

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

Phone: 6526484
Fax: 0253-2591031
E.Mail: cgrfnsk@rediffmail.com

Office of the
Consumer Grievance Redressal Forum
Kharbanda Park, 1st Floor,
Room N. 115-118
Dwarka, NASHIK 422011

No. / CGRF /Nashik/Nagar Circle /Nagar (R)Dn./592/68-2016-17/

Date: 17/03/2017

(BY R.P.A.D.)

In the matter of

Refund of amount spent on infrastructure under Non-DDF-CCRF scheme

Date of Submission of the case :01/02/2017

Date of Decision : 17/03/2017

To.

1 M/s.Om Greentech Industries ,
Proprietor Amol Omprakash Laddha ,
R/O/21, Uday , Shilpnagar, R.T.O. Road,
Aurangabad 431001,
Dist. Ahmednagar 422620
(Con.No. 148660000884)

Complainant

2 Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Circle office, Ahmednagar,
3 Executive Engineer, (Rural)
Maharashtra State Electricity Distribution Com. Ltd.
Divn. Office Ahmednagar
Dist. Ahmednagar.

Distribution Company

DECISION

M/s. Om Greentech Industries, (hereafter referred as the Complainant).Newasa is the industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against MSEDCL for refund of amount spent on infrastructure under Non-DDF-CCRF scheme . The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee . But not satisfied with the decision of the Distribution Company , the complainant has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.25 of 2017 on 01 /02/2017.

The Forum in its meeting on 03/02/2017, decided to admit this case for hearing on 22/02/2017 (later shifted to 22/02/2017 because of holiday due to municipal election) at 1.00 Pm in the office of the forum . A notice dated 03/02/2017 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, Circle Office Ahmednagar for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri. J.S.Chavan , Nodal Officer, Shri Suhas Bakshi Executive Engineer represented the Distribution Company during the hearing. Shri Amol Laddha appeared on behalf of the consumer.

Consumers Representation in brief :

1. The complainant is a proprietor of M/s. Om Greentech Industries having it is registered office at 21 Uday Shilpnagar, R.T.O. Road Aurangabad. The complainant was intending to start bio-coal production on its own premises situated at Gat No. 130/1, Jalke Khurd, TQ. Newasa, Dist. Ahmednagar. Accordingly the complainant had applied to the Distribution Company for sanction of fresh power supply.
2. The Superintending Engineer, Ahmednagar had sanctioned the estimate of Rs. 3,68,800/- on 15/12/2010 vide T.S. No. SE/CIRCLE/NON DDF CC RF/10-11/119 Dated 14/12/2010, and asked the complainant to execute the work with specific understanding that the infrastructure cost incurred by the complainant will be refunded.
3. Accordingly the complainant had carried out the work by engaging the Licensed Electrical Contractor of MSEDCL, and completed the work. Thereafter the Distribution Company has carried out the inspection of the material and work done and after getting satisfied, connection was released. The Distribution Company had also recovered Rs. 6,500/- towards Fixed Service Connection Charges, Rs. 3,000/- towards Testing Charges Rs. 93,500/- towards Security Deposit etc. in all Rs. 1,03,300/- were recovered from the complainant, and said amount was paid on 18/12/2010. Distribution Company had also recovered Rs. 5,000/- under the head inspection fee from the complainant. The copy of the letter issued by the Executive Engineer to the complainant, copy of the receipt of payment of Rs. 1,03,300/- paid by the complainant and copy of receipt of payment of Rs. 5,000/- paid by the complainant are annexed herewith .
4. As per the NON DDF/CCRF scheme, the MSEDCL has to refund the estimate amount of infrastructure cost, as per the circular No, CE(Dist)/D-III/Circular/22197 dated 20/05/2008. It is mentioned in the circular that "If the consumer/group of consumer wants early connections and opts to execute the work and bear the cost of infrastructure then refund of cost of infrastructure will be given". The complainant submits that, complainant has paid the electricity bills from time to time, however the Distribution Company has not refunded the amount of infrastructure cost as per the NON/DDF/CCRF scheme, to the complainant through electricity bill by giving set-off in the electricity bills or otherwise.
5. Thereafter the complainant had approached to the Assistant Engineer, MSEDCL, Newasa Sub Division on 23/11/2011, and requested for the refund of infrastructure cost along with other requests. The complainant had visited the office of the Assistant Engineer on several occasion and made oral request for refund of the infrastructure cost, However, the Assistant Engineer has not considered the request of complainant for refund of infrastructure cost incurred by the complainant and neither forwarded the representation to the higher authorities for appropriate action, nor made any communication to the complainant in that regard till today. The complainant is neither informed of any formalities to be complied with nor informed about submission of any document after the date of representation for refund of infrastructure cost and as such the complainant is constrained to approach this Hon'ble Forum.
6. Considering the total inaction on the part of the respondent Distribution Company in refunding the amount of the infrastructure cost and others costs, complainant has issued notice to the Superintendent Engineer, Ahmednagar through his Advocate and claimed refund of infrastructure cost as well as other costs. However, still there is no response to the notice issued by the complainant and as such the complainant is constrained to approach this Hon'ble Forum. The copy of the notice issued by complainant through his advocate dated 26/04/2016 is annexed.
7. The total inaction & delay to refund the cost of infrastructure and other cost on the part of the Distribution Company is totally illegal and against the circular dated 20/05/2008

