



Consumer Grievance Redressal Forum, Kalyan Zone  
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**K/E/775/933 OF 2013-14**

Date of Grievance : 24/02/2014  
Date of Order : 10/06/2014  
Period Taken : 107 days

**IN THE MATTER OF GRIEVANCE NO. K/E/775/933 OF 2013-14 OF MRS. VIDYAVATI BHANDARI, DR. RAVI HOSPITAL, 50, VEER SAVARKAR NAGAR, NAVGHAR (WEST), VASAI (WEST), DISTRICT-THANE, PIN-401 202 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL.**

Mrs. Vidyavati Bhandari –Dr. Ravi Hospital,  
50, Veer Savarkar Nagar, Navghar (West),  
Vasai (West) District-Thane. Pin-401 202 (Hereinafter referred to as Consumer)  
Consumer No..001615500310.

V/s.

Maharashtra State Electricity Distribution  
Company Limited through its  
Dy. Exe. Engineer, Vasai Road [E] S/Dn. .... (Hereinafter referred to as Licencee)

Appearance :- For Consumer - Shri Harshad Sheth, Consumer's Representative  
For Licensee - Shri S.S. Bakshi. Dy. Exe. Engineer  
Shri L.S. Lahare- Accountant

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003.(36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is

referred as 'Regulation'. Further the regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2005'.

2] Consumer is having commercial supply and charged as per of LT-IIA and having consumer No.001615500310. On the basis of inspection dated 12/9/2013, Flying Squad of Licencee reported to Dy. Executive Engineer on 19/9/2013 that consumer be directed to pay bill of Rs.1,15,520/- which is worked out for 24 months, on the ground that consumer has exceeded the limit of load and thereby charged under tariff Category LT-IIB. Accordingly bill dated 28/10/2013 was issued. However, consumer has objected it, writing letter to the Dy. Executive Engineer on 21/12/2013, even had approached IGRC on that day with the same grievance. Further consumer has received the letter of Licencee dated 18/2/2014,whereby he was informed to pay the due amount otherwise, action u/s. 56(2) of Indian Electricity Act will be taken. Consumer replied it on 19/2/2014, explaining matter in dispute before IGRC and undisputed payment, she is ready to pay. Consumer had deposited amount of Rs.1,15,520/- demanded on 28/10/2013 as there was threat of disconnection. Said payment is admitted by the Licencee in it's letter dated 18/2/2014. As grievance was not dealt by Dy. Executive Engineer or by IGRC consumer approached this Forum on 24/2/2014.

3] On receiving the grievance, copy of it was forwarded to the Nodal Officer, vide Letter No. EE/CGRF/Kalyan/091 dated 24/2/2014 of this Forum along with it's accompaniments. In response, Licencee appeared and filed reply dated 11/3/2014, 19/4/2014 and 27/5/2014.

4] We heard both the sides and it is pointed out by Ld. Representative for the consumer that in fact, consumer is having a supply and tariff category applicable was LT-II A. However, during inspection on 12/9/2013 Flying Squad Officers noted that connected load was found 44 KW and maximum demand was 43.22 KVA. On this ground, bill was issued on 28/10/2013 and consumer was directed to pay Rs.1,15,520/-. Consumer had objected it on various grounds, contending that calculation for 24 months is not correct. It was to be calculated applying LT-II B/or LT-II-X-B only for the month when consumer had exceeded the limit and it is to be dealt on the basis of MRI taken for a particular month. Accordingly, it is contended that claim on that basis for 24 months is not correct. Consumer has even added some other grounds. Accordingly those grievances are to be dealt one by one.

**Applicability of Tariff: LT-X from 1/8/2012**

5] It is contended that though consumer was required to be assessed applying tariff rate as per MERC order No. 19/2012 dated 16/8/2012, under **LT.X i.e. LT public services i.e. supply for hospitals etc.**. However, consumer has not been charged as per that changed tariff, but levied and recovered, **applying LT-II B i.e. non residential or commercial.** In this respect, discussion is there in the Tariff Order No. 19/2012 dated 16/8/2012 on Page 280, 279, 315 and 325 of the order published by MERC. Even CR referred to the circular of Licencee i.e. Commercial Circular No. 175 dated 2/9/2012, based on said MERC Tariff order No. 19/2012. Even he relied on the judgment of Hon'ble Bom. High Court in Writ Petition No. 11764/2012 dated 13/3/2013. Further he made reference to the supplementary order passed by MERC in said case No.19/2012 dated 22/5/2013, wherein the above Judgment of Hon'ble High Court, is referred. CR submitted, in the aforesaid order, Hon.ble MERC negatived the Licencee's request for keeping out, the public hospitals, which are run by Government etc. In other words, attempt was done to seek

order for public hospital but is not accepted by MERC and only one category is devised i.e. LT-X public services covering public hospitals and private hospitals etc.. Consumer's representative placed on record the copies of bill of hospitals in Aurangabad and Mulund wherein tariff is, applied as per LT-II-X. However, on behalf of Licencee, it is vehemently contended that supply available to the present consumer, is, purely of commercial nature, patients are heavily charged and it cannot be treated as public service.

This particular contention of consumer though denied by Officer of Licencee, we find order of MERC in case No. 19/2012 dated 16/8/2012, order of Hon'ble High Court dated 13/3/2013, and supplementary order passed by MERC in 19/2012 dated 22/5/2013, are crystal clear. As noted above, the contention of Licencee seeking protection only for public hospitals is negatived by MERC, hence we find, there is no any force in the contention of Officers of Licencee that as consumer is having hospital, charging heavily to the patients and it amounts to a commercial activity whereby tariff category LT-II-B will apply. We find, MERC tariff order i.e. case No. 19/2012 decided on 16/8/2012 clearly lays down the tariff applicable to all hospitals from 1/8/2012 and from that date, we find, consumer is having hospital and it attracts tariff i.e. LT-II-X from 1/8/2012 onwards for charging the present consumer.

6] Second part of dispute in this matter revolves around consumer charged, applying LT-II (B). Instead of LT-II (A), tariff is applicable to the consumer, as sanctioned load is less then 20 KW actually it is of 13 KW. However, Licencee contended that during inspection, consumer was found utilizing 43.02 KW load with MD 43.22 KVA . Accordingly, Licencee contended that consumer has utilized supply more than it was authorized. On noticing this consumer is charged, levying liability for previous 24 months treating consumer under LT-II B.

Consumer challenged this aspect mainly referring to the order of Hon'ble Ombudsman , Mumbai, in representation No. 21/2012 dated 29/3/2012. In the said order in Paragraphs No.4,6 and 8, noted the aspect similar to the facts now brought before us and Hon'ble Ombudsman, in that respect, directed that tariff category can be changed and charged only for the month, in which it exceeded sanctioned load but not for total period of two years and ultimately directed Licencee to work out the said liability accordingly.

In the light of above, tariff category can be changed and charged only for the month in which the consumer has exceeded sanctioned load. In this matter, Officers of Licencee submitted that as sanctioned load was below 20 KW, there was no provision for recording MRI and hence, it is not taken. On the other hand, CR submitted that as per observation of Flying Squad, in the report dated 12/9/2013, meter available to the consumer, was, CT operated and hence MRI could have been available During hearing Officer of Licencee sought time to ascertain the availability of MRI and ultimately he produced the MRI details on 27/5/2014. Consumer replied it on 9/6/2014. As per the said MRI details, it is contended that in the year 2003, consumer has exceeded the limit once in a year , in the 2010, it is four times, in 2012 it is six times, in three months. In 2013 it is once, and in 2014 thrice. In this respect, Officer of Licencee contended that as per the order of MERC 19/2012 dated 16/8/2012, if consumer exceeds the limit thrice in a calendar year , then he is to be charged for the total year. We find, this claim is disputed. In 2010 and 2012 thrice or more than thrice in a year CD exceeded but the bill issued, covering two years from 12/9/2011 to 12/9/2013. At the most 2011, 2012 and 2013 are the calendar years covered in it. As noted above, there is no any incident of exceeding of CD limit thrice in the year 2011, same is the position for the year 2013 but it is only once, i.e. on 6/6/2013. Accordingly, at the most, by applying the criteria as canvassed by Officer of Licencee only for one year i.e. 2012 consumer can be dealt, but as per the

order of Hon'ble Ombudsman referred above liability is to be limited to the month in which CD exceeded . Hence we find CD exceeded in the month of August, September, October 2012 and June 2013 i.e. 6/6/2013, and accordingly only for those months it can be applied. Accordingly, only for the month of August, September, October 2012 and June 2013 consumer is to be dealt for exceeding CD and bill is to be charged as per the order of MERC and not for the total 24 months.

7] On the basis of aforesaid discussion, it is clear that as per the inspection of Flying squad, consumer has exceeded the limit and instances for the year 2012 are more than three in three months and for the year 2013, it is only once. Now, by accepting the report of Flying Squad, if at all consumer was to be charged, then he is to be charged for these months i.e. August, September, October 2012 and June 2013. Question also comes up, how he is to be charged from 1/8/2012, whether applying changed tariff i.e. LT-X-B, rather than LT-II B.

8] Now, applicability of the tariff which Licencee considered from 12/9/2011 to 12/9/2013 is, divided in two parts i.e. from 12/9/2011 to 31/7/2012 and 1/8/2012 to 12/9/2013 as tariff rate/cataegory changed from 1/8/2012 Initial period i.e. from 12/9/2011 to 31/7/2012, if any change of category is noticed due to exceeding of limit then it will be LT-II-B, and for the period from 1/8/2012 to 12/9/2013, for instances of exceeding the limit tariff category will be LT-IIX-B. Admittedly, for the year 2012, i.e. calendar year, aspect of exceeding the limit is more than 3 hence for those three months and for June 2013, consumer is to be charged levying penalty and not for the total year. Accordingly, we find in the year 2012, instances of exceeding, is, more than thrice in three months i.e. August, September, and October 2012 in that case tariff rate applicable will be LT-II X B from 1/8/2012 to 31/12/2012. For the year 2013, there is only one incident of exceeding the limit on 6/6/2013, hence only

for that June month, tariff category applicable will be LT-II X B. In this light, the liability worked out by Licencee, needs to be revised.

**Enhancing Contract Demand: -**

9] This aspect pertains to **consumer's request for enhancing the contract demand up to load noted by Flying Squad i.e 43 KVA. Said request was made on 21/12/2013.** It was in the written objection placed before Licencee dated 21/12/2013. However, effect was not given to it, till February 2014 and it is given effect in bill of March 2014. Now consumer claims that though said request was made on 21/12/2013, effect is not given till February 2014 and hence for the said period relief is sought in respect of demand penalty, already levied and recovered by Licencee. In short, it is period from November 2013 to February 2014.

We find that when report of Flying Squad dated 12/9/2013 was there wherein it is directed that tariff category as per LT-II B be applied, then things ought to have been given effect from November 2013 itself but effect is given in March 2014. It is also observed and directed by the Flying Squad that consumer is having other supply no. 001610351545 which is also to be clubbed with the present supply. Accordingly, when direction was there, to assess the consumer for two year charging amount and there was direction for clubbing and changing the tariff category then both ought to have been done simultaneously but compliance is done to the extent of recovery and not done for changing the category by enhancing the load, hence from November 2013 to February 2014, Licencee charged demand penalty which is found not in tune with order of MERC liability is to be revised by Licencee. Hence, said amount is required to be refunded if, it is paid.

**Night Concession:**

10] Consumer has sought relief pertaining to night concession, not given but, in that respect, consumer's representative during hearing not pressed it, hence, it needs no any further comments or order.

**Additional Electricity Charges and Fuel Adjustment cost.**

11] These two items are sought by the consumer that too in the light of order passed by Hon'ble MERC in Cases No.110/2013 to 137/2013 and others, decided on 27/3/2014 with the help of CR and officers of Licencee, we have gone through the orders and more particular in Para No.9, Hon'ble MERC considered and observed that Licencee has refunded one month's additional energy charges (AEC) and Addl. Fuel Adjustment Charges (FAC) in billing for the month of February 2014 wherein error in applicability of AEC had taken place . Further in Para 10 commission gave ruling as under:-

‘ a] MSEDCL rectified the error of levy of AEC and additional. FAC and has refunded back the amount which was erroneously charged to the consumers in the billing month of February 2014’.

On close reading of this part, we are clear that it is the Hon'ble MERC, had given a final ruling about error corrected amount refunded. Hence, there is no scope for this Forum to comment on it. However, consumer is at liberty if found fit to seek direction from Hon'ble MERC.

**Power Factor Penalty:**

12] Consumer in his grievance referred to the power factor penalty of Rs.65,239.72 Ps. but Licencee in reply letter dated 18/2/2014 clarified that said amount is credited in January 2014, which is not disputed, hence said aspect is not in dispute, it requires no any comments of finding.



**Refund of Security Deposit:-**

13] Consumer has sought refund of security deposit as Flying Squad directed to club two connections and to work out the liability. It is the contention of consumer that if there is clubbing then the other meter which is clubbed needs to be considered for refund of security deposit. We find, this is consequential result of clubbing and hence we find, if clubbing is effected then the connection which is clubbed needs to be taking care of refund of its security deposit. Licencee is to consider it and comply, showing refund in the ensuing bill of consumer.

14] This matter could not be decided within prescribed time as aspect involved herein was of utmost importance. Licencee considered it and submitted reply on 24/5/2014 and argued on 9/6/2014.

Hence the order.

**ORDER**

Grievance of consumer is hereby partly allowed.

Licencee is directed to revise the bill dated 28/10/2013, in the light of the aforesaid discussion, more particularly applying tariff LT-II X B from 1/8/2012 to 12/9/2013 for the months consumer exceeded CD i.e. three months of 2012 i.e. August, September, October 2012 and one month i.e. June 2013, as per the order of MERC. In respect of demand penalty applied from November 2013 to February 2014, Licencee to revise it treating that said demand was enhanced as per the directions of Flying Squad of 43 KVA. On revision of the bill, Licencee to consider the exceeds amount deposited by consumer during the said bill and adjusted in the further bills or pay it by cheque.

Licencee is directed to revise the bills from 1/8/2012 showing category as LT-II X-B.

Licencee to consider and refund security deposit of the supply which is clubbed and it be credited in the ensuing bill .

All directions stated above, towards revision be carried out by Licencee and complied within 45 days from the date of receipt of this order. It's compliance be reported thereafter within 15 days.

Kalyan  
Dated: 10/6/2014

I agree

**\*\* I do not agree**

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

(Chandrashekhar U.Patil)  
Member Secretary  
CGRF,Kalyan

(Sadashiv S.Deshmukh)  
Chairperson  
CGRF, Kalyan

**\*\* Per Shri C.U.Patil- Member Secretary:-**

**I have gone through the above reasoning. I respectfully agreed with it except for the contents in Para Nos.5 & 6 for the reasons that-----**

I have gone through the MERC Tariff Order dated 16/8/2012 in Case No.19/2012 and supplementary order of MERC dated 22 May 2013 and after going through the order, I feel that Hon'ble MERC has made a separate category for charitable hospitals or charitable educational institutions and classified them in LT-II-X or HT-X category.

But Hon'ble MERC has not mentioned anywhere in the order that "private hospitals" should also be categorized under LT-X or HT-X. Also the wording like "Any hospital" is also not included anywhere in the context of the relevant order.

Hence, consumer (private hospital) should be applied LT-II –Commercial Tariff only.

Date: 10/6/2014.

(Chandrashekhar U.Patil)  
Executive Engineer-Cum-  
Member Secretary  
CGRF,Kalyan

**NOTE**

- a) The consumer if not satisfied, may file representation against this order before the Hon. 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, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.*

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission 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” at the following address:-

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

- c) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.