

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./641/31/2017-18/

Date:

(BY R.P.A.D.)

Date of Submission of the case : 26/12/2017
Date of Decision :

To.

M/s.Bhavesh Polymer Pvt. Ltd.
Gat No. 162 ,Near MIDC Malegaon,
TQ. Sinnar Dist. Nashik
Sinnar 422103 ,
(Consumer No. 075949020970)

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
(Respondent)

DECISION

M/s. Bhavesh Polymers Pvt. Ltd. , (hereafter referred as the Complainant). Sinnar 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 Refund of excess collected FAC charges. 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 Respondent , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.145 of 2017 on 26 /12/2017.

The Forum in its meeting on 27/12/2017, decided to admit this case for hearing on 02/02/2018 at 12.00 Pm in the office of the forum . A notice dated 27/12/2017 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 Circle Office Nashik for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Smt P.V. Bankar Nodal Officer/Ex. Engr. , Asstt.Acct. Smt. S.S. Turekar represented the Distribution Company during the hearing. Shri . B.R. Mantri appeared on behalf of the consumer.

Consumers Representation in brief :

MSEDCL has charged the FAC as per their circular and submitted the detail calculation to Commission for approval.

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 from the Commission in the tariff order. Without change in Tariff Order or without approval /sanction of MERC, the FAC methodology could not be changed or altered.

We have checked our bills with nearby circles and found that MSEDCL has not charged same rate to all consumers. We have noticed that FAC charged by MSEDCL for the billing month of Dec.13, Feb.14, May 14, June 14, Aug. 14, Sept. 14, Nov. 14, and Dec.14 is not according with the MERC FAC post facto approval issued for charging of FAC for the respective billing month.

As per Commission post facto approval, MSEDCL should rework the calculation of FAC and refund the over and above excess collected amount of Rs. 2966733.52 for the billing month of Dec.13, Feb.14, May 14, June 14, Aug. 14, Sept. 14, Nov. 14, and Dec.14 and refund with interest as per EA 2003 Section 62(6) from the date of deposit to till date of refund.

We have applied to MSEDCL on date 23/08/2017 and thereafter to internal grievance cell on date 26/09/2017. IGR has issued the order for refund the excess collected amount but not addressed the interest.

MSEDCL has refunded the excess collected FAC amount without interest. As per EA 2003, it should be refunded with interest.

Hon'ble Supreme Court in Civil Appeal No.2451 of 2007 in the matter of M/S. NTPC Ltd vs M.P. State Electricity Board & ... decided on 29 September, 2011 in the matter of Section 62(6) held that:

"62 (6) If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee."

The words 'tariff determined under this section' indicate that the prohibition from charging excess price is dependent on the determination of the price under the preceding five sub-sections. It is only when a licensee or generating company deliberately recovers or extracts from a person a price or charge in excess of the price determined under section 62 (6), that such person can claim the excess price or charge paid by him along with interest. **The tariff charged exceeds the tariff approved by the Commission under these regulations, the generating company or the transmission licensee, as the case may be, shall pay interest at the Bank Rate, computed on monthly basis, on the excess amount so charged, from the date of payment of such excess amount and up to the date of adjustment.**

Relief:

You are kindly requested to the allow the refund amount with interest as per Section 62(6) of EA 2003 from the date of deposit to date of refund as MSEDCL has fully responsible for excess collection of amount as interpreted the FAC post facto approvals and excess charged to consumer.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 02/02/2018 from the Nodal Officer, MSEDCL, Urban Circle Office Nashik and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

FAC difference effect given from Dec.13 to Dec,14 to the consumer in the month of Dec. 17 of Rs. 254623.82 as per IGRC decision SE/NUC/IGRC/6563 dtd. 27/11/2017

Action by IGRC :

- 1 Internal Grievance Redressal Cell Nashik Urban Circle conducted hearing on 07/11/2017 for the complaint submitted on 26/09/2017 .
- 2 After hearing both the parties IGRC gave decision as per letter dated 27/11/2017 as under .

" rdkjnkj xkgdki fMI dj 13 rs fMI dj 14 ; k dkyko/khr MERC Bjoq fnyy; k njki qkk tklr o vfrfjDr vkdkj.; kr vkysyh FAC pktl ph jDde ijr dj.; kr ; koh- **

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 :
01540	18 th Dec 2014	Oct 2013 to December 2013
01469	11 th Feb 2016	March 2014 to June 2014
01481	16 th Feb 2016	July 2014 to December 2014

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

Billing Month	FAC approved by the MERC
December 2013	-28.06
February 2014	0
May 2014	3.64
June 2014	14.77
August 2014	13.01
September 2014	36.64
November 2014	21.22
December 2014	51.92

- 3 Hence, wherever, the Distribution Company has charged the FAC in the bills of the months from December 2013 to December 2014 as shown in the above chart, over and above the rates as above , the same needs to be refunded to the complainant with interest at bank rate of the Reserve Bank of India till the date of refund .

During hearing the Dist. Co. Representative have agreed to refund the same as it is excess charged in corresponding months.

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. The Distribution Company should refund whatever, excess charged FAC for the billing months as tabulated in the chart shown above in the observation by the forum
2. All these refunds should be adjusted in the ensuing bill after the date of this order , and the amounts should be refunded along with the interest till the date of refund as per the provisions of Section 62 (6) of the Electricity Act, 2003.
3. 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.
4. 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.
5. 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 .

