

**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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Consumer Grievance Redressal Forum  
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No. / CGRF /Nashik/NUC/N.R.Dn./635/25/2017-18/  
(BY R.P.A.D.)

Date:

Date of Submission of the case : 18/11/2017

Date of Decision :

To.

M/s. Jindal Polyfilms Limited  
28KM mileStone, NH-3 ,  
Musalgaon, Tal . Igatpuri  
Dist. Nashik .  
(Consumer No. 05278910129)

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 .

Distribution Company  
(Respondent)

**DECISION**

M/s. Jindal Poly films Limited , (hereafter referred as the Complainant ). Igatpuri Nashik is the HT consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Respondent). The Complainant has submitted grievance against MSEDCL for recovery of Excess transmission charges of Rs. 27,87,044/- paid by us in the month of Jan.17 & Feb.17 against the MSEDCL bill of Dec.16 & Jan.17. The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. Ltd. . But not satisfied with the decision of the IGRC , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.138 of 2017 on 18 /11/2017.

The Forum in its meeting on 07/12/2017, decided to admit this case for hearing on 21/12/2017 at 12.00 Pm in the office of the forum . A notice dated 07/12/2017 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. But on 21/12/2017 during hearing consumer approached the forum and requested to postpone the date of hearing with the written application , Accordingly, the forum considered his request and rescheduled date of hearing on 02/02/2018 at 1.00 pm accordingly the revised date of hearing was conveyed to the concerned.

Smt. P.V. Bankar, Nodal Officer/Ex. Engr. , Dy. Executive Engineer Shri. A. R. Tiwari represented the Distribution Company during the hearing. Shri . Deepak Bansal appeared on behalf of the consumer.

### Consumers Representation in brief :

We are an HT consumer of MSEDCL ( Consumer number 052789010129) Connected at 132 kv Level with contract demand 34000 KVA and availed open access of volume of 12000 KVA for the month of Dec 16 & Jan.17.

The Transmission charges charged for the OA quantum is as per actual consumption of units for any particular month. The same was practiced as per regulations till November 2016 but from December 2016, MSEDCL changed the methodology of charging Transmission charges and charged it on some other calculation based on the circular dated 02/01/2017.

This is against the OA regulation and MERC has issued Practice Directions dated 08/03/2017 for the same.

The excerpt of the same is reproduced as below :

1. A STOA Consumer Generating Station or Licensee using a Distribution System shall pay Wheeling Charges Or Transmission Charges, as the case may be, on the basis of the actual energy drawal at the consumption end on Rs/KWH basis. The Distribution Licensee shall refund any amounts recovered in excess of these stipulations within a month, with applicable interest, without requiring such refund to be applied for.

As per directions, MSEDCL was to make the refund of any excess charges within a month with applicable interest even without any requirement of Refund Application.

But MSEDCL did not refund to us the amount even after three months of the issue of the Practice Directions of MERC.

We made a formal request vide letter dated 28/06/2017 for the same but still was not been refunded to us.

We then filed our grievance at IGRF on dated 21/07/2017 and the hearing was conducted on 06/09/2017.

IGRF in its decision dated 20/09/2017 has communicated that the excess transmission charges is correct and that since consumer has not "utilized the substantial part of his allocated capacity for more than 4 hours" the transmission charges has been charged on the allocated capacity.

They have taken the help of Rule on 11.9 as reproduced below for the same.

Non-utilization of short-term Open Access

- 11.9 *If the consumer, Generating Company or Licensee, as the case may be, is unable to utilize for more than four hours the full or a substantial part of its allocated capacity, it shall inform the Nodal Agency, and may surrender the use of such capacity but shall pay transmission and wheeling Charges applicable to the original reserved capacity and period. If the Nodal Agency is able to re-allocate this capacity, the entity who has*

*Surrendered the capacity shall be refunded transmission and wheeling charges based on the amount and period of the reallocated capacity by the Nodal Agency.*

But we will like to inform that we have intimated to NODAL agency on daily basis for shortfall in utilization in these two months and have received timely approval of the same NODAL agency. The daily approval of reduced capacity from WRLDC for the two months is attached for ready reference.

So as evident from above, it is clear that we have taken timely action to intimate to the Nodal agency for surrender of capacity and approval of reduced load has also been received from the Nodal agency in time. **So we must be "refunded the transmission and Wheeling charges based on reallocated capacity by the Nodal Officer".**

So the contention of IGRF **that "Consumer has not utilized the substantial part of his allotted capacity continuously for more than 4 hours and so the transmission charges are charged on total CD as per provision of clause 11.9"** is not applicable to our case.

In our case, we must be **"refunded the transmission and Wheeling charges based on reallocated capacity by the Nodal Officer".**

It is therefore requested that justice may be done on us and the excess amount charged of Rs. 27,87,044/- may be refunded/ credited alongwith accrued interest @ 18%.

#### **Arguments from the Distribution Company.**

The Distribution Company submitted a letter dated 23/10/2017 from the Nodal Officer, MSEDCL, Urban Circle Office Nashik and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

The hearing of this case was done in IGRC forum on dtd. 26/04/2017, during the hearing it was stated by Dy.EE HT Billing that the OA bills of all the Open Access consumer who are availing conventional power are finalized by H.O. MSEDCL. Mumbai & any revision in such bills can be done by H.O. MSEDCL, Mumbai only. Also it was cleared that till the date the consumer has not given any complaint to Nashik Urban Circle office in this regard.

The decision given by IGRC forum was stated as below :

“ The consumer should apply separately to SE Nashik Urban Circle in this regard & SE Nasik Urban Circle should forwarded the proposal to H.O. Mumbai within 15 days for approval”.

Accordingly the consumer gave the application to Nasik Urban Circle Office on 16/06/2017 & the proposal for bill correction was sent to H.O. MSEDCL Mumbai vide letter no SE/NUC/Account/HT 004008 dtd. 03/07/2017.

Now as per E-Mail received from HO MSEDCL, Mumbai. On date 16/10/2017, it is informed that the said bill for Aug. 2016 of M/s. Jindal Polyfilm is correct & demand charges are charged correctly as per MERC DOA regulations 2016. So no any revision is applicable to this bill. The copy of above said mail is attached herewith.

According to the H.O. MSEDCL Mumbai reply.....

*The open access permission were issued in March 2016 as per prevailing MERC DOA regulations 2014. As per regulations 2014, for consumer sourcing firm power, the reduction of contract demand to the extent of open access capacity was mandatory & the retained demand was considered for billing .*

*Now, the MERC DOA regulations 2016 were notified on 30/03/2016 & become applicable with immediate effect. As per the Reg, 4.2 of MERC DOA regulations 2016, the mandatory reduction of contract demand is not applicable, instead new provision of revision in contract demand govern as per “Electricity supply code & the regulations of the commission governing standards of performance” is not made applicable.*

*As per prevailing MERC DOA regulations 2016 (Statement of Reasoning) the application for reduction in correct demand shall be submitted at the time of short term open access application. It is also clarified that STOA consumer will be allowed for contract demand reduction only during application of Open Access. The said requirement was not complied with the short term open access application for the month of April 2016. Also, The MERC DOAR 2014 ceased to exist w.e.f. 30/03/2016, hence mandatory automatic reduction in contract demand for April 2016 billing was not possible. MSEDCL carried out the open access billing in the month of May 16 for the consumption in the month of April 16 in accordance with MERC DOAR 2016.*

*Thus, as per MERC DOAR 2016 the billing demand in r/o partial open access will be higher of following.*

- 1. Actual maximum demand recorded less open access demand availed by partial open access consumer in the month during 0600 hrs to 2200 hrs.*
- 2. 50% of retained contract demand charges levied in the open access bills for the month of April 2016, is correctly preceded with the provision of MERC DOAR 2016.*

Now the consumer has submitted the documents directly to the CGRF about the intimation of daily basis short fall in utilization in Dec. 16 & Jan . 17. These documents were neither submitted during hearing of IGRC nor before. After that as per enquiry done from our head office that surrender capacity is not reallocated. So refund is not applicable & bill is correct.

We would like to urge to Hon. Forum that as per section 52 of MERC Dist. Open Access Regulation 2016. This forum has no jurisdiction to entertain this matter as this is not the billing dispute.

**Action by IGRC :**

1. Internal Grievance Redressal Cell Nashik Urban Circle conducted hearing on 06/09/2017 for the complaint submitted on 26/07/2017 .
2. After hearing both the parties IGRC gave decision as per letter dated 20/09/2017 as under .

*" The consumer has not utilized the substantial part of his allocated capacity continuously for more than 4 hrs. so the transmission charges are charged on total CD as per provision of clause 11.9 of MERC Distribution OA Regulation 2016. So any refund is not applicable to the applicant, as per practice directives Point No. (2) , it is clearly mentioned that 11.9 is not applicable to RE power. So it means that it is applicable for conventional power. So the transmission charges charged as per rules are correct."*

**Observations by the Forum:**

*The open access permission were issued in March 2016 as per prevailing MERC DOA regulations 2014. As per regulations 2014, for consumer sourcing firm power, the reduction of contract demand to the extent of open access capacity was mandatory & the retained demand was considered for billing .*

*Now, the MERC DOA regulations 2016 were notified on 30/03/2016 & become applicable with immediate effect. As per the Reg, 4.2 of MERC DOA regulations 2016, the mandatory reduction of contract demand is not applicable, instead new provision of revision in contract demand govern as per "Electricity supply code & the regulations of the commission governing standards of performance" is not made applicable.*

*As per prevailing MERC DOA regulations 2016 (Statement of Reasoning) the application for reduction in correct demand shall be submitted at the time of short term open access application. It is also clarified that STOA consumer will be allowed for contract demand reduction only during application of Open Access. The said requirement was not complied with the short term open access application for the month of April 2016. Also, The MERC DOAR 2014 ceased to exist w.e.f. 30/03/2016, hence mandatory automatic reduction in contract demand for April 2016 billing was not possible. MSEDCL carried out the open access billing in the month of May 16 for the consumption in the month of April 16 in accordance with MERC DOAR 2016.*

On heard both parties it is not clear that re- allocation of surrendered power is done by the corporate office or not .

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. As the provision made in section 52 of DOA regulation it is being the dispute regarding charging of demand charges ( the DOA & TOA regulations) this forum has got no jurisdiction to resolve it. Hence consumer is advised to approached Commission for the same.
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 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.
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.

**(Chandrakant M. Yeshirao)**

Member

**(Prasad P. Bicchal )**

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 .

