt.Ltd. Nagpur is H.T. consumer under Nagpur Urban Circle with Contract Demand of 2500 kVA, Connected Load of 3800 kW & connected on 33 kV feeder. As per Commission's order in case No. 95/13, it is stated that charges of AEC 1 & AEC 2 are to be levied by M.S.E.D.C.L. for a period of six months from the month of September 2013 onwards. M.S.E.D.C.L. has rightly charged the charges in the bill generated in the month of September for which amount was due to be paid. Accordingly M.S.E.D.C.L. started recovering charges from the month of September 2013 for which bill raised in the month of August 2013.

5. Charges of AEC 1, AEC2, AEC 3 & AEC 4 have been applied and as per instructions given by Head Office to respective I.T. centers for generation of bills. In Hon'ble Commission's order, it is stated that amount to be recovered from the month of September 2013 onwards so that bills generated and issued in the month of September 2013 for which due date was in the month of September 2013 and the amount is being recovered in the month of September 2013 is correct & just. As per Hon'ble Commission's order, the Commission has allowed to recover the charges in six monthly installments whereas M.S.E.D.C.L. has recovered the charges only for 5 months. One month is still balance. Accordingly, this office has referred this matter for applicability & clarification of AEC charges. M.S.E.D.C.L. has acted as per Hon'ble Commission's order and as per H.T. billing

programme forwarded by H.O. and therefore application deserves to be dismissed.

5. Forum heard Shri Goenka, representative of the applicant so also arguments of the Superintending Engineer, Nagpur Urban Circle & perused entire record.

6. We have carefully perused the order passed by Hon'ble M.E.R.C. in Case No. 95/13. In this order Hon'ble Commission's ruling is as under : -

“Commission's Ruling

22) In view of the above, the Commission directs M.S.E.D.C.L. to recover two additional charges from its consumers, in the form of additional energy charge;

a. To recover the accumulated under-recovery of Rs. 2037.78 Crore accrued till the month of August 2013, which shall be levied by MSEDCL for a period of six (6) months with effect from the month of September 2013 till the month of February 2014. Category wise Additional Energy Charge (AEC-1) to be levied to all consumer categories in the proportion to the approved Average Billing Rate of respective consumer categories, under intimation to the Commission.

b. To recover monthly fixed expense of Rs. 235.39 Crore. This shall be levied by MSEDCL from the month of September 2013 to its consumers on a monthly basis till further determination of MSEDCL tariff by this Commission. Category wise Additional Energy Charge (AEC-2) to be levied to all consumers categories in the proportion to

the approved Average Billing Rate of respective consumer categories, under intimation to the Commission.

c. Further, the Commission hereby rules that from this Order onwards MSEDCL will recover the variation in energy charge component of the amount billed by MSPGCL to MSEDCL as approved by the Commission from the consumers through the FAC mechanism. Similarly, the Commission allows MSEDCL to recover the variation in fixed charge component of the amount billed by MSPGCL and amount billed by MSETCL to MSEDCL as approved by the Commission from the consumers in proportion to the approved Average Billing Rate of respective consumer categories, under intimation to the Commission”.

7. As per Hon’ble Commission’s order in case No. 95/13, it is specifically ordered that charges of AEC 1 & AEC 2 are to be levied by M.S.E.D.C.L. for a period of six months from the month of September 2013 onwards. In our opinion M.S.E.D.C.L. has rightly charged the charges in the bill generated in the month of September for which amount was due to be paid. Accordingly, M.S.E.D.C.L. started recovering charges from the month of September 2013 for which bill raised in the month of August 2013.

8. It is pertinent to note that charges of AEC 1, AEC 2, AEC 3 & AEC 4 have been applied & as per the instructions given by Head Office of M.S.E.D.C.L. to respective I.T. centers for generation of the bill. In Hon’ble Commission’s order, it is ordered that amount is to be recovered from the month of September 2013 onwards. So the bills generated & issued in the month of September 2013 for which due

date was in the month of September 2013 and amount is being recovered in the month of September 2013 is perfectly correct, legally just and valid.

