



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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No. K/E/1432/1684 of 2017-18

Date of registration : 14/08/2018

Date of order : 26/09/2018

Total days : 43

IN THE MATTER OF GRIEVANCE NO. K/E/1432/1684 OF 2017-18 OF M/S VIRAJ PROFILES LTD., PLOT NO. G-2 & G-1/3, G-22 & G-23, MIDC, TARAPUR, TALUKA BOISER, DIST-PALGHAR, PIN CODE- 401 506 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT BILLING DISPUTE.

M/s Viraj Profiles Ltd.,
Plot No. G-2 & G-1/3, G-22 & G-23,
MIDC, Tarapur, Taluka Boiser,
Dist-Palghar, Pin Code- 401 506
(Consumer No.003019027510) . . . (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution
Company Limited
Through it's Nodal Officer
Palghar Circle, Palghar . . . (Hereinafter referred as Licensee)

Appearance : For Licensee - 1) Shri.Y.J.Jarag, Nodal Officer, Palghar Circle
2) Shri. T.B.Bhagit, AE, Palghar Circle

For Consumer - 1) Shri.Ashok Parnandiwar (C.R.)
2) Shri.Pravin Gupta (C.R.)
3) Shri.B.N.Tripathi (C.R.)
4) Shril. Nayan Bhavsar (C.R.)

[Coram- Shri A.M.Garde-Chairperson, Shri A.P. Deshmukh-Member Secretary
Mrs. S.A.Jamdar- Member (CPO)].

1) Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressed Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply

Regulations 2005]. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

2) Consumer herein is M/s Viraj Profiles Ltd., having consumer no. 003019027510. Grievance is that, *the applicant has established a stainless steel Manufacturing Unit at the above address. MSEDCL vide letter no.17794 dated 20th July 2017 had sanctioned Medium Term Open Access (MTOA) capacity of 23000 kVA to the Applicant with permission to retain MSEDCL contract Demand of 27000 kVA. The Applicant had subsequently, by his letter no.1180 dated 31st July 2017, had requested MSEDCL to restore the MSEDCL Contract Demand from 27000 kVA to 50000 kVA without any change in MTOA Capacity of 23000 kVA. The Applicant had requested MSEDCL to restore the contract Demand with effect from 1st September 2017.*

MSEDCL i.e. the Chief Engineer (Commercial) , Corporate Office, Mumbai vide email dated 3rd October 2017 had conveyed the approval of MSEDCL for restoration of Applicant's Contract Demand to 50000 kVA. However by way of subsequent clarification/correspondence, MSEDCL has further informed that effective date of restoration of Applicant's Contract Demand Would be 1st October 2017 against 1st September 2017 as requested for by the Applicant.

3) **MSEDCL in reply contends as follows :**

i) MSEDCL denies the all contention raise in grievance except those admitted herein below.

Issue of Jurisdiction

ii) That, the consumer on basis of order dtd.27/06/2017 of Hon'ble MERC in MA No.12 of 2017 in case no.76 of 2017 seeks the above dispensation. However the MERC has passed final order in case No.76 of 2017 on dt.04/05/2018 and said order is under challenged before Hon'ble Appellate Tribunal for Electricity. (The copy of Appeal filed to APTEL is enclosed herewith and marked as Annex. No. A).

iii) That the issue under challenged before APTEL is same of present matter and hence during the pendency of said Appeal it will not proper to this forum to pass any order and this forum shall keep this matter in abeyance till the decision of APTEL in aforesaid matter. In view of 6.7 (d) MERC (CGRF & EO) Regulations, 2006, forum shall not entertain and decide the matter in respect of same subject matter pending before any forum, Tribunal or court.

iv) That, M/s Viraj Profiles Ltd. is Open Access (OA) consumer and the issue of OA consumer are dealt by MERC Distribution Open Access Regulations 2016. The Reg.No.32 of MERC Distribution Open Access Regulations 2016 run as under.

32. Disputes

Save as otherwise provided, any dispute under these Regulations shall be adjudicated upon by the commission.

The revision (Reduction/Increase) in quantum of OA capacity etc. will be governed by Reg.4.2, Reg.8 & Reg.10 of MERC Distribution Open Access Regulations 2016 and hence any dispute regarding same is dispute under this regulations within the meaning of Reg.32 and adjudication of which is within the jurisdiction of MERC and only MERC can adjudicate upon this issue. As such issue raised by consumer in present grievance is beyond jurisdiction of CGRF.

v) That, M/s Viraj Profiles Ltd. (consumer no. 003019027510) is MSEDCL HT consumer having date of supply as 17/02/2006. M/s Viraj profile ltd is having CD of 50 MW (50000 KVA). In view of open Access (OA) permission application of M/s Viraj Profile Ltd.Chief Engineer (Comm), MSEDCL (Nodal Agency) on 20th July 2017 approved MTOA permission for 23.00 MW with retention of 27.00 MW CD with MSEDCL 23 MG (OA) + 27 (CD with MSEDCL) = Total 50.00 MW. (Copy of OA Permission dtd.20th July 2017 is attached herewith and marked as Annexure No.B).

vi) That, M/s Viraj Profiles on 31/07/2017 applied for restoration of CD with MSEDCL from 27 MW to 50 MW without change in OA of 23 MW. The application consumer was forwarded by SE, Palghar to CE (Comm) on 03/08/2017. As per application of consumer requested to restore contract demand as follows :

