

NO. EE / CGRF/AMZ/ Amravati/ No./ 52.

Dt. 07.10.2019

To,
The Nodal Officer /
The Executive Engineer,
MSEDCL, Amravati Urban division

The order passed on in the Complaint No. 11/2019 is enclosed herewith for further compliance and necessary action.

Secretary
Consumer Grievance Redressal Forum,
MSEDCL, Amravati Zone, Amravati.

Copy s.w.rs.to:-

1. The Chief Engineer, MSEDCL, Amravati Zone, Amravati.
2. The Superintending Engineer, MSEDCL, Amravati Zone, Amravati

Copy to :-

- 1) The Executive Engineer, (Admin), Amravati circle office
- 2) Shaikh Usman Shaikh Khalil c/o Bhavesh Harendra Somaiya A2-405, Rami Heritage Society Opp To old RTO office, Murtizapur Road, Akola - 444004.

**CONSUMER GRIEVANCE REDRESSAL FORUM
AMRAVATI ZONE, AMRAVATI
'Vidyut Bhavan', Shivaji Nagar, Amravati: 444603, Tel. No. 0721 2551158**

Dt: 07-10-2019

ORDER

Case No. 11/2019 dated 08.08.19

In the matter of grievance pertaining to refund of infrastructure cost

Quorum

Dr. Vishram Nilkanth Bapat (Chairman)

B.D.Augad, Member Secretary

Sau. Sushama Joshi, Member (CPO)

Complainant

Shaikh Usman Shaikh khalil

**c/o Bhavesh Harendra Somaiya A2-405, Rami Heritage Society Opp To old
RTO office, Murtizapur Road, Akola - 444004.**

Consumer No:366474781521

Versus

Respondent

**The Executive Engineer ,
MSEDCL, O&M Division,
Amravati Urban**

Appearances:-

Complainant Representative :- Shri.Bhavesh Harendrabhai Somaiya

**Respondent Representative :- Shri. Katkar, Exe. Eng. Amravati Urban
A.**

Consumer Details

Name	MSEDCL Office	Consumer No.	Category	Date of Connection
Shaikh Usman Shaikh khalil	EE, Amravati Urban	366474781521	Industrial	24-02-2018

B. IGRC Proceedings

Application Date	Hearing Date	Order Date
07.06.2019	Not evident from records.	NA

C. CGRF Proceedings :

Application Date	Date of Serving Notice by CGRF	Due Date of Reply	Applicable Clause of MERC Regulations 2000 (CGRF & Ombudsman)
08-08-2019	16-08-2019	31-08-2019 Extension permitted till 09.09.2019	6.4
Date of Reply by NA	07-09-2019		
Date of Hearing Notice	09-09-2019	Date of Hearing	19-09-2019

D.Gist of Applicant's Grievance :

S.N.	Description
1	New LT Industrial connection sanctioned under Non DDF CC&RF. Estimate Rs. 924988/-. Applicant created infrastructure as per sanctioned estimate according to Non DDF CC&RF Circular No. EE/U/Amt/NonDDF/CC&RF/2017-18/03 dt 14/7/2017. (Annexure B)
2	Applicant approach to IGRC for refund of expenditure along with interest.

3	Demand for Security deposit and other charges of Rs. 152594/- (including unlawful transformer testing charges Rs. 3000/-) paid vide MR No. 061002 (Annexure C & D).
4	Applicant is burdened with unlawful recovery of charges to be included in WCR in violation of MERC Order in case No. 19 of 2012.
5	Detailed extract of receivable amount on account of refund against Non DDF CC&RF scheme and unlawful recovery of transformer testing charges. Total amount is Rs. 11,42,674.86.
6	Non DDF CC&RF is a scheme not approved by MERC. (Ref. Section 15.6 of Supply code regulation 2005)

E. Prayer by Applicant:

S.N.	Description
1	Direct MSEDCL to refund of amount Rs. 1142674.86 from 24.02.2018, the date of connection till the date of refund with interest @ 12% p.a.
2.	Any other relief including the cost of Rs. 5000/- to meet the expenditure incurred IGRC/CGRF

F. Gist of Reply filed by N.A.MSEDCL:

S.N.	Date	Description	Violation, if any
1	01.07.2017	The said consumer has not submitted the permission from Local body (AMC) for which he has submitted the consent letter on Rs.200 stamp paper on dated 01.07.2017. The applicant also given consent for disconnection of supply and non claiming of financial loss.	
2.	14.07.2017	Estimate is sanctioned for Rs. 924988/- and connection was withheld for want of above document.	

3.	17.02.2018	Hon CGRF in case no. 20/2017, directed MSEDCL to release the connection within 7 days. Accordingly connection released on 24-02-2018.	
4.	03.02.2019	For finalization of refund, WCR and original bills were awaited from the applicant. Vide letter no. 541 dt. 03.02.2019 respondent requested erection agency to submit WCR along with original bills.	
5.	05.09.2019	Case of Refund is still pending for want of documents.	

