

**Before Maharashtra State Electricity Distribution Co. Limited
Consumer Grievances Redressal Forum, Pune Zone,
925, Kasabapeth Building, I Ind flr. Pune-11**

Case No. 19/2012

Date: 07/09/2012

**In the matter of
M/s. Asstt. Garrison Engineer-I
INS Shivaji Lonawala, Tal. Maval.
Dist Pune**

- Complainant

V/S

M.S.E.D.C.L. Pune Rural Circle Pune

- Opponent

Quorum

Chair Person	Shri.S.D.Madake
Member/Secretary,	Shri.B.M.Ivare
Member	Shri.Suryakant Pathak

- 1) M/s. Assistant Garrison Engineer-I, INS Shivaji Lonawala having defence establishment is H.T. Consumer of MSEDCL Pune Rural Circle Pune bearing Con. No. 181019002441 having contract demand 1800 KVA and connected load 1800 KW. The date of connection is 1st July-1980, which is fed by 22KV INS Shivaji express feeder emanating from Lonawala sub station.
- 2) This defence establishment was charged as per tariff HT-VI (Group housing society) till Feb-2012 and then after tariff changed by MSEDCL as HT-II (Commercial) being Training Institute (Educational Institution). Hence complaint arises due to change of tariff from HT VI to HT-II commercial.

The brief complaint is as below

- 1) The tariff category for this defence establishment be restored back to HT-VI residential.

- 2) Quash the "Fixed charge" component of tariff for the defence establishment.
 - 3) To charge at tariff HT-VI (Residential) without segregation of load in to residential and non-residential with providing separate meter as per demand from MSEDCL.
- 3) The consumer filed complaint before Internal Grievance Redressal Cell on 05/05/2012 in respect of which hearing was taken on 22/05/2012 and no relief was granted by Internal Grievance Redressal Cell stating M/s. INS Shivaji Lonawala is imparting training to Navy Personnel; hence work as an Educational Institute. As per latest tariff order dt.14/10/2010 HT-II tariff is given for Educational Institute. Further IGRC stated that there is no any concessional tariff specified in tariff order dt. 12/09/2010 in case No. 111 of 2009, hence tariff applied in current bill i.e. HT-II commercial is correct.
- 4) The complainant in his complaint as well as during hearing submitted as under.
- (A) Restoration of Tariff Category for Defence Establishment, INS Shivaji, Lonawala to HT-VI Group Housing:
- (a) This defence Establishment was being charged under "HT VI Category" till Feb-2012 in absence of any separate tariff category for Defence Establishments. Kindly refer relevant extract of MERC case No. 116 of 2008 dt.17 Aug-2009
 - (b)** The Hon. Commission (MERC) in the case No.116 of 2008 dt.17/08/2009 did not give any directive to change this category. However, MSEDCL has changed tariff category to "HT II E-II", thereby putting the non-profit making non-commercial defence establishment with Commercial category which is violation of Article 14 of the constitution of India, since unequal have been treated as equal. Needless to emphasis that the re-categorisation of consumer category is without thee approval of the commission itself is unlawful activity by MSEDCL.

- (c) The provision of Section 62 (3) of electricity Act-2003 also stipulates that the "The Appropriate Commission may differentiate consumer according to the purpose for which the supply is required." Here the purpose of supply is premier Technical Training Defence establishment with a residential township for Navy Personnel and used towards Nation building without any commercial gain. Therefore , approach adopted by the MSEDCL to recategorise tariff for Defence Establishments is in violation of Electricity Act-2003 and as such flawed.
- (d) The change of category of tariff from "HT-VI Group Housing to HT-II Commercial" has lead a tariff shock to the Defence Establishment by increasing the tariff rate from @ 4.25 Rs/kwh to 8.75 Rs/kwh (almost 200% increase) which is against the spirit of clause 5.5.3 of Tariff Policy and same is required to be corrected immediately.
- (e) Further as a result of recategorisation the non –profit making Defence Establishment is being forced to pay tariff much more than profit making consumers i.e. HT-I industry and HT-III Railways which is against the "Natural Justice".
- (f) It is pertinent to mention that Tamil Nadu Electricity Board (TNEB) is charging concessional rates on similar lines to defence establishment (refer High Tension Tariff II-A of Tamil Nadu Electricity Board G.O. (Ms) No. 100 dt.19 Oct.2010 placed at Exhibit-2) under high tension tariff II-A at par with the "Public Water Works" which is concessional lowest tariff. In view of the above it is necessary that tariff category for this Defence Establishments be re-instated back to HT-VI, residential

