

**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**  
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**Dwarka, NASHIK 422011**

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**No. / CGRF /Nashik/NUC/N.R.Dn./630/20/2017-18/**  
**(BY R.P.A.D.)**

**Date:**

**Date of Submission of the case : 25/07/2017**

**Date of Decision :**

To.

M/s. Jindal Polyfilms Limited  
28KM mileStone, NH-3 ,  
Musalgaon, Tal . Igatpuri  
Dist. Nashik .  
(Consumer No. 05278910129)

Complainant

1. Nodal Officer ,  
Maharashtra State Electricity Distribution Com. Ltd.,  
Urban Circle office, Shingada Talav,  
Nashik
2. Executive Engineer (Rural)  
Maharashtra State Electricity Distribution Com. Ltd.  
Vidyut Bhavan Nashik .

Distribution Company  
(Respondent)

**DECISION**

M/s. Jindal Poly films Limited , (hereafter referred as the Complainant ). Igatpuri Nashik is the HT consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Respondent). The Complainant has submitted grievance against MSEDCL for recovery of Excess demand charges of Rs. 26,40,000/- paid by us in the month of May against the MSEDCL bill of April 2016. The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. Ltd. . But not satisfied with the decision of the IGRC , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.124 of 2017 on 25 /07/2017.

As:"But as the hearing could not be scheduled in this case, as the Forum was not functional due to posts of both the Chairperson and the Member (CPO) being vacant since June 2017. Later as per order no SE/TRC/CGRF/C-7/22650,Dt. 18.09.2017 the Member(CPO) ,CGRF, Jalgaon has been given additional charge of the Member(CPO) ,CGRF, Nashik who resumed the charge with effect from 20/09/2017."

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. But on 25/10/2017 during hearing consumer approached the forum and requested to postpone the date of hearing with the written application, Accordingly, the forum considered his request and rescheduled date of hearing on 14/11/2017 at 11.00 am accordingly the revised date of hearing was conveyed to the concerned.

Smt. P.V. Bankar, Nodal Officer/Ex. Engr., Dy. Executive Engineer Shri. A. R. Tiwari represented the Distribution Company during the hearing. Shri. Deepak Bansal & Shri. Manish Mishra appeared on behalf of the consumer.

#### **Consumers Representation in brief :**

We are an HT consumer of MSEDCL (Consumer number 052789010129) CONNECTED AT 132 kv Level with contract demand 34000 KVA and availed open access of 24000 KVA for the month of April 2016.

The Distribution Open Access Regulations-2016 have been issued by Hon. Maharashtra Electricity Regulatory Commission on 30/03/2016. MSEDCL started implemented these regulations from 1<sup>st</sup> April 2016. But MSEDCL has willfully misinterpreted the clause of "Billing demand" for open access consumers and overcharged the billing demand by 12000 KVA in our bill for April 2016. Further MSEDCL in the bill of May 2016 realized the mistake and billed the Demand charges correctly.

The definition of "billing Demand" as per the new regulations of Distribution Open Access Regulations 16 is as follows:

"Billing Demand" for the purpose of these regulations in respect of a Partial Open Access Consumer, will be the higher of the following :

- (1) Actual Maximum Demand recorded less open Access Demand availed by Partial Open Access Consumer in the month during 06000 Hours to 2200 hrs.
- (2) 50% of retained contract Demand with the Licensee.

The definition of partial Open Access as per the Open access regulation is as follows :

"Partial Open Access Consumer" means an Open Access Consumer who maintains some demand with the distribution Licensee in whose area of supply he is located in order to cater to his load requirement.

As per the above regulations, wording is "50% of retained contract Demand" and not "50% of contract demand". The word "retained" makes it amply clear contract Demand of the consumer who is in Partial Open Access (i.e. has not made Nil contract demand with MSEDCL) needs to be deducted based on the open access quantum and then multiplied with 50%. The value for Billing Demand for a consumer who is in Partial Open Access will be higher value between (1) & (2) above.

We had a contract Demand of 34000 KVA and an open access quantum of 24000 KVA for the month of April 2016. The billed contract demand should have been 5000 KVA (50% of retained contract demand – i.e. 34000 less 24000= 10000 KVA) in bill of April 2016

However MSEDCL while charging for billing Demand" has billed at 50% of total CD (17000 KVA) instead of 50% of retained CD in Our April 2016 bill (Copy of our bill for April 2016 is attached for ready reference).

MSEDCL has an already established billing process in FY-2015-16 and billed correctly for consumer under Partial Open Access (& STOA) till Mar. 16. The reason for sudden change of billing procedure despite clear MERC open access regulations 2016 is not clear.

Further MSEDCL in the bill of May 2016 realized the mistake and billed the Demand charges correctly.

Due to this sudden change of billing pattern in April 2016, we received an excess bill for Rs. 26,40,000/- in April 2016 (17000 – 5000 = 12000 x 220- 26,40,000/-)

Steps taken by us to resolve this dispute :

1. We filed the letter for this excess charges with request to refund to CE (Commercial) on 16/05/2016 as per letter referred to at s.no.1, but did not get any reply to it till date.
2. We waited for almost a year and then filed our grievance at IGRF on dated 27/03/2017.
3. The hearing was conducted by IGRF and it gave its judgment on dated 29/05/2017 received by us on 12/06/2017.

It gave a very open judgment asking us to apply afresh to S.E. (O&M), Nashik for the refund and the SE (O&M) to forward the request to CE (Commercial) MSEDCL HO at Mumbai within 15 days of receipt of our application. But no time frame was fixed for the CE(Commercial) to decide on the request of SE.

4. Honouring the judgment we have applied to SE (O&M) Nashik afresh for refund of our amount of Rs. 26,40,000/- on 16/06/2017.
5. Till date we have not received any response from the SE Office for our application dated 16/06/2017,

Since the time frame of filing appeal against the verdict of IGRF is 60 days, we are filing our grievance in your forum to safeguard our interest.

It is therefore requested that justice may be done on us and the excess amount charged of Rs. 26,40,000/- may be refunded/ credited alongwith accrued interest @ 18%.

#### **Arguments from the Distribution Company.**

The Distribution Company submitted a letter dated 23/10/2017 from the Nodal Officer, MSEDCL, Urban Circle Office Nashik and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

The hearing of this case was done in IGRC forum on dtd. 26/04/2017, during the hearing it was stated by Dy.EE HT Billing that the OA bills of all the Open Access consumer who are availing conventional power are finalized by H.O. MSEDCL. Mumbai & any revision in such bills can be done by H.O. MSEDCL, Mumbai only. Also it was cleared that till the date the consumer has not given any complaint to Nashik Urban Circle office in this regard.

The decision given by IGRC forum was stated as below :

" The consumer should apply separately to SE Nashik Urban Circle in this regard & SE Nasik Urban Circle should forward the proposal to H.O. Mumbai within 15 days for approval".

Accordingly the consumer gave the application to Nasik Urban Circle Office on 16/06/2017 & the proposal for bill correction was sent to H.O. MSEDCL Mumbai vide letter no SE/NUC/Account/HT 004008 dtd. 03/07/2017.

Now as per E-Mail received from HO MSEDCL, Mumbai. On date 16/10/2017, it is informed that the said bill for Aug. 2016 of M/s. Jindal Polyfilm is correct & demand charges are charged correctly as per MERC DOA regulations 2016. So no any revision is applicable to this bill. The copy of above said mail is attached herewith.

According to the H.O. MSEDCL Mumbai reply.....

*The open access permission were issued in March 2016 as per prevailing MERC DOA regulations 2014. As per regulations 2014, for consumer sourcing firm power, the reduction of contract demand to the extent of open access capacity was mandatory & the retained demand was considered for billing .*

*Now, the MERC DOA regulations 2016 were notified on 30/03/2016 & become applicable with immediate effect. As per the Reg. 4.2 of MERC DOA regulations 2016, the mandatory reduction of contract demand is not applicable, instead new provision of revision in contract demand govern as per "Electricity supply code & the regulations of the commission governing standards of performance" is not made applicable.*

*As per prevailing MERC DOA regulations 2016 (Statement of Reasoning) the application for reduction in correct demand shall be submitted at the time of short term open access application. It is also clarified that STOA consumer will be allowed for contract demand reduction only during application of Open Access. The said requirement was not complied with the short term open access application for the month of April 2016. Also, The MERC DOAR 2014 ceased to exist w.e.f. 30/03/2016, hence mandatory automatic reduction in contract demand for April 2016 billing was not possible. MSEDCL carried out the open access billing in the month of May 16 for the consumption in the month of April 16 in accordance with MERC DOAR 2016.*

*Thus, as per MERC DOAR 2016 the billing demand in r/o partial open access will be higher of following.*

1. *Actual maximum demand recorded less open access demand availed by partial open access consumer in the month during 0600 hrs to 2200 hrs.*

2. 50% of retained contract demand charges levied in the open access bills for the month of April 2016, is correctly preceded with the provision of MERC DOAR 2016.

**Action by IGRC :**

1. Internal Grievance Redressal Cell Nashik Urban Circle conducted hearing on 26/04/2017 for the complaint submitted on 21/03/2017 .
2. After hearing both the parties IGRC gave decision as per letter dated 29/05/2017 as under .

*" The consumer M/s. Jindal Polyfilms Ltd. Is partial open access consumer. The consumer should apply to Superintending Engineer, Nashik Urban Circle separately for refund of excess demand charges & SEoffice should forward the proposal to competent authority Head Office Mumbai for approval within 15 days from the receipt of application from consumer."*

**Observations by the Forum:**

Consumer representative stated that as per the procedure of Distribution Open Access Regulation 2014, the application for partly, open access was made on 01/03/2016, accordingly the approval for short term open access for the month April 2016 was received from Distribution Company (MSEDCL) vide their Lr. No. CE/Comm./STOA/Conventional/08737 dt. 19/03/2016.

As per above approval the open access capacity allotted was 24 MVA, so the retained Demand was (34 MVA – 24 MVA) i.e. 10 MVA, the demand charges for the month of April 16 should have been charged on 50% of 10 MVA i.e. retained demand. But the Dist. Company (MSEDCL) has charged the demand charges on 50% of total contract demand i.e. 50% of 34000 KVA, i.e. 17000 KVA, the consumer applied for refund of excess payment made Rs. 26,40,000/- ( { 17000-5000} x 220).

The Distribution Company Representative/ Nodal Officer stated that the said case was referred to H.O. Mumbai office where. in it is clarified by H.O. MSEDCL that MERC DOA Regulation 2016 was notified on 30/03/2016 and came into effect with immediate effect, so as per the regulation 4.2 of MERC DOAR 2016, the mandatory reduction of contract demand is not applicable.

On which the consumer representative stated that the application for partial Open Access permission for April 2016 was made on 01/03/2016, and at that time MERC DOAR 2014 was in existence. Also the approval for STOA was given by MSEDCL on 19/03/2016 during which period MERC DOAR 2014 was in effect, so the billing of April 2016 should have been done accordingly following the provision. of MERC DOAR 2014 only.

In argumentation on the Dist. Company representative/ Nodal office stated that, the MERC DOAR 2014 was ceased with effect from 30/03/2016, hence the mandatory reduction of in contract demand for the month April 16 billing was not possible. The Dist. Company has carried out the open access billing in the month of May 2016 for the consumption of April 2016 is accordance with MERC DOAR 2016.

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 provision made in section 32 of DOA regulation it is being the dispute regarding charging of demand charges ( the DOA & TOA regulations) this forum has got no jurisdiction to resolve it. Hence consumer is advised to approached Commission for the same.
2. 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.

3. 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.
4. 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 .

