

**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**  
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**Dwarka, NASHIK 422011**

No. / CGRF /Nashik/NRC/N.R.Dn./496/27-15/

Date: 22/09/2015

(BY R.P.A.D.)

**In the matter of change in tariff from Continuous to Non-continuous category**

**Date of Submission of the case : 17/08/2015**

**Date of Decision : 22/09/2015**

To.

1. M/s. Thyssenkrupp Electrical Steel India Pvt. Ltd.  
At Post Gonde, Village Wadivarhe  
TQ. Igatpuri Dist. Nashik 422403  
(Consumer No. 052089006996)

Complainant

2. Nodal Officer ,  
Maharashtra State Electricity Distribution Com. Ltd.,  
Rural Circle office,  
Nashik

Distribution Company

3. Executive Engineer (Rural)  
Maharashtra State Electricity Distribution Com. Ltd.  
Patel Chamber , Nashik

**DECISION**

M/s. Thyssenkrupp Electrical Steel India Private Limited , (hereafter referred as the Complainant). Igatpuri Nashik is the HT Industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against MSEDCL for change in tariff from continuous to non-continuous category . The Complainant filed a complaint regarding this with the Forum. As per the order dated 28/05/2015 , the Forum has deferred the decision on the grievance application as it was revealed that the application of the complainant submitted on 17/07/2014 , for the change in Tariff Category is yet to be decided and the same is pending with the Head Office of the Distribution Company. The Distribution Company was directed to decide the application of the complainant in accordance with rules and regulations within a period of two months from the date of the order. The complainant was given liberty to approach the Forum, if aggrieved by the decision of the Distribution Company. As the Distribution Company has not given any decision within a period of two months the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.188 of 2015 on 17 /08/2015.

The Forum in its meeting on 21/08/2015, decided to admit this case for hearing on 08/09/2015 at 11.30 pm in the office of the forum. A notice dated 21/08/2015 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, Rural Circle Office Nashik for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shir. B. N. Sawant, Nodal Officer, Shri. A. R. Chavan, Executive Engineer represented the Distribution Company during the hearing. Shri Vinayak Salunke, Shri. Lucky Popli, appeared on behalf of the consumer.

**Consumers Representation in brief :**

1. Thyssenkrupp Electrical Steel India Private Limited (TKES) applied to MSEDCL for change of tariff category from continuous to non- continuous on 17/07/2014, but the request was rejected. TKES reverted back to MSEDCL vide its letter dated 24/09/2014 against which no reply has been received till date.
2. An appeal was made before the Internal Grievance Redressal Cell ( vide letter dated 30/12/2014) . The request was rejected by IGRC citing commercial circular no 88 dated 26/09/2008 which stipulates that " the consumer getting supply on express feeder may exercise his choice between continuous to non-continuous tariff only once in a year, within the first month after issue of the tariff order, for the relevant period"
3. An appeal was also made before the Consumer Grievance Redressal Forum (CGRF) dated 15/04/2015. CGRF did not pass any order stating that the application of the complainant submitted on 17/07/2014 for the change in tariff category is yet to be decided and the same is pending with the Head Office of the Distribution Company. The Distribution Company was directed to decide on application in accordance with the rules and regulations within a period of two months from the date of receipt of CGRF order. The period specified by CGRF expired on 27/07/2015. As TKES has not yet received any communication from CE Commercial MSEDCL, Mumbai regarding their application for change of tariff from continuous to non-continuous, an appeal was also made before the Electrical Ombudsman dated 17/06/2015 .The representation was disposed of by Electrical Ombudsman and the MSEDCL was directed to communicate the decision to us as per order of the forum dated 28/05/2015.
4. The TKES had then done the follow up by writing a letter to SE,MSEDCL, Nashik with a copy to CE( Commercial), MSEDCL, Prakashgad, Mumbai on 30/07/3015, before approaching to the CGRF , But not yet received any communication from MSEDCL.
5. Due to aforesaid unreasonable stand by MSEDCL, TKES as a consumer is forced to pay higher tariff in spite of having non-continuous operations, which is detriment to the company and which leads to undue hardship & irreparable losses.

**Demands of the Consumer:**

Change in tariff category from Continuous to Non-continuous.

**Arguments from the Distribution Company.**

The Distribution Company submitted a letter dated 07/09/2015 from the Nodal Officer, MSEDCL, Rural Circle Office Nashik and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

1. The consumer has submitted his request for change of tariff from continuous to non continuous on dtd. 17/07/2014. This application is not as per commercial circular No. 88 dtd. 26/09/2008. Hence the request is not considered. And application of complainant has been forwarded to competent authority for guidelines vide Lr. SE/NSK/T-II/4854 dtd. 25/08/2014.
2. As per Commercial Circular No. 88 Dtd. 26/09/2008, the consumer getting supply on express feeder may exercise his choice between continuous to non continuous once in a year, within the first month after issue of the tariff order for the relevant tariff period. Hon'ble MERC's tariff order was issued in Aug. 2012 but the consumer had applied change in tariff on 17/07/2014, which was not in stipulated time limit. Also this consumer was in multiparty agreement with two others continues HT consumers. Hence consumer application was rejected and informed to them vide Lr. No. SE/NSKR/Tech/4967 dtd. 28/08/2015..

3. The order given by Hon'ble CGRF, MSEDCL, Nashik in the case vide letter No. CGRF/Nashik/NRC/N.R.Dn./477/08-15/90 dtd.28/05/2015 that the Distribution Company is however directed to decide the application of complainant in accordance with the Rules & Regulation within a period of two months from the receipt of this order.
4. As per order of Hon'ble CGRF, MSEDCL, Nashik this office has submitted the proposal to the Competent Authority the Chief Engineer (Comm.) MSEDCL., Mumbai on dtd. 05/06/2015 in continuation with Lr. SE/NSK/T-II/4854 dtd. 25/08/2014 for necessary action.
5. Now Head Office vide letter No. PR-3/Tariff/No.31239 on dtd. 13/08/2015 asked to submit the list of consumer who have applied for tariff change from continuous to Non Continuous. Accordingly, this office submitted the list by Email on dtd. 20/08/2015 at 04.54 pm to Head Office for necessary decision. The name of consumer is included in the said list.

**Observations by the Forum:**

1. As per the order dated 28/05/2015, the Forum has deferred the decision on the grievance application as it was revealed that the application of the complainant submitted on 17/07/2014, for the change in Tariff Category is yet to be decided and the same is pending with the Head Office of the Distribution Company. The Distribution Company was directed to decide the application of the complainant in accordance with rules and regulations within a period of two months from the date of receipt of this order. The complainant was given liberty to approach the Forum, if aggrieved by the decision of the Distribution Company.
2. But the complainant filed a representation with the Hon'ble Electricity Ombudsman, Mumbai against the decision of the Forum. The Hon'ble Electricity Ombudsman, Mumbai in his order dated 15<sup>th</sup> July 2015 [in representation no.47 of 2015] disposed of the representation with remarks as under:
 

*It was pointed out to the Appellant during the hearing that the Forum has already granted liberty to approach the Forum again if aggrieved by the decision taken by the Respondent on their application and there was no need to file this representation at this stage. The concerned officer of the Respondent also pointed out that the Chief Engineer (Commercial) has been already requested to take decision pursuant to the order of the Forum. The Appellant, thereafter, did not press for any order on the representation.*
3. Chief Engineer (Commercial) vide letter No. PR-3/Tariff/No. 27836 dt. 03/09/2010 directed that the change of category from Industrial continuous to Industrial non-continuous should be locked. The same will be operated from H.O. Level only, on case to case basis after approval from the Competent Authority, Head Office Mumbai. It was noted that the Chief Engineer (Commercial), Mumbai has granted permission to the 4 consumers as per letter no.PR-3/Tariff/33830 dated 15/11/2011 whose applications were submitted beyond the time limit of one month with reference to the prevalent tariff order dated 12<sup>th</sup> September 2010. The complainant has relied upon the decision in these cases and expected similar decision in their case too..
4. The Superintending Engineer, Nashik Rural Circle under letter no. SE/NSK/T-2/ No 4854 dated 25/08/2014 has submitted the case of M/s Thyssenkrupp Electrical Steel India Pvt. Ltd. to the Chief Engineer (Commercial), Mumbai for change of tariff from continuous to non continuous. However the Head Office of the Distribution Company has not yet given any decision. The complainant therefore again approached the Forum. But the position still remains the same as at the time of earlier order.
5. As informed by the Nodal Officer of the Distribution Company the Chief Engineer (Commercial), Mumbai vide letter dated 13/08/2015 has asked to submit the list of consumer who have applied for tariff change from continuous to Non Continuous, which has been submitted on 20/08/2015 to Head Office for necessary decision including the name of consumer in the said list. But the said reference dated 13/08/2015 by the Chief Engineer (Commercial) seems to general one and there is no specific reference to the proposal submitted by the Superintending Engineer, Nashik Rural Circle under letter dated 25/08/2014 in case of the complainant.
6. Meanwhile the Forum has come across an order dated 9<sup>th</sup> July 2015 [in case no. 219 of 2014] by the MERC on the same subject which clarifies the position of the Distribution Company regarding permission to allow change of HT industrial tariff from continuous to non continuous for the

