

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 26 of 2002

In the matter of
Recovery of Meter cost by MSEB.

Dr. Pramod Deo, Chairman
Shri A. Velayutham, Member

ORDER

Dated: 28th June, 2005

Under letter dated 7th February, 2005, the Commission had forwarded to the Chairman, Maharashtra State Electricity Board (MSEB) (whose distribution function has recently been vested in the Maharashtra Distribution Company-MSDC) a copy of letter from Shri Satish Umakant Mahashabde and others from Bhusaval complaining inter-alia about recovery of new meter cost apparently following a meter replacement programme. It appeared that in several such cases of replacement within a short period, the cost of the original meter may already have been recovered earlier. The Commission stated in its letter that it had, in its various Tariff Orders, set out the limited circumstances in which MSEB could recover meter cost more than once from a consumer. The Commission noted that, subsequent to its second Tariff Order dated 10th January, 2002, MSEB had issued a Commercial Circular No. 668 dated 30th July, 2002 in this connection.

2. While pointing out that the Commission had been receiving many complaints of a similar nature, which were forwarded to MSEB for appropriate action, the Commission also referred to its Orders dated 27th June (in Case No. 26 of 2002) and 9th July, 2004 (in Case No. 19 of 2003).

The Commission concluded that:

"it is observed from the Bhusaval and other complaints that, inspite of the Commission's repeated Orders, and also MSEB's own instructions, the dispensation regarding recovery of meter cost upon replacement is not being followed by field officials. A review of the position may kindly be undertaken at a senior level, and the corrective action taken reported to the Commission by 8th March, 2005, and the Bhusaval representation also dealt with accordingly."

3. In the absence of any response from MSEB, the Commission took up the matter of compliance suo moto, and fixed a hearing on 11th May, 2005. In their delayed response dated 6th May, 2005, MSEB submitted that, after the relevant tariff Order was passed, they had issued Departmental Circular (Comm.) No. 668 dated 30th July, 2002 reflecting the Commission's decisions, including with regard to recovery of meter cost. The Commission's directives in Case No. 26 of 2002 were also covered in instructions to field officers. Necessary action has also been taken as per the directives of the Commission in Case No. 19 of 2003 referred to in the Commission's letter. MSEB have concluded by saying that:



"Specific directions have already been circulated and every effort is made to ensure compliance of MERC directives. It is humbly submitted that if there are any non-compliance in Bhusawal or any other place, the consumer representative or consumer himself may please be requested to bring such cases to our notice. Immediate necessary action as per rules will be taken... if any corrective action is required, the same will be taken immediately when brought to our notice."

At the hearing, a Reply dated 10th May, 2005 from the Superintending Engineer, MSEB Jalgaon was also circulated, which addresses Shri Mahashabde's representation but gives no details which would show that the assertion that meter cost has been recovered only once is correct.

4. At the hearing on 11th May, 2005, the Commission also pointed out that directions had been given to MSEB vide letter dated 7th February 2005 to conduct a review of the position with respect to recovery of meter cost upon replacement by field officials, and the corrective action taken. MSEB were directed to submit a report by 8th March 2005, but did not do so. The Commission observed that MSEB ought to take regular reviews of the practices followed by their field staff to ensure correct compliance by them. A Press Note is necessary stating the correct position so that consumers become aware of their rights.

5. Dr. Ashok Pendse of Mumbai Grahak Panchayat referred to the Case of Lt. Cdr. (Retd.) Hakim Singh regarding recovery of excess meter cost wherein the Commission, in its Order dated 9th July 2004, had held that the consumer should be refunded the full amount paid by him to MSEB on account of replacement of the meter, with interest. He pointed out that the problem generally arose in cases where MSDC have changed meters as part of a mass replacement programme in a particular Zone or Circle, in which event many of those who had already paid once are charged again. The Commission observed that it was a matter of enforcing discipline by MSEB amongst their officials. MSDC have to ensure that the Commission's directives are communicated upto the field level, and that responsibility is fixed at each level so that action be taken against those responsible for the default.

6. Shri Ashwin Treasurer, Jt. Chairman, MSSIA, submitted that the accountability and responsibility for creating consumer awareness of mandated procedures must rest with the Licensees themselves rather than the Commission. He pointed out that, although the Supply Code Regulations specify that consumer rights should be explained by them, none of them have done so.

