



Consumer Grievance Redressal Forum, Kalyan Zone

Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax - 2210707, E-mail : cgrfkalyan@mahadiscom.in

No.EE/CGRF/Kalyan Zone/

Date of Grievance : 26/05/2016

Date of Order : 07/12/2016

Total days : 196

IN THE MATTER CASE OF GRIEVANCE NO. K/E/1042/1254 of 2015-16 IN RESPECT OF M/S. G.M. SYNTAX PVT. LTD. FACTORY PLOT NO. E-37/2 & E-38,MIDC,TARAPUR, BOISAR,TAL. & DIST. PALGHAR REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING CHANGE IN TARIFF FROM HT-IC TO HT-IN.

M/s.G.M.Syntax Pvt. Ltd.,
Factory Plot No. E-37/2 & E-38,
MIDC, Tarapur, Boisar,
Tal. & Dist. Thane.
(Consumer No. 003019009075)

... (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited
through its MSEDCL, Addl. Ex. Engineer,
Vasai Circle,

... (Hereinafter referred as Licensee)

Appearance : - For Consumer : Shri Pratap Hogade -Consumer's representative.

For Licensee :- Shri V.B. Jagtap -Nodal Officer, Vasai Circle.
Shri H.A.Khan- Dy.EE, Vasai Circle

[Coram- Shri A.M.Garde-Chirperson, Shri L.N.Bade-Member Secretary and
Mrs.S.A.Jamdar- Member (CPO)].

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 & Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014’.

2] The brief facts of the grievance application are:

Consumer is running the factory, having HT supply bearing consumer No. 003019009075. The consumer submitted that it is connected on non express feeder. The consumer further contended that there are different categories of HT industrial consumers i.e. Continuous (HT-IC) & Non Continuous (HT-IN) and accordingly separate tariffs are charged since October 2006. MSEDCL has also issued Commercial Circular No. 88 dated 26/09/2008 in the matter. Also there is a clear provision regarding change of Tariff category in SOP regulations.

3] CR submitted that consumer was availing continuous category / supply till July 2012, but after MERC order dated 16/8/12 there was a huge hike in the tariff and therefore, it was very difficult and impossible for

the consumer to survive and run their business. It is the contention of the consumer that it was not using the electricity on staggering day i.e. Friday. On 4/10/2012 it has opted for non-continuous category and submitted written application to MSEDCL as per the MERC order and Commercial Circular of MSEDCL. As per the direction of MERC and Commercial Circular, it was binding on the MSEDCL to implement “ Non Continuous “ tariff and charged accordingly since 1/8/2012 but the MSEDCL erred in giving sanction on 4/7/2013 instead of 1/8/2012 and therefore, they have violated its own circular , procedure and order of MERC.

Non continuous tariff was applied to consumer from billing month July i.e. 1/7/2013. According to the consumer, the said sanction of MSEDCL is in contravention to MERC order and SOP Regulations laid by MERC and commercial circular of MSEDCL and hence the consumer is eligible for non-continuous tariff from 1/8/2012 or from the date of application.

4] It is further stated by the consumer that the HT-IN tariff was made applicable on 1/7/2013. Therefore the consumer is deprived of legally justified tariff under HT-IN category from 1/8/2012 to 1/7/2013. Lastly CR prayed that tariff charged applied for this period is illegal, contrary to the procedure, SOP Regulations and guidelines of MERC and this act of MSEDCL is absolutely void and be set aside and to refund the amount with interest so charged after 1/8/2012 or from the date of application or adjust the said amount against their future energy bills. With the similar grievance, consumer approached to IGRC.

Not satisfied with the decision of IGRC date 13/5/2016, the consumer approached to this Forum on 26/5/2016. Consumer's grievance application along with accompaniments sent to the Nodal Officer vide this Office letter No.EE/CGRF/Kalyan/177 dated 01/06/2016.

5] The Licensee appeared and filed reply dated 29/6/16 and denied all statements averments and contentions raised by the consumer. The Licensee submitted that gist of the grievance is that the consumer is having the supply from 23/12/1980. The consumer is on express feeder and hence categorized as HT-IC as per MERC tariff order from October 2006 till July 2013. The Licensee further contended that the consumer submitted an application dated 4/10/2012 in the Circle Office, at Vasai for change of tariff category from HT-IC to HT-I-NC, and after scrutiny the said application was sent to Chief Engineer (Comm) on 6/3/2013. On 3/8/13 the Chief Engineer granted the approval for change of tariff from July 2013. The consumer has filed present case for refund of difference from August 2012 to July 2013 or from second billing cycle from the date of application dated 4/10/12 till July 2013 as per MERC SOP Regulation.

6] The Licensee further contended that the MERC by Tariff Order dated 20/6/2008 in case no. 72/2007, in the consumer category of HT-I Industry, three tariff categories were introduced for the first time viz.1] continuous industry (on express feeder, ii] Non-continuous Industry (not on continuous feeder and iii] Seasonal Industry. MERC clarified in the clarifactory order dated 12/9/2008 in case No. 44/2008 that consumer who is availing supply on express feeder may exercise his option within one month after issue of tariff orders passed by MERC dated 17/8/2009 in case No.116/2008,12/9/2010 in case No. 111/2009 and 16/8/2012 in case No.

19/2012 for relevant period. However none of these occasions the consumer exercised his choice between continuous and non continuous supply within one month after issue of these tariff orders. The consumer first time submitted application for change of tariff on 29/11/2013 from HT-C to HT-1NC and the said application was not within one month of last relevant tariff order dated 16/8/2012 and therefore, consumer was not entitled for change of tariff.

7] The Licensee further contended that on 4/10/2013, the Circle Office sent application of consumer to Chief Engineer (Comm) , Corporate Office, MSEDCL. The Chief Engineer (Comm) allowed his request for change of tariff from July 2013. The Licensee further stated that in the tariff order dated 31/5/2008, 20/6/2007 under tariff category HT- Industry Note No.4 reads as under:

Only HT Industries connected an Express/ Feeders and demanding continuous supply will be deemed as HT continuous Industry and given continuous supply, while all other HT Industrial consumers will deemed as HT non continuous industries.

In case No. 44/2008, MSEDCL made the following prayers to MERC:

d] The clause “demanding continuous supply” , may please be removed from the definition of HT-I (continuous Industry).

e] Existing consumer’s categorized under HT-I continuous as on April 1,2008 should be continued under same category.

f] HT-I (continuous) Tariff category should be applicable to all industries connected on Express feeder irrespective of whether they are continuous or non-continuous process industries.

As per MERC order dated 12/9/2008 in case No.44/2008 ,clarified that the consumer getting supply on express feeder may exercise his choice between continuous and non-continuous supply only once in a year , within the first month after issue of tariff order for relevant period.

8] Lastly, the Licensee prayed for rejection of the grievance application of the consumer.

9] We have heard the matter, the Licensee has submitted written arguments. We find that the categories of consumers for continuous and non continuous supply were first introduced in 2006, in view of shortage of electricity supply then. As we gather further, inspite of shortage of electricity supply for distribution, some industries were considered to be eligible for continuous supply and were provided with the same on request of course with some higher tariff. Earlier, there was a certificate required from the concerned Competent Authority to the effect that a particular industry falls in continuous category so as to be eligible for continuous supply. Later-on there were some changes made on account of some difficulties in getting the above mentioned certificate from the respective authority whereby the certificate was dispensed with if the industry required continuous supply considering it's activity. Later-on the things changed further and, anybody could change from one category to other. Then it so happened that by reason of sufficiency in power supply there was no more power cut. Power was made continuously available on demand and the consumers preferred to change to non continuous category to avoid excess tariff specially because of alleged increase in tariff. In Tariff order of 2012 a condition was put to make application within one month of the order for change of category. This was made in order that the Licensee should be

able to know before hand categories so as to manage the supply properly. It so happened , however, that few applications were made within one month of the tariff order for change of category from continuous to non-continuous, which were allowed by the Licensee. Thereafter, applications were made even after one month of the tariff order, the said applications were rejected by the Licensee on the ground that they were not made within one month of the tariff order. However, there were instances in which the applications were granted. There were contradictory interpretation of the tariff order of the condition of one month to make application. Then came the Review Petition moved by Licensee itself before the MERC bearing 94/2015 in which all the questions were set at rest.

10] The Commission in the above said review matter inter-alia held that SOP Regulations 9.2 gives unfettered powers to the consumer to change the category by making an application and the Licensee was bound to change the category from the next billing cycle. That being so Licensee before us in this case had no points to make against the case of consumer. The Licensee practically agreed in principle to the case of the consumer. The only submission made was that the MSEDCL is a body corporate and will frame policy and methodology for implementation of the findings of the Commission in the Review Petition no.94/2015 and issue guidelines. It is, rightly pointed out in this context that those are the internal matters of the Licensee.

11] So-far-as compensation under SOP is concerned, CR Mr. Hogade fairly does not insist.

12] Sofar-as interest is concerned, CR Mr. Hogade further fairly Submitted that as per the order of Hon'ble Ombudsman the interest can be awarded from the date of the order of MERC in Review Petition No. 94/2015 i.e. 19/8/2016. Accordingly the interest may be given to the consumer.

13] This matter could not be decided within time as the Hon'ble Chairperson took charge on 20/09/2016 of this Forum and the matter was reheard.

14] Taking into consideration, all the above points, we find it fit to allow the grievance application of the consumer.

Hence the order.

ORDER

1] Consumer's grievance application is hereby allowed.

2] The Licensee is directed to apply non continuous tariff to the consumer from second cycle after the application given on 04/10/2012 for changing of tariff.

3] The Licensee is further directed to refund the differential amount recovered from the consumer due to wrong application of continuous tariff from the second cycle after the application till rectification. The same may be done by adjusting it in the next ensuing bills.

4] The Licensee is also directed to work out the amount of interest on the differential amount from 19/8/2016 till the date of rectification and to pay the same to the consumer.

5] Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 07/12/2016.

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

(L.N.Bade)
Member Secretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
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

c) 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”

d) 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.