

commercial activity is going on the Respondent can not change the billing on commercial tariff.

The complainant insisted that one workman/servant staying there for 24 hours and hence the premises is used for resident as well for NGO office.

The Complaint also referred the commissions directives from the recent tariff order in case No.19 effective from Aug 2012 wherein the premises used for house hold as well as some other activities viz; small shop, consultancy office shall be billed with LT- I tariff, provided their consumption for the year should be below 3600 units and hence claimed of LT- I tariff.

During the proceeding the complainant produced the letter which he received from the respondent asking him to submit the certificate for use of premises for residential from local body i.e CIDCO.

The consumer in his oral submission clarified regarding the different location of NGO office in its Registration which is at Bhayander, and is yet to be changed at New Panvel address.

By way of rejoinder, the complainant submitted the copy of Rationcard and Passport of Smt.Madhupriya Sharma and Mr.Saurabh Sharma. The Rationcard shows the same address as residence. However the copies of passport show that it was valid till 20/09/2009.

During the Proceeding the Respondent claimed that the flat is not occupied for residence and no residential activity was seen, it was occupied for office use only. The Respondent further argued that merely staying of any servant for security purpose or to maintain the office can not be attributed tenant or occupier as "resident".

However, the Respondent conceded that vide their office letter Dy.EE/PNL/City/S.dn/665 dt 6th April 2013, the consumer was asked to submit the "No Objection Certificate" of Local Authority (CIDCO) for residential or any other uses. This was done as per the directives given in commercial circular No.177 Dt.25/09/2012.so as to process the matter for the approval of higher authority to charge the tariff from Commercial to Residential.

As regards the disconnection of electric supply the Respondent deposed that vide their office letter Dy EE/PNL/CITY/Sdn/t/2140 dt.2 Nov 2012.the consumer was asked to pay the arrears within 15 days but consumer failed to pay, hence supply was disconnected. However another notice of disconnection as per 56(1) of E.A 2003.dt.19 Oct 2012 was issued along with electric bill but no endorsement or receipt was taken on the counter copy of the said notice.

During the proceeding, consumer denied for receipt of any such notice of disconnection. Forum observed that Respondent should serve a notice of disconnection to a consumer under section 56 of the Act in the manner provided for in section 171 of the Act.

Moreover as per MERC (Electricity supply code and other conditions of supply) Regulations 2005 there in section 15.2.5 it is abundantly clear that the notice shall be served separately and shall not form part of the bill.

After hearing the submission of the parties and perusal of the record following points arise for the determination for the forum.

I] Whether the Consumer is entitled for the residential tariff for his premises.

II] Whether the Consumer is entitled for compensation if any for disconnection of power by not following any procedure prescribed by law.

III] What Order?

The forum's findings are.

i] The Complaint is partly allowed as per final order.

ii] No.

iii] See below order.

REASONS

The present complaint was received and Registered on 15/03/2013. The first date of hearing was 18/03/2013. On 18/03/2013. Interim order was issued and the matter posted on 09/04/2013 for further hearing; on that day on the request of utility the matter was further adjourned. On 15/04/2013. the hearing was taken. It was requested by complainant to give some time for filing some documents. Accordingly complainant submitted document on 25/04/2013.

Infact after receiving these documents the matter ought to have decided on or before 15/05/2013. However the two of the same complaints were pending in addition to this complaint; considering the grievances in all three compliant the forum felt that all the three matter in the larger interest of both the parties can be disposed simultaneously. However for one or another reason such as the accident took place of the complainant the other two matters could not be taken on board. Ultimately forum came to the conclusion to dispose off these matters as it is old one, with these circumstances the matter could not be disposed of within the stipulated period. The reason is recorded as provided in section 6.18 of MERC (CGRF & Electricity Ombudsman) Regulations 2006.

On perusal of the record and arguments during the proceeding, it reveals that, the billing address as seen on the consumers bill is

M/s. HOPE INDIA C/o
MADHUPRIYA S.SHARMA
OFFICE F-6 PLOT-2
Road-16 Sect 11/New Panvel-410206.

This address itself shows that premises is an office used for the Non-Govt.Organization in the name of "Hope India Foundations" However the only document that can be relied upon by the complainant is a ration-card showing residential address.

It is also observed during the proceeding consumer representative had agreed that Non-Government Organization in the name of "Hope India Foundation" is running in the same flat/premises. Thus the Respondent has suo moto taken the initiative for conversion of tariff from commercial to residential, as per MERC Tariff order in case No.19.(on submission of NOC of local Authority by the consumer).Forum is therefor of the opinion that consumer should submit relevant NOC as required to process for conversion of tariff from commercial to residential with the effect from 1st Aug 2012,as directed by the commission (observing the consumption limit laid down of 3600 units for the past year) and accordingly respondent should process it for necessary approval at earliest.

The plain reading of the utilities own Commercial No.175 dt. 5th Sept 2012.in the second Para-2 under the title of "Tariff for small" shops Operated from Home –which reads as.

For residential consumer who runs small businesses from their household but consume less than 300 units a month and 3600 units per year are in last financial year to be converd under LT-I (Domastic)tariff category. This category is applicable for all household who runs small shop, workshop, office, library etc. from their houses and which actually comes under LT-II (Non-residential or Commercial), LT-V (LT Industry) LT-X (Public Services) and who consume less than 300 units a month, and who have consumed less than 3600 units per annum in the previous financial year. The applicability of this Tariff will have to be assessed at the end of each financial year. These directives were circulated for implementation of tariff order approved by Hon'ble Commission for the year 2012-13 and are in force from 1st Aug 2012.

The Commission tariff order for the year 2012-13 is effective from 1st Aug 2012 and is not pertinent to the earlier period. The Forum therefor feels that such premises under office cum residece shall be billed on commercial tariff, for the earlier period (i.e before 1st Aug 12) As regards to the unpaid arrears due to conversion of tariff from 1st Aug 2011 to July 12. The consumer has to pay these arrears along with the interest and DPC there on.

Regarding disconnection of supply without proper notice, forum observed that Respondent had issued a letter asking the consumer to pay the unpaid arrears within 15 days. Though the hidden intention of Respondent was threatening disconnection of power supply, but it was not mentioned in letter and hence that letter could not be construed as notice of disconnection. The notice that issued under section 56(1) of E.A 2003 was served along with bill which is not in MSEDCL consolance with Commission's Regulations. The Forum therefore directs to take the stringent action against such erring officer, so that such things shall not repeated in future. The action taken be informed to this Forum. As regards the compensation for disconnection of power supply; Forum observed that no damage is been caused as the premises in that period was in "nonuse" condition. Hence Forum does not find any substance to award the compensation.

ORDER.

- 1) Application is partly allowed.
- 2) As elaborated above, the consumer should furnish the necessary documents and Respondent should immediately process the issue for conversion of tariff and the effect should be given for such conversion from 1st Aug 2012 and credit should be passed after approval. Till then consumer should pay the balance arrears due to conversion of tariff from 1st Aug 2011 to July 2012, as described above.
- 3) The consumer should pay the current and regular bill as per commercial tariff till approval from the competent authority of the respondent.

- 4) The Respondent is here by directed to take the approval as early as possible, but not later than 60 days from the date of this order.

No order as to the cost.

Both the parties be informed accordingly.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on.29th June 2013.

Note: 1) If Consumer is not satisfied with the decision, he may have representation within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

2) If utility is not satisfied with order, it may go in writ before the Hon. High Court within 60 days from receipt of the order.

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

S. K. CHOUDHARY
CHAIRMAN
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP