

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

“ Vidyut Bhavan ” Ratanlal Plot,Akola. Tel No 0724.2434475

ORDER.

Dt. 04/08/2016

Complaint No. :- 12/ 2016

In the matter of grievance pertaining to applicability of incorrect tariff, refund of the amount, cost etc.

Quorum

Shri T.M.Mantri, Chairman
Shri. R.A. Ramteke ,Member-Secretary
Shri. D.M.Deshpande-Member (CPO)

J.J.Fines Spun Pvt. Ltd. Ratanlal plots :-
Akola.
Consumer No. HT.Ind. – 310629026910

Complainant.

.....Vrs.....

Superintending Engineer MSEDCL, :-
O&M Circle,Akola.

Respondent

Appearances: -

Complainant Representative :-

Shri. Ashish Chandarana

Respondent Representative :-

Shri. Dilip N. Dodke, Sup.Engineer.

1. Being not satisfied with the order of IGRC Akola in respect of its grievance of incorrect applicability of tariff, the complainant has approached this forum. In substance the complainant case is, on 15.02.2011 it had applied for 1800 KVA contract demand which was approved on 29.03.2012, referring to Clause No.15 about imposing of power restriction. According to complainant thus the said approval is for non continuous category. In any case the complainant never demanded continuous supply at the time for load sanction, it is further alleged that prior to the release of load (16.04.2014),it was made aware about frequent interruptions, by N.A. It is alleged that during the said period load shedding of industries was already withdrawn and many consumers were obtaining for migrations from continuous to non continuous category. However in view of need and the category of

industry complainant has given consent for continuous un-interrupted supply as advised by the officer of the N.A. Reference has been made to letter dtd. 09.04.2014. It is alleged that the N.A. did not release fresh load sanction but started charging HT-1-C tariff with frequent interruptions in supply in spite the complainant was paying for premium tariff. There by the complainant was getting ordinary supply but charged at premium rate. In spite bringing to the notice of N.A. and officers nothing was done though it is duty of N.A. to maintain all records of trippings of every feeders. In view thereof as there was no option for getting billed at HT-1-N tariff preferred application and now the complainant is billed at HT-1-N tariff, hence sought the relief prayed for as the IGRC has ignored the law and passed order without following principle of natural justice. In spite bringing to the knowledge of IGRC no opportunity of hearing was given and ex-party order was passed, mainly referring upon complainant's application for continuous power supply but also failed to take into account tripping data provided by the complainant, similarly failed to consider clarificatory order in case in case No. 88 of 2012. According to the complainant the N.A. without disputing refunded about 100 crore to 17 Jalna consumers but at the same time failed to apply same principle to the complainant and thereby causing discrimination, in spite directives of regulators, hence the complainant seeking the reliefs prayed for. Bunch of documents filed with the complaint so also subsequently even before the final arguments.

2. The claim of the complainant has been opposed by the N.A. vide reply stating that the connection of the complainant is connected on Express feeder, so also referred to the consent dt.09.04.2014 given by the complainant for continuous supply and now the complainant is seeking of refund of tariff difference of continuous to non continuous alleging frequent interruptions so also making reference of M/S Kalika steel alloys Pvt.Ltd. (Case No. 88/2012) . As per N.A. in similar matter M/S Century Rayons has filed Petition No.86/2015. It has been stated that Hon. MERC after hearing the matter kept it reserved for order, hence the complainant is not entitled for reliefs as the decision in Case No. 86/2015 is pending before MERC. Additional reply and rejoinder came to be filed on behalf of the complainant and the licensee. Heard Shri Ashish Chandarana and Shri Dilip

N.Dodke.S.E.,the learned representatives for the parties. After giving considerable thought to rival submission and available material on record this forum is passing this order.

3. As far as the order of IGRC is concerned, the record clearly shows that the said authority has utterly failed in following the principle of natural justice as well as giving an opportunity of hearing. The copy of the IGRC order is on record but it is undated from the said order itself it is clear that matter was fixed for hearing on 12.01.2016 and on that date none present on behalf the complainant as mentioned in the said order. The complainant has filed on record copy of letter dt.14.01.2016 mentioning there in that the information about the hearing on 12.01.2016 was received on 13.01.2016 by post, hence it could not remain present at the time of hearing, so also requested for next date of hearing. The said letter was received in the office of N.A. as per endorsement thereon. However it is admitted position that complainant was not given opportunity of hearing as requested. Even if one goes through the impugned order of IGRC, it is clear that not only there are contradiction but also non application of mind to the grievance as well as MERC order/tariff order etc. So, the said order cannot be justified and even no attempt has been made from the side of N.A. to support it. The aim and object of formation of IGRC is to see that the grievances of consumers are heard & resolved properly. It is not supposed to “ dispose off “ the grievance mechanically treating the consumer as an opponent.

4. As far as grievance of the complainant on merit is concerned it is clear that complainant is continuous tariff consumer since 16.04.2014 and the N.A. has also entered an agreement signed by the competent authorities of the N.A., so also Director of the complainant. There is also hand written note on page No.2 referring that the complainant is continuous industry. That the MERC has clarified what is meant by continuous and non continuous supply industries in tariff order on 16.08.2012. It has been laid down that “ Only HT industries connected on express feeder and demanding continuous supply will be deemed as HT continuous industry & be given continuous supply & rest of all other HT industries will be deemed as HT non continuous industry.” So HT-1-C category was applicable to HT continuous industry and HT-1-N category for HT non continuous industry. So

for continuous industry, there must be un-interrupted power supply. Even otherwise as per section 42 of Electricity Act, It is the duty of Licensee to develop, maintain an efficient, co-ordinated distribution system to supply the electricity as per terms. The MERC has dealt with such matters and for ready reference, order of MERC in case No. 44/2008 dt. 12.07.2008. There after clarificatory order has been passed by MERC in Case No. 88/2012 dt, 16.07.2013 filed by M/S. Kalika Steel & Alloys Pvt. Ltd. and others raising grievance about classification of supply as non continuous category for the grounds more particularly frequent interruptions in supply and after contest by the licensee. The MERC has passed the said order accepting the contention of the petitions there in for not charging tariff applicable to continuous industry, but under non continuous category in the month they have not been provided continuous supply, with direction to refund the difference of tariff with interest. The complainant has relied upon the said order.

5. It is further to be noted that the licensee company has preferred review petition No. 105/2013 against the order dt.16.07.2013 in case No. 88/2012 raising various ground some of them, are like in the present matter on behalf of N.A. The MERC has passed the order which supports the complainants case. In view of admitted position by the N.A. that it is continuous process industry as referred to the agreement here in above. So also it is even not the case of the N.A. that complainant is not a continuous industry. As already observed above the important condition and requirement for such industry is of continuous un-interrupted supply. Here in the present case the complainant has given details of tripping & Breakdown on various dates and duration thereof, alongwith letter dtd. 02.09.2015 clearly mentioning that because of such interrupted power supply there is loss of production, quality of material, apart from losses of machines, electronics and electrical equipments. It has been also categorically mentioned that the service of the N.A. is like a "Local feeder" though the agreement for connection was for "expressed feeder". Those averment have neither been denied earlier nor in the present proceeding. Even during course of arguments this has not been denied.

6. At this stage it is pertinent to note that during the inspection carried out on dtd.12.07.2016 of the power transformer at Sub-Station it is found that power transformer is without circuit breaker. This can be main cause of frequent interruptions, trippings. During the course of argument the learned representative of the N.A. has not denied and disputed this fact. By no stretch of imagination it can be said that absence of breaker to incomer transformer is unavoidable circumstance beyond the power of N.A. This is total in contravention to the provision under Electricity Act-2003 (Section-42) as well as MERC regulations, which are binding on the licensee.

7. That the complaint has been opposed on behalf of N.A. in view of filling of petition No. 86/2015 in view of order and direction about refund of continuous charges in case NO. 105/2013, with further arguments that the said petition No.86/2015 is for kept for order. On going through the daily order dt.21.11.2015 in the said matter it is crystal clea that it is relating to matter of petitions filed by M/s. Century Reyons under section 142 & 146 of Electricity Act-2003 for seeking reliefs because of infringement of order dt.12.07.2014 in case No. 105/2013. So apparently the said case is for compliance of order of MERC in 105/2013. It has no concern or connection with the present matter in hand. The N.A. could not make out or explain as to how ultimate decision there in will affect the present case. It has not been even submission of the N.A. that ultimate decision in 86/2015 will have any impact on the order in the matter of 88/2012 & review of petition No.105/2013.

