

**OFFICE OF
THE ELECTRICITY OMBUDSMAN
ASSAM ELECTRICITY REGULATORY COMMISSION**

FILE NO. EOM. 10/2010

Petition No. 1/2010

Name of Petitioner : Jayant Jash, General Manager (Finance & Commercial)
McLeod Russel India Limited
P.O. Margherita, District – Tinsukia
Assam - 786181

ORDER SHEET

13.10.2010

Sri Jayant Jash, General Manager (Finance & Commercial) of McLeod Russel India Limited, filed an Appeal Petition dated 20.07.2010 before the Electricity Ombudsman which was received on 29.07.2010.

Main contention of the Appellant Petitioner, hereinafter called "the Petitioner", is that the Chief Engineer (Distribution & Managing Director), UAEDCL vide letter No. CE(D)/UAEDCL/T-9/EA/Pt-I/07/95 dated 23.12.2008, issued instruction to all the Area Managers of IRCA (UAEDCL) to revise bills for all consumers who are drawing power at 11 KV having contracted demand of more than 1200 KVA if not already done by levying 3% metering charges for drawing power at under voltage than whatever is specified in the clause 2.2 of the "Assam Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2004 (First Amendment) 2007". The Petitioner further stated that some of the field officers levied 3% surcharge all on a sudden to the tea estates of McLeod Russel India Ltd., in the bills of electricity incorporating extra charges toward levy of 3% metering charges. On receipt of the bills of the electricity consumption, the petitioner made an Appeal before the concerned authorities of Consumer Grievance Redressal Forum (CGRF), UAEDCL vide petition dated 01.10.2009, on the subject - wrong billing at 3% extra Metering Charges against demand of 1200 KVA for Tea Estates of McLeod Russel India Ltd., with a request for cancelling the order of the MD, UAEDCL dated 23.12.2008 (mentioned above) for imposing and collecting 3% extra billing of the actual units consumed by the above Tea Estates.

The CGRF vide letter No. CGRF/APDCL/2010/02 dated 01.04.2010 issued a letter to the Dy General Manager, GEC-1/Mongoldoi Elect. Circle/Kokrajhar Elect. Circle; Area Manager, IRCA, Dibrugarh/MTI, Mongoldoi sending a copy of abstract of Minutes of Agenda No. 1 dated 25.03.2010. A copy of this letter was also sent to M/s. McLeod Russel India Ltd., Margherita T.E., Margherita.

Minutes of Agenda No. 1 is reproduced below:

"Agenda: 1 Extra billing charges of 3% complaint lodged by the G.M., McLeod Russel India Ltd., Margherita Tea Estate dated 01-10-2009 (IRCA Dibrugarh)

Resolution: The Forum has discussed the agenda in detail and observed that consumer having connected load 1200 KVA, as per the supply code Regulation of AERC for drawing power at lower voltage necessary compensatory charge to compensate transmission and transformation losses shall have to be borne by the consumer. In the instant case, it is noted that the consumer is drawing power at 11 KV instead of 33 KV (as stipulated in the Regulation) and licensee has

charged 3% additional charge to compensate the losses. As such, the action of the licensee cannot be faulted with."

The Petitioner also stated in his appeal petition that due to delay in getting reply from CGRF, he also filed an appeal before the Chairman, ASEB vide petition dated 09.09.2009 on the subject - wrong billing of 3% extra metering charges against demand of 1200 KVA for Tea Estates of McLeod Russel India Ltd. The General Manager (Com-Rev), ASEB issued a letter to the General Manager (F&C), Margherita T.E., McLeod Russel India Ltd. vide letter No. CGM(O)/UAZ/JOR/T-01(A)/Part/5 dated 25/11/09 informed the Petitioner that "consumers having connected load 1200 KVA and above are required to draw power at 33 KV voltage. The consumers availing power at 11 KV instead of 33 KV shall have to compensate for the transformation loss which is around 4 to 5%. As such the levy of 3% extra charge on energy consumption is in order". The petitioner was also asked to go for 33 KV system to avoid paying the 3% extra charges vide this letter.

The Petitioner further stated that they are paying the electricity bills with 3% metering surcharge under duress.

Being aggrieved by the decision of CGRF, the petitioner filed this appeal before the Electricity Ombudsman.

Although 30(thirty) days have elapsed from the date of decision of the CGRF which was communicated to the petitioner M/s. McLeod Russel India Ltd., Margherita vide memo no. "nil" dated 01.04.2010, I admitted the appeal under clause 5(1) and 6(4) of the AERC "Guidelines for Redressal of Consumer Grievance" on the point of the grievance of the Petitioner in the matter of 3% extra metering charge levied by the electricity Supplier in the electricity bills of the Tea Estates of McLeod Russel India Ltd. (who are drawing power at 11 KV having contracted demand of more than 1200 KVA in terms of the letter no. CE(D)/UAEDCL/T-9/EA/Pt-I/07/95 dated 23.12.2008) is concerned. The reason for admitting the appeal is that the complaint appears to be general in nature relating to a group of consumers who are drawing power at 11 KV having Contracted Demand of more than 1200 KVA and in terms of the letter of the Chief Engineer (Distribution & Managing Director), UAEDCL dated 23.12.2008, the Distribution Licensee have levied 3% metering charges in the electricity bills of this group of consumers to compensate for transmission and Distribution loss for drawing power at under voltage. Now it is to be decided whether the action of the electricity supplier in levying 3% metering surcharge in the electricity bills of Tea Estates of McLeod Russel India Ltd. is as per "Assam Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2004 (First Amendment) 2007" and whether it is in conformity with the Tariff order of the Assam Electricity Regulatory Commission.

The Petitioner prayed before the Electricity Ombudsman for the following relief:

- a) The Impugned Order of the Chief Engineer (D) and (MD) vide no. CE(D)/UAEDCL/T-9/EA/Pt-I/07/95 dated 23.12.2008 be quashed and / or set aside and the Respondent Distributing Companies be directed to refund the amount already collected in terms of the Impugned Order within such period as being determined by Hon'ble Ombudsman.
- b) Appeal be allowed with costs.
- c) Any other relief which the Hon'ble Ombudsman may deem fit be also granted.

The Petitioner also prayed for an interim order directing APDCL not to levy the additional charges till the settlement of the case. Parawise comments were called for from the following Respondents as named by the Petitioner:

1. Assam State Electricity Board established under Electricity (Supply) Act, 1948, Bijulee Bhavan, Guwahati, Assam.
2. Assam Power Distribution Company Ltd., Licensee to look after the distribution function of the State of Assam under the Electricity Act, 2003, Bijulee Bhavan, Guwahati, Assam.
3. Lower Assam Electricity Distribution Company Ltd., Licensee to look after the distribution function in Lower Assam area, Bijulee Bhavan, Guwahati, Assam.
4. Central Assam Electricity Distribution Company Ltd., Licensee to look after the distribution function in Central Assam area, Bijulee Bhavan, Guwahati, Assam.
5. Upper Assam Electricity Distribution Company Ltd., Licensee to look after the distribution function in Upper Assam area, Bijulee Bhavan, Guwahati, Assam.
6. Chief Engineer (Com-Rev), Bijulee Bhavan, Guwahati, Assam
7. Chief Engineer (Distribution), Upper Assam, Bijulee Bhavan, Guwahati, Assam.

As the Govt. of Assam vide notification No. PEL.41/2006/199 dated 13.05.2009 merged the CAEDCL and UAEDCL with the LAEDCL under the Assam State Reform (Transfer and merger of Distribution Functions and undertakings) scheme, 2009, CAEDCL & UAEDCL Distribution Company merged with the LAEDCL thereby forming one distribution company for the state and subsequently, on dated 23rd October 2009, the name of the company LAEDCL is changed from LAEDCL to Assam Power Distribution Company Limited (APDCL), therefore notice to the Respondents mentioned at 3,4 & 5 were served to the following respectively:

The Chief Engineer, Lower Assam Zone, Assam Power Distribution Company Ltd., Bijulee Bhawan, Paltan Bazar, Guwahati - 781001.

The Chief Engineer, Central Assam Zone, Assam Power Distribution Company Ltd., Bijulee Bhawan, Paltan Bazar, Guwahati - 781001.

The Chief Engineer, Upper Assam Zone, Assam Power Distribution Company Ltd., Bijulee Bhawan, Paltan Bazar, Guwahati - 781001.

Altogether 3(Three) sittings were held on the dates i.e. 24.08.2010, 14.09.2010 and 29.09.2010.

