

CONSUMER GRIEVANCE REDRESSAL FORUM
(Established under the section 42 (5) of the Electricity Act, 2003)
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
NASHIK ZONE

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Consumer Grievance Redressal Forum
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Dwarka, NASHIK 422011

No. / CGRF /Nashik/NUC/N.R.Dn./620/10/2016-17/

Date:

(BY R.P.A.D.)

In the matter of

Grievance No. 1) Excess Collected FAC from the Billing Month Of Dec. 2013 To Dec. 2014

Greivance No. 2) Erroneous A.E.C. and additional FAC charged to us in August 2013 and Dec.2013

Date of Submission of the case :21/06/2017

Date of Decision : 13 /10/2017

To.

M/s. Bhagawati Ferro Metal Pvt. Limited
Plot No. G-7/G-8, MIDC Malegaon
Sinnar Dist. Nashik 422103
(Consumer No. 075949022220)

Complainant

1. Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Urban Circle office, Shingada Talav,
Nashik
2. Executive Engineer (Rural)
Maharashtra State Electricity Distribution Com. Ltd.
Nashik .

Distribution Company

DECISION

M/s. Bhagawati Ferro Metal Pvt. Limited , (hereafter referred as the Complainant). Sinnar Nashik is the HT consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against MSEDCL for Refund of excess collected FAC from the billing month of Dec. 2013 to Dec.2014 & refund of AEC and Additional FAC .The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. Ltd. But not satisfied with the decision of the Respondent , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.95 of 2017 on 21 /06/2017.

As:"But as the hearing could not be scheduled in this case, as the Forum was not functional due to posts of both the Chairperson and the Member (CPO) being vacant since June 2017. Later as per order no SE/TRC/CGRF/C-7/22650,Dt. 18.09.2017 the Member(CPO) ,CGRF, Jalgaon has been given additional charge of the Member(CPO) ,CGRF, Nashik who resumed the charge with effect from 20/09/2017."

The Forum in its meeting on 20/09/2017, decided to admit this case for hearing on 11/10/2017 at 12.00 pm in the office of the forum . A notice dated 22/09/2017 to that effect was sent to the

appellant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Urban I Circle Office Nashik for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Smt. P. V. Bankar , Nodal Officer/Ex. Engr., Shri. Kishor K. Tirsa represented the Distribution Company during the hearing. Shri . Manish Mishra appeared on behalf of the consumer.

Consumers Representation in brief :

(A) Grievance related to excess FAC Charging:

The applicant is a Private Limited Company, which is engaged in activities related to manufacturing of Mild Steel Billets. The 33KV HT connection has been released by MSEDCL to the factory in the name of M/s. Bhagwati Ferro Metal Limited, bearing Consumer number 075949022220, with Contract Demand of 10,000KVA and Connected Load of 10,000 KW. We are categorized under HT Industrial, (Non-Express) consumer category. The commercial production of our Unit started from 20.02.2012.

During Dec 2013 to Dec 2014, MSEDCL has charged the Fuel Adjustment Charges (FAC), which are not as per Hon. MERC's post-facto approval, in these months. According to us, MSEDCL has charged Rs. 80,48,532.02, more than the approved tariff/FAC to us. We have regularly paid the amounts billed to us from time to time.

Incidentally FAC is the part of tariff, which is being determined by MERC. The methodology of FAC computation & recovery thereof by MSEDCL needs to be approved by Hon. MERC. Without change in the tariff by MERC or without approval of Hon. MERC, the methodology of levying FAC cannot be changed or altered, unilaterally by MSEDCL.

In fact as per Section 62 (6) of the Electricity Act 2003,

"If any Licensee or Generating Company recovers a price or a charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person, who has paid such price or charge along with interest, equivalent to Bank rate without prejudice to any other liability, incurred by the Licensee".

Hon. MERC, has accorded post facto approval to MSEDCL for charging FAC from consumers, for the respective billing months vide their letters:

- (1) No. 01469 dated 11/02/2016 (for billing months of October 2013 to March 2014),
- (2) No. 01481 dated 16/02/2016 (for April 2014 to September 2014) and
- (3) No. 00265 dated 3rd June 2016 (for Oct 2014 to March 2015).

Since the FAC charges levied by MSEDCL, during Dec 2013 to Dec 2014 are different than those approved as per Hon. MERC's post-facto approval; MSEDCL needs to rework the FAC charged (billed) to us & refund the excess amount recovered from us; with interest of 9% per year, as indicated in Section 62 (6) of the Electricity Act 2003.

According to our computations we have paid the excess amount as indicated in the Table below:

| Billing Month | FAC rate levied by MSEDCL (PS/KWH) | FAC rate as per MERC's approval (PS/KWH) | Diff (PS/KWH) | Units (KWH) | Excess Amount paid by us (Rs) |
|---------------|------------------------------------|--|---------------|-------------|-------------------------------|
| Dec 13 | -6.24 | -22.46 | 16.22 | 2876928 | 466637.72 |
| Feb 14 | 4.28 | 0.0 | 4.28 | 6239760 | 267061.73 |
| Mar 14 | 16.41 | 4.28 | 12.13 | 6618804 | 802860.93 |
| May 14 | 13.62 | 3.36 | 10.26 | 6907518 | 708711.35 |

| | | | | | |
|---------|-------|-------|-------|---------|------------|
| Sept 14 | 55.05 | 32.93 | 22.12 | 6732600 | 1489251.12 |
| Nov 14 | 42.59 | 20.19 | 22.40 | 6658800 | 1491571.20 |
| Dec 14 | 81.38 | 42.59 | 38.79 | 7276200 | 2822437.98 |
| Total | | | | | 8048532.02 |

Aggrieved by the actions of MSEDCL, we approached Internal Grievance Redressal Cell, Nashik Urban Circle, Nashik and filed a complaint, on 5th April 2017, requesting for giving justice to us, in the matter of MSEDCL's unlawful FAC charging and refunding the excess amount charged to us along with interest.

To our surprise, IGRC Nashik Urban Circle, ordered in favor of MSEDCL. The IGRC Order in our case, dated 31st May 2017 is enclosed herewith as Annexure: 1.

We have also requested the Director (Operations) MSEDCL HO Mumbai; vide our letter dated 20th March 2017, to refund the additional FAC amount recovered from us. However, till date we have not received any response to our letter. (Copy enclosed as Annexure 2)

We have following additional points for consideration of Hon. Consumer Grievance Redressal Forum Nashik. We sincerely request Hon. CGRF Nashik, to kindly refer to the Orders issued by them, vide their letters:

- 1) No. 170 dated 18/10/2016 (Copy enclosed as Annexure 3) in the matter of Representation by M/s Lastra Niraj Pvt Limited Ambad Nashik. In the said Order, Hon. CGRF Nashik has held as under:
"The Distribution Company should refund in the ensuing Bill after the date of this Order, whatever excess FAC charged over & above the MERC approved rates, in the Bills of the months from December 2013 to December 2014, with interest at Bank rate of Reserve Bank of India till the date of refund",
- 2) No. 61 dated 14/03/2017 (Copy enclosed as Annexure 4) in the Representation in the matter of M/s CEAT Limited Satpur Nashik. In the said Order, Hon. CGRF Nashik has held as under:
"1. The Distribution Company should refund, whatever excess FAC charged over & above the MERC approved rates, in the Bills of the months from December 2013 to December 2014.
- 3) *All these refunds should be adjusted in the ensuing Bill, after the date of this Order, and the amount should be refunded along with the interest, till the date of refund, as per the provisions of Section 62 (6) of the Electricity Act 2003."*

Hence, we sincerely urge Hon. CGRF, Nashik, to kindly direct the concerned, to refund the excess FAC levied on us, along with interest at 9%, in view of Hon. CGRF Nasik's Orders dated 18th Oct 2016 and 14th March 2017.

(B) Grievance related to Excess AEC:

Hon. MERC in the matter of Suo-motu determination of supplemental charges of MSEDCL; to give effect of other Orders, vide their Order dated 5th Sept 2013; has ruled as under:

"Commission's Ruling:

22. In view of the above, the Commission directs MSEDCL 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 consumer 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.

It is clearly mentioned in Hon. MERC's Order that the two additional charges i.e.

- (1) AEC 1 & AEC2 should be charged from September 2013, (Prospective) for 6 months upto Feb 2014 and AEC 3 & AEC 4 should be charged from Oct 2013 to March 2014.
- (2) Additional FAC should be charged from September 2013 to November 2013.