7. Shri. Ramesh Pawar, Chairman, Energy Committee, MCCIA pointed out that the cost of the ToD meter available in the market was around Rs. 3,000/- to Rs. 4,000/-, whereas MSEB have been charging Rs. 11,000/- for the same meter, which is abnormally high. This had been pointed out to Chairman, MSEB and others during his visit to Nashik, but no correction had been made. Shri. Pawar pointed out that, in the Ambad MIDC area which has 1200 LT industry connections, 90% of the meters have been replaced at a cost of Rs. 11,000/- each. He referred to MSEB's Circular No. 646 wherein the meter cost is given. He sought clarification as to whether the ToD meters installed by MSEB were HT or LT meters. As per MSEB's Circular, the cost of a Single-phase meter is Rs. 1,000/-, the cost of a three-phase meter is Rs. 2,250/- and that of HT meter is Rs. 11,000/-. Shri Pawar further submitted that, in a particular case, MSEB installed a meter and charged Rs. 11,000/- for a LT connection, which was actually the cost for a HT meter. Shri Treasurer opined that charging for the meter by MSEB in such cases was itself illegal. Dr. Pendse submitted that under the Supply Code, MSEB have to submit their Circulars and Schedule of Charges by 20th May 2005 to the Commission for approval. If they fail to do so, all their previous Circulars will become null and void. To this, the representative of MSEB submitted that they are in process of submitting the proposed Schedule of Charges for approval.



8. Dr. Pendse submitted that if the replaced meter is new, the cost of the new meter needed to be looked into. He suggested that it would be necessary to first segregate the period into two parts, viz., prior to 20th January 2005, i.e. prior to the Supply Code, and the period thereafter. The Commission observed that there cannot be any change in the meter charges retrospectively. The issue of the cost of the meter has to be treated separately. The process of determining the Schedule of Charges, of which meter cost is one component, would be taken up shortly.

9. The Commission notes that the Supply Code makes a distinction between Schedule of Charges (Regulation 18) and the Terms and Conditions of Supply (Regulation 19). As far as the Schedule of Charges is concerned, after granting extension of time, proposals have been received which are being examined. The existing Schedules of Charges of the Licensees remain in force until such time as the proposals made are approved by the Commission, according to Regulation 18.4.

The Terms of Conditions of Supply contained in various Circulars/ Orders, etc., of the Licensees (as distinct from charges covered under Regulation 18), become automatically invalid to the extent that they are inconsistent with the Supply Code (and for which remedy is available under the Consumer Grievance Redressal Regulations). However, in any case the Licensees have to modify or update their circulars explicitly to bring them in line with the Supply Code and the Act by 19th May, 2005. The fact that this has not been done so far does not make any inconsistent provision valid. Based on a letter from the Commission, even prior to the notification of the Supply Code, MSEB had started a review of their circulars. Under letter dated 17th May, 2005, MSEB had stated that 735 Commercial Circulars and 415 General Circulars have been issued in the past, and considering the volume of work had sought an extension of the period for submission of the updated / modified circulars by a month, upto 19th June, 2005. They have now been submitted.

10. In view of some apparent ambiguity and lack of compliance by MSEB officials with regard to the circumstances in which meter cost can be recovered from consumers, it will be useful to set out the various directions given by the Commission from time to time. In its first tariff Order dated 5th May, 2000 (Case No. 1 of 1999), the Commission had stated that:

"While there is some merit in support of the arguments advanced in respect of meter rental charges, the Commission wishes to support the recommendations in the Rajadhyaksha Committee Report which states that, in view of the considerable investments required to be incurred by the MSEB in installing meters, especially to agricultural consumers, it would be necessary to charge the cost of the meters from all except for those holding less than 1 hectare land for whom the Rajadhyaksha Committee has recommended that 50% of the cost of the meter may be recovered. Further, the Commission has abolished the meter rent."

In its second tariff Order dated 10th January, 2002 (Case No. 1 of 2001), the Commission elaborated on the dispensation, stating that:

"the meter rent has been abolished by the Commission in the previous tariff Order. The cost of the metering equipment shall be recovered from all the prospective consumers (except those agricultural consumers having land holding less than 1 hectare, in which case, only 50% of the cost of meter shall be recovered). In case of existing consumers, the cost of metering equipment shall be recovered at the time when the existing meter is replaced, but only once in the lifetime of the consumer, except in the case of burnt meters. The recovery of cost of meters from existing consumers will be made in the next billing cycle after replacing the defective meters. The MSEB should file the rates of meter cost being recovered, for the information of the Commission."



