

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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Consumer Grievance Redressal Forum
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No. / CGRF /Nashik/NRC/518/49-15/

Date: 20/04/2016

(BY R.P.A.D.)

In the Matter of Delay In Change Of Name

Date of Submission of the case :03/03/2016
Date of Decision : 20/04/2016

To.

1. M/s. Indus Towers Ltd., .
2010, E-core, 2nd floor,
Marval Edge, Viman Nagar,
Pune 411014

Complainant

2. Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Rural Circle Office Nashik

3. Executive Engineer,
Maharashtra State Electricity Distribution Com. Ltd.
Nashik Rural/Kalwan/Malegaon (UCR) Division, Nashik

Distribution Company

DECISION

M/s. Indus Towers Ltd , (hereafter referred as the Complainant) is having electric connections from the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company) for the telecom towers at various locations in Maharashtra. The complainant has faced problems in getting name changed in Nashik District and 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 IGRC , it has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No. 41 of 2015 on 03 /03/2016.

The Forum in its meeting on 04/03/2016, decided to admit this case for hearing on 23/03/2016 at 12.30 pm in the office of the forum . A notice dated 04/03/2016 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.

Shri. A.R. Chavan Executive Engineer , Rural Division, Nashik, Shri. J. K. Kedar Executive Enginer (Addl. Charge) Shri. D.J. Nirgude Asstt. Acctt. Sau. V. R. Pawar, Asstt. Acctt. Shri. D,B, Kunde, Shri. P.S. Daware represented the Distribution Company during the hearing. Shri D.S. Talware appeared on behalf of the consumer.

Consumers Representation in brief :

1. The proposals for change of name are already submitted to all respective sub-divisions on dates shown in the table below. But no attention is given till date.
2. The grievance was registered under IGRC Nashik -R circle on dated 05/11/2015. But no cognizance of the case is taken even by IGRC to give total solution of the grievance.
3. Intimated to various Sub Divisions on dates as per column " submission date" as in below format.
4. Only Kalwan Lasalgaon and Ozar Sub Divisions have completed the work.
5. The Balance work as on date is as below :

S.N.	BU No & BU Name	Total sites	Done	Balance	Submission date	Status
1.	0434 DHBHADI	7	0	7	16-Apr.14	Not started
2.	0477 SINNAR- II	6	0	6	21-Apr.14	Not started
3	4265 MALEGAON U-II	7	0	7	16-Apr.14	Not started
4.	5410 DINDORI	8	0	8	15-Apr.14	Not started
5.	5444 MANMAD	5	0	5	09-Jun.14	Not started
6.	5452 SINNAR-I	11	0	11	21-Apr.14	Not started
7.	5479 SATANA	7	6	1	16-Apr.14	Partial Done
8.	5495 PEINTH	3	2	1	10-Jun-14	Partial Done

Consumer’s Demand:

1. An order may please be granted to ask MSEDCL to effect the change of name of balance consumers in ensuing billing cycle .
2. An order may be granted to allow the compensation as per MERC SOP rules and regulations.

Arguments from the Distribution Company:

The Distribution Company has submitted a letter dated 22/03/2016 from the Executive Engineer, Manmad and dated 23/03/16 from the Dy. Executive Engineer, Peinth 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- dk; Bkjh vfHk; rk] euekM ; kps i=kuq kj es bMq VKbj fyehVM i qks ; kpk fn-09@06@2014 jkst h vtL vkysyk vkgs l nj vt kckcr dks krkgh i=0; ogkj dsysyk ukgh- l kcr l nj xtgdkps l h-i-h-, y- tkMysys vkgs
- 2- mi dk; Bkjh vfHk; rk iB] ; kps i=kuq kj esbMq VKbj fyehVM] i qks g; kps iB mi foHkxkr , dqk rhu fBdk.kps VKbjps fcyke/; s ukokr cny dj.kckcrps vtL gkrs l nj nku fBdk.kp iB ; Fkhy xk-da 063520000609 o 063520000641 ; Fkhy VKbjps fcyke/khy ukokr cnykps dke >kys vkgs dkpjxko ; Fkhy xtgd dckrd 058180000150 ; Fkhy fcykckcr Additional S.D. Hkj.kckcr fn- 02@02@2016 jkst h l c/khr xtgdkl dGfo.; kr vkys gkrs ijarq vkti ; r l c/khr xtgdkus Additional S.D. ps fcy Hkjys ukgh- rjh l c/khr ojhy xtgdkps Additional S.D. fcyke/; s oxl d#u ojhy xtgdkps ukokr cnykps iLrko ckr i/kjk fnol kP; k vkr dk; bkgh d#u dke i wkl dj.; kr ; by-

Action by IGRC :

1. Internal Grievance Redressal Cell Nashik Rural Circle conducted hearing on 18/11/2015 for the complaint submitted on 05/11/2015
2. After hearing both the parties IGRC gave decision as per letter dated 17/02/16 as under:

rdkjkj xtgd ; kps M/s. Indus Tower Ltd. rdkjhul kj ukokr cny dj.kdkeh egkforj.k dia uli fu; eki ek.ks dkxni =kph mi yC/krk d#u fnY; kurj ; kX; rh dk; bkgh dj.; kr

; bly ; kph uln rdkjnkj xkgd ; kuh ?; koh- mi dk; bdkjh vfhk; rk ; kuk l fpr dj.; kr ; rs dhj di uh fu; eki ek.ks ; kx; rh dk; bkgd d#u rl k vgoky ; k dk; ky; kl l knj dj.; kr ; kok-

Observations by the Forum:

1. The brief background of the case is as under:

- (i) Indus Towers Ltd. , is a company incorporated under the Companies Act, 1956. It owns a countrywide network of telecom towers and network infrastructure services to major telecom operators . It is a company registered with the Department of Telecommunication for providing passive infrastructure services and related operations and maintenance services to various telecommunications operators in India on a shared basis. The telecom tower and shelter, both put up by M/s Indus Towers Ltd. is called "the passive infrastructure".
- (ii) Vodafone Infrastructure Limited , Bharti Infratel Ventures Limited, Idea Cellular Towers Infrastructure Limited are the companies registered with the Department of Telecommunications as an Infrastructure Provider.
- (iii) Vodafone Infrastructure Limited , Bharti Infratel Ventures Limited, Idea Cellular Towers Infrastructure Limited (Transferor Companies) along with Indus Towers Limited (Transferee Company) have jointly filed a petition to the Hon'ble Delhi High Court under Sections 391 to 394 of the Companies Act, 1956 seeking sanction of the Scheme of Arrangement among them and their respective shareholders and creditors. Hon'ble Delhi High Court has granted sanction to this scheme according to the order (In CO. PET. No. 14 of 2012) dated 18th April 2013 which reads as under:

"

47. With no other objections remaining to be dealt with, there appears to be no impediment to the grant of sanction to the Scheme. Accordingly, this Court grants sanction to the Scheme under Sections 391 to 394 of the Act. It is made clear that the grant of sanction to the Scheme is subject to the final order in Company Appeal No. 63 of 2012 pending before the DB of this Court and any other orders in any further proceedings thereafter.

48. In terms of Sections 391 to 394 of the Act and in terms of the Scheme, the whole of the undertaking, the property, rights and powers of the Transferor companies shall be transferred to and vest in the Transferee company without any further act or deed. Similarly, in terms of the Scheme, all the liabilities and duties of the Transferor companies shall be transferred to the Transferee company without any further act or deed. Upon the Scheme coming into effect, the Transferor companies shall stand dissolved without winding up. It is, however, clarified that this judgment will not be construed as granting exemption from payment of stamp duty or taxes or any other charges, if payable in accordance with any law; or permission/compliance with any other requirement which may be specifically required under any law. The Petitioner companies will comply with the statutory requirements in accordance with law. A certified copy of this judgment shall be filed with the ROC within 30 days from its receipt."

2. On this background the complainant (M/s Indus Towers Ltd) has submitted in the year 2014 applications to various sub divisional offices of the Distribution Company in Nashik district for getting the name changed for the electricity connections along with the following documents:

- ✓ U Form
- ✓ Copy of the Court Order

It is reported by the complainant that only Kalwan, Lasalgaon and Ozar Sub Divisions have effected the change of name . The other Sub Divisions namely Dabhadi, Sinnar-I ,Sinnar- II, Malegaon U-II, Dindori, Manmad, Satana and Peinth have not yet effected the change of name neither they have communicated reasons to the complainant.

3. The Nodal Officer and Executive Engineer ,Nashik Rural Circle has not submitted any reply to the notice dated 04/03/2016 by the Forum. The Dy. Executive Engineer , Peinth has informed the Forum that change of name is effected for 2 connections and the same is pending for one connection (at Kochargaon) for "non receipt of additional security deposit." The Executive Engineer ,Manmad has informed the Forum that the application for the change of names is received on 09/06/2014 but no correspondence is made in this regard.

4. There is no feedback from other sub divisions .However it was stated by the representatives of the Distribution Company during the hearing that the cases are pending for the want of “additional security deposit”, “U-form” or “meter testing fee”. But the Forum clarified that it is not proper to hold the change of name or additional security deposit. The Security deposit can be raised in the further bills whenever found necessary . As per regulation 14.4.1 of the Supply Code, 2005, the Distribution Licensee shall be responsible for the periodic testing and maintenance of all consumer meters. According to regulation 14.4.2 of the Supply Code, 2005 meter testing fee can be demanded only if the consumer demands testing of the meter
5. The procedure for change of name has been laid down as per regulations 10.2, 10.3 and 10.4 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions Of Supply) Regulations, , 2005 as given below:

10.2 *The application for change of name shall be accompanied by such charges as are required under the approved schedule of charges of the Distribution Licensee.*

10.3 *The application under Regulation 10.2 shall be accompanied by:*

- i. *consent letter of the transferor for transfer of connection in the name of transferee;*
- ii. *in the absence of a consent letter, any one of the following documents in respect of the premises: (a) proof of ownership of premises; (b) in case of partition, the partition deed; (c) registered deed; or (d) succession certificate;*
- iii. *photocopy of licence / permission with respect to the purpose for which electricity is being supplied to the premises, if required by statute;*
- iv. *processing fee or receipt thereof.*

10.4 *The Distribution Licensee shall communicate the decision on change of name to the consumer within the second billing cycle from the date of application for change of name: Provided where the Distribution Licensee disallows or refuses to the change of name, it shall do so after affording the consumer concerned a reasonable opportunity of being heard in the matter: Provided further that the Distribution Licensee shall communicate the reasons of refusal in writing to the consumer.*

The Distribution Company has not carefully followed and interpreted the above instructions in this case.

6. In view of the regulation 10.3 (ii) as mentioned above , the consent letters of the previous consumers (Vodafone Infrastructure Limited , Bharti Infratel Ventures Limited and Idea Cellular Towers Infrastructure Limited) are not necessary . The Delhi High Court order [dated 18th April 2013] is enough to establish “Proof of ownership”. In view of this order , the electricity connections for telecommunication towers standing in the names of Vodafone Infrastructure Limited , Bharti Infratel Ventures Limited and Idea Cellular Towers Infrastructure Limited stands transferred to M/s Indus Towers Ltd.”without any further act or deed.” Hence insistence of the U form/consent letter from old consumer in this case is irrelevant. However the complainant is required to pay the “processing charges” .
7. It is seen from the information submitted by the complainant that in some connections , the different consumers like BPL Mobile, Hutch Errison etc are involved. The Delhi High Court order dated 18th April 2013 is regarding the scheme of arrangement for Vodafone Infrastructure Limited , Bharti Infratel Ventures Limited and Idea Cellular Towers Infrastructure Limited only. Hence the complainant should submit documentary evidence in these case to establish their relationship with Vodaphone, Bharti or Idea so far as the electricity connections standing in their names are concerned . Otherwise their consent letters would be necessary.
8. The Application registration and processing charges approved by the Commission for New connection/ Change of name/Reduction or Enhancement of load/ Shifting of service/ Temporary connection as per MERC order dated 16th August 2012 (in case no. 19 of 2012) are as below:

Category	Approved charges (Rs.)
a) Single phase	50
b) Three phase	100
c) LT (Agricultural)	100
d) HT supply up to 33 kV	1700

The complainant has not given details about the payment of the processing fee . Hence wherever pending , the complainant has to pay the processing fee according to the category of supply.

9. According to the regulation 4.13 of the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 [applicable from 20/05/2014]

“The Distribution Licensee shall intimate the charges to be borne by an applicant for change of name and change of tariff category within seven (7) days of receipt of an application in this regard and shall give effect to it within the following time limits :—

change of name shall be effected within the second billing cycle on receipt of an application and payment of necessary charges.”

In case the Distribution Company fails to adhere to this time limit , the compensation is payable at Rs 100 per week or part thereof of delay

However as per regulation 12.2 of the said regulations , the claim of the compensation should be submitted within 60 days from the date of change of name.

10. The complainant has demanded compensation for delay in effecting change of name. The Forum directs the Distribution Company as under in this regard:

- (i) Wherever the change of name is already effected and there is a delay beyond second billing cycle after receipt of the application and the appropriate processing fee , the Distribution Company should pay compensation at the rate of Rs 100 per week or part thereof of delay for each connection/subscriber if the claim is within 60 days from the date of change.
- (ii) In the cases , where the change of name is not yet effected the compensation can not be determined at this stage. But after it is effected and it is found that there is a delay beyond second billing cycle after receipt of the application and the appropriate processing fee , the complainant can claim compensation within 60 days from the date of effect of change.

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 effect change of the name of connections in the name of M/s Indus Towers Ltd. for the connections in the name of Vodafone Infrastructure Limited , Bharti Infratel Ventures Limited and Idea Cellular Towers Infrastructure Limited .within second billing cycle after receipt of the necessary processing charges , if not paid.
2. The Distribution Company should effect change of the name of connections in the name of M/s Indus Towers Ltd. for the connections other than in the name of Vodafone Infrastructure Limited , Bharti Infratel Ventures Limited and Idea Cellular Towers Infrastructure Limited. within second billing cycle after receipt of the necessary processing charges and documentary evidence in these case to establish their relationship with Vodaphone, Bharti or Idea so far as the electricity connections standing in their names are concerned/their consent letters .
3. Wherever the change of name is already effected and there is a delay beyond second billing cycle after receipt of the application and the appropriate processing fee , the Distribution Company should pay compensation at the rate of Rs 100 per week or part thereof of delay for each connection/subscriber if the claim is within 60 days from the date of of change.
4. In the cases , where the change of name is not yet effected the compensation can not be determined at this stage. But after it is effected and it is found that there is a delay beyond second billing cycle after receipt of the application and the appropriate processing fee , the complainant can claim compensation within 60 days from the date of effect of change.
5. 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.

6. 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
7. 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. , 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. , Rural Circle Office , Nashik .