

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

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

Date

Case No. 356

Hearing Dt. 24/12/2010

In the matter of change of Tariff

KET's Scientific Research Centre - Applicant
V/s.
MSEDCL Thane, Mulund - Opponent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 2) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On behalf of Applicant

- 1) Dr. Anupama Wagle, Dy. Director, KET.
- 2) Shri S.W. Deshmukh, Consumer Representative.
- 3) Shri Ravi Anand, Consumer Representative.
- 4) Shri Mirje, Consumer Representative.

C - On behalf of Opponent

- 1) Shri C.B. Pandit, Nodal Officer, E.E. (Adm.), Thane Circle.
- 2) Shri D.M. Jadhav, Junior Law Officer.
- 3) Shri S.M. Ghayதாக, Dy. E.E., Neelam Ngr. S/Divn.

Preamble: -

Kelkar Education Trust's Scientific Research Centre is a H.T. consumer at V.G. Vaze College Campus, Mithagar Road, Mulund (East) having sanctioned load of 388 KW with contract demand 155 KVA under service connection no. 022919022560. The said connection was released on 24/08/2001. They were billed by the utility on HT-VII tariff from date of connection. Suddenly in the month of Nov-2010, utility changed the tariff from agricultural to commercial and issued a bill of ₹ 1,20,508.85 on 29/11/2010. Utility served disconnection notice to the Applicant consumer for non payment of bill on 16/12/2010. Aggrieved with this Applicant consumer approached to this Forum for interim relief against this threat of disconnection on 23/12/2010 and was registered vide case no. 356 and hearing was fixed on 24/12/2010.

Consumer Say: -

Dr. Anupama Wagle, Dy. Director of Scientific Research Centre and Shri S.W. Deshmukh as a consumer representative were present to represent the case (hereinafter referred as the Applicant). They stated as follows:

KET's Scientific Research Centre is a HT consumer having consumer no. 02219022560 situated at Mulund (East) since 24/08/2001. They are having Scientific Research Centre for Agricultural purpose and was getting bills for electric consumption on agricultural special tariff HT-VII (High tech Agricultural) since the date of connection till Oct-2010.

MSEDCL vide letter no. 3449, dtd. 30/09/2009 requested to separate commercial load of office and administrative purpose from agriculture load. Accordingly they segregate and informed to the Ex. Engr. on 27/03/2010. The MSEDCL thereafter charged them with the relevant tariff till October 2010

which they were paying regularly. All of sudden they received a letter from utility that their agriculture tariff is going to change on commercial tariff. Applicant consumer protests the same and explained all the process in detail to the representative of utility at the time of his visit but all in vain and utility started billing on commercial tariff from Nov-2010.

The Applicant consumer approached to the S.E. of Thane Circle with the representation explaining all factual conditions in detail. S.E. of Thane Circle gave an assurance that they will personally looked into matter and communicate the decision at earliest and also grant facility to make part payment of the bill.

In spite of all this, utility served a notice for disconnection on 16/12/2010.

On 31/12/2010, the Applicant consumer submitted a rejoinder. As per the order of MERC, consumer engaged in Hi-Tech Agriculture activity is eligible for agriculture pumping load. In the present case the agriculture load is used only for HI-Tech Agriculture activity and nothing else. This Agricultural Hi-tech activity was started by the institution since 1999 and is still continuing till date. Government of India recognizes their institute in addition they provide them the projects for promotion of Agriculture activity both in State of Maharashtra and in India. Based on their research activity, number of farmers in the country at large is benefited by this activity. They wish to put on record that after inspection by MSEDCL in 2009 they had been suggested to segregate the commercial load from Hi-Tech Agriculture activity as per circular no. 3449 dtd. 30th Sept and as suggested by MSEDCL they get

separated and utility installed a sub meter for recording commercial load. Since then they are being billed accordingly.