However, MSEDCL has erroneously charged us the AEC 1& AEC 2 for the month of Aug 2013, AEC 3 & 4 for the month of August 2013 & September 2013 and additional FAC for the months of August 2013 and Dec 2013. We have made an excess payment of Rs. 13177212/- to MSEDCL towards these heads in August 2013 and Dec 2013 Bills. In order that our supply should not be disconnected, we paid these charges (which according us are erroneous) along with our August 2013 Bills, under protest

Incidentally, we had requested the Chief Engineer (Commercial) MSEDCL HO Mumbai, for revision of the Bill, vide our application dated 14th Sept 2013, (enclosed as Annexure 5). The C. E. (Commercial) MSEDCL Mumbai, referred our application to the SE Nashik, vide Office letter No. P-Com/Nashik/ 27099 dated 7.10.2013 to verify the facts and take necessary action, but till date (even after 44 months), we have not received our legitimate refund.

Aggrieved by the actions of MSEDCL, we approached Internal Grievance Redressal Cell, Nashik Urban Circle and filed a complaint on 5th April 2017, requesting for giving justice to us, in the matter of MSEDCL's unlawful AEC and Additional FAC charging and refunding the excess amount charged to us along with 9% interest.

To our surprise, IGRC Nashik Urban Circle, ordered in favor of MSEDCL. The IGRC Order in our case, dated 31st May 2017 is enclosed herewith as Annexure: 1

We sincerely request Hon. CGRF Nashik, to direct the concerned to take urgent necessary action in the matter of refund of excessive charges levied on us. In fact as per Section 62 (6) of the Electricity Act 2003,

"If any Licensee or Generating Company recovers a price or a charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person, who has paid such price or charge along with interest, equivalent to Bank rate without prejudice to any other liability, incurred by the Licensee".

As Hon. MERC, has accorded approval to MSEDCL for charging AEC from consumers, from the billing months of Sept 2013 to Feb 2014 and additional FAC from September 2013 to November 2013. As per the Order dated 5th Sept 2013, levying these charges in August 2013 and Dec 2013 is incorrect.

Since the AEC and Additional FAC charges have been levied by MSEDCL for the months of August 2013 and Dec 2013, which is in contradiction with Hon. MERC's Order, MSEDCL Nashik Urban Circle needs to refund us the AEC and Additional FAC charged in our August 2013 and Dec 2013 energy Bills, along with interest of 9% per year, with reference to the Section 62 (6) of the Electricity Act 2003.

We have following additional point for consideration of Hon. Consumer Grievance Redressal Forum, Nashik. We sincerely request Hon. CGRF Nashik, to kindly refer to the Order issued by them, vide their letter No. 116 dated 01/07/2016 (Copy enclosed as Annexure 3) in the matter of Representation by M/s Lastra Niraj Pvt Limited Ambad Nashik. In the said Order, Hon. CGRF Nashik has held as under:

"The Distribution Company should refund to the complainants the amount of AEC recovered in the month of August 2013, and additional FAC should be billed for September 2013 up to November 2013 and excess recovered by billing it for August 2013 should be refunded along with interest up to the date of refund as per provisions of Section 62(6) of the Electricity Act 2003"

The reconciliation of excess FAC charged and additional AEC charged is enclosed as below

Reconciliation of FAC charged to M/s. Bhagwati ferro metal Pvt Ltd

| Billing Month | FAC levied MSEDCL | FAC MERC | Diff | Units | Amount |
|---------------|----------------------|-------------|------------------|---------------|--------------------|
| Dec.13 | -6.24 | -22.46 | 16.22 | 856560 | 138934.032 |
| Feb.14 | 4.28 | 0 | 4.28 | 835170 | 35745.276 |
| Mar.14 | 16.41 | 4.28 | 12.13 | 862800 | 104657.64 |
| May.14 | 13.62 | 3.36 | 10.26 | 882990 | 90594.774 |
| Sept.14 | 55.05 | 32.93 | 22.12 | 685530 | 151639.236 |
| Nov.14 | 42.59 | 20.19 | 22.4 | 734400 | 164505.6 |
| Dec.14 | 81.38 | 42.59 | 38.79 | 887550 | 344280.645 |
| | | | 126.2 | | 1030357.203 |
| | | | Total FAC | Refund | 1030357.203 |

| Refund of AEC 1+AEC 2, AEC 3+AEC 4, Addl. FAC | | | | | |
|--|--------------|------------------|-------------------|------------------|--------------------|
| Billing Month | KWH Consumed | AEC 1+AEC 2 | AEC3+AEC4 | Addl. FAC | |
| | | 58.35+47.19 | 7.82+18.39 | | |
| | | 1.0554 | 0.2621 | 0.1857 | |
| Aug.13 | 7215222 | 7614945.3 | 1891109.69 | 1339866.7 | 10845921.71 |
| Sep-13 | 6856334 | | 1797045.14 | | |
| Dec.13 | 2876928 | | | 534245.53 | 534245.5296 |
| Total | | 7614945.3 | 3688154.83 | 1874112.3 | 13177212.38 |
| ED | 0.09 | | | | 0 |
| Total Refund | | 7614945.3 | 3688154.83 | 1874112.3 | 13177212.38 |
| Total FAC Refund | | | | 1030357.2 | |
| Total AEC+Add FAC Refund | | | | 13177212 | |
| Total | | | | 14207570 | |
| Interest | | | | 2841513.9 | |
| Grand Total | | | | 17049084 | |

We sincerely request Hon. CGRF Nashik to kindly consider the urgency in both these matters (under (A) and (B) above) and admit our application. We will be highly obliged, in case an early hearing in this matter is scheduled and we are given justice at the earliest. We also request that MSEDCL Nasik Urban Circle may be accordingly directed and we may be given the refund of excess amounts recovered from us in both matters, along with 9% interest at the earliest.

Prayers:

- 1) We sincerely pray Hon. CGRF Nashik, to kindly admit our application. Considering the financial impact on us, we sincerely request Hon. CGRF Nashik, for an early hearing in this matter.
- 2) Referring to the above mentioned the Judgment/ Order, issued by Hon. CGRF Nasik, we sincerely pray the Hon. CGRF Nashik, to kindly direct the MSEDCL officials to refund us the excess amount of FAC levied on us during (the period from Dec 2013 to Dec 2014). The

difference due to the FAC rates charged to us & Hon. MERC approved FAC rates may please be refunded to us at the earliest along with the interest at 9% per year.

- 3) We sincerely pray the Hon. CGRF Nashik, to kindly direct the MSEDCL officials to refund us the excess amount of AEC and Additional FAC levied on us in August 2013, September 2013 and Dec 2013 Energy Bills, at the earliest along with interest at 9% per year.
- 4) Hon. CGRF Nashik be pleased, to order interim & ad-interim reliefs in terms of the above prayers.

Arguments from the Distribution Company:

- 1) As refer to the above subject, AEC charges, Additional FAC levied by MSEDCL to M/s. Bhagwati Ferro Metal Pvt. Ltd. Cons. No. 075949022220 are charged as per MERC order Dt. 04/09/2013 in case of 44 of 2013, MERC order 26/07/2015 case of 95 of 2013.
- 2) FAC charged as per General Commercial Circular No. 189 to 193.

Both charges are charged to consumer as per circulars and amendment implemented by MSEDCL H.O. Hence bills are correct.

Action by IGRC :

1. Internal Grievance Redressal Cell Nashik Urban Circle conducted hearing on 18/05/2017 for the complaint submitted on 05/04/2016 .
2. After hearing both the parties IGRC gave decision regarding FAC and AEC as per letter dated 31/05/17 as under:

*^ xkgdki ns ; kr vkyyh fotns ds ; kX; vkgr-***

Observations by the Forum:

Grievance No. 1 : Regarding Refund of Excess collected FAC

1. The Hon'ble Commission has issued post facto approvals for FAC to be charged by the MSEDCL as per letters below:

| Letter No. | Dated | Billing Months of : |
|------------|---------------------------|----------------------------|
| 01540 | 18 th Dec 2014 | Oct 2013 to December 2013 |
| 01469 | 11 th Feb 2016 | March 2014 to June 2014 |
| 01481 | 16 th Feb 2016 | July 2014 to December 2014 |

2. According to these letters the FAC approved by the Hon'ble Commission for HT I C is as under :

| Billing Month | FAC approved by the MERC |
|----------------|--------------------------|
| December 2013 | -28.06 |
| January 2014 | 0 |
| February 2014 | 0 |
| March 2014 | 4.74 |
| April 2014 | 17.11 |
| May 2014 | 3.64 |
| June 2014 | 14.77 |
| July 2014 | 38.98 |
| August 2014 | 13.01 |
| September 2014 | 36.64 |
| October 2014 | 60.43 |
| November 2014 | 21.22 |
| December 2014 | 51.92 |

3. Hence, wherever, the Distribution Company has charged the FAC in the bills of the months from December 2013 to December 2014 , over and above the rates as above , the same needs to be refunded to the complainant with interest at bank rate of the Reserve Bank of India till the date of refund .

Grievance No. 2 : Regarding Refund of AEC and Additional FAC

1. After the issuance of tariff order for MSEDCL on 16th August 2012, the MERC has passed orders in relation to the matters of tariff of MSPGCL and intra-state transmission system. The MERC directed vide Order Dt. 05/09/2013 in case No. 95 of 2013, MSEDCL to recover Additional Charges -a) AEC-I Rs. 2037.78 Crs. in 6 equal instalments & b) AEC -2 Rs. 235.39 Crs. On monthly basis till issue of MYT Tariff Order from the consumers, in the form of Additional Energy Charges .
2. MERC had approved the Capital Cost and determined the tariff for Paras Unit# 4 and Parli Unit# 7 for FY 2010-11 .MERC vide order dated 03/09/2013 in Case No. 28 of 2013, has also allowed MSPGCL to recover the total amount of Rs. 628.90 Crs (including carrying cost) on account of impact of Hon'ble ATE Judgment in Appeal No. 47 of 2012 from MSEDCL in 6 equal monthly instalments. The Fixed Charges is to be recovered through AEC 3. MERC has determined the Capital Cost and Tariff of Khaperkheda Unit # 5 for FY 2012-13 vide its order dated 4th September 2013 in Case no. 44 of 2013. The Fixed Charges are to be recovered through AEC 4.
3. All the above Additional Energy Charges (Le AEC 1 to 4) were included and combined under the single head i.e. AEC which is indicated on the energy bill.
- 4 MERC in the order dated 04/09/2013 in Case No 44 of 2013 has also allowed MSEDCL to recover the Additional Fuel Adjustment Cost (FAC) . The relevant paras are as under:

4.4.34 The Commission observes that MSPGCL has capitalised the amount of fuel costs less revenue, on account of infirm generation of power. However, as fuel cost is a revenue expense, whether incurred during infirm generation or firm generation, the Commission is of the view that the same needs to be recovered directly for the power supplied during the period instead of capitalising it as a part of Capital Cost. As these expenses have been incurred prior to the COD, the Commission has considered the same as a part of capital cost for the purpose of computation of IDC. However, the Commission has not considered fuel expenses as part of Capital Cost for computing the tariff and the Commission hereby allows MSPGCL to recover the under-recovered fuel cost, i.e., Rs. 28.05 Crore for infirm power supplied to MSEDCL in three monthly instalments after the issue of this Order and MSEDCL can recover this amount through Fuel Adjustment Cost (FAC) mechanism.

.....
Summary of Findings:
.....

xix) As the variation in cost of generation is ultimately to be passed on to consumers, the Commission hereby allows MSEDCL to 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 to MSEDCL as approved by the Commission from the consumers in proportion to Average Billing Rate of respective consumer categories, under intimation to the Commission.

- 5 Accordingly the Distribution Company issued Commercial Circular No.209 dated 07/9/2013 and raised demand for the **AEC** and **Additional FAC** from the Electricity Bill of month of August, 2013.
- 6 However, the MERC order dated 05/09/2013 in case No. 95 of 2013 was challenged with the Appellate Tribunal of Electricity (ATE) . The ATE by order dated 22.8.2014 directed as under:
"We, therefore, set aside the Impugned Order and remand the matter to the State Commission to give opportunity to the parties concerned as per the provisions of Section 64 of the Electricity Act and hear the matter in a transparent manner and pass the final order uninfluenced by its earlier findings, as expeditiously as possible. We want to make it clear that we are not giving any opinion on the merits."

7 The matter was remanded to MERC for decision once again. Accordingly the MERC has followed the procedure as laid down in Section 64 of the Electricity Act and recorded following observations as per order dated 26th June 2015 :

".....the issue of over-recovery in terms of difference in time period of recovery considered by MSEDCL and that approved by the Commission had come up before the Commission in 19 identical Petitions filed by various consumers. In these Petitions, it was submitted that, on the basis of the Order in Case No. 95 of 2013, MSEDCL should have started levying AEC only from the month of September, 2013. However, MSEDCL started recovery from August, 2013 itself, thereby violating the Commission's directives under that Order. During the proceedings of those Cases, MSEDCL submitted that it had rectified the error in levy of AEC, and refunded the amount erroneously charged to consumers during August, 2013 in the billing month of February, 2014. That has been reflected in the Commission's Orders dated 27 March, 2014 on those Petitions. However, during the present proceedings, Shri Sanjay Gupta, Ashok Hotel, Nagpur has raised the matter of refund of the excess amount recovered by MSEDCL due to early billing. Therefore, the Commission directs MSEDCL to review the refunds made by it so far on account of wrongful premature billing, and to make any remaining refunds due to consumers in the next billing cycle."

The Hon'ble Commission has finally directed the Distribution Company as under:

17. However, MSEDCL shall review the refunds made by it so far on account of wrongful premature billing, and make any remaining refunds due to consumers in the next billing cycle.

8 The Commission has allowed AEC recovery from the month of September, 2013 but as represented by the complainant the recovery was made from the month of August, 2013. Similarly Commission has allowed recovery of Additional FAC from the month of September, 2013 for the period of three months. But MSEDCL has billed Additional FAC to the complainant for five months from August, 2013 up to December, 2013 instead of three months from September, 2013 up to November, 2013.

9 M/s Paul Strips and Tubes Pvt. Ltd has filed a petition for non-compliance of Commission's Order dated 26 June, 2015 regarding levy of Additional Energy Charge (AEC). In the Daily order dated 15/11/2016, the Hon'ble Commission has directed MSEDCL to take a review of the refunds made by it on account of premature billing of AEC and to make any remaining refund to consumers in the next billing cycle. In the said order, the Commission directed MSEDCL to submit details as follows:

- i. Total number of consumers from whom AEC is recovered for August, 2013 and the relevant period in September, 2013.
- ii. Out of (i) above how many of them have been refunded the amount that was prematurely recovered.
- iii. Reasons for not refunding to balance consumers, if any.

10. As per recent decision passed by Hon'ble Commission on the petition filed by M/S Paul Strips and Tubes (P) Ltd (case no 78 of 2016) as mentioned in observation by the Forum which states that If MSEDCL has recovered AEC in 6 installments on the electricity consumption of August 2013 to January 2014, it needs to refund the AEC collected on the August 2013 consumption and recover the AEC for the consumption of February 2014.

11 The MERC orders are clear and the complainant is entitled to the refund of the amount of AEC recovered in August 2013 (***which was a wrongful premature billing***) along with the interest on the said amount as per the provisions of Section 62 (6) of the Electricity Act, 2003. Similarly the Additional FAC should be billed for September, 2013 up to November, 2013 and excess recovered for August, 2013 up to December, 2013 should be refunded with the interest on the said amount as per the provisions of Section 62 (6) of the Electricity Act, 2003.

After considering the representation submitted by the consumer alongwith previous judgments of this forum in the same line in r/o M/S CEAT LTD. V/S MSEDCL, the facts and issues which resembles with present case hence with the consideration of said judgments, comments and arguments by the Distribution

Licensee, all other records available, the grievance is decided with the observations and directions as elaborated in the preceding paragraphs and the following order is passed by the Forum for implementation:

After considering the representation submitted by the consumer, comments and arguments by the Distribution Licensee, all other records available, the grievance is decided with the observations and directions as elaborated in the preceding paragraphs and the following order is passed by the Forum for implementation:

ORDER

1. The Distribution Company should refund whatever, excess FAC charged over and above the MERC approved rates in the bills of the months from December 2013 to December 2014 .
2. The Distribution Company should also refund the additional FAC and Additional AEC charged in Aug 2013 and Dec 2013 .
3. All these refunds should be adjusted in the ensuing bill after the date of this order , and the amounts should be refunded along with the interest till the date of refund as per the provisions of Section 62 (6) of the Electricity Act, 2003.
4. As per regulation 8.7 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 , order passed or direction issued by the Forum in this order shall be implemented by the Distribution Licensee within the time frame stipulated and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum within one month from the date of this order.
5. As per regulation 22 of the above mentioned regulations , non-compliance of the orders/directions in this order by the Distribution Licensee in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Maharashtra Electricity Regulatory Commission can initiate proceedings *suo motu* or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Electricity Act, 2003.
6. If aggrieved by the non-redressal of his Grievance by the Forum, the Complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

(Chandrakant M. Yeshirao)
Member

(Prasad P. Bicchal)
Chairman

Consumer Grievance Redressal Forum Nashik Zone

Copy for information and necessary action to:

- 1 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. ,
Vidyut Bhavan, Nashik Road 422101 (For Ex. Engr.(Admn)
- 2 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. ,
Vidyut Bhavan, Nashik Road 422101 (For P.R.O)
- 3 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. ,
Urban Circle office, Nashik .