

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

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

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Consumer Grievance Redressal Forum
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No. / CGRF /Nashik/NUC/Shrirampur Dn./517/48-15/ Date: 12/04/2016

(BY R.P.A.D.)

In the matter of refund the excess amount paid for the continuous supply in spite of receiving the interrupted power supply.

Date of Submission of the case : 02/03/2016

Date of Decision : 12/04/2016

To.

M/s. Sunfresh Agro. Industries Pvt. Ltd.
Through Director Kishor Ramchandra Nirmal,
Gat No.121/5 to 121/10
Ranjankhol Post Tilaknagar,
Tq. Rahata Dist. Ahmednagar 413720.
(Con.No. 148519007330)

Complainant

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

Distribution Company

DECISION

M/s. Sunfresh Agro. Industries Pvt. Ltd. (hereafter referred as the Complainant) is the industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has asked for refund the excess amount paid for the continuous supply of express feeder under HT-I category and the compensation against the financial loss to the company due to the interrupted power supply. The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee 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 Forum in Schedule "A". The representation is registered at Serial No.39 of 2016 on 02/03/2016.

The Forum decided to admit this case for hearing on 23/03/2016 at 12.00 pm in the office of the forum . A notice dated 04/03/2016 to that effect was sent to the complainant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Circle Office Ahmednagar for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer

Shri. S.K. Band Executive Engineer Shirampur, Shri. A. A. Wani, Dy.Ex.Engr. represented the Distribution Company during the hearing. Shri R.D. Bora and Shri S.V. Deshmukh appeared on behalf of the consumer.

Consumers Representation in brief :

1. The complainant has challenged the IGRC decision dated 07/01/2016 in Case No. 192/2015 passed by the Executive Engineer (Administration) MSEDCL, O&M Circle Ahmednagar.

