

Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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No. K/E/841/1026/2014-15

Date of Grievance: 01/01/2015

Date of order : 16/02/2015

Total days : 46 days.

**IN THE MATTER OF GRIEVANCE NO. K/E/841/1026/2014-15**  
**OF 2014-15 IN RESPECT OF NRC LIMITED, VILLAGE MOHONE, TAL.**  
**KALYAN, DISTRICT-THANE PIN- 421 102 REGISTERED WITH**  
**CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE,**  
**KALYAN REGARDING CHANGE OF TARIFF CATEGORY.**

NRC Limited,  
Village Mohone, Tal. Kalyan,  
District-Thane.

Consumer No. 020169009628 HT

.... (Hereafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution  
Company Limited through its  
Executive Engineer, MSEDCL,  
Kalyan Circle-1, Kalyan

.... (Hereinafter referred as Licensee)

Appearance : For Consumer-Shri Killedar -General Manager  
Shri Tulsidas Manager-

For Licensee Shri Lahange- Dy.Executive Engineer,  
Shri Barambhe-Dy.Exec. Engineer  
Shri Sakpal-Accountant.

(Per Mrs. S.A.Jamdar Member)

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 has 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 & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014'.

2] This grievance is brought before us by consumer on 1/1/2015. The consumer is an industrial concerned having its factory at Mohane, Kalyan (W), having contract demand of 1600 KVA and connected load of 52892 KW.

3] It is the contention of the consumer that earlier it was fed power from Tata Sub-station Kamba through four lines namely NR-I, NR-II, NR-III and NR-IV. Out of these four lines, NR-I and NR-II are non express feeder lines / non dedicated feeder lines and other two i.e. NR-III and NR IV are express feeder lines/dedicated feeder lines.

4] It is further contended by consumer that its factory is under lock out, hence informed Licencee by letter dated 7/11/2013 that power supply through express feeder lines/dedicated feeders not required and requested Licencee to feed power through the non express feeder/non dedicated feeders NR-I & NR-II and further requested to apply the tariff i.e. HT non continuous instead of existing tariff category HT continuous and bill accordingly.

5] It is claimed by the consumer that after making a continuous follow up with the Licencee verbally as well as in writing, Licencee did not pay any heed to its request. Consumer therefore, filed a grievance in IGRC on 10/10/2014 and prayed for changing the category from continuous to non continuous and giving supply through NR-1 NR-II without continuing supply from express feeders i.e. NR III and NR-IV.

Further, grievance of the consumer is that no order is passed by IGRC till filing of this grievance. Though a number of representations were made by the consumer to Licencee, no relief is granted to it nor any communication given.

5] Accordingly consumer approached this Forum on 29/12/2014 with prayer that the category be changed from continuous to non continuous and supply be given on non express feeder and consequential reliefs are giving effect to the changed tariff, with appropriate refund and compensation as per SOP.

6] Copy of this grievance along with accompaniments sent to the Nodal Officer and intimation for hearing vide this Office Letter No.EE/CGRF/09 dated 1/1/2015 and was called upon to reply the grievance of consumer.

In response to it, Officers of Licencee appeared and filed reply on 2/2/2015 and contended that the application for change of category was not submitted within a month time from the issue of the tariff order for the relevant period as specified by the Hon'ble Commissions order in case No. 44/2008 dated 12/9/2008 hence the application for change of tariff category is forwarded

to Head Office vide Letter SE/KC-I/Tech/288 dated 21/1/2014. On this ground they prayed for rejection of the grievance application.

7] We heard both sides at length. CR argued in tune with the grievance application and letters addressed to Licenece, IGRC from time to time. In support of its contentions, CR placed reliance on two orders of Hon'ble Ombudsman Mumbai, Representation No.112/2014 dated 16/12/2014 and Representation No.66/2014 dated 2/12/2014.

