



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph: – 2210707 & 2328283 Ext: - 122

IN THE MATTER OF GRIEVANCE NO. K/E/296/326 OF 09-10 OF M/S HINDUSTAN PETROLEUM CORPORATION LIMITED, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT CHANGE OF TARIFF.

M/s. Hindustan Petroleum Corporation Limited, USAR LPG Filling Plant A-2 USAR Industrial area, Alibag-Roha Road Alibaug, Dist.Raigad. } (Here in after referred to as Consumer)

Versus

Maharashtra State Electricity Distribution Company Limited through its Superintending Engineer, Pen Circle, Pen } (Here in after referred to as Licensee)

- 1) Consumer Grievance Redressal Forum has been established under regulation of "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers. This regulation has been made by the Maharashtra Electricity Regulatory Commission (MERC) vide powers

conformed on it by section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

- 2) The consumer is a H.T. consumer having existing contract demand 820 KVA and 1140 KW connected load of the Licensee. The Consumer is billed as per Industrial tariff. The consumer registered grievance with the Forum on 28/08/2009 regarding change of tariff. The details are as follows: -

Name of the consumer : M/s. Hindustan Petroleum Corporation Ltd
(HPCL)

Address: - As above

Consumer No : 024289019860

Reason for Dispute : - Regarding change of tariff.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/750 dt. 28/08/2009 to the Nodal Officer of the Licensee, and the Licensee through Nodal Officer MSEDCL Pen Circle filed reply vide letter No. SE/PC/HTB/CGRF/6040 dated 19.09.09.

- 4) The consumer registered his grievance with IGRC on 01/07/09. The IGRC passed following decision on 20/07/09.

“The consumer is having bottling plant for refilling of bulk gases into small residential/commercial packages and distributing to their agents of Raigad for selling. Hon’ble MERC created the new tariff of H.T. – II Commercial from 30/06/2008, this activity comes under commercial. Hence the tariff charged by the MSEDCL is correct.”

Aggrieved by this decision, consumer registered his grievance with the Forum on 28/08/09.

- 5) Original hearing was fixed on 18/09/09 at 16.00 hrs. But since Local Holiday was declared in the Raigad District on 18/09/09, the same was postponed on 22/09/09 at 16.00 hrs. Both the parties were informed vide letter No. 788, dt. 08/09/09. On 22/09/09 at 16.00 Member Secretary and Member heard both the parties in the Forum's hall. Shri Shravan Kesarkar appeared for the consumer representative and Shri V. R. Gogate, Asstt. Engr., Shri R. J. Patil, Asstt. Engr. & Shri P. M. Peshattiwar, D. A. all representatives of the licensee, attended the said hearing.
- 6). The CR submits that their LPG Plant in the name of HPCL is in existence since 1997 and they are being billed on Industrial tariff. MIDC has also allotted them the industrial plot only. But suddenly during the last month i.e. June 08, licensee started to charge them on commercial tariff without any intimation or justification. Because of this, it has cost them Rs.7.00 instead of Rs.3.95 which are on very much high side. They are having industrial activity and they are having total machinery set up which is needed in an industry or for any manufacturing unit. They are receiving gases in bulk quantity and they have to process the same gas with a reprocessing activity and then only through machinery they are refilling it in to small cylinders. The CR submits that they approached the IGRC but the decision of the IGRC is not satisfactory. There are LT compressors, LPG pumps and other machineries for processing. Lab test are also carried out before dispatching the cylinders. The CR further added that there is no any change in the purpose, they are being billed for the last 17 years on industrial tariff. All the machineries are same. The CR argued that their activities are entirely on industrial nature and submitted following certificates as supported documents to their such claim.

1	Certificate of Registration No.B.ALC(C)-35/1996-RC dt.20.11.96 – dated 13.1.09 – Govt. of India	Applicable to Industries
2	Form 12 – Prescribed for report of examination of lifting machines, ropes and lifting tackless. Dt,6,10.05	Applicable to Industries
3	Certificate from Controller of Explosives dt.2.5.09	Applicable to Industries
4	Notification dt.21.12.06 from Govt. of India	Applicable to Industries
5	Registration of factory No.079686 dt.23.3.04	Applicable to Industries
7	Central Excise registration certificate dt.23.12.02 – No.AAACH1118BXM112	Applicable to Industries
8	Permission for filling of LPG and Storatae of LP)G gas in Cylinders dt. 24.4.09	Applicable to Industries
9	Certificate of Pollution control Board dt.22.7.08	Applicable to Industries
10	Key Plan layout drawing of the property dt.20.1.99	Applicable to Industries
11	Quality system manual dt.1.6.05	Applicable to Industries
12	Quality control laboratory, USAR LPG analysis report dt.14.9.09	Applicable to Industries
13	Code of practice for periodical inspection and testing of LPG cylinder in use issued by Oil Industry	Applicable to Industries

