

CONSUMER GRIEVANCE REDRESSAL FORUM
(Established under the section 42 (5) of the Electricity Act, 2003)
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
NASHIK ZONE

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Consumer Grievance Redressal Forum
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No. / CGRF /Nashik/NUC/N.R.Dn./548/24/2016-17/

Date: 14/10/2016

Supplementary Demand On Account Of Incorrect MF
(BY R.P.A.D.)

Date of Submission of the case : 26/08/2016
Date of Decision : 14/10/2016

To.

M/s. Ideal Warehousing Corporation ,
Gat No. 145-147 ,Jaulke, Dindori,
Near Adgaon Tq, Dindori,
Dist. Nashik. 422206
(Consumer No. 058050003394)

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 Bhawan Nashik .

Distribution Company

DECISION

M/s. Ideal Warehousing Corporation , (hereafter referred as the Complainant). Dindori Dist. Nashik is the LT consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against MSEDCL for supplementary demand on account of incorrect MF . The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. The complainant has filed a representation to the Forum against the order dated 25th August 2016 passed by the Internal Grievance Redressal Cell (IGRC) , MSEDCL, Nashik Urban Circle Office. The IGRC by its order has rejected the complainant's grievance. The consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.145 of 2016 on 26 /08/2016.

The Forum in its meeting on 30/08/2016, decided to admit this case for hearing on 14/09/2016 at 12.30 pm in the office of the forum . A notice dated 30/08/2016 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.

Shir. C.C. Humane, Nodal Officer, Shri. D.G. Deore, Dy. Executive Engineer, Shri. K. N. Jadhav, Dy. Executive Engineer, Shri. R.S. Bhagat, Dy. Executive Engineer represented the Distribution Company during the hearing. Shri. Vikas Parab , Shri. Kunal Bagul , appeared on behalf of the consumer.

Consumers Representation in brief :

1. The complainant having L.T. Connection bearing consumer No. 058050003394 at Dindori Dist. Nashik are operating pre-cooling and cold storage for the export of grapes since 2006. Copy of Import Export Code and Agri Produce Export Development Authority Registration Certificate attached. The address of the unit is mentioned therein.
2. The connection and meter has been installed in 2006. On 12th March 2014 there was a visit of flying squad unit Nashik Rural who upon inspection issued a spot inspection report stating that MF Factor being applied is incorrect. The correct MF should be 2 instead of 1. (Copy of inspection report is enclosed). Subsequently the complainant received a manual supplementary bill for recovery against MF 2 count of Rs. 5,63,910/- for total units 159746. The complainant approached local office for clarification and was informed that the MF was incorrectly applied since installation i.e. from 2006. Hence the supplementary bill for total units consumed since installation.
3. The complainant have always been regular with our payment of bills. Over these years there has been no change of meter and the meter seal has been intact. The same is also mentioned in squad report. The complainant were not aware of the incorrect MF until the day of inspection of the squad.
4. The supplementary bill raised for back dated period of eight years is not acceptable. As per provision under section 56(2) of the Electricity Act. 2003 the maximum period for raising demand is two years.
5. The complainant request to issue corrected bill considering that The complainant are operating pre-cooling and cold storage unit. Tariff Category LT IV Pre-cooling and cold storage for a period permissible under Section 56(2) of Electricity Act. 2003.
6. The complainant are willing to pay the corrected bill amount and resolve the matter. The complainant request the Forum to consider our plea favourably and oblige. The complainant will pay the corrected bill and comply.

Demands of the Consumer:

Correct the Electricity bill and credit the amount in recent bill.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 12/09/2016 from the Executive Engineer , MSEDCL, Urban Circle Office Nashik and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

- 1- es vk; Mh; y o#vjgkÅfl æ dki kj's ku ; kps 058050003394 xtgd Øekdkps oht duD'ku vl u l nj xtgd kps oht t kM. kps LFG i jh{k.k Hkj kjh i Fkd ukf'kd ½xk½ ; kuh fn- 12@03@2014 jksth dsys gkrs R; kr R; kuk xtgd kl xqkd & 2 ½MF-2½ vUo; s oht vdkdj .kh >kyh ikfgts gkrh o rh xqkd & 1 ½MF-1½ i æk. ks gkr vl Y; kps fun'kukl vkys gkrs
- 2- R; kuq kj Hkj kjh i Fkd ukf'kd ½xk½ ; kuh i = Ø- 32 fn- 29@03@2014 vUo; s xtgd kP; k l h-i-h-, y- o#u l njps ehVj cl foY; ki kl u ps , dqk 159746 ; fuVps oht fcy ns ; kr ; o#u ol y dj . ; kr ; skckcr dGfoys gkrs
- 3- R; kuq kj xtgd kl ½MF-2½ uq kj fu?k.kkjh 159746 ; fuVps fcy #- 5]63]910@& brds ns ; kr vkys gkrs rs xtgd kus fn- 15@01@2016 jksth foukr dkj Hkj ys vkgs fcy Hkj røGh dByhgh rd kj xtgd kus fnyyh ukgh rl p gDd jk[ku fcy Hkj . ; kckcrpk vtgh fnyyk ukgh fdøk vks>j mi foHkxkl iklrgh >kysyk ukgh- R; kuh l njps fcy Lo[kq khus Hkj .kk dsys vkgs o fnyys fcy ; kX; vkgs

Action by IGRC :

1. Internal Grievance Redressal Cell , Nashik Urban Circle conducted hearing on 02/08/2016 for the complaint submitted on 01/07/2016
2. After hearing both the parties IGRC gave decision as per letter dated 25/08/16 as under:
^di uhP; k fu; ekuq kj fcyhæ dj . ; kr vkysys vl u l njph jDde xtgd kus Hkj .kk dsys vl Y; kus xtgd kpk rd kj vtZ nrrj tek dj . ; kr ; r vkgs**

Observations by the Forum:

1. In this case, the Flying Squad detected the error of applying MF=1 instead of MF=2 during the Flying Squad visit on 12/03/2014. The Flying Squad asked the concerned office to recover bill from the date of the installation of the meter (No. 005413) for total 159746 units after correction of the MF. Accordingly the Distribution Company raised a supplementary bill of Rs. 5,63,910/- on 29/03/2014. The complainant represented against this bill by letters
 - i. dated 18/06/2015 (received on 03/07/2015) to the Executive Engineer, Nashik Rural Division,
 - ii. dated 06/07/2015 to the Superintending Engineer, Nashik Rural Circle and then
 - iii. dated 07/09/2015 to the Subdivision Office. OzarBut there was no cognizance taken by the Distribution Company. The complainant then ultimately paid the amount of Rs. 5,63,910/- on 15/01/2016. Hence the argument that the complainant has not made any complaint regarding the supplementary bill and the bill was paid willingly is not correct.
2. The complainant is not at fault for earlier incorrect application of the MF. There is no dispute about correcting the MF in the bills from the month of March 2014 when the error is detected. The only question is about the period of recovery of the arrears in past.
3. There are various judgements passed by the Honorable Bombay High Court on similar matter of recovery of past arrears, due to error of considering MF=1 instead of MF=2. The Electricity Ombudsman, Mumbai taking reference of these judgements has passed following order dated 6th day of March, 2013 in a Representation (No. 9 Of 2013) in the matter of multiplying factor and recovery of past arrears: M/s. Calyx Chemicals & Phamaceuticals Ltd V/s MSEDCL :

“Respectfully agreeing with the above judgments, it has been held by this Electricity Ombudsman, in several cases, that past arrears for a period of more than two (2) years, preceding the date of demand / supplementary bill, are not recoverable by invoking the provision of cutting of supply of electricity under section of 56 (1) and (2) of the Electricity Act, 2003. In this case, the Respondent is empowered to recover the difference amount in billing by considering MF=2, instead of MF=1, for a limited period of two years preceding the date of demand / impugned supplementary bill dated 1st June, 2012, i.e. from June, 2010, to May, 2012 and for that purpose cut off supply of electricity by invoking the provision of section 56 (1) and (2) of the Electricity Act, 2003. For recovery of the remaining charges of electricity supplied prior to 1st June, 2010, the Respondent is not entitled to cut off supply of electricity of the Appellant. Respondent’s notice of disconnection of supply for recovery of the entire amount of the impugned supplementary bill is therefore, hereby set aside. The Respondent is entitled to raise revised supplementary bill for the difference in billing considering the MF=2, instead of MF=1, for the limited period of two years from June, 2010, to May, 2012 and recover the same by invoking the provision of Section 56 (1) and (2) of the Electricity Act, 2003. For recovery of the remaining charges of electricity supplied prior to 1st June, 2010, the Respondent may, if it so desires, seek remedy by way of civil suit before appropriate court of law. Forum’s order stands modified to this extent.”

4. Hence in the extant case, the Distribution Company is entitled to raise revised supplementary bill for the difference for the limited period of two years from March, 2012, to February, 2014 and recover the same by invoking the provision of Section 56 (1) and (2) of the Electricity Act, 2003.
5. The amount in Rs. 5,63,910/- recovered upto February, 2012 should be refunded in the next billing cycle. The Distribution Company if it so desires, may seek remedy by way of the civil suit before appropriate court of law to recover this amount.

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 supplementary bill of Rs. 5,63,910/- is set aside. The Distribution Company is entitled to raise revised supplementary bill for the difference on account of wrong MF for the limited period of two years from March , 2012 , to February , 2014 . The amount in the said supplementary bill recovered upto February, 2012 should be refunded in the next billing cycle.
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 Company within the time frame stipulated and the concerned Nodal Officer shall furnish intimation of the status 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.

(Rajan S. Kulkarni)
Member

(Hari V. Dhavare)
Member-Secretary

(Suresh P.Wagh)
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 .