consumers who have submitted the requests for such change beyond the deadline prescribed by the Commission. The brief summary of the said order is given below:

The Distribution Company had submitted a petition dated 4<sup>th</sup> December 2014 with the prayer that :

HT-Industrial Tariff category Continuous and Non Continuous may be merged and only one HT-Industrial category should be introduced, tariff for both type of (express and non express) consumers on express and non express feeders may be uniform so as to protect the revenue from HT-Industrial category . As few consumers have not been able to avail tariff change from Continuous to non Continuous and insisting for execution of their option even after one month of existing tariff order, the Hon. Commission was requested for deferment of all such request / objection till the decision of Hon'ble Commission in the subject matter.

However, in a subsequent submission dated 12 January, 2015, MSEDCL stated that its prayers about merging of Continuous and non-Continuous sub-categories under the HT-Industrial category have been covered in its Multi Year Tariff (MYT) Petition which is before the Commission, and sought to withdraw these prayers. MSEDCL submitted revised prayers are as follows:

1. *The Hon'ble Commission may be pleased to admit the Petition*
2. *Hon'ble Commission may please allow MSEDCL to submit revised prayers of the present petition and allow MSEDCL to proceed with the submissions submitted on dated 01.12.2014 with revised prayers of the present petition.*
3. *The consumer getting supply on express feeder and who have already applied for change of tariff from Continuous to Non-Continuous after one month of tariff order, Hon'ble Commission may confirm MSEDCL action rejecting of all such request/objection & further not to entertain any petition in this regard without hearing us.*

The Distribution Company stated as under:

- ✓ As clarified in the MERC Order dated 12 September 2008 in Case No. 44 of 2008, "...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." , the consumers were given one month from the date of issuance of the Tariff Order for exercising their choice. In case such choice is not exercised within the specified period, then the existing sub-categorization continued. The MSEDCL followed this policy even after passing of Tariff Orders thereafter in Case Nos. 111 of 2009 dated 12 September, 2010 and 19 of 2012 dated 16 August, 2012. Accordingly, consumers' requests within one month from Tariff Orders were duly considered.
- ✓ The Tariff Order in Case No. 19 of 2012 came into effect in August, 2012. MSEDCL did not file its Aggregate Revenue Requirement (ARR) in subsequent years and, therefore, no new Tariff Order was issued within a year. In view of the risk of industries shifting to nearby States, MSEDCL decided to consider requests for change in Tariff sub-categorization from Continuous to Non-Continuous even for those consumers who opted for it even after a month from the date of issuance of the Tariff Order. MSEDCL has consistently made efforts to improve the demand-supply situation in the State. It has withdrawn load shedding on all industrial feeders from February, 2012. Therefore all the Non-Continuous sub-category consumers are getting supply virtually at par with the Continuous sub-category consumers. Due to withdrawal of load shedding, Non-Continuous Industry consumers are enjoying 24 X 7 power supply at a concessional rate, whereas Continuous Industry consumers are paying higher charges. This lead to heavy rush of consumers for change in categorization from Continuous to Non-Continuous as the Tariff for the later is cheaper.
- ✓ The piling up of applications for change of Tariff from Continuous to Non-Continuous and the appropriate action initiated by MSEDCL imposed a huge financial burden on MSEDCL. The Government Audit has also raised objection. Thereafter, from 28 January, 2014, MSEDCL has decided not to entertain applications for change received after one month from the date of issue of the Tariff Order and discontinued this practice. MSEDCL has decided not to entertain such requests for change by Continuous category consumers, and seeks that it be allowed to defer all such requests /objections till the issue of the next Tariff Order.

The Hon'ble Commission has given following ruling on this petition as per order dated 9<sup>th</sup> July 2015:

1. *In the present Petition, MSEDCL has itself quoted the conditions that had been laid down by the Commission for exercising the option of shifting from the HT – I Industrial - Continuous to the Non-Continuous sub-category. There is no ambiguity or scope for different interpretations of those conditions, nor has any been claimed by MSEDCL. The stipulations are self-explanatory, and no*

confirmation is required from the Commission of any action taken by MSEDCL in conformity with them.

2. The Commission notes that, in its MYT Petition in Case No. 121 of 2014, MSEDCL has sought that the HT - Industrial Continuous and Non-Continuous sub-categories be merged. That proposal and related matters have been decided by the Commission in its Order dated 26 June, 2014. While the proposed merger has not been agreed to, the conditions applicable to the option to shift from one sub-category to the other have been modified with prospective effect.
7. In the above mentioned order dated 9th July 2015, the MSEDCL has clarified to the Commission under what circumstances, it was decided to consider requests for change in Tariff sub-categorization from Continuous to Non-Continuous even for those consumers who opted for it even after a month from the date of issuance of the Tariff Order. It is also reported in this order that MSEDCL has decided not to entertain applications, from 28 January, 2014 onwards, for change received after one month from the date of issue of the Tariff Order. The MSEDCL has also requested the Hon'ble Commission to confirm MSEDCL's action rejecting of all such request/objection of consumers who have applied for change of tariff from Continuous to Non-Continuous after one month of tariff order & further not to entertain any petition in this regard without hearing MSEDCL. The Commission has ruled that the stipulations are self-explanatory, and no confirmation is required from the Commission of any action taken by MSEDCL in conformity with them.
8. It was also reported by the Nodal Officer of the Distribution Company that a case is filed in High Court on this issue. He could not furnish the details at the time of hearing. But after exploring further it is learnt that a Public Interest Litigation (PIL) has been filed in the Nagpur Bench of Bombay High Court against MSEDCL's decision to change tariff category of large number of industries well after the MERC deadline. P.I.L. No.22/2015 (Ashish s/o Subhash Chandarana and another .vs. State of Maharashtra and others) is at pre-admission stage with the Hon'ble High Court and the Hon'ble High Court has issued the notice.
9. The issue of changing tariff category from HT – I Industrial - Continuous to the Non-Continuous based on the application dated 17/07/2014 which is beyond the MERC deadline can not be therefore considered by the Forum in view of the above elaborations.
10. Subsequent to the decision of the Forum dated 24/05/2015, new tariff order dated 26<sup>th</sup> June 2015 [In case no. 121 of 2014] has been issued by the Hon'ble Commission. The new provision made in this tariff Order for change of tariff 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 and non-continuous supply one time 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*
11. 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.*

12. The Distribution Company is directed to consider the request of the complainant prospectively now , in view of the MERC tariff order dated 26<sup>th</sup> June 2015 and change the tariff category of the complainant from Continuous to Non-Continuous effective from 1<sup>st</sup> August 2015 subject to the guidelines in the the circular no. 246 dated 11<sup>th</sup> August 2015 by the Chief Engineer (Commercial) MSEDCL, Mumbai.

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. Distribution Company is directed to change the tariff category of the complainant from HT- I Continuous to HT- I Non-Continuous (within one month from the date of this order) effective from 1<sup>st</sup> August 2015 subject to the guidelines in the the circular no. 246 dated 11<sup>th</sup> August 2015 by the Chief Engineer (Commercial) MSEDCL, Mumbai.
2. 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.
3. 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

**(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. , Rural Circle office, Nashik .

