

CONSUMER GRIEVANCE REDRESSAL FORUM
(Established under the section 42 (5) of the Electricity Act, 2003)
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
JALGAON ZONE

Office of the
Consumer Grievance Redressal Forum
AjanthaChauphuli, Old M.I.D.C.
Jalgaon 425 003

No./CGRF/JLGZ/JAL Circle/Dharangaon Dn/C.No.23-2016-17/0040 Date: 25 APR 2017
(BY R.P.A.D.)

Date of Submission of the case : 23/02/2017
Date of Decision : 24/04/2017

To.

1) M/s Sagar & Rohit Engineering Industries,
C/O R. B. Chirmade,
Plot NO. 13, Sharda Colony,
Near Mahabal, Jalgaon -425002
(Consumer No. 137789002930)

Complainant

2) Executive Engineer & Nodal Officer,
Maharashtra State Electricity Distribution Co LTD.
Circle office, Jalgaon.
3) Executive Engineer,
Maharashtra State Electricity Distribution Com. Ltd.
Division office, Dharangaon.

Distribution Company



DECISION

M/s Sagar & Rohit Engineering Industries, Gat No107/4 ,Plot No.4/1 Paldhi Shivar,Off N.H.6, Paldhi, Tal-Dharangaon Dist-Jalgaon is the HT Industrial consumer (hereafter referred as the Complainant) of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company) has a grievance regarding application of HT I-Continuous since June 2008. The complainant has filed a representation to the Forum against the order passed by the Internal Grievance Redressal Cell (IGRC) , MSEDCL, Jalgaon Circle Office in this regard. The representation in Schedule "A" is registered at inward no. 19 on 23.02.2017.

It was decided to admit this case for hearing after consulting the Forum . The matter was fixed for hearing on 07.04.2017 at 11.30 a.m. in the CGRF Office, Jalgaon and a notice to that effect was sent to the complainant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Circle Office , Jalgaon for submitting para wise comments to the Forum on the grievance within 15 days under intimation to the consumer. The copy of this notice was also endorsed to the Superintending Engineer, Circle Office , Jalgaon and Executive Engineer ,Dharangaon Division.

Shri Shri R.F Pawar Dy. Executive Engineer, Shri Jayesh Hivale, Sr. Manager (F&A) & Shri D.L.Baviskar Dy,Manager (F&A) Circle Office, Jalgaon , represented the Distribution Company during the hearing. Shri Vikas Mehendalkar represented the complainant.

CONSUMER'S REPRESENTATION IN BRIEF :

1. As per our office letter No. NIL dated 4th June 2009 we requested to charge the tariff applicable to consumer not on express feeder and to give effect from 1st June 2008 . The Superintending Engineer Jalgaon Circle vide letter NO. 556 dated 28th Jan 2010 has requested Executive Engineer,

M/s Sagar & Rohit Engineering Industries,
C N. 23-2016-17
Page No 1 of 7

Dharangaon Division to verify whether connection is on express feeder or on NON express feeder. Assistant Engineer , M.S. Elect. Dist. Co. Ltd. vide letter No. 580 dated 30 March 2010 written to SE Jalgaon has confirmed that connection is not on Express feeder. As per Executive Engineer-Admn, Circle office note dated 8th September 2010 for seeking approval of SE for change of tariff is approved by Superintending Engineer on dated 30/12/2010 . Superintending Engineer Jalgaon Circle office by letter No. 1200 dated 9th Feb 2011 requested EE Dharangaon to submit log sheet from 25/07/2008 by mentioning that consumer is pressing very hard for change of tariff . By our office letter dated 28th April 2011 , we requested for change of tariff without keeping the issue lingering since it is established that we are not on Express feeder consumer.

2. Superintending Engineer Jalgaon Circle office under letter No. 3943 dated 8th June 2011 requested CE Jalgaon Zone to submit proposal for change of tariff to CE (Commercial) for their approval as the system is locked in IT by mentioning that all the authority has confirmed that consumer is NOT ON Express feeder and this is also confirmed on verification of log sheet.
3. Chief Engineer, Jalgaon Zone office by letter NO. 2046 dated 21st June 2011 wrote to CE (Commercial) seeking approval for change of tariff.
4. As per our office letter dated 24th Nov. 2011 to CE (Commercial) was requested to look into the matter and give the relief immediately.
5. As per letter of Superintending Engineer Jalgaon Circle office vide letter NO. 498 dated 20th January 2012 we were informed about Conditional approval for change of tariff. The conditions were as below:
 - a. The HT-I Non continuous tariff category is to be levied to you w.e.f. 04/08/2011 i.e. one month from the dated receipt of your application to Corp. office.
 - b. Load shedding protocol as is applicable from time to time as per MERC and MSEDCL rules and regulation will be binding to you and acceptable to you.
 - c. If expenditure was incurred under DDF, it will not be refunded while changing the category from express to Non express feeder.
6. Since our case was not considered from our first application though very long back it was confirmed that our supply was not from express feeder but it was from NON express feeder we were reluctant to give this undertaking.
7. As this was not our fault and we were wrongly charged with erroneous tariff because of fault of MSEDCL we were of the opinion that such undertaking was not necessary.
8. Hence vide our letter dated 24th July 2014 we made request to reconsider our proposal for change of tariff from the date of our first application by mentioning that this is case of wrong application of tariff due to fault of MSEDCL side.
9. Since our request was not considered in spite of confirmation of the fact that our supply is from NON Express feeder we made another request vide our letter No. 247 dated 20th January 2015 for application of correct tariff.
10. With reference to our application Superintending Engineer, Jalgaon Circle office vide their letter NO. 4193 dated 2nd December 2015 advised us to apply for tariff applicable to Non continuous consumer on Express Feeder.
11. In response to this letter we submitted that we are the consumer getting the supply from NON Express feeder and hence this circular is not applicable to us and our case/ request is for charging us with tariff applicable to consumer Not on Express feeder.
12. With the submission of all above facts we made request to IGRC to issue suitable direction / give order for issuing us the energy bills by applying the tariff applicable to consumer NOT on Express feeder from immediate next billing cycle.
13. We further requested to IGRC to consider our request for refund of excess amount charged to us due to application of wrong tariff from our first application i.e. our letter dated 4th June 2009, since we are charged with incorrect tariff due to fault / error / system constrained of MSEDCL.
14. In response to this hearing was taken on 30th of January 2017 and IGRC passed the following order vide their order No. IGRC/JLG/JLG Circle/2016-17 0738 dated 14th Feb 2017:
 1. **The issue of change in category from HT continuous to HT Non continuous as per instructions given by Chief Engineer (Commercial) letter No. PR-3/ Tariff/555 36068 dated 7/12/2011**
 2. **If aggrieved by the non-redressal of his grievance by the cell, the appellant may make a representation to the Chairman, Consumer Grievance Forum, Ajantha Chauphuli, Old MIDC, Jalgaon-425003**

As we are not given the relief as we had requested, we are submitting this application with your kind authority.

RELIEF SOUGHT :

1. Since IGRC has passed the order to consider us for change of tariff as per letter of Chief Engineer (Commercial) letter No. PR-3/ Tariff/555 36068 dated 7/12/2011 we should be given effect immediately i.e. from next billing cycle.
2. Our request of applying the tariff applicable to non express feeder from the date of our first application dated 4th June 2009 i.e. should be considered and effect should be given as per our request in this letter.

ARGUMENTS FROM THE DISTRIBUTION COMPANY:

The Superintending Engineer , Jalgaon Circle office has submitted a written reply to the Forum by letter no. 1902 dated 06.04.2017 which states as under:

1. Aforesaid HT Consumer M/s. Sagar & Rohit Engg. Industries, Jalgaon having Consumer No.137789002930, Connected Load is 500 KW Sanctioned Load is 500 KW also Contract Demand is 250 KVA and their date of connection 18th November 2006 . Express feeder flag is "Yes" for billing purpose respectively.
2. As per letter dated 04th June 2009 said consumer has requested to change in tariff i.e. HT-Continuous to HT-Non-Continuous, charged with tariff applicable to said consumer not on express feeder from prolong period i.e.01st June 2008 and also asked for refund or adjust the difference of amount due to change in tariff i.e. HT-Continuous to HT-Non-Continuous from 01st June 2008 vide letter dated 28th April 2011.
3. Thereon, Supdt Engineer, O & M Circle, Jalgaon sent proposal for further approval for change of Tariff from HT-I-C to HT-I-NC in r/o. M/s. Sagar & Rohit Engg. Industries, Paldhi to respected Jalgaon Zone. However the system of changing the Tariff from HT-IC to HT-I-NC has been locked in I.T. Center and enquired by System Analyst to IT Corporate Office, Bandra, and such proposal of changing the tariff should be submitted to C.E. (Commercial), Head Office, Mumbai for further approval. Also as per General Commercial Circular No.408 dated 07th January 2005 then after Jalgaon Zone sent said proposal to C.E. (Commercial), Head Office, Mumbai for further approval.
4. Secondly, as per Chief Engineer (Comm.) L. No. PR-3/Tariff/555/No.36068 dated 07th December 2011. C.E. (Commercial), Head Office, Mumbai has percolated following instructions "The issue of change in category from HT-C to HT-NC was discussed in Recovery Committee meeting held on 10th Oct 2011 and accordingly the approval is given as under-
 1. The HT-I Non Continuous tariff category is to be levied to the consumer w. e. f one month from date of receipt of application to corporate office. Application received at Corporate Office on dated 04th July 2011 so HT Non-continuous will be applicable from date 04th August 2011.
 2. Load shedding protocol as is applicable from time to time should be observed strictly.
 3. If expenditure was incurred under DDF, it will not be refunded while changing the category from Express to Non-Express feeder.
 4. The Notarised undertaking accepting above conditions will have to be obtained on stamp paper of Rs.200/- from the above said consumers before changing the status from express to non-express and before implementing the decision
5. Afterwards, said consumer has not submitted required undertaking which will be applicable for further processing/approval and approached to IGRC. As per reference no.11 IGRC has passed Order No. IGRC/JLG/Circle/2016-17/No.0738 dated 14th February 2017 "The issue of change in category from HT Continuous to HT- Non-Continuous as per instruction given by Chief Engineer (Commercial) Letter No. PR-3/Tariff/555/No.36068 dated 07th December 2011. Then said consumer has submitted required undertaking as directives stipulated in reference no.4 & 11 to this office in month of February-2017, but as per Commercial Circular 275 dated 18th November 2016 i.e. Revision in Electricity Tariff-Implementation thereof (MERC Tariff Order dated 03th November 2016) in that no provision frame regards Express feeder as well as Non-Express Feeder.
6. M/s. Sagar & Rohit Engg. Industries, Paldhi again asked for refund of difference amount due to wrong levied tariff category from Continuous to Non-Continuous since date of connection. As per letter dated 20/01/2015 this office sent proposal to Chief Engineer (Commercial) for further approval.

7. In nutshell , aforesaid consumer has not submitted their undertaking on stamp paper of Rs.200/- accepting above conditions within stipulated time period as per directives and even not approached to this office, and in case of refund against amount under tariff difference i.e. HT Continuous to HT-Non-Continuous from date of connection sent to for further approval.

Action by IGRC :

1. The complainant submitted the grievance to the Internal Grievance Redressal Cell, Jalgaon, Circle office on 01.12.2016
2. Under letter No.738 dated. 14/02/2017,the IGRC took following decision:
 1. *The issue of change in category from HT Continuous to HT Non -Continuous as per instruction given by chief Engineer (commercial), letter No. PR-3/Tariff/555 36068 Date 7/12/2011.*

Observations by the Forum:

1. The grievance before the Forum is regarding wrong application of HT-I Continuous tariff code to the complainant since June 2008 till October 2016 .
2. The Hon'ble Commission has issued tariff orders from time to time evolving the concept of continuous and non-continuous industrial consumers . The rulings are summarized as under:

Reference	Ruling about continuous category
1. MERC tariff order dated 29/09/2006 in case no.54 Of 2005 (operative from 1 st October 2006)	The HT industrial consumers are bifurcated into the continuous and non-continuous sub-categories based on the nature of the industry as certified by the representatives of the Industry Department.
2. MERC tariff order dated 18/05/2007 in case no.65 of 2006 (operative from 1 st May 2007)	The concept of Express Feeder and Non-Express Feeder was used . The HT consumers availing supply from Express Feeder were applied continuous category (HT-IC) tariff of higher rate as compared to the non-continuous consumers on non-express feeder. The Commission simplified the tariff categories in the case of industries, and only <u>HT industries connected on express feeders and demanding continuous supply</u> to be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumers to be <u>deemed as HT non-continuous industry</u> . This has become necessary in view of the prevailing uncertainty and absence of clarity as regards certification of industries as 'continuous' by the relevant authorities.
3. MERC tariff order dated 20/06/2008 in case no. 72 of 2007 (operative from 1 st June 2008)	The same concepts continued for HT industrial consumers.
4. MERC order dated 12/09/2008 on the petition by Distribution Company in Case No. 44 of 2008 seeking Clarifications on the Order dated June 20, 2008	While clarifying about the Applicability of HT-I (Continuous Industry) the Commission reiterated that in the Tariff Order, the Commission has specified that " <u>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.</u> "(emphasis added) . In this petition the Distribution Company has demanded to <u>remove the clause "demanding continuous supply"</u> from the definition of the HT-I (Continuous Industry) and applying HT-I (Continuous) tariff category <u>should be applicable to all industries connected on express feeder irrespective of whether they are continuous or non-continuous process</u> . However the Commission did not agree to this demand and ruled that " <u>.....there is no justification for removing the clause "demanding continuous supply" from the definition of HT-I continuous</u>



Reference	Ruling about continuous category
	<i>category. However, it is clarified that the consumer getting supply on express feeder may exercise <u>his choice between continuous and non-continuous supply only once in the year, within the first month after issue of the Tariff Order for the relevant tariff period.</u> In the present instance, the consumer may be given one month time from the date of issue of this Order for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorisation will be continued."</i>
5. MERC tariff order dated 17/08/2009 in case no. 116 of 2008 (operative from 1 st August 2009)	The same concepts continued for HT industrial consumers with the clarification that " <u>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.</u> "
6. MERC tariff order dated 12/09/2010 in case no. 111 of 2009 (operative from 1 st September 2010)	The same concepts continued for HT industrial consumers
7. MERC tariff order dated 16/08/2012 in case no. 19 of 2012 (operative from 1 st August 2012)	The same concepts continued for HT industrial consumers
8. MERC tariff order dated 26/06/2015 in case no. 111 of 2009 (operative from 1 st June 2015)	The same concepts continued for HT industrial consumers. But the consumer availing supply on <i>Express Feeder may exercise his option to choose between Continuous and non-Continuous supply anytime during a financial year but only once in such financial year with one month prior notice.</i> Such consumer shall be required to submit a written request to MSEDCL, giving one month's notice and the Tariff applicable to non-Continuous supply shall apply, from the ensuing billing cycle.
9. MERC tariff order dated 03/11/2016 in case no. 48 of 2016 (operative from 1 st November 2016)	There is no separate subcategories for HT industrial consumers as continuous and non-continuous. The categories are : HT I (A): Industry - General HT I (B): Industry - Seasonal

- As per the prevailing tariff order dated 03/11/2016 in case no. 48 of 2016 (operative from 1st November 2016) the Commission has merged the sub-categories, viz. continuous and non-continuous. Hence there is no issue after November 2016.
- The complainant was supplied HT power since 18/11/2006 from 11 KV industrial feeder which is reported as a "Non-Express" feeder subjected to the load shedding by the Assistant Engineer, Dharangaon (as per letter dated 30/03/2010).
- It was noticed by the complainant in June 2009 that the billing is being done under HT-I Continuous category from June 2008. Hence the complainant submitted an application dated 04/06/2009 (acknowledged on the same day) to the Superintending Engineer, Jalgaon Circle. Since then the complainant is making follow up of the Distribution Company, but the problem remained unresolved.
- There is nothing on the record why the tariff was changed to HT-I Continuous from June 2008 by the Distribution Company. It is seen that the change is done *suo moto* by the Distribution Company without any such request from the complainant. The Forum had asked for the clarification in this regard, but no clarification is received.
- The Distribution Company might have treated the complainant as a "continuous" category consumer with effect from June 2008, in view of the tariff order dated 20/06/2008 only because the bill carried Express feeder flag. But the Distribution Company has ignored the fact that any consumer **though on Express feeder** can not be treated as "continuous" category consumer unless he has specifically **demanding continuous supply from the express feeder** as mentioned in the directives of the Hon'ble Commission in the tariff order dated 18/05/2007 and later specifically

clarified under order dated 12/09/2008 on the petition by Distribution Company in Case No. 44 of 2008 seeking Clarifications on the Order dated June 20, 2008 .

8. Thus it is clear that there are two requirements to be fulfilled before any industry is charged at continuous / non continuous tariff. They are :

✓ HT Industry has to be connected on express feeder.

and

✓ Such HT industry has to demand continuous supply.

As such for charging HT- I continuous Industry tariff, both of the above conditions are required to be satisfied. In this case both the conditions are not fulfilled.