(B) Quash the "Fixed Charge" component of tariff for the Defence Establishment as the cost of creation of infrastructure is borne by us and supply and distribution of the electricity after the supply

point has been developed, constructed, maintained and operated by the establishment itself.

- (C) This Defence Establishment be charged at flat rate without any need to segregate the load, in to Residential and non-residential. INS Shivaji is a defence establishment which has grown over last 60 years to meet ever growing diverse demands of the Indian Navy. It is difficult to separate out residential consumers from non residential consumers because of location of mixed consumers spread over an large area of almost 900 acres. Hence the requirement of separate meters is not to be insisted on Defence Establishments which are taking Bulk supply from feeder line at single point for further distribution.
- (D) Excess payment of tariff made by the Defence Establishment Under Protest since Feb-2012 be refunded with immediate effect to avoid audit objections from Ministry of Defence Headquarters
- (5) MSEDCL during hearing as well as per their statement given says as below.

M/s. Assistant Garrison Engineer-I INS Shivaji, Lonavala , Consumer No. 181019002441, date of connection :- 01/07/1980, High Tension power supply fed by 22KV INS Shivaji express feeder from S/Stn. Lonawala, CD-1800KVA, CL-1800KW, Type of establishment : Defence establishment/Training to sailors. The tariff applied to above consumer old Tr-61-HT-VI.

On dt.30/04/2011, the connection No. 181019002441 & others two connection was checked by MSEDCL's Flying squad wing, Ganeshkhind and submitted detailed report of there establishment to this office vide there office L.No. Dy.Director, V&S Pune-DD/PRC/FS/Pimpri/922 dt.05/05/2011.Upon scrutiny, it is observed that INS Shivaji is a training establishment of the Indian Navy. All the facilities existing are primarily to support and are for the educational and training purposes only. The tariff applicable to all the Govt/Non Govt. Educational establishments is

HT-II Commercial as per the MERC tariff order No. PR-3/Tariff/31779 dt. 14/10/2010 . Hence, HT-II commercial tariff is applied to these establishment.

However, above decisions are taken by MSEDCL authority in company's interest and on clear guidelines of Maharashtra Electricity Regulatory Commission Tariff order dt. 12/09/2010 in the case No.111 of 2009 and as per MSEDCL Commercial Circular No. 124 at Sr.No.20 of Action Plan at Sr.No.(05) . Also commission has retained the fixed/demand charges for all consumer's categories at the existing level. So there is no question for Quash of fixed charges component from tariff.

In view of this, upon clear guidelines of MERC tariff order and subsequent MSEDCL Commercial Circular, consumer M/s.Asstt.Garrison Engineers have asked to separate the residential load from Commercial load or go for separate Franchisee and installed submeter to these connection for actual recording of residential consumption, so that the submeter consumption can be adjusted in the bill. But till M/s. Asstt. Garrison Engineer have not taken any action in this regard. Also in the tariff order dt. 12/09/2010 in the case No.111 of 2009 , Hon. Commission has not specified concessional tariff for defence establishment. Therefore , as per above commission's tariff order and subsequent MSEDCL circular, the tariff applied to consumer is correct i.e. HT-II Commercial. If the mixed load of the consumer is separated activity wise, then proper tariff can be applied.

As per Section 62 of the Electricity Act, State Commission may differentiate the tariff according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required. Hence the powers to decide the tariff category vests with the MERC only.

- (6) We heard both sides. Perused the content of the complaint and say filed by MSEDCL. Perused the all documents submitted to this forum during hearing by complaint.

(A) Application of tariff category :

It is shown on record that as per site verification by MSEDCL flying squad wing it is reported that HT-II commercial tariff is applied by MSEDCL, since INS Shivaji is training establishment of Indian Navy and are for the educational and training purpose.

As per representative of complainant, states that the purpose of supply is premier Technical training defence establishment with residential township for Navy personnel and used towards nation building without any commercial gain and as a result of recategorisation the non profit making defence establishment is being forced to pay tariff much more that profit making consumer. Hence tariff to be reinstated back to HT-VI (Residential).

As per various tariff order issued by Hon'ble MERC it is observed that there is no separate category for defence establishment till Aug-2012. Further previous tariff order case No. 111 of 2009 dt. 12 Sept.2010, there is HT-II commercial category Educational Institutions and Hospitals and which is applicable for all education institutions taking supply at High voltage.

It is further states that " the consumers belongs to HT-II requiring a single point supply for the purpose of downstream consumption by separately identifiable entities will have to either operate through a franchisee route or such entities will have to be individual connections under relevant category."

As per MERC (Electricity supply code and other conditions of supply) Regulations 2005, clause No.13 states as below.

"The distribution licensee may classify or reclassify a consumer into various commission approved tariff categories based on the purpose of usage of supply by such consumer. Provided that

the distribution licensee shall not create any tariff category other than those approved by the commission."

This regulation clearly state that MSEDCL shall not create any new tariff category and may reclassify a consumer in to various approved tariff categories based on the purpose of usage of supply by such consumer. In this case it is seen on the record that the purpose of consumer is training institute which comes under Educational Institute tariff category. Hence it is concluded that tariff HT-II commercial tariff applied is appropriate. This rate shall be applicable upto period July-2012

As per MERC order for case No. 19 of 2012 dt. 16/08/2012 Hon'ble commission, MERC has formed a new category called "Public services" in both LT & HT. This new category shall be applicable for defence services establishment also. Hence MSEDCL shall be applied this tariff category HT-IX from Aug-2012 onwards.

(B) Quash the "Fixed charges" of tariff for the defence establishment:-

As per various MERC tariff orders, fixed charges is levied to all LT & HT consumers as per category of consumers. Further as per new tariff order case No. 19 of 2012 dt. 16/08/2012, Hon'ble commission MERC, has retained fixed charges.

Hence it is not possible to quash fixed charges being defence establishment.

(C) Defence establishment be charged at flat rate under HT-VI, Residential without any need to segregate the load into residential & non residential :-

As per MERC tariff order case NO. 111 of 2009 dt. 12 Sept 2010,

"The consumers belonging to HT-II requiring a single point supply for the purpose of down stream consumption by separately identifiable entities will have to either operate through a franchisee route or such entities will have to take individual connections under relevant category".

As per record it is observed that there is a some part of residential load (quarters) in the premises. Hence as per tariff order it is necessary to install separate sub meters for residential use so that residential tariff to be applied for such consumption and rest of consumption appropriate tariff of training institute to be applied, otherwise consumer may opt for franchisee as per approval of competent authority

- (D) As the tariff applied HT-II commercial is just and proper, hence there is no question to refund excess payment against tariff difference.

The MSEDCL is entitle to recover the electricity charges as per the rates applicable to HT-II category . However as per the provision of section 56(2) of Electricity Act-2003 MSEDCL will not be entitle to recover the charges w.e.f. June-2008 as per letter dt.19/05/2011 issued by Dy. Director (VS&E) MSEDCL, Pune Region, Pune . As per law MSEDCL is entitled to recover for a period of two years from the date, when the sum became due on Feb-2012.

ORDER

- 1) The MSEDCL is directed to recover the tariff difference for a period of two years preceding to Feb-2012 only.
- 2) No order as to cost.

B.M.Ivare,
Member/Secretary

Suryakant Pathak
Member

S.D.Madake
Chair Person

Date: 07/09/2012