2. The complainant submits that, the complainant is the private limited company having Milk Products Manufacturing unit at Gut No. 121/2A at Post Ranjankhol Tq. Rahata (Shrirampur) Ahmednagar 413720. The unit handles more than 5 Lakh liters of Milk per day as a raw material producing varied range of products. Milk is highly perishable item and sensitive to temporary changes. Once Milk is brought into the plant it is a wonder time bound process such as pasteurization, standardization, filtration, hitting and cooling, drying and evaporation etc. so that the appropriate milk products can be produced. All these process at the plant are automated and the devices used therein requires continuous electricity supply.
3. Considering the necessity of continuous supply for sustaining the manufacturing activities of the plant the company had opted for the supply of electricity through an express feeder. The MSEDCL has sanctioned 33 KV HT power supply to the company vide letter dated 28/06/2010. As per the sanction letter the company carried out the entire 33 KV work as per approved line survey and estimate using such line material as approved by MSEDCL. The company has HT Industrial Connection with contract demand 1800 KVA in the name of the company being catered at 33KV level under the express feeder category through 33 KV Shrirampur feeder emanating from 220 KV Babbleshwar Sub Station. This HT connection falls in Ahmednagar Circle Office MSEDCL. Division Office Shrirampur.
4. Interruption of Power supply affects very badly on production and process as well as its quality. This causes irrecoverable and intolerable financial loss which had taken company in some drastic hamper in the manufacturing its products.
5. The Maharashtra Electricity Regulatory Commission (MERC) has distinguished the tariff category of the industrial consumer requiring continuous and uninterrupted power supply into continuous supply category. Similarly the tariff of those consumers who do not require continuous supply, has been determined under non continuous category. Therefore, the company has opted for HT-1 continuous supply category from MSEDCL. Accordingly MSEDCL has been billing the tariff to the company that are applicable for continuous supply i.e. express feeder-continuous supply category.
6. If the sanction letter dated 28/06/2010 is perused and specifically clause No. 22 of the said sanction letter is made applicable it is specifically mentioned that, the tariff applicable to the company is of express feeder and continuous one. It is further submitted that, as the electricity provided to the company was from express feeder and the category which the company had opted was that of express feeder-continuous supply category, therefore, considering the same the MSEDCL ought to have supply uninterrupted electricity supply to the company.
7. The agreement was entered between the complainant and MSEDCL on 06/07/2010 wherein the terms and conditions were agreed and in the manner in which electricity was to be supplied to the company were agreed upon. The company has paid an amount of Rs. 29,89,450/- to the MSEDCL as a payment towards connection charges and as a security deposit. In the said agreement also the MSEDCL has agreed upon to give continuous and uninterrupted electricity supply to the company.
8. As the company was supplied with continuous electricity supply under the category of HT continuous express feeder, the complainant company was liable to pay about 68 paisa per unit as a additional charge of compared to HT-1 Industries Non Continuous Category. The additional charge of 68 paisa per unit has been levied as per the tariff order which was issued by the Commission on 16/08/2012 (Case No. 19/2012) allowing the additional charge of 68 paisa per KWH. For getting such uninterrupted electricity supply the company has incurred an expenses of Rs. 52.10 Lakhs for erection of the express feeder. But in spite of spending such huge amount the company is not getting uninterrupted and continuous power supply.
9. Since the day of connection of electricity supply the company is facing interrupted power supply or load shedding .Due to this interrupted power supply or load shedding ,the company is facing huge financial losses. On several occasions the company had informed the MSEDCL about the lapses on their part in respect of interruption in power supply and load shedding, since the day when the connection was given to the company. On the earlier occasions the MSEDCL ignored the requests made by the company for uninterrupted power supply. The MSEDCL continued its load shedding and interrupted power supply to the company. As the company again in oral form of request approached the MSEDCL and requested them to give uninterrupted and continuous power supply, the MSEDCL assured that, henceforth there will be no interruption or load shedding in the power supply to the company. But in spite of the assurance given at the behest of MSEDCL there was again interrupted power supply or load shedding. Again there use to be oral request from the company in respect of uninterrupted power supply and load shedding at the hands of MSEDCL. Again the same there is to be assurance from the side of MSEDCL that henceforth we will be giving uninterrupted power supply and without load shedding. Taking into the words of MSEDCL as an assurance the company relied upon the oral assurance given by MSEDCL but again the same thing i.e. continuous power supply and load shedding at the hands of MSEDCL. The said

- interrupted power supply and load shedding was the regular on the part of MSEDCL. This was a continuous cause of action at the hands of MSEDCL.
10. The complainant was constrained to file a written complaint dated 07/04/2015 which was communicated to the Superintending Engineer MSEDCL Circle Office Ahmednagar. The said communication/complaint dated 07/04/2015 was in detailed format written to the MSEDCL and contended that, there is always interrupted power supply and load shedding at the hands of MSEDCL. It was further stated that, in the said complaint that due to interruption of power supply which has badly affected the production quality and the process which has incurred severe financial losses to the company. It was also further stated that, in spite of the fact that, the company has opted for HT-1 continuous power supply from MSEDCL the company is not getting the continuous power supply. It was also further stated that, the company is liable to pay an extra tariff of 68 paisa per unit as extra charge due to which the company as has opted for HT-1 continuous supply from MSEDCL. In the said complaint the company had requested as the MSEDCL has failed to provide the continuous Supply of electricity under the category of HT-1 category and therefore requested to refund the excess amount paid for continuous supply express feeder HT-1 category and also sought for compensation against the financial loss due to interruption of power supply at the hands of MSEDCL.
 11. Though the complaint was given to the MSEDCL, Ahmednagar and the same was received by the office of MSEDCL Ahmednagar on 06/07/2015 but no cognizance of the same was taken by the said office and in spite of the said communication again there was interrupted power supply and load shedding . Again the complainant company kept in touch with MSEDCL Ahmednagar and also their office at Shirampur and requested them to give uninterrupted power supply, but again the same thing , the request of the company was not taken into consideration and there is to be frequent interrupted power supply and load shedding at the hands of MSEDCL. Again the company sent an reminder dated 17/08/2015 in the form of complaint. In the company had again at the cost of repetition has stated that, since the day of connection of continuous electricity supply i.e. HT-1 category there is interrupted power supply and load shedding. In the said reminder/Complaint the company had requested to give uninterrupted power supply. It was also further stated that, due to interrupted power supply the company is facing huge financial losses and requested the MSEDCL to repay the excess amount paid by the company for continuous supply for express feeder HT-1 (Continuous category) and also claimed for the compensation against the financial loss incurred by the company due to the interrupted power supply and load shedding.
 12. The original complaint dated 04/07/2015 was not taken into consideration neither the reminder/complaint dated 17/08/2015 was also not taken into consideration and the same issue of interrupted power supply and load shedding continued at the hands of MSEDCL, the company was constrained to file reminder/complaint dated 21/09/2015. In the said complaint the company had requested to give uninterrupted power supply. It was also further stated that, due to the interrupted power supply the company is facing servers financial losses and requested to refund the excess amount for the continuous supply for express feeder HT-1 and also claimed for compensation against the financial loss cured by the company due to the power interruption.
 13. Though the communication/complaint made to the MSEDCL Ahmednagar by way of communication/complaint dated 04/07/2015, 17/08/2015 and 21/09/2015 no cognizance was taken by the MSEDCL Ahmednagar and there was continuous interrupted power supply and load shedding. Though the company had made complaints in the form of written grievance/complaint but then also the company was in oral touch with the MSEDCL Ahmednagar requesting the MSEDCL to give uninterrupted power supply which come under the purview of HT-1 continuous (express feeder) tariff category. But then also the MSEDCL Ahmednagar did not pay any heed to the complaints/grievances made by the company. The company was then constrained to file a detailed complaint before the Executive Engineer i.e. the Internal Consumer Grievance Redressal Cell dated 23/11/2015. In the said complaint the complainant company had given all the detailed aspects of the matter or grievance as stated herein above.
 14. In the said complaint the company has stated in what manner the company is facing the problem due to the interrupted power supply and load shedding at the hands of MSEDCL. The company had also annexed the chart of interruption details from the month of April 2011 to April 2015. In the said chart the company had given all the details in respect of exact hours of tripping , break down, shut down and load shedding of the electricity supplied to the company. In the said complaint before the Internal Grievance Redressal Cell dated 23/11/2015 the company had asked for the refund of excess amount paid for continuous supply express feeder HT-1 category and the compensation against the financial loss the company due to interruption in electricity supply. Annexed hereto is the copy of chart showing feeder interruption details.

15. The complainant has annexed some of the electricity bills of the year 2015 in order to show the units consumed in the form of electricity by the company. It is further submitted that, nearly about in a month the company consumed nearly about 6 to 7 Lakhs units of electricity . Taking into consideration the same and the category in which the electricity supplied to the company i.e. HT-1 Express Feeder category the company is liable to be an extract amount of Rs. 68 paisa per unit. But in fact taking into consideration the electricity supplied by the MSEDCL which is interrupted one the company should not be held liable for the extract amount of 68 paisa per unit and the same is liable to be refunded back again to the company. Annexed hereto is the copy is electricity bills.
16. The Executive Engineer MSEDCL Ahmednagar decided the complaint without taking into consideration the grievance of the company in respect of refund of excess amount paid for continuous supply under the Express Feeder HT-1 category and the compensation against the financial loss due to the load shedding and interrupted electric supply since April 2011 to April 2015.
17. The complainant further submits that, though in the reply filed by the MSEDCL there is reference of Clause No. 17.1, 17.2 and 17.3 which are totally irrelevant to the facts and circumstances of the said case and the same cannot be relied upon by the Executive Engineer while deciding the complaint filed by the complainant. Several other issues were raised by the MSEDCL regarding the fact that, no claim for the compensation shall be entertain if the case is filed later than 60 days from the date of rectification of deficiency. The Executive Engineer did not take the said issued into consideration as this was the continuous cause of action at the hands of the MSEDCL, as the said cause of action was continuous was rectified from the chart annexed by the complainant which gave the details of 33 KV Shrirampur Feeder interruption details.
18. The complainant company further states that, the observations made by the Grievance Cell in order dated 07/01/2016 as follows :
 "During the hearing the EE Shrirampur stated that, being 33 KV level load shedding is not carried out on 33 KV Sut Girmi Feeder. Break down on the feeder mostly are due to natural calamities and other equipment failure reasons. Being a 33 KV level, the demand of the consumer for continuous interrupted power supply is correct. The EE Shrirampur further stated that, the 33 KV Sut Girmi Feeder is not express feeder. 33 KV supply provided to the consumer by tapping on 33 KV Sut Girmi Feeder which is emanating from 132 KV Sub-Station Babbleshwar and not shut down are proposed on the said feeder on the staggering days".

