

**CONSUMER GRIEVANCE REDRESSAL FORUM
AMRAVATI ZONE, AMRAVATI**

‘Vidyut Bhavan’, Shivaji Nagar, Amravati: 444603, Tel. No. 0721 2551158

Dt. 12.10.18

ORDER

Case No. 25/2018

**In the matter of grievance pertaining to refund of metering cubicle cost
and infrastructure cost etc.**

Quorum

Dr. Vishram Nilkanth Bapat
Miss.M.H.Ade, Member Secretary
Sau. Sushama Joshi, Member (CPO)

Complainant

M/s Satguru Ginning & Pressing Factory,
Daryapur ,Dist-Amravati
Con No:359829006230

Versus

Respondent

The Superintending Engineer ,
MSEDCL, O&M Circle, Amravati.

Appearances:-

Complainant Representative:- Shri. Ashish Subhash Chandarana.

Respondent Representative:- Shri Saurabh Mali, Executive Engineer (Adm),
O&M Circle , Amravati.

Being aggrieved by IGRC, Amravati's non resolution of complaint dated 24.04.18, the applicant approached to CGRF, Amravati for redressal of his complaint on Dt 13.08.18 and filed his complaint as Case No 25/2018.

The complainant submits his grievance as under :-

1. The Complainant is consumer of MSEDCL connected on HT level and the connection to the said consumer was released on date 16.02.2013. The complainant's representation before the Forum is for want of refund of amount towards the infrastructure work & metering related cubicle metering procurement & erection work carried out by applicant consumer in accordance with the sanctioned estimate. Though the estimate is sanctioned under DDF arrangement, neither estimate framed constitutes DDF arrangements nor the infrastructure at site constitutes DDF arrangements read with Supply Code 2005 & subsequent clarifications vide MERC order dated 16.02.2008 in MERC case No 56 of 2007.
2. As per the provisions of EA 2003 & subsequent regulations & various order of MERC including orders related to schedule of charges, the cost of infrastructure including HT/ LT line & metering cost is required to be borne by distribution licensee and subsequently needs to be recovered through tariff to be determined for retail sale of electricity. For this purpose, MSEDCL formulated scheme under Non DDF head vide its circular dated 20.05.2008 wherein consumer need to spend first and subsequently, get it reimbursed through Energy Bill.
3. The estimate for complainant's establishment is framed & sanctioned under different heads. Estimate of 11 KV line is framed under DDF head vide sanction No SE/O & M/ AMT/ESTT/LT/TECH/ARR/DDF 1.3%/12-13/65 dated 31.10.2012 for Rs. 4,55,761/-. The said estimate is subject to variation during execution based on actual cost. It is clearly stated in approval letter that, **"The amount of estimate is provisional and will be subject to alteration based on actual cost when the work is completed"**.

Further the estimate for metering is sanctioned under NON DDF CCRF vide sanction NO No SE/O & M/ AMT/ESTT/T/ARR/NON DDF / CC & RF / 12-13/HT/35 dated 31.10.2012 for Rs. 1,07,030/-.

4. The complainant further submits that the estimate of 11 KV line is wrongly proposed under DDF facility as such the said estimate clearly indicates that it is merely proposed to tap existing 11 KV HT line emanating from 11 KV existing Sootgirini Feeder & thus the same is deemed to be NON DDF. MSEDCL has

wrongly burdened the complainant consumer with infrastructure cost. Complainant is required to face interruptions and or outages due to other existing consumers. Had the infrastructure at site would have been dedicated, there would have no grievance of refund.

5. Further charges which are not approved by MERC are being recovered in violation of approved schedule of charges. The brief is as hereunder.

a. Service connection charges Rs. 20,500/- :- When the applicant is supposed to execute the work, MSEDCL is empowered to recover only 1.3% of 20500/- as per MERC tariff order & schedule of charges order in case No 19 of 2012 order dated 16.08.2012. Thus there is excess recovery of Rs. 20233/- (20500/- 267/-)

b. HT cubicle testing Fees Rs. 5000/- : It is very clear from MERC schedule of charges / supply code 2005 that first testing of metering will be free of cost and therefore this recovery is unlawful.

c. Transformer testing Fees Rs. 3000/-: MERC has rejected MSEDCL's prayer to approve transformer testing Fees and hence this is also unlawful recovery.

d. Supervision charges 1.3% Rs. 5925/- This is also unlawful recovery as such supervision charges 1.3% is permitted only for service connection charges in schedule of charges which is only 267.00 in present case.

