

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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Dwarka, NASHIK 422011

No. / CGRF /Nashik/NUC/N.U.Dn.1/615/05/2017-18/

Date: 16/05/2017

(BY R.P.A.D.)

In the Matter of

Excess collected FAC from the billing month of Dec. 2013 to Dec. 2014

Date of Receipt :15/04/2017

Date of Decision :16/05/2017

To.

M/s. Nashik Strip Pvt. Ltd. ,
Plot No. 13 -17 & 28 – 32 STICE
Shirdi Road, Musalgaon
Tq. Sinner 422112
Dist. Nashik
(Consumer No. 075949010210)

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 Road.

Distribution Company

DECISION

M/s. Nashik Strip Pvt. Ltd. , (hereafter referred as the Complainant). Sinner Nashik is the H.T. industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against MSEDCL for excess recovery of Fuel Adjustment Charges (FAC) to the Internal Grievance Redressal Cell (IGRC) of the Maharashtra State Electricity Distribution Company Ltd. But as the IGRC did not provide any remedy for more than 2 months , the consumer has submitted representations to the Forum in Schedule "A". The representations are registered at serial No.70 Of 2017 on 15 /04/2017.

The Forum in its meeting on 18/04/2017, decided to admit this case for hearing on 02/05/2017 (later postponed to 05/05/2017 at the request of the complainant) at 11.30 Pm in the office of the forum . A notice dated 18/04/2017 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.

Shri. S.S. Sawairam , Nodal Officer/Ex. Engr. , Sr. Manager Shri. D.R. Mandlik represented the Distribution Company during the hearing. Shri . B.R. Mantri appeared on behalf of the consumer.

Consumers Representation in brief :

1. MSEDCL has charged the FAC as per their circular and submitted the detail calculation to Commission for approval. We have noticed that the FAC charged by MSEDCL from billing month of Dec. 2013 to Dec. 2014, is not according to post facto approval issued by Hon'ble Commission for charging of FAC for the respective billing month.
2. FAC is the part of Tariff and Tariff is being determined by the MERC. The methodology of FAC calculation and recovery thereof has to be approved by the Commission in the tariff order. Without a change in Tariff Order or without approval /sanction of MERC, the FAC methodology could not be changed or altered. MSEDCL has changed levy of FAC methodology with a gap of three months to two months from the billing month of Dec. 2013. FAC has wrongly charged due to the interpretation of word "In the billing month and to be billed month".
3. Commission has given post facto approval for charging of FAC for the respective billing month vide order dated 18/12/2014; 11/02/2016; 16/02/2016.
4. As per Commission post facto approval, MSEDCL should rework the calculation of FAC from the billing month of Dec.13 to Dec.14, and refund the excess collected FAC amount over and above with interest as E A 2003 Section 62 (6) from the date of deposit to till the date of refund.
5. FAC to revised as per MERC following orders.
 - a. MERC/FAC/FY 13-14/1350 dt. 18/12/2014
 - b. MERC/FAC/FY 2015-2016/01469 dt. 11/02/2016
 - c. MERC/FAC/FY 2015-2016/01481 dt. 16/02/2016
6. Reconciliation of FAC charged to M/s.Nashik Strips Pvt. Ltd. from Dec. 2013 to Dec. 2014 is as under:

Billing Month	FAC levied MSEDCL	FAC MERC	Diff.	Units	Amount
Dec.13	-6.24	-22.46	16.22	1052862	170774.2164
Feb.14	4.28	0	4.28	940500	40253.4
Mar.14	16.41	4.28	12.13	1011029	122637.8177
May 14	13.62	3.36	10.26	1164483	119475.9558
Jun.14	34.92	13.62	21.3	1109304	236281.752
Sept.14	55.05	32.93	22.12	1049301	232105.3812
Nov. 14	42.59	20.19	22.4	961821	215447.904
Dec.14	81.38	42.59	38.79	989406	383790.5874
Total					1520767.015

Relief Sought :

MSEDCL should rework the calculation of FAC for the Billing Months Of Dec. 2013 To Dec. 2014 and refund the excess FAC recovered with interest at the rate of 9 % per annum from the date of deposit.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 29/04/2017 from the Nodal Officer, MSEDCL, Urban Circle Office Nashik and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

es ukf'kd LVhi ik-fy- xk-dā 075949010210 ; k xkgdki ekgs fMI c] 2013] Oopkjh 2013 o es 2014 e/; s Addl. AEC o Addl. FAC pktī yko.; kr vkysys vkgr- gs l o] pktī xkgdki MERC Order dtd. 04@09@2013 in case No. 44 of 2013 , MERC Order dtd. 26@07@2015 in case No. 95 of 2013, M.A. 187 of 2014, egkforj.k ifji=d dā 189, 193 (Regarding FAC Charges) u] kj yko.; kr vkysys vl μ rs ; kX; vkgr-

Action by IGRC :

The complainant applied to the 14/02/2017 but the IGRC did not decide the case even after lapse of 2 months.

Observations by the Forum:

1. The Hon'ble Commission has issued post facto approvals for FAC to be charged by the MSEDCL as per letters below:

Letter No.	Dated	Billing Months of :
1350	18 th December 2014	October 2013 to December 2013
1463	11 th Feb 2016	March 2014 to June 2014
1481	16 th Feb 2016	July 2014 to December 2014

According to these letters the FAC approved by the Hon'ble Commission for HT I N is as under :

Billing Month	FAC approved by the MERC
December 2013	-22.46
January 2014	0
February 2014	0
March 2014	4.28
April 2014	16.41
May 2014	3.36
June 2014	13.62
July 2014	34.92
August 2014	11.18
September 2014	32.93
October 2014	55.05
November 2014	20.19
December 2014	42.59

Hence, wherever, the Distribution Company has charged the FAC in the bills of the months from December 2013 to December 2014 , over and above the rates as above , the same needs to be refunded to the complainant .

2. The complainant has demanded the interest on the refunds . But it is seen from the documents submitted to the Forum that the demand of the refund related to August 2013 has been raised first time in February 2017 with the IGRC. The entitlement to interest needs to be considered against the fact that the claim of refund filed by the complainant is belated. The Distribution Company can not be held responsible for the delay . The Forum is inclined to take the view that the refund be given with interest at Bank Rate from March 2017 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. Wherever the Distribution Company has charged the FAC in the bills of the months from December 2013 to December 2014 , over and above the rates as approved by MERC , the same should be refunded to the complainant with interest at bank rate from March 2017 till the date of refund
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 one month and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum .

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.

(Rajan S. Kulkarni)
Member

(Sandip D. Darwade)
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. , Urban Circle office, Nashik .