

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

Case No. CGRF(NUZ)/060/2010

- Applicant : M/s. Hariyana Metals Ltd.,
145, Small Factory Area,
Bagadganj,
NAGPUR.
- Non-applicant : MSEDCL represented by
the Nodal Officer-
Superintending Engineer,
NUC,
Nagpur.
- Quorum Present :1) Smt. K.K. Gharat
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 29.09.2010)

The present grievance application is filed on 02.08.2010 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.

- 1) M/s. Hariyana Metal Limited, Bagadgunj, Nagpur, the applicant is a HT consumer with consumer no. 410019008120 of MSEDCL, Nagpur Urban Zone, Nagpur. The applicant has filed a grievance on dated 08.06.2010 to the Internal Grievance Redressal Cell, Nagpur Urban Circle for refund of excess billed amount charged by applying wrong tariff since October 2006 to till date. In compliance to this the office of Superintending Engineer, Nagpur Urban Circle has issued a letter dated 12.07.2010 and informed to the consumer that the energy bill charged to his unit since October, 2006 are correct with appropriate tariff. Aggrieved by this the applicant has filed the grievance to the Forum on dated 02.08.2010 and requested
 - (a) To revise the wrongly charged energy bill against
ASC and energy charges as per MERC tariff order
from October 2006 to till this date.
 - (b) To refund the excess billed amount with interest.

- 2) The applicant has stated in its grievance application that his unit is a non-continuous industry. For this statement he has enclosed erstwhile MSEB Commercial circular no. 563 dated 11.01.1996. According to which industry for manufacture of steel come under continuous industry. He has also stated that as per MERC tariff order which was being effected from 01.06.2008.

“only HT industry connected on express feeder and demanding continuous supply will be deemed as HT continuous industry and giving continuous supply while all other HT industrial consumers will be deemed HT non-continuous industry”.

Therefore as his unit is not a continuous process industry and also never demanded continuous supply, therefore the tariff charged by the non-applicant is not applicable to him.

- 3) He further stated that his unit is not on dedicated / express feeder. He mentioned that his unit is connected on 11kV Bhandara / Wardhman –III feeder emanating from 132 kV Pardi Sub-station and other HT consumers are also connected on the same feeder. He further submitted that these industries have different date of connections and these are not in same premises or contiguous but are separately located. He further pointed out the definition of dedicated word as “Dedicated Distribution facilities means such facilities not including a service line forming part 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.” Therefore 11KV Bhandara or Wardhman feeder cannot be treated as a dedicated or express feeder.

In this context the applicant has also referred Hon. Electricity Ombudsman order for case no. 28/2009 in the matter of giving supply from industrial feeder to M/s. Nirbhay Co-operative Industrial Estate related to the 11kV Bhandara /

Wardhman-III feeder. He has stated by stating that the Hon. Ombudsman has directed the licensee to resume the supply of appellate immediately on the 11kV Bhandara / Wardhman –III industrial feeder and not the express feeder as stated by the licensee.

- 4) The applicant has further stated that prior to MERC tariff revision dated 29.09.2006, the energy bills have been issued by the non-applicant by treating his unit as non-continuous. For this statement the applicant has attached energy bills of July, August & September, 2006 and indicated to the printed statement “As per MERC order dated 10.01.2006 HT non-continuous industry have to restrict monthly consumption to 80% of average”. Thereby the applicant has pointed out that the action of non-applicant by treating his unit as a continuous process cannot be admitted.

The applicant has further added that because of this he has suffered huge losses, so he requested to the Forum to refund the excessively collected amount with interest. In this context the applicant has stated that as per the order of Hon. Electricity Ombudsman for the representation no. 65/2006 in the matter of refund of excessive connected load penalty.

”MSEB shall refund any amount collected on account of invocation connected load/power factor penalty not in line with definition to the concerned consumer also with interest at the rate applied by MSEB to their consumer from the date of collection till the date of refund but not later than three months from this order”.

- 5) The applicant has also mentioned in his grievance letter that his unit is being re-rolling mill, Wednesday is weekly off and there is no production on Wednesday. He has enclosed details of day to day production to support this statement and again requested to the Forum to give justice by directing the non-applicant to refund the un-justifying collected amount with interest by implementing wrong tariff.
- 6) The non-applicant has submitted the reply on dated 18.08.2010. According to the which M/s. Hariyana Metal Ltd., is HT consumer connected on 11kV with Connected Load 1625 kW and Contract Demand 1300kVA with connection date as 05.01.2006. The tariff category of the consumer is HT-I C i.e. the consumer with continuous power supply without load shedding even on staggering day. The consumer is connected on 11kV Bhandara-III feeder emanating on 132 kV Pardi Sub-station with other 2 HT consumers. The non-applicant has stated that the Bhandara-III feeder is a express feeder and he pointed out that the applicant in his letter dated 19.11.2008 has mentioned that his unit is connected on 11kV express feeder and his process is a continuous process. Therefore the applicant's statement that his industry is non-

continuous industry and Bhandara-III feeder is not a express feeder contradict itself.

- 7) The non-applicant has also mentioned that as per clause no. 2.1 of circular no. 81 dated 07.07.2008 for tariff revision w.e.f. 01.06.2008.

“HT industry/industries (group of more than one industry connected on express feeder) will be deemed HT-I industries, while all other HT industrial consumer will be deemed as HT non-continuous industry”. Hence the tariff applied to the applicant is correct. He further stated that as per circular no. 88 dated 26.09.2009 which is based on clarificatory order by MERC.

“The consumer getting supply on express feeder may exercise his choice between continuous and non-continuous supply only once in a year, within the first month after issue of the tariff order for the relevant tariff period. In the present case, the consumer may be given one month time from the date of issue of this circular for exercising his choice. In case such choice is not exercised within specified period then the existing categorization will be continued”.

As the consumer has submitted his application on dated 09.06.2010 i.e. after one month from the date of issue of tariff order for relevant period the application of the consumer would not be considered for change of category from continuous to non-continuous.

8) The non-applicant has also mentioned that 11kV Bhandara-III is being a express feeder supplied with uninterrupted power supply without any load shedding even on staggering day by following the point no. 12 of circular no. 80 dated 0.05.2008 which has stated that “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 he has followed the department circular in which instruction has been given that “in same case there are group of consumer who are availing uninterrupted supply without any load shedding a supply on express feeder. Utmost care may be taken to ensure that all the consumer in such group shall now be categories only under HT-I industry and sub-category continuous industries or express feeder.

9) The non-applicant has stated that as per applicant’s statement that he has observed one day staggering holiday could not be accepted as the applicant has not submitted G-7 form which is to be maintained by HT consumer to prove that his unit has not availed power supply on staggering holiday but submitted daily production report.

The non-applicant has further pointed out that as per MRI load survey report downloaded, from meter, the consumer has been utilizing power even on staggering period. Thus the consumer has

availed the facilities of express feeder by availing the uninterrupted supply without any load shedding even on the staggering period. Therefore the applicant is entitled to pay the charges applicable for the relevant category of express feeder.

- 10) In the matter of other HT consumer connected on the same feeder, the non-applicant has stated that as per CE (Dist) letter dated 01.04.2009.

“In case of more than one consumer on express feeder, the consent of all consumers is required for the benefit of non-continuous industry tariff”.

But no other consumer has been applied for non-continuous industry tariff within the time period specified by Hon. MERC. Therefore the applicant cannot be granted the non-continuous industry tariff.

He further stated that the M/s. Nirbhay Co-operative industrial Estate is connected on industrial feeder Bhandara –IV having load shedding on staggering day but not on Bhandara-III which is a express feeder. By stating this point the non-applicant has requested to the Forum to reject the consumer’s application as there is no material substance in consumer’s application to revise all the energy bills from October 2006 till today by considering and applying non express feeder tariff and refund the excess amount paid by the applicant with interest.

11) The hearing was scheduled on dated 20.08.2010. But on, the request of the both the parties, the matter was heard on dated 26.08.2010. Both the parties were present. On behalf of the applicant the applicant's representative Shri D.D. Dave was present. The non-applicant's side was presented by Shri M.S. Kele, Superintending Engineer, NUC, MSEDCL, Nagpur.

At the time of hearing the applicant's representative has submitted a rejoinder to the reply of non-applicant. According to which, the letter dated 19.11.2008 submitted by non-applicant showing the acceptance of express feeder by the consumer is fabricated and collected by non-applicant in order to supporting their position in the case no. 28 of 2009 of M/s. Nirbhay Co-operative Industrial Estate decided by the Hon. Electricity Ombudsman, Mumbai. Therefore this letter could not be taken as the base for deciding the applicant's industry as continuous or non-continuous.

12) The applicant's representative has stressed in rejoinder's point no. 2 on some quotes of MERC orders in case no. 72/2007, dated 31.05.2008 and case no. 44/2008 dated 28.09.2008. By referring to the quote "HT industries connected on express feeder & demanding continuous supply will be deemed as HT continuous Industry and given continuous supply" he has pointed out that the words express feeder & demanding continuous supply are most important for deciding the tariff category.

- 13) He further added that Hon. Commission has rejected the non-applicant's prayer for removal of clause "demanding continuous supply" and application of HT-IC category to all Industries connected on express feeder irrespective of whether they are continuous or non-continuous process industries. However, the Hon. Commission has suggested that HT industrial consumers connected on Express feeder should be given the option to select between continuous and non-continuous supply only once in the year within the first month after issue of tariff order. Therefore non-applicant should have asked the individual consumers regarding above options towards any changes, but for their own interest non-applicant did not ask to any consumer and thereby committed a mistake.
- 14) In context to G-7 form, the applicant's representative has clarified that it is non-applicant who provides G-7 form to the applicant. But G-7 forms have never given by the non-applicant and the non-applicant has never insisted for such submission. He has further pointed to enclosure no. 7 showing the documents related to application for new HT power supply submitted to the non-applicant on dated 28.06.2005 in which industry process had shown has non-continuous type with one no. of shift & 12 hrs. staggering. He has further stated the consumption on Wednesday showed by MRI report was only for yard light & fan and not for industrial load. He has stated that the non-applicant reply is totally contradictory to the

provision & guidelines of Hon. MERC in case of express / dedicated feeder concept.

15) The applicant's representative has finally briefed the matter as the applicant has never demanded for any express feeder, his industry is non-continuous industry working in one shift, weekly off is strictly observed, he has never paid any cost for the express feeder from Pardi Sub-station and non-applicant has never given any estimate for express feeder while releasing the supply to his industry. Therefore he requested to the Forum to direct the non-applicant to refund the entire excess billed amount with interest.

16) On above the non-applicant has explained his side. He said that the letter submitted by the applicant cannot be treated as fabricated as it was submitted by the applicant itself. On applicant representative's statement that non-applicant should have asked to the individual consumer for giving option between continuous & non-continuous supply, the non-applicant said that the tariff order has always made available to consumers on their request, so there is no question arises for giving options. Therefore the tariff applied to the applicant is correct as his unit is connected on express feeder which supplies uninterrupted power without any load shedding.

Also on applicant's statement that on staggering day the power supply is used for light &

fan load the non-applicant has stated that it clearly showed that applicant has used power on weekly off availing facility of express feeder i.e. uninterrupted power supply without any load shedding and MRI report also showed that consumption recorded is not a negligible amount of energy. Therefore non-applicant has requested to the Forum to reject grievance application as the tariff charged to the applicant is correct. He further showed his willingness to charge appropriate tariff on applicant's request if he would apply within stipulated period as determined by Hon. Commission in future.

17) Heard both the parties. Also the documents on record reveal that the grievance is about being the applicant's industrial process as non-continuous in nature, the HT-IC tariff i.e. tariff for continuous industry is not applicable to his unit. However, the non-applicant has argued that the applicant's industry is connected on express feeder i.e. feeder without any load shedding and the applicant did not apply for non-continuous tariff within stipulated period as per Hon. Commissions order. Therefore the continuous category tariff charged to the applicant is correct.

18) The applicant in his grievance application has requested to the Forum to revise the wrongly charged energy bills against ASC and energy charges since October-2006 to till date.

The documents on records reveals that the applicant has submitted his grievance for the above matter first time to the non-applicant on dated 08.06.2010.

Therefore the matter of bill revision cannot be admitted for the time period prior to June 2008 as it is time barred as per MERC (CGRF & Elect. Ombudsman) Regulation,2006 no. 6.6 –

“The forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen”.

19) Now the matter under consideration for Forum is from June – 2008 onwards. The applicant has referred Hon. Ombudsman’s order in case No. 28 of 2009 in order to show that 11 KV Bhandara / Wardhaman - III feeder cannot be treated as a dedicated /express feeder. But the non-applicant has clarified that on express feeder uninterrupted supply is provided without any load shedding. Therefore in Forum’s opinion, the applicant is getting continuous supply.

20) Further the applicant’s statement that the letter dated 19.11.2008 is fabricated, but document on records shows that the letter is typed on applicant’s letter head with duly signed by the Manager of the applicant. Therefore the applicant’s argument that the letter is fabricated cannot be accepted. Also during hearing the applicant’s representative has admitted that the letter was issued by the applicant itself.

The letter dtd. 19.11.2008 clearly shows that the applicant has admitted that his unit is on express feeder and his process needs continuous supply as it is a continuous process. When asked clarification about this statement during hearing, the applicant's representative did not provide any justified reply.

Also MRI report shows that the applicant is availing the facility of uninterrupted supply being connected on express feeder.

- 21) The forum is also observed that prior to June, 2010, the applicant has never objected for continuous category tariff which has been charged by the non-applicant from October, 2006. Also the applicant has requested for change in tariff category in June, 2010 which is beyond the stipulated period as specified in Hon. Commission's order in case no. 44 of 2008 / 12.09.2008. Based on above, the applicant's statement that he has never demanded continuous supply cannot be accepted.
- 22) As per tariff w.e.f. June,2008 i.e. MERC order in case No. 72 of 2007 dtd. 20.6.2008, "Only HT Industries connected on express feeders and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while other HT industrial consumers will be deemed as HT non-continuous supply" therefore this can be applied in this matter by treating Consumer category as HT – I Industry on express feeder because the applicant's industry is connected

on express feeder i.e. a feeder providing continuous supply without any load shedding.

The Forum has carefully gone through the record of the case, and all submissions, written & oral made by both the parties before Forum. Thereby the Forum has come to the conclusion that the tariff charged by the non-applicant to applicant is justified and correct.

ORDER

On above grounds the applicant's grievance application is rejected.

Sd/-
(Smt. K.K. Gharat)
Member-Secretary

Sd/-
(Smt. Gauri Chandrayan)
MEMBER