

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

Case No. CGRF(NUZ)/04/2007

- Applicant : M/s. Tania Industries Pvt. Ltd.,
At A-1, MIDC Industrial Area,
Pandhura Road,
Saoner,
Dist. NAGPUR.
- Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Division No. II, NUZ,
Nagpur.
- Quorum Present : 1) Shri S.D. Jahagirdar,
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 3) Shri S.J. Bhargawa
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 20.03.2007)

The present grievance application has been filed on 05.02.2007 under Regulation 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.

The applicant applied for applicability of seasonal tariff by filing his application dated 23.05.2006 which was duly received by the non-applicant on 29.05.2006. In this application, the applicant declared its season from the month of October to March and rest of the months of the year as off season months during the financial year 2006-07. The non-applicant issued energy bills based on normal tariff without considering the seasonal tariff for the months of June, 2006 to September, 2006. He charged 347 KVA as billing demand while the demand recorded in these months was much less. The applicant's declaration of off season during the months of June, July, August & September, 2006 was not taken any cognizance of. According to the applicant, he should have been billed based on actual demand recorded in these months.

The applicant paid the energy bill of December, 2006 under protest and requested the non-applicant to consider applicability of seasonal tariff. Hence, the grievance of the applicant is that seasonal tariff has not been made applicable to his Unit as per the application dated 23.05.2006 and as per MERC's guidelines and also that the non-applicant did not take any cognizance of the applicant's declaration about the off season months during the financial year 2006-07. The applicant has requested to refund excess demand charges charged by the non-applicant alongwith interest as applicable considering the applicant as a seasonal industry and

considering the off-season to be from June to September, 2006.

This is his first grievance.

The other grievance of the applicant is in respect of non-sanction of enhanced contract demand of 200 KVA effective from 28.10.2006 i.e. 30 days from the date of receipt of application by the MSEDCL and non-revision of energy bills considering enhanced contract demand of 700 KVA. In that, the applicant has requested for refund of penalty amount charged towards excess demand charges alongwith interest as applicable from 28.10.2006 and onwards. The non-applicant issued the energy bill of December, 2006 without considering his request for enhancement of load. He paid this bill amount under protest. This according to the applicant, is unjust, improper and illegal. The applicant has also prayed in his grievance application that the non-applicant be directed to raise service connection charges based on schedule of charges decided by MERC by in its order dated 08.09.2006. This is his second grievance.

Before filing the present grievance application, the applicant had approached the Superintending Engineer, NRC, MSEDCL, Nagpur by filing his application dated 23.05.2006 for considering his application for seasonal connection. The applicant had also approached the Superintending Engineer by filing his application dated 07.09.2006 for extension of existing electric load from 500KVA to 700 KVA. However, no satisfactory remedy was provided to him by the Superintending Engineer and hence, the present grievance application.

The intimations given to the Superintending Engineer as stated above are deemed to be the intimation given to the Internal Grievance Redressal Cell (in short the Cell) and as such, the applicant was not required to approach the Cell again under the said Regulations.

The matter was heard by us on 27.02.2007.

The applicant's case was presented before this Forum by his nominated representative one Shri R.B. Goenka.

As regards the first grievance, the applicant's representative's submission is that energy bills issued were based on the normal tariff without considering the seasonal tariff although an application dated 23.05.2006 was made to the non-applicant to apply seasonal based tariff and that for the months of June to September, 2006, the non-applicant erroneously charged 347 KVA as billing demand which was excessive. The demand recorded in these months was much less. These months were off-season months. According to him, the demand charges should have been charged based on the actual demand recorded in these months due to the applicant's declaration of these months as off-season.

The applicant's representative has relied upon MERC's (in short the Commission's) various tariff orders and clarificatory orders dealing with the seasonal tariff for seasonal Industries. In the Commission's first tariff order issued on 05.05.2000, there was no provision of seasonal tariff. Hence, a number of applicants filed review petition with the Commission and a revised order came to issued on 13.12.2000 in which the Commission has introduced seasonal tariff. He

quoted the following observations made in this order by the Commission regarding seasonal consumers.

“The Commission defines a “Seasonal Consumer” as one who works depending on weather conditions, during a part of the year up-to a maximum of nine months, such as Cotton Ginning Factories, Cotton Seed Oil Mills, Cotton Pressing Factories, Salt Manufacturers and such other consumers as may be approved by the Commission from time to time”.

He added that the Commission issued its second tariff order on 10.01.2002 and has retained the seasonal category of consumer rationalizing demand charges and energy charges for this category.

The Commission issued corrigendum and clarification on 29.04.2002 to the tariff order dated 10.01.2002 and clarified applicability of tariff to seasonal consumer. The method of charging annual minimum charges for this category has also been elaborated.

The Commission issued another order dated 04.06.2002 in the petition filed by different consumers in which it held as under.

“The Commission observed that the matter of declaration of “Season” in the month of April, as earlier directed by Commission, is of administrative nature and MSEB at its Divisional level can sort out such issues itself. The Commission further observed that based on historical data, the seasonal consumer can project its plan as they plan their all other aspects of operation to facilitate the supplier’s (MSEB) planning of power plants maintenance etc.”

The MSEDCL issued Departmental Circular No. 668 dated 30.07.2002 and has defined the Seasonal Consumer on the lines of Commission's definition.

The applicant's representative quoted another tariff order dated 10.03.2004 issued by the Commission and drew our attention to the following observation made by the Commission in para 48 thereof.

“The seasonal category will include all consumers who opt for a seasonal pattern of consumption, without the need for further approval from the Commission. The consumers should approach the MSEB for classification under the seasonal category if their business is such that electricity requirement is seasonal in nature. The shift from seasonal to normal connection and vice-versa can be done only once each year, at the beginning of the year”

Relying on these tariff orders, the applicant's representative strongly submitted that the choice to declare season and off season months is of the consumer and this choice in the present case has been exercised on time by the applicant by filing his application dated 23.05.2006. He further added that the applicant has submitted his application at the beginning of the year 2006-2007 since he filed the same in May, 2006. He expressed a view that the first half of financial year 2006-07 should be treated as the beginning of the year.

The MSEB (now MSEDCL) issued HT tariff booklet effective from 01.12.2003. According to this booklet, the seasonal consumers have been defined as per the Commission's order. The billing demand for the seasonal

consumers has also been decided in the tariff booklet which is as under.

“(B) As exclusively applicable to seasonal consumers, means the demand issued for billing purposes and computed as the highest of the following.

I) For the declared season

(a) Actual established demand, during the period 06-00 hrs to 22-00 hrs.

(b) 75% of the contract demand

(c) 50 KVA.

(II) For the off-season;

Actual established demand during the period 06 – 00 hrs. to 22-00hrs.”

The contention of the applicant’s representative is that although the applicant did declare the season and off-season months, the billing was not done according to the above provisions. He reiterated that though the applicant declared that his season shall be from October, 2006 to March, 2007, the MSEDCL charged 75% of contract demand during the months of June, July, August, September, 2006 which are declared as off season. Hence, instead of charging 75% of contract demand, the MSEB should have charged the actual recorded demand of 49 KVA, 52 KVA, 89 KVA and 43 KVA respectively in the months of June, July, August, and September, 2006. He prayed that the extra amount charged should be refunded along with interest as applicable.

He also placed his reliance on the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation)

Regulations, 2005 hereinafter referred-to-as the SOP Regulations.

He strongly submitted that the change of tariff category should have been implemented by the Licensee from the second billing cycle after receipt of application on 29.05.2006. He argued that the Licensee violated SOP Regulations and it is liable to be penalized as per Appendix "A" the SOP Regulations.

In respect of the first grievance, the non-applicant, in his parawise report dated 22.02.2007, has stated that as per tariff booklet issued by MSEB effective from 01.12.2003 and particularly as per note at page no. 10 thereof, the consumer has to make the application for shift from seasonal to normal connection and vice-versa, only once in a year and, that too, at the beginning of the financial year provided that a written notice in advance of at least one month is given by the consumer on or before 28.02.2006 to that effect. It is his submission that in the present case, the applicant made application for a such a shift on 29.05.2006 and hence, his application was not considered for the financial year 2006-07, it being time-barred. According to him, the applicant's request for refund of excess demand charged was, therefore, rightly not considered.

In the rejoinder, the applicant's representative replied that the non-applicant could have considered his application dated 23.05.2006 since it was submitted in the first half of the year. According to him, stipulation in the MSEB's tariff order about giving of notice before 28th February is not commensurate with the Commission's order and hence, it does

not have any legal support. He urged that the justification given by the non-applicant is devoid of any merits and legality.

The basic point that needs to be considered and decided in the context of the applicant's first grievance is whether the applicant's application dated 23.05.2006 declaring season and off-season months and requesting for application of seasonal tariff can be regarded as a valid application for the financial year 2006-07. The applicant's representative has quoted several clarifications issued by the Commission in this respect. It is his view that the time-limit of 28th February for declaration of season and off season months in the financial year next to 28th February is not in tune with the Commission's clarificatory orders.

The following observation made by the Commission in paragraph 48, in its tariff order dated 10.03.2004 is important.

“The seasonal category will include all consumers who opt for a seasonal pattern of consumption, without the need for further approval from the Commission. The consumers should approach the MSEB for classification under the seasonal category if their business is such that electricity requirement is seasonal in nature. The shift from seasonal to normal connection and vice-versa can be done only once each year, at the beginning of the year.”

In the instant case, the applicant approached the MSEB for permitting his unit as a seasonal connection by filing its application dated 23.05.2006. The applicant also declared his season & off-season months in this application. This application was duly received by the non-applicant on

29.05.2006. Thus, it is clear that the application declaring season & off season months was submitted almost two months after the commencement of the financial year 2006-07. According to the applicant's representative, the first half of the financial year 2006-07 should be treated as the beginning of the year. However, we are unable to subscribe to this view. It cannot be said that the applicant has filed his application at the beginning of the year 2006-07 since it was filed almost two months after the beginning of the financial year 2006-07.

The Commission's order dated 04.06.2002 quoted by the applicant is also relevant in the present case. In paragraph 10 in this tariff order, the Commission has observed that the matter of declaration of "Season" in the month of April as earlier directed by the Commission, is of administrative nature and the MSEB at its divisional level can sort out such issues itself and further that the Commission observes that based on historical data, the seasonal consumer can project its plan as they plan their all other aspects of operation, to facilitate the supplier's planning of power plants maintenance, etc.

This means that it was left to the non-applicant Company to take appropriate decision in this respect keeping in view the Commission's observation. It is in this context that the MSEB's tariff booklet effective from 01.12.2003 makes a mention at page no. 10 that shift from seasonal, to the normal connection and vice-versa can be done only once in each financial year at the beginning thereof and about the one month's advance notice to be given by the seasonal consumer to MSEB on or before 28th February immediately preceding

the ensuing financial year. There has to be some time limit for enabling the non-applicant Company to facilitate its planning of power plant maintenance etc. The licensee is thus enabled to foresee such a planning of power plants maintenance and its load management at the beginning of the financial year itself once it knows the extent of prospective consumption by such seasonal consumers during the financial year depending upon their declaration as to season and off season months of working. The stipulation made in the tariff order effective from 01.12.2003 as stated above cannot be said to be violative of the Commission's directions given earlier in the various tariff orders.

The applicant's representative has also quoted Regulation 9.2 of the SOP Regulations. His submission is that change of tariff category shall be deemed to be effected w.e.f. the date of expiry of second billing cycle after the date of receipt of the application for classifying it as seasonal consumer. There is no dispute that the applicant's unit fits into the definition of "Seasonal Consumer". The basic question is whether the applicant had declared his season & off-season period at the beginning of the year as per Commission's directives and the procedure prescribed by the non-applicant. We hold that the provision contained in Regulation 9.2 of the SOP Regulations has to be read and understood in the spirit of previous clarifications issued by the Commission in the tariff orders referred to in the preceding paragraphs.

As a matter of fact, the applicant's representative has himself placed reliance on the Commission's tariff orders issued on 04.06.2002, 10.03.2004 which clearly lay down

certain guidelines as to how the consumer should approach MSEB for the purpose of billing for season & off-season months. The applicant can not also be said to have declared his season and off-season at the beginning of the financial year 2006-2007.

In view of above position, the applicant's contention that the non-applicant was duty bound to accept and give effect to the applicant's application dated 23.05.2006 as elaborated by him cannot sustain.

The applicant also cannot be said to be unaware of the procedure laid down in the tariff booklet. It is not understood as to what prevented him from not following this procedure and particularly the time – schedule.

Consequently, his prayer for refunding excess demand charges along with interest considering the off season months to be from June to September, 2006 can not be granted. The same, therefore, stands rejected.

As regards applicant's second grievance, during the course of hearing on 27.02.2007, both the parties submitted a written pursis signed by them stating that both for them have mutually agreed to settle the grievance as stated in the terms of the pursis. Accordingly, the non-applicant has agreed to refund the excess demand penalty charged in energy bills from the second billing cycle after 28.09.2006 and the applicant has withdrawn his claim for compensation applicable under Regulation 12, Appendix "A" of the SOP Regulations.

In view of the mutual agreement between the parties, the applicant's second grievance does not now survive. The same is, therefore, disposed off accordingly.

In the result, the grievance application stands disposed off accordingly.

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| Sd/- | Sd/- | Sd/- |
| (S.J. Bhargawa) | (Smt. Gauri Chandrayan) | (S.D. Jahagirdar) |
| Member-Secretary | MEMBER | CHAIRMAN |

**CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR.**

**Member-Secretary
Consumer Grievance Redressal Forum,
Maharashtra State Electricity Distribution Co.Ltd.,
Nagpur Urban Zone, NAGPUR**