G. Prayer by NA before the Forum:

S.N.	Description
1	NIL

H. Gist of Applicant's submission during Hearing:

S.N.	Description
1	Issue of submitting NOC of AMC is not the subject matter of proceedings.
2	NA has misled the Forum in the reply. The connection was not at all withheld for the want of NOC of AMC. The line charging permission was already granted before the consumer approached CGRF vide case No.20/2017 as connection was unduly delayed for reasons unknown.
2	With regard to the claim by NA of having sent a letter dated 3-2-2019 to the applicant, it is submitted that no such letter was at all received by the applicant consumer. It is evident from the copy of the letter (Annexure A-IV). It reveals that the copy of the so called letter of 3-2-2019 which was marked to the consumer is also received by the addressee agency only.
3	Name of the addressee agency mentioned in the said letter dated 3-2-2019 is not that of the contractor agency actually involved in the erection work. Particulars of contractor agency which carried out the work is mentioned in the Execution Approval letter issued on 6-9-2019.

4	Request to the Forum to verify legitimacy of the letter of 3-2-2019 quoted by NA from the records of original I/O Register and the original Stamp issue register.
5	Applicant agreed during CGRF hearing in case no. 20/2017 to waive off interest for initial delay in releasing connection as awarded by Hon. CGRF provided the refund process is initiated without any further delay. But this did not happen.
6	Hon. EE accorded GTP approval followed by procurement and inspection of material. Inspection of material inevitably involves taking custody of original bills before granting the approval to material and erection.
7	Entire reply by NA does not speak at all about centages.

I. Gist of NA's response during Hearing

S.N.	Description	Violation, if any
1	Case of Refund is still pending for want of document. Hence delay from consumer side in submission of documents and hence refund case along with interest shall not be considered by the forum.	
2.	On directions to that effect, NA agreed to submit joint WCR with consumer signature, original Inward/Outward register and the stamp issue register by 26.09.2019.	NA submitted on 26-9-2019 WCR with no signature from the applicant. Also submitted the I/O register. However could not submit the Stamp Issue Register.
3	Forum directed the NA to submit the joint WCR by 3.00 pm on 3-10-2019.	NA submitted WCR with signature from someone available at the site of the consumer and not of the consumer or his authorised representative. Non-Applicant has submitted proof of advance email intimation to the applicant to be present on site for

	preparation of joint WCR.
4	Prayer by applicant for the refund and interest thereon shall not be considered by the Forum.
	Any other relief as per natural justice.

J. Observations of the Forum

On the basis of all the records brought before the Forum and the facts brought before it during the hearing, the Forum observes as under

1. Despite clear instructions, NA avoided submitting record to verify the genuinity of their letter to the applicant dated 3-2-2019, a copy of which is placed before the forum by MSEDCL. Moreover, the addressee of the latter is not of the same agency which has carried out the work. Further it is evident that this letter was never received by the applicant. Hence the Forum finds it difficult to rely on the said letter of 3-2-2019.
2. Non-applicant has not opposed the claim made by the applicant that the line charging permission was granted before the CGRF, Amravati order in case no. 20/2017 was delivered. Therefore it is clear that the release of connection was not held up for requirement of any documents from the applicant, which is contrary to the claim made by the NA.
3. The non-applicant has claimed that since the original bills of the material procured have not been submitted by the applicant, they are unable to process his refund case. The Forum strongly feels that NA is trying to put up very very weak excuses to defend their fault. It has been established time and again that whenever the connection is released to the consumer involving infrastructure erection, material inspection is carried out by the concerned Executive Engineer of licensee. It is incumbent upon the person inspecting the material to take custody of the original invoices of the material procured, and inspect the material with reference to those bills. Hence the Forum finds no force in NA's argument that even after the release of connection, they are still waiting to receive the original bills.
4. The Forum ensured that the advance intimation for joint WCR is given to the applicant by NA. NA has communicated through email to the authorised representative of the applicant about that. The record is available with the Forum. Hence the Forum has sufficient reason to believe that the applicant accepts the joint WCR submitted by the non-applicant on 3-10-2019 and

witnessed & acknowledged by Mr. Shaikh Rais Shaikh Khalil on the site of the infrastructure.

5. Amount of refund shall be based on the material cost as per the joint WCR (which does not include centages) submitted before it and the permissible centages of 27.9% as per the cost data of the year 2016-17 of MSEDCL. However, the applicant has claimed total of 24.5% as centages (VAT Excluded). Hence the Forum is inclined to grant 24.5% of material cost as centages for refund. This works out to an amount of Rs. 8,95,483/-.
6. Non-applicant has collected undue amount of Rs.3000/- from the consumer on account of Transformer testing. Hence the NA is liable to refund this amount also. This makes the total amount due to be refunded Rs. 8,98,483/-

ORDER

With the above observations, the Forum unanimously passes the following order.

1. The complaint in case no. 11/2019 is partly allowed.
2. MSEDCL is directed to refund Rs.8,98,483/- to the complainant along with interest at the prevailing bank rate from the date of release of connection till the date of actual refund. The amount of refund be given through forthcoming energy bills of the complainant.
3. Parties to bear their own cost.
4. MSEDCL is directed to submit compliance report of this order to this office within one month of the order.

Sd/-
(B.D.Augad)
Member Secretary

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

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

Contact details of Electricity Ombudsman appointed by MERC(CGRF
& EO)REGULATIONS 2006 under regulation 10:
THE ELECTRICITY OMBUDSMAN,
Office of Electricity Ombudsman (Nagpur)
Plot No.12, Shrikripa, Vijai Nagar, Chhaoni,
Nagpur- 440013.