

**CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.**

“ Vidyut Bhavan ” Ratanlal Plots, Akola : 444001 Tel No 0724 .2434476

Dt.15/01/2016

Complaint No. 41 / 2015

Grievance pertaining to threat of disconnection of electric supply, issuing of legal and excessive provisional bill and to restoration of correct tariff etc.

Quorum

Shri T.M.Mantri, Chairman

Shri. D.M.Deshpande-Member (CPO)

M/s BPL US WEST CELLULAR Akoli khd-cl-139, Tq. Akola.
Consumer No:- LT-31037050782

Complainant

.....Vrs.....

Executive Engineer MSEDCL, O&M Division Akola (Rural)

Respondent

Appearances :

Complainant Representative: Shri. D.S. Talware

Respondent Representative: Shri. R.S. Tingre Dy. Manager (Finance & Audit) Rural Division, Akola

1. In substance the grievance of the complainant pertaining to raising of provisional assessment bill of Rs.9,73,740/- alleging that it has been issued after the inspection made by flying squad by Akola on dated 05/08/2015 changing the industrial tariff to commercial category. According to the complainant it is basically an infrastructure provider company to land, tower and power supply to mobile operators. It is alleged that these mobile towers are categorized and billed under industrial category as per orders of MERC and the licenses since 01/08/2012. Neither any business activity is carried on nor there change in user of electricity. The alleged provisional bill being not correct needs to be set aside. As threat of disconnection of power supply received from N.A. without considering the genuine grievance lodged with it, hence the complainant is compelled to approach the forum seeking the reliefs prayed for. Alongwith complaint copies of documents have been annexed.

2. In view of urgency and intended action of disconnection of electric supply the matter has been heard by the forum and interim order has been passed in respect of not to act upon the notice of disconnection and directing the complainant to pay all the current bills within a time limit.
3. In pursuance to notice of this forum N.A. has filed short reply stating that during inspection the flying squad has noticed use of electricity for Vodafone B.S.C exchange cum microwave station and therefore as per circular no.175 dt.05/09/2015 is to be billed LT-II non residential or commercial category i.e. commercial tariff. On the basis of such report and direction difference amount of Rs.9,73,740/- has been added in the bill of Sept-2015. According to the N.A. the complainants claim is therefore untenable and liable to be rejected. Alongwith reply copies of document came to be filed.
4. Heard Shri. D.S. Talwar, the learned representative of the N.A. On behalf of complainant notes of argument alongwith documents representative has produced document about issuing of the payments of correct bills, earlier also and also of non acceptance of the same by N.A. The N.A. has admitted receipt of the payment of the current bills, in pursuance to order of this forum. The copy of the demand draft of Rs.3,82,330/- is an record and it is admitted. From the reply and argument of the N.A. it is clear that visit of flying squad and its reports, the impugned Bill of Sept-2015 with addition of Rs.9,73,740/- came to be issued. Admittedly earlier all the bills have been issued under industrial category. The report of the flying squad refers to change of tariff from LT-V Industrial to LT-II commercial by making reference of circular no.175. The billing section and concerned officer have issued the impugned bill. Here it needs to be mentioned that Honor'able APTEL in appeal no.234 and others/2012 has passed order in respect of levying of commercial tariff in place of industrial tariff also to mobile tower, microwave tower etc. It has been observed that the mobile tower was earlier billed under industrial category and in Para no.7 of the said order there is reference of rejection of proposal of licensee to recategorise from industrial to commercial, earlier by state commission, vide order dt.17/09/2009. Even there after though there was no proposal, the tariff category

was changed as per order dt.16/08/2012 and by giving details of such events, in Para no.12 of the said order the APTEL has held to set aside the impugned part of order dt.16/08/2012 with regard to recategorisation of mobile towers, microwave towers to commercial category from industrial category. Here it's pertinent to note that the only basis and reliance of N.A. on commercial circular no.175 is in view of order dt.16/08/2012. So when the said order was challenged before APTEL and by above referred order that much portion has been set aside there is no question for changing the tariff category. So in fact there was no basis for applying commercial category from industrial category.

5. On behalf of complainant copies of letters dt.15/12/2012 and 15/04/2013 by Chief Engineer (Commercial) addressed to all Superintending Engineer, O&M Circle have been filed on record. On going through these letters it is clear that as per order APTEL decision has been given to levy industrial tariff from dt.01/08/2012, so also to refund tariff difference, accordingly. It is pertinent to note that at the time of providing electric connection inspection was carried out so also purpose of user of electricity was verified. It has been admitted that there is no change in the purpose of user since the date of connection. To the pointed query raised by this forum whether there is any change in the user of electricity by the complainant, the N.A.'s representative has fairly submitted "no change in the user". As already observed above the basis of revising tariff from industrial to commercial being not made out or stabilized, the action of issuing impugned revised bill cannot said to be just, legal & proper.

6. During the course of arguments it has been also admitted that the complainant was never billed under commercial category earlier and only after the visit of flying squad, in Aug-2015, the tariff has been changed to commercial. The learned representative of the N.A. has to admit that there is no order or direction of the complainant authority for changing such tariff category. In the back ground of such facts and circumstance, there is substance in the grievance of the complainant. Therefore it is necessary to give suitable direction to the N.A. in that respect for revising the earlier industrial tariff instead of commercial tariff. During

the course of argument it has been admitted all other towers except complainant are being billed as per industrial tariff. There is no reason/ basis for such discrimination. The impugned bill of Sept-2015 so also onwards bills will have to be revised under industrial tariff including deletion of Rs.9,73,740/- which has been added by way of adjustment in the said bill. The N.A. has to revise all this bills of commercial category and whatever payment the complainant has made during the intervening period needs to be adjusted. Needless to say that the N.A. is also required to not to levy delay payment charges/ interest while revising the bills as per industrial tariff and whatever excess amount paid by the complainant needs to be refunded by way of adjustment in the forth coming bills of the complainant. With such observation and conclusions this forum proceeds to pass following unanimous order.

ORDER

1. The complaint no. 41/2015 is hereby allowed. The impugned provisional bill of Sept-2015 so also subsequent bills issued under LT-II- Commercial category are hereby set aside and N.A. is directed to revise these bills as per earlier tariff of industrial category.
2. The N.A. is further directed to issue revised bills as per industrial category and not levy DP charges/ interest therein and the excess payment made by the complainant to be refunded by way of adjustment in the forth coming electric bills payable by the complainant.
3. That the compliance report to be submitted within a period of one month from this order.

s/d
Member (CPO)

s/d
Chairman

TO
The Nodal Officer,
Executive Engineer
MSEDCL,
O&M Division. Akola (Rural)
Dist. Akola

The order passed on 07/01/2016 in the Complaint No. 41/2015, is enclosed herewith for further compliance and necessary action.

Secretary,
Consumer Grievance Redressal Forum,
MSEDCL, Akola Zone, Akola

Copy fwc to:

1. M/s BPL US WEST CELLULAR Akoli Khd-cl-139, Tq. Akola.