

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

Case No. 28/2012

Date: 05/11/2012

**In the matter of
Executive Engineer, MIDC
E&M Division, Chinchwad Pune -19**

- Complainant

V/S

**M.S.E.D.C.L.
Ganeshkhind Urban Circle Pune-11**

- Opponent

Quorum

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

- 1) The complaint Maharashtra Industrial Development Corporation is consumer of Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) vide No.HT- 170149069720 having connected load of 600 KW and contract demand 600 KVA since 07/05/2009 at Talwade, Pune for MIDC water works.
- 2) According to MIDC it is a statutory body established under MIDC Act 1961 to develop industrial areas, for which land is acquired as per law for development of Industries and infrastructure is provided for the same. It provides water to Industries as well as other facilities to residents with the object of fulfillment of objects of the Act. It is submitted that MIDC has established at Talwade water works from where the water is supplied to industries and domestic consumers like Mhalunge Grampanchayat, Tupe vasti Grampanchayat, BSNL sub zonal private India Ltd. P-5 General block etc. and water is given at subsidized

rate. It is the contention of MIDC that the MSEDCL is entitle to charge as per the rates applicable to public water works i.e. HT-IV

According to complainant the act of MSEDCL to revise the bill w.e.f. Dec-2011 by tariff HT-I and further claiming the amount of Rs.38,17,160/- at rates applicable to HT-I w.e.f. June-2009 to Nov-2011 is illegal . The said act of MSEDCL is not in pursuance of MERC guidelines. It is prayed that the revised bills be stayed.

- 3) MSEDCL filed say on 20/10/2012 and resisted the claim stating that consumer is liable for payment of supplementary bill as per tariff HT-I. The decision to claim rate applicable to HT-I has been taken as per the instructions from Chief Engineer (Commercial), vide letter dt.23/06/2010, 29/11/2011 and 27/07/2012. It is stated that as per MERC tariff order with effect from 01/08/2012, HT-IV tariff is applicable to water works of consumers of Govt. Local body, Jeevan Pradhikaran, Municipality etc. only. It is further submitted that decision of Hon'ble High Court, directing application of HT-IV tariff is applicable to Sangli and Vashi circle only.
- 4) On the basis of the pleadings of the parties, following points arise for determination of the forum.
 - 1) Whether the complainant is entitle to relief stating that MSEDCL is entitle to claim electricity bills at the rates applicable to HT-IV category only?
 - 2) Whether MSEDCL is entitle to claim electricity bills as per rates applicable to HT-I w.e.f. 01/08/2012
 - 3) What order?
- 5) The findings of the forum are as under.
 - 1) Yes till 31/07/2012
 - 2) Yes
 - 3) As per final order

REASONS

- 6) The complainant MIDC as well as MSEDCL produced on record documents in support of their submissions. The MIDC produced on record list of domestic consumers, load sanction and release order, bills issued prior to Dec-2011 and subsequent bills, notice under section 56 of "The Electricity Act-2003."
- 7) MSEDCL produced on record letter of Chief Engineer (Commercial) dt.23/06/2010, 29/11/2012 and 27/07/2012
- 8) Admittedly, complainant was paying the bills as per the rates applicable to HT-IV category till Nov. 2011. The bills are claimed by MSEDCL as per the rates applicable to HT-I w.e.f. Dec-2011. It is not in dispute that MSEDCL claimed revised bill w.e.f. June-2009 to Nov-2011 to the amount of Rs.38,17,160/- (Thirty eight lakhs Seventeen thousand One hundred sixty only) by issuing supplementary bill dt.27/03/2012.
- 9) The complainant relied on Judgment of Consumer Grievance Redressal Forum (CGRF) Latur Zone, in complaint No.309A/22A/2011 (ii) 309B/22B/2011 dt. 13/05/2011 where the CGRF Latur Zone directed to apply tariff HT-IV to consumer i.e. MIDC. The complainant relied on judgment of Consumer Grievance Redressal Forum (CGRF) Nasik Zone in complaint No. (U) 215/32/2011 directing the MSEDCL to apply HT-IV tariff to MIDC water works. The MSEDCL has made a reference of the order passed by Hon'ble High Court in Writ petition No.9065 of 2011 and writ petition No.10967 of 2011.
- 10) The Hon'ble High Court in the writ petition No. 9065 and 10967 of 2011 observed that controversy as to whether the electricity supplied to the public water works run and managed by MIDC should be charged at HT-I tariff as contended by MSEDCL or HT-IV tariff as contended by MIDC and considering the fact that this dispute will continue to arise at several places in the state, this issue required to be decided on priority basis. The said issue is pending for final decision before Hon'ble High Court.

