



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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No.K/E/852/1046 of 2015-16

Date of Grievance : 06/04/2015

Date of Order : 03/02/2017

Total days : 608

IN THE MATTER OF GRIEVANCE NO. K/E/852/1046 OF 2015-16 IN RESPECT OF M/S NATIONAL PEROXIDE LTD,VILLAGE VADAVALI, NRC ROAD, POST MOHANE,KALYAN 421 102 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING REFUND OF AEC.

M/s. National Peroxide Ltd.,
Vadavali, NRC Road,
Kalyan (W), 421 102.
(Consumer No.020609004763)

..... (Hereafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Nodal Officer,
MSEDCL, Kalyan Circle-I,

.... (Hereinafter referred as Licensee)

Appearance : For Consumer – Shri B.R. Mantri - CR.

For Licensee - Shri Kale, E.E- cum - Nodal Officer, KCI.

[Quorum- Shri A.M.Garde-Chirperson, Shri L.N.Bade-Member Secretary and Mrs.S.A.Jamdar- Member (CPO)].

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum as been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers

vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission. {Hereinafter referred as 'Supply Code' for the sake of brevity}. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014'.

2] The grievance in short is that, the consumer being HT-IC bearing No. 020609004763, Kalyan Circle applied on 13/9/13 for change of tariff to HT-IN. MSEDCL failed to grant the change of tariff from second cycle.

3] Respondent MSEDCL tried to make three points viz that feeder no.3 from which supply is being made is not dedicated feeder as such consent from other consumers connected on the feeder has to be taken secondly that the consumer has not applied within one month of the issuance of tariff order and thirdly that as per circular No.246 the tariff is changed from August 2015 billing September and is communicated to higher authority.

4] We have heard both the sides. None of the grounds taken above are available to MSEDCL. No such consent from other consumers on the feeder is required to be taken under any of the MERC orders or Rules. The condition to make application within one month no more holds good. MSEDCL circular cannot override MERC SOP Regulation 9.2.

5] We find that the categories of consumers for continuous and non continuous supply were first introduced in 2006, in view of shortage of electricity supply then. As we gather further, inspite of shortage of electricity supply for distribution, some industries were considered to be eligible for continuous supply and were provided with the same on request of course with some higher tariff. Earlier, there was a certificate required from the concerned Competent Authority to the effect that a particular industry falls in continuous category so as to be eligible for continuous supply. Later-on there were some changes made on account of some difficulties in getting the above mentioned certificate from the respective authority whereby the certificate was dispensed with if the industry required continuous supply considering it's activity. Later-on the things changed further and, anybody could change from one category to other. Then it so happened that by reason of sufficiency in power supply there was no more power cut. Power was made continuously available on demand and the consumers preferred to change to non continuous category to avoid excess tariff specially because of alleged increase in tariff. In Tariff order of 2012 a condition was put to make application within one month of the order for change of category. This was made in order that the Licensee should be able to know before hand categories so as to manage the supply properly. It so happened, however, that few applications were made within one month of the tariff order for change of category from continuous to non-continuous, which were allowed by the Licensee. Thereafter, applications were made even after one month of the tariff order, the said applications were rejected by the Licensee on the ground that they were not made within one month of the tariff order. However, there were instances in which the applications were granted.

There were contradictory interpretation of the tariff order of the condition of one month to make application. Then came the Review Petition moved by Licensee itself before the MERC bearing 94/2015 in which all the questions were set at rest.

6] The Commission in the above said review matter inter-alia held that SOP Regulations 9.2 gives unfettered powers to the consumer to change the category by making an application and the Licensee was bound to change the category from the next billing cycle. That being so Licensee before us in this case had no points to make against the case of consumer. The Licensee practically agreed in principle to the case of the consumer. The only submission made was that the MSEDCL is a body corporate and will frame policy and methodology for implementation of the findings of the +Commission in the Review Petition no.94/2015 and issue guidelines. It is, rightly pointed out in this context that those are the internal matters of the Licensee.

7] This matter could not be decided within time as the Hon'ble Chairperson took charge on 20/09/2016 of this Forum& matter was reheard.

8] Taking into consideration, all the above points, we find it fit to allow the grievance application of the consumer.

Hence the order.

ORDER

1] Consumer's grievance application is hereby allowed.

2] The Licensee is directed to apply non continuous tariff to the consumer from second cycle after the application given on **13/09/2013** for change of tariff.

- 3] The Licensee is further directed to refund the differential amount recovered from the consumer due to wrong application of continuous tariff from the second cycle after the application till rectification. The same may be done by adjusting it in the next ensuing bills.
- 4] The Licensee is also directed to work out the amount of interest on the differential amount as per RBI rate and pay the same to the consumer.
- 5] Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 03/02/2017.

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(L.N.Bade)
Member Secretary
CGRF,Kalyan

(A.M.Garde)
Chairperson
CGRF, Kalyan.

NOTE

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.
“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.
- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or
- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address
“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”
- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.