

**CONSUMER GRIEVANCE REDRESSAL FORUM**  
(Established under the section 42 (5) of the Electricity Act, 2003)  
**MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.**  
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**Office of the**  
**Consumer Grievance Redressal Forum**  
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**Dwarka, NASHIK 422011**

No. / CGRF /Nashik/NUC/N.U.Dn.1/611/01-2017-18/

Date: 16/05/2017

(BY R.P.A.D.)

**In the Matter of**

**Change Of Tariff Category From HT Continuous To HT Non-Continuous**

**Date of Receipt :10/04/2017**

**Date of Decision :16/05/2017**

To.

1. M/s. Mahindra & Mahindra,  
Plot No. 89, M.I.D.C. Satpur  
Nashik 422007  
(Consumer No. 049069000702)

Complainant

2. Nodal Officer ,  
Maharashtra State Electricity Distribution Com. Ltd.,  
Urban Circle office, Shingada Talav,  
Nashik

Distribution Company

3. Executive Engineer (U-1)  
Maharashtra State Electricity Distribution Com. Ltd.  
Kharbanda Park Nashik .

**DECISION**

M/s. Mahindra & Mahindra, hereafter referred as the Complainant ). Satpur Nashik is the HT consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company ). The Complainant has submitted grievance against MSEDCL for not allowing change of tariff category from HT Continuous to HT Non Continuous to the Internal Grievance Redressal Cell of the Maharashtra State Electricity Distribution Company Ltd. . But not satisfied with the decision of the IGRC , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No. 65 of 2017 on 10 /04/2017.

The Forum in its meeting on 11/04/2017, decided to admit this case for hearing on 27/04/2017 at 11.30 am in the office of the forum . A notice dated 12/04/2017 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, Urban I Circle Office Nashik for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri. S.S. Sawairam , Nodal Officer/ Executive Engineer , Dy. Executive Engineer Shri. R. S. Bhagat represented the Distribution Company during the hearing. Shri .T.N. Agrawal and Shri. Satish Shah appeared on behalf of the consumer.

### **Consumers Representation in brief :**

1. We are consumer of MSEDCL having Contract demand of 12,500 KVA and availing power supply at 132 KV Express/dedicated feeder line emerging from 132 KV Satpur sub-station. We are also availing conventional partial open access for part of our requirement i.e. 6.00 MW out of total contract demand of 12.5 MVA.
2. We had applied to the M.S.E.D.C.L. Nashik Urban circle for change of tariff category from continuous to non-continuous category on 18.01.2016. However in spite of our repeated follow up, our tariff category has not been changed for considerable period, hence this grievance is being lodged with CGRF for redressal.
3. Any dispute as per section-18 of DOA Reg-2005, between a Distribution Licensee and a person availing open access shall be adjudicated upon by the Consumer Grievance Redressal Forum, hence we are required to file the grievance directly with CGRF instead of first filing with IGRC, relevant extract of regulation is reproduced below.

***“Any dispute under these regulation between dist. Licensee and a person availing open access shall be adjudicated upon by the Consumers Grievance Redressal Forum”.***

4. In the tariff order dt.26.06.2015 issued by MERC for case No. 121 of 2014, (section: 7.24.6) provision has been made for change of tariff category & clarifies that the consumer getting supply on express Feeder may exercise his choice between continuous and non-continuous supply anytime during the financial year but only once in the financial year with one month prior notice.
5. In the same tariff order, Hon'ble commission has approved category wise energy tariff rate and cross subsidy for HT Industries as below.

**Energy rate for HT Industry:** Rs.7.21/unit for continuous category  
Rs.6.71/unit for non-continuous category

**Cross Subsidy Surcharge for HT Ind.** Rs.1.49/unit for continuous category  
Rs.1.09/unit for non-continuous category

6. Based upon the above tariff order, the MSEDCL also issued commercial circular No. 246 dt.11.08.2015 where in procedure for change of tariff category has been formalized. As per the circular, SE MSEDCL of concerned circle office is empowered to allow change of tariff category on submission of application & necessary undertaking as stipulated in the above circular. Further it is also mentioned that the change will be effected in next billing cycle after expiry of one month notice period.
7. In line with the MERC's tariff order and commercial circular No. 246, we had submitted our application for change of tariff category on 18.01.2016. This was our 1<sup>st</sup> application in the financial year for change of tariff category and as per the circular, tariff change was to be implemented wef 01.03.2016.
8. The S.E. MSEDCL, Nasik vide letter No. 000679 dt.16.02.2016 recommended for change of tariff category and forwarded proposal to CE Commercial for approval.
9. The CE Comm. even after lapse of more than 8 months had not given any decision/ communication in this regard. Even though the concerned SE of MSEDCL circle office has been entrusted with full power by HO for change of tariff category, still our proposal was forwarded by SE to CE Commercial for permission. This action of not exercising power entrusted by HO to circle office has delayed abnormally decision on our proposal. Under the above circumstances, we have been constrained to resort the grievance settlement mechanism of MERC as per Elect. Act-2003.
10. The MERC's tariff order for case no. 121 of 2014 also covers open access tariff for cross Subsidy Surcharge for both the category of consumers i.e. Continuous & Non-continuous. In the same order change of tariff category is permitted once during any time of financial year irrespective whether consumer is availing open access or not.
11. Despite the above provisions, we have been deprived from our rights to get implemented change of tariff category from Continuous to Non-continuous industrial HT tariff. Anticipating decision as per

MSEDCL's Commercial circular No. 246, we had already priced our product considering energy cost at non-continuous tariff wef 01.03.2016. Since the tariff change has not been implemented by MSEDCL, we had suffered financial loss due to billing of Continuous tariff for the period from March-16 to Oct-16.

12. The MERC merged both the tariff categories C & NC from 1<sup>st</sup> Nov-2016 onwards as per tariff order of Case No. 48 of 2016. Hence now our claim for refund of tariff diff. between C & NC is for the period from March-2016 to Oct-2016 (8 months) as our application was filed on 18.01.2016, total amount due for refund is The MERC merged both the tariff categories C & NC from 1<sup>st</sup> Nov-2016 onwards as per tariff order of Case No. 48 of 2016. Hence now our claim for refund of tariff diff. between C & NC is for the period from March-2016 to Oct-2016 (8 months) as our application was filed on 25.01.2016.
13. The MSEDCL may be asked to pay interest at bank rate on the energy tariff diff. & CSS diff. due for refund wef 01.03.2016 as per section 62 (6) of Elect. Act-2003.
14. There are many open access consumers in MSEDCL who are connected at EHV level and allowed to use non-continuous tariff category prior to Nov-2016 i.e. before merging of tariff categories. If desired relevant order copies will be furnished at the time of hearing.
15. **Provision in SOP Regulation 2014 issued by MERC:**  
Please refer section 3 of SOP regulation 2014, the same is reproduced below.

***"3. Change of name and change of tariff category:***

***The charges to be borne by an applicant for change of name and change of tariff category is to be intimated within seven (7) days of receipt of an application and shall give effect to it within the following time limits :-***

***Change of name shall be effected within the second billing cycle on receipt of an application and payment of necessary charges.***

***Change of category for use of supply in reference of Tariff schedule shall be effected within the second billing cycle on receipt of application and payment of necessary charge."***

16. As per the above SOP regulation, change of tariff should have been effected from 2<sup>nd</sup> billing cycle on submission of application with MSEDCL.

**RELIEF SOUGHT :**

1. It is requested to allow change of tariff category to Non-Continuous Industry, as per section 3 of the Commercial circular No. 246 dt.11.08.2015 and also as per SoP Reg-2014 change of tariff should be implemented for the billing period from 01.03.2016 to 31.10.2016.
2. To advise MSEDCL to pay the diff. between Cont. & Non-continuous tariff for energy rate, FAC & cross subsidy surcharge after 01.03.2016 till 31.10.2016 (8 months).
3. To pay the interest charges at bank rate as per section 62 (6) of electricity act, 2003 for the delayed period on the refundable amount due from MSEDCL.
4. Compensation under SOP Regulation 2014, Appendix-A, section-8(ii), if change of tariff is not done from 2<sup>nd</sup> billing cycle, compensation @ Rs.100/- per week is payable to the consumer. Hence for 32 weeks (calculated from March-2016 to Oct-2016) delay, compensation of Rs.3,200/- the may also be allowed.
5. Compensation under section 8.2 (C) of CGRF Ombudsman Regulation -2006 for loss suffered by the consumer, say for mental agony, man hrs loss for follow up, travelling exp. etc. upto Rs.25,000/- may be allowed.

## Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 26/04/2017 from the Nodal Officer, MSEDCL, Urban Circle Office Nashik and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

1. The application for Change of Tariff addressed to Chief Engineer (Commercial) H.O. Mumbai and copy to Superintending Engineer, Nashik Urban Circle received from M/s. Mahindra & Manindra, Nashik .
2. As per Circular No. 246 Dated 11/08/2015 of MSEDCL.....  
*"The new provision made in MERC tariff order from HT continuous to HT Non continuous is as under –  
The consumer availing supply on express feeder may exercise his option to choose between continuous to non continuous supply anytime during a financial year but only once in such financial year with one month prior notice. Such consumer shall be required to submit a written request to MSEDCL, giving one month's notice and the tariff applicable to non continuous supply shall apply, from the ensuing billing cycle".*
3. H.O. issued revised guidelines regarding sanction and release of loads vide Circular No. 247 Dated 25/08/2015. According to this circular, SE O&M Circle can sanction release of loads to all installation with contract demand 1500 KVA to 5000 KVA, inclusive of existing demand/load if any. It is brought to the notice that said consumer is in partially open access (i.e. total contract demand is 12000 KVA, out of this open access demand is 6000 KVA). Hence Superintending Engineer, Nashik Urban Circle is not competent for any type of change in said consumer's tariff without permission of higher authority.
4. This office has referred the matter to CE (Commercial ) by letter No. 00679 dated 16/02/2016 and awaiting for guidelines regarding change of tariff from HT continuous to non continuous in r/o M/s. Mahindra & Mahindra, Nashik . The action will be initiated after receiving guidelines from Head Office, Mumbai.

## Action by IGRC :

1. Internal Grievance Redressal Cell Nashik Urban Circle conducted hearing on 22/03/2017 for the complaint submitted on 02/03/2017 .
2. After hearing both the parties IGRC gave decision as per letter dated 06/04/17 as under:

*^ I nj mPpnkc xkgd gk vdkr% Open Access e/; s vl Y; kus njl dr cny. kdjhrk i Lrko e[; dk; ky; ] ecbz ; Fks dk; ky; hu i = da 679 fn- 16@02@2016 ud kj i kBfo.; kr vkyk vkgs R; keGs I njph eatjh i klr >KY; kurjp i rhy dk; bkgd dj.; kr ; by-\*\**

## Observations by the Forum:

1. The complainant is availing power supply at 132 KV Express/dedicated feeder line emerging from 132 KV Satpur sub-station having Contract demand of 12.5 MVA and also availing partial open access for part of their requirement i.e. 6.00 MW out of total contract demand of 12.5 MVA.
2. The present tariff applicable is HT Continuous. The complainant had applied for change of tariff to HT Non-Continuous by an application dated 18/01/2016 to the Superintending Engineer, Nashik Urban Circle (NUC) .
3. As per the MERC tariff order dated 26<sup>th</sup> June 2015 [In Case No. 121 of 2014] applicable from 1<sup>st</sup> June 2015, the provision at para 6.10.7 regarding the change of tariff from Continuous to Non-Continuous is as under :

*The Commission clarifies that the consumer availing supply on express Feeder may exercise his option to choose between Continuous and non-Continuous supply anytime during a financial year but only once in such financial year with one month prior notice. Such consumer shall be required to submit a written request to MSEDCL, giving one month's notice and the Tariff applicable to non-Continuous supply shall apply, from the ensuing billing cycle.*

4. In view of the MERC tariff order dated 26<sup>th</sup> June 2015, Chief Engineer (Commercial) MSEDCL, Mumbai has issued circular no. 246 dated 11<sup>th</sup> August 2015 giving guidelines for permitting change of category from HT continuous to HT non-continuous. According to this circular :
  - ✓ Powers are re-delegated to respective Superintending Engineer to permit a consumer to switchover from HT continuous tariff to HT non-continuous tariff. But the circle office shall be competent only to permit prospective implementation & shall ensure that no retrospective effect is given to any consumer without prior approval of Head Office.
  - ✓ Change of categorization is to be implemented with effect from ensuing billing cycle after expiry of one month notice period i.e. change of categorization from Continuous to Non-Continuous in respect of consumer who has made application in the period 26<sup>th</sup> June 2015 to 30<sup>th</sup> June 2015 shall be made effective from 1<sup>st</sup> August 2015 as HT billing cycle starts from 1<sup>st</sup> of month, and the consumers who applies from 1<sup>st</sup> July to 31<sup>st</sup> July will be effective from 1<sup>st</sup> Sept . Similar procedure for actual implementation of change of categorization shall be followed for application received thereafter.
  - ✓ Before the actual benefit is passed to the consumers, the concern Superintending Engineer shall verify whether the consumer is in arrears or otherwise & such permission will be given only on recovery of arrears from consumers.
  - ✓ The consumers connected on Express Feeder having continuous supply, if demands Non-Continuous option, shall submit an undertaking thereby agreeing to not to utilize power supply during the period as may be informed by MSEDCL, so as to cope up the situation of Load Shedding/Staggering Day if the situation arise.
  - ✓ In case such consumer defaults in his undertaking of not utilizing of power during specified hours will automatically mean the consumer is utilizing continuous supply and will be treated as a HT Continuous consumer & will be billed accordingly w.e.f. such change has been implemented.
5. Now as per the prevailing MERC tariff order dated 03/11/2016 [In Case No. 48 of 2016] applicable from 1<sup>st</sup> November 2016, the Commission has merged the Continuous and Non-Continuous sub-categories of the respective HT consumer categories. Hence there is no issue after 01/11/2016. The issue is regarding the HT I Continuous tariff applied to the complainant till 31/10/2016 in spite of the application submitted for change of tariff on 18/01/2016 .
6. In the present case , the complainant has applied for change of tariff from Continuous to Non-Continuous on 18/01/2016 (in the FY 2015-16) , hence entitled for change to non-Continuous with effect from the month of March 2016. However the Superintending Engineer , NUC referred the matter to CE (Commercial ) by letter No. dated 16/02/2016 and is awaiting for guidelines . The CE (Commercial ) has not yet replied .
7. The Distribution Company has stated that the matter is referred to the CE (Commercial ) in view of the Commercial Circular No. 247 Dated 25/08/2015 as the consumer is partially open access consumer. However a plain reading of the said Circular No. 247 will reveal that this circular is regarding "Revised guidelines regarding sanction & release of loads without NoC from MSETCL.". According to this circular the Director (Operations) ,HO is empowered to sanction and release of loads to all installations with contract demand above 5 MVA. This circular is not related to the powers for approval of change of tariff from HT continuous to HT non-continuous. It neither revises nor refer to the Commercial Circular No. 246 Dated 11/08/2015 on the subject of change of tariff from HT continuous to HT non-continuous. The Commercial Circular No. 246 fully empowers the Superintending Engineer for all the HT consumers for change of tariff from HT continuous to HT non-continuous. As such the reference to the CE (Commercial ) by the Superintending Engineer, NUC is unwarranted in the opinion of the Forum. The reference is pending un-replied for more than one year
8. The regulation 4.13(b) of the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 mandate as under:

*"Change of category for use of supply in reference of Tariff schedule shall be effected within the second billing cycle on receipt of application and payment of necessary charge."*

In case of failure to do so, compensation at the rate of Rs. 100/- per week or part thereof for the delay is to be paid to the consumers. The Forum observes that the Distribution Company has not adhered to the norms and has abnormally delayed the matter in this case.

9. In view of the above facts, the Forum directs the Distribution Company to apply the tariff category of HT I Non-Continuous with effect from March 2016 till October 2016 and refund the amount on account of difference in tariff category till the date of refund with interest at the Bank Rate under Section 62 (6) of the Electricity Act, 2003 .
10. As the Distribution Company failed to change tariff category since March 2016 , the Forum also directs to pay compensation to the complainant at the rate of Rs. 100/- per week or part thereof for delay from 1<sup>st</sup> March 2016 till the month in which the change tariff category shall be effected .
11. Compensation for loss suffered by the consumer, say for mental agony, man hrs loss for follow up, travelling exp. is not be allowed. As the SOP regulations do not provide for it.

After considering the representation submitted by the consumer, comments and arguments by the Distribution Company, 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 Distribution Company should apply the tariff category of HT I Non-Continuous in the ensuing bill with retrospective effect from March 2016 till October 16 and refund the amount on account of difference in tariff category with interest at the Bank Rate under Section 62 (6) of the Electricity Act, 2003 till the date of refund.
2. The Distribution Company should also pay compensation to the complainant at the rate of Rs. 100/- per week or part thereof for delay from 1<sup>st</sup> March 2016 till the month in which the change of tariff category is effected .
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 one month and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum .
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.
4. 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

**( Sandip D. Darwade )**  
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. ,  
Nashik .Urban Circle office,