

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM ,
AURANGABAD ZONE, AURANGABAD

Case No. CGRF/AZ/AUR/U /320/ 2010/ 47

Date of Filing: **30. 12. 2010**

Date of Decision: **30. 03. 2011**

M/s COSMO FILMS LIMITED.,
B-14/8 & 9, MIDC Area,
Bajaj Nagar, P.O.B No.964, Waluj,
Aurangabad.
(Consumer No. 490019004195)

Consumer Complainant.

V/s

Maharashtra State Electricity Distribution Co. Ltd. O&M Urban Circle, Aurangabad.

Corum:-

Shri V.B. Mantri,	President
Shri V.S .Kabra	Member
Shri P.A. Sagane	Member Secretary

Sub: Grievance under the Maharashtra Electricity Regulatory Commission,
(Consumer Grievance Redressal Forum and Ombudsman)
Regulations 2006.

The consumer complainant M/s COSMO FILMS LIMITED.,
B-14/8 & 9, MIDC Area, Bajaj Nagar, P.O..B No.964, Waluj, Aurangabad.
(Consumer No. 490019004195) Aurangabad has filed his grievance in Annexure "A" before
this Forum on 30.12.2010, under Regulation No. 6.10 of the Regulations 2006. The grievance
of the consumer was forwarded to the Nodal Officer, (Adm.) in the office of the
Superintending Engineer, O&M Urban Circle, Aurangabad and hearing in the matter was kept
on 17.01.2011.

The grievance stated by the consumer is as below:-

01) The consumer has taken H.T 33kv supply from MSEDCL, (hereafter called as D.L.) for his industry situated at above address. The initial load of consumer was 8992 KW with contract demand 4900 KVA. The consumer requested for enhancement of load by 4775 KW with contract demand 2100 **KVA** thereby total connected load of 13767 KW with contract demand 7000 KVA. Accordingly the Head Office of D.L. had given the sanctioned vide CE Commercial letter No. 36607 dated 7.10.2006. on 33kv express feeder. The additional load on 33kv express feeder was released on date 28.08.2008. The consumer further states that the billing was continued as per HT non-continuous tariff up to October 2009. In November 2009 D.L. has changed the tariff of billing from HT- I- N **to** HT-I-C. and issued the supplementary bill amounting Rs.95,81,872/- on 11.02.2010 for difference of tariff from non-continuous to continuous for the period from October 2008 to October 2009. The consumer paid the supplementary bill of Rs.95,81,872/- on 25.02.2010 under protest. The consumer further states that the supplementary bill issued by D.L. is wrong ,incorrect and against the orders of the Commission.

02) The consumer in his written complaint states that the Hon'ble MERC has **issued** tariff order on 20.06.2008 which was applicable from 1st June 2008. As per the provision of above order it is clear that only supply through express feeder does not means continuous supply and D.L. can not charge him HT-I C tariff. The Commission has issued the clarification vide its order in the said case No.44/2008 dtd.12.09.2008 in the petition submitted by the D.L. and give option to the consumer to give his choice within one month from the date of order. It is also clearly stated in the order that “ In case such choice is not exercised within the specified period , then the existing categorization will be continued”. Consumer states that he never opted his choice for HT-I-C category. The consumer also states that though he was given supply on express feeder he was not allowed to consume power on staggering holidays as it was clearly mentioned in the load sanctioned order of D. L's. Head Office as well as Circle Office. Initially the consumer filed his grievance at IGRC Urban Circle, Aurangabad. on 27.04.2010. The IGRC vide its order No. 2953 dated 25.06.2010 rejected the consumer grievance on the ground that the consumer is using the electricity supply on 33kv express feeder and not observing the staggering holiday as per the condition of load sanctioned. Aggrieved with the decision of the IGRC the consumer approach to this Forum and requested to keep aside the supplementary bill of Rs. 95,81,872/- on account of change of tariff from HT-I-N to HT-I-C for the period October 2008 to October 2009, and requested to issue the bill as per HT-I-N tariff.

03) The hearing on above matter was kept on 17.01.2011. Shri S.B.Bharti Nodal Officer and Mr. Khadkikar was present on behalf of complainant. The complainant submitted that he has to engage the representative and prayed for postponement of hearing. The matter posted on 31.01.2011 as prayed by the parties

04) On 31.01.2011 Nodal Officer Shri S..B.Bharati and consumer representative Shri Pratap Hogade was present both Nodal Officer and consumer representative have submitted their point wise reply as per complaint. The Nodal Officer requested the Forum to give 8 days time period for submission of additional documents. The next date of hearing was fixed on 09.02.2011.

05) On 09.02.2011 Nodal Officer Shri S.B. Bharati and consumer representative Shri Pratap Hogade was present Nodal Officer has submitted reply to the complaint along with the documents and tariff Circulars. Heard submission of consumer representative and Nodal Officer to their satisfaction at length. The matter is posted for order.

06) As per the MERC (CGRF & Electricity Ombudsman) Regulations 2006 this order is delayed and passed after completion of 60 days because of the postponement requested by the consumer for engagement of his representative.

07) The argument made from both the sides and documents placed before the Forum reveals that the consumer has requested for enhancement of load with contract demand upto 7000 KVA, and load was released during October 2008. The load of 7000 KVA contract demand on 33kv level was given to the consumer as a special case and condition, due to way - leave problem for laying the EHV line in MIDC area. The separate 33kv single circuit express feeder from 132 /33kv Waluj Sub Station was sanctioned under estimate cost scheme. The consumer earlier categorization from 2006 was HT-I-N which was continued upto September 2008. The contract demand enhanced upto 7000KVA during October 2008 and billing was continued as HT-I-N category upto October 2009. In November 2009 D.L. has changed the consumer's category as HT-I-C and changed the flag on bill as HT-I-continuous, which was HT-I- non-continuous previously. The Nodal Officer in his written statement states that as per the MERC tariff order dated 20.06.2008 which was applicable from 1st June 2008 and power vested U/S 61 and 62 of Electricity Act 2003, the category of consumer was changed from HT-N to HT-C with effect from October 2008 and supplementary bill of Rs.95,81,872/- was issued to the consumer. The above MERC order is reproduced as below:-

“ Only HT industries connected on express feeders and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumers will be deemed as HT non-continuous industry”.

The above provision, makes it clear as to which industry are to be deemed as HT continuous and which ones as HT non-continuous industry. The Nodal Officer's arguments is that the consumer is supplied energy from express feeder, and inspite of HT-I-N category he was not observing the staggering days. The Nodal Officer submitted the copies of G-7 Forms maintained by the consumer which shows that consumer is using power on every Friday which is declared as a staggering day in the Aurangabad District. Moreover, it is clear from the above order that there are two requirements to be fulfilled before any industry is charged at continuous/non-continuous.

They are :-

- 1) ***HT Industry has to be connected on express feeder. and***
- 2) ***Such HT industries have to demand continuous supply***

08) In the present case consumer and D.L. have no dispute about the status of the existing feeder, whether it is express or non-express feeder. However, the point remains whether the second requirement of “demanding continuous supply” gets fulfilled or not. The Nodal Officer states that the consumer vide his letter dated 23.10.2008 informed D.L. to issue electricity bill with “**continuous category** “ with “ **express feeder flag-yes**” being load enhancement availed on the express feeder. Accordingly the supplementary bill Rs. 95,81,872/- is correct. Perusal of the consumer’s letter dated 23.10.2008 shows that consumer has requested to provide the continuous and better quality of supply henceforth. Consumer in his written statement dated 31.01.2011 in the para No.5 states that “We have given a letter on 23.10.2008 and demanded continuous supply, which is true. But unfortunately inspite of our written request and follow -up, we could not get continuous supply, which is clear from the issued bills. MSEDCL have failed to take note, failed to avoid tripping on our line and failed to give continuous supply to us. We again have not made any complaint or request to MSEDCL for this purpose, because we were receiving the bills as per actual supply and as per tariff of HT-I-N “

The close reading of consumer’s letter dated 23.10.2008 and above reply shows that the consumer has accepted that his industry is connected on express feeder and he has demanded and require the continuous un-interrupted supply. In above paragraph consumer raised the point regarding interruption in power supply but could not furnished the document regarding the interruptions. Moreover Nodal Officer submitted the G-7 Forms maintained by the consumer which shows that consumer is using un-interrupted power even on the staggering days. As such the contention of the consumer that he should not be treated as continuous consumer because of the interruptions/tripping on his feeder is not justified and can not be considered in absence of the documents.

