

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

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

Dt- 21/08/2013

**Complaint No.64/2013 & 65/2013**

**Complaint in the matter of of Grievance of application of tariff, charging of  
bills, claim of costs etc**

Quorum :

Shri T.M.Mantri,	<b>Chairman</b>
Shri P.B.Pawar,	<b>Secretary</b>
Shri A.S.Gade	<b>Member</b>

- 1) Shri Pravin Ranchandra Pote, (Con.No364186200707) ... Complainant No.64  
(Township 3 & 4)
- 2) President Gajanan Township 1 (Con.No. 364186200774)  
President Gajanan Township 5 (Con. No. 364186200693 ) ... Complainant No. 65  
...VS...
- The Executive Engineer Rural Dn. Amravati ... Respondent

***Appearances:***

Complainant Representative: Shri Shri D.M.Deshpande

Respondent Representative: Shri B.M.Shirao,Asstt.Engineer,Rural Dn.Amravati  
Shri Upadhye, Asstt. Law Officer

1 Being not satisfied with the order of the I.G.R.C. Amravati the complainants have approached this Forum in respect of their grievance of the bill issued for Rs. 7,11,020/-(Township No.3 & 4), Rs.8,34,520/- (Township NO.1) and Rs. 9,65,630/- (Township NO.5) alleging that the Vigilance Squad of

the N.A has made wrong tariff applicable, that too for 67 months, hence it is not only arbitrary but illegal, hence required to approach this Forum.

2 In substance, the complainants case is that it is Public Water Works consumer of the N.A. since the respective dates mentioned in the complaints of the Year 2007 with connected load of 15 HP. According to the complainant the electricity supply is used for public water works to about townships mentioned in the respective complaint for residential purposes working on "No Loss No Profit basis" for supplying drinking water on behalf of the Gram Panchayat, Kathora Bk. District Amravati. Reference has been made to bill of July/September, 2012, for township No.1,5 and 3,4. It is alleged that the vigilance team of the N.A. visited the premises of the complainants on 27/11/2012, detecting lapses on the part of the N.A. According to it, wrong tariff is charged as PWW, instead of residential. Report in that behalf has been submitted to the Asstt. Engineer, Rural Amravati. The complainants received the entire papers with bill, assessment copy, detailed calculations etc. to which the complainants protested by letter dated 4/1/2013, 23/2/13 and 26/4/2013. It is alleged that before hearing, the N.A. debited the bills of tariff difference to the account of the complainants in CPL. The bills of April/May-2013 came to be issued showing the arrears. The complainants though lodged complaint with IGRC Amravati on 7/5/2013 but it was rejected by the said authority without taking any hearing even without giving an opportunity of hearing. It is further alleged that before deciding the matter by IGRC disconnection notice dated 28/5/2013 came to be issued compelling the complainants to approach the Forum and as per the interim order Rs. 50,000 in each of the complaint has been deposited.

3 According to the complainants there was non-compliance of regulations more particularly clause 7 of the Supply Code as mandatory notice was not given, so also assessment is not carried out in their presence. Earlier tariff for Water Works was applicable as per the earlier tariff order. As per the tariff order, the N.A. has to apply proper tariff order and it is its responsibility for which the consumer cannot be held responsible. Reference has been made to tariff order of 19/2012 wherein PWW tariff has been defined. It is alleged that Gram Panchayat Kathora Bk. has confirmed by letter that Water Work connection for these townships are on its behalf and for public facility. According to the complainants vigilance team has committed error in assessment with further averment that there is no provision for tariff difference assessment in Supply Code or the Act. Therefore the said assessment needs to be set aside.

4 It is further alleged that if this Forum decides that LT II (A) commercial tariff is applicable in view of definition of PWW in tariff order 19/2012, the complainants will accept the said tariff from 1/8/2012 with a liberty to change the name and transfer of connection in the name of Gram Panchayat Kathora, Bk. Reference has been made to order of MERC in 24/01 in respect of submission that no retrospective recovery of arrears can be allowed. The complainants have sought for reliefs as prayed for. Copies of documents came to be filed alongwith the complaint.

5 Notice as per regulations sent to the N.A for its reply to the complaints. The reply came to be filed, belatedly, stating that the complaints were placed under P.W.W. LT III category, but it was found that the electricity being consumed for private residential colony which falls under residential category. When the Flying Squad, during the visit found that PWW category tariff is

being charged, it has informed to change the tariff as per MERC tariff order. In case No.19/2012 the PWW category is only for local self government bodies like Gram Panchayat, Municipal Council etc. and by making reference to the order of MERC in case of 19/2012 it is stated that the complainant placed in proper category and the difference amount tariff has been claimed from the dates of connection, without any penalty and interest.

6 It is stated that as per the interim order the complainants deposited the amounts but at the same time, not paying the current bill. Further stated that as per the further interim order the complainant has not deposited the amount of Rs. 75,000/-. According to N.A., because of human error, the party which is benefited has to compensate the other party by making reference to the order of CGRF, Kolhapur. Lastly stated that the complainants have paid Rs. 75,000/- and Rs.1,00,000/- as per the order of dated 29/7/2013 with submission that the complainant be directed to pay the whole arrears.

