

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

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**Case No. CGRF(NUZ)/016/2007**

Applicant : M/s. KSL & Industries Ltd.,  
Kalmeshwar,  
Dist. NAGPUR.

Non-applicant : MSEDCL represented by  
the Nodal Officer-  
Executive Engineer,  
Division-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 11.04.2007)**

The present grievance application is filed on  
07.03.2007 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 grievance of the applicant is in respect of non-consideration by the non-applicant of the applicant's industry as a continuous process industry. His grievance is also in respect of erroneous additional supply charges (in short ASC) billed to him at the rate of 42% as against the eligible percentage of 28 as per Maharashtra Electricity Regulatory Commission's (in short the Commission's) tariff order which has come into force from 01.10.2006.

The applicant has prayed for grant of following reliefs.

- 1) To direct the non-applicant to charge tariff as per Commission's tariff order considering the applicant as a continuous process industry.
- 2) To direct the non-applicant to consider 28% ASC till weekly load shedding is being imposed.
- 3) To direct the non-applicant to refund excess amount charged in the energy bills from the month of October,2006 alongwith interest at Bank rate.
- 4) To direct the non-applicant to withdraw load shedding since the applicant's load is on express feeder and it is a non sheddable load and, thereafter, charge 42% ASC as per Commission's Tariff Order.

Before approaching this Forum, the applicant raised this grievance before the Superintending Engineer, NRC, MSEDCL, Nagpur by filing his application dated 28.12.2006 requesting the Superintending Engineer to treat his industry as a continuous process industry etc. However, no

satisfactory remedy was provided to the applicant and hence, the present grievance application.

The matter was heard on 28.03.2007 and 03.04.2007.

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

The Executive Engineer C.C. O&M Dn.-II, MSEDCL, Nagpur the Nodal Officer and the Superintending Engineer, NRC presented the case of the non-applicant Company before this Forum.

The applicant's representative submitted that the applicant is a Textile Industry having sanctioned contract demand of 3000 KVA with a sanctioned load of 3380 KW. The Commission issued new tariff order effective from 01.10.2006 and accordingly, MSEDCL issued high tension tariff booklet applicable from 01.10.2006. According to the tariff applicable from 01.10.2006, there are two categories in HT1 industrial tariff i.e. one meant for continuous industries and the other meant for non-continuous industries. Accordingly, the demand charge and energy charge decided for continuous industries are Rs. 350/- per KVA and Rs.2.15 per KWH respectively while for non-continuous industries, they are Rs.350/- per KVA and Rs.2.85 per KWH respectively. In addition to the normal tariff rates as stated above, the Commission decided to impose additional supply charges @ Rs.5.15 per KWH which shall be applicable in different percentages of total consumption of consumers depending upon the consumer groups with different load shedding hours.

He further strongly contended that the applicant's industry being a textile industry is recognized as a continuous process industry. He has produced on record a copy of certificate dated 27.02.2007 issued by General Manager, District Industries Centre, ( in short DIC) Nagpur certifying that the applicant's industry is a continuous processing industry. Based on this, his submission is that the non-applicant is bound to consider the applicant's industry as a continuous process industry. He has relied upon the Commission's order dated 07.02.2007 in case No. 59 of 2006 in the matter of a tariff petition filed by MSEDCL. The text of relevant portion of the Commission's order relied upon by him is as under:

“The Commission clarifies that the continuous and non-continuous categories are differentiated based on the continuous or non-continuous nature of the process adopted in the industries and not based on whether the industries are connected to express feeders or non-express feeders. It is obvious that a certified continuous process industry availing of uninterrupted power supply and paying additional supply charge (ASC) of 42% can not be on a mixed non-express feeder subjected to load shedding. The Commission clarifies that the Development Commissioner of Industries (DCI) or similar authority designated by the State Government are the appropriate forum to certify whether an industry is a continuous process industry or a non-continuous process industry. Industries need to submit required certifications from State Industrial Development Authorities to avail the tariff allocated for continuous process industries.”

He added that the applicant is connected by an express feeder at 11KV from 220 KV Kalmeshwar Sub-Station of the licensee. The Commission has earlier issued a load shedding protocol vide its order dated 03.08.2005 in case no. 5 of 2005 and at para (d) on page 10 of the order, the Commission held that (as a general rule) all HT consumers who are connected to separate or dedicate feeders should be spared from load shedding. At page 16 para (o) of the order, the Commission has said “However, such industries (excluding continuous process industries) and industrial areas will be subject to load shedding for 16.00 hrs. on the day of area-wise staggered weekly off . . . . .”.

He submitted that the Commission issued further principles & protocol for load shedding vide its order dated 10.01.2006 and para 18 of the order the Commission says that the broad principles of the earlier order dated 3<sup>rd</sup> August, 2005 have been retained. Based on this protocol, the MSEDCL issued a circular, being circular no. 43115 dated 27.11.2006. In para 2 of this circular it is clearly specified that industrial consumers on EHV feeders and express feeders are non-sheddable loads.

It is the grievance of the applicant that although the applicant is a continuous process industry even then the energy charges charged by MSEDCL is @ Rs. 2.85 per KWH instead of Rs. 2.15 per KWH. The applicant’s representative further argued that even though the applicant is connected on express feeder, weekly load shedding is being imposed for one day and even after imposing the load shedding on a weekly staggered day, 42% ASC are being billed to the applicant from

the month of October, 2006 and onwards. This, according to him, is improper and illegal.

He continued to submit that the applicant raised this grievance before the non-applicant by his application dated 28.12.2006 requesting the concerned Superintending Engineer to treat his industry as a continuous process industry. The MSEDCL replied on 06.01.2007 in response to the applicant's application that requisite documents should be produced to establish that applicant's industry is a continuous industry. There-upon, the applicant by his letter dated 11.01.2007, clarified that yarn manufacturing process is having very sophisticated machineries and it is required to maintain temperature and humidification plant in operation for all the 24 hours etc and that in case, power fails, the industry is put to a very heavy loss. Even a minor cut in power breaks yarn thread causing heavy losses.

Based on the above pleadings, the applicant's representative prayed that the applicant should be charged tariff rates applicable for continuous process industry as per tariff order of the Commission applicable from 01.10.2006. He also requested that as per Commission's tariff order, 28% additional supply charges should be charged to the applicant and not 42% as is being done erroneously. He prayed for refund of excess amount to the applicant October, 2006 along with interest at Bank rate as per Section 62 (6) of the Electricity Act, 2003.

He further urged that no load shedding be imposed upon the applicant since the applicant's industry is connected at express feeder. In the event of withdrawal of load shedding,

the applicant is prepared to pay 42% ASC as per Commission's tariff order.

The non-applicant, on his part, has stated in his parawise report dated 26.03.2007 that the applicant was requested to submit relevant documents in support of his claim that his industry is a continuous process industry but till date no such documents are furnished by him. He stressed the point that as per Commission's order dated 07.02.2007 passed in case no. 59 of 2006, a certificate from Development Commissioner of Industries (DCI) or similar authority designated by the State Government is needed and that the certificate dated 27.02.2007 issued by the District Industries Centre, Nagpur is not a valid certificate. Thus, according to him, as at present the applicant's industry is a non-continuous industry.

As regards A.S.C. charges, his contention is that the applicant is no doubt connected on an express feeder but due to imposition of load shedding on a weekly staggered day, only 22% ASC are charged. According to him, the applicant's representative's contention that the applicant is being charged 42% A.S.C. is wrong. He further submitted that the applicant's case will be forwarded to Head Office for consideration after the applicant submits the appropriate certificate and upon receiving sanction from H.O., the applicant would be treated as a continuous industry. In that event, the applicant will be charged tariff meant for a continuous industry and load shedding will be withdrawn and, thereupon, 42% A.S.C. will be charged.

The main issue involved in this case is whether the applicant's industry is a continuous process industry. In this respect, the Commission's order dated 07.02.2007 passed in case no. 59 of 2006 is very relevant. The Commission has clarified in unequivocal terms that the Development Commissioner of Industries (DCI) or similar authority designated by the State Government are the appropriate Forum for certifying industry as a continuous process or a non-continuous process industry. The Commission has further ruled that industries need to submit required certifications from State Industrial Development Authorities to avail the tariff allocated for continuous process industries. Hence, it is absolutely clear that appropriate authority to issue such a certificate is either the Development Commissioner of Industries (DCI) or similar authority designated by the State Government. The applicant's representative has not been able to produce any documentary evidence to show that the General Manager, District Industries Centre, Nagpur has the requisite power to issue such a certificate. No record is produced to prove that the District Industries Centre has been designated by the State Government as an authority competent to issue such a certificate.

During the course of hearing, the applicant's representative produced on record a letter, being letter dated 30.03.2007, issued by the General Manager, District Industries Centre, Nagpur addressed to the President of Vidarbha Industries Association in which the General Manager has communicated that he is working under the Development Commissioner of Industries, Mumbai. This letter

can not be accepted by us as an adequate proof to support the applicant's contention that the District Industries Centre has the authority to issue the required certificate in terms of the Commission's order. The Commission's observation made in paragraph 8 of its order dated 07.02.2007 is also very pertinent in this connection. The relevant text is as under.

"8 As regards the interveners, the Commission observed that if they were earlier certified as continuous process industry, they will pay base tariff of Rs.2.15 per unit (KWH) towards energy charge and ASC of 42% or 30 / 23% depending on whether they are on express feeder or non-express feeder located in "Industrial & Urban Agglomerations" or "Other Regions" respectively. If not certified, the interveners and / or its members may approach DCI for certification on whether it is a continuous process industry or a non-continuous process industry and submit the same to the Petitioner (MSEDCL) to avail the applicable tariff w.e.f. 01.10.2006.. "

During the course of arguments, he also submitted that as per his information the DCI is flooded with a large number of applications for obtaining the required certificates in terms of the Commission's order dated 07.02.2007 and that the DCI is contemplating to issue a Circular to DICs in this regard. This statement, in a way, supports the contention of the non-applicant that certificate already issued by the DIC is not valid in the absence of the required delegation of power to DICs.

In view of above, it is crystal clear that the applicant's industry cannot be treated as a continuous process

industry unless and until a certificate to that effect is obtained by the applicant from the appropriate authority as per the Commission's order dated 07.02.2007. The certificate issued by the General Manager, District Industries Centre, Nagpur is of no use to the applicant since nothing is produced to show that the General Manager, District Industries Centre, Nagpur is duly designated by the Government to issue such a certificate. Hence, the applicant's request to consider him as a continuous process industry stands rejected. Consequently energy charge of Rs.2.15 per KWH cannot be made applicable to him. In view of this position, question of refunding any amount to the applicant does not arise.

The applicant's second request is to consider 28% additional supply charges in billing till weekly load shedding is being imposed.

The applicant's representative cited contents of the Commission's tariff order passed in case no. 54 of 2005 elaborated in chapter 8 thereof under the caption of determination of ASC and in particular those mentioned in para 1 and para 4 along with Annexure –VI. Based on this, his submission is that industries having weekly one day staggering load shedding are to be billed ASC at the rate of 28%.

In this respect, the non-applicant's contention is that 22% ASC have been charged to the applicant which are less than 28% demanded by the applicant. The non-applicant has also denied the applicant's contention that 42% ASC are being charged as at present. The energy bills dated 06.12.2006 and dated 11.01.2007 produced on record clearly show that

22% and not 42% ASC are levied. Hence, we are convinced that the non-applicant is charging 22% ASC and not 42% as stated by the applicant. The request of the applicant is to charge ASC @ 28%. Since ASC are being charged at below the rate of 28%, nothing survives so far as this aspect of applicant's grievance is concerned. It is a different matter that the Nodal Officer and the Superintending Engineer present were not in a position to adequately explain as to how percentage of ASC was arrived at 22.

The applicant's other request is that load shedding should be withdrawn since the applicant's load is on express feeder and it is a non-shedable load. In this respect, during hearing, the non-applicant has relied upon principles applicable which are laid down by the Commission in its order dated 03.08.2005 passed in case no. 5 of 2005 at page no. 16 of this order in clause (O). The Commission has held as under.

“ The above principles will not apply to Railway traction loads, and those public water works (including MIDC, CIDCO and Maharashtra Jivan Pradhikaran, etc. as may be relevant), continuous process industries and hospitals which are on separate feeders nor will these be subject to load shedding. They will also not apply to those industries and MIDC, Co-operative and other such industrial areas / estates which are supplied power through separate or dedicated/express feeders. However, such industries (excluding continuous process industries) and industrial areas will be subject to load shedding for 16 hours on the day of the area-wise staggered weekly off. . . . ”. The non-applicant is thus trying to justify

that the applicant's industry though on express feeder is subject to load shedding once in a week for 16 hrs.

The applicant's representative placed his reliance on the Circular dated 27.11.2006 issued by the non-applicant Company on the subject of load shedding programme to be implemented from 01.12.2006. He has particularly relied upon contents in this Circular under the caption of non-sheddable load and also those in paragraph 18 thereof. It is pertinent to mention here that the non-applicant while issuing this Circular has referred to the Commission's detailed order dated 03.08.2005 and also its revised order dated 10.01.2006. The Nodal Officer did not make any comments on this Circular. What he reiterated was that the applicant being a non-continuous process industry is subject to load shedding for 16 hrs. on the area-wise staggered weekly off though connected on express feeder.

This Forum observes that the non-applicant Company has categorically stated in its Circular dated 27.11.2006 that industries whether continuous or non-continuous connected at express feeders should be excluded from staggering day. This Circular also refers to the Commission's orders passed on 03.08.2005 and 10.01.2006. Hence, the present applicant who is connected at express feeder comes under category of non-sheddable load and as such no load shedding should be imposed on it. The weekly staggering day is not applicable to the applicant in view of the non-applicant Company's Circular dated 27.11.2006. The applicant's request in this regard deserves to be accepted. We

now direct the non-applicant to withdraw load shedding on the weekly staggering day and charge 42% ASC to the applicant.

The present grievance application is thus partly allowed and it stands disposed off in terms of this order.

The non-applicant shall report compliance of this order to this Forum before 30.04.2007.

Sd/-	Sd/-	Sd/-
<b>(S.J. Bhargawa)</b>	<b>(Smt. Gauri Chandrayan)</b>	<b>(S.D. Jahagirdar)</b>
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.**