The details of unlawful recovery made from the complainant is as below

Sr. No	Item Details	Amount
1.	11 KV infrastructure including mistake of not adding various sundry charges	455761/-
2.	Estimate of cubicle Metering after correcting cost of cubicle metering from 69,733.44/- to 1,06,000/- as per condition of sanction	146924/-
3.	Excess SCC charges as stated in para 6(a)	20233/-

4.	Cubicle Metering testing fees Para 6 (b)	5000/-
5.	T/F Testing Fees as per para 6 (c)	3000/-
6.	Supervision Charges 1.3% as per para 6 (d)	5925/-
	Total	636843/-

6. Thus, MSEDCL is requested to settle above stated grievances by making refund of Rs. 6,36,843/- along with interest @ 12% per annum as per MERC order in case No **23 of 2004** order dated 18.10.2005. Since the connection is released on 16.02.2013, the applicability of interest would begin from 16.02.2013.
7. The grievance was submitted before IGRC as a first opportunity to attend the grievance in the capacity of nodal officer of the circle. However, it is disappointing to note that SE Amravati offered to only refund Rs. 3000/- transformer testing charges and Rs. 5000/- toward HT cubicle testing charges and even did not take pains to write about cubicle for which estimate is sanctioned under refund commitment. The treatment seems to be selective and discriminatory as such the same office has voluntarily submitted before Hon'ble CGRF to refund cubicle upgradation charges in the matter of Vaishnau Feeds Amravati. This clearly indicates that the officials are having selective and consumer wise approach which is bad in law.
8. Applicant submits that no charges can be recovered in violation of approved schedule of charges read with regulation 18 of supply code and hence the aforesaid recovery stands as illegal and MSEDCL is labile for refund.

Prayer of the complainant before the Forum:

- a. Direct MSEDCL to refund of Infrastructure cost and other charges collected in violation of supply code 2005 or in violation of schedule of charge amounting Rs. 6,36,843/- along with interest @ 12% from 16.02.2013 as ruled by M.E.R.C in case no 23 of 2004 order dated 18.10.2005

- b. Any other relief which Hon'ble CGRF may deem fit considering facts and circumstances of the case including cost Rs. 10000/- .

Reply filed by N.A.MSEDCL before the Forum:

- 1) The estimate for HT supply to M/s Sadguru Ginning & Pressing Factory, Daryapur has been prepared under DDF 1.3% Supervision scheme as per the consent submitted by the applicant. Hence applicant was well aware about infrastructure proposed for giving power supply and accordingly consumer had paid supervision charges to carry out the required infrastructure.
- 2) As per circular no.CE/Dist./D-IV/MERC/25079 dt 12.10.17, "The SLC,ORC and meter charges shall not be refunded in the cases where the consumers have opted for DDF supply".
- 3) NA.MSEDCL does not agree to refund infrastructure cost and the amount of service line charges but agrees to refund of cubicle testing fee and transformer testing charges.

Submission during the hearing:

By the applicant:

At the time of the scheduled hearing the complainant representative has submitted the rejoinder.

1. Vide reply dated 05.09.2018, MSEDCL admitted the unlawful recovery of cubical testing and transformer testing charges and thus agreed refund items claimed vide para 6 (b) & (c).
2. Vide reply, MSEDCL preferred to keep silent and not disputed on refund of cubicle metering sanctioned under NON DDF CC & RF wherein it is stated that amount of estimate is provisional and will be subject to alteration based on actual cost when the work is completed. The approved estimate needs to be amended by replacing the amount of cubicle metering by 1,06,000/- instead of 69,733.44/- incorporated in estimate. The circular of NON DDF CCRF is placed on record on page No. 16 to 21. Hence MSEDCL is liable for refund of Rs. 1,46,924/- on account of cubicle metering.

