

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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Consumer Grievance Redressal Forum
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No. / CGRF /Nashik/NUC/N.U.Dn.1/613/03/2017-18/

Date: 18/05/2017

(BY R.P.A.D.)

In the Matter of

Change Of Tariff Category From HT Continuous to HT Non-Continuous

Date of Receipt :15/04/2017

Date of Decision :18/05/2017

To.

M/s. CEAT Limited
82, M.I.D.C. Industrial Area,
Satpur Nashik 422007.
(Consumer No. 049069002284)

Complainant

1. Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Urban Circle office, Shingada Talav,
Nashik
2. Executive Engineer (U-1)
Maharashtra State Electricity Distribution Com. Ltd.
Kharbanda Park Nashik .

Distribution Company

DECISION

M/s. CEAT Limited , Satpur Nashik hereafter referred as the (Complainant) 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. Ltd. . But as the IGRC did not take any decision for more than 2 months , the consumer has submitted representations to the Consumer Grievance Redressal Forum in Schedule "A". The representations is registered at serial No. 69 of 2017 on 15 /04/2017.

The Forum in its meeting on 18/04/2017, decided to admit this case for hearing on 02/05/2017 at 11.30 Pm in the office of the forum . A notice dated 18/04/2017 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. The hearing was later postponed to 05/05/2017 at the request of the complainant.

Shri . S.S. Sawairam , Nodal Officer/Ex. Engr. , Sr. Manager Shri. D.R. Mandlik represented the Distribution Company during the hearing. Shri . B.R. Mantri appeared on behalf of the consumer.

Consumers Representation in brief :

1. MERC has issued the tariff order on date 26/06/2015 and changed the earlier restriction ruling for a change of tariff HT IC to HT IN. In this tariff order, MERC has withdrawn the restriction of within

one month after tariff order and revised it to change the tariff HT IC to HT IN anytime during the financial year but only once in the financial year with one-month prior notice. Hon'ble Commission has decided the above ruling in tariff order in Case No.121 of 2014 order date 26/06/2015 on page no. 232 of 381:

2. 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.
3. With reference to Commission's revised concept, the has given a request for change of tariff HT IC to HT IN on date 25.02.2016 and given the reminder on date 14.11.2016 for the effect in billing. But the application is pending with MSEDCL.
4. After the tariff order, MSEDCL has issued the circular No.246 dated 11/08/2015 for implementation of Commission's revised concept for applicability of tariff Continuous and non-continuous. "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 26th June 2015 to 30th June 2015 shall be made effective from 1stAugust 2015 as HT billing cycle starts from 1stof month, and the consumers who applies from 1stJuly to 31st July will be effective from 1stSept. Similar procedure for actual implementation of change of categorization shall be followed for application received thereafter.
5. Meanwhile, MERC has issued the order on date 19/08/2016 for to consider the earlier applications which were submitted for change of tariff HT IC to HT IN with reference to SoP regulation.
6. As per MERC SoP Regulations, the change of tariff category is to be effected within the period of second billing cycle.
7. Recently, MERC has issued the tariff order dated 03/11/2016, in which HT IC & HT IN both tariffs has merged.
8. As per MSEDCL circular No. 246, as the complainant has applied on date 25.02.2016, the change of tariff should be effected from 1stApril 2016.

Relief Sought :

1. To allow the request for change of tariff as per application.
2. To give order for refund of the excess collected amount against tariff difference HT IC to HT IN from the month of April 2016 to Oct.16 with interest from the date of deposit to till the date of refund.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 29/04/2017 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- es fl , V fy- 82] , e-vk; -Mh-l h- l kri j ukf' kd ; kuh njl adr cny dj. kl kBh (HT IC to HT IN) l nfHkz i = fn- 25@02@2016 vUo; s fourh dyyh vkg s l nj xkgdkps Contract Demand 14603 KVA vl u R; ki sdh 5000 KVA xkgdkus Open Access e/ku ?kr yys vkg-
- 2- rl p okf.kT; hd ifji=d da 247 fn- 25@08@2015 ud kj vf/k{kd vfHk; rk]ukf' kd 'kgj eMy ; kuk 5000 KVA i; r eat jh ns ; kps vf/kdkj vl u R; ki s kk vf/kd Hkkj eat jhl kBh e[; dk; ky;] ecbz ; kpdMs vf/kdkj vkg s R; keGs l nj xkgdkps njl adr cnykckcrps i dj.k ; k dk; ky; kus i = da SE/NUC/T/HT/0825 dt. 25/02/2016 vUo; s e[; vfHk; rk %okf.kT; % ecbz ; kpdMs ekxh' kUl kBh ikBfoysys vkg s i jarq vn; ki ; r ; kckcrhr ojhrB dk; ky; kdMu ekxh' kUl i ktr ukgh- rs i ktr gkrkp i ehy dk; bkgh dj. ; kr ; by-

Action by IGRC :

The complainant applied to the IGRC on 21/11/2016 but the IGRC did not decide the case even after lapse of more than 2 months.

Observations by the Forum:

1. The complainant is availing power supply on 33 KV line from Mahindra sub-station at Satpur having Contract demand of 14.603 MVA and also availing partial open access for part of their requirement i.e. 5 MVA 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 25/02/2016 to the Superintending Engineer, Nashik Urban Circle (NUC).
3. The complainant had earlier submitted the grievance to the Forum which was registered as Case no. 64 of 2016. But after contacting the Head office of MSEDCL by the complainant, it was informed that the proposal of change of tariff to all consumers is processed and kept for final approval to Managing Director. Hence the case was withdrawn by the complainant keeping the claim to approach the CGRF again in case the application is not decided within a month. The grievance was therefore disposed off by order dated 14/03/2016. As the grievance is not yet resolved the complainant has approached the Forum again.
4. As per the MERC tariff order dated 26th June 2015 [In Case No. 121 of 2014] applicable from 1st 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.
5. In view of the MERC tariff order dated 26th June 2015, Chief Engineer (Commercial) MSEDCL, Mumbai has issued circular no. 246 dated 11th 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 26th June 2015 to 30th June 2015 shall be made effective from 1st August 2015 as HT billing cycle starts from 1st of month, and the consumers who applies from 1st July to 31st July will be effective from 1st 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.*
6. Now as per the prevailing MERC tariff order dated 03/11/2016 [In Case No. 48 of 2016] applicable from 1st 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.

7. 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 25/02/2016 .
8. In the present case , the complainant has applied for change of tariff from Continuous to Non-Continuous on 25/02/2016 (in the FY 2015-16) , hence entitled for change to non-Continuous with effect from the month of April 2016. However the Superintending Engineer , NUC referred the matter to CE (Commercial) by letter No. 0825 dated 25/02/2016 and is awaiting for guidelines . The CE (Commercial) has not yet replied .
9. 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 revise 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
10. 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 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.

11. 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 April 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 .
12. As the Distribution Company failed to change tariff category since April 2016 , the complainant is entitled for the compensation at the rate of Rs. 100/- per week or part thereof for the delay as per SOP Regulations . But the Forum does not pass any order in this regard as the complainant has not claimed the same.

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 April 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. 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 .

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

(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. , Urban Circle office, Nashik .