

**CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
NASHIK ZONE**

(Established under the section 42 (5) of the Electricity Act, 2003)

Phone: 6526484
Fax: 0253-2591031
E.Mail: cgrfnsk@rediffmail.com

**Office of the
Consumer Grievance Redressal Forum
Kharbanda Park, 1st Floor,
Room N. 115-118
Dwarka, NASHIK 422011**

No. / CGRF /Nashik/NC/UCR Nagar Dn./484/15-15/

Date: 03/07/2015

**(BY R.P.A.D.)
In The Mater Of
Recovery of Arrears for Change of Tariff Category**

Date of Submission of the case :01/06/2015

Date of Decision : 03/07/2015

To.

1. M/s. New Hindustan Rubber Works
W-51/A, MIDC Area, Ahmednagar
Dist. Ahmednagar, .
(Consumer No.162010357730)

Complainant

2. Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Ahmednagar Circle office,
3. Executive Engineer (UCR)
Maharashtra State Electricity Distribution Com. Ltd.
Ahmednagar Division Office
Dist. Ahmednagar.

Distribution Company

DECISION

M/s. New Hindustan Rubber works ,(hereafter referred as the Complainant). MIDC , Ahmednagar is the L.T. industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company) engaged in the activity of manufacturing tread rubber sheet and tyre remolding. The Complainant has submitted grievance against MSEDCL's for demand of additional amount on account of tariff difference to the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. But not satisfied with the decision of the Respondent , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No122 of 2015 on 01 /06/2015.

The Forum in its meeting on 02/06/2015, decided to admit this case for hearing on 19/06/2015 at 12.00 am in the office of the forum . A notice dated 02/06/2015 to that effect was sent to the appellant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Ahmednagar Circle Office for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri. L.M. Kakde, Addl. Executive Engineer , Shri. V.P. Jogi , Addl. Executive Engineer represented the Distribution Company during the hearing. Shri. Shahid Shaikh appeared on behalf of the consumer.

Consumers Representation in brief :

1. Consumer's connection was checked by Flying Squad, Ahmednagar on 06/01/2014 and meter was found OK.
2. In the energy bill for the month of January 2014 (issued in February 2014) additional amount of Rs. 3,26,081.13 was added on account of the difference of the tariff from Industrial to Commercial from August 2012 .
3. The consumer is a small scale unit registered with the DIC and holding Factory License for Tyre Rubber production and Tyre Remolding with load of sanctioned 62 HP .
4. Company holds VAT Registration & TAN No. and is Regular Central Excise Tax Payee,
5. The plot was allotted by MIDC Ahmednagar for Industrial purpose only.
6. Application for change of Tariff & withdraw the amount of arrears added in the bill

Consumer's Demand:

Withdraw the difference charged in the for the change in Tariff from Industrial to Commercial.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 17/06/2015 from the Addl. Executive Engineer , MSEDCL, Ahmednagar City Sub Division 2 office and other relevant correspondence in this case. Putting forth the arguments on the points raised in the grievance the representatives of the Distribution Company stated that:

- 1- vfrfjDr dk; Bkjh vfHk; ark Hkjkh iFkd vgenuxj ; kpk rikl .kh vgoxy da 09 fn-07@01@2014 Mh- Mh- , e- vkj- ua 0580 fn- 06@01@2014 iek.ks l nj xtgdkl Vk; j fjekVMhaxpk okij vl Y; kus ifji=d 175 fn- 05@09@2012 ul kj vksj kfxd njk, oth 0; ki kjh njkus vkdkj.kh djkoh o vkkLV 2012 rs fMI ej 2013 ; k dkyo/khe/; s okf.kT; njkus Qjdkph vkdkj.kh dj.kps Hkjkh iFkd kus vgoxykr uep dys gkr s mi dk; Bkjh vfHk; ark 'kgj mi foHkx da 2 vgenuxj vkkLV 2012 rs fMI ej 2013 vksj kfxd njk, oth 0; ki kjh njkus Qjdkph jDde #- 3]26]081-13 xtgdkP; k tkukjh 2014 P; k fcykr l ekfoV dj.; kr vkyh- R; kps 0; ki kjh njkus nj l dr tkukjh 2014 e/; s cnyfo.; kr vkys
- 2- xtgdkl Qjdkph vkdkj.kh ekU; ul Y; kus vr xh xtgdkl xk&gk.ks fuokj.k d{k vgenuxj ; kP; kdMs vt l nk[ky dys R; kud kj vr xh xtgdkl xk&gk.ks fuokj.k ep vgenuxj ; kps i= da vvexj@rkt@11657 fn- 11@07@2014 ul kj fudky ns; kr vkyk- l nj fBdk.kh mRi knu dj.kkjs dks krgh ; fuV ul u QDr vkf.k QDr Vk; j fjVMhax fdok Vk; j fjekVMhax l kBh oht okijr vkgr] vl s vk<Gp vkyus l nj fotokij gk 0; kol k; hd dkj.kkl kBhp gkr ks gs fl /n gkr vkgs
- 3- xtgdkyk dk; Bkjh vfHk; ark 'kgj rFkk xkeh.k foHkx vgenuxj ; kps i= da 451 fn- 15@01@2015 ; kP; k vkns kkuq kj vfrfjDr dk; Bkjh vfHk; ark 'kgj mi foHkx da 2 ; kuh xtgdkl i= da 343 fn- 29@01@2015 jksth oht fcy u HkjY; kl 15 fnol kr fo|r ij oBk [kMhr dj.; kph ukvhl ns; kr vkyh- xtgdkP; k fourhuq kj rl p xtgdkdMpu , ihy 2015 i; r os fcy pkyq %Current% fcy Hk#u ?ks; kr vkys
- 4- R; kpi ek.ks ut j p dhus Qcpkjh 2014 ikl u rs es 2015 i; r , o<h vksj kfxd njkus vkdkj.kh dj.; kr vkyh- l nj p d funz kuhl vkY; kegs i qhy fcyki kl u 0; ki kjh njkus oht fcy vnk dj.; kr ; bdy- rl p Qcpkjh 2014 ikl u rs es

- 2015 i ; r vks kfxd njk, oth 0; ki kjh njkus Qjdkph jDde fcyke/; s l ekfoV dj.; kr ; by- brj fBdk.kh eMy dk; ky; ke/; s l /; k Tyre Remoulding/Retreading ; fuV ps 0; ki kjh njkus oht fcy vkdkj.kh gkr vkgs
- 5- ojhy l ol ckchpk fopkj d#u fQjrs iFkd vgenuxj ; kuh rikl .kh d#u 0; ki kjh njkus iLrkfor dsyjh vkdkj.kh o fnysys Qjdkps chy cjkcj vl u R; kP; kdMhy ekxhy , dqk Fkdckdh ekgs es 2015 v[kj i ; r #- 4]02]157-14 %pkj y{k nku gtj , d'ks vBBko.k% ; kX; vl u xkgdkus l i wkl fcy Hkj.ks dei klr vkgs

Action by IGRC :

1. Internal Grievance Redressal Cell Ahmednagar Circle conducted hearing on 27/06/2014 for the complaint submitted on 20/06/2014
2. After hearing both the parties IGRC gave decision as per letter dated 11/07/14 as under:
Give the benefit to the consumer as per Circular \no. 175 dtd. 05/09/2012, which itself is self-explanatory.

Observations by the Forum:

1. The consumer is running a unit in MIDC Area of Ahmednagar registered with the DIC (Permanent Registration dated 08/06/1990) for manufacture of Rubber Tread and holding Factory License, Maharashtra VAT registration dated 01/04/2006 with mention of “manufacturer” under nature of business. The consumer also holds Lincense to acquire Rubber from the Rubber Board
2. The Distribution Company has applied industrial tariff for the electric connection since the date of supply .. Later as per MERC tariff order dated 16/08/2012 [in case no. 19/2012] which is applicable with effect from 01/08/2012 , the activity of “tyre retreading” is brought under LT II :Non residential/Commercial . Hence in view of the Flying Squad report that the consumer is conducting business of “tyre remolding/retreading” the tariff category LT II :Non residential/Commercial is applied since August 2012.
3. The complainant stated that they are manufacturer of the rubber tread sheets and running secondary activity of Tyre Remolding as such it is manufacturing unit.
4. The Forum scrutinized the Spot Verification Report dated 06/01/2014 of the Flying Squad and noticed that the Flying Squad has mentioned only activity of “Tyre Remolding” under the head of “Type of installation nature of work carried out there”. Flying Squad has
 - a. not inspected every machine installed and its usage.
 - b. ignored the activity of manufacture of Rubber Tread sheets
 - c. ignored the registrations with various authorities indicating manufacturing activity being carried thereon.
 - d. overlooked the fact that the connected load of 62 HP (as recorded in the report) is not required for tyre remolding activity
5. Hence the Forum directed the Distribution Company to carry out the inspection of the unit again in presence of the consumer and submit a report covering details of machinery installed, its power rating and usage and the details about exact manufacturing or service by the consumer. It is noticed that the Distribution Company charged LT II C (Commercial) tariff for January 2014 bill but from February 2014 onwards again LT V B (Industrial) is being charged. The Forum also asked explanation about the same. The complainant has applied by a letter dated 14/02/2014 to the Flying Squad explaining the details of activities and requesting to apply industrial tariff .The Forum asked about the action taken on the same . The report was to be submitted by 26/06/2015.
6. Accordingly the Executive Engineer, UCR Division, Ahmednagar submitted a report by letter dated 26/06/2015. The Distribution Company has reported as under as per this letter :
 - forj.k dia uhus xkgdkP; k l e{k LFGi kg.kh d: u ; # l keXhps uko] fo| r l p o mi ; kXkl g LFGri kl .kh vgoky l kor tkMyrk vkgs rl p l kor tkMyY; k SSI Certificate e/; s Tyre Remolding pk mYy{k dsyYk vkgs

Wlhvk; l h dk; kÿ; QkEz ua 1789½ rlp Mk; jDVj vkkD bMLVht ps fn-08-06-90 P; k nk[KY; kr Trade Rubber vl k mYys[k vkgS ijrW jcj 'khV foØhph chys vkkLV 2012 ikl u vkti; r dkyko/khph ekxhryh vl rk xtgdkdMmu çklr >kys ukgh-

- xtgdkl Hkjkjh iFdkp; k rkl .khurj , d chy 0; ol kf; d njkus o ijr Qcokjh 14 ps vks[ksxhd njkus lcf/kr mPpLrj fyihdk dMmu utjppdhus ykoysys vkgS rjh lcf/krkoj dkjokbz çLrkfor vkgS
- xtgdkus Qcokjh 14 e/; s fnysys vtI gs v-v- eMy dk; kÿ; kl fnysys vl u nq js i= gs Hkjkjh iFdkl fnysys vkgS vl s i= mi foHkxh; dk; kÿ; kr 'kks/kys vl rk v<Gu vkysys ukgh-
- rjh ojhy LFKG rkl .kh vgokyko: u fn- 22-06-2015 jksth xtgdkpk , dwk tkmYsyk fo|r Hkjk gk 68 , pih + 2-94 , pih vl k fnl u ; r vl u l nj fno'kh jcj f'kV mRi knukl kBh (3 Ph) 52 , p ih o fjekVMhæ l kBh (3 Ph) 16 , pih okij vl Y; kps fnl u vkys gh fn- 22-06-2015 ph i fjlFKrh vkgS ijrW Hkjkjh iFdkus fn- 06-01-2014 jksth rkl .kh dSY; k LFKG rkl .kh vgokykr Li"Vi .ks R; koGd Tyre Remolding vl k Li"V mYys[k dSYyk vkgS o R; koj xtgdkph l gh vkgS rjh Hkjkjh iFdkus fnyÿ; k vgokyk o#u vks[ksxhd , ðth 0; ol k; okij kps vkk"V 12 rs fml çj 13 ps chy cjçj vkgS
- rlp Q&#okjh 2014 rs tu 2015 ps fcy vnk dj.; kph o içhy fcy l ð k 0; kol kf; d njkus ns ; kph ijokuxh ns ; kr ; koh-

7. The Distribution Company as per SVR dated 26/06/2015 has provided the following details about the machinery installed and its usage:

SN	Name of machinery	Capacity	Machinery details	Used for process	Remark
1	Mixing Mill	30 HP	Name plate not visible	Mixing of raw material (rubber, carbon,oil etc.) & heating	Manufacturing
2	Extruder	20 HP	No name plate	For moulding rubber into sheets	Manufacturing
3	Flap machine	2 HP	Name plate not visible	For flap manufacturing	Manufacturing
4	Buffing machine	7.5 HP	Make : Kalpana, Sr. no.: 11863	For buffing	Manufacturing & remoulding
		1 HP	Make : Kalpana, Sr. no.: 11908		
5	Air compressor	7.5 HP	Make : CG, Sr. no. 19320	For air pressing & hydraulic machines	Manufacturing & remoulding
	Total	68 HP			

In addition the Lighting load is reported as under:

a)	Manufacturing	
	Tube 40 W : 21 nos.	840 W
	Fan 60 W : 1 no.	60 W
	CFL 25 W : 1 no.	25 W
	Total	925 W
b)	Remoulding	
	Tube 40 W : 11 nos.	440 W
	Fan 60 W : 1 no.	60 W
	CFL 25 W : 1 no.	25 W
	Halogen 250 W : 1 no.	250 W
	Total	775 W
c)	Office	
	Tube 40 W : 3 nos.	120 W
	PC 60 W : 1 no.	60 W
	AC 1 Tonn : 1 no.	1000 W
	Fan 60 W : 1 no.	60W
	Total	1240 W
	Total lighting load	2940 W

8. From the report above it is clear that the consumer is engaged in the activity of manufacturing rubber sheets and also in tyre remolding. The electric load for manufacturing activity is 52 HP (76%) and that for tyre remolding is 16 HP (24%). It has also been mentioned in the said report that the Buffing Machines (7.5 HP+1 HP) and the Air Compressor (7.5 HP) are used for both manufacturing and remolding . As such the load for manufacturing activity is even more than 52 HP taking into account partial usage of the Buffing Machines and the Air Compressor as mentioned above. The major activity is manufacturing of rubber sheets and tyre remolding is the activity incidental/secondary to it. Hence the complainant herein is not engaged in the work of "Tyre Remolding" exclusively . The said work is less than 25%, which is evident from the Spot Verification Report of the Distribution Company itself.
9. The Distribution Company in its report dated 26/06/2015 has agreed that the consumer is carrying out manufacturing activity of production of rubber sheets but added the comment that this is the position as on 22/06/2014 and tried to cover up the report of the Flying Squad dated 06/01/2014 which reported only the activity of "tyre remolding" indicating that the activity of production of rubber sheets was not being done at the time of visit of Flying Squad. However the Distribution Company has not gone thoroughly in the facts of the case especially related to the consumption of electricity. We observe from the CPL that the monthly consumption from August 2012 upto December 2013 is in the range of 5000 to 7000 units . Total consumption in this period of 17 months is 107692 units (August 2012 (IR-598555) ; December 2013 (FR-706247) indicating the average monthly consumption of 6335 during this period. This consumption does not match if only the activity of tyre remolding [load of only 16 HP (or even less)] is presumed to be carried out. Hence it is can be inferred that the use of other machines installed and meant for manufacture of rubber sheet was also made during the said period . It is also seen that the total consumption in the period of 34 months from August 2012 (IR-598555) to May 2015 (FR-825285) is 226730 units which leads to monthly average consumption of 6669 units indicating the manufacturing activity is being carried out.
10. The Distribution Company has stated that the complainant has not submitted the sale bills for rubber sheets manufactured since August 2012 . The complainant however submitted by e-mail to the Forum soft copies of the sale bills and production record for period after August 2012. It indicates that the consumer is manufacturing and selling rubber products like tread rubber and UTS Milling (Sheet of rubber compound from milling process)

11. This is a case of mixed load where load for industrial/ manufacturing activity is predominant . In this regard Chief Engineer (Commercial) in a letter dtd. 05/08/2010 has issued already guidelines and stated as under :

- ✓ When any industrial consumer is having testing and R&D laboratory as its ancillary unit, it is duty of the concerned in charge of MSEDCL to check the purpose and usage of the supply.
- ✓ If in such case industrial load is predominant as compared to the R&D load and also if the R&D is being carried on by the industry exclusively for its own product development, then it's but natural to apply "Industrial Tariff" to such consumer.
- ✓ In other cases, if the consumer is having only R&D and testing load, then such consumer should be billed as per Commercial tariff.

The same analogy can be applied here and the "Industrial Tariff" should be applied.

12. Later as per MERC order dated 12/09/2010 [in Case no.111 of 2009] the tariff philosophy has been elaborated by the Commission under the para 5.4 . The relevant extract from the said order related to mixed load is reproduced below:

"....."

Further, it is clarified that the consumer categorisation should reflect the main purpose of the consumer premises. For instance, within a Factory, there could be canteens, recreation rooms for staff, gymnasium, time office, creche for employees' children, dormitory for workers, guest houses for visiting officers, etc., which are related to an incidental to the main purpose of the factory premises, and are intended for use by the staff/workers employed within the factory premises, and are not offered on commercial payment basis to people not employed within the factory premises. The factory cannot function in the absence of such ancillary activities. In such cases, the categorisation of such consumers should be 'Industrial' and the distribution licensee should not install sub-meters or separate meters for such ancillary and incidental activities, and charge them at commercial or any other rate, as has been done in some cases."

In this case too , the activity of "Tyre Remolding" is incidental/secondary to the main activity of "Rubber Sheet" manufacturing.

13. Accordingly, the Forum finds, the action of officers of Distribution Company taken on the basis of Flying Squad inspection dated 06/01/2014 issuing bill for the month of January 2014 charging at commercial rate and claiming the difference for August 2012 to December 2013 is not proper.

After considering the representation submitted by the consumer, comments and arguments by the Distribution Licensee, all other records available, the grievance is decided with the observations and directions as elaborated in the preceding paragraphs and the following order is passed by the Forum for implementation:

ORDER

1. The action by the Distribution Company for charging the tariff category of LT IIC instead of LT VB with effect from August 2012 is set aside and the difference claimed for the period August 2012 to December 2013 is quashed .
2. The Distribution Company is directed to continue to apply LT VB (Industrial) tariff for further bills from the month of January 2014 . Excess charges paid if any by the consumer on account of tariff difference be adjusted in the ensuing bill.
3. As per regulation 8.7 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 , order passed or direction issued by the Forum in this order shall be implemented by the Distribution Licensee within the time frame stipulated and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum within one month from the date of this order.
4. As per regulation 22 of the above mentioned regulations , non-compliance of the orders/directions in this order by the Distribution Licensee in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Maharashtra Electricity Regulatory Commission can initiate proceedings *suo motu* or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Electricity Act, 2003.

5. If aggrieved by the non-redressal of his Grievance by the Forum, the Complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

(Rajan S. Kulkarni)
Member

(Ramesh V.Shivdas)
Member-Secretary
& Executive Engineer

(Suresh P.Wagh)
Chairman

Consumer Grievance Redressal Forum Nashik Zone

Copy for information and necessary action to:

- 1 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. ,
Vidyut Bhavan, Nashik Road 422101 (For Ex.Engr.(Admn)
- 2 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. ,
Vidyut Bhavan, Nashik Road 422101 (For P.R.O)
- 3 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. ,
O&M Circle office, Ahmednagar.