

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th floor, Cuffe Parade, Mumbai 400 005
Tel. No. 022 22163964/65/69 – Fax 022 22163976
E-mail mercindia@mercindia.org.in
Website: www.mercindia.org.in

Case No. 93 of 2008

In the matter of
Petition of Akhil Bhartiya Grahak Panchayat, Latur
seeking directions against MSEDCL for non-compliance of the
Electricity Supply Code Regulations and the Electricity Act, 2003

Shri V. P. Raja, Chairman
Shri S. B. Kulkarni, Member
Shri V. L. Sonavane, Member

Akhil Bhartiya Grahak Panchayat
Datta Colony (S), AUSA Road,
Latur

..... Petitioner

Versus
Maharashtra State Electricity Distribution Company Limited
Prakashgad, Bandra (East),
Mumbai.

..... Respondent

ORDER

Date: September 01, 2010

Akhil Bhartiya Grahak Panchayat submitted a petition on 21.10.2008. The Petitioner has alleged that the Respondent has not complied with the “Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 and the Commission’s tariff Order dated 20.10.2006, with respect to the (1) indication of the correct Security Deposit amounts in the consumer bills and (2) collection of ORC amount from LT Industrial Consumer, in the name of dedicated



distribution facility. The Petitioner has sought directives from the Commission against the Respondent under Sections 142 and 146 of the Electricity Act, 2003 (“EA, 2003”) for the aforesaid instances of non-compliance.

2. The Petitioner has prayed as under:

“

1. *Accounting investigation of every consumer in MSEDCL books may be made in terms of actual Security Deposit paid and respective interest paid;*
2. *Action Should be taken under Section 142 and 146 of the EA, 2003;*
3. *Correct Security Deposit amount to be shown in the bill;*
4. *Unpaid interest and excess amount Security Deposit collected from the consumers should be refunded to consumers respectively from whom such type of amount is collected by MSEDCL;*
5. *ORC amount, meter cost and other charges collected or DDF amount, earlier to 20.05.2008 till 08.09.2006, may be refunded by way of energy bills as per the procedure adopted for cases following circular No. 22197, dated 20.05.2008.”*

3. The petitioner has averred in its petition as follows:

a) Security Deposit :

- i. Maharashtra Electricity Distribution Company Limited (“MSEDCL”) is violating the Consumers Rights under EA, 2003 by not mentioning correct security deposit amount on the electricity bill.
- ii. At the time of giving new connection or releasing additional load, MSEDCL collects various amounts such as Service Connection Charges, SLC, ORC, Meter cost, Security deposit, agreement cost etc. Entire amount is credited as receipt against levied charges and Security deposit is not shown separately. Therefore, the correct Security Deposit amount is not shown on electricity bills.
- iii. Information of Latur Zone collected under Right of Information Act 2005 shows that amount collected from the consumers is above Rs. 1000 Lakh. Their close audit and third party impartial scrutiny will show the



exact amount collected and illegally transferred to MSEDCL's profit and receivable account.

- b. Collection of Outright Right Contribution ("ORC") amount from Low Tension Industrial Consumer or in the name of Dedicated Distribution Facility ("DDF"):
- i. MERC issued Schedule of Charges order in Case No 70 of 2005 on 8th September 2006. In spite of this order, MSEDCL Officers continue to collect ORC charges in one or other form and name. Maharashtra Rajya Veej Grahak Sanghatana ("MRVGS") filed a Petition on the same and the Commission issued order in the matter of Case No. 82 of 2006 on 17th May 2007 directing MSEDCL to refund ORC charges, Meter cost and other charges collected which are not as per the Schedule of Charges Order.
 - ii. MSEDCL has taken up the above issue up to Hon. Supreme Court vide Civil Appeal No. 20340 of 2007. Therefore, while deciding on the Petition (Case No. 56 of 2007) filed by MRVGS for non-compliance of the Commission's Order dated 17th May 2007, as the matter is sub-judice before the Hon. Supreme Court, the Commission in its Order dated 16th February 2008 declined to direct refund of ORC charges as stipulated in its Order dated 17th May 2007. Further in the same Order, the Commission directed MSEDCL to levy only the charges approved in the Schedule of Charges Order dated 8th September 2006.
 - iii. Based on the Commission's Order dated 16th February 2008, MSEDCL issued a Circular dated 20th May, 2008 specifying "Guidelines for releasing new connections and augmentation". These Guidelines were issued to follow uniform practice throughout the State (MSEDCL) for deciding applicability of Dedicated Distribution Facilities ("DDF") and to avoid hardship to prospective consumers and to remove the difficulties in releasing of new connections. The guidelines issued were



subject to the final decision of the proceedings pending before the Hon. Supreme Court.

- iv. MSEDCL's circular dated 20th May, 2008 has a provision of refunding the infrastructure expenses incurred by the prospective Non-DDF consumers for getting early connection through energy bill. The same provision was not applicable prior to the implementation of this Circular. During the period of 8th September, 2006 (Schedule of Charges Order) and MSEDCL Circular dated 20th May, 2008, MSEDCL has compelled several Non-DDF consumers to avail DDF facility and bear the infrastructural expenses. Such infrastructural expenses forced on the consumers during the aforesaid period (i.e 8th September, 2006 to 20th May 2008) require to be refunded to respective consumers as per provisions of Circular dated 20th May 2008.
- v. Amount of Meter Cost collected by MSEDCL which is not as per Schedule of Charges Order dated 8th September 2006 is yet not refunded by MSEDCL. Such cost requires to be refunded along with interest at the rate at which MSEDCL is charging on default payment.

4. The Commission vide its Notice dated 5th November 2008, fixed the hearing in the matter on 17th December 2008 and directed the Petitioner to serve a copy of its Petition to MSEDCL (Respondent) and the four authorized consumer representatives. Further, the Commission vide its Notice dated 15th December, 2008 postponed the hearing scheduled on 17th December 2008 to 6th January 2009 at the request of the MSEDCL vide their letter dated 11th December 2008 on account of the ongoing Session of Maharashtra Legislature commenced from 15th December 2008.

5. During the hearing held on 6th January 2009, as MSEDCL had not filed any reply to the Petition, MSEDCL was directed to file the same within seven days on the aspect of the admissibility of the Petition and also to serve a copy of the same upon the Petitioner.

6. MSEDCL vide letter dated 29th January 2009 filed its reply. MSEDCL in its reply submitted as follows:



- a. MSEDCL is entitled and is therefore collecting Security Deposit from its consumers as per the Section 47 (1) of EA, 2003 and Regulation 11.2 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations 2005. MSEDCL is also entitled to levy Additional Security Deposit and is therefore collecting the same as per Regulation 11.4 and Regulation 11.6 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations 2005.
- b. Accordingly, MSEDCL issued the bills for additional security deposit separately in the billing cycle for the month of May, June and July 2008 to all the consumers under Latur Circle and 30 days period was given for payment of the same. Unpaid amount of additional security deposit was added as arrears in next month energy bill. MSEDCL is calculating and crediting the interest on security deposit paid by the consumers in its account regularly. Therefore, all the additional security bills are issued as per the provisions of EA, 2003 and the provision of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations 2005.
- c. It was further submitted that, Chief Engineer, Latur has publicly appealed through local News papers that those consumers who had paid security deposit, but their monthly energy bill shows zero Security Deposit, they should contact the concerned billing Officer and get the entry of security deposit done as per their receipt record.
- d. The main reason for reflecting Zero security deposit error on energy bill was that during the process of data feeding of the billing system in 1997-98, there were some parameters such as date of release of electricity connections, security deposit, load etc that were not inputted or wrongly inputted. This error has come to notice of MSEDCL while issuing bills for additional security deposit during the month of May, June and July 2008 and accordingly, Superintending Engineer, Latur has instructed the Officers under his jurisdiction to sort out this issue by taking efforts on war footing and find the missing entries of consumer displaying zero Security Deposit.
- e. The matter of ORC / SLC is sub-judice before the Hon. Supreme Court and due to overlapping nature of ORC and SLC, the Commission in its Order



dated 16th February 2008 (Case No 56 of 2007) declined to order refund as stipulated in its Order dated 17th May 2007.