S.N.	Proposed MSEDCL CD KVA	Approved MTOA Capacity (KVA)	Total (KVA)
	50000	23000	73000

The above request of M/s. Viraj Ltd.could not be considered as the present metering system can be accommodate only upto 51440 KVA. The consumer on 28/09/2017 has submitted application to CE (Comm) that, his total power drawl will not exceed the MSEDCL contract demand i.e. 50000 KVA. In view of said letter CE (Comm) vide mail dtd.29/09/2017 has considered the request and directed superintending Engineer, Palghar to proceed further on application of consumer. (The copy of SE, Palghar letter dtd.03/08/2017, the copy of consumer application dtd.28/09/2017 and CE (Comm) mail dtd.29/09/2017 is attached herewith and marked as Annex.C to E)

vii) That, Superintending Engineer, Palghar in view of approval CE (Comm) Nodal Agency issued letter dtd.07/10/2017 to consumer for payment of processing fee of Rs.2006.00 After the payment of processing fee on 07/10/2017. The consumer was billed accordingly with revised CD of 50000 KVA (50MW). (The letter of SE, Palghar dtd.07/10/2017 is attached herewith and marked as Annex. F).

viii) That, the revision (Reduction/Increase) in quantum of OA capacity etc. will be governed by Reg.4.2, Reg.8.10 & Reg.12.1 & 12.2 of MERC Distribution Open Access Regulation 2016.

4.2. Revision of contract Demand

The contract Demand of a Consumer availing LTOA or MTOA shall be governed by the provisions of the Electricity Supply code and the Regulations of the commission governing standards of performance :

provided that a consumer availing STOA shall not be eligible to revise his contract Demand with the Distribution Licensee during the tenure of the STOA, but may do so at the time of applying for Open Access.

8.10. The Nodal Agency shall grant Medium-term or Short-term Open Access if the resultant power flow can be accommodated in the existing Distribution System or the Distribution System or the Distribution System under execution.

12.1 Before giving consent for Open Access, and subject to the other provisions of these Regulations, the Distribution Licensee (s) shall verify the availability of

- 1) Infrastructure necessary for time – block-wise energy metering and accounting in accordance with the provision of the State Grid code, and*
- 2) Capacity in the Distribution System.*

12.2 where the availability of necessary infrastructure and capacity in the Distribution System has been established, the Distribution Licensee (s) shall convey its consent to the MSLDC within five working days of receipt of the Application and MSLDC shall, within three working days of receipt of consent from the Distribution Licensee (s), convey its decision on grant of Short-term Open Access to the Nodal Agency.

The MERC on dtd.19/10/2016 has issued the practice direction on this issue (The MERC Practice Direction is enclosed herewith Annex.No.G)

ix) That, in view of above, as the total drawl due to revised CD was exceeding the metering capacity of Consumer and when consumer by letter dtd.28/09/2017 submitted that he will restrict total drawl of power MSEDCL (CD) 50000 KVA+ OA 23000 KVA = 73000 KVA within metering Capacity of 50000 KVA. The CE (Comm) has no next date granted approval.

x) The Consumer has paid processing fee on 07/10/2017 and hence as per 5.8 of MSEDCL Supply Code 2005, the application shall be deemed to be received on receipt of duly completed application and receipt of charges. The SE Palghar accordingly informed vide letter dtd.07/10/2017 intimated the consumer regarding approval of revised capacity effective from 01/10/2017. As such duly completed application of consumer in present case was received to MSEDCL on 07/10/2017 and MSEDCL give effect to revised capacity from 01/10/2017 was proper and legal. The CE (Comm) by letter dtd.10/01/2018 in reply to consumer grievance dtd.28/12/2017 has reply accordingly. The copy of later dtd.07/10/2017 of SE, Palghar and Copy of CE (Comm) letter dtd.10/01/2018 is enclosed herewith and Marked as Annexure No.H & I.

4) We have heard both sides. The issue involved is very short. Consumer applied for restoration of original contract demand of 50000 KVA which the Distribution Licensee granted,

but w.e.f. 01/10/2017. As per SOP it should have been granted w.e.f. 1st Sept-2017. We do not see any reasonable ground to not grant the request from 1st Sept 2017. As such it is clear that there is SOP violation. However there is no prayer made for SOP Compensation before us nor before Licensee within 60 days under Regulation 12.2.

5) So far as issue of jurisdiction of this forum is concerned we have gone through Regulation 32 of MERC DOAR 2016 relied on by Distribution Licensee we clearly see that the present matter is of SOP violations, which is squarely within the jurisdiction of this forum.

6) There were some excuses sought to be shown, that Distribution Licensee is filing appeal against the MERC order in case no.76 of 2017 which supports the consumer's grievance then another that the process fee was not paid in time. Both these grounds are not well founded hence rejected.

7) Consumer Representative submits that besides SOP he has claimed for revising bill for the month of Sept 2017 considering 50000 as C.D. It is very difficult to consider the said prayer for the simple reason, that the restoration of original C.D is governed by the regulations for obtaining fresh connection by submitting 'A' form, as such consumer was not entitled to draw any power without there being a contract demand required, which would infact amount to unauthorized extraction of energy.

8) In the above view of the matter grievance fails.

Hence the Order

ORDER

Grievance is dismissed.

Date: 26/09/2018

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(A.P.Deshmukh)
MemberSecretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan

NOTE

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.