From the reply of the EE Shrirampur it has come on the record and the observations of the Cell that though the electricity supply is of 33 KV level and the demand of the company is for continuous and interrupted power supply is correct but then also it has come on the record and the sanction letter dated 28/06/2010 and the agreement dated 06/07/2010 that the company was supplied with HT power connection from the Express Feeder and that too Industrial Continuous category. In fact it has come on the record that fraud has been played by the MSEDCL on the complainant company, wherein it is shown that the company is supplied with the electricity under the category of HT-1 continuous, but in fact, the said feeder from which the electricity is supplied is not an express feeder.

19. It had come from the mouth of the Executive Engineer, Shrirampur that the electricity supply which is provided to the complainant company is not done from the express feeder there and there only the complainant company ought to have been granted the refund of excess amount paid by him for the continuous supply express feeder HT-1 category and the compensation against the financial loss incurred by the company due to the interruption at the hands of MSEDCL. But in spite of doing the same the Executive Engineer by order dated 07/01/2016 partly allowed the complaint filed by the complainant company wherein direction was given to the Executive Engineer Shrirampur to ensure that, continuous and uninterrupted power supply to be provided to M/s. Sunfresh Agro Industries Pvt. Ltd.
20. Nearly about 6 to 7 Lakhs units are consumed by the company in the form of electricity which is provided by the MSEDCL. As the complainant comes under the category of HT-1 continuous supply category the billing tariff to the company which is applicable is that of continuous supply i.e. Express Feeder continuous supply category which is not subject to any kind of interruption in power supply or load shedding for which the company was liable to pay about 68 paisa per unit as a additional to HT-1 Industrial Continuous category. If the said units are calculated per month and the amount in the form of excess amount i.e. 68 paisa per unit is considered , then the company has faced a huge financial loss at the hands of MSEDCL and in respect of the same only the complainant was refunding the said excess amount and compensation which may go into crores of rupees.

21. MERC has determined the tariff and additional charge for the uninterrupted supply of quality power which was not supplied by and therefore, the recovery of the additional charge in the form of 68 paise per unit is not acceptable and thus it needs to be refunded back to the company.
22. The complainant further submits that, in a order dated 10/01/2002 in case of 1/2001 the Hon'ble Commission ruled that, in the event of any interruption in power supply in any billing cycle, the reliability charge shall not levied to the consumer for that month. The undertaking of payment of additional charges was given by the company only on that basis the MSEDCL provided uninterrupted power to the company. It is further submitted no prior or later information about the load shedding or interruption is given to the company. The MERC vide order dated 5th March 2010 imposed 2% surcharge on the billing amount in order to enable the MSEDCL to make their infrastructure to accommodate such type of interruptions or situations, therefore, the MSEDCL was and is duty bound to provide uninterrupted electricity supply which the learned forum (IGRC) failed to consider the same.
23. The complainant had produced the details of the 33KV Shrirampur Feeder interruption wherein the complainant had given the details about the tripping hours, break down hours, Shut down hours and the load shedding hours and their total numbers, right from April 2011 to April, 2015. Perusing the said chart it can be gathered that, there were n-number of tripping, break down, shut down and load shedding at the hands of MSEDCL and the learned Forum (IGRC) upon perusing the same ought to have granted the compensation as well as ought to have refunded the excess amount paid by the complainant company under the category of HT-1 continuous.
24. The forum (IGRC) ought to have considered the fact that, the company deals with highly perishable good which are in the form milk and milk products and which are sensitive to the temperature modification and are having a lower life shelf. As the company had opted for HT-1 continuous category supply the MSEDCL was duty bound to supply the said electricity supply without any interruption and without load shedding but the MSEDCL, Shrirampur has failed to supply the said uninterrupted power supply, The learned forum (IGRC) has failed to consider the aspect of the matter even the said aspect has come on the record from the mouth of the Executive Engineer Shrirampur and in view of the same the complaint filed by the complainant ought to have been allowed.
25. The complainant craves leave to add, amend, alter, delete or modify any of the paras/grounds as and when required by this Hon'ble Forum.
26. There is no any delay caused in approaching before this Hon'ble Forum. The date of the decision was 07/01/2016 and the said order was sent to the complainant company by RPAD on 11/01/2016 and as the appeal is to be filed within 60 days from the date of receipt of the said order hence the appeal filed today is well within the prescribed period of limitation.

