

**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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**Office of the**  
**Consumer Grievance Redressal Forum**  
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**Room N. 115-118**  
**Dwarka, NASHIK 422011**

No. / CGRF /Nashik/NUC/U.Dn.1/549/25/16-17/

Date: 18/10/2016

(BY R.P.A.D.)

**In The Matter Of Refund Of Excess Charged FAC**

**Date of Submission of the case : 06/09/2016**

**Date of Decision : 18/10/2016**

To.

1. M/s. Lastra Niraj Pvt. Ltd.  
F -12 , M.I.D.C.  
Ambad Nashik  
(Con.No. 049139002333)

Complainant

2 Nodal Officer ,  
Maharashtra State Electricity Distribution Com. Ltd.,  
Urban Circle office, Shingada Talav,  
Nashik

Distribution Company

3 Executive Engineer (Urban-1)  
Maharashtra State Electricity Distribution Com. Ltd.  
Kharbanda Park , Dwarka Nashik.

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**DECISION**

M/s. Lastra Niraj Pvt. Ltd. (hereafter referred as the Complainant ). Nashik is the HT industrial 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 charged FAC from December 2013 to December 2014. The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company 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.0147 of 2016 on 06 /09/2016.

The Forum in its meeting on 14/09/2016, decided to admit this case for hearing on 27/09/2016 at 12.00 pm in the office of the forum . A notice dated 15/09/2016 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.

Shri. C.C. Humane, Nodal Officer , Asst. Accountant 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 :**

1. It is noticed that MSEDCL has not charged FAC as per MERC post facto approval given as per billing month.
2. 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. MSEDCL has changed levy of FAC methodology with gap of three months to two months from the billing month of Dec. 2013. FAC has wrongly charged due to interpretation of word "In the billing month and to be billed month".
3. The Commission has given post facto approval for charging of FAC for the respective billing month wide order dated 18/12/2014; 11/02/2016; 16/02/2016.
4. As per Commission post facto approval, MSEDCL should rework the calculation of FAC from the billing month of Dec.13 to Dec.14, and refund the excess collected amount with interest @9% p.a. from the date of deposit to till date of refund.
5. The revised statement for refund amount is as under:

Billing Month	FAC levied MSEDCL	FAC MERC	Diff	Units	Amount
Dec.13	-6.24	-22.46	16.22	239370	38825.814
Jan.14	0	0	0	172580	0
Feb.14	4.28	0	4.28	100805	4314.454
Mar.14	16.41	4.28	12.13	117505	14253.3565
Apr.14	3.36	16.41	-13.05	196380	-25627.59
May.14	13.62	3.36	10.26	146535	15034.491
Jun.14	13.62	13.62	0	199875	0
Jul.14	34.92	34.92	0	169205	0
Aug.14	11.18	11.18	0	160815	0
Sept.14	55.05	32.93	22.12	166830	36902.796
Oct.14	20.19	55.05	-34.86	157310	-54838.266
Nov.14	42.59	20.19	22.4	224200	50220.8
Dec.14	81.38	42.59	38.79	135360	52506.144
			<b>78.29</b>		<b>131591.9995</b>
			<b>ED</b>	<b>9%</b>	<b>11843.27996</b>
			<b>Total FAC</b>	<b>Refund</b>	<b>143435.2795</b>

**Demand:**

Refund of excess amount charged against FAC charges from the billing month of Dec. 2013, along with 9% interest as per electricity Act. 2003 in next billing cycle.

**Arguments from the Distribution Company.**

The Distribution Company submitted a letter dated 26/09/2016 from the Executive Engineer, Nashik (Urban) circle MSEDCL, and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

*Eks ykLVk fujt ik- fy-] , Q&12] , e-vk; -Mh-1 h- vCM ukf'kd gs mPpnkc xtkgd vl u dks kR; kgh mPp nkc xtkgd kps fotns d gs eq; dk; ky; ] epbz ekfgrh o r#Kku foHkkx ; kpdMpu I nj efgU; kl kBh vkyY; k veMeW uq kj r; kj gks I nj xtkgd kP; k ckcrirgh eq; dk; ky; ] epbz ekfgrh o r#Kku foHkkx ; kpdMpu oGkoGh ikr veMeW o , Q-, -I h- i fji =dkuq kj %Circular No. 189 to 203½ fotns dkr , Q-, -I h- 'ky'd vkdkj.; kr vkysys vkgr-*

**Action by IGRC:**

1. Internal Grievance Redressal Cell Nashik Urban Circle conducted hearing on 29/01/2016 for the complaint submitted on 15/12/2015
2. After hearing both the parties IGRC gave decision as per letter dated 10/03/16 as under:  
*"Energy bill issued to the consumer is as per rules & the same is correct."*
3. The IGRC has not taken cognizance of the demand regarding excess of the FAC charges for the period December 2013 to December 2014.

**Observations by the Forum:**

1. The issue is regarding charging of Fuel Adjustment Costs (FAC) in excess of the rates approved by the MERC. 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 :
01469	11 <sup>th</sup> Feb 2016	October 2013 to March 2014
01481	16 <sup>th</sup> Feb 2016	April 2014 to September 2014
00265	3 <sup>rd</sup> June 2016	October 2014 to March 2015

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

Billing Month	FAC approved by the MERC
December 2013	-22.46
January 2014	0
February 2014	0
March 2014	4.28
April 2014	16.41
May 2014	3.36
June 2014	13.62
July 2014	34.92
August 2014	11.18
September 2014	32.93
October 2014	55.05
November 2014	20.19
December 2014	42.59

3. Hence wherever, the Distribution Company has charged the FAC in the bills of the months from December 2013 to December 2014 , 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 .

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 in the ensuing bill after the date of this order , whatever, excess FAC charged over and above the MERC approved rates, in the bills of the months from December 2013 to December 2014 , with interest at bank rate of the Reserve Bank of India till the date of refund .
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.

**(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 .