3. MSEDCL has kept silence on amount claimed vide para 6 (a). However, schedule of charges approved vide MERC case No 19 of 2012 confirms that MSEDCL was entitled to recover only 1.3% of 20500/- i.e. Rs. 267.00 only and thus balance amount Rs. 20233/- is refundable.
4. MSEDCL has denied the liability of 11 KV HT line of 0.86 Km which is not sustainable in view of MERC order cited on page No 8 to 15 and the order of Hon'ble EO in Representation No. Review 20/2016 which confirms vide para 9 that a DDF has to be a separate feeder or line emanated from transformer or substation or switching station exclusively for giving supply to the consumer or group of consumers. In present matter it is on record that existing sootgirini feeder is tapped by laying down 0.86 Km HT line & thus do not constitute DDF. Therefore, applicant is liable to get refund of Rs. 4,55,761/- as claimed vide para 5. Further when line stands as NON DDF, supervision charges 5925/- will also be refundable being asset of MSEDCL or will constitute part of WCR.
5. Thus applicant is entitled for refund of Rs. 6,36,843/- as per claim made vide table mentioned in para 6 along with interest @ 12 % p.a. as per MERC order cited on page No 36 to 40 in case No 23 of 2004.

By the NA.MSEDCL:

Nil

Having heard both the parties and examining record placed before this forum, the Forum holds the following opinion.

1) It is admitted position by both the parties that the N.A. MSEDCL released the supply to the complainant on 16.02.2013 and expenses for erection of 11KV line and metering cubicle were borne by the complainant. The 11KV line erected to give supply to M/S Sadguru Ginning and Pressing Factory, Daryapur is a mere extension of the existing line and cannot be treated as DDF facility read with provision 12 (1) in MERC case no 56 of 2007 dated 16.02.2008. The supervision charges of Rs 5925/- recovered from the complainant are inconsistent with the approved schedule of charges and hence cannot be recovered from the complainant.

2) N.A.MSEDCL agrees to refund the transformer testing charges Rs 3000/- and cubicle testing fee Rs 5000/-. However N.A.MSEDCL has denied to refund the metering cubicle cost stating that the consumer has opted for DDF facility. Forum opines that providing the metering equipment is the responsibility of the N.A.MSEDCL and hence non refund of metering cubicle cost inclusive of the overheads can not be justified. Further the Forum feels that the since the complainant has procured the metering cubicle from the market and installed the same at his expenses, the same actual expenses are eligible for refund.

3) The complainant has laid the service connection for the said connection at its own cost. N.A.MSEDCL has recovered the total SCC wherein the complainant was liable to pay only 1.3% of the normative charges applicable towards supervision charges read with provision 6.5.11 (Schedule of charges) of MERC case no 19 of 2012 dated 16.08.12. Hence the N.A. MSEDCL is entitled to recover only 1.3% of Rs.20500/- i.e.Rs.267/- as supervision charges for SCC.

4) The N.A. MSEDCL has not countered the claim of the complainant that the connection on site does not constitute DDF in accordance with the definition given in 12 of MERC case 56/2007 dt 16-02-2008. The respondent merely relies on the consent given by the complainant for DDF. Hence the stand taken by the respondent to refuse refund becomes null and void. Forum feels that the actual connection is Non-DDF and hence due refund needs to be paid by N.A. MSEDCL to the complainant.

Thus the Forum passes following unanimous order :

ORDER

1. The complaint in case no 25/2018 is partly allowed.
2. N.A.MSEDCL is to directed to refund the infrastructure cost Rs 4,55, 761/- ,metering cubicle cost Rs 1,46,924/-,excess service connection charges Rs 20,233/-,supervision charges Rs 5925/-,transformer testing charges Rs3000/- and cubicle testing fees Rs 5000/- Total amount Rs 6,36,843/- along with interest @ 12% from the date of connection till the date of actual refund.

3. N.A.MSEDCL is directed to submit compliance report of this order within 30 days from the date of issue of this order.

Sd/-
(M.H.Ade)
Member Secretary

Sd/-
(Smt. S.P.Joshi)
Member (CPO)

Sd/-
(Dr.V.N.Bapat)
Chairman

Contact details of Electricity Ombudsman appointed under regulation 10 of MERC(CGRF & EO) REGULATIONS 2006:

THE ELECTRICITY OMBUDSMAN,
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