

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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Office of the
Consumer Grievance Redressal Forum
Kharbanda Park, 1st Floor,
Room N. 115-118
Dwarka, NASHIK 422011

No. / CGRF /Nashik/NUC/N.U.Dn.1408/46-13/
(BY R.P.A.D.)

Date:

Date of Submission of the case : 01/02/2014
Date of Decision : 10/07/2014

To.

1. M/s.Triumph Engineering .
Plot No. D-70, MIDC,
Ambad Nashik 422010
(Consumer No. 049010038790)

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 Licensee
(Respondent)

DECISION

M/s. Triumph Engineering . Ltd, (hereafter referred as the Complainant). Sinnar Nashik is the LT Industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Respondent). The Complainant has submitted grievance against MSEDCL for illegal recovery for past 28 months Amount Rs. 7,94,110/- + interest & DPC.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.29 of 2013 on 01 /02/2014.

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 24/06/2014 at 10.30 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, Urban 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 (Urban-1) ,Nashik

Shri R. L. Sonule, Executive Engineer (Urban-1 Dn.) Nashik, Shri. B. D. Shidore, Dy.Executive Engineer, Shri. D. B. Tikkal Divisional Accountant, Asstt. Auditor S. B. Barve represented the Distribution Company during the hearing. Shri S. S. Shah and Shri. T. N. Agrawal, Shri. Vishwas Kudal, Shri. K. P. Darange appeared on behalf of the consumer.

Consumers Representation in brief :

1. The complainant is the consumer of MSEDCL availing 3-ph LT power supply since 10.08.2010. In the month of Oct. 2013, they received illegal electricity recovery bill from Dy. Ex. Engineer, MSEDCL, CIDCO S/dn, Nasik vide letter No. 1516 dt.23.10.2013 for the period from May 2011 to Aug. 2013 (28 months) having total amount Rs.7,94,110/- charges for past recoveries due to change of Multiplying Factor. Immediately on receipt of the bill for past charges, they protested vide letter dt.20.11.2013 and shown willingness to pay the current bills vide letters dt.04.12.2013, 9.12.2013 & 15.12.2013. They also produced cheque for Rs.75,000/- with these letters to MSEDCL for acceptance of current charges, but the same was not accepted by MSEDCL.
2. Further current bill for Nov. 2013 has been worked out without allowing PF incentive 7% although they have maintained PF to 0.996, the same also needs to be corrected. They have been availing regularly PF incentive upto 7% in all previous bills, hence disallowing the same in Nov. 2013 is unfair and against the tariff order.
3. On receipt of illegal bill, the complainant had protested the same and requested to accept the current bill which MSEDCL denied to accept. Further as disconnection notice u/s 56(1) of Elect. Act. 2003 was issued by MSEDCL, the complainant filed application with Hon. CGRF Nasik to avoid disconnection as the grievance was pending with IGRC. The Hon. CGRF granted relief vide order No. 00011 dt.15.01.2014 not to disconnect power supply till bill dispute is resolved.
4. The IGRC issued final order after conducting hearing on 20.01.2014, order No. 000355 dt.22.01.2014 is attached. The IGRC didn't allow any remedial measure and stated that recovery for past 28 months is correct.
5. While making pricing of their products, the complainant had considered electricity charges paid from time to time to MSEDCL in the cost of end product sold to the customers. It is ridiculous to ask the customers to pay the differential cost now for more than two years due to difference in electricity cost demanded by the MSEDCL. This will put them in deep financial problem, entailing closure of unit and lay off to more than 25 workmen. Payment of such exorbitant bill is beyond paying capacity as the complainant have now no means to recover such amount from customers.
6. Provision of MERC (Electricity Supply Code & other Conditions of Supply) Regulations, 2005: States as "sub-section 15.4.1 Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer's bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill." The Electricity act further clarify that a Current Transformer (CT) is equipment which enables the electric current from being reduced so that it could pass through the meter without damaging the meter. The CT would therefore be a part and parcel of equipment intended to ascertain the amount of electric supply fed to the consumer. The MF is based upon type of CT's installed which constitutes part of metering equipments. The ratio of CT multiplying factor (MF) can be ascertained only after testing of meter & CT's and arrive to proper multiplying factor.
7. Further as per sub-section 14.4.1 of the above regulations, the Distribution Licensee shall be responsible for the periodic testing and maintenance of all consumer meters. Hence the consumers CT meters should be tested periodically say once in 3 months period. The MSEDCL provided bill for past recovery vide its letter No. 1516 dt.23.10.2013 without providing test result & report to confirm MF as 2 instead of 1. As per the regulations, the MSEDCL should have given test report also to confirm revision of MF. Application of wrong multiplication factor resulted to defective meter reading, hence the bill got calculated to lower amount. As

CT's being part of metering equipments, the defect in CT ratio results defective MF, hence for any recovery due to defect in metering system including CT ratio/MF should be limited as per the above provision of MERC supply code 2005, sub-section 15.4.1 As the notice for defect in CT ratio/MF was served to us on 23rd Oct. 2013, hence MSEDCL is entitled as per the regulations for recovery only for past 03 months prior to date of detection of defect in metering system. Further MSEDCL may be asked to furnish the meter & CT test result/report duly signed by the consumers representative to ascertain existing CT ratio/MF. The letter of EE (Testing) dt.30.09.2013 can't be considered as test report.

8. The same mistake was repeated in year 2011 and the complainant had paid the amount raising by MSEDCL without raising any dispute. At that time MF was corrected as 2 and accordingly bills were prepared and paid by us. Again after that 2nd time similar mistake got repeated and raised bill for 28 months. Due to frequent repetition of same mistake by MSEDCL, the complainant have been put in great financial hardship; under such situation the consumer should not be penalized by overburdening bill for past recovery.
9. All CT's installed at the time of giving supply in year 2010 still exist till today without any change. If the MSEDCL would have tested the meter periodically (say within 3 months for CT operated meters), this situation could have been avoided by issuing suddenly exorbitant bill. The lapses on the part of MSEDCL should not be put on the consumer by making such illegal recovery for 28 months.

Comments on IGRC's Decision:

1. Consumers CT & Meter is proper as per Testing div. report.
Comments: The complainant have examined letter No. 830 dt.30.09.2013 of EE (Testing) which states MF as 2 instead of 1. However no physical testing of meter/ CT conducted in presence of consumers' representative and relevant test report not provided.
2. Recovery for 28 months from May 2011 to Aug. 2013 is correct;
Comments: As per Provision of MERC (Electricity Supply Code & other Conditions of Supply) Regulations, 2005: States as "sub-section 15.4.1 Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer's bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill." CT being part of the metering equipment, hence this SOP clause should be made applicable for recovery max. upto 3 months period.
3. The IGRC has not given any decision on our plea about PF incentive 7% not allowed in billing month of Nov. 2013 although PF was maintained to 0.996.
4. Even though the complainant were ready to pay the current bills from the time of receipt of disputed arrear, IGRC failed to provided any relief for waiver of DPC & interest on unpaid amount.

Demands of the Consumer:

1. The MSEDCL should withdraw its past arrear bill for 28 months recovery and issue revised bill for arrears upto previous 3 months only as applicable u/s 15.4.1 of MERC's Supply code regulations.
2. As the complainant have been requesting to accept the current bills but MSEDCL failed to accept our cheque, hence the complainant are not responsible for delay in payment of running bill of Oct. 13, Nov-2013 & Dec. 2013, hence DPC & interest should be waived off completely.
3. PF incentive at 7% should be allowed for billing period of Nov. 2013 as PF was maintained to 0.996.
4. The complainant are ready to pay current bills to cover energy consumed in the month of Oct. 2013 onwards. The past recovery bill for Rs.7,94,110/- should be set aside.
5. In case if MF is proved to be 2 in place of 1, the amount of past recoveries should be made in the installments equal to number of months for which recovery becomes due.

6. Compensation of Rs.25,000/- towards cost incurred for follow up with MSEDCL, filing grievance application, attending offices of MSEDCL, attending hearings, man-hr cost, travelling expenses etc.
7. To penalize the concerned officials for repeating the mistake and compensate us as per SOP applicable.
8. The complainant may be allowed to submit additional submission to this grievance as may be required during the proceedings or at later date.
9. Pass such further and other orders, as the Hon. Chairman may deem fit and proper keeping in view the facts and circumstances of the case.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 20/06/2014 from the Nodal Officer, MSEDCL, Nashik Urban Circle Office, a letter dated 16/06/2014 from the Executive Engineer, Urban-1 Nashik 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 stated that:

1. The said consumer is supplied electricity w.e.f 10/08/2010 with sanctioned load of 183 HP and contract demand of 137 KVA. CT operated meter is fitted since the date of supply with Multiplying Factor (MF) as 2. Consumer was billed with MF 2 from August 2010 to April 2011. Later because of some technical error the MF was entered as 1 from May 2011 as per CPL. When this was noticed in the inspection of the Testing Division in September 2013, MF was corrected to 2 and additional demand of arrears of Rs. 7,94,110/- based on the difference for May 2011 to August 2013 (28 months) was raised as per bill dated 23/10/2013.
2. The consumer submitted complaint regarding this to the IGRC, Nashik Urban Circle on 31/12/2013. The case was heard on 20/01/2014 and IGRC gave decision that:
 - Consumer's CT & meter is proper as per testing Division's report.
 - Recovery for the period May 2011 to August 2013 (i.e. 28 months) as proposed from Company's side is correct & feasible & as it is actual consumption recorded by meter.
3. The consumer is being given PF Incentive in the respective months as per Company's rules.
4. The CGRF at Ratnagiri, Pune, Kalyan and Nagpur have declined such cases submitted to them. The demand of arrears for 28 months is correct and the appeal may be rejected.

Observations by the Forum:

1. The grievance has arisen due to wrong application of the MF by the Distribution Company. The Distribution Company raised bill with MF=1 instead of MF=2 for the period May 2011 to August 2013. After noticing the mistake during inspection, supplementary demand of Rs. 7,94,110/- is raised for the corresponding period of 28 months.
2. The complainant has demanded to withdraw its past arrear bill for 28 months recovery and issue revised bill for arrears upto previous 3 months only as applicable u/s 15.4.1 of MERC's Supply code regulations. But it is clarified that the said provision is applicable to the defective meters. In this case the meter is not defective but an error has occurred on the part of the Respondent due to entry of MF as 1 instead of 2. Hence section 15.4.1 of MERC Supply code is not applicable.
3. This is a case of erroneous input of MF while billing for some period and correction of bills later on the basis of correct MF. The only question is about recovery of the arrears and period thereof. There are various judgments passed by Honorable High Court on similar matter of recovery of past arrears, due to error of considering MF=1 instead of MF=2. Based on these judgments, it has been held by this Electricity Ombudsman, in such several cases, that the Respondent is entitled to raise revised supplementary bill for the difference in billing considering the MF=2, instead of MF=1, for the limited period of two years and recover the same by invoking the provision of Section 56 (1) and (2) of the Electricity Act, 2003. For recovery of the remaining charges of electricity, the Respondent may, seek remedy before appropriate court of law. [Reference: Representation No. 9 Of 2013 in the matter of

multiplying factor and recovery of past arrears: M/s. Calyx Chemicals & Phamaceuticals Ltd V/s MSEDCL]

4. In the extant case ,the Respondent is entitled to raise revised supplementary bill for the difference for the limited period of two years from September, 2011, to August, 2013 and recover the same by invoking the provision of Section 56 (1) and (2) of the Electricity Act, 2003. For recovery of the remaining charges of electricity supplied prior to 1st September, 2011, the Respondent may, if it so desires, seek remedy by way of civil suit before appropriate court of law.
5. However , it is true that ,there is sudden burden on the consumer when suddenly a demand of heavy arrears is made without any fault on the part of the consumer . But the Respondent has also issued circular no. 24156 dated 18th July, 2009, to grant number of installments equal to the number of months for which the supplementary bills are raised, without levy of interest and DPC, and guidelines for taking action on the persons responsible for the error in billing. The complainant should be given benefit of this circular by granting 24 monthly installments without levy of interest or DPC
6. The complainant has also demanded that the PF incentive at 7% should be allowed for billing period of Nov. 2013 as PF was maintained to 0.996. The Respondent is directed to examine these facts and allow PF incentive if admissible.
7. The demand of the compensation towards cost incurred for follow up with MSEDCL, filing grievance application, attending offices of MSEDCL, attending hearings, man-hr cost, traveling expenses etc. can not be accepted by the Forum as the prevailing MERC regulations do not provide for such compensation.
8. The complainant has demanded to penalize the concerned officials for repeating the mistake and compensate us as per SOP applicable. The Respondent is directed take penal action on the staff responsible for errors in the light of the guidelines contained in the circular no. 24156 dated 18th July, 2009.

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.

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 rework the supplementary bill for the difference for the period of two years from September, 2011, to August, 2013 and recover the same by giving 24 monthly installments without levy of interest or DPC. The Distribution Company may recover the remaining arrears prior to 1st September, 2011 by way of civil suit before appropriate court of law.
2. PF incentive should be allowed for billing period of November , 2013 if high power factor is maintained , in accordance with relevant Orders of the Commission.
3. 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. ,
Urban Circle office, Nashik .