The MSEDCL representatives visited our premises on 24/12/2010 without disclosing their findings. If there is any controversial opinion of utility officials, Applicant consumer reserve his rights for third party inspection as per clause no. 6.17 (B) of MERC (CGRF & EO) Regulations 2006.

MSEDCL representative had enquired about the Agricultural Hi Tech load being more than commercial and it was explained that the commercial activity is non-continuous only for 8 hrs. i.e. on working days. Hence utilization of load is much less compared to Agricultural Hi Tech load which is consumed for 24 hrs. a day and 365 days in a year. They are submitting the load details as desired by the MSEDCL office copy of this is enclosed.

They further stated that the order of Electricity Ombudsman in Representation of 10 of 2010 dtd. 05/03/2010 for activity in Industry and is not applicable for High Tech Agricultural tariff consumer.

On 03/01/2011, Applicant consumer submitted connected load list declaring the total connected load as 135 KW against the sanctioned load of 388 KW. In this declaration they clarify that all the equipments in the connected load are not operated simultaneous.

The reply sent by MSEDCL on 28/12/2010 to the applicant with the certain issued are clarified by the way of third rejoinder submitted to the Forum on dtd. 15/01/2011 is as under :

The Scientific Research Centre is a subsidiary of Kelkar Education Trust and hence lies within the premises of the Trust. The college is V.G.

Vaze College is also part of activity of the Kelkar Education Trust, recognized by University of Mumbai who conduct degree and diploma courses in the same premises. They would like to specify and bring to the notice of the Hon'ble CGRF that the electric supply to the college is under another HT supply meter and the consumer no. for this is 022919022570 and the payment is made as per commercial rate.

The Kelkar Scientific Research Centre has been conducting activities in plant Biotechnology which involves Green House and Tissue Culture facility since 1995 and the supply provided is under HT (V). High Tech Agriculture tariff is exclusively used for only this activity. The tissue culture plants produced by the Kelkar Education Trust's Scientific Research Centre are supplied to the farmers on a non profitable basis. This activity is also supported by the Government of India, Department of Biotechnology.

The Applicant consumer reiterated that as per the application dtd. 13/02/2008 clearly specifies that they intend to start research and testing division for cosmetology and since this activity is not related to agriculture. We had requested a separate connection for the same. Separate L.T. connection was sanctioned for cosmetology and research unit and they paid the charges as demanded by MEDCL.

On rigorous follow up with MSEDCL officials, they were informed that there was practical difficulty in giving L.T. connection. So the Ex.Engr., MSEDCL, Mulund division advised them to get V.G. Vaze College's load extended since both are having same (commercial) tariff. As per utility's advised they applied for extension of load in college and paid all the charges and got the supply released. Hence the contention made in the reply of

MSEDCL dtd. 28/12/2010 that the Hi-tech agricultural load is used for research and testing of cosmetic is totally false and misleading.

They also stated that they do not intent to mislead the MSEDCL Company and evade paying commercial tariff for commercial activity. They would like to submit that the activity carried out by the Scientific Research Centre and Development and testing is being billed as per commercial tariff.

They wish to clarify that Scientific Research Centre is totally following the rules as per circular vide letter no. PR3/Tariff that if consumer is having only R&D and testing load They are being billed commercial tariff and are compliant with this completely.

They respect the Hon'ble Ombudsman decision in case no. 10 of 2010 that commercial tariff be applicable for non industrial, non residential and non agricultural activity. However MSEDCL is trying to make it applicable also for Hi tech Agriculture activities in their case. By this the decision of Hon'ble Ombudsman is being violated by MSEDCL. MERC has clearly mentioned that agricultural tariff for high tech agriculture (i.e green houses, tissue culture, mushroom etc, purpose) is irrespective of ownership and hence the issue of premises sharing raised to MSEDCL is misleading.

On the website mentioned in point 6 of the reply that the plant biotechnology activity of Scientific Research centre which involves plant propagation and tissue cultural and green house activity has not been mentioned in the reply.

