

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

*“Vidyut Bhavan”,
Ratanlal Plots,
Akola: 444 001
Tel.No.2434476*

Dt-05/06/2013

Complaint No.25/2013

In the matter of M.I.Rural Development,Gaigaon for applicability of proper tariff

Quorum :

Shri T.M.Mantri,	Chairman
Shri P.B.Pawar,	Secretary
Shri A.S.Gade	Member

M.I.Rural Development,Gaigaon Akola

... Complainant

...VS...

MSEDCL Rural Division ,Akola

... Respondent

1 The complainant has approached to this forum for applicability of proper tariff LT-II-A from 01/08/09 and LT-X from 01/08/12 by referring to different case numbers with claim of refund/adjustment of the amount paid to the N.A.licensee with 9.5% interest. The complainant has also claimed compensation for not applying the proper tariff along with cost. The complainant's case in brief is that since 31/7/06 it is consumer of the N.A.licensee utilizing the supply for education institute at the address mentioned. It is alleged that the electric bills as per tariff LT-I have been billed. Reference has been made to case No.116/2008 in respect of the tariff effective from august 2009 and it is a duty/liability of the N.A.licensee to classify/reclassify as per approved tariff categories. It is alleged that education institutions are classified under LT-II-A. Reference has been made to provisions of SOP regulations 2005 in respect of compensation for not making the tariff applicable.

2 It is alleged that inspite above referred tariff the complainants has been billed under LT-I instead of LT-II-A by referring to the electric bills. It is further stated that the state commission has created new categories LT-X public services in case No.19/2012 effective from 01/08/12. The education institute as the applicants premises is under

category of public services hence it ought to have been applied tariff LT-X. In spite making complaint dt. 16/10/12 the grievance has not been resolved. The complainant has paid bills from August,12 under protest and by letter dt. 28/02/13 it was so informed.

3 According to complainant it is entitled for Rs.17,500/- SOP for not applying the proper tariff so also entitled for refund of excess amount paid with 9.5% interest hence the complaint seeking the reliefs. The complainant has filed documents in support of the complaint.

4 The concerned office of the N.A.licensee has submitted reply after receipt of the notice, but too late, stating that the electric connection is for residence school having user of education, students hostel, mess, water supply, staff quarters etc. In the CPL wrongly the sanction load is shown as 0.30KW. Reference has been made to the spot inspection carried out on 09/04/13 and as per MRI report the maximum load availed is 20.32 KW.

5 It is stated that during the spot inspection it was revealed that the electric supply from the said meter is being used for residence of Superintendent of the Hostel, students hostel, with mess and residence of the staff. It was further revealed that about 20% of the total user of the electric supply is for the students class rooms. As the supply is being used from one meter for education purpose and resident school it cannot be bifurcated, exact user for each purpose. The complainant did not sought for different connections for different use but has sought for commercial user straight-way which technically does not appear to be correct. As the premises are being used for resident military school, the charges have been levied in that category which is proper hence the complaint is liable to be dismissed.

6 When the matter was fixed for hearing adjournment has been sought from the side of the N.A.licensee on the ground that the concerned authorized representative has gone to Mumbai for training as well as E.E./Nodal Officer has gone to Nagpur before H.C. on the adjourned date the submissions have been made and advanced arguments. On behalf of the complainant heard Mr.D.M.Deshpande, the learned representative, whereas on behalf of the N.A.licensee Mr.Nitin Malode, A.E. the authorized representative has made the submissions. As is clear from the record the grievance is pertaining to change of tariff. Admittedly the tariffs are fixed, revised by MERC. As per

regulations the N.A.licensee to take steps for making applicable tariff and the consumer has no role therein. From copies of the bills filed by the complainant as well as undisputed earlier LT-I tariff has been made applicable. The complainant has referred to approve tariff schedule effective from 01/08/09 and submitted that LT-II non-residential commercial tariff ought to have been made applicable as it has been specified therein, that it is applicable to all education institutions, hostels, dispensaries, etc. So also made reference of order of Hon.ble MERC in case No.19/2012 where in LT-X public services tariff is "A" made applicable.

