

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

Case No. CGRF(NUZ)/097/2010

Applicant : M/s. Divyansh Steel Pvt. Limited
183, Small Factory Area, Bagadgunj,
NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Superintending Engineer,
Nagpur Rural Circle,
Nagpur.

Quorum Present : 1) Shri Shivajirao S. Patil
Chairman,

2) Adv. Smt. Gouri Chandrayan,
Member,

3) Smt. Kavita K. Gharat
Member Secretary.

ORDER (Passed on 07.02.2011)

It is the grievance application filed by applicant M/s. Divyansh Steel Private Limited 183, Small Factory Area Bgadgunj Nagpur factory address 62/1, Mouza Bhowari, Bhandara Road, Nagpur. On dated 08.12.2010 under Regulation 6.2, 6.3 (b) and 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

1. The applicant, M/S Divyansh Steel Private Limited, has applied for change in tariff category from continuous industry to non-continuous industry on dtd. 27.09.2010. But the non-applicant has rejected applicant's prayer vide letter dtd. 29.10.2010. Therefore being aggrieved the applicant has filed the grievance application in the forum on dtd. 8.12.2010 and requested to the forum that...

1. To direct MSEDCL to change the tariff of the applicant to non-continuous tariff and revise all the energy bills of the applicant from Sep-2010.
2. To direct MSEDCL to refund the excess amount paid by the applicant along with interest under section 62(6).

2. The applicant's say in brief is that, the applicant is a consumer of MSEDCL connected at 33kV voltage. The applicant has a contract demand of 1600 kVA. The applicant was being charged HT-I tariff applicable for express feeder as per Hon. Commission's order w.e.f. 1.6.2008 although the applicant is not on express. The feeder is a tapped feeder from existing 33 KV line on which one more consumer is connected.

3. The applicant has requested to the Superintending Engineer, MSEDCL (non-applicant) vide letter dated 27.09.2010 to change the tariff category from continuous industry to non-continuous as per Hon. Commission's

new tariff order dtd.12.9.2010. The non-applicant rejected the application as per letter dated 29.10.2010. The applicant submitted second reminder on 08.11.2010 to the non-applicant but even though tariff is not changed.

4. It is the grievance of the applicant that MSEDCL should revise all the energy bills of the from the month of September -2010 by applying non-express feeder tariff as per Hon. Commission's order dtd 12.9.10. Also MSEDCL should refund the excess amount paid by the applicant along-with interest under section 62(c).
5. The non-applicant has submitted the reply in the on dated 23.12.2010. It is submitted that the applicant has applied for for new connection on 22.01.2007 for contract demand of 1000kVA. In this application, the applicant has mentioned that his industry is a continuous process industry. Therefore MSEDCL prepared the estimate and proposed to tap the existing 11KV Palsad feeder which is a Group Express Feeder, so that the applicant can get continuous power supply to his industry.
6. The applicant on dtd. 29.7.2008 has applied for an additional load of 600kVA on 33kV level. Considering the need of the applicant for continuous power supply, the applicant has given supply by tapping existing 66KV Sahuli D/C line one ckt. converted to 33KV line, which is a Group Express Feeder.

7. It is further submitted that in case no. 44/2008 filed by MSEDCL seeking clarifications to the applicability of HT continuous industry tariff MSEDCL has requested the Commission that “clause” “demanding continuous supply” be removed and that existing HT continuous industry as on 01.04.2008 be continuous under the same category and continuous tariff be made applicable to all consumers connected on express feeder. In this petition, MSEDCL seek clarification of the general application of HT-I “C” tariff category to the consumer on express feeder and did not seek about the applicability of this tariff category to the consumer who are given supply on Group Express Feeder.
8. All the provision in circular no. 88 are applicable to the consumers who are received supply on express feeder and not sought to the consumer who are receiving supply on Group Express Feeder. It is submitted that the applicant’s feeder is a Group Express Feeder. It is further submitted that the said 66kV Sahuli Feeder is also extended to M/S Shiva Steel Ltd. and the fact that the said 66kV Sahuli Feeder is an Express Feeder, is also confirmed by the Forum in order dtd. 10.3.2010, in case no. 73 of 2009, M/S Shiva Steel Ltd. Vs MSEDCL.
9. The Commission in its tariff order dated 20.06.2008 in case no. 72/2007 has mentioned only about the HT industries connected on express feeder and not about the

HT industry receiving supply from Group Express Feeder. It is submitted that the applicant's application grievance application is false and deserves to be dismissed.

10. The matter was heard on dtd. 7.2.2011. Both the parties were present. On behalf of non-applicant Shri. V.B Setty, Assistant Engineer and Ms. Bangde, Jr. Law Officer were present. The applicant's side was represented by Shri. R.B. Goenka, the consumer representative.
11. Shri. R.B. Goenka, pleaded that in HT tariff w.e.f 1.6.2008 it is mentioned that 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.

However the non-applicant has approached the Hon, commission for removing clause demanding continuous supply from the definition of HT-I(continuous).But the Hon. Commission has clarified in Case no. 44 of 2008, order dtd.12.9.2008 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 of the relevant tariff period.

This is also continued in new tariff order dtd. 12.9.2010. The applicant has applied for non-continuous supply within one month of the tariff order date i.e. on 27.9.2010. Also the applicant's feeder is not an express feeder since there are number of consumers connected on the same feeder.

Therefore the applicant's representative requested to the forum to revise all the energy bills from the date of new tariff order i.e. from Sep-2010 as per application of the applicant considering and applying non-express feeder tariff to the applicant. Also refund the excess amount paid by the applicant along with interest under section 62(6).

12. The non-applicant reiterated the points as mentioned in his reply. The non-applicant argued that it is a group express feeder and continuous supply is provided to the applicant and the continuous supply is provided to the applicant on his demand at the time of new connection. Therefore the prayer of applicant may be rejected.
13. Hon. Chairman and Hon. Member-Secretary of the Forum who are in majority hold that grievance application deserves to be dismissed whereas Hon. Member of Forum defer. Therefore descending note of member is separately noted at last and the decision is based on majority view.

Majority view of Hon. Chairperson and Hon. Member-Secretary :

14. Heard both the parties and carefully gone through the documents on record. The Forum has observed that along with the reply, the non-applicant has produced application of the applicant which was received to the office of the non-applicant on dated 22.01.2007 in schedule A-1 (in the format). It is noteworthy that in the original application of the applicant for new connection, the applicant has specifically mentioned that his industry is a “continuous process” industry. In other words he needed continuous power for his industry.

Therefore non-applicant has connected the applicant on a feeder which gives continuous power without any load shedding.

15. It is noteworthy that in a similar matter, this Forum has already given finding in order dated 10.03.2010 in case no. 73/2009 of M/s. Shiva Steel Industries, Nagpur, at village Kadholi, Bhandara Road, Nagpur V/s. MSEDCL and hold the applicant is admittedly getting supply from HT category under continuous express feeder and on the same feeder this applicant is connected.

Further more, the non-applicant had produced another application of the applicant dated 18.08.2008, in this application subject matter is mentioned as “tripping

of power supply line of 11KV Pulsad feeder”. The subject matter in application of the applicant dated 18.08.2008 also shows that the applicant has a continuous process industry and needed continuous power.

16. Forum has carefully perused order of MERC in case no. 44/2008 and various tariff orders. In the opinion of the Forum, we have to consider the facts and circumstances of each and every case separately. It appears that the applicant is trying to misinterpret the order of Commission for wrongful gain to the applicant and wrongful loss to MSEDCL. The case of the applicant is nothing but based on misconception of facts, law and regulation.

17. Taking into consideration facts and circumstance of the case relevant regulation and ruling of the Commission, Forum hold that the applicant is continuous process and on express feeder, therefore tariff of non-continuous is not applicable to the applicant therefore needs no interfere and it cannot be revised as prayed for.

Considering special facts and circumstance of the case in hand, it cannot be said that MSEDCL has any time violated any order of Hon. Commission.

18. The grievance application of the applicant is based on misconception facts, law rules and Regulation. Therefore it is not tenable at law and deserves to be dismissed.

Descending Note of Hon. Member :

The Hon. Commission issued tariff order dated 12.09.2010. The applicant has requested to S.E. MSEDCL vide letter dated 27.09.2010 to change the tariff category from continuous to non-continuous. This application was filed within one month from the date of issue of tariff order.

The S.E. MSEDCL vide letter dated 29.10.2010 rejected the application and said that the applicant is connected on the feeder with continuous supply. Hence it is not possible for MSEDCL to consider non-continuous tariff. It is further said that in case the applicant wishes to avail facility of non-continuous tariff, he should lay separate feeder.

In this case two issues are involved--.

One is the consumer feeders is a express feeder or not?

As per the definition of express feeder (dedicated distribution facilities) provided in the MERC (Electricity Supply Code) and other conditions of supply) Regulation 2005 is as under---

“Dedicated distribution facilities – means such facilities, not including a service line, forming part of the distribution system of the distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises”.

So I am convinced with the applicant’s submission – that the applicant’s feeder is not an express feeder. Since one more consumer has been given supply from the same feeder and his premises is not a contiguous premises.

Second point is that whether the Commission’s tariff order is applicable or not?

The Commission, in the tariff order applicable from 01.06.2008 and further in clarificatory order said that,

“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”.

According to the above directive, the MSEDCL should have charged HT non continuous tariff to all the

HT consumers and only HT industries connected on express feeders and those demanding continuous supply, should have been charged continuous tariff. The clarificatory order has been issued with respect to the second part of Commissions as per above directives and directs that the demand of continuous supply be applied by the consumer only once in the year, within the first month after issue of the Tariff Order for the relevant tariff period.

In case of applicant, non-continuous tariff should have been changed from 01.06.2008 and that too without any application to this effect.

The applicant submitted his request within one month after the Hon. Commission issued new tariff order on dated 12.09.2010 and the applicant submitted his application on dated 27.09.2010. Even then the non-applicant rejected the application, this amounts to violation of Commissions order.

My opinion in this case is that the consumer's grievance application should be accepted and to direct MSEDCL to change the tariff of the applicant to non-continuous tariff (non-express feeder) and revise all the energy bills of the applicant from Sept. 2010 till today and tariff should be applied as a non-express tariff as per directives of the Hon. Commission issued in the

tariff order dated April 01.06.2008 and clarificatory order dated 12.09.2008.

Therefore, I differ from other two Hon. Members of the Forum. In my opinion. the applicant's grievance application is allowed.

Consequently, Forum in majority view hold that grievance application deserves to be dismissed. Hence the following order.

ORDER

The grievance application is dismissed.

Sd/-	Sd/-	Sd/-
(Smt.K.K.Gharat)	(Smt.GauriChandrayan)	(ShriShivajirao S.Patil)
MEMBER	MEMBER	CHAIRMAN
SECRETARY		