Utility Say :-

On behalf of utility Shri C.B. Pandit, Nodal Officer and Shri S.M. Ghaytadak, Dy. Ex. Engr., Neelam Ngr. s/divn. alongwith Law Officer Shri D.M. Jadhav were present to represent the case (herein after referred as to the opponent)

As per utility reply dtd. 28/12/2010 received on 10/01/2010 states as M/s. KET's Scientific Research Centre is a HT consumer under Mulund Division. This premises is a educational premises and they are using supply for college campus, science lab and research & testing centre.

The premises for research centre is not a separate premises from college. Consumer is offering various degree and diploma courses in the said premise. The supply is used for commercial load such as lighting, fans, computer, air conditioner and lab instruments.

The consumer is not any kind of agricultural consumer and premises is also not an agriculture premise. The HT-V agricultural tariff is applicable for Hi-Tech Agriculture (i.e. green houses, tissue culture). In the present case consumer is using supply for research on tissue-culture for students. This is a subject of Ph.D. hence this is not tissue culture farming and HT-V tariff is not applicable.

Further, the consumer is using supply for research and testing activities on cosmetics. This is purely commercial activity. In this regard Head Office had issued a circular vide letter no. PR-3/Tariff/24637, dtd. 05/08/2010 that if the consumer is having any R&D testing load, then such consumer should be billed as per commercial tariff. In this case consumer is also using supply research and testing purpose.

The Hon.'ble Ombudsman had given a decision in case no. 10 of 2010, that all the non industrial, non residential, and non agricultural activities comes under commercial. The Hon.'ble Ombudsman had also clarified that as per MERC tariff policy, the commission has prescribed two fold criteria for applicability of HT-II Commercial tariff. Use of electricity for commercial purpose and in commercial premises, the consumer had fulfilled both connections, the consumer is using supply for commercial purpose (i.e. education research and testing purpose) and supply is used in commercial premises (i.e. college premises).

The opponent further retrieved the web site of the consumer www.kelkarresearchcentre.org and specify the following activities are going on

- a) running for education institute
- b) carrying Research activities.
- c) providing educational facilities
- d) research and testing activities on cosmetics.

The Opponent reiterated that considering above all activities and use of supply for training research and testing purpose, it is dam clear that consumer is not an agriculture consumer from any angle. Therefore, the tariff applied HT-II is correct and is as per rules and guidelines issued by Hon'ble MERC.

The Opponent further submitted a rejoinder on dtd. 21/01/2011 in response to the Applicant's submission dtd. 15/01/2011 stating the activities running in the KET premises as under :

- 1) It is engaged in academic programmes leading to post graduate studies & development of viable industrial biotechnologies (applications for research associate, Jr. research fellow post are seen on website of centre)
- 2) Human Resource Development for Science of Bio-technology & researches useful for the common man worldwide.
- 3) Accepting contracts for protocol development and analytical method development.
- 4) Developing protocols for technology development with cultivation practices.
- 5) Consultancy in plant Biotechnology.
- 6) Consultancy in Microbiology. The centre has
 - a) Pilot scale project on the process of fermentation involving Bioreactors upto 100 units.
 - b) Development of fermentation based products.
 - c) Down stream processing Biomolecules.
 - d) Effluent treatment.
 - e) Consultancy offered on different microbiological testing activities.
- 7) They offer services to Industry, academic Institutions and other agencies at reasonable rates.
- 8) They have recognition of Scientific and Industrial Research organization which means Scientific and Industrial Research activities are carried out by the centre.
- 9) They offer services to reputed international clients for safety as well as efficiency testing for helping them in their marketing claims.
- 10) It is a laboratory through which all above activities are done. As per the decision of the Electricity Ombudsman in case no. 140 of 2009 all

laboratories/research centers falls under commercial category. The Government Research & Development centers & laboratories like National chemical laboratory, Bhabha Atomic Research Centre are applied HT-II tariff.

