

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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Office of the
Consumer Grievance Redressal Forum
Kharbanda Park, 1st Floor,
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Dwarka, NASHIK 422011

No. / CGRF /Nashik/NUC/N.U.Dn.1/

Date: 04/09/2015

(BY R.P.A.D.)

Getting Separate Connection for Mixed Load

Date of Admission: 17/07/2015

Date of Decision : 04/09/2015

To.

1. M/s.Nashik Engineering Cluster.
C-10, M.I.D.C. Ambad,
Nashik 422010
(Consumer No. 049139021500)

Complainant

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

Distribution Company
(Respondent)

ORDER

M/s. Nashik Engineering Cluster , (hereafter referred as the Complainant). M.I.D.C. Ambad Nashik is the consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company) with mixed load The Complainant had submitted grievance against MSEDCL regarding getting separate connection in view of their mixed load to the Internal Grievance Redressal Cell 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. 161 of 2015 on 17 /07/2015.

The Forum in its meeting on 21/07/2015 , decided to admit this case for hearing on 07/08/2015 at 11.30 am in the office of the forum . A notice dated 21/07/2015 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 Circle Office Nashik and the Executive Engineer (U-1) , Nashik, for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer. The hearing was conducted on 07/08/2015 but the complainant wanted to have some more time for submission of representation on the reply of the Distribution Company. Hence the Forum agreed to postpone the hearing to 21/08/2015 at 11.30 am.

Shri C.C. Humane, Nodal Officer, Urban Circle Nashik , Executive Engineer (Urban 1) Shri R.L. Sonule, Dy. E.E. Shri S. S. Ahirrao, Addl. E.E. Shri B.D. Shidore represented the Distribution Company during the hearing. Shri K.S. Patil and P.B. Thakur and N.K. Sisodiya appeared on behalf of the consumer.

Consumers Representation in brief :

1. NEC has taken up issue of 'TYPE OF CONNECTION' .Initially It was totally Commercial, to Which CGRF has given order dated 2 July.2011 through which verdict was given to 'identify commercial & industrial load and to charge accordingly, which was implemented but a snag was created by MSEDCL.
2. After bifurcating the load as commercial & industrial , MSEDCL. continued to apply the commercial taxes to industrial consumption also. Which was again taken up with CGRF for correction and to claim for the refund of the wrong tax application. To which verdict was given by CGRF as per order dated 22 Aug 2014 by which the refund claim was justified and MSEDCL was to pay the refund within a month from the date of verdict. Which is till pending. Also it was ordered to have separate connections which is not yet implemented as the cost is running in couple of lacs of rupees
3. NEC has taken up the issue as commercial load is minimal (30% only) so the connection should be converted to Industrial connection
4. NEC has taken up these issues with MSEDCL. A hearing was conducted but no implementation of CGRF orders. The letter no Ex Engg/NUC/Tech/IGRC/002619 dated 19 Jun 2015 is attached herewith.
5. NEC have main use of electricity purpose of R&D, Training center and applicable tariff under HT-II N (Commercial) as per circular 175 dated 5/9/2012. NEC is not R & D Centre , the say on this is already submitted to via letter dated 19/03/2010. Along with the SSI registration , Central excise registration as a manufacturing Unit , list of machines used in manufacturing activity . So it is requested to give the industry status.
6. CGRF order dt 02/07/2011 is clearly proving the spot verification was not carried out by MSEDCL. Even the MSEDCL internal memo no. 5884 dated 23/09/2010 proves that MSEDCL officials were reluctant to carry out spot verification besides the instructions of higher authorities So to defend their stand , MSEDCL officials are reluctant to view the mistake independently. Hence it is requested to give NEC the industry status.
7. MSEDCL's defence on the basis of commercial circular 175 dated 05/09/12 for commercial tariff , is totally wrong and misleading. Commercial circular no. 175 dated 05/09/2012 clearly says in Applicability (n) on page no. 14/21 , that “ Research & Development Centre situated outside Industrial Premises” . NEC is very well in Industrial premises. By this logic also we are the industrial unit so we request to give us the industry status.
8. After CGRF order dtd. 02/07/2011 MSEDCL bifurcated load on 6/10/2011 but still other charges like FAC,IC,GC,and TC to all units are as per commercial to all units where as our main load is industrial. Power consumption pattern as per MSEDCL bifurcated meters for industrial & commercial consumption is attached here with along with MSEDCL Bills. That means MSEDCL has not followed the CGRF order in its spirit. So NEC demands for the refund of all the amount recovered wrongly from 06/10/2011.
9. CGRF Nashik as per order dt. 22/8/2014 directed to take separate connections for industrial and commercial category. During the hearing MSEDCL proposed that NEC have to only apply for separate LT commercial connection and would not have to bear financial charges so, NEC was for , for this. But in Order NEC received to take new Industrial connection, As there was some technical problem . Though NEC had applied for LT commercial connection, so as per verbal discussions NEC applied for Industrial connection. After applying for new connection NEC received the quotation for HT industrial connection which was in Lakhs and also we have to spend much more to changing Infrastructure. That means both CGRF orders are not followed correctly by MSEDCL.
10. Spot checking by Executive Engineer,(Adm)&Dy.Ex.Engg(HTB)&A.E., Section In-charge Ambad Under Nashik Urban Circle MSEDCL was done on 17.06.2015. In this verification visit no Research and Development activity is reported . Major activities are Industrial or

manufacturing. If we had rented any premises to industrial unit that is also a industrial /manufacturing activity on **NO PROFIT NO LOSS BASIS**. With Commercial charges we can neither support industrial people nor help them.

11. CGRF Nashik order no.CGRF/Nashik/NUC/Nsk.U.Dn.1/437/20-14/0178 DT 22/8/2014, clearly says to refund the excess amount collected within a month , which MSEDCL has not executed till date.

Demands of the Consumer:

- 1 As commercial load is minimal (about 30%) request for applying the Industrial taxes to the total consumption.
- 2 Apply commercial taxes to commercial consumption and industrial taxes to industrial consumption.
- 3 Refund the amount as per CGRF order dt. 22/08/2014.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 03/08/2015 from the Nodal Officer, MSEDCL, Nashik Urban Circle Office and other relevant correspondence in this case. Putting forth the arguments on the points raised in the grievance the representatives of the Distribution Company's say in brief is as under:

1. The said consumer has main use of electricity for the purpose of Research & Development, Training Centre, and applicable Tariff under HT-II N (Commercial), as per Commercial Circular 175 dated 05.09.2012.
2. The said consumer's main demand is for Change of Category fully from commercial to Industrial category. But the CGRF Nashik, already given the decision after the hearing both sides vide LNo CGRF/Nashik/NUC/Nsk (U-I) Dn/210/27-11/181 Dt 02.07.2011
 - ✓ The SE (NUC) MSEDCL should get correct tariff category for the activities of CNC Machine Centre & Heat Treatment for appellant case within a one month from the date of this order making a reference to the ED (Commercial) MSEDCL.
 - ✓ The Commercial tariff applied to the activities except "activities of "CNC Machine Centre" & "Heat Treatment" is agreeable.
3. After the receipt of guidelines from The Hon. Executive Director (Commercial), L..No PR-COS/23654 Dt 28.07.2011 the Load of Nashik Engg Cluster verified for their usages and / or mixed load arrangement and the same has segregated clearly into commercial & Industrial load with separate Sub meter installed on dated 06.10.11 to "CNC Machine Centre" & "Heat Treatment" for recording the consumption of Industrial activity. Current tariff applicable as HT-II N Main Meter Billed on Commercial with Sub meter billed on Industrial Tariff.
4. As per CGRF Nashik, Order no. CGRF/Nashik/NUC/Nsk.U.Dn.1/ 437/ 20-14/0178 DT 22.08.14
 - ✓ The complainant should take a separate new connection for Industrial activity.
 - ✓ Before next billing cycle falling after issue of this order, the Distribution company should rework the bills from the date of which Sub meter are installed and separate reading of the industrial and commercial activities are available, applying industrial consumption as per industrial tariff inclusive of all components of the bill like F.A.C. etc. and refund the excess amount recovered if any with interest as per RBI rate.
5. For implementation of CGRF Order correspondence was done with consumer vide this office letters Dt 07.10.14, Dt. 17.11.14 & Dt 22.06.15 as per Decision/order from the CGRF dtd.22.08.14.After receipt of application dated 24.02.15 from the M/S Nashik Engg. Cluster, separate connection for Industrial activity & new HT Connection sanctioned vide Ltr No.SE/NUC/T/NU-889/ 01404 Dtd. 24.03.2015.with tech. estimate no.SE/NUC/HT/T-2/ 1.3% Norm.charges/14-15/65 dtd 24.03.2015 & Firm quotation was issued to the consumer.

6. Necessary charges for new HT Industrial connection included in the F.Q as under Service connection charges (1.3% Normative charges on cost of estimate Rs 203390/-) Rs 2650/- + Security deposit Rs 3,67,500/- + Agreement Charges Rs 100/- + Application processing Fee Rs 1700/- Total Amount Rs 3,71,850/-. The due date to pay the F.Q. was 24.04.15. & intimation given to consumer for payment of new connection charges amount vide this office letter no SE/NUC/T/NU-889/ 01957 DT 02.05.15 & 02247 DT 22.05.15
7. Charges Included in the F.Q. are correct and according to the schedule charges approved by the Hon'ble MERC Order of case no 19 of 2012 dated 16.08.2012. & guide lines from the Chief Engineer (Commercial) vide letter no. CE/Dist-III/SOC/24500 dated 30.08.2012. Till date Said Consumer has not paid the necessary charges F.Q. for new separate HT connection for the purpose of Industrial activity as per decision from the CGRF Nashik,
8. Refund of excess amount recovered is manually worked out for the period from Dec-2011 to up to date for adjustment applying the industrial consumption as per industrial tariff inclusive of all component of the bill F.A.C. etc. as per CGRF Order.
9. Till date consumer has not yet availing/taking the separate HT connection for industrial activity , correspondence with consumer was done by this office.
10. Spot verification by undersigned Executive Engineer, (Adm) & Dy. Ex. Engineer (HTB) & A.E, section in charge, Ambad, under Nashik Urban Circle MSEDCL, on dated 17.06.2015 with presence of behalf of Consumer Nashik Engg. Cluster representative Shri P.B.Thakur & Shri Patil. All the main 22 No's Major section checked & verified as,i) Company Administration office, 2) CNC Machine Centre 3) Prototype Centre,4) Heat Treatment Facility Centre,5) Testing Lab 6) Calibration Centre 7) Auditorium & Meeting Conference Hall, 8) CAD/CAM training Centre, 9) Business Centre 10) Herodex & Siemens job work Assembly shop 11) Insulation tape Machine shop, 12) Other Facilities which are rented out let 13) Common facility of Firefighting equipment & Water pump, etc. The entire above unit Checked & Verified for the purpose of utilization of electrical supply for each and every unit with noting on Lay out plan & unit wise connected load made available from the NEC, for calculation of connected load & jointly verified & signed on layout map attached here with.
11. As per Spot verification Industrial activity 508.54 KW load & balance 991.46 KW Load to be utilized for commercial activity (actually Commercial load checked 396.69 KW), Total 905.23 KW Load Checked & verified out of 1500 KW sanction load. In r/o M/S Nashik Engineering Cluster, Consumer No. 049139021500 actually utilized for Mix type of Load for the Industrial & Commercial purpose Industrial activity 508.54 KW & Commercial activity 396.69 KW total checked Load 905.23 KW. Consumer has not any own product & manufacturing, but Common main activity & services to other Industrial product Testing, Industrial Trainings & Seminar, & Conferences. Out of total sanction load 1500 KW & Contract demand 650 KVA. Billed as Main meter as HT-II (Commercial) then Tariff rate Rs 9.83/- with 2 Nos Sub-Meter for recording the consumption of Industrial activity & billed under Industrial tariff Rate Rs 6.33/- The existing Tariff code is correct.
12. Billed for Main meter as HT-II (Commercial) Tariff rate with 2 Nos Sub-Meter for recording the consumption of Industrial activity & billed under Industrial tariff Rate, "CNC Machine Centre" & "Heat Treatment" for recording the consumption of Industrial activity of said consumer. Energy Bill is generated through the HT Billing Version software with taxation by IT as per MERC Tariff order. The Miscellaneous & General charges taxation like FAC, Electricity duty , Energy Bill generated through the HT Billing Version software with taxation by IT as per MERC Tariff order. The FAC charge determined based on the approved Formula and relevant directions, as given by the MERC from time to time and applicable to all consumer categories for their entire consumption and computed on a monthly basis. The Electricity duty and Tax on sale of Electricity charged in additional to charges levied as per the tariff mentioned hereunder (as approved by the MERC) as per the Govt. guidelines from time to time.
13. Refund for adjustment amount ready, with applying the industrial consumption as per industrial tariff inclusive of all component of the bill F.A.C. etc. Hence manually month wise re-workout from the period of Dec-2011 to Dec-2014 Rs 370555.27/- + Jan-2015 to Jun-15, Rs 58227.81/-Total amount Rs 428783.07/-.Correspondence with consumer for refund

separate connection as the Distribution Company is insisting to take separate industrial connection paying the amount as per quotation which is on very much higher side.

6. The Forum directed the Distribution Company not to mix up the issue of separate connection with the billing with segregated consumption. As per E.D. (Commercial) letter dated 28/07/2011 load is to be segregated clearly into commercial and industrial loads with separate meters or connections. Having done the segregation of the load through sub-meters, the Distribution Company should continue billing the units strictly as per their usage and apply FAC, Electricity Duty, Tax on Sale etc as per the relevant category till the connections are separated. Hence the Distribution Company should immediately refund the excess amount collected on account of higher rate for FAC, Electricity Duty, Tax on Sale etc since the date of installation of sub-meters along with interest as per RBI rate till the date of refund and from the ensuing billing cycle the industrial consumption should be billed with appropriate rates for FAC, Electricity Duty, Tax on Sale etc.
7. The Distribution Company represented before the Forum that the main meter is fed on commercial tariff, hence computerized bills are generated applying rates for commercial usage. Therefore it is needed to work out the correct bills manually.
8. In the Forum's decision dated 22/08/2014, it was intended to separate out one connection so as to resolve the problem of computing the bills manually every time. The plain reading of the Forum's order will reveal that the intention is to bifurcate the existing single mixed load connection into two distinct categories of commercial and industrial activities for the convenience of the correct billing. Though the order mentioned to take separate industrial connection, it does not mean that the consumer can not take separate commercial connection. If taking Commercial connection is comparatively less expensive, the consumer can certainly opt for it. Hence if the consumer applies for separate LT commercial connection, the Distribution Company should give quotation to that effect recovering charges as approved by MERC. As per CE(Dist)/D-III/Circular/22197 Dated 20.05.2008, issued by the Chief Engineer (Distribution), MSEDCL, Mumbai, LT non-domestic consumers below 500 KVA in "A" (The areas falling within the limits of 5 Kms of Municipal Corporations, 2 Kms of Municipal Councils, and 1 Km of existing village gaothans including MIDC areas), all the infrastructure is to be created by MSEDCL and only Schedule of Charges as approved by MERC order dated 8th September '2006 (case no. 70/2005) [later revised as per MERC order dated 16th August 2012 in case no. 19/2012] are to be recovered. If the consumer wants early connection and opts to execute the work and bears the cost of Infrastructure then the refund of the cost of infrastructure will be given by way of adjustment through energy bills. However it is up to the consumer to exercise the option of separate connection.
9. The consumer has again represented that their entire consumption should be applied "industrial tariff" The complainant has submitted following data of consumption substantiated by the bills and claimed that their industrial consumption is always more than commercial consumption :

Year 2014	Total KWH	KVA(MD)	Commercial	Industrial	Ratio (Comm)	Ratio (Ind)
Jan	53937	282	20267	33670	37.6	62.4
Feb	52637	253	19037	33600	36.2	63.8
March	65011	301	18771	46240	28.9	71.1
April	83663	379	20663	63000	24.7	75.3
May	88423	368	29273	59150	33.1	66.9
Jun	84010	362	29340	54670	34.9	65.1
July	82476	337	21166	61310	25.7	74.3
August	73227	312	26197	47030	35.8	64.2
Sept	74218	286	22108	52110	29.8	70.2
Octo	76036	317	22406	53630	29.5	70.5
Nov	69679	279	17509	52170	25.1	74.9

Dec	69201	242	22091	47110	31.9	68.1
Year 2015						
Jan	58287	229	18477	39810	31.70	68.30
Feb	58131	246	17483	40360	30.08	69.43
March	64413	322	17913	46500	27.81	72.19
April	75365	283	19785	55580	26.25	73.75
May	78499	342	23759	54740	30.27	69.73
Jun	78850	323	24050	54800	30.50	69.50
July	82925	320	22125	60800	26.68	73.32
Total					30	70

The Distribution Company has also reported after spot verification that out of checked Load of 905.23 KW for Industrial activity is 508.54 KW (56%) and that for Commercial activity 396.69 KW (44%) indicating higher load for industrial activity.

10. The complainant has stated that “NEC is not a R & D Centre, the say on this is already submitted to via letter dated 19/03/2010 along with the SSI registration, Central excise registration as a manufacturing Unit, list of machines used in manufacturing activity. So it is requested to give the industry status. But MERC under order dated 12/10/2010 (in case 111/2009) on the issue of “Industry categorisation” has elaborated as under:

“A similar impression is conveyed as regards the ‘Industry’ categorisation, with the Commission receiving representations from the hotel industry, leisure and travel industry, etc., stating that they have also been classified as ‘industry’ for the purpose of taxation and/or other benefits being extended by the Central Government or State Government, and hence, they should also be classified as ‘industry’ for the purpose of tariff determination. In this regard, it is clarified that classification under Industry for tax purposes and other purposes by the Central or State Government shall apply to matters within their jurisdiction and have no bearing on the tariffs determined by the Commission under the EA 2003, and the import of the categorisation under Industry under other specific laws cannot be applied to seek relief under other statutes. Broadly, the categorisation of ‘Industry’ is applicable to such activities, which entail ‘manufacture’.”

As such this consumer can not get industry status for its entire usage only because it holds SSI or Central excise registration or its major consumption is industrial. The Forum has already elaborated on this issue in detail in the earlier order dated 02/07/2011 and concluded after sufficient investigation that this is a case of mixed load with industrial and commercial types of usage and billing should be done by segregating the clearly into commercial and industrial loads with separate meters/connections.

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. As the segregation of the load is done through sub-meters, the Distribution Company should continue billing the units strictly as per their usage and apply FAC, Electricity Duty, Tax on Sale etc as per the relevant category. The Distribution Company should refund within one month from the date of this order, the excess amount collected on account of higher rate for FAC, Electricity Duty, Tax on Sale etc since the date of installation of sub-meters along with interest as per RBI rate till the date of refund.

2. If the consumer opts for separate LT commercial connection, the Distribution Company should give quotation to that effect recovering charges as approved by MERC only and keeping in view the instructions contained in the MSEDCL circular No. CE(Dist)/D-III/Circular/22197 Dated 20.05.2008.
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. However implementation of order at S.N. 1 should not be delayed even if the consumer does not opt for separate commercial connection.
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.

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