9. It is noteworthy that as per Hon'ble Commission/s order, the Commission has allowed to recover the charges in six months installments, whereas M.S.E.D.C.L. has recovered the charges only in 5 months and one month is still balance. It is specific contention of officers of M.S.E.D.C.L. that their office has referred this matter for applicability and clarification of AEC charges. M.S.E.D.C.L. has acted as per Hon'ble Commission's order and as per HT billing programme forwarded by Head Office and therefore application filed by the applicant deserves to be dismissed.

10. Section 45 of Electricity Act 2003 reads as under :-

“45. Power to recover charges – (1) Subject to the provisions of this section, the prices to be charged by a Distribution Licensee for the supply of Electricity by him in pursuance of Section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his license.

(2) The charges for electricity supplied by a distribution licensee shall be -

(a) fixed in accordance with the methods and the principles as may be specified by the concerned State Commission;

(b) published in such manner so as to give adequate publicity for such charges and prices.

(3) The charges for electricity supplied by a distribution licensee may include –

- (a) a fixed charge in addition to the charge for the actual electricity supplied.
- (b) a rent or other charges in respect of any electric meter or electrical plant provided by the distribution licensee.
- (4) Subject to the provisions of section 62, in fixing charges under this section a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.
- (5) The charges fixed by the distribution licensee shall be in accordance with the provisions of this Act and the regulations made in this behalf by the concerned State Commission”.

11. Bear reading of the provisions laid down u/s 45 of Electricity Act 2003 and order passed by Hon'ble M.E.R.C. in case No. 95/13, it is crystal clear that M.S.E.D.C.L. has legally & properly prepared relevant bills and needs no interference. It appears that applicant intends to mis-interpret the order of Hon'ble MERC which can not be permitted.

12. In para 5 & para 14 of the grievance application, the applicant submitted that act of M.S.E.D.C.L. is in violation of Commission's order. Therefore according to the applicant, if the act complained of is amounting to violation of Commission's order, then the remedy is provided u/s 142 of Electricity Act 2003 for non compliance of directions issued by appropriate commission and in those circumstances, the grievance application is untenable at law before this Forum. Furthermore, the act complained of by the applicant does not fall within the ingredients of definition of

“grievance” laid down u/s 2.1 (c) of the said regulations and for this reason also the grievance application is untenable at law.

13. We have carefully perused entire drafting of the application in this grievance application. In para 3 of grievance application, the applicant has referred “*the amount of Rs. 106.44 crores, Rs. 628.90 crores are to be collected from the “consumers”*” .

14. Likewise in para 12 of the grievance application, the applicant referred amount of 2037.78 crores. In para 13 of grievance application, amount is referred Rs. 235.39 crores from the “**consumers**”

15. In para 14 amount is referred Rs. 106.44 crores & Rs. 628.9 crores..... In para 15 also amount of 596.12 crores is referred.

16. Therefore plain reading of entire grievance application shows that as if the applicant is challenging these crores of rupees which has reference relating to all consumers and therefore according to the applicant present grievance application is filed for and on behalf of all consumers and hence application appears to be in representative capacity for entire consumers of M.S.E.D.C.L. which is not permissible at law. According to the said regulations, applicant can challenge only limited alleged grievance pertaining to himself for a fixed amount alleged to have been recovered from him. Applicant has no right to file a grievance application for and on behalf of all consumers of M.S.E.D.C.L. in the state of Maharashtra and can not

challenge such crores of rupees by misinterpreting the order passed by Hon'ble Commission. For these reasons also grievance application is untenable at law and deserves to be dismissed.

17. We have also perused Office Note (Com.) Section No. PR-III/Tr./356 Dt. 21.2.2014 issued by Chief Engineer (Com.) M.S.E.D.C.L. Bandra, Mumbai. In our considered opinion, directions issued by Head Office M.S.E.D.C.L. Prakashgarh, Mumbai are perfectly correct, legal & valid and as per those directions of Head Office, the Superintending Engineer, Nagpur Urban Circle acted within the frame of regulations, law and order passed by Hon'ble MERC.

18. For these reasons, we find no force & no substance in present grievance application and application deserves to be dismissed. Resultantly, Forum proceeds to pass following order :-

ORDER

- 1) Grievance application is dismissed.

Sd/-
(Anil Shrivastava)
MEMBER
SECRETARY

Sd/-
(Adv. Subhash Jichkar)
MEMBER

Sd/-
(Shivajirao S. Patil),
CHAIRMAN