

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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Consumer Grievance Redressal Forum
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No. / CGRF /Nashik/NRC/N.R.Dn.422/05-14/
(BY R.P.A.D.)

Date:

Date of Submission of the case :23/04/2014
Date of Decision : 30/07/2014

To.

1. M/s. Nashik Power Equipment .
B 138, M.I.D.C. Malegaon,
Sinnar Dist. Nashik 422103
(Consumer No. 076048011205)

Complainant

2. Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Rural Circle office,
Nashik
3. Executive Engineer (Rural)
Maharashtra State Electricity Distribution Com. Ltd.
Patel Chamber , Nashik .

Distribution Company
(Respondent)

DECISION

M/s. Nashik Power Equipment , (hereafter referred as the Complainant). Sinnar Nashik is the LT Industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against MSEDCL for charging of wrong tariff. The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of Nashik Rural Circle Maharashtra State Electricity Distribution Company Ltd. But not satisfied with the decision of the Distribution Company , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.74 of 2013 on 23 /04/2014.

The case could not be kept for hearing immediately after its receipt as the post of the Chairperson and Member of the Forum were vacant. After the appointment of the Chairperson the Forum in its first meeting on 09/06/2014, decided to admit this case for hearing on 25/06/2014 at 3.30 pm in the office of the forum . A notice dated 10/06/2014 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. The copy of this notice was also endorsed to the Executive Engineer (R) ,Nashik

The Forum could not to pass appropriate order, on the Grievance for its redressal within a period of two months from its date of receipt as mandated in regulation 6.18 of the MERC (CGRF & EO) Regulations, 2006, because the posts of the Chairperson and the Member remained vacant after 08/02/2014 and the Forum could start functioning only after the appointment and

joining of the Chairperson with effect from 06/06/2014. The post of the Member representing the Consumer Organisation is still vacant.

Shi. B. N. Sawant, Nodal Officer, Shri A. R, Chavan Executive Engineer (Rural) Dn. Nashik, Shri. N. B. Rohankar Asstt. Engr. Divisional Accountant Shri. M.P. Dhongade, Shri. D. J. Nirgude, Asstt. Auditor represented the Distribution Company during the hearing. Shri M.B. Chawarkar , appeared on behalf of the consumer.

Consumers Representation in brief :

1. The consumer is running a small scale industry in MIDC Malegaon, Tq. Sinnar engaged in the activity of manufacture of Transformers, Fabrication and Lamination CRGO Core. It is registered with the District Industries Centre, Govt. of Maharashtra, Nashik as a manufacturing enterprise on 17/07/2009. Three phase LT electric supply with sanctioned load 20 KW is given to this unit by the Distribution Company since 01/10/2009. The original application was for supply in industrial category and the estimate dated 04/08/2009 from the Assistant Engineer, Sinnar I clearly indicated the category as "INDUSTRIAL"
2. But the bills were being sent by the Distribution Company applying tariff category as LT-II-A (Commercial) since beginning.
3. As soon as consumer came to know regarding wrong tariff, he filed first complaint to Sub Dn. Sinnar on Dt: 21 Aug 2012. The SDO has received this copy personally; the photo copy of the same is attached. After that the consumer continuously followed up the matter with Distribution Company but his request was not attended properly. None of the authorities gave him justice, instead they pointed to each other for not having an authority to change the tariff category, nothing was given in written as a correspondence to his complaint:
 - a. Mr. Uke- then SDO did not look into the matter, hence filed reminder to the same complaint.
 - b. After that Mr. Kale was in charge of Sinnar Sub. Dn. Once again complaint was put in front of him.
 - c. The line staff visited company for S.V. on Dt: 8 Apr 2013 and handed over rough report. Besides that no action was taken by Mr. Kale.
 - d. After that Mr. Rohankar who has taken the charge of SDO told consumer to give fresh complaint, as earlier complaint documents were not found.
 - e. Site verification was done after one month later and S.V. report was given to consumer in Aug 2013.
 - f. Mean while with continuous follow up, consumer was told that matter is submitted to Division and he was asked to contact Division regarding the complaint. After visiting Dn office consumer came to know that no such complaint is forwarded to Dn by Sinnar SDn.
 - g. Fed up of all these things consumer visited Sinnar-SDO and waited in this office for 3 hrs for finding O/C. It could not be a fresh letter vide Sr. no. SNR-I/3038 Dt. 21 Oct. 2013 was sent to Division office.
 - h. The consumer was verbally told that the complaint is forwarded to Rural Circle office.
4. The consumer did not find any response, hence filed a complaint in IGRC. on 13/12/2013
5. Thus in the entire case consumer was mentally harassed by MSEDCL officers, was asked to find out circulars for correct tariff. Is it the consumer's duty to find the appropriate MSEDCL circular to justify the tariff category?
6. Thus when for about two years consumer was made to run behind MSEDCL officers, instead of punishing them for the kind of negligence they have shown towards the complaint. The IGRC has asked to refund the amount from the date of registration of complaint in IGRC.
7. The decision given by IGRC is partial and completely in the favor of MSEDCL
8. IGRC has agreed for correct tariff as LT-V (A) instead of commercial. But in the decision IGRC has mentioned that bill revision should be done for 24 month before date 13. 12.2013 i.e. the date on which the complaint was registered with IGRC.
9. In support of this the IGRC has quoted the clause of Electricity Act 2003 section 56(2) – **'Notwithstanding anything contained in any other law for the time being in force, no sum**

due to from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such has been shown continuously as recoverable as arrears of charges for electricity supplied and license shall not cut off the supply of electricity.' But this clause is not regarding the consumer who has paid his entire bill with higher tariff and should be compensated for the additional charges recovered from him, **rather the statement above clearly says that, the consumer upon which any continuous recoverable arrears are shown in his bill can only be recovered for maximum of 2 years for pending arrears from him.**

10. **No arrears are there on consumer neither any arrears are shown in the bill. So nothing is to be recovered from the consumer.** Instead of that MSEDCL should pay consumer entire additional charges that have been recovered from due to wrong tariff. **So this clause is not at all appropriate for the consumer who has no pending bills also for wrong Tariff MSEDCL is completely responsible.**
11. In this case it is pointed out as under:
 - a. There was fake advices/promises/ negligence, wrong procedures of MSEDCL concerned officers.
 - b. Concern O&M officers deliberately made delay in the matter so that consumer should get punished in the form of not getting entire compensation
 - c. The consumer paid all the energy bills for four years like a patient & responsible consumer, even when billed with higher tariff
12. The consumer wishes to bring attention to the **MOST SERIOUS MATTER** reflecting negligence or revenge for filing a complaint in IGRC. When IGRC has directed to bill as per tariff LT-V(A), but the consumer is charged as per tariff LT-V (B) i.e. for above 27 HP. The Industrial connection is sanctioned for below 27 HP categories and never crossed demand of 20 KW. The consumer rushed to the division. None of the officer has informed either in oral or in writing .

Demands of the Consumer:

1. The consumer should be paid entire balance amount in the tariff difference starting from first bills along with interest at RBI's rate.
2. Impose punishment to all the MSEDCL officers responsible in this matter as per SOP

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 21/06/2014 from the Nodal Officer, MSEDCL, Nashik Rural Circle Office, a letter dated 21/06/2014 from the Assistant Engineer, Sinnar and other relevant correspondence in this case. Putting forth the arguments on the points raised in the grievance the representatives of the Distribution Company stated that:

1. The tariff category of the consumer has been changed from commercial to industrial .
2. The online B-80 has been processed on 28/03/2014 for the refund of tariff difference from December 2011 to December 2013.
3. The Divisional Office has to approve the refund as the amount is more than Rs. One Lac.

Action by IGRC:

1. The grievance was received by the Internal Grievance Redressal Committee at Nashik Rural Circle office on 13/12/2013.
2. The IGRC heard the grievance on 22/01/2014 and as per letter dated 25/02/2014 gave decision as under:

- LFG rikl .kh vgo ky o l knj dyyk ys vkmV ud kj es ukf' kd i koj bMLVhe/; s jkfg= cufo. ; kps (Transformer manufacturing) dk; l dys tkr s o R; ku d kj es ukf' kd i kbj bMLVh gh vksj kfxd dk; l i djkkr ekMrs gs Li V gkrs

R; kuđ kj l nj bMfLVyk vks| kfxd njkiæk.ks fon; r njl dr
L.T.V(A) yko.ks l a fDrd gkbj-

- Hkkjrh; fon; r dk; nk 2003 l D'ku 56½ uđ kj Not with standing anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and license shall not cut off the supply of the electricity.
- egkj kV^a jkT; fo| r forj.k dā uhus ---
 - o es ukf'kd i kbj bDohi eV; k fn- 13@12@2013 P; k i phP; k 24 efgU; kps ns ds LT II(A) ; k 0; kol k; hd njk, oth LT V(A) vks; kfxd njkiæk.ks n#Lr dj.; kr ; kohr o njl drkiæk.ks ; sk&; k ; k Qjdkph jDde xkgdkP; k i qhy ns dkr l ekfoV dj.; kr ; kohr o ; ki qhy ns ds LT V(A) vks; kfxd njl drkiæk.ks ns ; kr ; kohr-

Observations by the Forum:

1. This is a case which exhibits lot of lapses on the part of the officers of the Distribution Company at all levels in properly handling the complaint in spite of the mistake on their part. The Forum is regretted to record following comments:
 - a. In first place it was wrong on the part of the billing unit of the Distribution Company to apply incorrect tariff.
 - b. Secondly when the complainant approached to the Distribution Company on 21/08/2012 pointing out the error , it was not handled properly by the concerned officers and finally as per IGRC letter dated 25/02/2014 , the tariff was changed. Thus it took nearly one and half year for the correction of a mistake made by the Distribution Company .
 - c. The experience of the consumer while going through entire process, as narrated by him in the complain is really disgusting. The Nodal Officer has not provided any comments/clarifications on the actions by the officers while dealing with the case.
 - d. The IGRC also took more than 2 months for deciding the case.
 - e. The IGRC has agreed with the application of the industrial tariff but did not give retrospective effect from the beginning. The IGRC denied correction for the entire period and gave retrospective effect only for 2 years from the date of complaint with IGRC and used an irrelevant section of the Electricity Act ,2003 to support this decision to deny the entire claim .
 - f. Even after IGRC decision on 25/02/2014 , the B-80 was processed on 28/03/2014 and proposal was sent to the Divisional Office on 21/06/2014 i.e. after the case was set for hearing by CGRF on 25/06/2014.

The forum wishes to bring all these facts to the notice of the Chief Engineer , Nashik Zone for appropriate action.

2. It is not disputed that the Distribution Company wrongly applied LT- II (Commercial) tariff to this consumer instead of LT-V (A) (Industrial with sanctioned Load 0-20 KW) and collected

excess amount since date of connection. The complainant is entitled to get refund of excess amount with interest on account of wrong tariff for the entire period.

3. The section 56(2) of the Electricity Act,2003 is related to the recovery of arrears from the consumer which puts restriction of 2 years for such recoveries. It has nothing to do with the refund of any excess amount received by the Distribution Company from the consumer.
4. The section 62(6) of the Electricity Act,2003 is relevant in this case which provides as under:
“If any licensee or a generating company recovers a price or 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 the bank rate without prejudice to any other liability incurred by the licensee.”
5. It is argued by the Distribution Company that the tariff was acceptable to him as the consumer did not raise any objection and paid the bills with commercial tariff since 2009. This is absurd argument. The consumer is not expected to know all the details about tariff categories. It was also the prime responsibility of the Distribution Company to apply correct tariff and make corrective actions later whenever necessary, without waiting for the consumer to make a complaint. The consumer can not be penalised for making the complaint late.
6. Hence the Forum directs the Distribution Company to refund the excess amount received by the Distribution Company from the consumer on account of the wrong application of the tariff category LT-II (A) instead of LT-V(A) along with interest equivalent to the bank rate of RBI.
7. The section 9.2 of the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 mandates as under:
“Any change of name or change of tariff category shall be effected by the Distribution Licensee before the expiry of the second billing cycle after the date of receipt of application”
The section 7 (ii) of the said regulation provides compensation of Rs. 100/- per week or part thereof of delay. The Distribution Company has disputed receipt of first letter dated 21/08/2012 regarding change of tariff. The copy of the letter reveals the acknowledgement of this letter by the office of the AE, Sinnar but there is no date mentioned. However further reminder letter dated 20/03/2013 has been acknowledged by the office on 25/03/2013. Considering this as the date of receipt of application, the tariff category should have been changed from next billing cycle falling after 25/03/2013. As such in this case the change of category should have been effected from May 2013 which was actually done from December 2013. Thus there is delay of 28 weeks. Hence the compensation of Rs. 2800/- be given to the complainant.
8. The responsibility of loss to the Distribution Company because of interest payment and compensation lies on the concerned staff.

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. Distribution Company should refund the excess amount collected by the Distribution Company since date of supply from the consumer on account of applying of the tariff category as LT-II (A) instead of LT-V(A) along with interest at bank rate of Reserve Bank of India, in terms of Section 62(6) of the Electricity Act, 2003, read with Regulation no. 11.3 of MERC (Terms and Conditions of Tariff) Regulations, 2005.
2. The complainant should be given compensation of Rs. 2800/- in view of failure of the Distribution Company to comply with the section 9.2 of the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 regarding change of category.
3. 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.

4. 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.
5. 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.

(Chandrakishor C. Humane)
Member-Secretary & Executive Engineer
Consumer Grievance Redressal Forum,Nashik

(Suresh P.Wagh)
Chairman

Copy for information and necessary action to:

1. Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. ,
Vidyut Bhavan, Nashik Road 422101
2. Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. ,
Rural Circle office, Nashik .