

Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup

Ref. No. Member Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 498

Hearing Dt. 11.07.2013
26.08.2013

In the matter of application of Non- continuous Tariff.

M/s. F.G. Glass - Applicant

Vs.

M.S.E.D.C.L. Panvel Division. - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S. K. Choudhari, Chairman, CGRF Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Applicant

- 1) Shri Suraj Chakraborty , Consumer Representative.

C - On behalf of Respondent No. 1

- 1) Shri S.B. Kachare, Nodal Officer Vashi Circle.
- 2) Shri. M.M.Patil, Junior Engineer, Talaja MIDC.,

M/s. F.G. Glass is a High Tension Consumer of MSEDCL, the Distribution Licensee at Plot No. 15/1, Talaja MIDC, Dist. Riaghad. This consumer was having sanction load of 1887 KW with contract Demand of 1300 KVA.

This connection was sanctioned under Service No. 028619028140 on Non-Express Feeder. The High Tension double feeder supply was sanctioned by the authority of Distribution Licensee vide Letter No. SE/VC/TECH/PNL-546/5342 dtd. 27th Sept. 2004 and accordingly consumer was availing double supply facility. From the date of connection till February 2009 this consumer was billed on HT-IN tariff but from March 2009 the tariff was changed form HT-1 Non-continuous to HT-1 continuous under the reason that consumer is availing continuous supply with double feeding arrangement and hence deemed to be connected on Express Feeder. continuous for the reason that consumer is availing continuous supply with double feeding arrangement and hence deemed to be connected on Express Feeder.

Due to change of category of consumer from Non- continuous to continuous; the Applicant has to pay additional charges.

On 5th January 2010 consumer protested this change of category to the continuous. It was submitted by the consumer that neither has he been connected on Express Feeder nor has he demanded continuous and un- interrupted power supply. His second request to the respondent in the same context was on 20th Aug. 2011, but in vain.

Aggrieved by this, consumer approached the Internal Grievance Redressal Cell, Vashi vide his application dated 20/04/2013. Since the IGRC could not give relief to the satisfaction of the consumer, he registered his Grievance before this Forum on 12/06/2013.

On behalf of consumer Shri Suraj Chakraborty was present. (Here in after referred to as 'the complainant') He submitted that in year 2004 the consumer has requested the double feeding supply arrangement and the work was executed at his own cost with the approval of Distribution Licensee. In those days the category of continuous or non- continuous for billing purpose was not in force.

He further contended that as per MERC tariff order applicable from 1st June 2008 and further in the clarificatory order in Case No. 44 of 2008 stated as "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 Non-continuous industry."

He further added that neither his consumer was connected on Express Feeder nor had he demanded continuous supply. Considering these facts, the Superintending Engineer of Vashi Circle has recommended to withdraw the lock status of continuous tariff and refund excess recovered charges vide Letter No. SE/VC/T/H.T./Panvel/2725 dated 26 April 2012. He further put forth the reply to this letter received from Commercial Section of Distribution Licensee which stated as "Permitted to remove lock status of HT-I Industry and change in tariff category from continuous to Non- continuous w.e.f. March 2009 and allowed to refund the tariff difference through the consumers bill only after ensuring that the power supply was not available to the consumer as per load shedding protocol through either of the feeder for the respective month."

The complainant also referred the similar case heard before the Hon'ble Ombudsman in case of Representation No-11/2012 held between M/s. ORANGE CITY STEEL INDUSTRIES PVT LTD Vs SUPERINTENDING ENGINEER, NAGPUR RURAL CIRCLE. Where in the consumer was connected on Express Feeder but was not dedicated for him and had not demanded continuous supply.

He further stated that Distribution Licensee could not remove the clause “demanding continuous supply “from the definition of HT-I continuous category. Thus the decision was given in favor of consumer.

The consumer has prayed for:

- 1) Refund of the extra amount collected from March 2009 to Aug. 2012 with 6% interest.
- 2) Compensation as per S.O.P. from the concerned officer.

On behalf utility, Shri. S.B. Kachare the Nodal Officer was present to represent the case (here in after referred to as ‘the Respondent’) He submitted that this consumer is been given supply with double feeding arrangement. so whenever the load shedding program was operated, consumer was shifted to another feeder, and thus the continuous supply facility was availed by the consumer.

He submitted that consumer is connected on the Non- Express Feeder.

The Respondent further contended that in year 2004 only on request of consumer double supply feeder was granted which was nothing but a facility for continuous power supply and hence his consent to execute the work and demand for double feeder supply should be considered as “demanding Continuous” supply and hence is billed on continuous category of tariff.

He also submitted that during the “Zero load shedding” period no charges were levied to this consumer (as was levied on all other consumers connected on non Express Feeder).

The matter was heard on 11.07.2013 and subsequently on 26/08/2013. Both the parties were present, the documents on record and arguments during the hearing reveal that the consumer was having double feeder supply which was provided in year 2004.

In the order of Hon’ble commission’s in case No. 59 of 2006, it was clarified that the continuous and Non- continuous categories are differentiated based on the continuous or non- continuous nature of the process adopted in the industries and not based on whether the industries are connected to Express Feeders or Non-Express feeders.

It is obvious that a certified continuous process industry availing of uninterrupted power supply and paying additional supply charge (ASC) of 42% on a mixed non-express feeder cannot be subjected to load shedding. The Commission clarifies that the Development Commissioner of Industries (DCI) or similar authority designated by the State Government are the appropriate forum to certify whether an industry is a continuous process industry or non-continuous process industry.

Industries need to submit required documents from State Industrial Development Authorities to avail the tariff allocated for continuous process industries.

Accordingly to above the MSEDCL through its Commercial Circular No 52 of 2006 declared that "After the period of 45 days in case of industries who have not submitted the continuous process industries certificate, the same will be treated as non- continuous industry and will be charged accordingly for the period from 1st Oct. 2006 to 31st March 2007."

The above move of utility was as per the directives of Commission. However as per the available record and arguments during the proceeding it was observed that neither this consumer has submitted certificate from DIC nor has demanded the continuous supply and hence accordingly utility should have billed him as non-continuous consumer (HT-I-N.)

To resolve this messy and complicated categorization, the Commission allowed the Distribution Licensee in its tariff order of year 2008 to categorize the consumer as HT if- 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."

It is true that this consumer has availed the benefits of double supply and may not have come across the schedule of load shedding during the period of March 2009 till date. But it also cannot be denied that consumer has approached the utility in Jan 2010 to categorize him as per the directives of Commission, Forum feels that in such case the utility should have convert him to non-continuous consumer and should restrict the consumer to utilize the supply during the load shedding protocol.

In the present case it is nowhere established that consumer has demanded the continuous supply after the tariff of continuous and non-continuous came into force Moreover the Respondent himself agreed that consumer is not connected on the Express feeder.

It is also on record that the Superintending Engineer, Vashi Circle himself has recommended to remove the lock of continuous category to the higher Authority and also recommended for refund of tariff difference from March 2009.

In such case this Forum has no other alternative than to consider this consumer as Non- continuous and billed accordingly. However utility has not recovered the additional charges for zero load shedding as the consumer was billed on continuous tariff category i.e. HT-IC. We therefore allow the utility to recover the zero load shedding charges as applicable during the period.

ORDER

1. Respondent is directed to refund the tariff difference of continuous to Non-continuous consumer from March 2009 till its conversion.
2. The Respondent is free to recover the zero load shedding charges during those period not applied to this consumer, the same May be adjusted with the amount of refund of tariff difference.
3. No order as to cost.
4. Both the parties should be informed accordingly.
5. Compliance should be reported within 30 days.

On request of complainant the date of hearing was postponed twice and hence time limit of sixty day could not be observed.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 3rd October 2013.

Note :

1) If Consumer is not satisfied with the decision, he may file representative 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 file representation 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