7. Further hearing in the matter was held on 19th March 2009. During the hearing the Petitioner submitted that even though he had mentioned in its Petition few cases of zero security deposit from Districts under Latur Zone it needs to be treated as illustrative only and similar cases must be existing throughout the State. As zero security deposit is printed on the energy bills, the consumers are not getting any interest on the same. Regarding Infrastructural expenditure the Petitioner submitted that, MSEDCL's Circular dated 20th May 2008 has a provision of refunding infrastructural expenditure incurred by prospective non-DDF consumer through adjustment in energy bill. But there are the consumers who had incurred the expenditure before applicability of this Circular. Refund of Infrastructural expenditure need to be given to these consumers also.

8. During the hearing MSEDCL submitted that, they are collecting security deposit and additional security deposit as per the provisions of EA, 2003 and MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005. Error of printing zero security deposit on energy bill in Latur Zone is due to incomplete or wrong data feeding during the process of computerising the billing system in the Year 1997-98. But as soon as error is detected MSEDCL is taking corrective actions on the war footing. As far as collecting of other charges, MSEDCL is levying the charges as approved in Schedule of Charges Order dated 8th September 2006.

9. After hearing the Petitioner and MSEDCL, the Commission observed that in interest of the large numbers of consumers of MSEDCL following are the main issues involved in the present Petition which need to be addressed:

a) Security Deposit :

- i) Identifying total number of consumers in the State (MSEDCL Area) in whose case the security deposit has been shown as zero in the electricity bills and rectifying the bills showing the correct amount of security deposit in the bills.



- ii) Working out amount of interest on security deposit as per the prevailing rules from time to time and crediting the same in the bills of the above consumers.
- b) Schedule of Charges:
- i) To verify whether charges other than those approved by the Commission vide Order dated 8th September 2006, have been collected from any consumer between the period from 9th September, 2006 to 20th May, 2008 and make arrangement for refund of the amount wrongly collected.

MSEDCL was directed to submit detailed time bound Action Plan on the above issues covering entire area of supply of MSEDCL and serve the copy of the same to the Petitioner for examination.

10. Accordingly, MSEDCL vide its letter dated 29th April 2009 submitted above mentioned Action Plan. MSEDCL in its Action Plan submitted as follows:

PART A: Security Deposit:

- i) Additional security deposit for FY 2009-10 shall not be demanded from all such consumers, in whose case zero security deposit appears on energy bill for the billing month of March 2009.
- ii) IT Department will generate Billing Unit wise and Consumer Category wise list of consumers having zero security deposit by 30 May 2009.
- iii) The concerned Billing Unit In-Charge will verify the records available – 31st August 2009.
- iv) Wherever the information is available, the data regarding security deposit of such consumers shall be updated and it will be ensured that the correct amount of security deposit reflects in the energy bill of the concerned consumer – 31st October 2009.



- v) Thereafter, an Appeal by way of printing a message on the energy bill shall be made to consumers to produce money receipt or any other documentary evidence in respect of security deposit paid – Energy bills for the billing month of December 2009, January 2010 and February 2010.
- vi) It is expected that most of the consumers who have actually paid the security deposit will respond to the Appeal and will produce money receipt or any other documentary evidence in respect of security deposit paid. In such cases, after due verification, data regarding security deposit of such consumers shall be updated and correct amount of security deposit of such consumers will be shown in the energy bill for the billing month of March 2010. Whenever necessary, additional security deposit shall be claimed from such consumers in FY 2010-11.
- vii) In respect of balance consumers, who would not respond to the Appeal and would not produce money receipt or any other documentary evidence in respect of security deposit paid, it will be presumed that, these consumers have not paid any security deposit and appropriate security deposit shall be demanded from such consumers in the billing month of April 2010/May 2010.