8. One important aspect needs to be noted that as per the N.A. the order in 88/2012 (M/S Kalika steel alloys Pvt.Ltd.) is not good in law but instead of challenging the said order before Aptel, the H.O. of the N.A. has complied with the said order by making huge payment of about more than 83.17 corers to the 17 Giant industries. That the complainant has filed on record the details of information about refund as per MERC order review petition of 105/2013 (M/S Kalika steel alloys Pvt.Ltd.). This has not been disputed on controverted from the side of N.A. during course of arguments. So it is clear that the H.O. of the licensee is complying with the said order but at the same time the N.A. is raising objection in the present matter that the said order in 88/2012 is not good in-law. One fails to

understand the basis for applying of different yardsticks to consumers, on behalf of the same under taking of N.A. In any case the contention of the N.A. to keep this matter pending, indefinitely, till final order in 86/2015 can not be accepted. As per MERC regulation the complaints filed before the CGRF are to be decided within the prescribed time, therefore also the said submission of N.A. is contrary to the MERC regulations. In any case as already observed above the ultimate decision there in ,will have no impact on order of 88/2012 & 105/2013.

9. As far as the other grounds raised in additional say on behalf of N.A. for dismissing the present complaint on the ground of greed and system, load factor incentive etc. it needs to be simply observed that the case 88/2012 also covers the same. The definition of continuous or non continuous has been defined time to time, ultimately in case No. 88/2012 the clarification has been made about continuous tariff with un-interrupted supply whereas supply with interruptions as non continuous category. The said order was not challenged before Aptel but review petition filed where in also order was passed (105/2013). In view of delay made by the petitioners there in the order in respect of non giving of interest has been passed whereas in the present matter there is no delay in making grievance on behalf of the complainant, as well as approaches to the concerned authorities including this forum well in time. In view there of the complainant will be entitled for interest also on refund of difference in tariff category from continuous to non continuous.

10. In view of above observations and conclusions the complainant is entitled for difference of the tariff category from HT-1-C (Continuous) to HT-1-N(Non continuous) tariff from 16.04.2014 onwards till making applicable of right tariff category, alongwith reasonable interest i.e. @ 7% till making of the payment. The difference amount so arrived at needs to be adjusted in the bills payable by the complainant. With such observations, this forum proceeds to pass following order.

// ORDER //

1. The complaint No.12/2016 is here by partly allowed.

2. The N.A. is directed to refund the tariff difference from continuous HT-1-C to non continuous HT-1-N from 16.04.2014 onwards till the date correction of the tariff category to HT-1-N non continuous.
3. The N.A. is also directed to pay interest @7% on difference amount of tariff category from 16.04.2014 onwards. This entire repayment is to be made by making adjustment in the forthcoming bill payable by the complainant.
4. In the circumstance parties to bear their own costs.
5. That the compliance report to be submitted within period of two months from this order.

Sd/-
Member (CPO)

Sd/-
Chairman

Contact details of Electricity Ombudsman appointed by MERC (CGRF&EO) Regulations 2006 under Regulation 10:

THE ELECTRICITY OMBUDSMAN,
Office of Electricity Ombudsman (Nagpur)
Plot No.12, Shrikrupa, Vijaynagar, Chhaoni, Nagpur-440 013.
Phone : 0712-2596670

No.CGRF /AKZ/ AKL/ 118

Dt. 04.08.2016

TO

The Nodal Officer,
Superintending Engineer
O&M Circle, MSEDCL, Akola.

The order passed on 04/08/2016 in the Complaint No. 12/2016, is enclosed here with for further compliance and necessary action.

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

Copy fwc to:-

1. The Chief Engineer Akola Zone, Akola.
2. J.J.Fines Spun Pvt. Ltd 2nd floor, Friendz Plaza, Ratanlal plot Akola. Distt. Akola
Consumer No. Ind. – 310629026910

R.A.Ramteke
Member/Secretary

D.M.Deshpande
Member (CPO)

T.M.Mantri
Chairman

Sd/-
Member/Secretary

Sd/-
Member (CPO)

Sd/-
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