

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM  
AURANGABAD ZONE, AURANGABAD.**

Caser No: CGRF/AZ/JLN/44/2007/13  
Date of filing: 15.05.07  
Date of Decision: 04.07.2007

**M/S Kaygaon Paper Mills Ltd.**

The consumer  
complainant.

Vs.

**Maharashtra State Electricity Distribution Co.Ltd.**

The Distribution  
Licensee.

Coram :

**Shri R.K. Pingle:**  
**Shri H.A.Kapadia:**

**Chairman**  
**Member**

Sub: Grievance under the Maharashtra Electricity Regulatory Commission,( Consumer Grievance Redressal Forum and Ombudsman ) Regulations 2006.

The consumer complainant M/S Kaygaon paper Mills Ltd. Gut No.184, Village Kaygaon, Tal. Gangapur, Dist.Aurangabad has filed its grievance in annexure "A" on 15.05.07 under Regulation No.6.10 of the Regulation 2006 through its Director Shri H.Y.Kunte. A copy of the grievance was forwarded on 16.5.07 to the Nodal Officer and Executive Engineer (Adm.) , in the office of the Superintending Engineer , M.S.E.D.C.L. Rural Circle, Aurangabad with a request to furnish his response within 15 days from the date of receipt of the letter and the hearing in the matter was fixed on 5.6.07 .

The grievance of the consumer, in brief, as per consumer is as stated below.

The contention of the consumer is that his is a continuous process industry and not connected on express feeder , however the same has been accorded the status of continuous process by the then MSEB vide its letter No. Co. Ord. Cell/ continuous/Kaygaon/26904 dt.14.6.2000 .

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The District Industries Centre has also recognized it as continuous process industry vide its letter dt. 2.8.99. However the consumer has been charged at the rate of Rs. 2=85/unit as against Rs. 2=15/ unit . The consumer received bills since Oct. 2006 onwards at the rate of Rs. 2=85/ unit.

The consumer requested the Supdt. Engineer for refund of excess amount collected from him .The Hon'ble MERC has clarified the position vide its order dt.7.2.07. The consumer has submitted various letters in this regard to the Distribution Licensee ( hereinafter referred to as D.L.) requesting refund of excess amount collected from him. But the D.L. did not consider his request and did not reply him by a single letter, even though he has written the D.L. by his letters dt.25.10.2006, 14.12.06, 15.01.07,29.01.07, 15.2.07, 16.3.07 & 17.4.07.

The consumer therefore requested the Forum to direct the D.L. to refund the excess energy charges collected from him alongwith interest at the rate of 18% P.a. with delayed payment charges equal to what D.L. recovers from his consumer when they make delayed payment. The consumer has thus demanded Rs. 27,98,359=00 inclusive of interest & DPC till actual date of payment.

On the date of hearing ,i.e. on 5.6.07, the consumer and his representative was present. The Nodal officer Shri Jaiswal was present on behalf of the D.L. The Nodal officer did not file any response on the grievance of the consumer abut requested for adjournment on the ground that his concerned Asst .Engineer is on leave and the matter is before IGRC and the decision thereon will be given within couple of days. Granting the request of Nodal Officer the case was adjourned to 11.6.07.

On 11.6.07 , the consumer & his representative was present. The Nodal officer Shri Jaiswal was present along with Shri Patil , Asst. Engineer on behalf of D.L. The Nodal Officer filed his response on the grievance of the consumer, a copy of the same was given to the consumer. It is stated in the response that the IGRC has decided the grievance of the consumer on 2.6.07. The consumer however stated that he has not received copy of the decision. The copy of the decision of the IGRC was not filed along with the response. The Nodal officer was therefore directed to give a copy of the decision to the consumer as well as to the Forum. The consumer was also directed to file his reply on the response, and the case was adjourned to 14.6.07.

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The consumer filed copies of bills at the time of hearing.

On 14.6.07, consumer and his representative was present. The Nodal Officer and Asst. Engineer Patil was present on behalf of the D.L. The representative of consumer filed his reply on the response of the Nodal Officer and the copy thereof was given to the Nodal officer. The consumer representative requested for some time to produce certificate from District Industries Centre. Granting the request of the consumer the case was adjourned to 18.6.07.

On 18.6.07, the consumer & his representative was present. The Nodal officer Shri Jaiswal along with Asst. Engineer Shri Patil was present on behalf of the D.L. The consumer filed continuous process certificate from Jt. Director of Industries. The Nodal officer filed copy of IGRC decision. The case was reserved for decision.

The Nodal Officer in his response has stated that his grievance is decided by IGRC on 2.6.07 and the same is rejected. The consumer is connected on non express feeder. The continuous process certificate dt. 14.6.2000 by the Head office is for continuous supply of electricity i.e. without interruption and the same is not related with tariff. It is further stated that separate tariff has been introduced by MERC for continuous and non continuous process industry from 1.10.2006 and prior to that there was no such separate tariff. Categorization of consumer as non continuous process industry has been done as per guidelines given in clause No. 4.3 & 4.4 of the commercial circular No.47 dt. 4.11.2006 and the consumer is billed accordingly. It is further stated that guidelines are now received for categorization for continuous and non continuous industry vide commercial circular No. 52 dt. 7.5.07. As per clause 1 & 10 of the commercial circular No. 52, HT consumer willing to opt for continuous tariff has to produce certificate from competent authority mentioned in the circular. It is further stated that the energy bills served on the consumer are correct and his grievance for refund of excess charges is not tenable and liable to be dismissed.

The consumer on 14.6.07 has filed his reply on the response of the Nodal Officer. In the reply the consumer has stated that the contention of the Nodal officer in the response that he ( consumer) is billed as per tariff approved by MERC is incorrect and frivolous. It is also stated that the DIC on 2.8.99 has issued a certificate about industry being continuous process industry. No letter from the D.L. to submit the certificate as per the circular No. 52 of 7.5.07 has been received to the consumer.

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It is further stated that the department of Industry vide letter dt.9.4.2007 addressed to Managing Director, MSEDCL clearly state that before 7.2.07 the categorization of industry like continuous or non continuous was done by GOM / MSEB. It further states that industries which have been certified as continuous will continue to hold same status even after 7.2.07.

We have gone through the grievance of the consumer and copies of the documents filed by the consumer. We have also gone through the response of the Nodal officer and other documents filed by him.

At the outset, we would like to observe that MERC vide its tariff order 20.10.06, has fixed the tariff for continuous and non continuous process industries. The rate for continuous process industry is fixed at Rs. 2=15./unit and that for non continuous industry at Rs. 2=85/unit. We find that the consumer , from 25.10.2006 to 17.04.2007 has requested the D.L. to refund the excess charges collected from him vide as many as seven letters of his. It is an admitted fact that the consumer has been billed at the rate of Rs. 2=85/ unit from Oct.2006.The tariff was made applicable from 1.10.2006. As contended by the consumer, the consumer has filed copy of letter dt.14.6.2000 from Chief Engineer (Commercial), sanctioning power supply on continuous basis. The consumer has also filed certificate dt. 2.8.1999 from General Manager, DIC stating the process of manufacturing involved in the industry is continuous process. The consumer has also filed letter dt. 9.4.07 from Development Commissioner (Industries) to Managing Director, MSEDCL with reference to the order dt. 7.2.07. In the letter it is stated that the authority to certify an industry as continuous or non continuous has been given to Development Commissioner (Industries) It is further stated therein that in the meeting held on 8.3.07, the Industry Directorate was of the view that status quo about categorization of industry has been maintained like that only. Before this the continuous process industries were certified by either Govt. or MSEB. It is further stated that all such industries to whom sanction has been given before 7.2.07 will continue to hold the same status and a separate certificate therefor is not required. However in the given circumstances if the D.L. thinks it necessary to change status of industry it should place the matter before the committee constituted under the chairmanship of Development commissioner (Industries). The consumer has also filed letter dt.16.6.07 addressed to it self certifying same as continuous process industry and copy thereof is marked to Supdt. Engineer MSEDCL, Aurangabad.

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It is necessary to state some facts with reference to the order dt.7.2.07 of MERC. After promulgation of tariff order dt.20.10.06, the D.L. has sought certain clarification regarding categorization of industries into continuous and non continuous process industries. The D.L. in his response has mentioned that the consumer is a non continuous process industry as it is subjected to staggering day as it is not connected to an express feeder. The MERC by its order dt.7.2.07( case NO. 59/2006) in the matter of petition seeking review of tariff order dt. 20.10.06 has clarified as below.

“ The commission clarifies that the continuous and non continuous categories are differentiated based on continuous and non continuous nature of process adopted in the industry and not based on whether the industry is connected to express or non express feeder.”

In the order dt.7.2.07 , the MERC has observed that the authority to grant continuous process certificate is with Development Commissioner (Industries) and such of the officer to whom the power is delegated by the Govt. The certificates of continuous process granted to the consumer is (a) dt.2.8.1999 from General manager DIC and (b) dt.14.6.2000 by Chief Engineer Commercial . Both these certificates, needless to say, are of date prior to order dt. 7.2.2007. The Development Commissioner Industries vide his letter dt.9.4.2007 addressed to MD, MSEDCL has made it clear that the industries which have been approved as continuous process industries, either by Govt. or by the erstwhile MSEB before 7.2.07 will continue to hold the same status and a separate certificate therefor is not necessary. Moreover the consumer has also filed letter dt.16.6.07 about the consumer industry being a continuous process industry by Jt. Director (Industry)

In light of the above observations, we are of the opinion that a consumer industry is a continuous process industry and consumer is entitled to avail the tariff allocated to continuous process industry from 1.10.2006 to 30.4.2007, as next tariff order is operative from 1.5.2007. However we are not inclined to grant the prayer of the consumer to refund the amount along with interest & the DPC charges as claimed by him. The relevant tariff in this case has been promulgated on 20.10.2006 .The clarificatory order relating to this tariff order has been passed on 7.2.07 . In both these orders the MERC has not opined that the wrong tariff levied shall be liable to be refunded along with interest and DPC. Therefore the request of the consumer to allow him interest and DPC can not be granted.

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Hence the following order.

**ORDER**

- 1. The Distribution Licensee shall revise the bills from Oct.2006 to April 2007 by charging the consumer at the rate of Rs. 2=15/ unit within thirty days from the date of this order.**
- 2. The excess payment made by the consumer shall be refunded /adjusted against next bill/bills to be due.**

The Distribution licensee & consumer shall comply with the above order and report compliance to the Forum.

Inform the parties and close the case.

**( H.A.Kapadia)**  
**Member**

**( R.K.Pingle)**  
**Chairman**