On the first date of hearing Mr. K.P. Roy (Consultant), Mr. Srinivas Chakraborty (Manager-Commercial) and Mr. R. Ahmed (Sr. Electrical Engineer) of McLeod Russel India Limited appeared on behalf of the Petitioner Mr. Jayant Jash, General Manager (F&C), McLeod Russel India Ltd.

Mr. Binoy Mohan Saikia, Sr. Manager, O/o Chief General Manager (Commercial), APDCL and Shrimati Krishna Sarma, Dy Personal Manager, O/o Chief General Manger (Distribution), UAZ, APDCL appeared on behalf of the Respondents Chief General Manager (Distribution), UAZ, APDCL.

On the second date of hearing Mr. Srinivas Chakraborty (Manager-Commercial) and Mr. R. Ahmed (Sr. Electrical Engineer) of McLeod Russel India Limited appeared on behalf of the Petitioner Mr. Jayant Jash, General Manager (F&C), McLeod Russel India Ltd.

Mr. M.K. Adhikary, Dy General Manager, O/o Chief General Manager (Commercial), APDCL; Shrimati Krishna Sarma, Dy Personal Manager, O/o Chief General Manger (Distribution), UAZ, APDCL and T.N. Choudhury, Sr. Manager, O/o Chief General Manger (Distribution), CAZ, APDCL appeared on behalf of the Respondents Chief General Manger (Distribution), UAZ, APDCL and Chief General Manager (Distribution), CAZ, APDCL respectively. But Sri

Choudhury, Sr. Manager, O/o Chief General Manger (Distribution), UAZ, APDCL was present on the hearing without any authorizing letter.

On the third and final date of hearing Mr. Srinivas Chakraborty (Manager-Commercial) of McLeod Russel India Limited appeared on behalf of the Petitioner Mr. Jayant Jash, General Manager (F&C), McLeod Russel India Limited. Mr. Bhairab Kumar Borah (Deputy Manager, Accounts) of McLeod Russel India Limited was also present.

Mr. M.K. Adhikary Dy General Manager, O/o Chief General Manager (Commercial), APDCL; Shrimati Krishna Sarma, Dy Personal Manager, O/o Chief General Manger (Distribution), UAZ, APDCL; T.N. Choudhury, Sr. Manager, O/o Chief General Manger (Distribution), CAZ, APDCL and Mr. R. Kalita, DGM, O/o the CGM (D), LAZ, APDCL appeared on behalf of all the Respondents.

Examined some of the documents submitted by the Petitioner:

1. Electricity bills of the tea Estates namely ----

(a) Bogapani Tea Estate:

Electricity bills dated 09.06.2010 for the period 06.05.2010 to 07.06.2010 issued in the name of Consumer Manager, M/s. Bogapani, P.O.-Digboi showing connected load in KW 1106 and Contracted Demand in KW/KVA 846 s and 539 os. (Meter No.: 00620)

Time of Day	Units consumed	3% LT Metering Charge	Units Billed
Normal Hrs (E1)	37120	1114	38234
Peak Hrs (E2)	11340	340	11680
Night Hrs (E3)	24500	735	25235
TOTAL	72960	2189	75149

Thus it appears that actual units consumed was 72960 and billing was made against $(72960 + 2189) = 75149$ units.

(b) Koomsong Tea Estate:

(i) Electricity bills dated 10.06.2010 for the period 01.05.2010 to 01.06.2010 showing connected load in KW 1036 and Contracted Demand in KW/KVA 793 s and 412 os (Meter No.: 98275)

Time of Day	Units consumed	3% LT Metering Charge	Units Billed
Normal Hrs (E1)	29240	877	30117
Peak Hrs (E2)	9160	275	9435
Night Hrs (E3)	11960	359	12319
TOTAL	50360	1511	51871

Thus it appears that actual units consumed was 50360 and billing was made against $(50360 + 1511) = 51871$ units.

(ii) Electricity bills dated 09.07.2010 for the period from 01.06.2010 to 01.07.2010 showing connected load in KW 1036 and Contracted Demand in KW/KVA 793 s and 412 os (Meter No. : 98275)

Time of Day	Units consumed	3% LT Metering Charge	Units Billed
Normal Hrs (E1)	38720	1162	39882
Peak Hrs (E2)	9220	277	9497
Night Hrs (E3)	22280	668	22948
TOTAL	70220	2107	72327

Thus it appears that actual units consumed was 70220 and billing was made against $(70220 + 2107) = 72327$ units.

(c) Dirok Tea Estate:

- (i) Electricity bills dated 09.02.2009 for the period from 05.01.2009 to 02.02.2009 showing connected load in KW 1053 and Contracted Demand in KW/KVA 323 (Dec. to March) (Meter No.: ASE - 00580)

Time of Day	Units consumed	3% LT Metering Charge	Units Billed
Normal Hrs (E1)	8660	260	8920
Peak Hrs (E2)	7240	217	7457
Night Hrs (E3)	8200	246	8446
TOTAL	24100	723	24823

Thus it appears that actual units consumed was 24100 and billing was made against (24100 + 723) = 51871 units.

- (ii) Electricity bills dated 09.03.2009 for the period from 02.02.2009 to 03.03.2009 showing connected load in KW 1053 and Contracted Demand in KW/KVA 323 (Dec. to March) (Meter No.: ASE - 00580)

Time of Day	Units consumed	3% LT Metering Charge	Units Billed
Normal Hrs (E1)	8420	253	8673
Peak Hrs (E2)	7120	214	7334
Night Hrs (E3)	7500	225	7725
TOTAL	23040	692	23732

Thus it appears that actual units consumed was 23040 and billing was made against (23040 + 692) = 23732 units.

- (iii) Electricity bills dated 09.04.2009 for the period from 03.03.2009 to 04.04.2009 showing connected load in KW 1053 and Contracted Demand in KW/KVA 323 (Dec. to March) (Meter No.: ASE - 00580)

Time of Day	Units consumed	3% LT Metering Charge	Units Billed
Normal Hrs (E1)	10000	300	10300
Peak Hrs (E2)	8100	243	8343
Night Hrs (E3)	7740	232	7972
TOTAL	25840	775	26615

Thus it appears that actual units consumed was 25840 and billing was made against (25840 + 775) = 26615 units.

- (iv) Electricity bills dated 09.05.2009 for the period from 04.04.2009 to 02.05.2009 showing connected load in KW 1053 and Contracted Demand in KW/KVA 806 (Meter No.: ASE - 00580)

Time of Day	Units consumed	3% LT Metering Charge	Units Billed
Normal Hrs (E1)	21780	653	22433
Peak Hrs (E2)	7520	226	7746
Night Hrs (E3)	19400	582	19982
TOTAL	48700	1461	50161

Thus it appears that actual units consumed was 48700 and billing was made against (48700 + 1461) = 50161 units.

I examined these few bills to have a clear picture in the complaint.

It is seen that in these bills, the Distribution Licensee charged 3% LT metering on the units of energy consumed and bill was prepared on the sum total of actual units consumed plus 3% additional metering charge on the actual units consumed by these consumer tea estates. It is observed that 3% LT metering charge is not proper because the Respondents in the parawise comment submitted that the consumer tea estates are drawing power at 11 KVA and hence the levying 3% LT metering does not occur in these cases.

2. Documents relating to agreements for Demand Contract made with the ASEB of the above mentioned three Tea estates. Shrimati Krishna Sarma, Dy Personnel Manager, O/o Chief General Manger (Distribution), UAZ, APDCL stated during hearing on 14.09.2010 that these Contracted Demand Agreements are valid for the % contracted load of power supply agreement for billing purpose in respect of demand charge.
3. List of total 23 tea estates showing connected load. Connected load of the tea estates appears to be in order after comparing the same with the list submitted by the respondent along with parawise comment.

After perusing the parawise comments submitted by Shrimati Krishna Sarma, Dy Personal Manager, O/o Chief General Manger (Distribution), UAZ, APDCL dated 24.08.2010, on behalf of the CGM, UAZ/CAZ/LAZ, APDCL and letter No. CGM(D)/UAZ/APDCL/T-43/Pt-I/32 dated 13.09.2010 and after hearing the representatives of both the parties, Respondents were specifically asked to confirm:

1. Whether the Assam Electricity Regulatory Commission (AERC) in its prevailing Tariff Order have issued any instruction to the Licensees to levy 3% additional metering charge on the electricity consumed by the consumers who are drawing power at 11 KV having contracted demand of more than 1200 KVA and
2. Whether there is any instruction or approval from the AERC to the Licensees to prepare the electricity bill on the sum total of units consumed plus 3% additional metering charge on the units consumed by a consumer of above category i.e. the consumers who are drawing power at 11 KV having contracted demand more than 1200 KVA and
3. Whether the Licensees are empowered to levy 3% additional metering charge on the unit consumed by the consumers for drawing power at 11 KV having contracted demand of more than 1200 KVA and if so to mention the Rules & Regulations under the Electricity Act, 2003.

On (1) and (2) above, the Respondents namely Mr. M.K. Adhikary, Dy General Manager, O/o Chief General Manager (Commercial), APDCL; Shrimati Krishna Sarma, Dy Personal Manager, O/o Chief General Manger (Distribution), UAZ, APDCL; T.N. Choudhury, Sr. Manager, O/o Chief General Manger (Distribution), CAZ, APDCL and Mr. R. Kalita, DGM, O/o the CGM (D), LAZ, APDCL, present on the date of hearing on 29.09.2010 and stated in writing that there was no separate order or approval issued by the Assam Electricity Regulatory Commission in this regard.

On (3) above, vide letter no. CGM (D)/UAZ/APDCL/T-43/Pt-I/09/37 dated 27.09.2010, the CGM (D), UAZ, APDCL on behalf of all the Respondents submitted reason behind levy of additional charge for those consumers having contracted demand/ connected load above 1200 KVA and drawing power at 11 KV instead of 33 KV and mentioned in the Section(s) 45(3)(b), 45(4), 46 and 48(b) of the Electricity Act, 2003 in support of their action.

Let us now see what the section(s) say:

Section 45(3):

"The charges for electricity supplied by a distribution licensee may include---

(b) A rent or other charges in respect of any electric meter or electrical plant provided by the distribution licensee."

Section 45(4):

"Subject to the provisions of section 62, in fixing charges under this section a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons."

Section 46:

"Power to recover expenditure - The State Commission may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply."

Section 48:

"Additional terms of supply - A distribution licensee may require any person who requires a supply of electricity in pursuance of section 43 to accept -

(b) any terms restricting any liabilities of the distribution licensee for economic loss resulting from negligence of the person to whom the electricity is supplied."

Thus, it is seen that under these section(s), the Distribution Licensee are not empowered to levy 3% extra metering charge from the consumers who are drawing power at 11 KV having contracted demand of more than 1200KVA.

The Respondent also stated that "the AERC in its Tariff order dated 24.07.2009 for FY 2008-09 and 2009-10 was recognized cumulative losses for delivering away at different voltages of Tariff order as below:

Voltage	% Cumulative loss	Incremental	Remark
132 KV	3.76		Including loss of Associated transformer and lines
33 KV	11.31	7.65	
11 KV	19.71	8.40	
440 V & 230 V	32.84	13.13	

The above losses are inclusive of Transformer and associated lines. Although the Discom is suffering incremental loss of maximum 8.40% for supply depending on location of connection near the Sub Station and length of 11 KV feeder, it prefer to recover only 3% from the consumer which is minimum possible loss for the present scenario."

But this plea of the Distribution Licensee has no relevancy in this case because at page 266 of the Tariff order of AERC for FY 2008-09 & 2009-10, the above table showing cumulative loss to be cumulated at different voltage of supply relates and applicable to open access consumers who are likely to avail open access facilities including captive generation.

Over and above, the AERC in its prevailing Tariff order for FY 2008-09 and 2009-10 have already considered/allowed transmission loss of 5.82% and 5.50% for FY 2008-09 and 2009-10 respectively. Also the AERC in its Tariff order for 2008-09 and 2009-10 have already considered distribution loss for Tariff calculation for 2008-09 & 2009-10 as below:

Loss Percentage	2007-08 (normative)	2008-09 (Projected)	2009-10 (Projected)
LAEDCL	21.6%	21.5%	20%
CAEDCL	28.9%	27%	25.5%
UAEDCL	27.66%	25.5%	24%

Therefore, it appears that there is no justification of the Distribution Licensee to levy 3% surcharge in the electricity bills of the tea gardens of McLeod Russel India Ltd. citing distribution and transmission loss.

Let us now see the Tariff order of AERC for FY 2008-09 & 2009-10 about tariffs which are applicable to the HT Category VI-Tea, Coffee and Rubber: Seasonal - which is reproduced below :

"Applicability

This tariff is applicable for tea, coffee and rubber plantation/production by utilization of electrical power in factory, irrigation, lighting etc. in the Estate:

(a) Tariff

i) Seasonal Tariff (April to November)

	Energy Charge	Fixed Charge
For all consumption	Rs. 4.20/kWh	Rs. 230/KVA/month

TOD tariff applicable

T.O.D tariff for Tea, Coffee & Rubber

Description	Energy charge
Time	Rs/kWh
0600-1700 hrs (normal)	4.20
1700-2200 hrs (peak)	6.00
2200-0600 hrs (night)	3.95

Off- Season Tariff (December to March)

Off-Season energy charge for Tea, Coffee and Rubber is Rs. 4.20 / kWh.

Consumer under this category shall have the option to select any continuous maximum 4 (four) months period between September to March in lieu of normal off-season period of December to March. Such option must be exercised on or before 31st August of every year.

Off-Season fixed charge for Tea, Coffee & Rubber minimum 40% of contracted demand during season period.

No benefit of ToD tariffs can be availed by consumers if they opt for the off season tariff option during off-season period.

- For supply at voltages higher than as applicable to the consumers as per sec 2.2 of the AERC Electricity Supply Code and related matters, Regulation 2004 rebate @ 3% shall be applicable on energy consumption for each higher level of voltage.
- In case, metering is done on the L.T side of the distribution transformer, for a group of consumers receiving power, then for the purpose of billing additional energy consumption on account of transformer loss computed @ 3% on the consumer's Energy Charges shall be added."

The Distribution Licensee can levy tariff to the consumer tea estates as per above tariff order.

Time and again the Respondent have cited clause 2.2 of the AERC (Electricity Supply Code and Related Matters) Regulations, 2004 (First Amendment) 2007 under which by exercising discretionary power, the Distribution Licensee have levied 3% extra metering charge from the consumers drawing power at 11 KV having contracted demand of more than 1200 KVA, for Transmission & Distribution loss.

Now let us see what the clause 2.2 of the AERC (Electricity Supply Code and Related Matters) Regulations, 2004 (First Amendment) 2007, says:

Voltage of Supply to consumers:

The supply voltage for different contract demands shall normally be as follows:

Supply Voltage	Minimum Contract Demand	Maximum Contract Demand
230 Volts	—	4 KW
400 Volts	—	25 KVA or 20 KW
11 KV	Above 25 KVA or 20 Kilowatt	1200 KVA
33 KV	—	5000 KVA
132 KV/220KV	Above 5000 KVA	—

Provided that, depending on system availability or condition, the licensee, at its discretion, may supply a consumer at a voltage other than one specified above recording justification for such deviation. Particularly in case of Railways, the maximum and minimum limits of contract demand on the various voltage levels indicated in the above table may be relaxed by mutual agreement depending on the actual requirement and feasibility.

The Regulation 2.2 has not given any discretionary power to the Distribution Licensee to levy 3% extra metering charge in the electricity bills of the consumers who are drawing power at 11 KV having contracted demand of more than 1200KVA.

Under clause 5(2) of the AERC "Guidelines for Redressal of Consumer Grievance", complainant and Distribution Licensee were given opportunity of being heard. Since the complaint could not be settled through conciliation, the Respondent was given opportunity to justify their action to which the Respondent cited (1) Sections 45(3)(b), 45(4), 46 and 48(b) of the Electricity Act, 2003 (2) clause 2.2 of the "Assam Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2004 (First Amendment) 2007" and (3) an explanation that as the AERC in its tariff order for FY 2008-09 and 2009-10 have allowed rebate @ 3% on energy consumption for each higher level of voltage for supply at voltages higher than as applicable to consumers as per clause 2.2 of the "Assam Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2004 (First Amendment) 2007", the same notional % loss is considered in this case to compensate the Discom for higher loss (Annexure C of letter No. CGM(D)/UAZ/APDCL/T-43/Pt-I/09/24 dated 27.09.2010.

