

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM  
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/ AZ/ AUR/ R / 643/ 2017 /36  
Registration No. 2017060052**

Date of Admission 27.06.2017  
Date of Decision 09.09.2017

M/s. Nirlep Appliances Pvt. Ltd.,  
Gut No. 16, At Naigavan, (Khandkewadi),  
Tq. Paithan Dist. Aurangabad  
(Consumer No. 494779040340)

**COMPLAINANT**

**VERSUS.**

The Executive Engineer (Administration)  
Nodal Officer, O/O Superintending Engineer ,  
Rural Circle, MSEDCL, Aurangabad.

**RESPONDENT**

**CORAM**

Shri Laxman M. Kakade,

Chairman (I/c)

Shri Laxman M. Kakade,

Member Secretary

Shri Vilaschandra S. Kabra

Member.

**CONSUMER GRIEVANCE REDRESSAL DECISION**

The applicant M/s. Nirlep Appliances Pvt. Ltd., Gut No. 16, At Naigavan, (Khandkewadi), Tq. Paithan Dist. Aurangabad is a consumer of Mahavitaran having Consumer No. 494779040340. The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Rural Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure(A) on 27.06.2017.

**The brief details of the complaint are as under.**

The complainant states that the Grievance is for refund of excess amount collected due to premature billing. Based on MERC Order No. 95 dtd. 26 June 2015, due to non compliance of MSEDCL to refund premature billing amount.

IGRC, Rural Circle, Aurangabad has heard the matter on 15<sup>th</sup> May 2017, but order is not given.

**Regarding AEC-1, AEC-2, AEC-3 & AEC-4 charges.**

- 1) The MERC issued Suo –Moto order in case No. 95 of 2013 on 5<sup>th</sup> September 2013 and allowed MSEDCL to recover accumulated under recovery of Rs. 2037.78 crore occurred till the month of August 2013 from its consumer for the period of 6 months with effect from September 2013 till the month of February 2014 as Additional Energy Charge (AEC-1).

- 2) Commission further allowed MSEDCL to recover monthly fix expenses of Rs. 235.39 crore from its consumer starting from the month of September 2013 till further tariff determination for MSEDCL as Addl. Energy Charge(AEC-2).
- 3) Commission issued the order in case No. 28 of 2013 on 03.09.2013 and allowed MSPGCL to recover the amount of Rs. 628.9 crore from the MSEDCL in 6 equal monthly installments starting from October 2013. The commission further allowed the respondent MSEDCL to recover the variation in fixed cost component of consumer. The Commission further said that the variation in the cost of Generation is to be passed through FAC mechanism as additional energy charge (AEC-3).
- 4) The Commission in its order dated 04.09.2013 allowed fix charges of Rs. 596.12 crore , to be paid by Respondent MSEDCL to MSPGCL for year 2012-13 in 6 equal monthly installments from Oct. 2013 onwards as additional energy charge (AEC-4).

**Additional FAC :**

The commission vide its order in case No. 44 of 04.09.2013 allowed MSPGCL to recover the under recovered fuel cost i.e. 28.05 crore for infirm power supplied to MSEDCL in 3 monthly installments, after issue of this order and MSEDCL can recover this cost through FAC mechanism.

**MERC Order dtd 26.06.2015 case No. 95 of 2013 & M.A. 187 of 2014, Shri. Sanjay Gupta V/s MSEDCL.**

Commission has already given guidelines In para 13.25, On the basis of the order in case No 95 of 2013, MSEDCL should have started levying AEC only from Sept 2013 but MSEDCL started recovery from August 2013, itself thereby violating the Commission's directives. During proceeding MSEDCL submitted that it had rectified the error in levy of AEC and refunded the amount erroneously charge to consumers during August 2013, in the billing month of February 2014.

Commission directs MSEDCL to review the refunds made by it so far on account of wrongful premature billing, and to make any remaining refunds to consumers in the next billing cycle.

Applicants representation with CGRF is for billing dispute, wrong interpretation and implementation of the directions of the Commission issued in its order in case No. 95 of 2013 Dtd. 05.09.2013, Case No. 44 of 2013 Dtd 04.09.2013, Case No. 28 of 2013 Dtd. 03.09.2013 and finally order in case No. 95 of 2013 and M.A. 187 of 2014 Dtd. 26.06.2015 .

