



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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COMMON ORDER

- 1) IN THE MATTER OF GRIEVANCE NO. K/E/657/776 OF 2012-2013 OF M/S.MILLI STEELS PVT. LTD., ATGAON, TAL. KALYAN, DIST – THANE REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL.

M/s. Milli Steels Pvt. Ltd.,
(Consumer No.15599020249)
11-19 B, Atgaon Laghu Udyog Sankul
Village – Atgaon, Shahapur, Dist-Thane
Plot No. 27 Atgaon Industrial Complex
Atgaon Village , Shahapur
Dist : Thane 421 601

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer
Kalyan Circle , Kalyan

(Here-in-after
referred
as licensee)

- 2) IN THE MATTER OF GRIEVANCE NO. K/E/658/777 OF 2012-2013 OF M/S.MAHALAXMI PACKAGINGS, ATGAON, TAL. KALYAN, DIST – THANE

M/s. Mahalaxmi Packagings
(Consumer No.015599019984)
Plot No. 27 Atgaon Industrial Complex
Atgaon Village , Shahapur
Dist : Thane 421 601

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer
Kalyan Circle , Kalyan



(Here-in-after
referred
as licensee)

3) IN THE MATTER OF GRIEVANCE NO. K/E/659/778 OF 2012-2013 OF
M/S. POLY BAGS, ADGAON, TAL. KALYAN, DIST – THANE

M/s. Poly Bags
(Consumer No.15559051070)
Plot No. 38,
Atgaon Industrial Complex
Atgaon Village ,
Tal.Kalyan
Dist : Thane



(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer
Kalyan Circle , Kalyan



(Here-in-after
referred
as licensee)

4) IN THE MATTER OF GRIEVANCE NO. K/E/660/779 OF 2012-2013 OF
M/S. POLY FILMS, ADGAON, TAL. KALYAN, DIST – THANE

M/s. Poly Films (Consumer No.015559051050)
Plot No. 55,
Atgaon Industrial Complex
Atgaon Village ,
Tal.Kalyan
Dist : Thane



(Here-in-after
Referred to as
consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer
Kalyan Circle , Kalyan



(Here-in-after
referred
as licensee)

5) IN THE MATTER OF GRIEVANCE NO. K/E/661/780 OF 2012-2013 OF
M/S.VINIYAL PLAST, ATGAON, TAL. KALYAN, DIST – THANE

M/s. Viniyal Plast
(Consumer No.15559051080)
Plot No. 2&3,
Atgaon Industrial Complex
Atgaon Village ,
Tal. Kalyan
Dist : Thane



(Here-in-after
referred as
Consumer

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer
Kalyan Circle , Kalyan



(Here-in-after
referred
as licensee)

(Per Shri. Sadashiv S. Deshmukh, Chairperson)

- 1) This Consumer Grievance Redressal Forum has been established under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers. The regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conferred 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 consumers are H.T. consumers of the licensee. The Consumers are billed as per Industrial tariff. Consumers registered grievance with the Forum on 23/11/2012 in Grievance No. 776,777 and on 26/11/2012 in Grievance No. 778,779,780 for Excessive Energy Bill.
- 3) The batch of papers containing above grievance were sent by Forum to Nodal Officer of licensee.
- 4) The dispute is common. These are heard together as the facts are similar. Consumers are represented respectively by Sarvashri Chandran Baurav Nikhil Kamat etc. and for Licensee Nodal Officer Giradkar, Assistant Engineer Mr. Kasal attended and they are heard from time to time. Reply of Licensee dt. 15/1/2013, filed on 17/1/2013 and MRI report submitted on 29/1/2013 alongwith additional reply, we have read those..
- 5) On the basis of reply, other material on record following factual aspects are disclosed.
 - a) Consumers in the group are having supply to their factory/undertaking at Atgaon Industrial Complex and till the end of May 2012 there was no dispute that they were billed as HT-I-NC (HT-I non-continuous). However they received letter of Superintending Engineer O&M Circle II, Kalyan (hereinafter referred as SE) on 31/5/212 conveying that from the billing month of June 2012 they will be billed as HT-I-C (HT-I Continuous).
 - b) This aspect is resisted by consumers writing letter on 11/6/2012 and even some consumers vide letter dt. 16/10/2012 asked to the said authority S.E. to declare the applicability of non-continuous tariff and for changing it to non-continuous.
 - c) As the S.E. had not dealt the plea of consumer, consumers approached this Forum on 23/11/2012 & 26/11/2012. Parties were called by issuing notice. In

the mean time consumers sought MRI report from Licensee and even this Forum also sought it . For such MRI time was sought by Officers of Licensee till Jan 2013, accordingly matter was takenup on 15/1/2013 and on 29/1/2013. As stated above during this period Licensee filed reply and MRI report.