- 11) The Hon'ble High court directed that till the final decision of the above writ petition, MSEDCL will raise bills for electricity supplied to the MIDC in respect of electricity connections in duplicate one by levying the charges by HT-I tariff and the other by levying charges by HT-IV tariff. The Hon'High court further directed that MIDC will pay the bill according to HT-IV tariff for the time being. The Hon'ble high court further directed to MIDC to deposit the differential amount between HT-I and HT-IV in the no lien escrow account in fixed deposit on short term deposits, so as to ensure that whichever party succeeds can claim that differential amount.
- 12) Considering the fact that the matter is pending for final disposal before Hon'ble High Court it would be proper in the interest of justice to allow MIDC to pay as per rates applicable to HT-IV till August-2012 i.e. till the Hon'ble MERC passed order dt. 16/08/2012 and prescribed new tariff order. It is necessary to direct MIDC to deposit differential amount in the no lien escrow account in fixed deposit for the period between 01/06/2009 to 31/07/2012.
- 13) The Hon'ble commissions in its tariff order w.e.f. 1 Aug-2012 in case No. 19 of 2012 dt.16/08/2012 mentioned applicability of HT-IV tariff as below.

“Applicable for use of Electricity/power supply at high voltage for pumping of water, purification of water and other allied activities related with Public Water Supply Schemes and Sewage Treatment Plants provided such Public Water Supply Schemes and Sewage Treatment Plants are owned, operated and managed by Local Self Government Bodies, like Gram Panchayat, Municipal Council, Municipal Corporation including Maharashtra Jeevan Pradhikaran, and Cantonment boards.

Public water supply schemes and sewages treatment plants (including other allied activities) owned , operated and managed by any other Agency other than local self Government Body (excluding Maharashtra Jeevan Pradhikaran) shall not be eligible for HT-IV tariff

and shall be billed as per either HT-II (A) or HT-II (B) or as the case may be , except those covered in HT-I.”

MIDC is not a local self Govt. body.

In view of above tariff order of Hon'ble MERC dt.16/08/2012, MSEDCL is entitled to charge HT-I tariff to MIDC water works since from Aug-2012.

As per B.M.Ivare, Member/Secretary

I disagree with the view of Chairperson and Member on following points.

i) The utilization of water from M.I.D.C. water works connection is mainly for industries as per the record given by M.I.D.C. On perusal of list filed by Executive Engineer, M.I.D.C. it appears that out 135 consumers only 3 consumers are for domestic purposes & 8 consumers are for commercial purpose.

ii) The Hon'ble Commission, MERC tariff order dt.16/08/2012 in case No. 19 of 2012, indicates that P.W.W.(HT-IV) tariff is applicable only for local self government bodies i.e. grampanchayat, Muncipal council, Muncipal corporation etc. including Maharashtra Jeevan Pradhikaran & Cantonment Board. The MIDC water works does not fall under any of the above categories.

iii) As per C.E. Commercial Letter outward No. 19985/23-06-2010, stated as "In case where the water is utilized for MIDC area and /or adjoining areas for drinking purposes industrial tariff may be applied".

iv)The Hon'ble High-court has stayed the order of Hon'ble Ombudsman in case No.55 of 2011 and in case No. 108/2011

Considering the facts and circumstances, I am of the opinion that, HT-I tariff and the supplementary bills issued are correct and MIDC is under an obligation to pay the same.

B.M.Ivare,
Member/Secretary

The order as per majority is as under.

ORDER

- 1) The MSEDCL is directed to charge electricity bills to MIDC consumer as per rates applicable to HT-IV(P.W.W.) for the period between 01/06/2009 to 31/07/2012 till the decision of the Hon'ble High Court in writ petition No. 9065 & 10967 of 2011.
- 2) MIDC is directed to deposit the amount of difference between HT-I and HT-IV in the no lien escrow account in fixed deposit till the decision of writ petition for the period between 01/06/2009 to 31/07/2012.
- 3) The MSEDCL is entitle to issue bills to MIDC water works as per the order of Hon'ble MERC w.e.f. 01/08/2012.
- 4) No order as to cost.
- 5) Compliance should be submitted within one month to this forum from the date of order.

Suryakant Pathak
Member

S.D.Madake
Chair Person

Date: 05/11/2012