referred supra and amounts to deficiency in service by the respondent Distribution Company and though the complainant is entitled in law for the refund of the amount of infrastructure cost, as such Distribution Company may be directed to refund the infrastructure cost to the complainant along with interest of 12% p.a. from the date of first bill. The charging of the Transformer testing charges of Rs. 3,000/-, Inspection Fee Charges of Rs. 5,000/- and amount of Rs. 6,500/- towards Fixed Service Connection Charges is totally illegal and against the MERC Regulation, and as such respondent company may be directed to refund the same along with interest at the rate of 12% p.a. and the delay caused in refunding the amount as claimed by the complainant may be condemned.

8. Due to outstanding of Rs. 2,73,779/- of Electricity bill dated 09/03/2016, the distribution company has permanently disconnected the electricity supply of the complainant. The complainant has suffered losses and as such complainant is not willing and is not in position to further continue with the production of bio-coal and as already the electricity connection of the complainant is permanently disconnected the amount of security deposit taken from the complainant may directed to be refunded along with the refund as prayed above and the amount of outstanding of Rs. 2,73,779/- of electricity bill dated 09/03/2016, may be deducted from the said amount of refund and remaining amount may be refunded to the complainant.
9. The complainant submits that, this Hon'ble Forum has considered the grievance of the similarly situated persons from the same Division for refund of infrastructure cost and other charges and held that as per the NON DDF/CCRF scheme, the complainant in the said grievance are entitled for refund along with interest, and as such the complainant is requesting this Hon'ble Forum to consider the application of the complainant on the same footing in the light of the decision in the said matter in the interest of justice and in fact of the present matter. The copy of decision in M/s. Shikshan Prasarak Sanstha Vs. Nodal officer, Ahmednagar copy of decision in M/s. Gurudatta Milk Product Vs. Nodal officer, Ahmednagar are annexed .

Relief Sought:

1. Application/ Complaint may kindly be allowed.
2. That respondent Distribution company may be directed to refund the amount of infrastructure cost of Rs. 3,68,800/- as sanctioned by the Superintending Engineer, Ahmednagar on 15/12/2010 vide T.S. No.SE/CIRCLE/T/NON DDF CCRF/10-11/119 Dated 14/12/2010, along with interest of 12% p.a. from the date of first bill & the respondent Distribution company may be further directed to refund the amount charged for Transformer testing charges of Rs. 3,000/- , Inspection Fee Charges of Rs. 5,000/- and amount of Rs. 6,500/- towards Fixed Service Connection Charges along with interest at the rate of 12% p.a. & the respondent Distribution company may be further directed to refund the security deposit of Rs. 93,500/- along with the other refund as prayed above by issuing single cheque and the outstanding amount of Rs. 2,73,799/- of electricity bill dated 09/03/2016 may be deducted from the said amount of refund and remaining amount may be refunded to the complainant.
3. And/ or to grant any other relief to which the complainant is found entitled to in the fact of the present case and law.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 21/02/2016 from the Nodal Officer Ahmednagar Circle. MSEDCL, and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