- d) Initially we tried to have the details of the analogy involved in this matter pertaining to continuous and non-continuous supply. On this count it is explained from Licensee side that previously there was no any such analogy of continuous and non-continuous, it cropped up due to shortage of electricity it leads to load shedding but Hon. MERC gave guide lines and as per those guide lines said aspect is developed.
- e) It is submitted that continuous and non-continuous are the two mode of supply available to the consumers only on a Express Feeder. It is submitted that with the intent to ensure continuous supply to some specific category of industries who were required to be kept running without any break and accordingly they were required to demonstrate it obtaining certificate from Industrial Department of the State and then continuous supply to such consumer was provided from Express Feeder. To such consumers there was no any aspect of load shedding, they were not brought in the planned load shedding. However, in respect of others they were having a connection, no doubt from Express Feeder they were given supply and it was non-continuous. It is also clarified that said category of consumer were not in the planned load shedding but at times in rarely they were affected. It is also stated that tariff rate for consumers having continuous supply was higher than that of consumer having non-continuous supply. It is explained that on the Express Feeder there will be invariably DDF to only one consumer and it can be said that from said DDF consumer will get continuous supply. It is clarified at times on the express feeder more than one consumer are

connected and supply to them may be continuous or non-continuous depending on the declaration or option exercised by them.

- f) Pertaining to these five consumers, it is admitted from both sides that these five consumers are H. T. consumers fed through 22 KV Khardi Feeder emanating from 100/22 KV Khambare Sub/Station having Connected Load and Contract Demand as stated in reply by the Licensee in respective matters. It is also clarified that Khardi Feeder further approaches 22/22 KV Khardi Switching Station and up to that Switching Station from Khambare Sub-Station connections are given to different consumers at one side of the Feeder and these five consumers are amongst them. It is submitted that on this Khardi Feeder in between GOD (i.e. Gang Operative Device) was installed and due to operation of said GOD prior to June 2012 supply to the present consumers who are amongst others in Atgaon Industrial Complex were getting non-continuous supply, in other words once in a week on every Friday said GOD was opened for particular hours and thereby supply was not continuous to these consumers, it was non-continuous supply. Accordingly they were charged as non-continuous consumers.
- g) Dispute cropped up in June 2012 as Licensee decided to charge these consumers as continuous. This particular continuous supply was provided as GOD was locked up. In other words it is not being opened and there by status of these consumers changed from non-continuous to continuous.
- h) It is submitted on behalf of Licensee that GOD is now closed with the intention to treat all consumers alike on this Express Feeder and as Express Feeder is available, it is not necessary to keep the GOD open, there by supply is available to all the consumer continuously. It is submitted that Licensee is having an Express Feeder, consumers are given supply from it and now there is no choice

to the consumers to insist for non- continuous supply but as this facility is available, it is required to be provided as it is. An attempt is done to explain that GOD was initially for maintenance of said line manually and now repairs can be done on line without any interruption of supply but previously as it was to be done manually, load shedding was required to be arranged. Further it is submitted that taking decision of closing GOD cannot be said to be prejudicial to the consumers as they are now getting continuous supply. However, it is submitted that the aspect of closing GOD is in tune with MERC policy and directives.

- i) At this stage only, reference is made to Licensee's Commercial Circular No. 80 , dt. 10/05/2008, Para No. 12. It is submitted that if group of consumers who are availing uninterrupted supply without any load shedding akin to availing supply on express feeder, utmost care may be taken to ensure that all consumers in such group shall now be categorized only under H.T. – 1 Industry and further under sub-category continuous industry on express feeder. Said para 12 read as under :

“ HT continuous / non-continuous ”:-

In line with the MYT Order, 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 Industries.

It has to be very explicitly monitored and ensured that except the consumers on express feeders, the load shedding for all other consumers shall be strictly in line with the Principles and Protocols of Load Shedding and no deviation/withdrawal of Load Shedding for this category shall be restored to, for any reason whatsoever.

Also, in some cases, there are a group of consumers who are availing, uninterrupted supply without any load shedding akin to availing supply on express feeder. Utmost care may be taken to ensure that all consumers in such group shall now be categorized only under HT-I Industry and further under sub-category – Continuous Industry on express feeder”.

