

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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No. / CGRF /Nashik/NRC/N.R.Dn./480/11-15/

Date: 16/06/2015

(BY R.P.A.D.)

In The Matter Of

Recovery Of Charges from the Consumer against request for Shut Down

Date of Submission of the case: 08/05/2015

Date of Decision : 16/06/2015

To.

1. M/s. Thyssenkrupp Electrical Steel India Pvt. Ltd.
At Post Gonde, Village Wadivarhe
TQ. Igatpuri Dist. Nashik 422403
(Consumer No. 052089006996) Complainant
2. Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Rural Circle Office,
Nashik Distribution Company
3. Executive Engineer (Rural)
Maharashtra State Electricity Distribution Com. Ltd.
Patel Chamber , Nashik .

DECISION

M/s. Thyssenkrupp Electrical Steel India Private Limited , (hereafter referred as the Complainant) . Igatpuri Nashik is the HT Industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company) . The Complainant has submitted grievance against MSEDCL for recovery of charges taken against the request for shut down . The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company 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.100 of 2015 on 08 /05/2015.

The Forum decided to admit this case for hearing on 26/05/2015 at 11.30 pm in the office of the forum . A notice dated 08/05/2015 to that effect was sent to the complainant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Rural Circle Office Nashik for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shir. B. N. Sawant, Nodal Officer, represented the Distribution Company during the hearing. Shri P. Sengupta GM., Shri. Vinayak Salunke, Head-Elect., Shri. Lucky A Popli, Secretary ,Thyssenkrupp Elect. Steel India Pvt Ltd. appeared on behalf of the consumer.

Consumers Representation in brief :

1. A shutdown of feeder was planned by Thyssenkrupp Electrical Steel India Private Limited (TKES) bearing consumer No. 052089006996, for ABT meter installation on 14/11/2014 11.45 AM to 15/11/2014 8.45 PM (33 hrs.) with prior intimation to MSEDCL & MSETCL.
2. Currently, TKES receives 220 KV from HT grid and step down to 11 KV in the substation, which is further distributed to other secondary substation around the plant premises.
3. Beside their own use, inside the plant; three other consumers were connected @ at 11 KV voltage level from their substation. Details of these consumers are given as hereunder.
 - a. TKES Jackwell (Con. No. 052089010357)- A pump house owned by TKS and located at the edge of Mukne Dam to lift the water for internal use in the plant.
 - b. Rothe Erde (I) Pvt. Ltd. (REIPL) (Cons.No. 052089019570)- Their group company located nearby the plant.
 - c. MSETCL substation (Con. No. 052080000120) located inside their premises, controlling Raymond Substation.
4. The shutdown was planned in consultation and consensus with all consumers, with an agreement to schedule their operations in other time slot, thereby unaffacting their production/delivery schedule,.
5. In this connection it is worth mentioning, that they had already submitted a No objection Certificate from REIPL, as confirmation of their agreement for the shutdown. Further. TKES Jackwell, being their own pumping station that runs only for 2 hrs in a day for lifting water from Mukne Dam for their own internal use. The said pumping station was operated in advance to ensure adequate stock of water for our consumption.
6. Therefore, it is absolutely clear that there were no possibilities of any energy losses for MSEDCL on account of aforesaid shutdown.
7. They were surprised to receive a demand of Rs. 2,38,555 on account of energy loss charges from MSEDCL on 12/11/2014 @ 16.00 Hrs. (41 Hrs before commencement of shutdown), wherein they had no other option but to pay the amount under protest to go ahead with the shutdown activity.
8. They have not yet received any communication from SE, MSEDCL, Nashik Rural Circle to their protest letter dated 13/11/2014 requesting refund of money deposited against unjustified demand by MSEDCL. It is pertinent to note that, IGRC vide its order dated 02/03/2015 had made crystal clear that " the energy loss calculation will not be accounted for the applicant and the Jackwell which is for their own purpose".
9. Applying the above mentioned order in their case, for any energy loss : "NO ENERGY LOSS CHARGES SHOULD HAVE BEEN BE LEVIED" since Rithe Erde is their own group Company and Jack well is for their own purpose.
10. Even after the order has been passed on 2nd March 2015, till date no action has been initiated by MSEDCL.

Demands of the Consumer:

It is humbly requested to the Consumer Grievance Redressal Forum (CGRF) to consider the appeal and direct SE, MSEDCL to refund the entire deposited money at the earliest possible.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 25/05/2015 from the Nodal Officer, MSEDCL, Rural Circle Office, a Copy of Office note dtd. 25/05/2015 prepared by the Dy. Executive Engineer II and approved by the Superintending Engineer, Nashik Rural Circle and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

1. The Superintending Engineer, Nashik Rural Circle has taken action in refund of excess energy charges recovered from the consumer as per the Internal Grievance Redressal Cell decision under letter No. 1140 dtd. 02/03/2015.
2. A Copy of the approved Office note dtd. 25/05/2015 with a note that the refund amount to be adjusted in HT Bill for the month of May 2015 is attached herewith.
3. The IGRC Nashik has directed MSEDCL Nashik Rural Division, to verify the amount as per circular & refund the excess amount if any to the applicant against the amount which has

been recovered from the above said HT consumer for the energy loss due to outage availed by the consumer.

4. As per Executive Engineer letter no. 3578 , dtd 21/05/2015 , Energy loss of Rs.2,38,555/- for a period of 48 hrs has been recovered from the consumer but actually 33 hrs outage was availed by the consumer. Total charges to be recovered from consumer for 33 hrs outage were as: (as per HO letter no.35017 dt.25/11/2011)
 - = Direct charges + Indirect charges
 - = (KWH x Avg. Billing Rate) + (10900/day x 2)
 - = (18785.23 x 4.41) + 21800
 - = 1,04,643

As per IGRC decision excess amount recovered has to be refunded to consumer .
Amount to be refunded= Amount paid by consumer (MR No. 0932682 Dt 13/11/14)—
Actual applicable charges
= 2,38,555-1,04,643 =1,33,912

5. Accordingly the Superintending Engineer accorded the approval for refund of Rs.1,33,912 to the consumer and the note is forwarded to the Sr. Manager (F & A) to adjust the refund amount in HT bill of May-15 with due audit of above figures.

Action by IGRC :

1. Internal Grievance Redressal Cell Nashik Rural Circle conducted hearing on 31/01/2015 for the complaint submitted on 30/12/2014
2. After hearing both the parties IGRC gave decision as per letter dated 02/03/15 as under:

" 1) The complainant is aggrieved by the energy loss amount collected by MSEDCL for the period 43(48?) hrs. As per the MSEDCL Head Office, Mumbai Circular No. P Comm/Comm/35017, Dt. 25.11.2011, The Superintending Engineer has approved to Levy system handling & load management charges from the applicant requiring shutdown. The procedure for collecting system handling & load management charges is ..

- i) *Total Charges = Direct + Indirect charges
= Loss of energy sale in KWH x Avge Billing + Charges for Manpower Rs. 10,900 (rate per day)
if the shutdown is taken for more than 1 day, for eg. 8 hrs / day, every time the manpower charges will be get added*

2) The energy loss calculation will not be accounted for the applicant & the Jackwell which is for their own purpose. However the energy loss for the others consumers on the time(line?) will (be) accounted in the calculation & the NOC is also needs to be taken. The MSEDCL Nashik Rural Division is requested to verify the amount as per the circular & refund the excess amount if any to the applicant."

Observations by the Forum:

1. The Forum is of the opinion that complaint submitted by the complainant is not covered by the definition of "Grievance" as defined under Regulation 2.1(c) of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006. As per this regulation:

"Grievance" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a license, contract, agreement or under the Electricity Supply Code or in relation to standards of performance of Distribution Licensees as specified by the Commission and includes inter alia (a) safety of distribution system having potential of endangering of life or property, and (b) grievances in respect of noncompliance of any order of the Commission or any action to be taken in pursuance

thereof which are within the jurisdiction of the Forum or Ombudsman, as the case may be."

As such a grievance contemplated under the above Regulations is basically a complaint about fault or inadequacy in quality of performance of the Distribution Company. In this case, admittedly, there is no grievance that performance of the distribution licensee, had been imperfect or otherwise. The grievance of complainant is in respect of an action of asking charges by the Distribution Company allegedly not authorized by the Commission. So, the grievance would not fall within the four corners of the term "grievance" defined under the Regulations. Hence the Forum is not in a position to deal with it.

2. The Hon'ble Aurangabad Bench of Bombay High Court in a case MSEDCL Vs M/s Kaygaon Paper Mills Ltd. , Aurangabad & CGRF , Aurangabad Zone (WP No. 2032 Of 2011) has examined the applicability of the definition of the "grievance" . The brief account of the case is as under:

M/s Kaygaon Paper Mills Ltd. , Aurangabad had approached the CGRF, Aurangabad Zone, for refund of cost of metering cubicle, CTs and other allied material. The CGRF, Aurangabad Zone, directed the Distribution Company to refund of Cost of Cubicle and Cost of CTs . The CGRF order was challenged by the Distribution Company in the High Court. In this petition the Distribution Company has argued that by no stretch of imagination the grievance of respondent would be covered by the definition of a consumer's grievance contemplated under the CGRF Regulations. Upholding the argument the Hon'ble Court has observed as under:

" 6.I have made sufficiently clear above that the dispute between the parties is of civil nature and would not be covered by the term 'grievance'. The Consumer Grievance Redressal Forum, which had passed the impugned order, apparently did not have jurisdiction to entertain a complaint of this nature. Respondent No. 2- Forum thus could not have decided the dispute of this nature. Therefore, the orders passed by the Commission will be of no use to respondent No. 1.

7. In view of this, without expressing any view on merits of the claim / defence / Forum's decision, I am inclined to allow this petition. The Writ Petition is allowed. The impugned order of the Forum stands set aside. The amount deposited by the petitioner shall be refunded to them."

3. However the Forum would like to keep on record the following observations in this case on scrutiny of the documents submitted by the complainant and the Distribution Company:

- a. The complainant has applied to the MSETCL as per letter dated 05/11/2014 for permission of shut down on 220 kV line on 14th and 15th November 2014 for ABT meter installation. The Dy. Executive Engineer, MSEDCL, Igatpuri issued a firm quotation dated 12/11/2014 asking the applicant to deposit total Rs. 2,38,555/- with break up as under:

Energy Loss charges for Rothe Erde India Pvt. Ltd.	2,36,485/-
Energy Loss Charges for TKES	1,970/-
Processing Fees	100/-
	<hr/>
	2,38,555/-
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- b. The complainant paid the quoted amount of Rs. 2,38,555/- as per MR No. 0932682 dated 13/11/2014 under protest by a letter dated 13/11/2014 . The complainant had asked the Distribution Company to provide necessary MERC regulations for claiming the energy loss.

- c. After submission of the grievance to the IGRC , the Distribution Company revised the calculations and estimated the amount to be Rs.1,04,643/- based on 33 hours of shut down and revising some other parameters . The Distribution Company has therefore agreed for refund of Rs. 1,33,912/-
- d. There is no MERC order /regulation on record enabling the Distribution Company to recover energy loss charges from the consumer requesting for shut down .
- e. The letter no. 35017 dated 25/11/2011 from the CE (Commercial) ,MSEDCL:
 - i. is a letter written to The CE (Trans O & M) MSETCL with copies to CE , Zones .
 - ii. is on the subject of "Levying of Load management and system handling charges to other utilities/outside agencies by MSETCL" It indicates the methodology of computing the charges to be paid other utilities/ outside agencies to the MSETCL in case of requested shut down . But in the present case MSEDCL has asked the consumer to pay the charges to them.
 - iii. is mentioned at the end of under the head of Payment methodology for levy of load management & system handling charges that "*(a) These Charges are to be recovered by Superintending Engineer, MSETCL (Nodal Office) and to be deposited to Superintending Engineer of MSEDCL (Nodal Officer) . Or (b) These Charges are to be paid by PGCIL or IPP generator (Who is availing shutdown directly to the Superintending Engineer, MSEDCL (Nodal Officer). After deposition of LMSH Charges, concerned Superintending Engineer (Nodal Officer) will issue No-Objection Certificate for availing shutdown.*" As such the above mentioned letter is about shut down requested by Power Grid Corporation of India Ltd.(PGCIL) and Independent Power Producers (IPP) and not by the consumers of Distribution Company.
- f. After plain reading of the above letter no. 35017 dated 25/11/2011 , it can not be concluded that these are the guidelines for recovering the energy loss charges from a consumer who requests for shut down .They are meant for shut down requested by PGCIL/IPPs/other utilities and outside agencies .
- g. The letter no. 35017 dated 25/11/2011 was sent by the CE (Commercial) , Mumbai to the CE ,Nashik Zone by a letter dated 20/06/2012 on his query dated 04/05/2012 on the subject of "Levying of Load management and system handling charges as compensation towards shut down on EHV/HV/LT line requested by other utilities/outside agencies"
- h. These guidelines are issued on 25/11/2011. Then the question arises whether the Distribution Company was recovering such charges from the consumers who applied for shut down prior to November 2011 ? Has the Distribution Company recovered energy loss charges from every consumer who has hitherto requested shut down ? The Distribution Company could not provide any satisfactory answer .
- i. The Distribution Company can recover only the charges of the electricity supplied as empowered under the section 45 of the EA 2003 , and any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving supply under the section 46. The Supply Code , 2005 does not have any provision to recover the energy loss charges from the consumer . The prevailing Schedule of Charges approved by the Commission under order dated 16th August 2012 (Case no. 19 of 2012) also do not enable the Distribution Company to recover charges under this head.
- j. The letter no. 35017 dated 25/11/2011 does not indicate any thing to show that recovery of such charges has been approved by the Commission.
- k. The Distribution Company officers have no clarity about the calculations based on the letter no. 35017 dated 25/11/2011. While giving the quotation for energy loss they have initially considered two consumers and tariff rate of Rs. 8.50. Later they have considered only one consumer (ThysunKrupp) and tariff rate of Rs. 4.41 They have taken the average of last six months consumption both times .The said

letter dated 25/11/2011, however do not mention anything about taking six months average. If the averaging is done for 12 months , the calculations may change.

- i. The connection to the MSETCL substation control room on this feeder has already been disconnected . Hence , presently there are three connections on this feeder . One connection (No. 052089006996) is belonging to the complainant itself. Second connection (No. 052089010357) is also in the name of the complainant taken for Jackwell . The third connection (No. 052089019570) is in the name of M/s Rothe Erde India Pvt. Ltd. (REIPL) . It is stated by the complainant REIL is their own group company .
- m. The IGRC in its decision has recorded that "*The energy loss calculation will not be accounted for the applicant & the Jackwell which is for their own purpose. However the energy loss for the others consumers on the line will be accounted in the calculation & the NOC is also needs to be taken.*" The REIPL has directly given their NOC by a communication addressed to the Executive Engineer , Nashik Rural Division and the concerned Subdivision . This is as good as the request from REIPL also for shut down . As such energy loss should have not been accounted for M/s Rothe Erde India Pvt. Ltd. also.

The present representation is related to correct interpretation and application of the letter no. 35017 dated 25/11/2011 from the CE (Commercial) ,MSEDCL . This may be dealt with by the MSEDCL head office. The Forum directs the complainant to approach MSEDCL head office for the resolution on the backdrop of the observations of the Forum as above.

- 4 The representation is disposed off subject to the observations in the above paras.

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.

(Rajan S. Kulkarni)
Member

(Ramesh V.Shivdas)
Member-Secretary
& Executive Engineer

(Suresh P.Wagh)
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. , Rural Circle office, Nashik .