

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/101/2014

Applicant : M/s. Purohit & Company,
New Cotton Market Road,
Nagpur: 18.

Non-applicant : Nodal Officer,
The Superintending Engineer,
Nagpur Rural Circle,
MSEDCL,
NAGPUR.

Quorum Present : 1) Shri Vishnu S. Bute,
Chairman.
2) Adv. Subhash Jichkar
Member.
3) Shri B.A. Wasnik,
Member Secretary.

ORDER PASSED ON 17.5.2014.

1. The applicant filed present grievance application before this Forum on 25.4.2014 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

2. The applicants' case in brief is that applicant is a H.T. consumer of non applicant, bearing Consumer No. 420819007240. His supply has been connected on 33 kV with Contract Demand of 1500 kVA.

3. Applicant further submitted that the Commission determined the tariff applicable from 1.6.2008 and in the footnote (iv) at Page 11 of High Tension Tariff Booklet and further in tariff order Dt. 12.9.2010, applicable from September 2010 in footnote No. (iv) at Page 253, it is mentioned that *“Only H.T. industries connected on express feeders and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumers will be deemed as HT non continuous industry”*.

4. It is further submitted that M.S.E.D.C.L. filed application for clarification of the tariff order applicable from 1.6.2008 and requested the commission as under : -

“a) the clause “demanding continuous supply” may please be removed from the definition of HT-I (Continuous Industry);

b) Existing Consumers categorized under HT-I Continuous as on April I 2008 should be continued under same category;

c) HT-I (Continuous) tariff category should be applicable to all industries connected on express feeder irrespective of whether they are continuous or non-continuous process industries”.

on the application filed by MSEDCL for clarification of the tariff order applicable from 1.8.2008, the Commission ruled in case No. 44 of 2008 that there is no justification for removing the clause “demanding continuous supply from the definition of HT-I continuous category”. Commission further said that,

“..... it is clarified that the 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 the tariff order for the relevant tariff period. In the present instance, the consumer may be given one month time from the date of issue of the order for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorization will be continued”.

5. The MSEDCL, on the basis of the above order, issued a circular No. 88 on 26th September, 2008, highlighting the above features of the Commission's order.

“Only HT industries connected on express feeders and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumers will be deemed as HT non continuous industry”.

“The 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 the Tariff Order for the relevant tariff period”. As per the tariff order of Commission, definition of express feeder and circular No. 88 of MSEDCL, the applicant should be charged non express feeder tariff.

6. Applicant also submitted that Commission revised tariff and imposed AEC charges vide order in case No. 95 of 2013 on dt. 5.9.2013 and allowed MSEDCL to collect additional AEC charges from the consumers from September 2013. This is a new tariff order with respect to AEC charges hence applicant got opportunity to exercise

his choice between continuous & non continuous supply and submitted application to MSEDCL to apply non express feeder tariff and give us non continuous supply from the next billing cycle. The applicant's request for non express feeder (non continuous) tariff was submitted within one month of the Commission's order in case No. 95 of 2013. MSEDCL issued a circular No. 209 Dt. 7.9.2013, based on Commissions different orders and indicated AEC 1 to AEC 4 charges to be collected from different categories of consumers. The applicant submitted his request vide letter dated 13.9.2013 to change his tariff to non continuous tariff. MSEDCL did not change the tariff category and again issued energy bill for November 2013 applying continuous tariff. Applicant filed grievance application with IGRC on Dt. 8.1.2014. IGRC did not hear the matter and did not pass any order even after lapse of more than 3 months. Therefore the applicant filed present grievance application before this Forum to direct the non applicant to change the tariff category of applicant to non express feeder and to refund the excess amount recovered.

7. Non applicant denied applicant's case by filing reply Dt. 13.5.2014. It is submitted that the above consumer is having HT Connection on 33 kV and connected on 33 kV Express feeder with contract demand 1500 kVA and connected load 1835 kW. The supply of the applicant is given through 33 kV Express feeder feeding continuous supply without any load shedding, hence HT continuous tariff is charged in the bill.

8. Non applicant further submitted that the applicant had requested for application of Non Continuous tariff to his industry on the basis of the Commission Order issued in case No. 95 of 2013

allowing MSEDCL to collect additional AEC charges from the consumers from September 2013. That the above said order in case No. 95 of 2013 is not a tariff order but to collect additional AEC charges from all the consumers from September 2013. Clarificatory order in case No. 44 of 2008 dt. 12.9.2008 says that –

--- “that the consumer getting supply on Express feeder may exercise his choice between Continuous and Non Continuous supply only once in a year, within the first month after issue of the Tariff Order for the relevant period”.

9. On the basis of this, MSEDCL also issued a circular No. 88 on Dt. 26.9.2008 clarifying the same. As the said order in case No. 95 of 2013 is not a tariff order, the applicant is not eligible to exercise his choice for opting Continuous to Non Continuous Tariff. Hence grievance application may be dismissed.

10. Forum heard arguments of both the sides and perused the record.

11. It is an admitted fact that the applicant is having continuous power supply without load shedding even on staggering day. It is also on record that the consumer has mentioned that its manufacturing is a continuous process hence power supply is needed without any interruption.

12. Applicant in Para No. 13 of the grievance application mentioned that the order in Case No. 95 of 2013 passed on Dt.

5.9.2013 is a new Tariff order and applicant applied within one month from the issue of the said order.

13. Contrary to the above, the non applicant pointed out that the last tariff order for 2012-13 was passed by MERC on 16.8.2012 and it is still in force. Therefore applicant needs to apply for change of tariff within one month from the date of passing of new tariff order. It is therefore clear that as per non applicant's say, the impugned order passed in case No. 95 of 2013 Dt. 5.9.2013 is not new tariff order but the supplementary tariff order allowing MSEDCL to collect additional AEC charges from consumers from September 2013. Commission also issued an order in Case No. 107 of 2013 on 29.10.2013 and imposed additional CSS to open access consumers because of increase of ABR of consumers as per AEC charges determined in case No. 95 of 2013. Forum finds that this is also a supplementary order to the last tariff order for 2012-13 was passed by MERC on 16.8.2012 which is still in force. Hence it is not possible to allow the applicant to exercise the option to change the tariff from continuous to non continuous, within one month after issue of every supplementary order by the Commission on various issues.

14. Without prejudice to above, it is also pertinent to note that Hon'ble Electricity Ombudsman, in order Dated 9.1.2014 has held that – *“clarificatory order dated 12.9.2008, as well as Commercial Circular No. 88 are, restricted to the detailed Tariff Order dated 20.6.2008 in Case No. 72 of 2007. The said Tariff Order was in existence from 1.6.2008 till 31.7.2009 because tariff order dated 17.8.2009 in Case No. 116/2008 became applicable w.e.f. 1.8.2009. The option to change the Tariff Category from HT-I Continuous*

*to non continuous industries was not there in the subsequent Tariff Orders in Case No. 116/2008, 111/2009 and 19/2012. The clarificatory order dated 12.9.2008 in Case No. 44/2008 will not **“automatically apply”** to the subsequent Tariff Orders. Obviously the appellant could not give his choice for change of tariff category from HT-I continuous to non continuous industries”.*

15. It is therefore clear from the above discussions that the applicant should exercise his option for change of tariff from continuous to non continuous tariff after one month from the issue of original tariff order for the relevant tariff period, and not within one month from the issue of any subsequent supplementary orders.

16. For these reasons, Forum finds no substance in the present grievance application and the application deserves to be dismissed. Hence the following order: -

ORDER

1. The grievance application is dismissed.

Sd/-
(B.A. Wasnik)
MEMBER
SECRETARY

Sd/-
(Adv. Subhash Jichkar)
MEMBER

Sd/-
(Vishnu S. Bute),
CHAIRMAN