7 On behalf of the complainants it has been submitted in writing that direction was given for making further payment in interim order but there was delay and that amount has been now deposited, so the interim order stands continued. A copy thereof is given to the learned representative of the N.A. who has endorsed say on the application itself, stating that it may be allowed with fine. Considering the oral submission made on behalf of the parties order was passed on the said application extending the interim order and each of the complainants has been fined for Rs. 250/- for such delay in compliance. Further submissions have been advanced on behalf of both the parties. The N.A.s has produced copy of A1 application of one of the complainants stating that the copy of A1 form of other complainants could not be traced and as soon as they are traced, the same shall be filed. From the side of the N.A.

copies of F1 Register came to be filed alongwith other documents. This was as per the undertaking given during the course of arguments.

8 As already submitted above, both the parties have made submission. on behalf of the complainant Shri D.M.Deshpande, learned representative, has made submission whereas on behalf of the N.A. heard learned representatives Shri B.M.Shrirao and Shri Upadhye, Asstt. Legal Officer.As already observed above, the controversy is in respect of applicability of the tariff. According to N.A. wrongly, LT-III tariff order was made applicable instead of residential, hence after flying squad visit, this change has been made and bill of difference amount has been issued from the date of initial connection.

9 According to the complainants the bill in question of the alleged difference amount of tariff is incorrect whereas according to N.A. the bills are correct. In support of submission, both the parties have been placed reliance on the tariff orders. If one considers the A1 application alongwith other documents such as testing report, F1 Register etc. filed on behalf of N.A. itself, it is clear that though the A1 application is in the name of individual person Shri Pote Pravinkumar, however on Page No.2 category of electricity supply sought for is mentioned as "Water Works". Similarly, in the query form whereby the sanction has been recommended by the Jr.Engineer and Asstt. Engineer of N.A. the purpose of load is mentioned as "Water Supply Purpose". That, it will not be out of place to mention that even the documents of enhancement of initial load have been filled mentioning the same purpose. The proforma F1 register filed on record also clearly mentions in the column "Purpose commodities – 3 PWW". This F1 register is to be maintained by the Sectional Officer and S.D.O. On behalf of the complainant copy of letter of Gram Panchayat, Kathora Bk. addressed to the authority of N.A. is filed on

record requesting that the water supply arrangement is of public nature for the residents under Ward No.3 of Gram Panchayat Kathora, as it is alternate arrangement for water supply for the public in this ward. So the electricity charges be kindly levied under public rural water supply. The said letter is signed by Sarpanch and Secretary of Gram Panchayat.

10 No doubt, this letter came to be issued after the visit of Flying Squad. Nothing has been submitted on behalf of N.A. in this respect, in its reply or during the course of arguments. Considering the rival submission of the parties, the tariff order passed by the MERC needs to be looked into. According to the N.A., the case of the complainants falls under "LT I residential tariff," by making reference of portion of "applicability" from the said tariff order in case No. 19 of 2012. More particularly to portion (f) .

(f) Government / Private / Cooperative Housing Colonies (where electricity is used exclusively for domestic purpose) only for common facilities, like Water Pumping/ Street Lighting/ Lifts/ Parking Lots / Fire Fighting Pumps / Premises (Security) Lighting, etc"

The complainant has filed on record the bill showing therein the tariff levied under LT III(A) in the bill of December, 2012, payment of which has been made. According to N.A., this tariff category of LT III is not correctly levied and in its place LT Residential Tariff ought to have been made applicable, therefore the bill has been revised and issued, which is correct.

11 Considering the rival submissions, it is pertinent to note that prior to the present tariff order, the tariff was applicable as per the tariff order in case No.111 of 2009 and therein the "LT-I residential" purpose was specified mentioning the applicability to the various places. If one peruses the same, it is

clear that there was no such category of places like “(f)” as referred to above in the tariff order of case No.19 of 2012. In the said tariff under case No.111 of 2009, “LT III” category was applicable for Public Water Works, Sewage Treatment Plant. There was no separate bifurcation/identification of any category under the said head. Whereas from the tariff order under Case No. 19 of 2012, Page No.288, this position has been explained and there is reference of proposal made on behalf of the N.A. licensee for making applicable LT III tariff to public water supply owned, operated and managed by local self government bodies only and not for others. Hon. MERC has accepted this proposal. For ready reference, relevant portion thereof from Page No. 288 of case No.19 of 2012 is reproduced :

Consumer Type	Existing	Proposed by MSEDCL	Commission’s Ruling
PWW	No bifurcation	Public Water Supply Schemes and Sewage 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 LT III tariff.	The Commission has accepted the proposal of MSEDCL in this regard; as there may be commercial motive if it is not completely under the ownership, operation and maintenance of the local self Government

12 In Annexure –II Approved Tariff Schedule, as per Commission’s Ruling, LT III category for public water supply, sewage treatment plant is given, for ready reference the same is also reproduced .

