

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 81 & 82 OF 2023

In the matter of refund of excess Security Deposit and Service Line Charges

Pravin Dalpatram Thakkar..... Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Bhiwandi (MSEDCL)..... Respondent
Torrent Power Limited, Distribution Franchisee, Bhiwandi

Appearances:

Appellant: Pravin Dattaram Thakkar

Respondent: 1. Ajay N. Bhasakhetre, Addl. Ex. Engineer, TUC, MSEDCL
2. Rajesh Shanbaug, AGM, TPL
3. Sameer Desai, Manager, TPL

Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 10th October 2023

Date of Order: 18th October 2023

ORDER

These Representations were filed on 14th August 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 9th August 2023 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup (the Forum). The Forum dismissed the grievance applications in Case No. 8 of 2023,



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by observing that the representation appears to be frivolous with the sole intention to misguide the Forum, and cannot be considered.


2. The Appellant has filed these representations against the above order of the Forum. The physical hearing was held on 10.10.2023. The parties were heard at length. The submissions and arguments of the Appellant are as below: -

- (i) The Appellant had 3 phase LT connections for Power looms of 27 HP and 22 HP from 01.01.1986. The details of sanctioned loads, addresses, security Deposit etc. are tabulated as below:

Table 1:


Name of Consumer	Consumer No.	Address	Sanctioned Load (HP)	Date of Connection	Purpose	Security Deposit paid (Rs.)	Load Reduction / Application date	Load Reduction approved on
Thakkar Pravin Dalpatram	13010222944	House No. 206/4, Ground floor, Narpoli, Sonibai Compound, Bhiwandi	22	01.01.1986	Powerloom	17600	Applied for 2 KW on 29.03.2023	18.04.2023
Thakkar Pravin Dalpatram	13010222961	House No. 206/5, Ground floor, Narpoli, Sonibai Compound, Bhiwandi	27	01.01.1986	Powerloom	27000	Applied for 2 KW on 29.03.2023	18.04.2023

- (ii) The Appellant had closed his business of Power looms and installed machineries, which were disposed of. The Appellant's premises are vacant at present. He registered his application on 29.03.2023 for reduction of load and change of tariff from Power loom to Godown / lighting (Commercial purpose) from three phase to single phase. The same was approved and implemented by TPL on 18.04.2023.
- (iii) The Appellant had initially paid a Security Deposit of Rs.17,600/- for Service No. 13010222944 and Rs.27,000/- for Service No.13010222961 as shown in Table 1.
- (iv) A security deposit of only Rs.1500/- per connection is required for single phase commercial connections. In this case, the Respondent has not refunded the excess security deposits of Rs.16,100 (17600-1500) and Rs.25,500 (27000-1500) respectively within two billing cycles after release of the single-phase connections, so the balance security deposits should to be refunded with interest till date.
- (v) The earlier three phase LT cable was replaced by a single phase LT cable by the distribution franchisee, TPL.


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- (vi) The Appellant has already paid Service Connection Charges of three phase connection including three phase cable charges. Now the connection has been converted to single phase. The Respondent is duty bound to refund the difference of three phase cable charges of Rs. 20,000/-, considering Rs. 10,000/- per connection. However, the same is not refunded till date.
- (vii) The Appellant had registered his request application with the Respondent MSEDCL on 17.04.2023, however, no written response was given by the Respondent.
- (viii) The Appellant filed the grievance with the Forum on 18.04.2023. The Forum by its order dated 09.08.2023 has dismissed the grievance application. The Forum did not understand the basic issue that excess security deposit is to be refunded to the Appellant within two billing cycles.
- (ix) The Appellant stated that
- a. It is the duty of the Respondent to reimburse the SLC charges as per the order dated 10/08/2023 of the Commission in Case No. 29 of 2003 in the matter of SLC charges and ORC Scheme.
 - b. The Respondent should refund the infrastructure cost as per MSEDCL Circular No.15079 dated 12.10.2017 and Circular No. 0319 dated 28.06.2019.
 - c. Service Connection Charges for new underground connection be refunded as per Schedule of Charges with effect from 01.04.2020.
 - d. The Respondent MSEDCL did not follow its Commercial Circular No. 336 dated 16.03.2022 regarding implementation of Supply Code Regulations 2021 for computation of Security Deposit.
- (x) The Appellant also demanded an apology letter from the MD of MSEDCL for the above negligence and deficiency in service.
- (xi) In view of the above, the Appellant prays that the Respondent be directed:
- a) to refund the excess security deposit with interest.
 - b) to refund Rs. 20,000/- towards SLC Charges/ Cable Charges considering Rs.10,000/- per connection.
 - c) to compensate Rs.5 lakhs towards harassment.


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d) to issue an apology letter from the MD of MSEDCL for the above negligence and deficiency in service.

3. The Respondent MSEDCL and its Franchisee, TPL filed their written replies dated 09.10.2023 and 25.09.2023 respectively. Their submissions along with their arguments on 10.10.2023 are as below: -

- (i) The Electricity Distribution Network Assets and Billing in Bhiwandi area was handed over to M/s. Torrent Power Limited (TPL) as the Franchisee of MSEDCL for a period of 10 years from 26.01.2007 and further extended to 10 years.
- (ii) The Appellant is the owner of two shops having Service No.13335674884 and 13335610061. The details of sanctioned loads, addresses, security Deposits held, load reduction date, etc. are tabulated in Table 1 at Para 2 above. At present, both the shops are rarely used.
- (iii) The Respondent TPL pointed out that the Appellant has made different prayers before the Forum and the Electricity Ombudsman.
 - The prayer before the Forum:-
to refund the amount of Security Deposit along with interest till the date of dispatch and the difference amount of cable charges from Single phase to 3 phase i.e, Rs.20,000/- .
 - The prayer before the Electricity Ombudsman: -
 - 1) *Refund of excess Security Deposit and Cable charges.*
 - 2) *He has been harassed mentally, physically, financially, and real travels without any authentic reason, so a penalty of Rs.5,00,000/- may be charged to the Respondent and compensation may be granted to him.*
 - 3) *An apology letter by H. O. M. D for cheating and mal-practice with the consumer.*


Hence, the representation is not maintainable at the preliminary level itself.


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Brief History of the Case: -

- (iv) The Appellant filed his grievance before the Forum on 18.04.2023. The Forum, by its order dated 09.08.2023 has rightly dismissed the grievance application. The Forum observed that the Representation filed by the Complainant is frivolous with the sole intention to misguide the Forum.
- (v) The service Nos. 13010222944 & 13010222961 were previously sanctioned for Power loom purpose, and currently converted to LT-II Commercial purpose with 2 KW Sanctioned load from 18.04.2023. Thereafter, the Appellant raised the grievance application before the Forum immediately and hastily on 18.04.2023 itself for refund of differential Security Deposit and cable cost. There is no regulatory basis for charging a security deposit of Rs. 1500/- for single phase connection, and for cable charges of Rs. 10,000/- per connection. This demand is nothing but to create nuisance and harass the Franchisee TPL.
- (vi) The Appellant has mentioned that he filed a complaint in MSEDCL on 18.04.2023. In fact, no such complaint has been received by MSEDCL/TPL. The Appellant directly approached the Forum on 18.04.2023.
- (vii) The Appellant referred to the order dated 10/08/2023 of the Commission in Case No. 29 of 2003 in the matter of SLC charges and ORC Scheme. However, the infrastructure for the said premises was created by the Licensee/Franchisee, and not by the consumer. Hence, the ratio of this order is not applicable in the present case.
- (viii) The Appellant referred to the MSEDCL Circular No. 15079 dated 12.10.2017 and Circular No. 0319 dated 28.06.2019 regarding refund policy of infrastructure cost in pursuance of Hon'ble Supreme Court Judgement dated 10/11/2016 in Civil Appeal No 4305/2007 which is applicable to cases where the infrastructure was developed by the Consumers in the period from 08.09.2006 to 30.04.2007. The citation of this judgement is totally unwarranted and to waste the important time of the system. This is to be taken very seriously to avoid such instances in future.
- (ix) The Appellant has referred to MSEDCL Commercial Circular No. 18076 dated 28.06.2019 regarding the policy to refund the tariff difference amount to the


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consumers through RTGS/ NEFT instead of adjusting the refund amount in bills. This issue has nothing to do with this representation. Hence, the representations are irrelevant, frivolous, and misleading.


- (x) The grievance raised by the Appellant of refund of excess Security Deposit within 2 billing cycles is not in line with Regulation 13.4 and Regulation 13.5 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (Supply Code & SOP Regulations 2021).
- (xi) The above facts clearly show that the intention of the Appellant is misleading the Hon'ble Electricity Ombudsman. The Respondent has complied with the regulations and has initiated timely action after observing all legal formalities. Hence, there is no non-compliance on the part of the Utility, thus nothing ought to be granted against the utility.
- (xii) In view of the above, the Representation be rejected with heavy cost.

Analysis and Ruling

4. Heard the parties and perused the documents on record. The Appellant had two power loom connections as detailed in para 2 from 01.01.1986. The details of sanctioned loads, security Deposits held, load reduction date, etc. are tabulated in Table 1 at Para 2 above. The Appellant closed down his power looms and accordingly applied for load reduction from 27 HP and 22 HP of Service No. 13010222944 and 13010222961 to 2 KW each respectively on 29.03.2023. The Respondent sanctioned and implemented the reduction of load on 18.04.2023 i.e. within 1 month.

5. The Following issues are framed for consideration of the Appellant's prayers:

Issue 1: Whether the Appellant is eligible to get refund of excess Security Demand in the second billing cycle as per SOP & SOP Regulation 2021 in force?


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The Respondent was asked about its policy and practice in this regard. It mentioned that generally after reduction in load, the Respondent observes the consumption pattern of the consumer till the end of the financial year, which in this case would be the end of March 2024. If the consumption is found to be reduced as expected, which justifies the lower security deposit, the excess amount of S.D. is refunded in or after April, which in this case would be after April 2024.

The Commission is empowered to frame the Supply Code & SOP Regulations in exercise of the powers conferred by the Electricity Act, 2003 for smooth functioning of the licensee/s. Presently, the Supply Code & SOP Regulations 2021 of the Commission are in force with effect from 25.02.2021. The grievance of the Appellant for refund of excess Security Deposit pertains to the period under the present regulation which is in force. His demand for refund of excess security deposit due to load reduction from three phase power loom to single phase is not in line with Regulation 13.4 and Regulation 13.5 of the Supply Code & SOP Regulations 2021 which are reproduced below:

“13.4 The Distribution Licensee shall re-calculate the amount of security based on the actual billing of the Consumer once in each financial year, which shall be refundable to the Consumer in accordance with Regulation 13.5 and payable by the Consumer in accordance with Regulation 13.6:

13.5 Where the amount of security deposit maintained by the Consumer is higher than the security required to be maintained under this Regulation 13, the Distribution Licensee shall refund the excess amount of such security deposit by way of adjustment in the next bill.”

A simple reading of the above Section 13.4 along with Section 13.5 indicates that the excess amount of security deposit is expected to be refunded by adjustment in the next bill after the concerned financial year, which will give time to the licensee to recalculate the S.D. based on the average billing of 2 months during this financial year. In this case, the licensee is expected to examine the average bills from April


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2023 to March 2024 and to recalculate the S.D. accordingly. Thus, Regulation 13.4 and 13.5 of Supply Code & SOP regulations 2021 do not support the Appellant's alleged grievance for refund of excess security deposit within two billing cycles from the date of his application. Hence, this issue 1 is answered in the **NEGATIVE**.

Issue 2: Whether the Appellant is entitled to get refund of Rs. 20,000/- towards the three phase Cable Charges / SLC / SCC, considering Rs. 10,000/- per connection, after his load reduction to single phase in April 2023?

This grievance is not at all tenable. The Commission has notified in Regulation 4.3.1 of the Supply Code & SOP Regulations 2021 as below: -

*"4.3.1 The Distribution Licensee shall recover the expenses referred to in Regulation 4.2 (a) above, in accordance with the principles contained in this Regulation 4.3 and based on the rates contained in the **Schedule of Charges approved by the Commission under Regulation 19:***


Provided that the Distribution Licensee may, with the approval of the Commission, in case of any category of Consumers, recover such expenses on the basis of an average or normative rate for providing the electric line or electrical plant for the purpose of giving supply.

*4.3.2 The Distribution Licensee shall be authorised to recover expenses reasonably incurred on providing supply to the Applicant based on the Schedule of Charges approved by the Commission **under Regulation 19:***

Provided further that the Distribution Licensee shall be entitled to use service-line setup for the Applicant to provide supply to any other Applicant, notwithstanding that all expenses reasonably incurred have been recovered in accordance with this Regulation 4.3, except if such supply is detrimental to the supply to the existing Consumer already connected therewith.

19. Schedule of Charges

19.1 Every Distribution Licensee shall file the Schedule of Charges for matters contained in these Regulations and for such other matters required by Distribution Licensee to fulfil


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its obligation to supply electricity to Consumers, along with every application for determination of tariff under Section 64 of the Act together with such particulars as the Commission may require: Provided that the Distribution Licensee can file a Petition for Schedule of Charges under exceptional circumstances independently. However in such case, the reasons for the urgency needs to be specified.

19.2. The Commission shall after examining the Schedule of Charges filed before it by a Distribution Licensee under Regulation 19.1:

- a. issue an order granting its approval thereon, with such modifications or such conditions as may be specified in that order; or
- b. reject the Schedule of Charges filed before it for reasons to be recorded in writing if it is not in accordance with the provisions of the Act and / or these Regulations:

Provided that the Commission shall to the extent possible reasonably consider the views of all interested parties before the Schedule of Charges of a Distribution Licensee is approved, modified or rejected by the Commission under this Regulation 19.2:

Provided further that the Commission may approve the Schedule of Charges for each Distribution Licensee or may fix a Schedule of Charges applicable to a class of Distribution Licensees or to all Distribution Licensees in the State:

Provided also that the Schedule of Charges approved by the Commission shall, unless otherwise amended or revoked, continue to be in force for such period as may be specified in the order of the Commission granting such approval."

The relevant Schedule of Charges as per Tariff Order dated 30.03.2020 in Case of 322 of 2019 are as below:

Table 10-24: Service connection charges for new underground connections as approved by the Commission					
Sr. No.		Category	As per Case 195 of 2017 Existing Charges (Rs.)	Proposed by MSEDCL (Rs.)	Approved by the Commission (Rs.)
1		Low Tension (LT) Supply			
		a. Single Phase			
	i	For load up to 0.5 kW	3,100	3,630	3,400
	ii	For loads above 0.5 kW & up to 7.5kW	7,150	8,030	7,600
		b. Three Phase			
	i	Motive power up to 27 HP or other loads up to 20 kW	13,500	15080	13,800



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These are statutory/normative charges **which are not refundable**. The Appellant did not create any infrastructure under any scheme for release of his new connection or extension of load. The cable laid or re-laid by the licensee was at its own cost. Hence, the claim of the Appellant for refund of refund of service connection charges is not justifiable. Issue 2 is answered in the **NEGATIVE**.


6. While parting with the order, I am constrained to take cognizance of the manner in which the Appellant has submitted frivolous, irrelevant and inapplicable arguments for his case. The facts argued by him are irrelevant to the regulations. The licensee took timely action in reducing the load within one month of the Appellant's application. The licensee also assured, during the hearing, that it would refund the excess security deposit as applicable around April 2024, i.e. at the end of the financial year. The Appellant has unnecessarily and hastily filed his grievance. In fact, the grievance was filed with the Forum on the very day when the load was reduced without even waiting for one or two billing cycles, as the Appellant (wrongly) claims were applicable.

Further, the Appellant is confused and could not make a distinction between Service Line Charges, Service Connection Charges and Cable Charges, and wrongly argued for refund of the same, even though the cable laying costs were borne by the licensee.

7. The Forum has rightly analyzed the case and hence no interference is needed in the order of the Forum. The Forum's order is upheld. The instant Representation is rejected by imposing a cost of Rs.2000/- on the Appellant with a warning to avoid such unnecessary and frivolous litigation in future.

8. The instant Representation is disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