PART B: Schedule of Charges:

It is submitted that, once again instructions are issued to the field Officers to ensure recovery of charges strictly as per the Schedule of Charges Order dated 8th September 2006. There would be rare cases where the field Officers might have recovered the charges in violation of the said schedule of charges. However, the instruction shall be once again given (on or before 30th June 2009) to all the field officers to ensure that the charges for new service connection/enhancement of connected load/contract demand shall strictly be recovered in accordance with the “Schedule of Charges” and specific relevant provisions of Supply Code Regulations.



Further, it is submitted that, Schedule of Charges Order dated 8th September 2006 has been contested by MSEDCL and matter is *sub-judice* before the Hon. Supreme Court. In the same matter, Hon Supreme Court has stayed the refund of any excess amount that would have been recovered by MSEDCL from consumers in violation of Schedule of Charges. As far as guidelines issued vide Circular dated 20th May 2008 is concerned, these guidelines are prospective in nature and cannot be enforced retrospectively. In view of this, refund of any excess amount recovered in violation of the schedule of charges would not be possible till the matter pending before the Hon'ble Supreme Court is finally disposed off.

11. Further hearing in the matter was held on 13th May 2009. Shri. Harshad Seth appeared on behalf of the Petitioner and Shri. Ravi Prakash, Advocate along with Shri. M. K. Deore, Executive Director appeared on behalf of MSEDCL. During the hearing the Petitioner submitted that, he had not received the copy the Action Plan submitted by the MSEDCL. Therefore, MSEDCL was directed to serve the copy of Action Plan upon the Petitioner and also brief the Petitioner about the same.

12. The Petitioner has objected to the baseline of March 2009 considered by MSEDCL to detect zero security deposit cases and submitted that MSEDCL has issued additional security deposit bills to its consumers during the period of May 2008. Therefore considering March 2009 as a baseline will not unveil true status and hence the Petitioner requested to consider March 2008 as a baseline instead of March 2009.

13. MSEDCL submitted that they have already begun the working on Action Plan by considering baseline as March 2009. Revising baseline to March 2008 will require additional time to achieve target set out in the Action Plan, on which MSEDCL was directed by the Commission to first generate billing unit wise and consumer category wise list of consumers having zero security deposit as on March 31st March 2008 in addition to the list to be generated as on 31st March 2009 as per their original Action Plan. Based on the review, the amounts already paid by consumers towards Security Deposit be credited and to be shown in the energy bill issued for the subsequent month.

14. The Petitioner further submitted that, MSEDCL has recovered charges from its consumers which are not as per Schedule of Charges Order dated 8th September 2006



during the period of 9th September 2006 to 20th May 2008. MSEDCL submitted that, they are levying the charges strictly as per the Schedule of Charges Order. The Commission asked MSEDCL to issue Circular to its field Officers to recover charges strictly as per Schedule of Charges Order and MSEDCL was directed as under;

- a) MSEDCL to list out the consumers (and amounts) from whom they have recovered such charges other than Energy charges, Delayed Payment Charges (DPC) & interest and the same be credited as Security Deposit.
- b) To review each case of new connection to see whether charges other than those approved by the Commission vide its Order dated 8.9.2006, have been collected from the consumers between the period 9th September 2006 to 20th May, 2008.
- c) To issue a circular reiterating and directing the field offices to recover the charges from the consumers as per the Schedule of Charges only approved by the Commission vide its Order dated 08.09.2006. In case of default, action may be taken to demonstrate seriousness of the management.
- d) To submit a detailed report on milestones proposed in its Action Plan within 15 days of each milestone proposed by them and serve a copy of the same to the Petitioner.

15. MSEDCL vide its letter dated 30th December 2009 submitted status of implementation of Action Plan as follows:

- i. As on 31st May 2009, 'Zero Security Deposit' was appearing on the energy bills of 14,93,110 numbers of consumers, out of which records of 7,70,786 have been verified and appropriate data has been fed to the system for updating the security deposit of these consumers.
- ii. Out of balance consumers, 64,949 numbers are either employee of the MSEDCL who are exempted from payment of security deposit or the connections are in the name of State Government. As such, as on end of November 2009, there were 6,57,375 numbers of consumers having zero security deposit.
- iii. As per 5th milestone of Action Plan, MSEDCL will print the message on the energy bills of these 6,57,375 consumers in the billing month of December 2009



/ January 2010, February 2010 and March 2010 appealing them to contact concern billing unit for updating their security deposit details.