Nobody has power to change the Commission's orders for methodology of AEC calculations and approved recovery schedule. MSEDCL has not filed review petition nor challenged the same order of Commission to appropriate authority. MSEDCL is duty bound to comply the commission's directions in right spirit.

In the matter of wrongful premature billing as per say of MSEDCL dtd. 23.06.2016 para 8, MSEDCL has already refunded AEC and Additional FAC charges which was prematurely charged from 1198 nos. consumers, in the month of February 2014 , the Complainant has not received the amount as per the say and MSEDCL has denied to refund the same. As per Electricity Act “While fixing charges a Distribution Licensee shall not show undue preferences to any person or class of persons or discrimination against any person or class of person” .

Consumers representation is only for premature billing. Commission has issued order in case No. 95 of 2013 and M.A. No. 187 of 2014 dtd 26.06.2015 and clearly given the guidelines in para 13.25 . Commission directs MSEDCL to review the refunds made by it so far on account of wrongful premature billing, and to make any remaining refunds to consumers in the next billing cycle. MSEDCL has denied to refund the same as per commission’s order dtd. 26.06.2015. MSEDCL has indulged in discrimination in case of consumers whose refund is not made which is not permissible by law.

Complainant asked MSEDCL to refund the amounts as follows.

**a) AEC Charges and Additional FAC Charges Rs. 1,07,324.73**

AEC-1 and AEC-2 charges for month of August 2013. AEC-3 & AEC-4 charges from billing month of August 2013 to 30 September 2013.

**b) FAC charge excess to be refund Rs. 6,696.10.**

**Addl. FAC Charges :**

Vide MSEDCL Circular NO. 209, said charges were to be recover in 3 months installments but said charges are collected for 5 months from billing month of August 2013 to December 2013, so charges collected in the month August 2013 and December 2013 are to be refund.

In the month of January 2014 Govt. of Maharashtra declared subsidy, on 29 January 2017 in respect of above AEC and Additional FAC Charged vide GR No. 278 but in the mean time said charges were recovered in the bill of January 2014, so they were refunded in the billing month of February 2014 under the way of debit bill adjustment. It is not refund of premature billing of August 2013.

Complainant in his rejoinder on dtd. 17.07.2017 said that IGRC order dtd. 26<sup>th</sup> May 2017 is not received by the consumer till date i.e. 10.07.2017. MSEDCL has enclosed proof showing their outward register of monthly ordinary post on 26<sup>th</sup> May 2017, however consumer did not receive the order. Due to this after waiting 60 days from our first grievance letter on 21<sup>st</sup> April 2017, consumer submitted grievance to CGRF, Aurangabad.

Nodal Officer, IGR Cell order dtd 15<sup>th</sup> May 2017 directed to refund 1) Amount AEC-1 and AEC-2 recovered wrongly for billing month of August 2013 and AEC-3 & AEC-4 wrongly collected for the billing month of August 2013 to September 2013. 2) Additional FAC collected for the billing month

..7/-

August 2013 & December 2013. 3) Excess FAC charged for the month of December 2013 as per commercial circular 189 of MSEDCL, adjust ensuing bill after order & refund amount with interest as per provision of Section 62(6) of Electricity Act 2003. It is expected in the month of May 2017, but credit was not received even in the month of June 2017.

Consumer accepted IGR Cell Order No. 18 and request MSEDCL to refund amount as above with interest at the rate of 9% per annum from the date of recovery till the date of refund in bill by way of adjustment.

Consumer in his rejoinder on dtd. 19.08.2017 said that even month of July 2017, he has not received refund in bill, so it is again non compliance of IGR Cell order. Consumer has referred MERC order 78 & asked to refund the premature billing.

**Say of Executive Engineer, Nodal Officer, Aurangabad Rural Circle.**

Executive Engineer, Nodal Officer, Aurangabad Rural Circle on Date 10.07.2017 states that, In the grievance of M/s. Nirlep Appliances Pvt. Ltd., Gut No. 16, At Naigavan, (Khandkewadi), Tq. Paithan Dist. Aurangabad, IGR Cell, Rural Circle, Aurangabad given the decision vide Lr. No. SE/ARC/TS/2386 dtd. 26.05.2017 postage proof was given. Order copy was enclosed stating that MSEDCL should refund 1) Amount of AEC-1 & AEC-2 recovered wrongly for the billing month August 2013 and AEC-3 & AEC-4 wrongly collected for the billing month of August 2013 to September 2013. 2) Additional FAC collected for the billing month of August 2013 & December 2013. 3) FAC excess charged for the month of December 2013 as per commercial circular 189 of MSEDCL.

Nodal officer asked to dismiss the complaint as complainant has misguided the Forum & wasted the time of Forum, punishment of Rs. 10,000/- to consumer.

Nodal Officer in his statement dtd. 29.08.2017 said that excess AEC charges recovered from the applicant in the month of August 2013 to September 2013 has been refunded in the monthly bills of January 2014 and February 2014 as per MSEDCL, Head Office, IT Programme.

The excess billed amount of Rs. 6,696.00 has been refunded to the consumer in monthly bill of August 2017 as per Circular 189 dtd. 24.12.2013

**Observations of the Consumer Grievance Redressal Forum.**

- 1) MERC has given guidelines In para 11, in Case No 78 of 2016 order dtd. 13.07.2017, On the basis of the order in case No 95 of 2013, clarified that AEC was applicable for the electricity consumption from 1<sup>st</sup> September 2013 to 28 February 2014. The levy of AEC on electricity consumption prior to or after that period is not mandated by Commission's order. The Commission has directed to MSEDCL to take review of the AEC levied on its consumer and to take corrective steps accordingly. Thus for instance if MSEDCL has recovered AEC in six installments on electricity consumption of August 2013 to January 2014, it needs to refund the AEC collected in the month of August 2013 as per consumption of this month and recover the AEC for consumption of February 2014.



- 2) MERC has given guidelines In para 14, in CASE No 78 of 2016 order 13.07.2017, On the basis of the order in case No 95 of 2013, clarified period and quantum of any subsidy under section 65 is a matter between the State and MSEDCL.
- 3) MERC has given guidelines In para 12, in CASE No 78 of 2016 order 13.07.2017, On the basis of the order in case No 95 of 2013, clarified Any correction required in levy of AEC should be effected in all cases by the second billing cycle from this order.
- 4) IGR Cell passed order vide Lr. No. SE/ARC/Consumer/2017-18/case ID 8/2017 dtd 26.05.2017 stating that,
  - a) MSEDCL should refund to complainant the amount AEC-1 & AEC-2 recovered wrongly for the billing month August 2013, AEC-3 & AEC-4 wrongly collected for the billing month of August 2013 & September 2013.
  - b) MSEDCL shall refund additional FAC collected for the billing month of August 2013 & December 2013.
  - c) MSEDCL should refund excess FAC charged for the month of December 2013 as per the commercial circular 189 of MSEDCL. But Executive Engineer, Nodal Officer, has not produced any record of amount calculated for the above case and also refund of premature billing of above period up to the month of July 2017, yet consumer had not received refund as above.

- 5) Executive Engineer, Nodal Officer in his statement on dtd. 29.08.2017 said that AEC charges recovered in the month of August 2013 & September 2013 are refunded in monthly bills of January 2014 & February 2014 as per MSEDCL, HO, IT program. ASC amount shown in the month of January 2014, Rs. 10,118/- and February 2014, Rs. 1475/-. It is not matches with consumer's demand for refund of premature billing. Also he has not clarified whether credit given in month of January 2014 & February 2014 is due to Govt. Subsidy as per GR 278 or refund of premature billing. If credit was already given why IGRC passed the order for refund on 26.05.2017, it is also not clarified.

In view of the above submissions made by applicant, Respondent during the hearings and the observations of the CGRF this Forum passes the following order.

**ORDER**

- 1) Forum is directed to MSEDCL / Licensee to take review of AEC levied in this case and accordingly take corrective steps as per Hon'ble MERC order & Head Office, MSEDCL directions.
- 2) No any other cost.

Sd/-  
Laxman M. Kakade  
Chairman I/c

Sd/-  
Laxman M. Kakade  
Member / Secretary

Sd/  
Vilaschandra S.Kabra  
Member