

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO.16 OF 2018

In the matter of refund of infrastructure costs

M/s. Standard Fluoromers Pvt. Ltd.

...Appellant

..V/s..

Maharashtra State Electricity Distribution Company Ltd. (MSEDCL)

.... Respondent

For Appellant : 1. Sanjay Aranake, Director
2. Ganesh Nikam

For Respondent : 1. Vinayak Idate, Executive Engineer, Sangli
2. R. B. Sadanand, Assistant Engineer, Sangli

Coram: Mr. R. D. Sankhe

Date of Order : 12th March, 2018

ORDER

This Representation is filed on 22nd January, 2018 under Regulation 17.2 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 [*CGRF Regulations*] against the order dated 8th December, 2017 passed by the Consumer Grievance Redressal Forum, Kolhapur (*the Forum*).



2. The Forum by majority has dismissed the complaint by observing that the consumer has carried out the work under Dedicated Distribution Facility (DDF) Scheme.

3. Aggrieved by the order passed by the Forum, the Appellant has filed this Representation stating as under :-

- (i) The Appellant is High Tension (HT) Industrial consumer.
- (ii) The Appellant applied to the Respondent for 490 kVA HT connection on 17th May, 2016. The Appellant was informed by the Respondent, that the HT connection can be given only under DDF scheme and sought notarized undertaking from the Appellant.
- (iii) The Respondent thereafter issued sanctioned letter under DDF scheme on 17th June, 2016. The Appellant paid the statutory amount and carried out the work as per sanctioned estimate under DDF.
- (iv) The HT connection was merely tapping from the existing HT line. The Consumer erected infrastructure at their cost. The facility provided is however, not the DDF.
- (v) The Internal Grievance Redressal Cell (IGRC) as well as the Forum did not consider the request of the consumer properly.
- (vi) As per MSEDCL Circular No. 43 dated 27th September 2006 and the Order dated 21st August 2007 of the Maharashtra Electricity Regulatory Commission (the Commission) in Case No. 82 of 2006, the following expenditure be directed to be refunded to the Appellant Consumer.:-



Sr. No.	Description		Amount in Rs.
1	i	Meter	1,01,218.00
	ii	Service Line Charges	23,977.80
	iii	Testing, erection, commissioning charges	74,799.20
		Total (i + ii + iii)	1,99,995.00
2		Interest	2% per month upto date of remittance of payment
3		Compensation	25,000.00

4. The Respondent MSEDCL has filed the reply by letter dated 20th February 2018. The Respondent has stated as below:-

- (i) HT Supply has been given to the Consumer under DDF. The consumer had given an undertaking to erect the infrastructure at their cost.
- (ii) The infrastructure raised is only for the supply to the Appellant consumer.
- (iii) The Forum has rejected the grievance after considering the Order of the Commission in Case No. 82 of 2006, Case No. 702 of 2005, as well as Circular dated 12th October, 2017 of the MSEDCL. The said Circular provides that SLC, ORC and meter charges are not to be refunded in supply given under the DDF Scheme.
- (iv) The supply has been given as per the Regulation No. 3.3.3, 4.2.8 and 4.2.9 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations).
- (v) The Appellant has asked for the refund of cost of meter, SLC and commissioning charges. However, refund can not be given if the supply is under DDF.



5. During the hearing the Director of the Appellant company argued that the agreement was signed under compulsion and the undertaking was taken forcibly. The Appellant submitted a sketch to show that the supply is not under DDF but it is mere extension and tapping the existing line. The Appellant relied upon the Order dated 16th February, 2008 of the Commission in Case No. 56 of 2007, in which, the Commission after considering the definition of DDF held that mere extension or tapping of the existing LT or HT line cannot be treated as DDF and DDF means a separate distribution feeder or line emanating from a transformer or a substation or a switching station laid exclusively for giving supply to a consumer or a group of consumers. The Appellant referred to the Order dated 9th June 2011 of the Nagpur Forum in the matter of Shrikrishna Ginning & Pressing factory V/s MSEDCL as well as the Order dated 21st January, 2017 of the Electricity Ombudsman (Nagpur) in Review Petition No. 20/2016 in the case of M/s Darpan Multi Polypack (India) Pvt. Ltd. The Appellant also relied upon the definition of Point of Supply given in Supply Code Regulations and demanded the refund of the infrastructure cost and cost of metering cubical together with interest.

6. The Respondent MSEDCL relied upon their Circular dated 12th October 2017 which provides that the charges are not to be refunded where the consumer has opted for DDF Supply. The Respondent referred to the undertaking and the agreement dated 5th May 2016 in which the Appellant consumer agreed and has undertaken to bear all the expenses incurred towards the infrastructure work as per DDF scheme. The Respondent emphasized that the supply is given under DDF only and it is not mere extension and hence prayed to reject the representation.



7. Heard the parties at some length. As per sanction letter dated 14th June, 2016 for 490 kW HT Power supply, the Consumer was asked to make payment of Rs. 6,98,470/- towards fixed service connection charges, supervision charges, processing fees, security deposit and transformer testing charges. Agreement dated 5th May 2016 has been entered into between the parties. It is stated therein that the consumer accepts DDF scheme and to bear expenses towards the infrastructure work and it will remain dedicated to the consumer in future. The sanction letter, however, states that the MSEDCL shall provide approved make meter with RS. 232 Communication port.

