

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redresses Forum
Nagpur Zone, Nagpur**

Case No. CGRF (NZ)/110/2017

Applicant : Shri Girdhar R. Laddha,
Plot No. 4A, Wathoda,
Ring Road, Nagpur.

Non-applicant : Nodal Officer,
The Superintending Engineer,
(D/F), NUC MSEDCL.
Nagpur

Applicant: - Shri Suhas Khandekar

Non- applicant: - 1) Shri Vairagade EE, Nodal Office, Nagpur
2) Shri. Dahasahastra, SNDL, Nagpur
3) Shri Vasim Ahmad, SNDL, Nagpur

Quorum Present: - 1) Shri Vishnu S. Bute,
Chairman.
2) Shri N.V.Bansod,
Member
3) Mrs. V.N.Parihar,
Member Secretary.

ORDER PASSED ON 15.03.2018.

1. The applicant filed present grievance application before this Forum on 21.12.2017 under the provisions of Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as, said Regulations).

2. Non applicant, denied applicant's case by filing reply dated 12.01.2018.

3. Forum heard arguments of both the sides and perused the record.
4. Shri Suhas Khandekar represented the applicant. He argued that, Shri Girdhar R. Laddha, bearing consumer no. 41001683681 is an industrial consumer with 17 HP connected load and 14 KVA contract demand. Presently, being connected load in the load slab of 0-20, he has been regularly charged as per LT VB (i) which is a tariff categorization as approved by MERC. But in the month of August – 2017 and October – 2017, he was charged as per LT V(B)(II) category which is meant for load bracket of 20-50. He applied to IGRC with a grievance that his billing is done incorrectly as MD(KW) shown is Zero and change in categorization is done presuming the power factor as 0.8 is incorrect. For determining the average power factor as per formula approved by MERC during the time interval in which Maximum Demand has been recorded, data of KWH and RKVAH consumed within that interval is required. Hence according to him while dealing with Maximum Demand for conversion of KW into KVA, correct formula for computation of PF should be considered. Therefore the power factor of 0.80 is not applicable. As this method is not followed, the billing for disputed months should be carried out on the basis of LTB(I) category only.
5. Shri Dahasahastra represented the non applicant. He stated that the action taken in raising the MD charges is correct. He stated that, as per energy bill of August - 17, the recorded MD is 26.0 KVA and for Oct-17, it is 28 KVA, after applying pf of 0.8 MD will be 20.8 and 22.4 KW respectively which is more than 20.0 KW. Hence applicable tariff becomes LT V (B) II for load slab 20.0 KW. As per regulation 13 of MERC's supply code Regulation 2005 the licensee is authorized to reclassify the category of consumer as per approved tariff order of MERC.

6. After the hearing was over the case was discussed among the members of the Forum. The Chairman and the Member Secretary were of the opinion that the action taken by the non applicant is proper. However the consumer representative was of a different opinion. The consumer's representative was requested to submit a dissenting note which is as under :-

7. Note by Member (CPO) Mr. N. V. Bansod in Case No. 110/2017 dated 14-03-2018. We heard the arguments on 14-3-2018 and perused all the papers on record as well as circulars, tariffs etc.

(1) Applicant is industrial consumer of Non Applicant having 3 phase 17 HP (sanctioned load) and having consumer No. 41001683681 (Meter No. 09378727). The grievance of Applicant is as per sanctioned load, he is in load bracket of 0-20 KW and tariff of LT VB (i) should have applied in the month of August 2017 and October 2017 but LTVB (ii) for bracket 20-50 KW is charged and prayed to apply LV (B)(i) only for disputed month.

(2) Applicant approached IGRC for grievance of billing because incorrect as MD(KW) was shown as Zero and change of categorization done by presuming a power factor and grievance was rejected on the ground that as per tariff order of MERC dated 48/2016 dated 3-11-2016, also as per circular No. 284 of MSEDCL dated 11-4-2017, a power factor of 0.8 is applied for conversion of MD in KVA to MD in KW and change of tariff

considering recorded MD of 26 KVA in August and 28 KVA in October works out to be more than 20 KW.

I.G.R.C. advised Non Applicant to provide MRI of the disputed bill but lately provided during pendency of this case.

(3) It is revealed that the say of Non Applicant is the same as before IGRC and reliance of both Non Applicant & IGRC on circulars & Tariff order is almost same and as per applicant they have erred in considering a P.F. of 0.8 of the disputed bill.

(4) IGRC referred MERC Tariff order dated 3-11-2016 in the case No. 48/2016 and Non Applicant is Circular No. 284 dt. 11-4-2017, the P.F. of 0.8 should be considered for conversion MD KVA into KW and denied contention of Applicant for conversion KVA to KW on wrong P.F. 0.8.

Excess bill of Aug-2017 - MD is 26 KVA x P.F. 0.8 = 20.8 KW

Oct-2017 - MD is 28 KVA x P.F. 0.8 = 22.4 KW

MD's in KW are more 20 KW and applicable tariff category becomes LT V(B)(ii) for load slab above 20 KW and as per regulation 13 of MERC's E.S.C. regulations of 2005, Non applicant is authorized to reclassify the category of consumer as per approved tariff of MERC.

(5) As per me, entire controversy rolls round the Non mention of Maximum demand in KW but it is recorded in KVA and PF 0.80 is applied and if MD would have been in KW, then suspicion would have cleared.

(6) Now after submission of MRI Report,

it is not in-dispute that the applicant has exceeded the Tariff bracket on 20 KW and accepted by the applicant and accordingly the bills for the month of August 2017 and October 2017 has been charged as per Tariff LT V(B)(ii) for load brack 20-50 KW.

(7) Contract Demand is defined in tariff order dated 3-11-2016 is as under.

“Contract Demand” – Contract Demand means the demand in kilo-Watt (kW) or kilo-Volt Amperes (KVA), mutually agreed between the Distribution Licensee and the consumer as entered into in the agreement or agreed through other written communication. (For conversion of kW into kVA, the Power Factor of 0.80 shall be applied.)”

On perusal of definition, it was obligatory on Non Applicant to produce the copy of agreement mutually agreed between the D.L. & the consumer as entered into the agreement or agreed through other written communication but Non Applicant totally failed to submit same which creates the doubt about working of Non applicant and they have not specified any reason for the same and also failed to produce ‘A1’ form for the load Bracket.

In the definition M.D. option of Kilo wattsor K.V.A. is available and to be taken during any consecutive thirty minutes block in that period.

(8) Applicant relied on circular of Chief Engineer (Commercial) No. PR-3/Tariff/724/14427 dated 23-5-2012 addressed to all Superintending Engineers on

Sub-switching over L.T. Industrial. Consumer having C.L. less than 20 KW from LTV(A) to LT V(b) due to excess load & similarly in LT-II Non Residential or Commercial category consumer.

Applicant relied on para 3,4,5 of above aforesaid circular and stated that no intimation of exceeding maximum demand is given in KW but on bill M.D. in KW is Zero and they could not understand increased in Demand.

“Moreover considering the above provisions & limitations it was essential to confirm the actual load by physical verification in case of the consumers having connected load below 20 KW.

The instructions have been issued for the same for confirming such load above 20 kW due to higher tariff difference, so as to switchover such consumer from category LT-V (A) to LT-V (B) and to ensure higher tariff and MD charges as per provision. The computation of derived contract demand is also essential while doing so wherever the consumer does not come forward for declaring contract demand ever after giving him change by natural justice.

It has been referred to the head office that at money places after providing LTMD-TOD meters for the industrial consumers below 20 kW even in case of excess recording of MD the field offices have not billed the consumers as per the appropriate tariff of LT-V(B). In some cases the field offices have levied only higher tariff of energy charges but not levied MD

charges due to lack of determination of derived contract demand or absence of declared contract demand. Moreover, it has also been observed that the penalty as per provision in tariff are not levied to such consumers exceeding the load due to non availability of declared CD or determination of derived contract demand.

As per circular, the computation of desired contract demand is also essential while doing so wherever the consumer does not come forward for declaring contract demand ever after giving him change by Natural Justice.

As per above guidelines of Non Applicant, it was obligatory to provide the chance of Natural Justice. The representative of Non Applicant during arguments stated that 3 chances be given to the consumer to declare his contract demand with a sole aim to either to control his maximum demand to remain in tariff bracket of 0-20 KW or to apply for enhance load to avoid any penalty for unauthorized use of electricity.

(9) (A) It can be concluded that in the absence of any intimation or communication for exceeding maximum demand filed before the forum, the action of Non Applicant is against the principles of Natural Justice.

(B) Applicant has taken connection on 9-7-2018 and it is obvious during passage of time, some changes are prevalent resulted in exceeding M.D. tariff above the bracket of 0-20 KW. But if MD in K.W. would have noted in

the bill, Applicant would have easily noticed the rise in MD in KW as well as *tariff bracket of 0-20 KW but Non applicant has failed to act as per above own guidelines, in the interest of Justice.*

(C) IGRC has totally failed to consider the aim of the aforesaid circular dated 23-5-2012 and directed to provide copy of MRI report of July 2017 & Oct 2017 to confirm MD on 30-11-2017, but appears, provided on 14-3-2018 after 4 months.

(D) On perusal of order of IGRC order dated 30-11-2017, it appears to have signed by Mr. S.M. Ghade only and its order loses its legal value.

(10) In view of the above observations, I am of the view that order of IGRC is before submission of MRI Data and without understanding importance of circular dated 23-5-2012, is only on apprehension and order itself losses legal value.

Hence the application deserves to be allowed.

ORDER

- 1) Non applicant is directed to provide meter which clearly indictes Maximum demand in K.W. and maximum demand in KW on the respective bill.
- 2) Non applicant is directed to reconsider the grievance as per aforesaid circular of 23-5-2012 i.e. on principle of Natural Justice.
- 3) The order of IGRC is quashed and set aside.

**Naresh Bansod
Member (CPO)**

8. We have perused the note given by Hon. Member C.P.O. The member raised two points in the note.

a) the non applicant is directed to provide meter which clearly indicates Maximum demand in KW in the respective bill.

As per the technical member of the Forum the data of both KW and KVA is available being a TOD meter. It can also be seen from the load survey report filed by the non applicant on record.

b) the non applicant to reconsider the grievance as per circular of 23.5.12.

On careful perusal of the facts it is noticed that the practice followed by the non applicant is as per the set program. It is followed throughout the Maharashtra. The applicant has not submitted any evidence showing that any consumer has challenged this practice of the non applicant anytime.

So we disagree with the note.

9. Hence, the Judgement is based on majority view of Chairman & Member Secretary. However the separate dissenting note of Hon'ble Member (CPO) is noted in the judgment. The judgment is based on majority view and reasoning thereof is as under.

10. On perusal and consideration of both the oral and written submissions made by both the parties, it is seen that the non-applicant has raised the bill in the month of August 2017 and October -17 as per LV B(II) tariff. On perusal of MRI and bills of applicant it is seen that the computation of power factor has been done considering the formula $KVAH = KVAH + RKVAH$ and Average PF = Total (KWH)/Total (KWH) only.

The contention of applicant that it has been done by considering PF as 0.8, is therefore not correct. The KW MD as contended by applicant for the month of Oct 2017 as per Load survey report is 21.3204 KW with 26.06 KVA, although the figure for MD KW seen in the bill is zero. The MD is charged considering only MD KVA hence figures of MD KVA is shown in the bill keeping MD KW as zero which is in fact, is not zero, as seen from Load survey and MRI report. The MRI report too discloses the particulars of the readings taken for MD KW and MD KVA. Hence the Billing is done correctly according to the standard billing program of MSEDCL, which is derived as per MERC's guidelines only.

Secondly as per regulation 13 of MERC's Supply Code Regulation 2005, Licensee is authorized to reclassify consumer on the basis of load, hence we are of the opinion that there is no force in the grievance application. Therefore it is rejected and dismissed.

In view of the position as explained above we hold that the application deserves to be dismissed. We proceed to pass the following order by majority.

ORDER

1. Application is dismissed.
2. Order passed by IGRC is hereby confirmed.

Sd/-
N.V. Bansod
MEMBER

Sd/-
Mrs.V.N.Parihar
MEMBER SECRETARY

Sd/-
Vishnu S. Bute
Chairman