
To,
The Nodal Officer /
The Executive Engineer,
MSEDCL, O&M Achalpur Division,

The order passed on in the Complaint No. 12/2019 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 circle, Amravati.

Copy to:-

- 1) The Executive Engineer (Admin), Amravati circle
- 2) M/s Khandelwal Ginning and Pressing Factory
C/o Survey no. 94/3 at Babhali Tq. Daryapur Dist Amravati

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

Dt: 07-10-2019

ORDER

Case No. 12/2019 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

M/s Khandelwal Ginning and Pressing Factory
c/o Survey no. 94/3 at Babhali Tq. Daryapur Dist Amravati
Consumer No:359820004327

Versus

Respondent

The Executive Engineer,
MSEDCL, O&M Division,
Achalpur

Appearances:-

Complainant Representative :- Shri. Ashish S Chandarana

Respondent Representative :- Shri. C.N. Mohokar, Dy. Ex. Eng. Daryapur

A. Consumer Details

Name	MSEDCL Office	Consumer No.	Category	Date of Connection
M/s Khandelwal Ginning and Pressing	EE, Achalpur Division	359820004327	Industrial	10-11-2015

B. IGRC Proceedings

Application Date	Hearing Date	Order Date
23-05-2019	Not evident from records.	12-06-2019

C. CGRF Proceedings :

Application Date	Date of Serving Notice by CGRF	Due Date of Reply by NA	Applicable Clause of MERC Regulations 2004 (CGRF Ombudsman)
08-08-2019	16-08-2019	31-08-2019	6.4
Date of actual Reply by NA	29-08-2019		
Date of Hearing Notice	09-09-2019	Date of Hearing	19-09-2019

D. Gist of Applicant Grievance :

Sr. No.	Description
1	Applicant consumer is industrial consumer of MSEDCL having sanctioned load of 105 HP for which infrastructure was sanctioned under NDDF CC RF with estimate amounting Rs. 334359.24 (ANNEXURE-B) wherein centages are framed as 20 % instead of 24.5%.

2	Subsequently the load of consumer was augmented from 105 HP to 199 HP (increase by 94 HP) again under NDDF CC&RF scheme wherein the estimate was framed amounting Rs. 231672.83 wherein centenges are considered as only 10% instead of 24.5% (ANNEXURE-C)
3	Due to non-refund of the aforesaid amount, applicant approached IGRC for the refund amount of NDDF CCRF along with interest but no specific remedy has been provided by IGRC. It is pointed out that till the date of filling this grievance, applicant consumer have not received any refund of amount on account of Non-DDF & CCRF.
4	Also both the time, applicant is burdened with unlawful recovery of service connection Rs. 8000/- though it is allowed only 1.3% of 8000/- i.e. Rs. 105/- Only (ANNEXURE-D). Further transformer testing charges Rs.3000/- are collected in violation of approved schedule of charges both times.
5	Also the cost of metering is borne by the applicant consumer and the bill (ANNEXURE-E) of the same amounting Rs. 46211.00 also needs to be covered under WCR for the purpose of refund.
6	The extract of refund to be receivable on account of NDDF CCRF and other allied unlawful recoveries is Rs. 413114.86 (initial load of 105 HP) and Rs. 273106.52 (Load Augmentation from 105 HP to 199 HP)
7	In order to fulfill its obligation of duty to supply on request and thereby to provide required infrastructure to give electricity supply read with section 43 of EA 2003, MSEDCL have floated a scheme on 20.05.2008 vide its circular which is known as non DDF CCRF scheme wherein applicant consumer requires to spend cost first on behalf of MSEDCL and then get it reimbursed through energy bill. (CCRF means consumers contribution and refund thereof)