8. Regulation 3.3.3 of the Supply Code Regulations which deals with recovery of expenses for giving supply provides as under :-

"Where the provision of supply to an applicant entail work of installation of Dedicated distribution facilities, the Distribution Licensee shall be authorized to recover all expenses reasonably incurred on such works from the applicant, based on the schedule of charges approved by the Commission under Regulation 18."

9. The DDF has been defined in Regulation 2 (g) of the Supply Code Regulations under below.:-

"Dedicated Distribution Facilities" means such facilities, not including a service line forming part of the Distribution system of the Distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises;"



10. The Commission in its Order dated 16th February, 2008 in Case No. 56 of 2007 has explained the Scheme of DDF as under :-

“ It is clear from this defined term that mere extension or tapping of the existing line (LT or HT) cannot be Dedicated Distribution Facility. Such extension or tapping being part of common network will be affected due to any fault or outages on the common network and cannot be considered as a facility solely or clearly dedicated for giving supply. Thus in the distribution system, Dedicated Distribution Facility means a sperate distribution feeder or line emanating from a transformer or a substation or a switching station laid exclusively for giving supply to a consumer or a group of consumers. The transformer or the substation can also form a part of Dedicated Distribution Facility if it is provided exclusively for giving supply to these consumers and no others consumer is fed from the said transformer / substation. Also, Dedicated Distribution Facility cannot be shared in future by other consumers. Such facilities can not be imposed on a consumer. If the consumer does not seek Dedicated Distribution Facility, the licensee has to develop its own infrastructure to give electric supply within the period stipulated in Section 43 of the EA 2003 read with the Maharashtra Electricity Regulatory Commission (Standard of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005. In fact, the license should take advance action to develop the distribution network, based on the survey or growth packet and demand projections so as to fulfull “Universal Service Obligation” as per the spirit envisaged in the EA 2003 and the Regulations made there under. ”



11. The Appellant consumer heavily relied upon definition of Point of Supply and argued that the supply is not under the DDF. Point of Supply is defined in Regulation 2 (t) of the Supply Code Regulations 2005 as below:-

“Point of Supply” means the point at the outgoing terminals of the Distribution Licensee’s cutouts fixed in the premises of the consumer:

Provided that, in case of HT Consumers, the point of supply means the point at the outgoing terminals of the Distribution Licensee’s metering cubicle placed before such HT Consumer’s apparatus:

Provided further that, in the absence of any metering cubicle or, where the metering is on the LT side of the HT installation, the point of supply shall be the incoming terminals of such HT Consumer’s main switchgear.

12. The Appellant consumer strongly argued that their supply can not be termed as DDF, but they had no option than to accept the terms of the MSEDCL to get the supply. The Member (Consumer) (Shri Burande) of the Forum while deciding the grievance has given a descending view and has observed that mere extension of tapping of existing line of High Tension cannot be treated as the DDF and the agreement to carry out work under DDF, itself is contrary to law and therefore, the consumer is entitled to get the refund of expenditure of Rs. 1,99,995/- with 12% interest from the date of release of connection. However, after some deliberations during the hearing, the Appellant stated that the Appellant would raise this issue of DDF at appropriate level in appropriate case. The Appellant suggested that if the cost of metering is considered to be refunded to the Appellant, the Appellant would not press for the refund of infrastructure cost in the present case.



13. The Commission in Case No. 70 of 2005 while approving the Schedule of Charges has held in its Order dated 8th September 2006 as under:

"Cost of meter & meter box

As per Section 55 of the Act, it is the responsibility of licensee to supply electricity through installation of correct meter in accordance with the regulations made in this regard by the Authority i.e. Central Electricity Authority.

The Government of India has notified CEA (installation & Operation of Meters) Regulation, 2006 on 17th March, 2006. As per Regulation 6(2)(a) of CEA (Installation & Operation of Meters) Regulation, 2006, 'consumer meters shall generally be owned by the licensee'.

14. Meter has been defined in the Central Electricity Authority (installation and operation of meters) Regulations, 2006 as under :-

"(p) 'Meter' means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system and shall include, wherever applicable, other equipment such as Current Transformer (CT), Voltage Transformer (VT) or Capacitor Voltage Transformer (CVT) necessary for such purpose."

15. The Appellant produced bill of M/s Mahesh Engineering Services showing the cost of 11 kV compact metering cubical as Rs.89,971.87 and with VAT total Rs.10,128/-. The Schedule of Charges have been approved by the Commission on 8th September, 2006. As per Annexure 3 the approved cost of 11kV HT metering cubical including CT & PT is Rs.67,958/-. It was brought to the notice of the Respondent that in the sanctioned letter of the MSEDCL dated 14th June, 2016, it is stated that the MSEDCL shall provide the meter. The Respondent did not deny this aspect. The Appellant has pointed out that they have also paid inspection charges of Rs. 6,500/-. The Appellant



consumer will be accordingly entitled for the refund of cost of Rs.74,458/- [Rs.67958+6500] towards metering cubical including the inspection charges.

16. In the result, this representation is partly allowed. The Respondent MSEDCL is directed to refund Rs. 74,458/- to the Appellant consumer. The Respondent will be at liberty to adjust the refund amount in the monthly bill of the Appellant.

17. Compliance to be reported by the Respondent MSEDCL within 2 months from the date of receipt of this order.

Sd/-
(R. D. Sankhe)
Electricity Ombudsman (M)

