

**CONSUMER GRIEVANCE REDRESSAL FORUM**  
(Established under the section 42 (5) of the Electricity Act, 2003)  
**MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.**  
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**Dwarka, NASHIK 422011**

No. / CGRF /Nashik/NUC/N.R.Dn./579/55-16-17/

Date: 31/01/2017

(BY R.P.A.D.)

**In the Matter of**

**Change in Tariff category from HT-II commercial to HT-I Industrial**

**Date of Submission of the case : 15/12/2016**

**Date of Decision : 31/01/2017**

To.

1. M/s. RattanIndia Nashik Power Limited .  
Plot No. A-1, Additional MIDC Area,  
Musalgaon Tal. Sinnar  
Dist. Nashik 422103.  
(Con.No. 075949022930)

Complainant

2 Nodal Officer ,  
Maharashtra State Electricity Distribution Com. Ltd.,  
Urban Circle office, Shingada Talav,  
Nashik  
3 Executive Engineer (Rural)  
Maharashtra State Electricity Distribution Com. Ltd.  
Vidyut Bhawan Nashik Road

Distribution Company

**DECISION**

M/s. RattanIndia Nashik Power Limited (hereafter referred as the Complainant ). Nashik is the HT-II Commercial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against MSEDCL for change in tariff category from HT-II commercial to HT-I Industrial. . The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. But not satisfied with the decision of the Distribution Company , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.205 of 2016 on 15 /12/2016.

The Forum in its meeting on 16/12/2016, decided to admit this case for hearing on 03/01/2017 at 12.00 Pm in the office of the forum . A notice dated 16/12/2016 to that effect was sent to the appellant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Urban Circle Office Nashik, for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri. R. S, Bhagat Nodal Officer & I/C Executive Engineer, Shri. T. H. Nemade Dy. Executive Engineer represented the Distribution Company during the hearing. Shri Jaywant Bhabal , Shri. Milind Pujari appeared on behalf of the consumer.

## Consumers Representation in brief :

1. M/s. RattanIndia Nashik Power Limited are constructing 5 Units, each of 270 MW capacity based on coal at village Musalgaon Tq. Sinnar Dist. Nashik . Out of the 5 Units, Unit-1 has been commissioned, synchronized and COD declared in March 2014, Unit-2 test synchronized and partially loaded in March 2016. All other Balance of plant areas (BOP) like Ash Handling Plant, coal Handling Plant, Fuel Oil Pump House. CW Pump House, Raw water Pump House, water treatment plant etc. are fully commissioned, operational and presently under routine Operation, maintenance and preservation. For the preservation and routine cycles all major systems are operated on periodically ( Trial runs).
2. Initially, they were sanctioned for 12500 KVA at 220 KV level under the Utilization category 'Start-up Power' on date 03 Jan 2012 [Ref. MSEDCL sanction order no 0106.]
3. Later date this start up power connection was upgraded to 400 KV level vide MEDCL sanction order No. 33892 dt. 12 Dec. 2013.
4. At present they are drawing start up Power with a sanctioned demand of 12500 KVA at 400 KV level from Sinnar Babhaleshwar Ckt-II.
5. The Start Up Power drawn is broadly utilized for –1)Unit-1, 2 and BOP areas for plant operations, Maintenance, Preservation and 2)Construction activities of balance Units No. 3,4,5.
6. Chronological details of sanctioned/ PD power connections from MSEDCL as given below table

SN	Capacity	Purpose of Supply	Period of use.		Tariff Category
			From	To	
1	1000KVA, 11 KV	CONSTRUCTION POWER	27 July 2010	06 Aug. 2011	HT-II Commercial
2	4500 KVA, 33 KV	CONSTRUCTION POWER	05 Aug. 2011	05 Mar 2013	HT-II Commercial
3	12500 KVA, 220KV	STARTUP POWER	26 Sept. 2013	02 Nov. 2013	HT-II Commercial
4	12500KVA, 400 KV	STARTUP POWER	28 Dec. 2013		HT-II Commercial

7. While sanctioning Start Up Power 12500 KVA 220 KV connection, MSEDCL intimated to surrender the existing Construction power feeder of 33 KV 4500 KVA and was precondition to energise the Startup Power Connection. Accordingly 33 KV construction power feeder was surrendered and made PD on 05/03/2013.
8. They have been charged with tariff category of HT-II commercial Express feeder for this Startup Power connection.
9. Reference to MERC MYT order on case 121 dtd. 26 June 2015, subsequent MSEDCL commercial Circular No. 243 dtd. 3 July 2015 and latest MERC MYT order on case No. 48 dtd. 3 Nov. 2016, under which, Start up power for Generating stations is categorized under HT industrial Tariff.
- 10 Request of Tariff category change was made on 27 July 2015 vide letter No. 1270 to Executive Director Commercial MSEDCL .After series of communication and follow-ups. CE commercial MSEDCL office vide their letter 1678 dtd. 11 Jan 2016, directed SE, MSEDCL Nashik to initiate further action on tariff category change. However category change has not been made effective till date.
11. In this context they have approached MSEDCL for change in tariff category for our existing Startup power feeder on date 27 July 2015. Since tariff category change has not been made effective for Start up Power connection, they approached internal Grievance Redressal Cell, MSEDCL Nashik vide application dtd. 11 Nov. 2016. IGRC has rejected the claim vide their letter dtd. 28 Nov. 2016.
12. They are not in agreement with the decision of IGRC on the claim of tariff category change and hereby approach consumer Grievance Redressal Forum for amicable resolution at the earliest.
13. As per MERC order in case No. 121 dt. 26 June 2015 and latest order on case No. 48 dtd. 03 Nov. 2016. Hon'ble Commission has categorized Start Up Power for Generating Stations under HT Industry Tariff Category of MSEDCL. Accordingly our 12500 KVA Start Up Power connection to be treated eligible and HT-industrial Tariff need to be applied retrospectively.

**Demand:**

Decision of IGRC, MSEDCL Nashik is not acceptable to the complainant in view of statement of condition No. 3 which mentions that " As per MERC Tariff order, category & rate applied and will be re-determined when Tariff order is revised by MERC" In view of the revision of Tariff orders by MERC on subject of Start Up power connection.

**Action by IGRC:**

1. Internal Grievance Redressal Cell Nashik Urban Circle conducted hearing on 22/11/2016 for the complaint submitted on 20/10/2016
2. After hearing both the parties IGRC gave decision as per letter dated 28/11/16 as under:

*ojhyi iek.ks xtgdkus e[; dk; ky; kP; k eatjhi vknskrhy vVhph iqrk u dY; ke[ s I nj xtgdkl ekx.kh dsysk vkj kfxd njl dr ykxq gkr ukgh-*

**Arguments from the Distribution Company:**

The Distribution Company submitted a letter dated 02/01/2017 from the Nodal Officer Nashik (urban)circle MSEDCL, and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

1. esj rubMh; k ukf'kd i kbj ft- os 12-5 , e0gh, ps eatjhi e[; vfhk; rk %okf.kT; ½ ; kps i = dZ Co/Ord/Cell Indiabulls Realtech Ltd./No. 33892 dated 12/12/2013 e/khy vV da 3 u[ kj if you have signed EPA with MSEDCL for sale of Power, HT-I Industrial tariff will be applicable to you otherwise HT commercial tariff will be applicable. As per present MERC tariff order, category & rate applied & will be re-determined when tariff order is revised by MERC.
- 2- ojhy i ek.ks xtgdkus e[; dk; ky; kP; k eatjhi vknskrhy vVhph iqrk u dY; ke[ s I nj xtgdkl ekx.kh dsysk vkj kfxd njl dr ykxq gkr ukgh- R; ke[ s I /; k xtgdkus ekx.kh dsysk nj ekU; djrk ; r ukgh- I nj xtgdkl vkdkj.; kr vkysk njl dr ; kX; vl Y; kus xtgdkph rd[kj [kkjht dj.; kr ; koh fg fourth-

**Observations by the Forum:**

After considering the representation submitted by the consumer, comments and arguments by the Distribution Company, all other records available, the Forum records the following observations/findings :

