

**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**  
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**Room N. 115-118**  
**Dwarka, NASHIK 422011**

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**No. / CGRF /Nashik/NRC/NR.Dn/436/19-14/**

**Date: 22/08/2014**

**(BY R.P.A.D.)**

**Date of Submission of the case :17/07/2014**  
**Date of Decision : 22/08/2014**

To.

1) M/s. Polygenta Technologies Ltd, .  
Gat No. 265/1-266 Village Avankhed,  
Tq. Dindori, Dist. Nashik 422 201  
(Consumer No. 057469020390)

Complainant

2) Nodal Officer ,  
Maharashtra State Electricity Distribution Com. Ltd.,  
Rural Circle office, Vidyut Bhavan ,  
Nashik

Distribution Company  
(Respondent)

3) Executive Engineer (Rural)  
Maharashtra State Electricity Distribution Com. Ltd.  
Patel Chambers , Nashik .

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**DECISION**

M/s. M/s. Polygenta Technologies Ltd , (hereafter referred as the Complainant ). Dindori 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 regarding failure to supply continuous power and poor quality of power supply . The Complainant had 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.135of 2013 on 17 /07/2014.

The Forum in its meeting on 18/07/2014, decided to admit this case for hearing on 08/08/2014 at 11.30 am in the office of the forum . A notice dated 19/07/2014 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, Rural Circle Office Nashik and to the Executive Engineer (Rural Dn) ,Nashik, for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri. B. N. Sawant, Nodal Officer, Shri A. R, Chavan Executive Engineer (Rural) Dn. Nashik, Shri. A. G. Gaidani Asstt. Engr. represented the Distribution Company during the hearing. Shri Shri. T. N. Agrawal & Shri P.R.Patil appeared on behalf of the consumer.

**Consumers Representation in brief :**

1. The complainant is the consumer of MSEDCL since 23.05.2009 availing 3-ph HT power supply at 33 KV Express feeder with contract demand 8.0 MVA and paying continuous tariff rate Rs.7.01 per unit (Rs.0.68 extra over non-continuous tariff rate).

2. But they are facing frequent tripping & voltage spikes since last more than 2 years period. This has been communicated to the offices of MSEDCL on monthly basis by mailing data showing frequency of power failure & over voltages. Further this was also brought to the notice during meeting held with Ex. Engineer (Rural) on 30<sup>th</sup> March 2012 and with Ex. Engineer (Testing) on 16<sup>th</sup> April 2012.
3. Even after assurance by Ex. Engineer MSEDCL Rural div. Nasik, power interruption position has not been improved till toady; data sheets for power failures with voltages dip are attached. Further as per SOP of MERC and IE Rule 1956, section 54 (ii) allows permissible higher side voltage + 6% and on lower side – 9%. On most of the occasion, supply voltage had gone beyond max. permissible limit say 34.98 KV. As per the data sheet; many times voltage was recorded as 35 to 37.9 KV. This over voltage & frequent interruptions leads to tripping of majority of critical load of production which had resulted wastage of material in process. Due to this we are heavily suffering from financial losses in terms of scrapping of material, idling of machines & manpower. They are engaged in manufacturing of yarn from plastic with requirement of uninterrupted power supply. The machinery used in this process requires continuous supply of electricity. Interruption in supply causes huge losses to the industry.
4. MSEDCL is levying additional charges to our industry which is applicable for the continuous supply, i.e., Express Feeder- Continuous Supply category. These additional charges were levied for the period more than 2 years as per the Tariff Orders issued by the Commission on 12 Sept 2010 (Case No. 111 of 2009), 16 August, 2012 (Case No. 19 of 2012) allowing additional charges of 47 paise/kWh & 68 paise/kwh respectively.
5. They had spent more than 30 lakh rupees for erection of Express Feeder infrastructure to avail uninterrupted power supply since year 2009. However, in spite of these expenses incurred and payments made as per higher Tariff, we have faced interrupted power supply & voltage variation which leads to huge losses. As MSEDCL is charging higher Tariff of HT Continuous (Express Feeder) Tariff category, it was the responsibility of the licensee to provide uninterrupted and voltage fluctuation free electricity supply to us as compared to consumers of Non-continuous category.
6. Levy of tariff applicable to continuous supply industry with frequent interruptions & voltage fluctuations is unjustified and illegal. Therefore, we are entitle for refund of the additional charges paid, with interest thereon, for the billing periods involving frequent interruptions & voltage fluctuations.
7. Year wise (from January 2012 onwards) power failure & voltage fluctuation statement is attached. The following table shows year wise summery report for power failures due to various reasons.

Period	JAN 2012 TO JUN 2012 (6 months)		JULY 2012 TO JUN 2013 (12 months)		JULY 2013 TO JUN 2014 (12 months)	
	Failure	%	Failure	%	Failure	%
REASON						
132 KV	6	20.7	8	17.78	4	5.56
E/F – O/C	10	34.5	21	46.67	7	9.72
Internal	0	0	0	0.00	0	0.00
Planned	6	20.7	7	15.56	3	4.17
V. Fluctuation	7	24.1	9	20.00	58	80.56
<b>Total</b>	<b>29</b>		<b>45</b>		<b>72</b>	

Based upon the above data, average failure/fluctuations per month = 4.87, say 5 occasions.

8. MERC in Case No. 88/2012 order dt.16.07.2013 of M/s Kalika Steels & Alloys Pvt. Ltd. (& other 16 consumers) for failure of MSEDCL to supply continuous power to the consumers connected on express feeder has given an order. The Commission accepted the Petitioners' prayer and directed that MSEDCL should not have charged tariff applicable to continuous industry on Express Feeder for consumers in the month in which they have not supplied continuous supply. The tariff during the period in question which should have been applied is non-continuous tariff applicable to industrial category. The MERC issued order to reimburse tariff differential amount between Cont & Non-continuous tariff along with interest thereon.

9. SOP Regulation 2005 provide to impose penalty under section 3 (i) for quality of supply mentioned in Appendix-A of SOP Rs.100/- per week or part thereof for which voltage varies beyond specified limit.

**Demands of the Complainant:**

1. To refund of tariff difference between Cont & Non-cont tariff rate Rs, 0.47 (1<sup>st</sup> January 2012 to 31<sup>st</sup> July 2012) and thereafter Rs.0.68 per unit along with FAC, Elect. Duty etc. for the entire units consumed due to failure to supply continuous power.
2. Financial loss due to wastage of raw material, men & machine hrs.= Rs.5.0 lakh/ month
3. To reimburse compensation as per SOP for poor quality of power supply.
4. Compensation for mental agony, man hrs for follow up, travelling exp. etc. Rs.1.0 lakh.

**Arguments from the Distribution Company:**

The Distribution Company submitted a letter dated 07/08/2014 from the Nodal Officer, MSEDCL, Nashik Rural Circle Office, a letter dated 07/08/2014 from the Executive Engineer, Nashik Rural Divn. Addressed to the Nodal Officer 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. M/s Polygenta Technologies , Dindori is 8 MVA H.T. consumer .
2. The consumer applied for load of 8 MVA from 33 kV. As per rule, electric supply for consumers above 5 MVA is required to be given from 132 kV. But the consumer did not have adequate space for 132 kV substation. Hence the consumer agreed for supply from 33 kV. The MSEDCL HO has sanctioned supply from 33 kV as per request of the consumer.
3. In the sanction letter no. 36407 dated 29.09.2008, the consumer was informed about the likely occurrence of the voltage fluctuations. The consumer agreed to the same by giving consent on 100 Rs. Stamp paper.
4. There is no load shedding applied to this consumer. But the interruptions are due to natural calamities and repairs of instruments.
5. 2% transformer loss for 33 kV is within the limit as per MERC SOP.
6. The maintenance and repairs of 33 kV line has been carried out with the consent of the consumer from time to time.
7. The Distribution Company is not responsible for voltage fluctuations in 132 kV line
8. The Distribution Company has restored supply in shortest possible time whenever technical fault occurred in 33 kV line.

**Action by IGRC :**

1. Internal Grievance Redressal Cell Nashik Rural Circle conducted hearing on dt 04.05.2014 on the complaint submitted on 05.04.2014.
2. IGRC recorded as under:
  - 132 KV failure twice in year 2012, 4 times in 2013
  - Planned shut down :- 6 times in year 2012, twice in 2013 & once in year 2014
  - The reasons of planned shut down are seen as preventive maintenance, replacement & servicing of breaker, replacement of Polygenta side metering cubical.
  - Earth fault / O/C tripping :- 4 times in 2012 due to fault in R phase 5 times in 2013 & once time in 2014
  - Voltage Fluctuation:-
    - It is intimated by A.E. Dindori MSEDCL that the natural fault occurred is taken care by them & the same is immediately restored by them. The work of maintenance like tree cutting , replacement of insulators etc. is done by them with a prior consent of the consumer.
    - The voltage fluctuation is in the 132 KV sub station itself at the Transco side . Hence the voltage fluctuation is resulted on 33 KV side. The voltage fluctuation occurred is intimated to the consumer immediately.
    - As per MERC SOP Regulation 2005, the maintenance of voltage specified is 6 percent on the higher side and within 9 percent on the lower side of the declared voltage.
    - The H.T. side voltage is reported reached by consumer as max 36.6 KV against 33 KV & 460 V on L.T. side against 430 V

- As per consumers report the voltage has reached beyond the range of specified range of voltage & MSEDCL has not maintained the standard of performance.
- As per MERC Regulation the consumer within a 8000 KVA contract demand will be connected /supplied on 132 KV level by laying separate 132 KV line.
  - i. It was also intimated by MSDCL that if supply is not taken on 132 KV level, there may be dip/interruption in voltage.
  - ii. However it is learnt that the consumer has requested to release the supply on 33 KV level. He submitted undertaking on Rs. 100/- stamp paper that he agreed & accepted the load at 33 KV voltage level and will not complaint about variation in voltage, Low voltage etc & will not claim any compensation in future & he is aware of the fact and accepting the power supply at 33 KV level unconditionally.
  - iii. Also adequate space land is not available for installation of 132 KV switchyard in consumer premises intimated by field officers of MSEDCL
  - iv. The supply taken by the consumer is not as per MERC SOP Regulation i.e. at on 132 KV level.

3. IGRC Decision:

- Consumer's request is not accepted.
- The Executive Engineer Nashik R is requested to follow up with TRANSCO CO. to overcome the voltage variation problem & also requested to carry out the thorough maintenance of line & try to maintain the un-interrupted power supply.

**Observations by the Forum:**

1. According to the regulation 5.3 of MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 prevailing at the time of sanction of power supply to this consumer, the installations with contract demand above 1,500 kVA and up to 5,000 kVA are to be three phase, 50 cycles, 33 kV and installations with contract demand above 5,000 kVA are to be three phase, 50 cycles, extra high voltage . The issue is mainly related to the quality of supply. As per the Distribution Company, the problem has arisen due to the supply availed from 33 kV line instead of 132 EHV line. From the documents on the record , it is seen that the complainant had been given unambiguous understanding about such a problem. The sanction letter dated 29.09.2008 from Chief Engineer (Commercial),MSEDCL Mumbai stipulated certain conditions including clearly a condition (f) related to the quality of supply as under:
 

*“Since the load of 8000 KVA contract demand is sanctioned on 33KV level as per your request ,the quality of power supply on 33 KV level may not be as reliable as EHV supply and may cause voltage dip/interruptions for which Company (MSEDCL) will neither be responsible /nor pay any compensation for the same.”*

The consumer has accepted this condition and submitted an undertaking dated 05.10.2009 on Rs.100 stamp to that effect. On this background, the complainant has no right to claim for refund or compensation on account of interruptions or voltage fluctuation and hence the representation made now is not appropriate .
2. The complainant has referred to the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 in the representation. But it is clarified that the SOP 2005 regulations are now replaced by revised MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 with effect from 20.05.2014. As this grievance is received by the Forum on 17.07.2014 , it will be dealt according to the provisions under SOP 2014 Regulations.
3. The representation involves two main issues a) refund of the additional tariff levied on them by MSEDCL as per Continuous Supply category when they have suffered interruptions in supply and b) compensation claimed for voltage fluctuations beyond prescribed limit (poor quality of supply) as per Standards of Performance.
4. The complainant has given specific instances of interruptions in supply for the period January 2012 to July 2014 and asked for refund of the tariff difference by charging HT non-continuous tariff instead of HT continuous tariff for the period in which supply was interrupted.
5. A similar case of M/s Kalika Steels & Alloys Pvt. Ltd. (& other 16 consumers) [Case No. 88/2012 order dt.16.07.2013] has been quoted in this regard. In this case the Hon'ble Commission after analyzing the interruption data and explanation given by the Distribution Company opined that the

petitioners have actually suffered frequent interruptions in the electricity supply provided by MSEDCL and noted that the supply provided by MSEDCL during the reported period of June 2008 to August 2011 had by no means conformed to the expected norm and quality of continuous supply. Hence upholding the prayer of the Petitioners in this respect directed MSEDCL as under:

*“MSEDCL should have not charged tariff applicable to continuous industry on Express Feeder for consumers in the month in which they have not supplied continuous supply. The tariff during the said period in question which should have been applied is non continuous tariff applicable to industrial category. Accordingly, the difference between the tariff charged and the tariff as applicable shall be refunded by the Respondent to the Petitioners with interest at the present bank interest rate.”*

But this has been done by MERC under the powers vested under Section 62(1) of the EA 2003, according to which *“an Appropriate Commission only has the jurisdiction to determine Tariff of any consumer and consequently the applicability of the Tariff determined by such Commission.”*

Thus the issue of the applicability of the tariff is not within the jurisdiction of the Forum. Hence in the present case no orders can be given by the Forum about refund of excess amount charged in spite of the failure of the Distribution Company to supply continuous power.

6. The other demand raised by the complainant is about penalty under section 3 (i) for quality of supply mentioned in Appendix-A of SOP Regulation 2005 at Rs.100/- per week or part thereof for which voltage varied beyond specified limit. As clarified above, for this case MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 are now applicable.

7. The regulation 5.1 of the SOP Regulation 2005 notified on 20.01.2005 provided that :

*Except with the written consent of the consumer or with the previous sanction of the Commission, the Distribution Licensee shall not permit the voltage at the point of supply to vary from the declared voltage as under:*

*(i) in the case of low or medium voltage, by more than 6 per cent, or;*

*(ii) in the case of high voltage, by more than 6 per cent on the higher side or by more than 9 per cent on the lower side;*

*(iii) in case of extra-high voltage, by more than 10 per cent on the higher side or by more than 12.5 per cent on the lower side*

The appendix A 3(i) of the said regulations provided compensation of Rs 100 per week or part thereof for which voltage varies beyond the specified range. But it was available initially only in Mumbai city and suburbs and for other areas in the state as under:

- In the Mumbai Metropolitan Region (apart from Mumbai city and suburbs) and the Pune Metropolitan Region at the end of one year from the date of notification of these Regulations (i.e. 19.01.2006)
- In other areas, not covered above, in the State after separately notification of the date by the Commission (such date was not notified)

This consumer is located in an area not covered for SOP as above. Hence it doesn't become eligible for compensation for voltage variations beyond prescribed limits even during the existence of SOP Regulation 2005.

8. Now according to the SOP Regulation 2014 notified on 20.05.2014, the same voltage limits are specified. The appendix A 8 (i) of the said regulations provides compensation of Rs 100 per week or part thereof for which voltage varies beyond the specified range in the following manner:

- In Mumbai city and Suburbs, Mumbai Metropolitan Region and Pune Metropolitan Region,
- In all other Municipal Corporation areas at the end of one year from the notification of these Regulations (i.e. 19.05.2015)
- In other areas, not covered above, in the State after separately notification

This consumer is not eligible even as per SOP Regulation 2014 for compensation for voltage variations beyond prescribed limits as the Commission has not yet notified the date for other areas, in the State for the purpose of this compensation.

9. However the Distribution Company should note the regulation 5.4 and 5.5 of MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 for complaints regarding Voltage Variation .The provisions are as below:

*5.4:On receipt of a voltage variation complaint, the Distribution Licensee shall verify if the voltage variation is exceeding the limits specified and upon confirmation, the Distribution Licensee shall :—*

*(a) ensure that the voltages are brought within the specified limits, within 2 days of the receipt of a complaint, provided that the fault is identified to a local problem on the transformer;*

*(b) ensure that the voltages are brought within the specified limits, within 10 days of the receipt of a complaint, provided that no expansion/enhancement of the network is involved; and*

*(c) resolve the complaint within 120 days, provided that if up-gradation of the distribution system is required. ...”*

*5.5: In the cases where a new substation is required to be erected to resolve the voltage variation complaints, the Distribution Licensee shall, within one year of the receipt of such a complaint, complete the erection and commissioning of such substation. In such cases, the Distribution Licensee shall inform the consumer about the likely time period required for resolution of the complaint. ....”*

The Distribution Company is therefore directed to follow directions under the said regulations with regards to this complaint.

10. The complainant has claimed for financial loss due to wastage of raw material, men & machine hrs worth Rs.5.0 lakh/ month. But as per regulation 8.2 (c) of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006, the consumer is not entitled to “*indirect, consequential, incidental, punitive, or exemplary damages, loss of profits or opportunity.*”As such this claim can not be considered.
11. Also the claim for the compensation for mental agony, man hrs for follow up, travelling exp. etc. is not considered as there is no provision for the same in SOP Regulations.

After considering the representation submitted by the consumer, comments and arguments by the Distribution Licensee, all other records available, the grievance is disposed off with the observations and directions as elaborated in the preceding paragraphs .

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.

**(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
- 2 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. , Rural Circle office, Nashik Road.