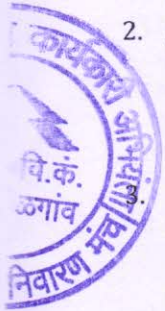
9. The CE (Commercial) as per letter no. 36068 dated 7th December 2011 has approved the change of tariff category from the HT-Continuous to HT-Non-Continuous with effect from 04/08/2011 and subject to certain conditions.
10. But the case is processed on the presumption that the consumer was availing the continuous supply from the Express Feeder at his choice and has now applied for the change to the Non-Continuous tariff. The CE (Commercial) has ignored the fact that the said consumer was not on express feeder and not a "continuous" category consumer in terms of the tariff order dated 18/05/2007. It is an error on the part of the field office of the Distribution Company to place and continue the consumer in the "continuous" category in spite of his applications from time to time.
11. Hence the complainant again represented the matter to the CE (Commercial) .Based on the representation, the CE (Commercial) has asked for a factual note/proposal with the recommendations from the Superintending Engineer, Jalgaon Circle by letter dated 22/09/2014. The Superintending Engineer has submitted a letter no. 247 dated 22/01/2015 stating that the consumer is connected on the non express feeder since date of connection on 18/11/2006 and asked guidance for refund due to wrong tariff .
12. There is no reply on the record , received from the CE (Commercial). But the Superintending Engineer, Jalgaon has asked the complainant by a letter dated 2nd December 2015 to submit the documents as envisaged in the Commercial Circular 246 dated 11/08/2015. Perusal of the said circular reveal that it is related to the consumers who wish to exercise the choice of change in tariff category with reference to the tariff order dated 26/06/2015 . However in no way this case is related to this circular. This grievance has arisen due to an error on the part of the Distribution Company in applying correct tariff code.
13. The Superintending Engineer , Jalgaon Circle in his reply to the Forum has stated that he has sent proposal to the Chief Engineer (Commercial) for further approval as per letter dated 20/01/2015 for refund of difference amount due to wrong levied tariff category from Continuous to Non-Continuous since date of connection. The Chief Engineer (Commercial) has not yet conveyed any decision on this case. However it is strange to note that without waiting for any decision from the HO in this regard , the IGRC has conveyed the rejection on 14/02/2017 . It is also regretted to note that the reference made in January 2015 is still not replied even after 2 years. The matter is abnormally delayed .
14. The Forum would also like to refer to a decision dated 3rd February 2010 [Representation No. 146 Of 2009] by the Hon'ble Electricity Ombudsman, Mumbai in a similar case of M/s. Paul Strips and Tubes Pvt. Ltd. In this case the Appellant is an industrial unit, having high tension supply from 26th March, 2008. The consumer was charged at industrial tariff HT-I till the month of December, 2008, while in the bill of January, 2009, the Distribution Company changed the tariff category HT-I Continuous , applicable to express feeder consumer. The Appellant has never demanded the continuous supply. The Hon'ble Electricity Ombudsman ordered that : *"The Appellant is entitled to application of HT I - Industries, non continuous tariff with effect from June, 2008. The Respondent is directed to refund the excess amount recovered along with the interest at the bank rate, as stipulated in the Section 62 (6) of the Electricity Act, 2003"*
15. Hence the Forum concludes that the Distribution Company has erred in applying HT-I Continuous tariff code to the complainant for the period June 2008 to October 2016.
16. On the basis of the facts as above, the Distribution Company needs to apply HT-I Non-continuous tariff code for the complainant for the period June 2008 to October 2016 and refund the excess amounts . The refunds should be made with the interest at Bank Rate till the date of refund in accordance with the section 62 (6) of the Electricity Act ,2003.

17. As per norms the decision should have been taken by 23/04/2016 but it is marginally delayed by 1 day because of the holidays falling on 22 and 23 April 2016.

In view of the observations and directions as elaborated in the preceding paragraphs the following order is passed by the Forum for implementation:

ORDER

1. The Distribution Company should apply HT-I Non-continuous tariff code to the complainant for the period June 2008 to October 2016 and refund the excess amounts recovered on account of the tariff code difference. The refunds should be made in the next billing cycle falling after the date of this order, with the interest at Bank Rate till the date of refund in accordance with the section 62 (6) of the Electricity Act, 2003.
2. As per regulation 8.7 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006, order passed or direction issued by the Forum in this order shall be implemented by the Distribution Licensee within the time frame stipulated and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum within one month from the date of this order.
- As per regulation 22 of the above mentioned regulations, non-compliance of the orders/directions in this order by the Distribution Licensee in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Maharashtra Electricity Regulatory Commission can initiate proceedings suo moto or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Electricity Act, 2003.
4. If aggrieved by the non-redressal of his Grievance by the Forum, the Complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.



— Sign —
(RAJAN S. KULKARNI)
MEMBER

— Sign —
(D.K.MOHOD)
MEMBER-SECRETARY

— Sign —
(SURESH P.WAGH)
CHAIRMAN

Consumer Grievance Redressal Forum Jalgaon Zone

Copy for information and necessary action to:

1. Chief Engineer, Maharashtra State Electricity Distribution Company Ltd., Jalgaon
2. Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. Jalgaon.

— Sign —
Member-Secretary/Executive Engineer
MAH. STATE. ELECT. DIST. CO. LIMITED
Consumer Grievance Redressal Forum
Jalgaon Zone Jalgaon