

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

Case No. CGRF(NUZ)/046/2009

Applicant : M/s. RAMSONS TMT Pvt. Ltd.,
At A-301, Neeti Gaurav,
Ramdaspath,
Central Bazar Road,
NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Division No. II, NUZ,
Nagpur.

Quorum Present :1) Shri S.F. Lanjewar
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 18.09.2009)

The present grievance application has been filed on 20.07.2009 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 implement a change in the category from 22.07.2008 and accordingly give the tariff effect and refund.

Before approaching this Forum the applicant had filed his complaint on the same subject-matter of the present grievance before the IGRC (in short the Cell) on 25.03.2009 under the said Regulation. However, the Cell did not give any reply within the stipulated period of 60 days and hence the present grievance application.

The matter was heard on 07.08.2009 & 21.08.2009.

The applicant's case was presented before this Forum by his nominated representative one Shri Sanjiv Naidu. The non-applicant's case was represented by Shri Bhagat Superintending Engineer & Executive Engineer.

The applicant's representative had demanded the following reliefs.

To implement the change in the category from 22.07.2008 and accordingly give the tariff effect and refund.

The applicant had also submitted his written statement on dated 20.07.2009 with the following contents.

1) Previous his company name was Nisant Tubes Pvt., Ltd., and the entire line from Gondhkhari substation to Bazargaon about 18 Km was lay down by him with his own expenses in 2005-06. They have also paid the supervision charges to MSEDCL & about Rs. 50 Lacs were spent for this work. The feeder was known as Nisant Tube Feeder and this was a dedicated express feeder. He also added in his reply that. (2) The pix transmission H.T. consumer supply was placed on the line. Due to this addition of new H.T. consumer the number of tripping

were increases. He also said that he had requested to applicant to replace the H.T. consumer Pix Transmission Pvt. Ltd. meanwhile they have replaced the same but added another new H.T. consumer Venkatesh Paper without informing to the applicant. It was a grave unjust to him.

He had received a bill in the month of July 2008 and it was on a higher side. Even-though it was paid under protest, alongwith the request was made to change the category from continuous to non-continuous supply.

(3) He had also replied that even waiting for three & half month. He did not give any response. He had again made another application. He had also replied in his letter with clarify the definition of continuous and non-continuous in the circular no. 88 dated 26.09.2008. It is like that;

Only H.T. Industries connected on express feeder and demanding continuous supply will be deemed as H.T. continuous Industry and given continuous supply will all other H.T. industrial consumer will be deemed as H.T. non-continuous industry.

And further the choice for the change from continuous to non-continuous or else has to be given by the consumer within one month from the date of tariff change and for this year as the clarification from MERC had received late from the date of circular i.e. 26.09.2008.

He also said that he made a application in time even-though they had given a category of non-continuous after a lapse of period of 7 months i.e. from the date of application.

He lastly prayed that to implement the change in the category from 22.07.2008 and give the tariff effect and refund the amount with interest.

He had submitted the supporting documents in his reply.

They also clarified same additional facts in the letter on dated 20.08.2009 and copied to SE NRC also. It was the choice for the change from continuous to non-continuous or else has to be given to the consumer within one month from the date of tariff change and for this year as the clarification from MERC had received late so from the date of circular i.e. 26.09.2008. The tariff was changed from 1st June 2008. As per MERC SOP the change in category to be effected from the next billing cycle after the application made.

They had given the supporting documents of case no. 44/2008 of MERC further said that as the detailed tariff order implemented thereof.

The non-applicant had given his written submission on dated 18.08.2009.

The supply to H.T. consumer M/s. Nisant Tubes Pvt. Ltd., consumer no. 4208190006530 is connected on 33 KV Gondhkhairy feeder from 220 KV Kalmeshwar S/stn. with connected load 5000 KV & contract demand 4500 KVA. The supply to the applicant was released on 06.09.2005 and contract demand of 3000 KVA having connected load 3250 KV.

The applicant had submitted the form 9A & 9B on which he clearly mentions his industry is a continuous process industry. Accordingly estimate was framed and the same was sanctioned. In which 15% supervision (ORC) scheme for Rs.35,21,530/- with a

sanctioned no. SENRC/Tech/Estt/HT/ ORC/15% Sup DVN-II/39 dated 01.01.2005 for the year 2004-2005. The estimate was provided for 33KV line 11.54 Km on RSJ & PSC pole & paid 15% supervision charges of the estimate of Rs.4,59,350/-. The electric supply was supplied on 33KV feeder (The feeder name is Nisant Tube). The feeder was express feeder as per demand of consumer.

The Pix Transmission Ltd., is temporarily connected on Nishant Tubes feeder due some technical problem. The problem was due to overloading of transformer (132 KV/33KV) of the main source 132 KV Katol Substation connected on Nishant Tubes feeder. The Pix Transmission was shifted to 33KV Bazargaon S/stn. Actual it was 33KV Pix feeder from Bazargaon S/stn. that is separate express feeder. M/s. Venkatesh Board Mill is temporarily connected on Nishant Tubes Ltd and it will be shifted on separate 33 KV feeder from Bazargon Substation after execution of infrastructure work.

(3) He also clarified that the applicant complaint is not justified that in the month of July received the bill on higher side. But the bill was issued as per reading of meter installed at the premises of the applicant. In fact in the month of July the applicant was connected on express feeder and he was getting uninterrupted supply. Hence the bill was charged as per tariff applicable for continuous supply, till date January 2009. Moreover the applicant was getting continuous supply. After implementing staggering day the status of feeder is from express to non-express. The tariff was changed from continuous to non-continuous on the basis of supply protocol.

(4) As per order passed by MERC in case no. 72/2007 which has been issued on 31st May 2008. The directions are issued by MERC was not clear that was

HT continuous / Non-continuous

In line with the MYT order, only HT industries connected on express feeders and demanding continuous supply will be deemed as H.T. continuous industry and given continuous supply, while all other HT industrial consumers will be deemed as HT non-continuous industries.

It has to be very explicitly monitored and ensured that except the consumers on express feeders, the load shedding for all other consumers shall be strictly in line with the principles and protocols of load shedding and no deviation withdrawal of load shedding for this category shall be resorted to, for any reason whatsoever.

Also in some cases, there are a group of consumers who are availing uninterrupted supply without any load shedding on express feeder. Almost care may be taken to ensure that all consumers in such group shall now be categorized only under H.T. industry and further under sub category-continuous industry on express feeder.

In the circular there are lot of confusion and no clear directives. The MSEDCL filed a petition before MERC bearing no. 44/2008 seeking clarification on the tariff order. The petition filed on 5th July 2008 and it was decided on 12th September, 2008 and accordingly MSEDCL issued circular no. 88 dated 26.09.2008 for giving guidelines with regard to the clarificatory order dated 12.09.2008.

He also added that in such circumstances the applicant application dated 22.07.2008, requesting to change his category from continuous to non-continuous was not taken into consideration. Furthermore the clarificatory petition was adjudicated before MERC.

He also clarified on his submission that after the receipt of commercial circular no. 88 dated 26.09.2008; the MSEDCL started procedure of changing the category of those consumers whose application received to the MSEDCL during the period 26.09.2008 to 26.10.2008 as per the directives of the clarificatory order of the MERC. When the process is over, MSEDCL considered the application of the applicant on dated 22.07.2008.

(5) It also stated that the applicant submission that has made the application within time. But he did not communicate his request to MSEDCL within the period of 26.09.2008 to 26.10.2009. The applicant has availed the service of continuous category till January 2009 therefore he is not entitled for refund of any amount.

(6) He had submitted the documents in support of his submission.

i) Estimate copy with all documents ii) MERC order copy.

(7) The applicant's representative narrated the sequence of events leading to filing of his representation. He highlighted the facts that despite its application on dated 22.07.2008 for change of tariff there was no response from the non-applicant for several months. The non-applicant was duty bound under law to effect change of tariff from the next billing cycle. It was delayed without any justified reason. He also argued that he was not informed regarding the delay.

The non-applicant was asking the clarification unnecessarily was killing the time.

It was also arguing by the applicant that due to such delay he was suffered.

Lastly the applicant prayed his demand should be considered regarding to implement the change in the category from 22.07.2008 and accordingly give the tariff effect and refund the same.

Shri Bhagat S.E. NRC arguing for the applicant submitted that was fed from the dedicated / express feeder and enjoyed benefit of continuous power supply without load shedding. He had cited the circular no. 80 dated 10th May 2008 in this behalf and it was necessary that all industries in group feed on express feeder are categorized as continuous industry. He also mentioned that due to above facts there was confusion in implementation of the directives of MSEDCL they filed a petition before MERC bearing no. 44/2008 seeking.

Facts of the case on record and proceeding during the hearing reveal that the applicant applied for change of tariff category from HT – I non-continuous industry in 22.07.2008. This position is not disputed by the non-applicant. As there was no response from the non-applicant. The applicant filed a case on date 20.07.2009.

The Forum examined the grievance in details and observed that there is another HT consumer on the same feeder Viz. M/s. Venkatesh Board Mill who was also availing the facility of non-continuous industry tariff and held that the benefit of non-continuous tariff shall be given from next billing cycle, as per MERC and Standard of Performance Regulations.

In the context it is therefore worthwhile to refer to the relevant provision of Regulation 9.2 of the Standards of Performance Regulations reads as under;

“Any change of name or change of tariff category shall be effected by the Distribution Licensee before the expiry of the second billing cycle after the date of receipt of application.

Further (Note IV) in the tariff booklet category shall be effected by the Distribution Licensee before the expiry of the second billing cycle after the date of receipt of application.

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.

It is seen that the Commission on 12th September, 2008 issued clarificatory order in this behalf. Relevant portion thereof reads “Commissions ruling and clarification.

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.

(10) The non-applicant on the basis of the above order has issued a circular no. 88 on 26th September, 2008 highlighting the above features of the Commissions order.

It is seen that of the various provisions, make it clear that any change of name or change of tariff category shall be effected by the non-applicant before the expiry of second billing cycle after the date of receipt of application from the applicant. Further it is also clear that

only HT industries connected on express feeders and demanding continuous supply by will be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumer will be deemed as HT non-continuous industries this is also mentioned in the non-applicant commercial circular no. 88 dated 26th September 2008, issued following Commission clarificatory order dated 12th September 2008. It is evident that the consumer getting supply from 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.

(11) In this case the applicant did ask the non-applicant for non continuous supply vide its application dated 22.07.2008 followed by subsequent request. The non-applicant did not deny this position. The non-applicant was therefore had to give tariff of non-continuous industry with effect from next billing cycle after July 2008.

The non-applicant argument is that in the order passed by MERC in case No. 72 / 2007 which has been issued on May 31st 2008 the directions issued by MERC was clear as stated regarding HT continuous / non-continuous descriptions. Hence there are lots of confusion in implementation of these directives, MSEDCL filed a petition before MERC bearing no. 44/2008, seeking clarification on the tariff order. The petition was filed on 5th July 2008 which was decided by MERC on 12th September 2008. Accordingly MSEDCL issued a commercial circular no. 88 dated 26.09.2008 for giving guidelines with regard to the clarificatory order dated 12.09.2008.

Under these circumstances the consumer application dated 22.07.2008 requesting to change his category from continuous to non-continuous was not taken into consideration further more the clarificatory petition was to sub-judicised before MERC.

After the receipt of Commercial Circular no. 88 dated 26.09.2008 the MEDCL started procedure of changing the category of those consumer whose application received to the MSEDCL during the period 26.09.2008 to 26.10.2008 as per directives of the clarificatory order of the MERC.

After this process is over they considered the application of the applicant dated 22.07.2008.

- (12) The Hon'ble Electricity Ombudsman had given the judgment in one of the similar case Supply from continuous to non-continuous, being case No. Elect/Ombd/MERC/87 of 2009/266 dated 16th September, 2009.

We have carefully gone through all the documents produced on record and all submissions, written and oral, made before us by both the parties.

In this case, the Forum has come to the conclusion

Decision

The applicant is entitled for change of tariff category as per its application on second billing cycle after the date of his application which is 22nd July, 2008.

The non-applicant is therefore directed to effect change of tariff category as per applicant's application dated 22nd July, 2008 before the expiry of second billing cycle after the date of receipt of application and refund the excess amounts recovered with interest at Bank rate of RBI.

The non-applicant shall carry out this order and report compliance to this Forum on or before 31.10.2009.

Sd/-
(S.F. Lanjewar)
Member-Secretary

Sd/-
(Smt. Gauri Chandrayan)
MEMBER

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

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