- 7). As against this, the Licensee Representative(LR) replied that there is no production/manufacturing activities in this unit. They are getting the gas through pipe line in a large quantity and store it in their factory and refilling it to small suitable cylinders and selling them to their domestic and non domestic customers. So there is no any kind of production in their factory and there is no industrial activities at all in the factory. Supply is used for purely commercial purpose. As per field report and latest tariff of consumer's activities are not industrial purpose as there is no production of gas/petroleum products/manufacturing activities. So commercial tariff is applicable to this consumer. The Hon. MERC by its operative order

dt.31.5.08 has revised the tariff for retail sale of electricity and issued the detail tariff order dt.20.5.08. The commission has created a new category viz.HT-II commercial from 30.6.08, to cater to all commercial category consumers availing supply at HT side and currently classified under the existence of HT-1 industrial category. After issue of this directives as per HO circular No.PR-3/Tariff/9093 dt.26.3.09, all the consumers supplied electricity on HT side are inspected by the licensee personnel and as per inspection report it is revealed that their LPG plant is only involved in storage and distribution of LPG to domestic and non domestic consumers. Accordingly the existing tariff of HT-II is corrected in the month of June 09 and the monthly bills from June 08 to May 09 are revised as per applicable tariff HT-II instead of HTP-IN and less bill recovered amount is worked out to Rs.51,614.66 and issued to the consumer. The LR said they have also asked the clarification from Competent Authority i.e. HO regarding charging of correct tariff vide their letter No.SE/PC/HTB/4330 dt.9.7.09 on receipt of grievance from the consumer dt. 29.6.09. On receipt of clarification, further action will be taken, if required.

8). **Forum's observations are as follows :**

- a) M/s. HPCL is a HT consumer having existing CD of 820 KVA with a connected load of 1140 KW since 17.7.89.
- b) They were getting the bill as per HT-1 N tariff till May 2009 (Industrial tariff).
- c) M/s. HPCL got the bill for June 09 as per the revised HT-II tariff which Commercial tariff.
- d) The activities of M/s. HPCL has remained the same as it was earlier, but their installation has been categorized under HT-II tariff (Commercial) based on Commercial circular No.81 dt. 7.7.08.

e) As per Commercial Circular No.81, point 8 given below HT-II Commercial Category : The consumer covered under this category are as follows.

8.1: The Commission has created a new category viz. HT-II Commercial, to cater to all commercial category consumers availing supply at HT voltages, and currently classified under the existing HT-I Industrial or LT-IX (multiplexes and shopping malls).

8.2 : This category includes consumers of electricity such as Educational Institutions, Institutions like Charitable/Public Trusts/Religious Institutions, Hospitals run/aided by the Government/Municipal Corporation, and Hospitals owned or controlled by private individual or institutions or those owned or run or controlled by public trusts, religious, charitable institutions taking supply at High Voltage.

8.3 : This category also includes consumers taking electricity supply at High Voltage for commercial purposes, including Hotels, Shopping Malls, film studios, cinemas and theatres, including multiplexes.

8.4 : This category will include Hospitals getting supply at HT voltages, irrespective of whether they are charitable, trust, Government owned and operated etc.

8.5 : The tariff for such HT-II commercial category consumers has been determined higher than the tariff applicable for HT-I industrial, in line with the philosophy adopted for LT commercial consumers. Such categorization already exists in other licensee areas in the State, and is hence, being extended to MSEDCL licensee area also.

Study of above points indicates that the packing activities of an Industrial nature similar to HPCL are not covered under the mentioned category.

- f) Point 8.6 also specifically states that it is the new category and field officers were requested to be well careful while modifying the category for the consumer who are now covered under HT-II commercial category.
- g) The licensee were asked to submit the field report based on which the tariff was changed from Industrial to Commercial tariff. The licensee failed to submit the field report till to day. The consumer has submitted about 13 Nos. of certificate to support their claim. (Refer para No. 06 above)
- h) Study of documents submitted by the consumer in support their activities clearly indicates that their activity is purely industrial activity. M/s. HPCL getting LPG gas in large quantities and the same is not suitable for use till it is refilled in the cylinders. Thus refilling the cylinders is packing activities required to be done to the product making it suitable for an individual's use. In any of the manufacturing plant, packing activity is the last stage of the manufacturing activity.
- i) The claim of the licensee that the LPG plant is involved in storage and distribution of LPG cylinders to domestic and non domestic consumers and there are no industrial activities are being carried out by the consumer lacks the substance and not acceptable.
- 9). The Superintending Engineer Pen Circle has requested for guide lines to the Chief Engineer (Commercial) in the matter regarding charging of correct tariff applicable to consumer vide letter No. 4330, dt. 09.07.09 which remains unreplied till today.
- 10). In view of above, studying all documents submitted by consumer as well as license, forum has passed following order unanimously.

O-R-D-E-R

- 1) Grievance application is allowed.
- 2) The decision given by IGRC is quashed and set-a-side.
- 3) The consumer is eligible to be included in the Industrial Tariff.
- 4) The recovery bill for less billing for the period June 08 to May 09 on account of change in tariff is quashed and set-a-side.
- 5) Licensee should give credit for the amount to the consumer (if already paid to the licensee by the consumer) in the ensuing bills within 60 days from the date of this decision.
- 6) The Consumer can file representation against this decision with the Ombudsman at the following address.
“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51”
Representation can be filed within 60 days from the date of this order.
- 7) Consumer, as per section 142 of the Electricity Act, 2003, can approach Maharashtra Electricity Regulatory Commission at the following address:-
“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”
for non-compliance, part compliance or delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003”

Date : 03/10/2009

(Sau. V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan