



Consumer Grievance Redressal Forum, Kalyan Zone

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EE/CGRF/Kalyan Zone/

Date of Grievance : 03/07/2017

Date of order : 03/08/2017

Total days : 31

**IN THE MATTER OF GRIEVANCE NO. K/E/1238/1462 OF 2017-18 IN RESPECT OF LAXMI ORGANIC INDUSTRIES LTD. CHANDRAMUKHI BLDG., THIRD FLOOR, NARIMAN POINT, MUMBAI, 7 A-22, MIDC, MAHAD, DIST RAIGAD-402309, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN 9, REGARDING BILLING DISPUTE.**

Laxmi Organic industries Ltd.,  
Chandramukhi Bldg.,  
Third Floor, Nariman Point,  
Mumbai

And

A-22, MIDC, Mahad,  
Dist. Raigad-402 309.

Versus

Maharashtra State Electricity Distribution Company Limited  
though its MSEDCL,  
Supt. Engineer Pen Circle, Raigad

Appearance : For Consumer - Shri Kudekar & Shri Siddharth Mehta CR.  
For Licensee - Shri R.R. Mane - Ex. Engineer - Pen Circle.

[Coram- Shri A.M. Garde - Chairperson, Shri A.P. Deshmukh - Member  
Secretary and Mrs. S.A. Jamdar - Member (CPO)].

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance

Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission. Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014’.

2] The consumer herein viz. M/s. Laxmi Organics Ltd. initially moved before the Hon’ble MERC in case No. 59/2015 taking up several contentions and prayers. The issues raised were :

i] whether the consumer LOIL’s units I (Consumer No. 041019022990) for which a separate underground cable has been laid, is a grid connected consumer,

ii] whether MSEDCL could levy Temporary Category tariff for exceeding contract demand during the OA period while LOIL’s application for it’s enhancement was in process,

3] The Hon’ble MERC upon hearing gave a finding on issue no. 1 to the effect inter alia that, irrespective of the network arrangement of the CPP and units 1 & 2 it becomes integral part of the grid, and hence liable for levy of wheeling charge and applicable loss by MSEDCL.

4] S0-far-as issue no.2 is concerned, the Hon'ble MERC noted that considering order dated 17/5/2007 in case no.42 of 2006 (Regarding availability based Tariff) and subsequent dispensation, over-drawl by partial OA consumers beyond their contract demand is to be charged at the temporary tariff category. But the question whether or not there was inordinate delay in enhancing the contract demand, the augmentation required and any consequential relief or compensation for such delay and its consequential impact was left for the decision of the proper Tribunal viz. CGRF. Having directed accordingly the consumer approached this Forum.

5] It is inter alia contended by the consumer relevant to the issue before us, that vide letter dated 1/3/13 consumer applied for enhancement of load from 2950 KVA to 4000 KVA. It is further submitted that on 3/4/13 consumer again made requisition to MSEDCL regarding enhancement of contract demand from 2950 KVA to 4800 KVA and also submitted the required documents. On 9/4/13 consumer received a reply from MSEDCL's Office seeking further document more specifically stated in the letter. The said letter did not make any reference to consumer's first letter dated 1/3/13. Consumer again made application for enhancement load from 2950 KVA to 4800 KVA and submitted documents as mentioned in letter dated 9/4/13. Pertinently the documents sought by MSEDCL find no mention in the application format given by MSEDCL. Such documents were sought from the consumer to delay the sanction. Consumer further contends that on 27/5/13 Superintending Engineer, Testing MSEDCL Pune wrote to the Superintending Engineer, Pen regarding technical specifications for release of additional demand. On 28/5/13 Superintending Engineer, Pen Circle wrote letter to Chief Engineer Kalyan to take additional approval as the

current network set up was not in a position to enhance the additional load. Then on 10/6/13 the Regional Execution Director, Kalyan wrote to Chief Engineer Commercial, MSEDCL for approval of additional demand. On 19/6/13 Chief Engineer, Commercial wrote letter to Superintending Engineer, Pen seeking more documents from Pen Circle. On 20/6/13, the Executive Engineer, Mahad submitted the technical feasibility report to Superintending Engineer MSETCL for the increase of additional contract demand. Then on 29/6/13 MSEDCL, again sought documents after a lapse of two months to consider the increase of contract demand. Then on 2/7/13, the consumer supplied documents as sought in letter dated 29/6/13. Consumer further contends that on 20/7/13, MSEDCL sanctioned and approved the additional contract demand of 4800 KVA. Consumer then on 27/8/13 signed an agreement with MSEDCL. On 10/10/13, MSEDCL increased the contract demand under open excess. Thus enhancement of load was done after a span of six months and to justify lapses billed the consumer under temporary tariff category under the guise of over drawl of power.

6] It is the contentions further that MSEDCL was under obligation to respond to the request for enhancement of sanctioned load from 2950 KVA to 4800 KVA within 30 days from the date of application. The bills issued for the period from May 2013 to October 2013 were illegal.

7] It is further the contention that while issuing the bills for the period from May 2013 to October 2013 MSEDCL failed to take note of the fact that no enhanced power was actually imported from the grid of MSEDCL as per letter dated 31/3/12, even as per form of connection and use of distribution system. MEDCL were under obligation to issue notice to the consumer in case of drawl of power beyond the sanctioned load.

8] It is further the contention that MSEDCL has failed to show any documents that extra energy consumed by the consumer was supplied by MSEDCL. On conjoint reading of the date and meter installed at the unit I & II it is clear that the total generated units at unit I were injected to unit II and under such circumstances, no power was actually supplied by MSEDCL to consumer to levy temporary tariff. Consumer further submits that consumer did inject surplus power required to be consumed by unit II and at no point of time any power was drawn by Unit II from the grid of MSEDCL. Consumer further submits that during the period from May 2013 to October 2013 because of increase in demand the CPP at Unit-I generated more power which is evident from the generation sheet.

Consumer prays that MSEDCL be directed to refund the amount of Rs.129 lakhs charged under Temporary Tariff Category and same is paid by consumer under protest.

9] In reply filed on 17/7/2017, MSEDCL has dealt with the contentions of the consumer parawise and has responded accordingly. It further contends that consumer, on HT (OA) consumer (No.041019027990) applied for enhancing the load on 3/4/13 from 2950 KVA to 4000 KVA. The application was incomplete and required some additional documents and therefore consumer vide letter dated 9/4/13 requested MSEDCL to submit required documents. Consumer however, revised application vide letter dated 6/5/13 for enhancing contract demand from 2950 KVA to 4800 KVA. Again by letter dated 8/5/13, Licensee asked for additional documents. It is further the contention that MSEDCL in the meantime initiated the process and in that context requested SE (TQA) to submit inspection report. In response thereto SE (T Q A) vide letter dated 27/5/13 submitted inspection

report, stating therein that for additional load required replacement of metering CT. On the receipt of inspection report from SE (TQA) Licensee vide letter dated 28/5/13, submitted estimate proposal for approval of CE Kalyan. The Licensee then vide letter dated 21/6/13 submitted technical feasibility report to CE (Commercial) and again on 29/6/13 asked the consumer to submit required documents. Consumer ultimately on 2/7/13, submitted the required documents. Then on 20/7/13, the approval for load enhancement was communicated to consumer and on 30/7/13, demand note was issued. Then on 08/08/13, Licensee received letter from SE (T Q A) regarding revised specifications for metering, CT PT at substation at the instance of consumer's application for revised specification of CTs PTs at Unit -I. Thereupon vide letter dated 13/8/13, Executive Engineer Goregaon Divn. was asked whether revised estimate is required in view of revised specifications. Then, on the same day i.e. on 13/8/13 Electrical Inspector issued permission for commissioning of CTs. Then on 27/8/13 an agreement was executed between Licensee/opponent and consumer for supply of enhanced power. On 3/9/13 at 220/22 KV Mahad Sub-Station end were replaced by testing team and thereafter on 6/9/13 Licensee communicated to the consumer that load enhancement was done.

10] It is further the contention of Licensee that as per MERC Regulations, date of receipt of duly completed application in this case is 2/7/13. Then as per MERC Standard of Performance Distribution Licensee, period for giving Supply and Determination of Compensation Regulation 2005, time period for provision of supply from the date of receipt of application and payment of charges is:

- a] In case connection is from existing network standard period is one month,
- b] when extension or augmentation of distribution mains is required standard time period is three months.

11] In the present case any extension of Distribution mains was required hence standard time period is three months. Consumer submitted incomplete application and not submitted required documents inspite of letter dtd 9/4/13 and 8/5/13, and ultimately submitted documents on 2/7/13 Revised application for enhancement was given on 6/5/13, hence earlier application cannot be considered. Further Licensee issued demand letter on 30/7/13 for the estimated amount and accordingly consumer paid the required fees. In the meantime, consumer again wrote letter to SE ( T Q A) regarding seeking permission to install CTs of 200 /1A , 0.25 Class, 10 VA instead of 150/1A, as the consumer had applied for additional load of 900 KVA at Unit I. The said fact came to the knowledge of Licensee vide letter of SE (T Q A) dt. 30/7/13. SE ( T & A) vide letter dt. 8/8/13, informed Licensee regarding revised specification for metering CTs and PTs at sub-station in view of the consumer's letter.

12] It is the contention further that during the period from May 2013 to October 2013, consumer overdrew the power from Licensee's grid hence Licensee/opponent levied temporary tariff to consumer . The Hon'ble MERC has noted the said proposition in case No.59 of 2015 that , considering the order dated 17<sup>th</sup> May 2007, in case No.47 of 2006, (regarding availability – Based Tariff) and subsequent dispensations, over drawl by partial OA consumers beyond their contract demand is to be charged at the temporary tariff category .

13] Consumer has filed rejoinder on 25/7/17 in which he has denied the contentions of Licensee and has reiterated the facts over again.

14] We have heard both the sides and have perused the documents and relevant Regulations. At the outset, the Hon'ble MERC has clearly noted and that there appears to be no dispute about the applicability of temporary tariff to over drawal by partial OA consumers as per order dated 17/5/2007 in case No.42 of 2006. There is over drawl in the present case as the consumption has gone above the contract demand which remained capped at 2950 KVA and the consumption over and above that has been billed under temporary tariff category which bill is called in question in this grievance. The question raised are whether there was inordinate delay in granting enhancement and what would be the consequences.

15] Now so far as alleged delay is concerned, the application for enhancement has to be considered as 6/5/13, when the demand was revised. Further admittedly some of the documents were not produced in spite of letter dtd 9/5/13 and 8/5/13. The said compliance was made on 2/7/13 by the consumer. It is to be noted that ever before the compliance was made the Licensee started the process without wasting of time and completed the task but again consumer amended its requirements on when he requested for CTs of 200 /1A of 0.25 Class instead of 150/1A as consumer had applied for additional load of 900 KVA. The question would also arise whether this date would be considered as the submitting of a complete application for enhancement of load. This is not at all during argument ,it was submitted by Mr. Mane for the Licensee that as per SOP this case will fall in I (iii) last item of the table showing level of compensation payable to consumer viz where commissioning of sub-station is required in which case the time



period is one year. In that context he pointed out some letters dated 16/5/13 and 21/5/13, which show that 33 KV voltage level was not available in the area where the supply was required. As per MERC Regulation (SOP) 2005 and 5.3 (i) e all installations with contract demand up to 5000 KVA the supply are to be provided at 33 KV voltage level. Only 22 KVA voltage level was available. Voltage level was not being maintained as per MERC (SOP) Regulation 5.3(i) e. A sub-station was required to be installed. But then recourse was taken to other way by approaching competent authorities as per Sr.No.7 .of commercial Circular no.135 dated 23/5/2011 viz director (Operations) and ED (Commercial) and ED ( project ) MSECTL. In that case additional 2% surcharge was required to be levied which the consumer was appraised of.

16] Above being the state of things it is very difficult to say that there was inordinate delay in sanctioning load enhancement to the consumer. On the contrary, as we see the consumer did not make compliance by producing remaining documents till 2/7/13 . Licensee in fact started the process in the meanwhile without waiting for the compliance which consumer did not complete inspite of two letters. Even almost at the end, the consumer made amendment for the reason of additional 900 KVA demand. Further the enhancement requires augmentation. There was also a hurdle of MERC SOP Regulation 5.3.(ii) e which required maintaining of voltage level which the Licensee over came by approaching competent authority dealing in such cases. We are of the opinion that there is no inordinate delay as alleged by the consumer.

17] Even otherwise we are unable to understand how the bills raised for over drawl by OA consumer over and above the contract demand

could be struck off. The SOP only speaks about fixed amount of compensation for delays.

Viewed from any angle we find no merit in the complaint made by the consumer.

Hence the order.

### **ORDER**

Grievance application of the consumer is hereby dismissed.

Date: 03/8/2017.

(Mrs.S.A.Jamdar)  
Member  
CGRF, Kalyan

A.P.Deshmukh  
Member Secretary  
CGRF, Kalyan.

(A.M.Garde)  
Chairperson  
CGRF, Kalyan.

#### **NOTE**

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.  
*"Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606/608, Keshav Bldg, Bandra Kurla Complex,Mumbai 51".*
- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or
- c) delay in compliance of this decision issued under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003" at the following address:-  
*"Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05"*
- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.