16. Further hearing in the matter was held on 1st January 2010. During the hearing MSEDCL has explained the implementation status of Action Plan submitted as above. The Petitioner has objected that, MSEDCL has not worked out the list of consumers having zero security deposit as on March 2008 as directed by the Commission during the last hearing. Therefore, the Commission directed MSEDCL to prepare a list of consumers having zero security deposit as on 31st March 2008 and informed LT Industrial consumers through electricity bills before 31.3.2010 to approach MSEDCL for adjusting of any charges levied other than the Schedule of Charges approved by the Commission. It was also directed to conduct sample check of new connections released during the period of 9th September 2006 to 20th May 2008 to verify that only approved schedule of charges are levied on the consumers.

17. MSEDCL vide its letters dated 4th May 2010 and 29th June 2010 submitted the compliance of above directives as follows:

- i. There were 32,49,807 number of consumers as on 31st March 2008 having zero security deposit printed on their energy bills which has reduced to 2,59,679 as on 28th February 2010.
- ii. MSEDCL has modified the Billing Software for printing the message 'Contact MSEDCL for adjustment of any charges levied other than approved by MERC' on the bills of LT industrial consumers, from the month of February 2010.
- iii. During the period of 8th September 2006 to 20th May 2008, MSEDCL has released 18, 50,416 connections. On verifying 30 to 35 % of these connection as a sample checking as per directives of the Commission, it is observed that in 10,740 cases the charges other than the approved Schedule of Charges has been recovered.

18. Further hearing in the matter was held on 24th August 2010. During the hearing MSEDCL submitted that as on June 2010 end, the number of consumers having zero security deposit has been reduced to 1.65 Lakh.

19. Having heard the Parties and after considering the material placed on record, the Commission is of the view as under:



- i. The issue of zero security deposit printed on the energy bills raised by the Petitioner based on initial information of consumers under few Districts of Latur Zone is just illustrative in nature and the Commission was *prima facie* satisfied that this issue is equally important for rest of the supply area of MSEDCL. Therefore, the Commission has admitted the Petition and issued several directions as mentioned above during the proceedings of the Case.
- ii. In response to the Commission's directives, MSEDCL has taken steps to bring down numbers of consumers having zero security deposit printed on their electricity bills from 32.50 Lakh in March 2008 to 1.65 Lakh in June 2010. The Commission hereby appreciates the efforts taken by MSEDCL and directs that MSEDCL should take efforts to correct error regarding zero security deposit of remaining 1.65 Lakh consumers within six months time.
- iii. Regarding, 10,740 number of cases where MSEDCL has recovered charges other than approved Schedule of Charges; the Commission is of the view that these are only indicative cases found out on the sample checking basis. MSEDCL either has to scrutinise details of all the consumers released during the period of 9th September 2006 to 20th May 2008 for charges levied other than approved Schedule of Charges or publicly appeal either through news papers or electricity bills, asking the consumers to contact MSEDCL if such charges are levied on them during above period. Thereafter, MSEDCL should adjust the extra charges collected by MSEDCL in the energy bills of the respective consumers. If any consumer has any grievance regarding excess charges levied by MSEDCL and its refund, they may file the same before the concerned Consumer Grievance and Redressal Forum established by MSEDCL under the provisions of Section 42(5) of the EA 2003 read with the "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006". This directive of refund of excesses recovered charges will not be applicable to the charges of which refund is stayed by Hon. Supreme Court in Civil Appeal No. 20340 of 2007.



20. In view of the above directions, the Commission is not inclined to invoke the provisions of Section 142 or Section 146 on the Respondent.

With the above directions, Case No 93 of 2008 stands disposed of.

(V. L. Sonavane)
Member

(S. B. Kulkarni)
Member

(V. P. Raja)
Chairman



(K. N. Khawarey)
Secretary, MERC