Thereafter, in its Order dated 27th June, 2002 (Case No. 26 of 2002), relating inter-alia to mass replacement of meters in Bhandup Zone, the Commission directed that, when the old meters are replaced with new meters, the cost of the meter shall not be collected from the consumers. Where they had been collected in the circumstances of that case, the amount was to be refunded with interest.

Shortly thereafter, MSEB issued Circular No. 668 dated 30th July, 2002. Para 17 of the circular states as follows:

"The meter rent has been abolished and the cost of the meter is to be recovered from all the prospective consumer (except those agricultural consumers having land holding less than 1 hectare, in which case, only 50% of the cost of the meter shall be recovered). In case of existing consumers, the cost of metering equipment shall be recovered at the time when the existing meter is replaced, but only once during the lifetime of the consumer, except in case of burnt meters. The recovery of cost of meters will be made in next billing cycle after replacing the defective meters."

In Case No. 19 of 2003 in the matter of Lt. Cdr. (Retd.) Hakim Singh, the Commission stated in its Order dated 9th July, 2004 that:

"Nothing has been placed before the Commission to show that any notice was given to the consumer for replacement of the meter giving him an option to do so himself or to opt for MSEB providing it, nor that any material was furnished to him to show that it was defective or why it required replacement In view of the above, the Commission finds that MSEB were not entitled to recover the cost of the replaced meter, apparently amounting to Rs 2250/- from the consumer in March, 2001, inasmuch as the consumer had already paid for the meter once earlier, albeit not to MSEB since it was his own meter as is permissible under law."

11. From the above chronology and account, the position should be clear, viz. that, with effect from 10th January, 2002 (the 2nd tariff Order) and upto 19th January, 2005 (i.e. upto the date of the Supply Code), meter cost can be recovered from the consumer upon replacement,

- (a) Only once during his continuance as a consumer, except in cases of burnt or lost meters (the earlier payment of meter rent is not to be treated as the cost having been paid).
- (b) Subject to the above, in the case of agricultural consumers with land holding less than 1 hectare, only 50% of such cost may be recovered (applicable from 5th May, 2000 to 19th January, 2005)
- (c) In line with the Commission's ruling in Order dated 9th July, 2004, where the consumer had earlier elected to purchase his own meter, as he is entitled to do under law, the cost of any replacement required by MSEB cannot be recovered from him (except for lost/burnt meters).

12. Effective from 20th January, 2005, the Supply Code Regulations provide (Regulation 14.2.4) that:

"Except in case of burnt meter or a lost meter, the Distribution Licensee shall not be authorised to recover the price of the meter more than once during the continuance of supply to the consumer."

Thus read with MERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003, from 20th January, 2005 an unambiguous and clear dispensation has been laid down which is enforceable through the mechanism of the Redressal Forums & Ombudsman. For the period prior to the date of notification of the Supply Code on 20th January, 2005 and



considering the facts brought out and submissions made during these proceedings, the Commission directs MSDC as follows:

- (i) The position spelt out at para 11 above should be clarified to all concerned field officials.
- (ii) All claims made for recovery of meter cost in circumstances other than those set out at para 11 above should be withdrawn, and any amount collected should be refunded with interest to the concerned consumer with interest as applicable to delayed payments to MSDC by such consumers, by adjustment in energy bills or other means, by 30th September, 2005.
- (iii) While the Commission cannot ascribe to itself the management and executive functions of MSDC, persistent non-compliance or lack of uniformity of implementation of its directives, particularly where they relate to a large number of consumers, require specific review at field levels as well as by the H.O. of MSDC. In the case of meter cost recovery and several other matters, there have been persistent complaints which show that detailed review of such compliances is not effectively taken. The Commission leaves it to the Managing Director, MSDC to devise the manner in which he intends to regularly monitor the position.
- (iv) A bilingual draft Press Note on the matter of meter cost recovery may be submitted by MSDC for the Commission's approval within 15 days.

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr Pramod Deo)
Chairman



(A.M. Khan)
Secretary, MERC