- 6) This aspect is tried to be explained on behalf of Licensee contending that express feeder line was there and supply was available to these consumers continuously and it is tried to explained that GOD was only with intention to switch off for doing maintenance work etc. and in fact it is not a device for implementing any load shedding. An attempt is done to explain that in fact there is no any record as such confirming to scheduled load shedding or actual effect of load shedding saving thereby quantity of electricity supply.
- 7) On this point on behalf of consumers an attempt is done to point out that GOD is fixed. It is now stated that it is fixed with the intention to facilitate these consumers as and when supply from Khardi Feeder is affected then it is switched on to Atgaon Feeder. It is contended in fact such intention was there which never materialized by giving effect.
- 8) On the part of consumer it is tried to be explained that aforesaid extracted para 12 is sub-divided in three paras. Sub-para one speaks about the H.T. Industrial consumers connected on Express Feeder whereas third para on which officers of Licensee commented is of consumers connected on Express Feeder **but consumers who are availing un-interrupted supply without any load shedding** akin to availing supply on Express Feeder. Accordingly it is contended third para is **not speaking about the consumers on Express Feeder who were getting non-continuous supply** and that these 5 consumers were having non-continuous supply

for which they had paid. We find interpretation of last Clause No. 12 found to be of vital importance.

- 9) No doubt during discussion on behalf of Licensee reference is made to a previous matter decided by this Forum pertaining to one of the consumer amongst these consumers i.e. M/s. Pentax Plastics, Grievance No. 653 of 2011-2012 dt. 16/03/2012.
- 10) On behalf of consumers it is submitted that these consumers never sought non-continuous supply. It is submitted that invariably once in a week mostly on Friday feeder is off, supply is not available and even there is no intimation about said supply not available on a particular day or a particular time. Accordingly it is submitted load shedding is being operated in this fashion. It is submitted that though on behalf of Licensee it is claimed that from June 2012 continuous supply is there but in fact position is worst and there is no continuous supply as such. It is submitted consumer M/s. Pentax Plastics had approached this Forum vide Grievance No.653 and order is passed. At that time amongst the group of consumers some were charged as continuous and some were charged as non-continuous. It is submitted that M/s. Pentax Plastics was charged on the basis of continuous, however, supply was not continuous but as per order of CGRF the charges sought as continuous set aside it got the refund. Further it is submitted on the basis of said finding other such 16 consumers were also to seek refund but to upset it now this particular aspect is developed into making it continuous.
- 11) On behalf of Licensee reliance is placed on the order in Case No. 19/2012 for the year 2012-2013 of Hon'ble MERC more particularly, para No. 8.17. It is commented on behalf of Licensee that order of M/s. Pentax Plastics is in favour of said consumer, it is a matter decided on available material but the order of MERC in case 19 of 2012-13 provides the grounds.

- 12) On behalf of consumers it is submitted initially the consumers were getting supply from Atgaon Feeder but as it was not sufficient, Licensee decided to shift it to Khardi Feeder from Atgaon Feeder and consumers never demanded so. It is submitted if supply is given from Atgaon Feeder which is available in the complex of consumers ,they have no objection.
- 13) On behalf of consumers it is submitted that as demanded by Superintending Engineer they have submitted a letter for applicability of non-continuous tariff i.e. they sought the change from continuous to non-continuous. Said letter is dt. 16/10/2012 which is available on the record of this Forum.
- 14) On the basis of above analysis we are clear that as per reply of licensee dated 15.01.2013 and 29.01.2013 all these consumers were provided supply till 31.05.2013, It was not an interrupted. The relevant Paras No. 7, 8 & 9 from licensee reply dated 15.01.2013 which are of vital important are reproduced as under :-

*“7. From above point, it is clear that Continuous category consumer’s supply is **non-interruptible** i.e. not subjected to load shedding, including staggering day.*

*8. This office has instructed Executive Engineer, Kalyan (R) Div. & Assistant Engineer, Shahapur Sub-Div. for not to open Atgaon Industrial Complex GOD on every Friday vide above reference letter No.8 with immediate effect. The same was implemented immediately. So that, as per MERC guidelines the said consumer wil be **non-interruptible**.*

*9. As M/s. Mahalaxmi Packaging is availing **non-interruptible** power supply without any load shedding, akin to availing supply on Express Feeder as per the guidelines of Hon’able MERC. Hence this office has changed the*

Grievance No. 776,777,778, 779 & 780
tariff of M/s. Mahalaxmi Packaging to HT-1C (HT-1 Continuous) from HT-1N (HT-1 Non-Continuous) with effect from June 2012.”

- 15) As per above Clause-8 direction given by S.E. not to open continuous ‘GOD’ of every Friday with immediate effect and hence supply of consumers will be non interruptible. As per Clause-9 above it is claimed that supply will become non interruptible from 01.06.2012 they will be charged as HT-I-C (HT-I Continuous). The said reply clearly admits that till 31.05.2012 supply was not non interruptible but from 01.06.2012 it will be non interruptible that to because of non opening of ‘GOD’ on every Friday. Till 31.05.2012 it was kept open is also admitted. It goes without any further proof that till 31.05.2012 all these five consumers were getting interrupted supply. If this fact is established then as per the above referred Circular No. 80 which is based on the order of Hon’ble MERC in the year 2007 and corrigendum issued subsequently, these consumers are treated as non continuous and interrupted supply was provided to them is clear. If they were not provided uninterruptable supply prior to 31.05.2012, how they can be said that they had non interruptible supply. They are charged till 31.05.2012 as non continuous, even they had paid that amount. Though the reference is made to recent MERC order dated 16.08.2012 it merely reiterated the mode of tariff rationalization adopted on the basis of nature of supply. It has not abolished the category of continuous and non continuous supply and tariff applicable to them. In none of the order of Hon’ble MERC the situation now brought before us was taken or decided. Now by the act of licensee, just by not opening of ‘GOD’ from 31.05.2012 on every Friday, which was open previously on every Friday, the present situation is brought up. An attempt is done to say this is rationalization. We find this is not rationalization it is converting one mode to other by intervention in the existing set up. If any such things is to be done by such act then the factual aspects is to be taken to MERC and direction are to be sought. If once

two categories on the basis of nature of supply, laid down by MERC and consumers are billed then converting the said aspects by own act of licensee that too causing more financial burden to the consumers who had not sought any said conversion will be against MERC order and will adversely affect consumer. The stand taken by licensee about the purpose of 'GOD' is not relevant in view of the admitted fact that till 31.05.2012 supply was non continuous and consumer charged as non continuous.

- 16) Further we find force in the contention of consumers that they had never sought conversion from non continuous to continuous. Even we find in the letter dated 11.06.2012 in reply to letter to S.E. dated 31.05.2012. it is clearly stated that previously they had supply from Atgaon Feeder but noticing its capacity was less, licensee connected them to Khardi Feeder. This contention is not replied by S.E by writing letter or in written reply filed before this Forum, towards the grievance. The said letter is enclosed by the consumers along with their grievance before the Forum. No doubt during the argument on behalf of licensee this aspects is denied but it need to be noted that when such aspects is taken in grievance application it ought to have been replied in written reply, that too after due verification from record or from the concerned field staff working at that time.
- 17) In continuation of above it is also seen from the claim of consumers that they have no objection if they are shifted to Atgaon Feeder to which they were initially connected. Some of these consumers written letter to S.E. on 16.10.2012 and that aspects is clear. We find not filing written reply to the contention of consumer leads to conclusion that said factual aspects did exist, record is always available about the supply or supply changed from one Feeder to other Feeder. It is within exclusive control and power of licensee and in this matter licensee failed to

substantiate the subsequent contention, orally raised about the fact that consumer were not previously on Atgaon Feeder.

- 18) In this matter the reference is made by both sides to the order passed by this Forum in Pentax matter but these present matter are arising out of further development brought in by the S.E. of licensee. Uninfluenced by the order of Penatax case, as discussed above, the conversion of status from non continuous to continuous, without consent of consumers, is prejudicial to them. It is not legally maintainable. In result the action of SE of licensee vide letters dated 31.05.2012, directing these consumer will be billed as continuous, is to be set aside, grievance of all these consumers are to be upheld.

I agree

(Sadashiv S. Deshmukh)
Chairperson, CGRF Kalyan

(Mrs. S. A. Jamdar)
Member, CGRF, Kalyan

View of Member Secretary (Shri R. V. Shivdas) :

I have gone through the above reasoning. I am not agreeing to it. The action of Superintending Engineer, Kalyan-II Circle, of the Licensee as per letter no.SE/KC-II/Technical/190 dated 15/1/2013 is correct.

(R.V. Shivdas)
Member Secretary
CGRF Kalyan

- 19) This matter could not be decided in prescribed time as the regular stenographer retired and with the available staff this order could not be transcribed early.

Hence the order by majority

ORDER

1. Consumers Grievance Applications No.776, 777, 778, 779 & 780 (as shown in the title of this order) are allowed.
2. The letter issued by Superintendent Engineer O & M Circle –II, Kalyan dated 31.05.2012 conveying to consumers about they will be billed as continuous, is, set side. These Consumers are to be billed as non continuous from Jun-2012.
3. The Consumer can file representation against this decision with the Hon. Electricity Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshave Bldg, Bandra Kurla Complex, Mumbai 51”

4. Consumer, as per section 142 of the Electricity Act, 03, can approach Hon, Maharashtra Electricity Regulatory Commission or non-compliance, part compliance or delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Centre, Cuffe Parade, Colaba, Mumbai 05”

5. Licensee to submit compliance within 45 days from the date of receipt of this order.

Copies of this Order be kept in every matter from this Group.

(Mrs. S.A. Jamdar)
Member
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan