

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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No. / CGRF /Nashik/NC/Shrirampur Dn./473/04-15/

Date: 19/05/2015

(BY R.P.A.D.)

In the matter of
Refund Of Cost Of Infrastructure

Date of Submission of the case :15/04/2015

Date of Decision : 19/05/2015

To.

1. M/s. Gurudatta Milk Products,
Varale Wasti, Rahuri
Dist. Ahmednagar 413701
(Consumer No.850120252856)

Complainant

2. Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Ahmednagar Circle office,

Distribution Company

3. Executive Engineer,
Maharashtra State Electricity Distribution Com. Ltd.
Shrirampur Division Office
Dist. Ahmednagar.

DECISION

M/s. Gurudatta Milk Products, Rahuri., (hereafter referred as the Complainant). Ahmednagar is the L.T. industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The grievance is regarding delay in refund of amount of Rs. 396600/- recovered towards cost of infrastructure by the Distribution Company. 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 Inward No. 84 of 2015 on 15/04/2015.

The Forum in its meeting on 15/04/2015, decided to admit this case for hearing on 05/05/2015 at 12.30 pm in the office of the forum . A notice dated 16/04/2015 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, Ahmednagar Circle Office for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri. V.G Bhivsani, Dy.Ex.Engr. Circle Office ,Ahmednagar , Shri. P.G. Chakole, Addl. Ex. Engr. Shri. B. R. Garje, Dy .Executive Engineer represented the Distribution Company during the hearing. Shri B.R. Mantri appeared on behalf of the consumer.

Consumers Representation in brief :

1. S.E. MSEDCL, Ahmednagar has sanctioned estimate of Rs 3,96,600/- on date 20/05/2011 under T.S. No.SE/Circle/T/ARR/Non-DDF/CCRF/11-12/06 dated 19/05/2011 for new connection and asked the consumer to execute the work with material with understanding to refund the cost in energy bills.
2. The consumer carried out the same work and completed it in June, 2011 and connection was released on date 30/06/2011. Estimated amount of Rs. 386600/- was paid to the electrical contractor to carry out the same work.
3. MSEDCL has also recovered Rs.3,000/- as Transformer testing fee, Rs.3400/- supervision charges and CRA Rs.6500/-.
4. As per Non- DDF/ CCRF scheme, MSEDCL has to refund the estimated amount adjustment in monthly bill as per Circular no. CE(Dist)/D-III/Circular/22197 date 20/05/2008. It is mentioned in the circular that : "If the Consumer / group of consumer wants early connections and opts to execute the work and bear the cost of infrastructure then the refund of the cost of infrastructure will be given by way of adjustment through energy bills."
5. As per MSEDCL circulars the entire expenditure incurred by the consumer is to be refunded by adjusting 50% of the monthly bill till the clearance of the total expenditure. The consumer has paid around Rs.10.00 lacs against monthly bill from the date of connection to till date. But till date MSEDCL has not adjusted estimated amount.
6. The complainant approached the IGRC for refund of estimated amount along with Transformer testing fee, Supervision charges and excess collected CRA with 9% interest from June 2011 to till date of refund. IGRC has given the decision for refund the infrastructure cost as per MSEDCL rule. But clear direction has not been given and also no mention of other refunds including interest. Also there is no time limit for refund.
7. The complainant is approaching the forum for seeking relief for refund of infrastructure cost Rs.396600/- along with Transformer testing fee Rs.3000/-, Supervision charges Rs. 3400/- and excess collected CRA Rs. 6500/- (-) Rs.85/- = Rs.6415/- (Supervision charges will be 1.3% Normative charges means Rs.6500/- x 1.3% =Rs.85) of with 9% interest from June 2011 to till date of refund. This refund to be refunded with one time by cheque.
8. MSEDCL has not informed what formalities has to be complied after 4 years for refund, till the date of filling of grievance before IGRC.
9. At the time of hearing at IGRC, Addl. Ex. Engineer has first time informed that till date WCR has not been finalized due to original documents such as Tax Invoice, challan copy, Bill of material purchase etc. as the said consumer has not submitted them to MSEDCL.
10. As per MSEDCL procedure without preparing WCR, connection cannot be released. As per the scheme, consumer is responsible only for funding and work is to be executed by the approved licensed contractor of MSEDCL, under supervision of its officers. After completion of work, MSEDCL officer has prepared the WCR after verification of material used, and bills and thereafter MSEDCL has issued inspection call to electrical inspector and after getting permission from electrical Inspector, DTC is charged and connection is released. So it is totally wrong to say that WCR has not been finalized.

Consumer's Demand:

1. To allow cost of infrastructure of Rs.396600/- along with transformer testing fee Rs.3000/-, supervision charges Rs.3400/- and excess collected CRA Rs.6415/- with 9% interest from June 2011 to till date of refund.
2. The total refund amount to be refunded with one time by cheque.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 02/05/2015 from the Nodal Officer, MSEDCL, Ahmednagar Circle 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 Consumer has given written application on date 20/02/2015 in IGRC about the refund of material cost. The IGRC has given the decision vide letter No. 59 dtd. 16/04.2015 stating that the as the consumer has taken connection with his own cost (Non-DDF-CCRF), MSEDCL should refund the infrastructure cost as per MSEDCL rule.
2. After completion of all formalities by the consumer as per the rules of MSEDCL, the amount of infrastructure cost borne by the consumer will be refunded forthwith.

Action by IGRC :

1. Internal Grievance Redressal Cell Ahmednagar Circle conducted hearing on 18/03/2015 for the complaint submitted on 28/02/2015
2. After hearing both the parties IGRC gave decision as per letter dated 27/03/15 as under:
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Observations by the Forum:

1. The Distribution Company has agreed to refund the infrastructure cost by way of adjustment through energy bills but so far not started doing so. Hence this grievance.
2. The complainant has applied for 40 HP electric connection which was approved by the Superintending Engineer, Ahmednagar Circle as per letter no. 7394 dated 20/05/2011 under Dedicated Distribution Facility /Consumers Contribution Refundable (Non-DDF/CCRF) scheme with estimated infrastructure cost of Rs.3,96,600/- to be incurred by the consumer. As per this letter addressed to the Executive Engineer, Shrirampur who was instructed as under :
 - ✓ to verify all the necessary documents /material prior to FQ and recover necessary charges at his end.
 - ✓ to finalise the Works Completion Report (WCR) immediately after completion of work and keep detailed record of work done at his end.
 - ✓ to verify material purchased as per sanctioned estimate along with bill of purchase before giving permission to start work.
3. The Distribution Company has stated that the refund was not started because the complainant did not claim the same along with necessary bills /documents . The complainant however stated that the required documents were submitted to the Rahuri Subdivision which has prepared the Works Completion Report in June 2011. Later on the Distribution Company has never asked them to submit any document .
4. The Forum has asked the Distribution Company to submit copy of the said Works Completion Report . The Executive Engineer, Shrirampur has submitted the same by letter dated 07/05/2015. The scrutiny of the WCR reveal as under:
 - ✓ The report is prepared by the Assistant Engineer ,Rahuri .It is not signed by the Executive Engineer, Shrirampur.
 - ✓ The report mentions amount of sanction estimate as Rs. 258905.29/-
 - ✓ There is no mention of any date of preparation of the report. It however mentions that the date of starting the work as 18/06/2011 and date of completion the work as 29/06/2011.
 - ✓ The report also contains a sheet prepared by the concerned Junior Engineer mentioning estimated quantity and values of various items of work totaling to Rs. 258905.29/-
5. On perusal of the documents on record the Forum notes its observation as under:
 - ✓ The Executive Engineer , Shrirampur has not strictly followed the instructions in the sanction order of the SE , regarding verification of the bills/documents before giving permission to start work
 - ✓ The Rahri Subdivision has already prepared the WCR in June 2011 . However there is nothing on the record to show what action was taken on this report by the concerned Executive Engineer , Shrirampur Division .

- ✓ In case there was any compliance required from the consumer , there should have been a letter /query to that effect from the Rahri Subdivision or Shrirampur Division.
 - ✓ Hence it can be concluded that the WCR remained pending without any action till the complaint was submitted to the IGRC. The delay is on account of the concerned offices of the Distribution Company for not handling the case timely and properly. The supply has been given to the consumer since 30/06/2011.
 - ✓ As per approval letter of the Superintending Engineer dated 20/05/2011 the approved estimate is Rs. 3,96,600/- .However according to the WCR the estimate is Rs. 2,58,905.29/-It is not known which items are excluded and why ?
6. The Distribution Company has issued Circular no. 22197 dated 20/05/2008 by CE (Dist) and circular no. 39206 dated 21/12/2009 by CE (Dist) regarding refund of the infrastructure cost
- ✓ As per circular dated 20/05/2008 *“If the consumer/ group of consumers wants early connections 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.”*
 - ✓ As per circular dated 21/12/2009 *“...Managing Director MSEDCL has accorded approval to refund the entire expenditure incurred by the prospective consumer for release of the supply under dedicated distribution facility (even though work is not dedicated) by way of adjusting 50% of the monthly bill amount till clearance of the total expenditure.”*
- As per these circulars the entire expenditure incurred by the consumer is to be refunded by adjusting 50% of the monthly bill till the clearance of the total expenditure.
7. The abnormal delay in refund in this case is not justified. The date of supply is 30/06/2011. Ideally the refund should have started from the July 2011 bill itself or it should have started at least in the billing month of August 2011. But the Distribution Company has failed to do so and even after lapse of about 46 months refund is not started. The Distribution Company is trying to blame the consumer for delay without any convincing explanation. Because of delay in refund the complainant needs to be paid interest as per rule.
8. The complainant has claimed that the amount of Rs.396600/- approved as infrastructure cost should be refunded , whereas the WCR indicates an amount of sanction estimate as Rs. 258905.29/- only . As per CE (Dist) circular dated 21/12/2009 ,the entire expenditure incurred on the infrastructure cost is to be refunded. Hence the Distribution Company should review the exact expenditure for refund in the light of circular dated 21/12/2009 and revise the exact amount if necessary.
9. The Forum directs the Distribution Company should rework the account of the consumer and reset it by following the method as given below:
- ✓ Determine the correct amount to be refunded (being actual entire expenditure incurred) as per CE(Dist) Circular no. 39206 dated 21/12/2009
 - ✓ Start refund from August 2011 at 50% of the monthly bill
 - ✓ Adjust the monthly payments actually made by the consumer
 - ✓ Refund the excess amount received if any with interest at bank rate of RBI till the date of refund.

The complainant has demanded refund of transformer testing fee , supervision charges and excess collected CRA . As per the Receipt No. 6237322 dated 30/06/2011 the consumer has paid total Rs. 53100/- (The total does not tally) with breakup shown as under:

CRA-	Rs. 6500
RRBS-	Rs. 100
Security Deposit –	Rs. 40000/-
T/F Test-	Rs. 3000/-
1.3% Sup Charges –	Rs. 3400/-

MERC Order dated 8th September 2006 [Case no. 70 of 2005] for the Schedule of Charges is applicable in this case. As per this order , The Service Connection Charges applicable in this case are Rs. 6500/- (for 21 to 107 HP) only. The said order also mentions that ,in case MSEDCL permits the consumer to carry out the works through a Licensed Electrical Contractor, the supervision charges shall be recovered at a rate of 1.30% of the normative charges. As per this order , the recovery of CRA of R. 6500/- and 1.3% Supervision Charges

of Rs. 3400/- is permissible . But transformer testing fee of Rs.3000/-, is not permissible. Hence recovery of the transformer testing fee is contrary to the MERC directives. As such the transformer testing fee should be refunded along with interest at bank rate of RBI till the date of refund.

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, within 30 days from the date of this order, should rework the account of the consumer and reset it as per guidelines in the CE(Dist) Circular no. 39206 dated 21/12/2009 by reviewing the amount to be refunded and starting refund from August 2011. The excess amount recovered if any should be refunded with interest at bank rate of RBI till the date of refund .
2. The Distribution Company should refund the transformer testing fee of Rs. 3000/- within 30 days from the date of this order , along with interest at bank rate of RBI till the date of refund.
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.
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 appellant 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. , O&M Circle office, Ahmednagar.