8] In short, grievance is about seeking supply not on express feeder but through non express feeder and thereby seeking change of tariff category from continuous to non continuous. No doubt, this particular change is sought as permissible under the SOP. Even as per MERC order in 44/2008 dated 12/9/2008. MERC directed for exercising option for such change within a period of one month from the date of tariff order. Officers of Licencee relied solely on the said order of Hon'ble MERC and contended that order of tariff i.e. 19/2012 decided on 16/8/2012 and consumer not applied within one month from the date of said tariff order. In this regard, consumer's representative heavily relied on the order of Hon'ble Ombudsman i.e. Representation No.66/2014.

9] We have gone through the documents and also have gone through the order of Hon'ble Ombudsman in Representations No.66/2014 and Representation No.112/2014 placed on record.

Representation No.66/2014 was made before the Hon'ble Ombudsman against the orders of CGRF Kolhapur Zone. The claim of the consumer towards refund of difference of amount due to change of tariff category from continuous to non continuous was rejected along with consumer's claim for compensation sought as per SOP, by the Forum. In this

Representation, Licencee relied on the clarificatory order of Hon'ble MERC in case No.44/2008 dated 12/9/2008 wherein Hon'ble Commission has clarified that consumer getting supply on express feeder may exercise his choice between continuous and non continuous supply only once in the year within the first month after issue of tariff order for the relevant tariff period, and consumer may be given one month time from the date of the order for exercising the choice.

In accordance with this order MSEDCL issued circular No.88 on 26/9/2008 wherein it was mentioned that one month time for exercising choice is from the date of issue of said circular dated 26/9/2008 and thus modified the date of exercising the choice between continuous and non continuous. In Representation No.66/2014, Licencee has taken a stand that the period mentioned in their circular cannot be extended and is applicable to that particular tariff order only. However, Licencee has accepted / approved the application of consumer. The Hon'ble Ombudsman therefore held that Licencee has acted contrary to the order of Commission which is not permissible.

The Hon'ble Ombudsman further held that even if the application for change of tariff is not made within the prescribed period laid down by Commission, consumer can take recourse to the provisions of Regulation 9.2 of SOP and can seek change of tariff category. The relevant observations of Hon'ble Ombudsman are in Para No. 37 and 41 of the order which are reproduced hereunder for ready reference.

At this juncture it will be relevant to reproduce the para 37 of Order of Hon'ble Ombudsman

**Para 37** ---- "The SOP Regulations are framed in exercise of powers conferred by the proviso to sub section (1) of Section 43 read with Clause (t) of Sub section (2) of 181 and sub section (1) and (2) of 57 read with Clause (Za) of Sub section (2) of Section 181

section 59 and Clause (zp) of sub section (2) of section 181 of Electricity Act, 2003. The Regulations are published in Government Gazette dated 20<sup>th</sup> January 2005. It is well settled principle of Law that the subordinate legislation validly made becomes a part of the Act as held by the Supreme court in the case of UPPCL V/s NTPC Ltd. reported in 2009 6 SCC 235. Regarding change of tariff category, there is specific provision in the SOP Regulations that after receipt of the application, change of tariff category shall be effected before expiry of second billing cycle. Mr. Hogade has prayed that relief may be granted under SOP Regulation. Therefore, even it is assumed that applications of appellants were not within the period of one month from the date of tariff order dated 16<sup>th</sup> August 2012, the appellants were be alternatively entitled for reliefs as per the provisions of the SOP Regulations.”---

---- **Para 41:** “The appellants have however taken a stand that their applications were not for continuous supply but were for change in tariff category from continuous to non continuous. The respondent while giving approval by letter dated 25/3/2013, also stated that the approval is for change of categorization from continuous to non continuous. In view of this, the applications filed by appellants during the period from 24/9/2012 to 6/10/2012 will have to be treated as applications as per Regulation 9.2 of SOP Regulations for change of tariff category from continuous (HT – 1-C) to non continuous (HT-1-N) and will have to be given effect to by the respondent before the expiry of 2<sup>nd</sup> billing cycle. The application filed by appellants have been given effect from April 2013 or thereafter as per the approval letter dated 25<sup>th</sup> March 2013 of the Chief Engineer (Commercial) of the respondent. The appellants will be, thus entitled for change of tariff category within two billing cycles from the date of their applications. It would be, therefore, appropriate to direct the respondent to change the tariff category of appellants from HT-1-C to HT-1-N from December

2012 and refund the excess amount recovered during the intervening period.”

10] It is not in dispute that the consumer is fed power from Tata Sub Station Kamba through four lines i.e. NR-1, NR-2, NE-3 and NR-4. Out of these four lines NR-1 and NR-2 are non express feeder and NR-3 and NR-4 are express feeder, however, since the factory is under lock out consumer seeks power through the line NR-1 and NR-2 i.e. through non express feeder/non dedicated feeder by applying non continuous tariff.

We find that only objection of the Licencee for consumer's request is that change in tariff category can be sought only once in a year that too within one month from the date of tariff order and present grievance on this count cannot be allowed. However, as per the above order of Hon'ble Ombudsman position is clear though application is not filed within a year and within one month of passing tariff order still as per the provision of SOP Regulations, application for change of tariff category can be filed independently and hence we find that it is necessary to direct the Licencee to treat the application of consumer under Regulation 9.2 of SOP Regulations and to give effect for change of tariff category from continuous to non continuous tariff from the end of 2<sup>nd</sup> billing cycle i.e. from January 2014. As Licencee not acted and changed the category continued to charge and recover from consumer, applying continuous tariff which is now required to be changed, applying non continuous tariff from January 2014 and to refund the excess already recovered from the consumer.

11] After concluding the prayer of consumer for change of tariff category, now it is necessary to consider the claim towards SOP. It is a fact that after receiving application of consumer Superintending Engineer has forwarded it to the Chief Engineer (Commercial) Head Office on 21/1/2014. In

the said letter there is nothing reflecting any objection on any ground. Said letter is not at all responded by the Chief Engineer (Commercial) till this date. However, before this Forum peculiar objection is raised which is noted above. If once it is concluded that as per aforesaid SOP Regulation 9.2, changed in tariff category can be sought at any time and it needs to be dealt by the Licencee giving effect to it in second billing cycle. Accordingly, it is clear that consumer had approached for change of category on 7/11/2013, hence effect was required to be given from January 2014. Licencee has not given effect from January 2014, hence as per the said SOP Regulation Appendix –“A” (7) (ii) Rs.100/- per week for the said delay is to be awarded.

12] In this matter, consumer prayed for change of tariff category from continuous to non continuous and further sought supply from N-I & N-II. However, during the course of arguments CR made it clear that as on this date giving supply from N-1 & N-II may not be physibile for the Licencee and hence if from N-III and N- IV supply is given making it non continuous is helpful to both. We find Licencee has not reacted for giving supply from N-I and N-II as prayed by the consumer initially, but in the light of position made clear by the consumer’s representative. We find even from the existing express feeder N-III and N-IV supply can be given applying non continuous tariff category. Hence Licencee is to be directed to give effect to it.

In view of the above , grievance of consumer is to be allowed.

Hence the order.

### **ORDER**

Grievance of consumer is hereby allowed.

Licencee is directed to give supply from N-III and N-IV and give effect to change of tariff category from HT-IC to HT-IN from the month of

January 2014. The supply protocol for these two feeders be maintained accordingly.

Further Licencee to work out the refund amount which is recovered from consumer applying HT-IC category from January 2014 onwards. Amount so worked out be refunded with interest as per Bank Rate, calculating it from the date when respective excess amount recovered.

Licencee is directed to give compensation to the consumer as per SOP Regulation Appendix –“A” (7) (ii). @ Rs.100/- per week from January 2014 till February 2015.

Aforesaid amount be refunded crediting it in the ensuing bills of consumer.

Compliance of the above be submitted by Licencee within 60 days from the date of this order.

Dated: 16/2/2015.

I agree

I agree

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

**(Chandrashekhar U.Patil)**  
**Member Secretary**  
**CGRF,Kalyan**

**(Sadashiv S.Deshmukh)**  
**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 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”*
- c) 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.