### LT III : LT – Public Water Works and Sewage Treatment Plants

#### Applicability

Applicable for use of Electricity / Power Supply at Low / Medium Voltage for pumping of water, purification of water & 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 Sewage 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 LT III tariff and shall be billed as per either LT II (A) or LT II (B) or LT II (C) or as the case may be, except those covered in LT V.

Consumer Category	Fixed / Demand Charge (Rs./kVA/month)	Energy charge (Rs./kWh)
<b>(A) 0 – 20 kW</b>	50.00	2.35
<b>(B) &gt; 20 kW and ≤ 40 kW</b>	60.00	3.11
<b>(C) &gt; 40 kW and ≤ 50 kW</b>	90.00	4.20
<b>ToD Tariffs (in addition to above base Tariffs) (in paise/kWh)</b>		
2200 Hrs – 0600 Hrs		- 100
0600 Hrs – 0900 Hrs & 1200 Hrs.-1800 Hrs		0
0900 Hrs – 1200 Hrs		80
1800 Hrs – 2200 Hrs		110

13 So apparently, it is clear that earlier to tariff order of 19/12, there was no bifurcation in respect of category of Water Supply being carried on by the local self Government bodies or any other agency. Considering the same and



observation of MERC in ruling as referred to above, it is clear that there was no differentiation for rate of tariff either for local self Government bodies or any other agency, including private. If Hon. MERC Ruling is considered, as mentioned above, the proposal of MSEDCL has been accepted and different tariff has been made applicable for local self Government bodies and any other agency. As is clear from the tariff order, LT III category is made applicable to the schemes/plants owned, operated and managed by local self Government bodies like Gram Panchayat, Municipal Council, Municipal Corporation, Maharashtra Jeevan Pradhikaran, Cantonment Boards. As far as schemes, plants owned, operated and managed by any other agency shall be billed as per either LT II(A) or LT II (B) or LT II (C) or as the case may be. Admittedly, , LT V category is for industries. So from the tariff order of 19/2012 it is clear that the Hon. MERC has made different categories of tariff on the proposal of MSEDCL for Water Work Schemes not operated, owned, operated and managed by local self Government bodies. So if one considers this tariff order on record, it is clear that the complainant cannot claim tariff under LT III now. Since it has been made applicable i.e. from 1/8/2012. But prior to that there was uniform and single tariff category for local self Government bodies or any other agency. So prior to 1/8/2012 the same tariff was applicable to the complainants, also, like that of local/public water supply, local self government bodies. However, from 1/8/2012 LT II(A) category is applicable as the complainants category is below 20 KW. The rate schedule as mentioned under the said category has to be applied to the complainants, because even the documents filed by the N.A. itself clearly shows that it was for public water works as referred to above. In view thereof the billing made under residential tariff by the N.A. is not correct. The bills in question therefore needs to be revised in terms of the above order.

14 Here it is pertinent to note that the complainant has relied upon the order of MERC in case of 24 of 2011 in support of submission that no retrospective recovery of arrears can be allowed by referring to para 23 of the said order. Suffice to say that, in view of the above observations and conclusion, the tariff order of LT II (A) has been held to be applicable, that too, from 1<sup>st</sup> August, 2012 as per the tariff order in case No. 19 of 2012 and prior to that the tariff of LT-III was correctly levied and billed by N.A. So the impugned bills issued for Residential Tariff since inception, can not be said to be correct and the same needs to be revised interms of the Tariff orders referred to above. The alleged assessment of N.A. being incorrect needs to be set aside and revised bills as per the present order, on the basis of Tariff order of 19/12 needs to be issued. So the said ruling of case no. 24/11 will not be of much help to the complainant. During the course of submissions the learned representative of the complainants has submitted that from December, 2012 the tariff be revised, as the claim has been made thereafter. This forum is not inclined to accept the same and LT II (A) tariff is to be made applicable from 1/8/2012, as observed above. As far as reliance of the N.A. on the order of CGRF Kolhapur, on going through the same it is clear that the same is of not much help, looking to the entirely different controversy involved therein than that of present case in hand.

15 In view of the above observations and conclusions, this forum is also of the view that whatever payments have been deposited by the complainants during the intervening period, needs to be adjusted in the revised bill to be issued to the complainants in terms of the above order under LT II (A) category from 1/8/2012. With such observations this forum proceeds to pass the following order:-

## ORDER

- 1) The complaints NO. 64/2013 and 65/2013 are hereby partly allowed. The earlier assessment made by the authority of the N.A. is hereby set aside. The N.A. is directed to revise the impugned bills issued to the complainants under tariff of LT residential and in its place to issue bills under tariff LT II (A) as per the tariff order of 19/2012 w.e.f 01/08/2012. The amounts deposited by the complainants during the intervening period to be adjusted in the revised bills and if any due remains, the bill to that effect to be issued to the complainants and they shall remit such amount immediately.
- 2) In the circumstances the parties to bear their own costs.
- 3) That the compliance report to be submitted within a period of one month.

Sd/-  
(A.S.Gade)  
Member

Sd/-  
(P.B.Pawar)  
Secretary

Sd/-  
(T.M.Mantri)  
Chairman