HT-V tariff is applicable to high tension agricultural pumping loads, HT lift irrigation scheme, poultry, High Tech Agricultural purpose (tissue-culture).

If the tissue culture is used for agricultural purpose (i.e. production of tissues on large scale & selling them in open market as common agriculturist (farmer)) then only Agriculture HT-V tariff is applicable. Here the consumer is using Tissue-culture for Research purpose (i.e. R & D) and hence HT-II is applied to him. In addition to Research on tissue culture, various other activities as listed above are also performed by the consumer which is not agricultural in nature. The consumer is doing business through these activities. He is getting income from testing services to industry, offering consultancy in various items worldwide, accepting contracts. Hence, commercial tariff HT-II applied is correct and should be retained

Observation :-

The matter was heard on 24/12/2010. Both the parties were present. Dr. Anupama Wagle, Dy. Director of Kelkar Education Trust's Scientific Research Centre and Shri S.W. Deshmukh, explained the matter as to why they are aggrieved with the tariff change by the Opponent. They referred the tariff determination by the Hon'ble Commission for year 2009-10 where it is clearly mentioned that *"consumers engaged in Hi-Tech Agriculture activity shall also be eligible for tariff applicable for agriculture pumping load, provided the power supply is exclusively utilized by such Hi-Tech Agriculture*

consumers for purpose directly concerned with crop cultivation process and further provided that the power is not utilized for any engineering or industrial process”.

The Opponent in their argument insisted that there is merely ½ HP water pump using for green house and rest of 135 kw load is for the process which are not directly concerned with the crop cultivation. The plants developed with the Tissue culture are sold to the farmers under the by back scheme. Moreover there is considerable quantum of electrical load used for research and testing for cosmetology.

Upon counter argument the Applicant submitted that it is on record that they had requested separate electric connection for the cosmetic section but due to some technical problem on the part of utility, the Opponent accorded sanction for enhancement of load and merge into the load of Kelkar Education Trust which is billed with commercial tariff.

The Applicant consumer reiterated that the load of cosmetic research centre is not connected to the Hi-Tech Agricultural connection. They further stated that, only water pump load is not covered under Hi-Tech Agricultural. There are other instruments which are used or maintaining the hygienic atmosphere for tissue-culture purpose and the testing & research lab is used exclusively for tissue-culture process which comes under Hi-Tech Agricultural activity. The applicant consumer also produce the list of connected load used for tissue-culture & green houses which is around 135 kw.

With the reference to the Applicant’s website, i.e. <http://www.kelkarresearchcentre.org> the Opponent claimed that there are various activities going on in the same premises listed as:

- a) Consultancy
 - i) Plant biotechnology
 - ii) Cosmetology
 - iii) Creative centre
 - iv) Microbiology

The Opponent further added that the testing activities of cosmetic products are:

- i) Moisturising activity
- ii) Barrier functions
- iii) Reduction in melanin index
- iv) Increase in skin brightness
- v) Testing of elasticity of diff. Locations & creams
- vi) Skin roughness
- vii) Study baby and adult skin
- viii) Sebum measurement
- ix) In vitro SPF testing etc

The opponent also insisted that in the college campus there are some other activities going on which are connected to the connection under dispute, those are

- i) carrying research activities (KET's Scientific Research Centre)
- ii) providing educational facilities, training etc. to needy and qualifying student.

To clarify the claim made by the Opponent, the Applicant consumer submitted that the Educational programmes are conducted by KET and the electric connection for cosmetology and Research centre is connected to HT

connection for KET. This connection is billed on commercial tariff. Hence statement made the Opponent is totally false and misleading.

From the submissions and proceedings during the hearing Forum feels that merely persual of documents and the arguments made by both parties were not enough to conclude the case. Hence there need personal visit to the premises to verify how the electric load is connected and its actual utility. Accordingly the Forum visited the site on 08/02/2011 and inspected the activities going on and there sources of electricity from different connections.

The Member Secretary and Member observed certain things during the inspection of premises as below :

- 1) There are two HT connections in the KET's Premises
 - a) Service no. 022919022560 for Scientific Research Centre.
 - b) Service no. 022919022570 for Kelkar Educational Trust.

There is one more L.T. connection provided with LT CT meter which was enclosed and sealed in CT meter box. Hence meter details could not obtained. This L.T. supply was used for the office and administrative section of Scientific Research Centre and is billed on commercial tariff. The meter details of SRC noted during the visit of Member Secretary are as follows :

- | | | | |
|------|-----------------|---|-------------|
| i) | Sr.No. of meter | : | 06599265 |
| ii) | Make | : | L & T |
| iii) | MF | : | 2 |
| iv) | CTR | : | 10/5 A |
| v) | PTR | : | 11 kv/110 v |

The electric parameters observed are as follows:

| | | | |
|------|-------|---|--------|
| i) | KWh | : | 616756 |
| ii) | KVARh | : | 54357 |
| iii) | KVAh | : | 628530 |
| iv) | KVA | : | 23.97 |
| v) | PF | : | 0.998 |

There is another HT connection under the same roof in the name of KET which supplies the electricity to KET with commercial tariff.

Forum visited SRC's Tissue culture lab and observed the entire process and confirm the activity of Hi-tech agriculture. To verify the source of feeding of power supply for cosmetology and perfumery division Forum instructed to shut down the supply of SRC and confirms that the power supply of the above division was live. This shows that cosmetology and perfumery division are not electrically connected to SRC. These two divisions where the commercial activities are going on are billed on Agricultural tariff has no merit.

Forum also observed that the electric connection under service no. 022919022560 is used to supply the power to SRC section where only the Hi-Tech Agriculture (viz - tissue - cultural, green house) activities are going on. As per tariff order dtd. 1st August 2009 and errata & corrigendum order dtd. 21st Dec. 2009 wherein Hon'ble Commission clarified that those consumers engaged in Hi-Tech agriculture activity (viz - tissue - cultural, green house & Mushroom) shall also be eligible for Agricultural tariff provided such Hi-Tech agriculture consumers should use power supply exclusively for the load for purpose directly concerned with crop, cultivation process.

Close reading of the above and personal visit by the members of the Forum shows that the activities of Scientific Research Centre are undisputedly comes under Hi-Tech Agriculture and it should be billed with HT agriculture tariff i.e. HT-V.

Forum also observed that the Applicant consumer is having the sanctioned load of 388 kw with the contract demand of 155 KVA for SRC. Forum feels that the required load is too low compare to the sanctioned load. Hence Applicant consumer should take the necessary steps for reduction of load.

Forum also observed that on SRC's connection there is R & D Lab as argued by the Opponent but it is evident that this R & D Lab is exclusively for its own product development and not for any commercial testing for outsiders and its load is not considerable. Hence as quoted by the Opponent the circular no. PR 3/Tariff/24637 dtd. 5th August 2010 issued by the Chief Engineer (Commercial) and order passed by Hon'ble Ombudsman in representation no. of 10 of 2010 is not applicable in this case.

ORDER

- 1) As mentioned in the forgoing paragraphs the Scientific Research Centre is having Hi-Tech Agriculture activity and hence should be billed as per HT Agricultural tariff i.e. HT-V.
- 2) Utility should reverse the tariff from commercial to Agricultural to SRC from the date of change of tariff.
- 3) DPC and interest if charged on tariff difference should be waived.

Compliance should be submitted within a month.

No orders as to cost.

Both the parties should 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 22nd February 2011.

Note :

- 1) In absence of Chairperson the order is issued by Member Secretary and Member of the Forum.
- 2) If Consumer is not satisfied with the decision, he may go in appeal 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.

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

MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP