

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

Case No. CGRF(NUZ)/054/2011

- Applicant : The Executive Engineer, (E&M)
MIDC Division,
Hingna Industrial Area,
NAGPUR.
- Non-applicant : MSEDCL represented by
the Nodal Officer-
Superintending Engineer,
Nagpur Urban 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 27.11.2011)

It is the grievance application filed by Executive Engineer, (E&M) Hingna Industrial Area, MIDC, Nagpur on dated 28.09.2011 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's case in brief is that, the MIDC is a statutory body established by Government of Maharashtra

under MID Act 1961 to develop industrial areas for which land is acquired through Government. MIDC has established water works at Hingna near Nagpur. The raw water is lifted from Ambazari lake after proper purification & treatment, potable water is being supplied to industrial use as well as domestic use in Hingna industrial area. Since MIDC is availing power supply from MSEDCL to run water works, the tariff applicable to MIDC water work shall be HT-IV category which is the only category applicable to water works as per MERC tariff. The Superintending Engineer MSEDCL NRC Nagpur is levying tariff HT-1C and applicant is requesting to levy as per tariff HT-IV as there is difference of (4.60 – 3.50) Rs. 1.1 per units. Therefore it is the request of the applicant that tariff applicable to the MIDC water work is HT-IV and MSEDCL should levy the tariff HT-IV as against tariff HT-1C.

It is further submitted by the applicant that they avail HT power supply at above two locations. They have installed HT metering system. In addition to that they have installed LT meter. There is a light load of pump house of LT meter. Previously they used to charge LT meter reading at residential rate and from the month of March 2011, they have started suddenly to levy commercial tariff for light load. As the lighting load is within the premises of pump house hence residential tariff or applicable tariff for light load should be levied. The applicant had already requested the Superintending Engineer MSEDCL Nagpur to levy the correct tariff and refund excess paid amount to MIDC Division as per

letter dated 07.09.2011. Therefore the applicant filed the present grievance application.

The non-applicant denied the claim of the applicant by filing detail written submission on dated 15.10.2011. It is submitted that at present there are two nos. of HT connections in R/O Executive Engineer MIDC for water works as shown below who are charged as per HT industrial tariff.

Sr. No.	Name of Consumer	Consumer no.	Tariff applied at present	Type of feeder Express / Non-express	Date of Connection	Purpose
1)	Executive Engineer, Divisional Office	410019002067	HT-IE	Express	29.12.1983	(Water pump) Water supplied to Hingna MIDC also to villages Nildoh & Digdoh within premises of the MIDC.
2)	Executive Engineer MIDC	410019004710	HT-IE	Express	09.05.1996	(Water treatment Plant) Water supplied to Hingna MIDC also to willages Nildoh & Digdoh within premises of the MIDC.

In both the above cases Water is supplied to Hingna MIDC for industrial purposes and also to villages Nildoh and and Digdoh within the premises of MIDC and tariff charged is HT-industrial Express as the feeder is Express feeder with no Load-Shedding.

But the consumer as per letter dated 29.06.2011 (enclosed with reply of non-applicant which is marked as Annexure – A) requested to charge the HT –IV tariff to the above consumers and refund the amount is different in tariff to the consumer. MSEDCL gave reply to the letter of the applicant as per letter dated 05.08.2011 which is enclosed with reply as Annexure-B. Not satisfied with reply of MSEDCL consumer filed present case. The non-applicant further submitted that both the above consumer are being charged as per HT industrial tariff over a period of more than 10 years. In support of this contention, the non-applicant MSEDCL produced energy bills alongwith reply which are marked at Annexure – C. During this period of more than 10 years consumer has never complaint about HT industrial tariff charged, on the contrary paid the monthly energy bills regularly. As per Regulation 6.6 of the said Regulation, “The Forum shall not admit any Grievance unless it is filed within two years from the date on which the cause of action has arisen.”

In this case as the consumer are being charged as per HT industrial tariff over a period of more than 10 years and the consumer has now filed the case for changing the tariff before CGRF. Therefore the present grievance application is barred by limitation and deserves to be dismissed.

It is further submitted by the non-applicant that MIDC is a statutory body established under Maharashtra Industrial Act 1961. It is established to provide amenities like road, street light, water supply etc to the industry under its

jurisdiction. Industries in MIDC area use water for various purposes as follows. :-

- a) As a raw material e.g. ,manufacturing of Mineral Water, beverages, liquor etc.
- b) For various purposes industries for processing like heating and cooling e.g. steel industry, food industry etc.
- c) For general purposes like drinking water, washing etc.

Out of above, major share by water supply by MIDC is consumed by the categories is “a” & “b”. Very small quantity of the water is utilized by category “c” for domestic purpose.

As MIDC is a statutory body established only to provide amenities to the industries it is expected that the rate of water supplied to all the industries under its jurisdiction should be the same or the water should be charged as per the quantity of water utilized by the industry so the use of the precious natural resource ‘water’ is controlled. The rates of water should not be as per the purpose of water utilization by the industry. But this is not the case. As per water tariff structure of MIDC (Enclosed with reply as Annexure E) and recent circular of MIDC no. 35 dated 07.10.2011 (enclosed with reply as Annexure F)., it is seen that the rate of water are different as per use of water. The rate charged by Nagpur Hingna MIDC can be summarized as follows.

CHART – 2

	General Domestic Purpose	Process Industries	Industries using water as raw material		
			Mineral Water	Beverages	Liquor
Rates of water Rs/CuM	Rs. 5.00	Rs. 12.50	Rs. 39.50	Rs. 37.75	Rs.32.50

This proves that MIDC is selling water as raw material to these industries at rates very much higher than the rates of process industry or General purpose which is clearly a commercial activity intended to earn profit. Even MSEDCL which is registered company with commercial view have common tariff to all the industry irrespective of their production.

Now the water rates charged by local body are the considered. The correct water rates NMC revised from 01.07.2011 (enclosed with reply as Annexure G) are as follows.

CHART – 3

Billing Slab	Rate per CuM
1-20 Units	Rs. 5.25
20-30 Units	Rs. 8.40
31 to 80 Units	Rs. 11.55

The consumption of majority of the consumers under NMC is below 50 units i.e. the avg rate is below Rs. 8/- per CuM where as the avg rate at which water is supplied by MIDC water works is more than Rs. 12.50. These rate are charged by NMC and the rates charges by other local bodies, Nagarparishad and Grampanchayat are even less than NMC.

The major proportion of water supplied by local bodies is for public domestic use where as the major proportion of water supplied by MIDC Water Works is for industrial use. Hence it will not be appropriate to compare MIDC water works to the water works under the local bodies like Gram Panchayat, Nagar Parishad & Municipal Corporation of water who supply water to fulfill the basic water requirement of each and every common man only for the betterment of the society that too at No profit No loss basis so charged as per HT-IV tariff category for HT Public Water Works & Sewage Treatment Plant.

From the above facts it is clear that MIDC Water work cannot be categorized as Public Water Works as in supplying water for Industrial Purpose at much higher rates. Hence the MIDC Water works under Hingna MIDC are correctly charged as per HT-Industrial Tariff which is confirmed vide the letter from Chief Engineer (Commercial) circular on dated 23.06.2010.

With reference to second grievance of the petitioner, it is submitted that separate LT-sub-meter is installed to record the consumption of Office in the premises of the HT connection. As the electricity is used for office purpose as per the tariff orders of MERC the consumption of sub-meter is charged as per commercial tariff since installation of meter in May 2009. As per petitioner complaint there is no change in tariff of sub-meter from March 2011. The Sub-meter correctly charged in accordance with the Commercial Circular no. 124 for tariff determination of 2010-11. (enclosed with reply as

Annexure H). It is submitted that grievance application, that grievance application may be dismissed.

Forum heard arguments from both the sides. The Executive Engineer, MIDC Division Nagpur argued on behalf of the applicant whereas Mr. Reshme, Superintending Engineer, NUC, argued on behalf of the non-applicant.

Forum carefully perused the entire record.

Evidence on record specifically entire bills produced by the non-applicant alongwith reply filed Annexure "C" shows that applicant consumer is being charged as per HT-commercial tariff over a period of more than 10 years. Record shows that during this period of more than 10 years applicant consumer has never complaint about the HT-Industrial tariff charged to connection no. 410019002067 and 410019004717 and paid monthly energy bills regularly.

It is noteworthy that according to Regulation 6.6 of the MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006. "the Forum shall not admit any grievance unless it is filed within two years from the date of which the cause of action has arisen. In this case the consumer are being charged as per the HT Industrial tariff over a period of more than 10 years and consumer filed present case for changing the tariff before this Forum on 28.09.2011. Therefore present grievance application is hopelessly barred by limitation and on only this ground grievance application deserves to be dismissed.

The applicant is placing reliance 1) Case no. 55/2011 decided by Hon. Electricity Ombudsman Mumbai on dated 07.06.2011 in the matter of Executive Engineer MIDC V/s. MSEDCL 2) Case no. 309 A / 22A/2011 alongwith case no. 309 B/ 22B/2011 decided by Hon. CGRF Latur on dated 13.05.11. 3) Case no. 108/2011 decided by Hon. Electricity Ombudsman Mumbai MSEDCL V/s. MIDC Sangli dated 26.08.2011 4) Case no. Review application 105/2011 decided by Hon. Electricity Ombudsman Mumbai MSEDCL V/s. MIDC Sangli dated 25.08.2011 5) Order of CGRF Nasik for Ahmednagar Water Works dated 02.08.2011.

Forum has carefully perused all these orders of Hon. Electricity Ombudsman Mumbai so also order passed by various CGRF's. However it is pertinent to note that facts of all these decided cases are far away from the facts of the present case. It is noteworthy that in all these decided matters, applicant consumer has challenged order of tariff within the period of two years and within limitation. All these decided cases were not barred by limitation as per Regulation 6.6 of the said Regulation. Further more fact of these cases are different and distinguishable from the facts of the present case. As per fact of the present cases MSEDCL has change the tariff before a period of more than 10 years and consumer is paying electricity bills as per change of the tariff for a period of more than 10 years. As per the fact of present case, present applicant did not file grievance application within statutory limitation of two years and present case is hopelessly barred

by limitation. Therefore orders passed by Hon. Electricity Ombudsman Mumbai in above said cases are not applicable to the present time barred case.

Further more MIDC is admittedly is statutory body under Maharashtra Industrial Development Act 1961. It is established to provide amenities like Road, Street light, Water supply to the industry, within its jurisdiction. The Industry in MIDC area are using the Water for various purpose namely -----

- 1) As a raw material e.g. manufacturing of mineral water beverages water, liquor etc.
- 2) For various purposes industries for processing like heating, cooling e.g. steel industry, food industry etc.
- 3) For general purpose like drinking water etc. Out of above, the major share of water supplied by MIDC is consumed by categories no. 18 to i.e. for raw material e.g. manufacturing of mineral water, beverages, liquor etc and for various process industry for processing like heating and cooling e.g., steel & food industry etc and very small quantity of water is utilized by category “c” for domestic purpose.

Needless to say that MIDC Hingna is a statutory body established only to provide amenities to the industries it is expected that the rate of water supplied to all the industries under its jurisdiction should be the same or the water should be charged as per the quantity of water utilized by the industry so the use of the precious natural resource ‘water’ is

controlled. The rates of water should not be as per the purpose of water utilization by the industry. But this is not the case. Record shows that as per water tariff structure of MIDC (Enclosed as Annexure E with reply of non-applicant) and recent circular of MIDC no. 35 dated 07.10.2011 (enclosed as Annexure F). It is seen that the rate of water are different as per use of water. The rate charged by Nagpur Hingna MIDC can be summarized as follows.

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This proves that MIDC is selling water as raw material to these industries at rates very much higher than the rates of process industry or General purpose which is clearly a commercial activity intended to earn profit. Even MSEDCL which is registered company with commercial view for common tariff to all the industry irregularly of there production.

Now the water rates charged by local body are the considered the correct water rates NMC revised from 01.07.2011 (enclosed as Annexure G) are as follows.

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So far as second grievance of applicant consumer is concerned a separate LT Sub-meter is installed to record consumption of office in the premises of HT connection. As the electricity is used for office purposes as per the tariff order of MERC the consumption of sub-meter is charged as per commercial tariff since the installation of meter in May 2009. As per the grievance of the applicant there is no change in tariff of sub-meter from March 2011 but sub meter is charged correctly in accordance with commercial circular no. 124 for tariff determination 2010-11 (enclosed in non-applicant Annexure –H).

For these reason Forum is of considered opinion that grievance application of the applicant is hopelessly barred by limitation and it is also untenable at law. Considering the detail reply of the non-applicant and Annexure-A, to Annexure-H produced by non-applicant alongwith its reply, Forum hold that there is no substance in grievance application of the applicant and application deserves to be dismissed. Consequently Forum proceed to pass the following order.

ORDER

The grievance application is dismissed.

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