- 1- i = Ø- SE/ANRC/Tech/17359/ dtd. 15/12/2010 ut kj l nj xkgd kps ukW fm-fM-, Q ; kst usvr xr fot t kM. kbps dkekl eat jh ns ; kr vkyyh vkgs

- 2- i = Ø- AE/P/Sangam/117 dtd. 15/03/2016 uđ kj l nj xtgdkus oht fcyki k/h vl yyh Fkdckdh #- 2]73]770@& Hkj.kk u dŷ; keŷs R; kpk fo| r ijoBk dk; eLo#ih [kMhr dj.; kr vkysyk vkg
- 3- xtgdkpk rdkj vtł fn- 14@07@2016 uđ kj ukWu fM-fM-, Q ph jDde o brj jDde 0; ktkl g ijr feG.kł kBh xtgdkus eMy dk; kŷ; kvrxr rdkj fuokj.k d{kłdMs rdkj fuokj.kkFk vtł l knj dŷk gkrk-
- 4- i = Ø- vv@uxjel ol p@rka-hd@12224 fn- 16@08@2016 uđ kj l nj xtgdkus ukWu fM-fM-, Q ps dKxni=s rlp l j{k Boph i korhps eG dKxni=s l knj u dŷ; keŷs l {ke vf/kdkjh rFkk dk; Bkjh vfHk; rk] egkforj.k] eMy dk; kŷ;] vgenuxj ; kauh eG dKxni=s l knj dj.ks ckr vknk fnys
- 5- xtgdkpk vtł fn- 01@09@2016 uđ kj l j{k Boph jDde ijr feG.ks ckr vtł l knj dŷyk vkg
- 6- i = Ø- mi dk-v-@fcyh@1750 fn-09@09@2016 uđ kj mi dk; Bkjh vfHk; rk uokl k ; kauh l nj xtgdkpk l j{k Bø jDde ijr feG.ks ckrpk iLrko foHkkxh; dk; kŷ; kl l knj dŷk -
- 7- i = Ø- mi dk-v-@fcyh@1751 fn-09@09@2016 uđ kj mi dk; Bkjh vfHk; rk uokl k ; kauh ukWu fM-fM-, Q- ps idj.k foHkkfx; dk; kŷ; kl l knj dŷs
- 8- i = Ø- dk-v-@vuxk@4860 fn- 27@10@2016 uđ kj l nj xtgdkdMs Fkdckdh #- 2]73]770@& vl Y; keŷs R; kP; k l j{k Boph jDde #- 93]550@& xtgdkl ijr djrk ; r ukgh-
- 9- i = Ø- vv@uxjel ol p@rka-hd@17391 fn- 18@11@2016 uđ kj l nj xtgdkl ukWu fM-fM-, Q- ph jDde rlp l j{k Bø jDde ijrkok ckr ; kX; rh dk; Bkgh dj.ks ckrph vknk ukMy vf/kdkjh rFkk dk; Bkjh vfHk; rk] egkforj.k l ol q eMy] vgenuxj ; kauh fnys
- 10- i = Ø- mi@dkv@uokl k@2398 fn- 25@11@2016 uđ kj mi dk; Bkjh vfHk; rk] uokl k ; kauh vuker jDde ijr dj.ks ckrP; k iLrkokrhy =vph i r r k d#u foHkkfx; dk; kŷ; kl l knj dŷk-
- 11- i = Ø- dkv@vuxk@5350 fn- 30@11@2016 uđ kj vrxr xk&gk.ks fuokj.k d{kłs fnyŷ; k vknk kph veyctko.kh dj.ks ckrps i = mi dk; Bkjh vfHk; rk] uokl k ; kauh i k Bfoys
- 12- i = Ø- dkv@vuxk@rk@5528 fn- 08@12@2016 uđ kj mi dk; Bkjh vfHk; rk] uokl k ; kauh ukWu fM-fM-, Q- P; k idj.kk kcr dk; l i r r k vgoky (WCR) tkMyŷyk ul yeŷs R; kph i r r k dj.ks ckrps i = uokl k mi foHkkx ; kauh l knj dŷs
- 13- Ø- dkv@vuxk@egl y@5672 fn- 16@12@2016 uđ kj vuker jDdeP; k ijrkok ckr ; kX; rh dk; Bkgh dj.ks ckr mi dk; Bkjh vfHk; rk] uokl k ; kauh i = fnys
- 14- i = Ø- dkv@vuxk@rk@5823 fn- 27@12@2016 uđ kj dk; i r r k vgoky (WCR) l knj dj.ks ckr mi dk; Bkjh vfHk; rk] uokl k ; kauh Lej.ki = ns; kr vkys
- 15- i = Ø- mi@dkv@uokl k@fcyh@04 fn- 02@01@2017 uđ kj mi dk; Bkjh vfHk; rk] uokl k ; kauh l nj xtgdkps dk; i r r k vgoky l knj dŷk-
- 16- i = Ø- dkv@vuxk@834 fn- 21@02@2017 uđ kj l nj xtgdkps ukWu fM-fM-, Q ps idj.k fudkyh dk<. ; kr vkys vkg

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xlgdkl ns vl yyh jDde #- 59]265@ i7kjk fnol ki ; ir vnk dj.ks ckcr dk; bkgh dj.; kr ; bly-

Action by IGRC :

1. Internal Grievance Redressal Cell Ahmednagar Circle conducted hearing on 12/08/2016 for the complaint submitted on 14/07/2016
2. After hearing both the parties IGRC gave decision as per letter dated 16/08/16 as under:
"xlgdklus l njhy dyy; k dkekP; k eG irh mi foHkfx; dk; ky;] uokl k ; kpdMs l knj djko; kr o R; k eG irh ikr >kY; kurj mi foHkfx; dk; ky;] uokl k ; kuh Non D.D.F. & CCRF dkekP; k fu; eki ek.ks dk; bkgh djkoh"

Observations by the Forum:

1. The Distribution Company has already agreed to refund the infrastructure cost vide letter dated 21/02/2017 submitted to the Forum. The issues before Forum are:
 - ✓ Delay in the refund.
 - ✓ Correct estimate of the amount of refund
2. The complainant has applied for 93.5 HP electric connection which was sanctioned by the Superintending Engineer, Ahmednagar Circle as per letter no. SE/ANRC/Tech/17359/ dtd. 15/12/2010 under Dedicated Distribution Facility /Consumers Contribution Refundable (Non-DDF/CCRF) scheme, The Executive Engineer (Rural Division) , Ahmednagar vide letter no. 08224 dated 16/12/2010 communicated the consumer estimated cost as under :
 - a. Material cost : Rs.2,39,535/-
 - b. Other Charges (as per details): Rs. 1,04,211/-
 - c. Metering Charges for 3 Ph 100/5 A CYT operated meter : Rs. 25,000/-

Total: Rs. 3,68,746/-

As per this letter following payments were asked to be made by the consumer:

1. Fixed Service Connection Charges: Rs. 6,500/-
2. Security Deposit : Rs. 93,500/-
3. Capacitor Testing Charges: Rs. 200/-
4. Installation Checking Charges : Rs. 50/-
5. T/F Testing Charges: Rs. 3,000/-
6. Processing Charges: Rs. 50/-

Total : Rs. 1,03,300/-

3. Accordingly the complainant paid the charges of Rs. 1,03,300/- to the Distribution Company by M.R. dated 18/12/2010. The work was executed by the consumer through M/s Power Technologies, Ahmednagar . The Electrical Inspector carried out the inspection on 21/01/2011 after paying Fees of Rs. 5000/- by the consumer. The supply was released by the Distribution Company on 14/02/2011.
4. Later the complainant applied to the Assistant Engineer, Newasa Subdivision by a letter (which is received under inward no. 2701 on 23/11/2011 by the said office.) requesting for refund for infrastructure cost, fees paid to electrical inspector and transformer testing fee along with Bill dated 16/01/2011 of Rs. 2,79,737/- from M/s Power Technologies, Deposit Receipt of Distribution Company for Rs. Rs. 1,03,300/- and the receipt of Rs. 5000/- for fees paid to electrical inspector. However the Distribution Company has neither acted upon this application that time nor given any explanation about the non-action in the reply submitted to the Forum.
5. There is nothing on the record to show what action was taken on this application received on 23/11/2011 by the concerned Assistant Engineer , Newasa Sub Division . In case there was any compliance required from the consumer , there should have been a letter /query to that effect from the Subdivision .Hence it can be concluded that the application remained pending without any action till the complaint was submitted to the IGRC on 14/07/2016. The delay is on account of the concerned offices of the Distribution Company for not handling the case timely and properly.

6. The Distribution Company has issued Circular no. 22197 dated 20/05/2008 by CE (Dist) and circular no. 39206 dated 21/12/2009 by CE (Dist) regarding refund of the infrastructure cost
 - ✓ As per circular dated 20/05/2008 *"If the consumer/ group of consumers wants early connections and opts to execute the work and bears the cost of infrastructure then the refund of the cost of infrastructure will be given by way of adjustment through energy bills."*
 - ✓ As per circular dated 21/12/2009 *"...Managing Director MSEDCL has accorded approval to refund the entire expenditure incurred by the prospective consumer for release of the supply under dedicated distribution facility (even though work is not dedicated) by way of adjusting 50% of the monthly bill amount till clearance of the total expenditure."*

As per these circulars the entire expenditure incurred by the consumer is to be refunded by adjusting 50% of the monthly bill till the clearance of the total expenditure.
7. The date of supply is 14/02/2011. Ideally the refund should have started from the March 2011 bill itself or it should have started at least in the billing month of April 2011. But the Distribution Company has failed to do so and even after lapse of more than 5 years refund is not yet given. The abnormal delay in refund in this case is not justified and the complainant needs to be paid interest as per rule..
8. The complainant has spent amount of Rs. 2,79,737/- as infrastructure cost. The Distribution Company has agreed to refund Rs.2,39,535/- being the material cost as per approved estimate. As per CE (Dist) circular dated 21/12/2009 ,the entire expenditure incurred on the infrastructure cost is to be refunded. Hence the Distribution Company should review the exact expenditure for refund in the light of circular dated 21/12/2009 and revise the exact amount if necessary.
9. The complainant has also demanded refund of transformer testing charges of Rs. 3,000/- Inspection Fee Charges of Rs. 5,000/- and amount of Rs. 6,500/- towards Fixed Service Connection Charges along with interest .
10. MERC Order dated 8th September 2006 [Case no. 70 of 2005] for the Schedule of Charges is applicable in this case. As per this order , The Service Connection Charges applicable in this case are Rs. 6500/- (for 21 to 107 HP) only. The said order does not mention recovery T/F Testing Charges. However the Distribution Company has also recovered T/F Testing Charges of Rs. 3000/- from the complainant. As per MERC order , the recovery of SCC of R. 6500/- is only permissible . Hence recovery of T/F Testing Charges is contrary to the MERC directives. As such these charges should be refunded along with interest at bank rate of RBI till the date of refund.
11. The complainant has paid Inspection Charges of Rs. 5,000/- to the Government of Maharashtra for the inspection of the installation by the Electrical Inspector and not to the Distribution Company. Hence the question of refund of this amount by the Distribution Company does not arise.
12. The Forum directs the Distribution Company to rework the account of the consumer and reset it by following the method as given below:
 - ✓ Determine the correct amount of Infrastructure cost to be refunded (being actual entire expenditure incurred) as per CE(Dist) Circular no. 39206 dated 21/12/2009
 - ✓ Compute refund from February 2012 at 50% of the monthly bill and adjust the monthly payments actually made by the consumer
 - ✓ Refund the excess amount received if any with interest at bank rate of RBI till the date of refund.
 - ✓ Refund amount of Rs. 3000/- recovered towards T/F Testing Charges with interest at bank rate of RBI till the date of refund.

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, within 30 days from the date of this order, should rework the account of the consumer and reset it as per guidelines in the CE(Dist) Circular no. 39206 dated 21/12/2009 by reviewing the amount to be refunded and computing refund from April 2011. The excess amount recovered if any should be refunded with interest at bank rate of RBI till the date of refund.
2. The Distribution Company should also refund the amount of Rs. 3000/- recovered towards T/F Testing Charges with interest at bank rate of RBI till the date of refund.
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.

(Rajan S. Kulkarni)
Member

(Sandeep D. Darwade)
Member-Secretary
& Executive Engineer

(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. ,
Circle office, Ahmednagar .