09) It is on the record that D.L. has change the tariff from HT-I-N- to HT-I-C as per the application from the consumer dated 23.10.2008 and issued the bill as per HT-I-C tariff with effect from November 2009. The consumer has not made any dispute of this change in tariff upto February 2010 he only raised the objection on the supplementary bill Rs. 95,81,872/- issued to him on 11.02.2010 and issued letter to D.L. that he is making the payment under protest on 25.02.2010.

10) The Commission subsequent to the tariff order ,of 28.06.2008 issued a clarificatory order on 12.09.2008. The D.L.,in-turn, issued a Commercial Circular No.88 on 26.09.2008 explaining main features of the order as under.

“Applicability of HT I (continuous industry):

In the Tariff Order, the Commission has specified that “only HT industries connected on express feeder and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumers will be deemed as HT continuous industry.”

Now Commission has clarified that :

The consumer getting supply on express feeder may exercise his choice between continuous and non continuous only once in the year, within the first month after issue of the Tariff Order for the relevant tariff period.

In the present instance, the consumer may be given one month time from the date of issue of this circular for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorization will be continued.”

11) It is clear that in the tariff order, the Commission has specified that only HT industries connected on express feeder and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while other industrial consumers will be deemed as HT non continuous industries. The Commission has clarified that consumer getting supply on express feeder may exercise his choice between continuous and non continuous supply only once in a year, within the first month after issue of the tariff order, for the relevant tariff period. In the present case, the D.L.’s circular stipulates that the consumer may be given one month time from the date of issue of this circular, for exercising his choice. In case such a choice is not exercise within the specified period, then the existing categorization will be continued.

12. The Ld. Representative of the complainant Mr. Hogade argued that, DL can not recover arrears on account of reclassification. In support of his said submission he has placed reliance upon M.E.R.C. order in case NO. 24/ 2001, dated 11.2.2003.

13. In the present case , the DL has issued supplementary bill on account of difference of HT-N to HT-C tariff, and not due to arrears of any bill. The supplementary bill so issued by the DL thereby can not be said to be arrears bill . The bill so issued by the DL. is on account of change of tariff due to demand letter issued by the consumer himself dated 23.10.2008. The submission so made by Mr. Hogade thereby can not be accepted.

14. In the present case ,it is an undisputed fact that, the consumer is using power from Express feeder. The HT industry of the consumer is connected with Express feeder. It iis further an undisputed fact that, it is the complainant /consumer himself had requested by issuing a letter dated 23.10.2008 to the DL for continuous supply. The consumer has accepted and admitted this fact in opening sentence of Para 5 of his complaint. The letter dated 23.10.2008 issued by the complainant further more speaks unambiguous terms that , the complainant has requested to DL to provide the continuous and better quality power supply hence forth. The said request letter dated 23.10.2008 is nothing but a demand of the consumer for continuous supply. The DL> appears to have acted upon and issued HTC tariff bill to the consumer. The complainant did not take any objection for the same. Hence the forum concluded that the consumer has made demand of continuous supply of power and as such letter dated 23.10.2008 can be considered as demand letter give by the consumer for HT continuous supply within one month after issue of above DL's circular dated 26.9.2008. Hence this forum finds no error or infirmity in DL's supplementary bill. In the result the consumer's representation fails and dismissed.

ORDER

Consumer grievance stands rejected.

(V.S.Kabra)
Member

(P.A.Sagane)
Member/Secretary

(V.B.Mantri)
Chairperson

