

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

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No. / CGRF /Nashik/NUC/N.U.Dn.1/625/15/2017-18/
(BY R.P.A.D.)

Date:

Date of Submission of the case : 18/07/2017

Date of Decision :

To.

M/s. CEAT Limited
82, M.I.D.C. Industrial Area,
Satpur Nashik 422007.
(Consumer No. 049069002284)

Complainant

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

Distribution Company
(Respondent)

DECISION

M/s. CEAT Limited , (hereafter referred as the Complainant). Satpur Nashik is the HLT consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Respondent). The Complainant has submitted grievance against MSEDCL for refund of excess collected amount towards transmission charges and wheeling charges for the open access period. The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. Ltd. . But IGRC did not take any decision for more than 2 months . Hence , the consumer has submitted representations to the Consumer Grievance Redressal Forum in Schedule "A". The representations are registered at serial No. 115 Of 2017 on 18 /07/2017.

The Forum in its meeting on 20/09/2017, decided to admit this case for hearing on 25/10/2017 at 12.30 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. , Dy. Executive Engineer Shri. A. R. Tiwari represented the Distribution Company during the hearing. Shri . B.R. Mantri appeared on behalf of the consumer.

Consumers Representation in brief :

With reference to above subject matter, we are noticed that MSEDCL has charged **Wheeling charges and Transmission charges** on the total units after consideration of losses.

As per MERC regulation, wheeling charges and transmission charges, cross subsidy surcharge and additional surcharge, (all charges and surcharges) should be charged on adjusted units, i.e. on the actual energy drawn at the consumption point as provided in Regulation 15 and 16 of the DOA regulation.

MSEDCL has recovered the excess amount against **Wheeling charges and Transmission charges on the total units including line losses units**, since from the beginning, when open access has allowed by the MSEDCL.

We are submitting the June -2016 open access transaction for your information.

In this month, consumer open access demand as per below:

Total Contract demand: 9000 KVA

MSEDCL Contract demand: 4000KVA

Open access demand: Conventional: 5000 KVA

Open Access demand: Non-Conventional: 2400 KVA (wind)

OA Billing Details:

	Wind	Conventional
A. Export Unit:	748982	0
B. Units for OA Adjustment (KWH)	748968	3419655
C. Units after transmission loss (KWH)	676643	3089433
D. Units after Distribution loss	704029	3089433
E. Final Units	676643	3089433
F. Units adjusted against OA (KWH)	670583	2865385
G. Over Injected unit	6059	224048

1. Our payment to generating company as per (B) Units for OA Adjustment (KWH).
2. MSEDCL system credit unit by generating company as per (B) Units for OA Adjustment (KWH).
3. Total loss of units in MSEDCL Tr & Wh: (B) Units for OA Adjustment (KWH) – (f) Units adjusted against OA (KWH).
4. MSEDCL adjusted units against Open access (F) Units adjusted against OA (KWH).
5. We are over injected unit in MSEDCL system but this will free to MSEDCL.

Actual Charges levied by MSEDCL for Open access units as per below:

1. Cross Subsidy Surcharge:
Conventional 2865385 @1.49
+ Non-Conventional 676642 @ 0.3725 = Rs.4521472.80
2. Wheeling charges:
Conventional units: (B) Units for OA Adjustment - (Units for OA Adjustment x 3.89%)
=3419655 – (3419655 x 0.389) = 3286630

Non-Conventional units: Same Voltage level = (B) Units for OA Adjustment
=748968

Total units = 4035598 @ 0.15 = Rs.605339.70

3. Transmission charges:

Conventional (B) Units for OA Adjustment 3419655 @ 0.26 = Rs.889110.3

Non- Conventional (D) Units after Distribution loss: 704029 @ 0.26 = Rs.183047.54
= Total Rs.1072157.84

From the above, it seems that

1. For charging of CSS, MSEDCL has considered the units as actual drawl units. The same formula to be applied on wheeling and transmission charges also.
2. For charging of wheeling charges, MSEDCL has considered the wheeling charges including loss of units.

Under MYT Regulation 12.1 Part C of the Maharashtra Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2005 notified on 26th August 2005, stipulates that the Commission shall determine the tariff for following matters under a multi-year tariff framework with effect from 1st April, 2006:

- a) Supply of Electricity by a Generating Company to a Distribution Licensee
- b) Intra-State transmission of Electricity
- c) Wheeling of Electricity
- d) Retail Sale of Electricity

Hon'ble Commission has introduced the wheeling charges and transmission charges from the tariff order of MSEDCL for FY 2006-07 based on MERC (Terms and condition of tariff) Regulation 2004.

The Commission has considered the approved wires and Supply ARR, past period adjustment and Energy Sales at various voltage levels as approved by the Commission while deciding the voltage wise cost of Supply.

The Commission has determined the wheeling charges for use of wire network for eligible open access consumers for each voltage level based on the voltage-wise asset base and capacity levels at each voltage, as submitted by MSEDCL, with certain assumptions.

The Commission prescribes that the distribution system users who are eligible for open access to the distribution system of MSEDCL in accordance with the Distribution Open Access Regulations, 2005 would be required to pay the wheeling charges and bear wheeling losses in kind as determined.

From the tariff order FY 2009-10, the Commission has determined the wheeling charges in terms of energy units Rs/KWH instead of Rs/KW/month for 33 kV, 22 kV/11 kV and LT level, based on the allocation of asset base and **considering sales at respective voltage levels.**

As per D O Regulation, consumer has to pay the wheeling charges on drawal units at consumption end (Sales unit) and to bear the wheeling loss on the adjustment of extra units for losses.

MSEDCL has charged wheeling charges including loss of units.

We have already borne the distribution loss with % of loss units which are credited in to MSEDCL system. So MSEDCL has wrongly charged wheeling charges including loss of units. MSEDCL has to charge wheeling charges as per drawal of energy at the consumption end (Sales end).

For charging of transmission charges, MSEDCL has considered for (B) Units for OA Adjustment and for Non- Conventional (D) Units after Distribution loss.

For charging of transmission charges, MSEDCL has to consider the MERC ruling as below:

MERC Order in Case No. 58 of 2005 dated 27/06/2006 for development of "Transmission Pricing Framework" for the State of Maharashtra and other related matters: in this order the Commission has devised a composite scheme for pricing of 'Intra-State Transmission system'. In this policy, Commission has decided the recovery of revenue in Para 4.2.7.

4.2.7 "Further, the Transmission Tariff has been designed such that recovery of revenue requirement of transmission licensees is achieved only through **drawal of energy**, i.e., all off-takers (licensee, open access users) shall bear the transmission tariff. The generating company should be charged for **injection of energy** only if they seek open access for sale to consumers/licensees **outside the state**.

4.2.10 "Transmission loss shall be borne by all TSU (off-takers) on prorata basis based on their energy drawal depending on actual transmission loss level.

We have already borne the transmission loss with % of loss units which are credited in to MSEDCL system. So MSEDCL has wrongly charged transmission charges on the injection points. MSEDCL has to charge as per drawal of energy at the consumption end.

MSEDCL has to revise the charges levied for wheeling and transmission at actual drawal (sales point – Consumption end) as below:

1. Wheeling charges: (F) Units adjusted against OA (KWH)
 $670583 + 2865385 = 3535968 @ 0.15 = \text{Rs.}530395.20$
2. Transmission charges:
(F) Units adjusted against OA
 $670583 + 2865385 = 3535968 @ 0.26 = \text{Rs.}919351.68$

MSEDCL has to refund the excess collected charges for the billing month of June 2016 as below:
= (Rs.605339.70 + Rs.1072157.84) – (Rs.530395.20 + Rs.919351.68)
= Already charged (Rs. 1677497.54) - To be charged (1449746.88)
=Refund Rs.227750.66

This is for your information. Enclosing Jun 2016 bill copy and open access consumption data details

Prayer:

As per MERC practice direction, refund the excess collected amount since from beginning when allowed for open access against wheeling and transmission charges with interest as per EA 2003 Section 62(6) from the date of deposit to date of refund.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 24/10/2017 from the Nodal Officer, MSEDCL, Urban Circle Office Nashik and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

1. The Consumer has not mentioned particular month or period for which he wants the revision.
2. The reference given by consumer i.e. MERC orders in case No. 137 of 2015 dated 17.05.2016 is applicable for open access consumers who are availing E power from open access. Also this decision is in context with difficulties in Distribution open access regulation 2014. These regulations were applicable upto 30.03.2016

As M/s. CEAT Limited has not availed Non conventional power from open access upto March 2016, so the MERC order in case No. 137 of 2015 dated 17/05/2016 is not applicable in case of this consumer.

3. The consumer has availed RE power as well as Non conventional power various generators during 2016-17. So the wheeling charges & transmission charges are charged as per in Distribution open access regulation 2016 & all the monthly bills are finalized from MSEDCL H.O. Mumbai.

As per telephonic talk with MSEDCL H.O. it is informed that the wheeling charges & transmission charges in case of conventional power are charged as per the provision of clause 11.9 of MERC Distribution open access regulation 2016 & bills are correct.

The clause 11.9 is reproduced as below :

Non utilization of short term open access-

- 11.9 If the consumer, generating company or licensee, as the case may be, is unable to utilize for more than four hours the full or a substantial part of its allocated capacity, it shall inform the nodal agency & may surrender the use of such capacity but shall pay transmission charges. And wheeling charges applicable to the original reserved capacity & period . In case of wheeling charges for RE power utilized during 16-17 consumer may apply separately, so the matter can be referred to our H.O.

From above clarification, it is clear that bills of M/s. CEAT LTD,., are correct. Still if there is any dispute then consumer should approach to MERC as per provision of MERC Distribution open access regulation 2016 clause 32.

Action by IGRC :

- 1 The complainant has submitted grievance to the Internal Grievance Redressal Cell Urban Circle Nasik on 21/11/2016 .
- 2 But the IGRC has not taken any action for more than 2 months.

Observations by the Forum:

1. The grievance is regarding the charges levied for wheeling and transmission by the Distribution Company for open access consumer.
2. The MERC has framed the MERC (Distribution Open Access), Regulations, 2016 ('DOA Regulations') notified on 30th March 2016 . These regulations provide directives for the levy of Wheeling Charges on Open Access Consumers . Also the MERC (Transmission Open Access) Regulations, 2016 ('TOA Regulations') notified on 30th March 2016 provide for the levy of Transmission Charges on Open Access Consumers. The section 32 of the 'DOA Regulations' states that "any dispute under these regulations shall be adjudicated upon by the Commission."

3. This being a dispute related to the DOA and TOA regulations , the Forum does not have jurisdiction to resolve it.
4. The complainant has referred a decision by MERC in Case no. 137 of 2015 in the matter of Petition of Ghodawat Energy Pvt. Ltd. for removal of difficulties in Distribution Open Access Regulations, 2014 and argued that the CGRF has jurisdiction regarding this grievance. However the relevant portion of the decision in this case is as under:

".....7. If (as implied by GEPL) those of the above provisions which are relevant to its consumers are not being followed by MSEDCL, the consumers have recourse to the CGRF since such grievances would be in the nature of billing disputes which are to be addressed through that mechanism. ..."

A plain reading of the above decision will reveal that petitioner (GEPL) is the energy provider and this directive is regarding the consumers of GEPL. The disputes of the its consumers can be resolved through this mechanism.

5. It has been reported by the Distribution Company that they have sought guidance from the CE (Commercial) Mumbai regarding recovery of wheeling charges, transmission charges and temporary tariff charges levied to open access consumer. There is no reply yet.
6. The MERC has also issued Practice Directions under order dated 08/03/2017 which contains the following directives regarding Wheeling Charges or Transmission Charges:

A STOA Consumer, Generating Station or Licensee using a Distribution System shall pay Wheeling Charges or Transmission Charges, as the case may be, on the basis of the actual energy drawal at the consumption end on Rs/kWh basis. The Distribution Licensee shall refund any amounts recovered in excess of these stipulations within a month, with applicable interest, without requiring such refund to be applied for.

The Distribution Company shall decide the grievance in the light of these directives within one month . If the complainant is not satisfied with resolution , the Hon'ble Commission may be approached as provided in the DOA regulations.

The case is disposed off with the above observations.

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 .