1. The complainant is M/s RattanIndia Nasik Power Ltd . Nasik Thermal Power Project is being setup by RattanIndia Nasik Power Ltd. (formerly known as Indiabulls Realtech Ltd.) – a subsidiary of RattanIndia Power Limited (formerly known as Indiabulls Power Limited.).
2. During the course of hearing , the Distribution Company was asked by the Forum to submit before 13/01/2017 , a joint inspection report about the load connected for start up and construction purpose and also the verification report of the break up of the consumption for start up and construction purpose (from June 2015 till today ) submitted by the complainant. But the Distribution Company has not yet submitted any reports as desired.
3. As per the power sanction letter dated 12/12/2013 from CE (Commercial) a condition no. 3 is imposed as under:

*if you have signed EPA with MSEDCL for sale of Power from your thermal power plant , HT Industrial tariff will be applicable to you otherwise HT commercial tariff will be applicable. As per present MERC tariff order, tariff category & rate applicable will be redetermined when tariff order is revised by MERC.*

4. The Distribution Company has applied HT II (Commercial Tariff ) to the complainant since start of supply . The complainant has not submitted any Energy/Power Purchase Agreement (EPA/PPA) . The Distribution Company had committed in the power sanction letter to apply the appropriate tariff as per MERC orders. However it would have been and it is mandatory for the Distribution Company to apply the relevant tariff category to a consumer as per MERC tariff orders irrespective of such a condition in the power sanction letter.
5. There were no clear directives in the MERC Tariff Orders for “Start up power for Generating Stations” till June 2015. But as per Tariff Order in Case No. 121 of 2014 In the matter of Petition of Maharashtra State Electricity Distribution Co. Ltd. for approval of Multi Year Tariff for Second Control Period FY 2013-14 to FY 2015-16 Dated: 26 June, 2015 , the Commission has directed to apply **HT –I (Industrial Tariff) to the “ Start up power for Generating Stations” and listed the same specifically at serial number (g) under the head HT –I (Industrial Tariff) in Annexure II: Approved Tariff Schedule.** Hence the Distribution Company should have applied the HT –I (Industrial Tariff) to the start up power of the complainant with effect from 01/06/2015 in view of the above MERC Tariff order.
  - ✓ The complainant in fact had applied for the change as per application dated 27/07/2015 to the Executive Director and dated 31/08/2015 to the Superintending Engineer, Nashik Rural Circle. But the then Superintending Engineer , Nashik Rural Circle has preferred to refer the matter to the CE (Commercial) by letter dated 28/09/2015. The CE (Com) by his letter dated 05/10/2015 advised the Superintending Engineer , Nashik Rural Circle to apply appropriate tariff in view of the MERC Tariff Order dated 26/06/2015.
  - ✓ But the then Superintending Engineer , Nashik Rural Circle again reverted back to the CE (Com) by a letter dated 29/10/2015 informing that the consumer has not signed EPA and utilizing the power for construction activity also. The . CE (Com) again categorically replied by a letter dated 11/01/2016 that the HT-I tariff will be applicable.

In spite of these clarifications it is not understood why the then Superintending Engineer not changed the tariff. Hence the Forum directs the Distribution Company to apply HT –I (Industrial Tariff) to complainant with effect from 1<sup>st</sup> June 2015 till 31<sup>st</sup> October 2016. The said order does not put any condition/restriction regarding the use of power for construction purpose.

6. Now as per Tariff Order in Case No. 48 of 2016 Dated: 3 November 2016 in the matter of Petition of Maharashtra State Electricity Distribution Co. Ltd. for Truing-up for FY 2014-15, Provisional Truing-up for FY 2015-16 and Multi-Year Tariff for 3rd Control Period FY 2016-17 to FY 2019-20 the Commission has directed to apply HT –I (Industrial Tariff) to the **“Start-up power for Generating Plants, i.e. the power required for trial run of a Power Plant during commissioning of the Unit and its Auxiliaries, and for its start-up after planned or forced outage (but not for construction)”** .This order is effective from 1<sup>st</sup> November 2016.

In the said order under the head of **“Key Considerations for Tariff Design”** the Hon'ble Commission has recorded following observations about the **“Start-up Power for Generating Units”** :

***JJ Start-up Power for Generating Units:***

*Start-up power supply is required by Generating Units before COD during their synchronisation with the Grid, and after COD to re-start generation after planned and/or forced shutdowns. Such „Start up Power supply is essential for Generating Units, though utilised infrequently. However, the Generating Unit is required to take a supply connection from the Distribution Licensee for such infrequent occasions, and to pay Demand Charges on monthly basis irrespective of whether or not the supply from the Distribution Licensee is actually availed or not.*

*Hence, the Commission has decided that the start-up power requirement for Power Plants may be availed from the Distribution Licensee through a separate connection or through the existing evacuation infrastructure. In the case of a separate connection, all the terms and conditions applicable to any consumer would be applicable. If a separate connection is not taken, the Power Plant shall have to enter into an agreement with the Distribution Licensee for contracting the demand for such start-up power. In either case, the Demand Charge rate will be 25% of the rate approved for the HT Industry category, to the extent of the start-up demand contracted by the Power Plant for Black Start, or start-up after forced or planned outage. However, this dispensation shall not be applicable to Power Plants having PPAs with the Distribution Licensee under Section 62 of the EA, 2003 which provide for netting off the energy drawn by the Generator with the energy injected into the grid.*

7. During hearing, the Forum has asked the Distribution Company to submit a joint verification report before 13/01/2017 for the connected load used for start up and for the construction purpose also verify the break up of the units consumed for start up and for the construction purpose as submitted by the complainant. However the Distribution Company has not submitted any report in this regard.
8. The tariff order dated 3 November 2016 does not allow industrial tariff for construction purpose for generating units . Hence it is necessary to bifurcate the load . As indicated in the said tariff order the complainant should be given a separate connection for start up power and till that the units consumed for start up purpose should be proportionately applied industrial tariff based on the verification of load/actual consumption for start up and construction purpose. If a separate connection is not taken, the Power Plant shall have to enter into an agreement with the Distribution Licensee for contracting the demand for such start-up power subject to the conditions prescribed .

In view of the observations and directions as elaborated in the preceding paragraphs the following order is passed by the Forum for implementation:

#### **ORDER**

1. The Distribution Company should apply HT –I (Industrial Tariff) to complainant with effect from 1<sup>st</sup> June 2015 till 31<sup>st</sup> October 2016 and refund the difference in the ensuing bill after the date of this order.
2. The HT –I (Industrial Tariff) should be applied to the consumption for start up purpose w.e.f from 1<sup>st</sup> November 2016 based on the verification of load/actual consumption for start up and construction purpose till the separate connection is given. If a separate connection is not taken, the complainant shall have to enter into an agreement with the Distribution Licensee for contracting the demand for such start-up power as envisaged in the MERC Tariff Order dated 3 November 2016. subject to the conditions as prescribed.
3. As per regulation 8.7 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 , order passed or direction issued by the Forum in this order shall

be implemented by the Distribution Licensee within the time frame stipulated and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum within one month from the date of this order.

4. As per regulation 22 of the above mentioned regulations , non-compliance of the orders/directions in this order by the Distribution Licensee in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Maharashtra Electricity Regulatory Commission can initiate proceedings *suo motu* or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Electricity Act, 2003.
5. If aggrieved by the non-redressal of his Grievance by the Forum, the complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', BandraKurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

**(Rajan S. Kulkarni )**  
Member

**( Sandeep D. Darwade )**  
Member-Secretary  
& Executive Engineer

**(Suresh P.Wagh)**  
Chairman

**Consumer Grievance Redressal Forum Nashik Zone**

Copy for information and necessary action to:

- 1 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. , Vidyut Bhavan, Nashik Road 422101 (For Ex.Engr.(Admn)
- 2 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. , Vidyut Bhavan, Nashik Road 422101 ( For P.R.O )
- 3 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. , Urban Circle office, Nashik .