

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

Case No. CGRF(NZ)/15/2018

Applicant : M/s. Gautam Magaswargiya Kapus Utpadak
Sahakari Soot Girni.,
Nimba, Tal Parseoni
Nagpur.

Non-applicant : The Superintending Engineer,
NRC, MSEDCL, Nagpur

Applicant represented by : 1) Shri Suhas Khandekar

Non-applicant represented by: 1) Shri R.K.Giri, E.E (Adm), NRC, MSEDCL.
2) Shri H.M.Gulhane, Dy.E.E., NRC, MSEDCL.

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

ORDER PASSED ON 14.06.2018

1. The applicant filed the present grievance application before this Forum on 22.02.2018, under 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 31.03.2018.

3. Forum heard arguments of both the sides on 20-03-18, 10.05.2018, and 08.06.18 and perused the record.

4. The applicant's case in brief is that, M/s. Gautam Magaswargiya Kapus Utpadak Sahakari Soot Girni., bearing consumer No.420819014160 is a consumer of M.S.E.D.C.L. with Contract Demand 1600 KVA connected at 33 KV voltage level. On 28.6.2017, they applied for reduction of MD to 1200 KVA. On receipt of the said application on 11.7.2017, Non-applicant requested them to submit an undertaking for giving consent for carrying out the work on 1.3% supervision basis on non Judicial stamp paper. On 14-7-2017, they replied that as per 4.14 of SOP Regulation, they are entitled to get effect of reduction in demand from 2nd billing cycle from the date of submission of their application, as such under taking is not required. But Non-applicant neither sanctioned the load reduction nor issued demand note or any intimation for signing the agreement etc. They registered their grievance with IGRC on 31.8.2017 in form "X". No hearing was held at IGRC. As Non-Applicant failed to give them effect of reduction in their contract demand as per Reg. 4.14 of SOP, applicant sought relief from the Forum as follows,

a) To give directives to non applicant to issue demand note for the reduction in M.D. and sanction of reduced M.D. with retrospective effect i.e. from Sept. 2017. Revise the bills considering reduced M.D. with effect from Sept. 2017& refund excess amount recovered from them.

5. Non applicant contended that the applicant M/s. Gautam Magaswargiya Kapus Utpadak Sahakari Soot Girni is their HT consumer having sanctioned

contract demand of 1600 KVA, connected on 33 KV level which is not prescribed voltage level as per MERC SOP regulation for their CD. The applicant submitted an application for reduction in contract demand from 1600 KVA to 1200 KVA on 03.07.2017. As the reduction in contract demand from 1600 to 1200 KVA on its existing 33 KVA level is not as per the prescribed voltage level as per MERC Regulations 2014 (SOP) ,the case was forwarded to Chief Engineer (Commercial)as per their office letter No. SE/NRC/Tech/HT/4553 dated 14.7.2017 and guidelines were sought vide letter No. SE/NRC/NGP/Tech/HT/8862 dated 18.12.2017. The C.E. (Comm.) vide letter No. Co-ord cell/LR/Gautam Magaswargiya/No.01344 dated 19.1.2018 refused the proposal and gave guidelines in the matter as under,

“As per Clause 5.3(iii) of MERC’s Standard of Performance on 11 KV level & Notification dated 19.09.2017,

(a) Load above 187 KVA & up to 3000 KVA is to be released in all area other than Mumbai Metropolitan Region,

(b) Load above 187 KVA & up to 5000 KVA is to be released in Mumbai Metropolitan Region & on Express Feeder in all area.

(c) Considering Hon’ble MERC order dt.17.08.2015 in case no.138 of 2014(clause 12.d)for removal of difficulties and amendment of SOP regulations 2014 and also tariff order no.48 of 2016 dt.03.11.2017 wherein different wheeling charges are allowed based on voltage level, you are requested to explore the possibilities for reduction of above power supply on 11 Level at your end.

(d) In case of non-availability of voltage network due to RoW issues, technical

and space constraint, submit the detailed proposal to this office for approval of the competent Authority through your Zonal office along with certification and recommendation of C.E. (O&M) Zone.”

Accordingly on the basis of technical feasibility submitted by EE.Soner on 22.12.2017, the applicant was informed that supply can be provided on 11 KV from 33 KV Parshioni S/stn. by extending existing feeder. Therefore applicant has to apply for contract demand of 1200 KVA on 11 KV level. Therefore they requested Forum to reject the grievance application in the interest of justice.

11. It is noteworthy that there is difference of opinion amongst the members of the Forum. Therefore the judgment and the decision is based on majority view of the Chairperson and the Member Secretary whereas dissenting note of the Member(CPO) is noted in the judgment and it is part and parcel of the judgment.

Dissent Note in Case No. 15/2018 by Mr. Naresh Bansod (Member, CPO) dated 13-6-2018.

Arguments of both parties heard on 08-06-2018 & perused all papers on record.

(1) Applicant is H.T. Industrial (3 phase) consumer of non applicant bearing consumer No. 4208819014160, having a sanctioned demand of 1600 KVA. Applicant applied for reduction of MD to 1200 KVA, vide his application dated 28.6.2017. Applicant on 11.7.2017 received a phone call from office of S.E., requesting to submit an undertaking on non Judicial stamp paper towards consent for carrying out the work on 1.3% supervision basis and same was replied vide letter on 14-7-2017 that as per rules & regulations of MERC, no such under taking is required and also requested for processing the case

because as per 4.14 of SOP Regulation, the reduction in demand to be carried out within 2nd billing cycle of submission of application but neither sanction order or demand note or any intimation for signing the agreement was received. During the period, applicant received a copy of letter of SE (NRC) dated 14.7.2017 addressed to C.E.(Commercial) & letter dated 22.12.2017 addressed to E.E.(Saoner) and no hearing was given by IGRC inspite of the application dated 31.8.2017 in form "X".

(2) Applicant's grievance is that non applicant failed to do reduction in demand as per Reg. 4.14 of SOP as well as failed to take necessary steps. Applicant sought relief for direction to non applicant to issue demand note for the reduction in M.D. as well as sanction of reduced M.D. with retrospective effect i.e. from bill of Sept. 2017 and revise the bills considering reduced M.D. with effect from Sept. 2017 & refund excess amount with time bound period.

(3) Non applicant in reply admitted that applicant is having sanctioned contract demand of 1600 KVA on 33 KV level and application for reduction in contract demand from 1600 KVA to 1200 KVA on 03.07.2017.

On perusal load reduction application i.e. Power Supply Application form "A-1" (Industrial), which is acknowledged by non applicant's (Receipt Clerk, MSEDCL NRC Vidyut Bhavan, Katol Road, Nagpur) on 28.6.2017, still inspite of the fact, non applicant mentioned date of application is 3.7.2017 in letter No. SE/NRC/ Tech/HT/4553 dated 14.7.2017 and in letter No. SE/NRC/NGP/Tech/HT/8949 dated 22.12.2017 addressed to The Chief Engineer (Commercial) and The Executive Engineer, Saoner respectively. Which proves the deliberate attempt and ulterior motive on part of the non applicant to take shelter of Circular No. 291 of 29.6.2017 which has no concern with case of reduction of load.

(4) Non applicant said reduction in contract demand from 1600 to 1200 KVA on its existing 33 KVA level is not as per the prescribed voltage level as per MERC Regulations 2014 (SOP) and forwarded to CE(Commercial) on 14.7.2017 & again on 18.12.2017 and C.E.(Comm.) vide letter No. Co-ord/LR/Gautam Magasvargiya/NOO/344 dated 19.1.2018 who in turn refused the proposal, the relevant paras are reproduced as under.

“As per Clause 5.3(iii) of MERC,s Standard of Performance on 11 KV level & Notification dtd 19.09.2017.

(a) Load above 187 KVA & upto 3000 KVA is to be released in all Area other than Mumbai Metropolitan Region,

(b) Load above 187 KVA & upto 5000 KVA is to be released in Mumbai Metropolitan Region & on Express Feeder in all area.

The points for my consideration are –

(A) Whether the clause 5.3 (iii) of MERC,s SOP on 11 KV level bars to allow reduction of load in existing 33 KV level ? No

The above clause relates to release of load (New Connection) on 11 KV level for load above 187 KVA & upto 3000 KVA but does not bar reduction of load from 1600 KVA to 1200 KVA on 33 KV level. Hence contention of non applicant is without any basis needs to be discarded.

I refer letter of Chief Engineer(Commercial) No. Co-ord Cell/ Reduction/ Application No. 1298 dated 18.01.2018 and Circular of Superintending Engineer (Commercial-I) No. Co-orr-cell/Reduction/Application No. 1381 dated 19-01-2018 – para 2 is as under.

“In case the consumer opts for change in contract demand the same cannot be denied and contract demand shall be changed immediately prospectively as per power delegated vide Commercial Cir. No. 291. This load sanction shall be effected as per SOP Regulations – 2014 and guidelines given by this office vide letter No. PR-3/Billing/LFI/4967 dt. 02.03.2017.

(B) Whether the provisions of SOP clause 5.3(ii) of MERC’s standard of performance for reduction of C.D. is applicable in the present case ? No

It is an admitted fact that applicant is having contract demand of 1600 KVA on 33 KV level prior to his application dated 28.6.2017 for reduction of load to 1200 KVA.

On plane reading of above SOP clause (a) above, load above 187 KVA & upto 3000 KVA is to be released in all area other than Mumbai metropolition Region. This word to be released is always indicates of New Supply Connection and not to existing supply. Hence contention of non applicant is infractnous and does not support his submissions.

Non applicant made reference of Comm. Cir. No. 291 dated 29.6.2017 in letter to Chief Engineer (Commercial) dated 14.6.2017 and attempted to seek guidance on wrong application date & this aforesaid circular. Non applicant did not file the copy of circular dated 29.6.2017 for our perusal with ulterior motive and same is procured from website. The title of circular is as under.

Commercial Circular No. 291 dated 29.06.2017.

Sub.: - Revised delegation of powers in respect of load sanction, Estimate sanction, Inspection of H.T. consumer installation, fixing of point of supply, approval of SLD and metering specification thereof & procedure for release of New H.T. Connection.

The above subject is for release of New H.T. Connection and present application is for reduction of C.D. or load to 1200 KVA from 1600 KVA vide application dated 28.06.2017. Hence on this count also non applicant failed.

Hence, the contention of non applicant that applicant applied for reduction in load totaling to 1200 KVA on its existing 33 KV level which is not as per prescribed voltage level as per MERC Regulations – 2014 (SOP) is proved is incorrect and No bar for the existing consumer & misperception of provisions i.e. between Reduction in existing CD and for release of new H.T. connection.

In para 5 of letter dated 14.07.17, SE (NRC) of non applicant admitted that recent guidelines to dealt with H.T. consumer load/demand sanction is silent which is further misperception of non applicant and guidelines of 29.06.2017 are pertains to release of New H.T. Connections.

Hence SOP regulations does not bar to reduction of load in case of present consumer.

MERC order dated 17.08.2015 in case No. 138 of 2014 clause 12.1 is nothing but misleading and does not support non applicant.

(C) Non applicant in reply para 4(c) referred tariff order No. 48 of 2016 dated

03.11.2017 (actual 3.11.2016) where in different wheeling charges are allowed based on voltage level and insisted to explore the possibility for reduction of above power supply on 11 KV level at your end.

Firstly the different wheeling charges are applicable in case of open access charges (Page 24) i.e. wheeling charges & CSS for financial year 2016-2017 and does not relates to present case of reduction of load from existing 33 KVA level and any charges as per tariff always prevails.

In view of the above observations, the submission of non applicant in para 4 (d) and Para 5 is nothing but futile attempt on part of non applicant to drag the consumer in case of reduction of C.D. from 33 KV level to 11 KV. By Parsheoni S/Station by extending existing 11 KVA feeder knowing fully well that if consumer is dragged to 11 KV level, Consumer has to pay more charges and incur more expenditure which is against the moto of The E.A. 2003 & various MERC orders.

Hence on this count also non applicant failed to prove his submission.

(C) Applicant in his additional submission on 07.05.2018 that SOP 2014 came in to force on 20.05.2014, the load of consumer was sanctioned at 33 KV level vide sanction No. SE/NRC/T/Inex/LS/5233 on 22.12.2014 and SOP was already in force for sveral months before date of sanction. Applicant alleged supply should have originally been given at 11 KV, but given on 33 KV which is more expensive than 11 KV.

Applicant alleged that MERC in 12(d) has opined that there is no question of providing supply at 33 KV. below a demand of 7500 KVA which goes to show that supply of 1600 KVA on 33 KV level itself is voilative of SOP regulations and put consumer to higher expenditure which was also deliberate attempt on part of non applicant needs to be condemned and proves the deliberate attempt of non applicant.

(D) It is worthwhile to note that tariff is subject to change every year and tariff at a particular time can not be the basis for changing voltage levels of the supply to a consumer. On this submission, non applicant was silent i.e. he accepts the factual submission of applicant.

In view of the above observations, the application deserves to be allowed and applicant is entitle for load reduction from next billing cycle i.e. Sept. 2017 and entitle for demand note. As reduction of load is applicable from Sept. 2017. MSEDCL is liable to reduced MD, from the bill of Sept. 2017 and non applicant. Further liable to revise bills considering reduced MD with effect from the bill for Sept. 2017 and refund excess amount received within 30 days from date of order.

ORDER

1. Non applicant is directed to issue demand note for reduction of M.D.
2. Non applicant is directed to sanction reduced M.D. from the bill for the month of Sept. 2017.
3. Non applicant is further directed to refund excess amount recovered considering reduced M.D. with effect from the bill of Sept. 2017 and credit the same in next bill.

The compliance of this order shall be done within 30 days from the date of order.

Member (COP)
Mr. Naresh Bansod

12. Reasoning and finding of majority view of the Chairperson and the Member Secretary of the Forum.

13. Applicant in his additional submission during the hearing on 07.05.2018 contended that SOP 2014 came in to force on 20.05.2014, the load of consumer was sanctioned at 33 KV level on 22.12.2014 and SOP was already in force for several months before date of sanction. Therefore applicant alleged that supply should have originally been given to them at 11 KV but it was given on 33 KV which is more expensive than 11 KV. Applicant also alleged that clause 12 (d) if SOP MERC regulation prohibits providing supply

below a demand of 7500 KVA at 33 KV which goes to show that Non-applicant has violated SOP regulations by providing supply of 1600 KVA on 33 KV level and thereby consumer has to incur more expenditure which was deliberate attempt on part of non applicant, it needs to be condemned.

14. On perusal of record, it is seen that the clause 5.3 (iii) of MERC's SOP Regulation prescribe to release of load (New Connection) on above 187 KVA & up to 3000 KVA on 11 KV level. It is an admitted fact that applicant is having contract demand of 1600 KVA on 33 KV level prior to his application dated 28.6.2017 for reduction of load to 1200 KVA. It is also seen that the MERC vide its tariff order dt.03.11.2016 in case no.48 of 2016 introduced Voltage base tariff. The contention of non applicant that applicant applied for reduction in load from 1600 KVA to 1200 KVA on its existing 33 KV level which is not as per prescribed voltage level as per SOP MERC Regulations 2014. Therefore they forwarded the proposal to their HO being a case beyond SOP voltage level will have to be sanctioned by HO level as per department circular no. 291 dt.29.06.2017 and 275 dt.18.11.2016 is proved to be correct, as SOP regulations 2014 and MERC tariff order dt.03.11.2016 in case no.48 of 2016 indeed bar the reduction of load at existing level in case of instant applicant.

14. Forum has carefully gone through the tariff order of MERC dt.03.11.2017 in case no.48 of 2016. It is seen that in this tariff order for the first time the Commission has introduced voltage based differential tariff for the same categories of HT consumers at EHV, 33 KV, 22 KV and 11 KV levels by computing a different Wheeling Charge component and keeping the Supply Charge component the same for all corresponding HT consumer categories at

respective voltage levels. As per rate schedule different wheeling charges are allowed based on voltage level i.e .wheeling charges for supply voltage level at 33 KV is Rs.0.09 KWh and for 22 or 11 KV it is Rs.0.82 KWh. Due to this difference in wheeling charges, non-applicant is justified in asking the applicant to apply at 11 KV for his new contract demand i.e. 1200 KVA. So far as providing the 1600 KVA at 33 KV level is concerned, during that time when supply was sanctioned and connected on 28.10.2016, the voltage based tariff with wheeling charges was not in force. Hence non-applicant has nowhere violated MERC SOP regulation 2014. In short there was no loss in revenue. Hence on this count non applicant has proved his submission. It is therefore worthwhile to note that change in tariff put constraint on non-applicant for asking applicant to apply on 11 KV level. Therefore CE commercial has rightly rejected the proposal considering loss of revenue.

17. It is also seen that the applicant was informed that supply can be provided to them on 11 KV from 33 KV Parshioni S/stn. by extending existing feeder. It clearly means that for releasing supply on 11 KV, the extension of infrastructure was needed from distribution mains. An estimate for giving 11 KV supply for providing service connection link between the Licensee's nearest distribution points(i.e. distribution main) to the point of supply at consumer's premise must be framed. As such as per regulation 3.3.2 of Supply code State Commission authorizes the distribution Licensee to recover all expense reasonably incurred in laying down service line from distribution mains to applicant's premises from the applicant. Thus applicant was required to pay the entire cost of Service connection line from the distribution main to his premises .Secondly Regulation 3.3.8 of

Supply Code Regulation provides that Distribution Licensee may permit an applicant to carry out works through a Licensed Electrical Contractor, the Licensee in that case is not entitled to recover expenses relating to such portion of work so carried out by the applicant. The Licensee shall be entitled to recover only the supervision charges not exceeding the 15% of the cost of labour. As such it is seen that the instant applicant could have executed the estimated SCC work by paying 1.3% supervision charges. The consent letter for such execution was needed hence an undertaking on non-Judicial stamp paper towards consent for carrying out the work on 1.3% supervision basis was sought by the Non-applicant.

17. In view of the above observations, it is clear that there is change in tariff by MERC order dt.03.11.2017 in case no.48 of 2016 which is the basis for changing voltage levels of the supply to a consumer, and reduction in demand without changing voltage level would have caused revenue loss to the licensee i.e. less wheeling charges, No licensee can afford loss of revenue, hence instant grievance application deserves to be rejected. The applicant may submit application for 11 KV level for his load reduction from 1600 KVA to 1200 KVA, then only as per 4.14 of SOP Regulation, they are entitled to get effect of reduction in demand from 2nd billing cycle. As such instant grievance application is dismissed. Hence we proceed to pass the following order, by majority.

ORDER

1. Application stands dismissed. No order as to costs.

Sd/-
(N.V.Bansod)
MEMBER

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

Sd/-
(Vishnu S. Bute)
Chairman