7 Whereas according to the learned representative of the N.A.licensee the tariff made applicable to the complainant institutions is correct and there is no need to change the said tariff. According to him LT-I residential tariff is made applicable to all students hostel, affiliated to educational institutions in the earlier tariff order as well as subsequent tariff order of 19/12. According to the learned representative of the N.A.licensee the complainant is a residential school and even as per its prospectus residence is compulsory. He has further submitted that in the spot inspection it was found that apart from the education classes wherein work of imparting of education is carried out. There are other premises such as students hostel, mess, superintendent's office, etc. and major use is towards residence, so the tariff made applicable is correct and there is no requirement to change the same. According to him only about 20% of energy supplied is used for the class rooms and as there is single meter there cannot be bifurcation as to how much energy is used for classes and for other purposes. The learned representative for the complainant has submitted that complainant was and is ready for availing different connections but the same is being not provided. During course of submissions both the parties have advanced arguments that they can take appropriate steps in that respect. The same can be done if permissible under rules and regulations of the N.A.licensee. As far as applicability of tariff and controversy thereof, the approved tariff schedule as per case no.116 of 2008 provides LT-I residential and special category "c" thereunder is for "all students hostel affiliated to educational institutions whereas LT-II non residential category specifies applicability thereof and category "B" of educational institutions hostel and dispensaries are commercial. Thereunder the rate and schedule depending upon load slab are provided. The note thereunder deals with TOD tariff. The submission made on behalf of the complainant that in view of this tariff order coupled with subsequent tariff order approved by MERC in case 19/2012 wherein this category has been included in the category of LT-X-2 public services. On going through the said tariff order it is clear that depending upon the

energy load special categories have been made thereunder and it has been specified as to which categories this will be applicable under the head "applicability". On going through the said provisions it is clear that this tariff shall be applicable to education institute, hospitals, dispensaries etc. and it has been further specified thereunder "sports club/health club/gymnasium/swimming pool/ attached to the educational institutions/Hospitals provided such sports club/ Health Club/ gymnasium/swimming pool is situated in the same premises and is exclusively meant for student/patients of such Educational institutions and Hospitals". So from the above categories it is clear that the educational institutions carrying out other activities in the same premises exclusively for students are also included. During the course of arguments the learned representative of the complainant has categorily stated that the hostels, mess and other facilities provided are in existence in same premises are being used for student only and none else. This has not been disputed from the side of the N.A.licensee. When such user is exclusively for students, that too, in the same premises. This forum agrees with the submissions made on behalf of the complainant that the said category LT-X public services "A" is applicable to the complainant. Consequently the earlier tariff order LT-II as per case No.116/2008. The complainants claim for making applicable this tariff w.e.f. 1st August,2009 and subsequently from 1st August,2012 LT-X seems to be just proper and correct. Admittedly the electric bills for these relevant periods have not been issued under this tariff. Consequently the complainants claim for change of tariff needs to be allowed and whatever difference amount in view of applicability of this tariff the same needs to be adjusted in forthcoming bills of the complainant.

8 Needless to say that the reference of decision of CGRF Nasik in the matter of Malpani Pariwar Charitable versus MSEDCL has been referred to and on going through the same it is clear that the facts therein are slightly different in the said matter. The complainant therein had already requested for bifurcation of the supply and permitted sub-meter. On this basis the order in question came to be passed. In the foregoing parts this has been considered and if it is possible either separate connection or sub meter be provided to the complainant.

8 The complainant has also claimed cost and interest @ 9.5% and compensation of Rs.17500/- in the present proceeding. On going though the rival submissions and material on record it is clear that the controversy has arisen out of interpretation. There can be difference in interpretations and on that analogy if the concerned office of the N.A.licensee has considered claim, the same cannot be said to be ill founded. In the

circumstances this forum is of the view to not to grant any relief on that count. With such observations this forum proceeds to pass following unanimous order.

ORDER

- 1) Complaint 25/2013 is hereby partly allowed. The concerned office of respondent licensee is directed to make applicable LT-II-A tariff to the complainant from 01/08/2009 as per tariff order in pursuance to case No.116/2008 and for the subsequent period i.e. from 01/08/12 tariff of LT-X public services, be made applicable as per tariff order in case No.19/2012. The difference amount to be adjusted in the forthcoming bills of the complainant and the subsequent bills are to be issued as per above referred tariff order.
- 2) Rest of the claim of the complainant is hereby turned down. Parties to bear their own costs.
- 3) Compliance report to be submitted within a period of three months from the date of this order.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman