

**Maharashtra State Electricity Distribution Co. Ltd.'s  
Consumer Grievance Redressal Forum  
Nagpur Urban Zone, Nagpur**

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**Case No. CGRF(NUZ)/031/2012**

Applicant : M/s. Tapadia Polysters, Pvt. Ltd.  
N-86, MIDC,  
Hingna Road  
NAGPUR : 16.

Non-applicant : Nodal Officer,  
The Superintending Engineer,  
Nagpur Urban Circle,  
Nagpur.

**Quorum Present** : 1) Shri. Vishnu S. Bute  
Chairman,

2) Adv. Subhash Jichkar,  
Member,

3) Shri B.A. Wasnik  
Member/Secretary.

**ORDER PASSED ON DT. 7.3.2014.**

1. The applicant filed present Grievance application on 22.1.2014 under regulation 6.4 of the MERC (CGRF & Electricity Ombudsman) Regulations 2006 (hereinafter referred to as the Regulations).

2. The applicant's case in brief is that, the applicant is H.T. Consumer connected at 33 kV voltage having Contract Demand of 2400 kVA. The applicant applied for supply at 33 kV vide application Dt. 5.11.2011 to non applicant for non continuous industry with a contract demand of 2500 kVA. The load was sanctioned by the non applicant to the tune of 2500 kVA for non continuous supply and connected through DDF feeder as non continuous industry since applicant did not demand continuous supply.

3. Applicant further submitted that the Commission determined the tariff applicable from 1.6.2008 and in the footnote (iv) at Page 11 of High Tension Tariff Booklet and further in tariff order Dt. 12.9.2010, applicable from September 2010 in footnote No. (iv) at Page 220, and further in tariff order dt. 16.8.2012, applicable from August 2012 at page No. 328, in foot note No. (iv) it is mentioned that "*Only H.T. 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*".

4. It is further submitted that on the application filed by MSEDCL for clarification of the tariff order applicable from 1.6.2008, the Commission ruled in case No. 44 of 2008 that there is no justification for removing the clause "demanding continuous supply from the definition of HT-I continuous category". Commission further said that,

*“..... it is clarified that the consumer getting supply on express feeder may exercise 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. In the present instance, the consumer may be given one month time from the date of issue of the order for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorization will be continued”.*

5. The MSEDCL, on the basis of the above order, issued a circular No. 88 on 26<sup>th</sup> September, 2008, highlighting the above features of the Commission's 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 industry”.*

*“The consumer getting supply on express feeder may exercise 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”. As per the tariff order of Commission, definition of express feeder and circular No. 88 of MSEDCL, the applicant should be charged non express feeder tariff.*

6. Applicant also submitted that Commission revised tariff with respect to TOD charges for FY 12-13 on Dt.

26.12.2012 which was applicable upto 31.3.2013. This order amounts to a new tariff order with respect to TOD charges.

7. Since express feeder tariff (continuous industry) was applied to the applicant from beginning, the applicant submitted his request to change the tariff category to non continuous tariff vide letter dated 25.1.2013 to change his tariff to non continuous tariff and said that as per Commission's order 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. Applicant at any time never demanded a continuous supply.

8. Along with other submissions, the applicant prayed that interim relief should be provided by changing tariff to non express feeder tariff from the month of January 2013. It is also submitted to change the tariff of the applicant to non continuous tariff (non express feeder) and revise all the energy bills of the applicant from December 2012 till date considering and applying non express feeder tariff as per directives of the Commission issued in the tariff order and clarificatory order.

9. Non applicant denied applicant's case by filing reply Dt. 13.2.2014. It is submitted that the above consumer is having H.T. connection on 33 kV was connected on Dt. 1.12.2012 with contract demand of 2500 kVA connected on 33 kV Tapadia Express feeder from 220 kV Butibori Sub-Station bearing

Consumer No. 420819011460. The feeder is a dedicated feeder which the consumer has erected at his own cost by paying 1.3% supervision charges to MSEDCL. Only one consumer i.e. M/s. Tapadia Polysters Pvt. Ltd. is connected on the said feeder. On consumer's request, he was provided continuous supply on the dedicated feeder. Hence the consumer's say that he had never demanded express feeder supply is totally baseless.

10. Non applicant further submitted that on 25.1.2013 the consumer applied for Non express tariff category giving the reference of MERC clarificatory order in Case No. 44 of 2008 Dt. 12.9.2008 where it is stated 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 the tariff order for the relevant tariff period". Considering the MERC order in Case No. 107 of 2012 on Dt. 26.12.2012 as tariff order the consumer has applied for tariff revision on 25.1.2013. But as the last tariff order for 2012-13 was passed by MERC on 16.8.2012 and is in force till date the consumers request could not be considered as it is not within the stipulated time period as MERC clarificatory order in case No. 44 of 2008 Dt. 12.9.2008 as the MERC order in case No. 107 of 2012 on Dt. 26.12.2012 can not be treated as the tariff order for the relevant tariff period.

11. However, Chief Engineer (Commercial), Corporate office, MSEDCL, Mumbai has been contacted by the non

applicant for issue of guide lines in the matter which are still awaited.

12. The non applicant also submitted that in a recent order passed by the Hon'ble Electricity Ombudsman, dated 9.1.2014 in case of M/s. Hardoli Paper Mills Vs. MSEDCL, it has been stated that ***While insisting for change in tariff from HT-I continuous to non continuous, the appellant has put great emphasis on the above clarificatory order which was followed by Commercial Circular No. 88. But the appellant is forgetting that the said clarificatory order dated 12.9.2008, as well as Commercial Circular No. 88 are, restricted to the detailed Tariff Order dated 20.6.2008 in Case No. 72 of 2007. The said Tariff Order was in existence from 1.6.2008 till 31.7.2009 because tariff order dated 17.8.2009 in Case No. 116/2008 became applicable w.e.f. 1.8.2009. The option to change the Tariff Category from HT-I Continuous to non continuous industries was not there in the subsequent Tariff Orders in Case No. 116/2008, 111/2009 and 19/2012. The clarificatory order dated 12.9.2008 in Case No. 44/2008 will not automatically apply to the subsequent Tariff Orders. Obviously the appellant could not give his choice for change of tariff category from HT-I continuous to non continuous industries. Thus the respondent was perfectly justified in not entertaining the said application of the appellant and continuing to charge HT-I-C tariff to the appellant***".

Hence non applicant requested that the grievance application may be dismissed.

13. Forum heard arguments of both the sides and perused the record.

14. It is an admitted fact that the applicant is having continuous power supply without load shedding even on staggering day. Non applicant also produced Letter No. TPPL/MSEDCL/APL/302 Dt. 12.12.2011 in which applicant has clearly requested to sanction the load at express feeder only. As per this request only, the consumer was provided continuous supply on the dedicated feeder having only one consumer i.e. the applicant himself connected on this feeder. It is further mentioned in the above letter that they are ready to carry out the work themselves under the supervision of MSEDCL by paying supervision charges and are ready to bear the cost of 33 kV bay at 220 kV MSETCL Butibori Sub-Station. Hence it is clear that applicant's contention that it is not connected on express feeder can not be relied up on.

15. Applicant mentioned in the grievance application that the Commission revised tariff with respect to TOD charges for FY 12-13 on Dt. 26.12.2012 which was applicable to 31.3.2013. This order amounts to a new tariff order, and applicant applied within one month from the issue or the said order.

16. Contrary to the above, the non applicant pointed out that the last tariff order for 2012-13 was passed by MERC on 16.8.2012 and it is still in force. Therefore applicant needs to apply for change of tariff within one month from the date of passing of new tariff order. It is therefore clear that as per non applicant's say, the impugned order passed in case No. 95 of 2013 Dt. 5.9.2013 is not new tariff order but the supplementary tariff order allowing MSEDCL to collect additional AEC charges from consumers from September 2013. Commission also issued an order in Case No. 107 of 2013 on 29.10.2013 and imposed additional CSS to open access consumers because of increase of ABR of consumers as per AEC charges determined in case No. 95 of 2013. Forum finds that this is also a supplementary order to the last tariff order for 2012-13 was passed by MERC on 16.8.2012 which is still in force. Hence it is not possible to allow the applicant to exercise the option to change the tariff from continuous to non continuous, within one month after issue of every supplementary order by the Commission on various issues.

17. Without prejudice to above, it is also pertinent to note that Hon'ble Electricity Ombudsman, in order Dated 9.1.2014 has held that – *“clarificatory order dated 12.9.2008, as well as Commercial Circular No. 88 are, restricted to the detailed Tariff Order dated 20.6.2008 in Case No. 72 of 2007. The said Tariff Order was in existence from 1.6.2008 till 31.7.2009 because tariff order dated 17.8.2009 in Case No. 116/2008 became applicable w.e.f. 1.8.2009. **The option to change the***



*Tariff Category from HT-I Continuous to non continuous industries was not there in the subsequent Tariff Orders in Case No. 116/2008, 111/2009 and 19/2012. The clarificatory order dated 12.9.2008 in Case No. 44/2008 will not **“automatically apply”** to the subsequent Tariff Orders. Obviously the appellant could not give his choice for change of tariff category from HT-I continuous to non continuous industries”.*

18. It is therefore clear from the above discussions that the applicant should exercise his option for change of tariff from continuous to non continuous tariff after one month from the issue of original tariff order for the relevant tariff period, and not within one month from the issue of any subsequent supplementary orders.

19. For these reasons, we proceed to pass the following order:-

ORDER

1. Grievance application is dismissed.

Sd/-  
(B.A.Wasnik)  
MEMBER  
SECRETARY

Sd/-  
(Adv. Subhash Jichar)  
MEMBER

Sd/-  
(Vishnu S. Bute)  
CHAIRMAN