8	Accordingly, the estimate for providing supply of electricity was sanctioned on 26.09.2014 vide estimate sanction no EE/ACH/T/ARR/Non-DDF-CC & RF/14-15/20 for Rs. 334359.24 (excluding escaped centages 12438.47 @4.5%) under NON DDF CCRF scheme.
9	By means of aforesaid sanction, MSEDCL also raised a demand note wherein unlawful recovery of service connection charges Rs. 8000.00, Transformer testing charges Rs.3000.00 and capacitor testing charges Rs.100.00 was raised which is paid by applicant due to lack of awareness. The money receipt dated 21.01.2015 amounting Rs. 60700.00 & 3100.00 are enclosed herewith as (ANNEXURE-F) .
10	Applicant submits that the initial load of applicant was released on date 10.11.2015 followed by augmentation on 01.02.2016. Identical unlawful recoveries took place during augmentation. However, till the date of filing of representation, no refund is made on account of both the sanctions under NON DDF CCRF. In support of date of connection, applicant is annexing energy bill as (ANNEXURE-G) .
11	The fact is delay took place on part of MSEDCL due to various changes in guidelines related to NDDF CCRF refund and its administrative procedure related to refund from the corporate office of MSEDCL (ANNEXURE-H) and applicant required to suffer on account of mismanagement and thus applicants legitimate claim of refund amounting Rs.686221.38 along with interest @ 12% from the date of release of connection is justified more particularly when applicant is paying interest on delayed payment to MSEDCL @12%, @15% and @18% as per delay read with case no.19 of 2012 (ANNEXURE-K) .
12	Applicant reserve his right to make further submission along with supporting if required to make before Hon'ble CGRF or as demanded by Hon'ble CGRF as the case may be.
13	Incurred cost of these representations before IGRC and Hon'ble CGRF is Rs.5000.00 against consultation charges, stationery, typist and travelling it should burdened on MSEDCL.

E. Prayer by Applicant:

S.N.	Description
1	Direct MSEDCL to pay Rs. 686221.38 (NDDF refund of new connection and augmentation) along with interest @ 12% in one go in upcoming energy bill from the date of connection of bill i.e.10.11.2015 and load enhancement date 01.02.2016 respectively.
2.	Any other relief including the cost of Rs. 5000/- to meet the expenditure incurred IGRC/CGRF representations.

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

S.N.	Date	Description
1	29.08.2019	It was told to consumer to submit the original bills of the material vide letter ref. DyEE/Daryapur Sub div/ No. 1287 dated 20.08.2019.

G. Prayer by NA before the Forum:

S.N.	Description
1	NIL

H. Gist of Applicant's submission during Hearing:

Sr. No.	Description
1	Applicant submits before Hon'ble CGRF that applicant received reply on part of non-applicant stating that it has not received bills from applicant. Factual practice in this regard is initially applicant is supposed to procure the material. Once the material is procured, applicant needs to get material inspected after submitting bills of procurement. After inspection, MSEDCL gives permission for construction of work i.e. erection of infrastructure under the supervision of MSEDCL.
2	Applicant is submitting the letter issued by EE Achalpur to SDO Daryapur which confirms that while granting permission for execution of work to sub dn, Executive Engineer, Achalpur, Vide its letter dated 12.02.2015 has forwarded the copy of bills to Sub Division. This letter proves that the submission of non-applicant regarding non-receipt of material bills is afterthought version and not true in view of the aforesaid document.
3	Further the clause 6 of agreement confirms the handover of asset prior to release of supply which cannot be possible without handover of bills and literature and guarantee cards of the material procured and hence the submission of MSEDCL is inconsistent with agreement too. The copy of the aforesaid agreement is enclosed herewith.
4	The supporting document related to payment of transformer testing charges is also appended herewith.
5	Applicant prays before Hon'ble CGRF to take note of false submission on part of NA regarding submission of material bills and draw an adverse inference against MSEDCL and decide the matter in favour of applicant.

I. Gist of NA's response during Hearing

S.N.	Date	Description
1	19-09-2019	Case of Refund is pending as the consumer has not submitted the original bills even after continuous follow up with consumer. As per MERC regulation 6.6 the demand of refund of infrastructure cost should be rejected and case should be disposed of.
2		Estimates for giving supply to 105 HP connections includes the labour cost of 20%. And for extension of load from 105 HP to 199 HP, estimate cost includes 10% charges.
3		NA was directed to submit Joint WCR along with the applicant by 3 pm on 4.10.2019. The joint WCR was not submitted by NA as required.

J. Opinion of the Forum :

After examining all the records placed before the Forum and the facts brought before it during the hearing, the Forum observes as under

1. It is agreed to both parties that the Applicant became the consumer of MSEDCL from 10.11.2015, and infrastructure development work is carried out under Non DDF CC & RF scheme for initial as well as augmentation work.
2. The Forum finds force in the argument of the applicant that, as the connection was already released, the original bills of the material ought to be in the custody of MSEDCL. Hence demanding the original bills again from the applicant does not seem reasonable. Forum also feels that the applicant who is interested in getting his due refund at the earliest, has no reason to hold the bills with him if he possesses them.
3. In order to ascertain the exact amount of refund, the Forum directed the NA to submit WCR jointly made with the consumer. However the NA goes ahead to submit non-joint WCR on the pretext of consumer's non-availability for preparation of the joint WCR.

4. When asked by the forum about record of NA's advance intimation to consumer to be present on site for preparation of joint WCR, the NA fabricates **reverse mail trail**, ignorant of the fact that the mail trail can not be fabricated at will. It is very much evident from the mail trail available to the Forum that, post query from the forum about advance intimation to the applicant, the NA sends a mail to the applicant requesting him to attend at the time which has already gone by.

First mail reporting absence of applicant has time stamp of **Fri, Oct 4, 2019 at 2:59 pm.**

Second mail intimating applicant to be present at site at 11 AM ON 04/10/19 without failure for CGRF compliance has a time stamp of **Fri, Oct 4, 2019 at 6:42 PM.**

This evidently reflects complete indifferent and casual approach of the officers of NA MSEDCL towards their duty and responsibility. The Forum expresses its displeasure on such an approach by the NA towards concerns of their very own consumers.

5. As far as the claim of refund of infrastructure cost is concerned, the Forum notes that the consumer agrees to the material cost claimed by the NA in the two different WCRs submitted by NA in their reply of 27-9-2019. Forum finds substance in the arguments put forth by the complainant that the centages of 20% and 10% offered by NA in these two WCRs appear to have no basis of any authentic guidelines. Therefore, based on the cost data sheet of relevant period and the demand of the complainant, the Forum is in favor of granting centages of 24.5% in work of initial erection and since the work involved in second phase of augmentation of capacity was minus erection of the DTC structure and involved only replacement of the transformer, the Forum is inclined to give proportionate centages of 12% for augmentation work.

6. The Forum opines that the transformer testing charges of Rs.3000/- paid twice by the consumer are due to be refunded by the NA to the complainant as per the well established principle read with Section 7(i) of MERC Order in Case No. 70/2005.

7. About the service connection charges being claimed to be refunded by the complainant, the Forum finds no merit in this claim in the light of the principles laid down by Hon. MERC in their order in case No.70/2005, pages 24 to 26.

8. Capacitor testing fee needs to be refunded under the same pretext mentioned in point no. 6 above.

9. Meter cost needs to be refunded by NA in the light of Section 5.4 of Hon. MERC order in case no.70/2005.

Opinion of Member Secretary:

The date of connection of consumer is 10.11.2015. The cause of action has arisen from first bill i.e. from Dec 2015. Accordingly the period of consumer grievance is more than three years. The MERC regulations 2006, clause 6.6, states that "The forum shall not admit any grievance unless it is filed within two (2) years from the date on which the cause of action has arisen". Hence as per my opinion the said complaint should be dismissed.

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

Therefore order by majority is as follows

ORDER

1. The application in case no. 12/2019 is partly allowed.
2. NA MSEDCL is directed to refund following expenditure incurred by the applicant along with interest at the prevalent bank rate.
 - a. Initial erection: Rs. 273673/- + 24.5% of 273673 = **3,40,723/-**
 - b. Augmentation work: Rs.205146.5 + 12% of 205146.5= **2,29,764/-**
 - c. Transformer testing charges: Rs. 3000+3000=**6000/-**
 - d. Capacitor testing charges: Rs. 100/-
 - e. Meter cost (considering only meter and meter box): Rs. **27850/-****Grand total amount to be refunded shall be Rs.6,04,437/-**
3. No order to cost.
4. NA MSEDCL is directed to submit compliance of this order within one month of issue of this order.

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.