As discussed in the previous para(s) on these points, the action of the Distribution Licensees to levy 3% extra metering charge in the electricity bills of tea estates of McLeod Russel India Ltd., in terms of the instruction issued vide letter no. CE(D)/UAEDCL/T-9/EA/Pt-I/07/95 dated 23.12.2008 appears to be neither as per the "Assam Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2004 (First Amendment) 2007" nor in conformity with the prevailing tariff order of AERC for FY 2008-09 & 2009-10. Further there is no separate order or approval of the AERC in this regard.

Therefore, in the interest of justice, the additional amount collected as 3% extra metering charge from the tea estates of McLeod Russel India Limited by the Distribution Licensee in terms of the letter No. CE(D)/UAEDCL/T-9/EA/Pt-I/07/95 dated 23.12.2008, are required to be refunded to the concerned tea estates of McLeod Russel India Ltd. as prayed for.

After hearing both the Petitioner and Respondent and after perusing all the documents submitted before the Electricity Ombudsman and after taking consideration of all aspects as discussed in details above, I have come to the conclusion that ---

1. The Distribution Licensees have no discretionary power under the Electricity Act, 2003 and the Regulations made there under to levy 3% extra metering charge in the electricity bills of consumer tea estates McLeod Russel who are drawing power at 11 KV having contracted demand of more than 1200 KVA.
2. The action of the Distribution Licensee as per terms/instruction of letter No. CE(D)/UAEDCL/T-9/EA/Pt-I/07/95 dated 23.12.2008 is neither as per the "Assam Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2004 (First Amendment) 2007" nor in conformity with the prevailing tariff order of AERC for FY 2008-09 & 2009-10 which came into effect from 1st August, 2009.
3. There is no separate order or approval of AERC in this regard to the Distribution Licensees to levy 3% extra metering charge from the consumers drawing power at 11 KV having contracted demand of more than 1200 KVA on account of energy loss.
4. The AERC have already considered the Transmission and Distribution loss in Tariff calculation in its Tariff order for FY 2008-09 and 2009-10. Therefore, the instruction contained in the letter No. CE(D)/UAEDCL/T-9/EA/Pt-I/07/95 dated 23.12.2008 to raise bills from the consumers drawing power at 11 KV having contracted demand of 1200 KVA by levying 3% extra charge appears to have amounted doubly burdening these consumers.
5. The plea of the Respondents Distribution Licensee that as the AERC in its Tariff order for FY 2008-2009 and 2009-10 have ordered "for supply at voltages higher than as applicable to the consumers as per sec 2.2 of the AERC Electricity Supply Code and related matters, Regulation 2004 rebate @ 3% shall be applicable on energy consumption for each higher level of voltage", therefore the same notional % loss is considered in this case to compensate the Discom for higher loss (Annexure C of letter No. CGM(D)/UAZ/APDCL/T-43/Pt-I/09/32 dated 13.09.2010) is not tenable under the Law.

Therefore, the Respondent Distribution Licensee now APDCL is directed to refund the additional amount wrongly collected from the consumer tea estates of McLeod Russel India Ltd. in terms of the instruction vide letter No. CE(D)/UAEDCL/T-9/EA/Pt-I/07/95 dated 23.12.2008 in the following manner (as prescribed in the AERC "Guidelines for Redressal of Consumer Grievance").

Let copy of this order be served to the Petitioner with direction to work out the additional amount collected by the Distribution Licensee as 3% metering surcharge against each bill for drawing power at 11 KV having contracted demand of 1200 KVA and take follow up action by placing the same before the Distribution Licensee for refund of the additional amount within a period of 1 (one) month from the date of receipt of this order under clause 8(4) of the AERC "Guidelines for Redressal of Consumer Grievance" under intimation to the Electricity Ombudsman.

Let copy of this order be served to all the Respondents/Distribution Licensee to comply with the order within 15(fifteen) days from the date of receipt of the acceptance letter from the Petitioner under clause 8(5) of the AERC "Guidelines for Redressal of Consumer Grievance" and report compliance to the Electricity Ombudsman within seven days from the date of compliance.

Let copy of this order be sent to the Chairman, ASEB, for favour of information and necessary action.

Let copy of this order be sent to the Secretary, Assam Electricity Regulatory Commission, for placing before the Commission.

Sd/-
(Neelima Dewri Dutta)
Electricity Ombudsman