Consumer's Demand :

1. The appeal may kindly be allowed.
2. The MSEDCL may kindly be directed to refund the excess amount paid for the continuous supply of express feeder under HT-1 category and the compensation against the financial loss to the company due to the interrupted power supply at the hands of MSEDCL.
3. The decision and order dated 07/01/2016 passed by the Superintending Engineer i.e. The Internal Consumer Grievance Redressal Cell in Appeal No. 192/2015 may kindly be quashed and set aside.
4. Any other appropriate relief, which this Hon'ble Forum deems fit and proper may kindly be granted in favour of the complainant.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 22/03/2016 from the Executive Engineer Shrirampur, MSEDCL, and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

1. Power supply to HT consumer No, 148519007330 Name M/s. Sunfresh Agro Ind. Pvt. Ltd. At Ranjankhol Post Tilaknagar Tq. Rahata Dist. Ahmednagar has sanctioned 33 KV HT power supply by MSEDCL vide letter no SE/ANRC/T/8106B dt. 28/06/2010 and released on 07/07/2010.
2. While sanction of new HT power supply at 33 kv to M/s. Sunfresh Agro Ind. Pvt. Ltd at Nirmal nagar, the conditions are mentioned such as Tariff applicable HT-1 Express feeder continuous and 33 KV line works to carry out under 1.3 % supervision basis.

3. The connection to the Sunfresh Agro consumer is connected by tapping to 33KV Sutgirmi line from 220KV Babhaleshwar Sub Station. Presently no load shedding is carried out on 33 KV Sutgirmi feeder MSEDCL has always given priority of reliable supply to consumer.
4. It is never stated that 33KV Sutgirmi feeder is not express feeder, it is supplying to 33/11 KV Sutgirmi Sub Station Load shedding not carried out on this feeder.
5. As per sanction letter SE/ANRC/T/8106B dt. 28/06/2010 condition No. 15 POWER RESTRICTION Government load restriction orders as prescribed and amended from time to time shall be applicable in you.
6. On 33 KV Shrirampur/Sutgirmi feeder due to emergency/Critical conditions due to system constraints, only emergency load relief is given. This ELR is completely stopped from Sept .12 onwards.
7. In this regards it is to state that the as per clause 17.1 Maharashtra Electricity Regulation commission supply code and other condition of supply Regulation 2005, dist licensee shall take all reasonable measures to ensure continuity quality and reliability of power supply except he is prevented from doing so by other occurrences beyond his control.
8. Tripping and breakdowns are the occurrences beyond the MSEDCL's control.
9. As per clause 17.2 dist. Licensee shall be entitled for reasons of testing or maintenance or any other sufficient cause for it's efficient working to temporarily discontinue the supply for such period.
10. Accordingly MSEDCL has intimated orally to the consumer time to time in advance before carried out the work for testing or maintenance or any other sufficient cause for MSEDCL's efficient working .
11. As per clause 17.3 dist. Licensee shall not be liable for any claims attributable to indirect consequential incidental punitive or damages loss of profits or any legal principle which may become available as a result of any curtailment of supply under the circumstances or conditions mentioned in this regulation 17.
12. MSEDCL has always tried to keep Good quality & continuous supply to the consumer , so MSEDCL shall not be liable for any claims damages and loss of profit due to discontinue of supply under the conditions mentioned in regulation 17.
13. As per MERC SOP 2005, 12. No claim for compensation shall be entertained if the case is filed later than period of 60 days for the date of rectification of the deficiency. As consumer has complaint after expiry of 60 days, this demand of compensation is not tenable.
14. Considering above it can be seen that MSEDCL is not attributable to pay compensation at stated by consumer.

Action by IGRC:

- 1 Internal Grievance Redressal Cell Ahmednagar Circle conducted hearing on 07/01/2016 for the complaint submitted on 23/11/2015
- 2 After hearing both the parties IGRC gave decision as per letter dated 11/01/16 as under:
 1. The Executive Engineer, Shrirampur directed to ensure that continuous & uninterrupted power supply to be provided to M/s. Sunfresh Agro Inds. Pvt. Ltd.
 2. Maintenance plan of 33 KV Sut-Girmi feeder to be prepared in consultation with consumer to that further break downs may be avoided.
 3. No load shedding to be carried out on above said feeder.
 4. If any emergency shut down is needed on above feeder, intimation to be given to consumer well in advance.

Observations by the Forum:

1. The Nodal Officer and Executive Engineer, Ahmednagar Circle office has not submitted para wise comments on the grievance as directed by the Forum in its notice dated 04/03/2016 . The Forum has received directly a letter dated 22/03/16 from Executive Engineer, Shrirampur Division.
2. The Complainant is engaged in manufacturing of milk products. The manufacturing process used requires continuous supply of electricity. Interruption in supply causes huge losses to the Complainant. Therefore, the Complainant applied in June 2010 for un-interrupted power supply from express feeder. The Complainant were assured that being Express Feeder consumers, they would be not subjected to any kind of interruption in power supply or load shedding, for which the Complainant has to pay higher/additional charges that are applicable for the continuous supply. The Commission has distinguished the Tariff category of the Industrial consumers requiring continuous and uninterrupted power supply into Continuous Supply category. Accordingly, the Distribution Company is levying Express Feeder-Continuous Supply category charges since date of supply i.e. 07/07/2010 till date as per the Tariff Orders

issued by the Commission during this period. However, the Complainant have frequently faced interrupted power supply, which leads to huge losses. In spite of informing the Distribution Company by the Complainant from time to time about non-receipt of continuous supply by the Complainant, the Complainant was not receiving continuous power supply. The Complainant states that since the Distribution Company was charging higher Tariff of HT Continuous (Express Feeder) Tariff category, it was the responsibility of the Distribution Company to provide uninterrupted and load shedding free electricity supply to the Complainant as compared to consumers of Non-continuous category. However, the Complainant was facing load shedding and interruptions, therefore, they should have been levied the Tariff of the HT Continuous (non Express Feeder) category. The Complainant made applications to the Distribution Company to refund the same. However, no response was given by the Distribution Company.

3. The complainant has given detailed month wise instances of the power interruptions from April 2011 to April 2015 due to various reasons as under:

Month	Tripping		Breakdown		Shutdown		Load Shedding	
	No.	Hrs.	No.	Hrs.	No.	Hrs.	No.	Hrs.
Apr-11	13	1=05	2	6=25	2	8=20	5	10=25
May-11	4	0=25	1	3=00	-	-	2	2=00
Jun-11	4	0=25	2	9=05	-	-	-	-
Jul-11	4	0=05	-	-	2	4=15	-	-
Aug-11	2	0=10	-	-	-	-	2	3=50
Sep-11	4	1=15	-	-	1	1=06	4	5=40
Oct-11	-	-	-	-	-	-	22	27=20
Nov-11	1	0=05	-	-	2	2=40	-	-
Dec-11	1	0=05	-	-	-	-	-	-
Jan-12	2	0=15	-	-	-	-	-	-
Feb-12	1	0=10	-	-	-	-	-	-
Mar-12	6	0=35	1	2=30	-	-	-	-
Total	39	4=35	6	21=00	7	16=21	35	49=15
Apr-12	3	0=15	1	1=25	3	11=60	-	-
May-12	3	0=15	-	-	1	2=05	-	-
Jun-12	6	1=00	-	-	-	-	-	-
Jul-12	7	2=55	3	7=33	1	9=20	-	-
Aug-12	1	0=05	-	-	-	-	2	4=00
Sep-12	-	-	1	15=35	2	8=02	-	-
Oct-12	8	1=22	-	-	2	8=40	-	-
Nov-12	1	0=05	-	-	1	2=55	-	-

Month	Tripping		Breakdown		Shutdown		Load Shedding	
	No.	Hrs.	No.	Hrs.	No.	Hrs.	No.	Hrs.
Dec-12	2	0=10	1	1=00	1	4=50	-	-
Jan-13	2	0=15	-	-	-	-	-	-
Feb-13	3	0=20	1	2=45	1	1=55	-	-
Mar-13	2	0=10	-	-	-	-	-	-
Total	38	6=52	7	28=18	12	52=27	2	4=00
Apr-13	7	0=35	1	2=09	5	7=30	-	-
May-13	2	0=10	1	1=14	1	2=00	-	-
Jun-13	4	0=25	1	1=05	1	0=35	-	-
Jul-13	1	0=05	-	-	-	-	-	-
Aug-13	1	0=05	-	-	1	0=30	-	-
Sep-13	3	1=18	-	-	-	-	-	-
Oct-13	5	0=25	-	-	-	-	-	-
Nov-13	2	0=15	-	-	-	-	-	-
Dec-13	2	0=10	-	-	-	-	-	-
Jan-14	2	0=10	-	-	-	-	-	-
Feb-14	7	0=35	-	-	-	-	-	-
Mar-14	10	1=55	1	0=35	3	20=05	-	-
Total	46	6=08	4	5=03	11	30=40	-	-
Apr-14	11	1=34	-	-	1	5=20	-	-
May-14	4	0=20	-	-	2	4=45	-	-
Jun-14	1	0=10	-	-	-	-	-	-
Jul-14	2	0=10	-	-	1	1=00	-	-
Aug-14	6	0=50	1	4=37	1	0=45	-	-
Sep-14	6	0=30	-	-	3	3=06	-	-
Oct-14	2	0=10	1	1=45	2	8=45	-	-
Nov-14	4	20	-	-	2	5=05	-	-
Dec-14	3	0=35	1	1=40	1	0=55	-	-

Month	Tripping		Breakdown		Shutdown		Load Shedding	
	No.	Hrs.	No.	Hrs.	No.	Hrs.	No.	Hrs.
Jan-15	2	0=15	1	2=45	-	-	-	-
Feb-15	3	0=15	1	0=57	4	12=08	-	-
Mar-15	3	0=27	2	10=23	1	1=40	-	-
Apr-15	5	0=20	-	-	1	8=00	-	-
Total	55	5=38	7	22=07	20	51=30	-	-

4. The Distribution Company has not provided detailed comments on this data. The quick analysis of this data reveal that the reported interruptions were mainly because of tripping and break down as compared to load shedding.
5. The IGRC has passed an order which does not address the issues raised in the grievance and ignored the basic issue of the complainant regarding applicability of the continuous tariff for a non-continuous supply. The order only assures continuous supply in future but does not provide any relief for past failures .
6. The Hon'ble Commission has decided a similar petition of M/s. Kalika Steel & Alloys Pvt. Ltd. and 16 Co-Petitioners (**Case No. 88 of 2012**) vide order Dated: 16 July, 2013 in respect of levy of additional electricity charges for HT-1 Express Feeder (Continuous Supply) category consumers in billing cycles . The Petitioners are engaged in manufacturing of steel and alloy products. The brief summary of this petition is as below:
- The machinery used in this process requires continuous supply of electricity. Interruption in supply causes huge losses to the Petitioners. The Petitioners applied for un-interrupted power supply. The Petitioners were assured that being Express Feeder consumers, they would be not subjected to any kind of interruption in power supply or load shedding, for which the Petitioners were liable to pay additional charges. Each of the Petitioners has incurred huge expenses for erection of Express Feeder infrastructure to suit such supply. However, in spite of these expenses incurred and payments made as per higher Tariff, the Petitioners have faced interrupted power supply, which led to huge losses. In spite of informing the Respondent by the representatives of the Petitioners from time to time about non-receipt of continuous supply by the Petitioners, the Petitioners were not receiving continuous power supply.*
 - The Petitioners therefore submitted that the levy of tariff applicable to continuous supply industry on the Petitioners even when there was Loading Shedding/ outages/ interruptions, is unjustified and illegal. Therefore, the Petitioners are entitled to refund of the additional charges paid by them, with interest thereon, for the billing periods involving load shedding, outages and interruptions.*
 - The MSEDCL argued that the ASC/express feeders were only to exempt from load shedding protocol and not from interruptions caused as a result of breakdown/earth faults, maintenance outage in the transmission system, which were beyond the control of MSEDCL. The Commission has passed following comments on the arguments of the MSEDCL (Distribution Company) (para no. 28) :*
“MSEDCL has argued that the Tariff designed for the continuous supply was only to exempt the consumers from load shedding protocol and not from interruptions caused as a result of breakdown, earth fault, maintenance outage of transmission system, which are beyond the control of MSEDCL. The Commission cannot agree with this view of MSEDCL. It is MSEDCL's duty to provide an interruption free supply to the continuous supply consumers. It cannot hide its responsibility of maintaining a fault free and breakdown free network under the pretext that breakdowns and faults are beyond its control. It is MSEDCL's duty to maintain its network in such a fashion that breakdowns and faults do not occur. Though it is understandable that breakdowns can still happen under unforeseen circumstances, it cannot happen at an unreasonable frequency.....”
 - The Commission observed that there is no specific provision in regard to the frequency of occurrences, either in the SOP Regulations or in the definition of applicability of Tariff, which will qualify as unacceptable for a continuous category of consumer. Obviously, the intent and*

purport of the SOP Regulations and the design of the Tariff under the “continuous category” of supply was to provide the consumer with a “continuous supply” in the literal meaning of the expression. Therefore, it cannot be ruled out that MSEDCL failed to provide the required quality of supply for which it has charged the complainant.

e) Further as per para no. 35 the Commission has noted that :

“In view of the analysis made above and also considering the observation made in paragraph 31 above, the Commission is of the opinion that the Petitioners have actually suffered frequent interruptions in the electricity supply provided by MSEDCL. Even if it can be argued that all the interruptions classified by MSEDCL as planned outages and due notices were provided under the provisions of the SOP Regulations, the balance of the interruptions occurred during the reported period were unplanned and should not have occurred under a continuous supply condition. As observed in paragraph 30, there were instances of load shedding carried out as applicable to non-continuous category of industrial consumers, which is completely unacceptable. Further, if the numbers of interruptions reported under “outages”, which are essentially tripping are added to the number of “tripping” classified by MSEDCL, then the total occurrence of tripping will increase substantially. “

f) According to para No. 36 the Commission ruled that : .

“With the above analysis and observations, it can be fairly ruled that the supply provided by MSEDCL during the reported period of June 2008 to August 2011 had by no means conformed to the expected norm and quality of continuous supply. Therefore, the Commission is inclined to accept the Petitioners’ prayer in regard to classification of the supply during this period as falling under non-continuous category. Accordingly, the prayer of the Petitioners in this respect is upheld. MSEDCL should have not charged tariff applicable to continuous industry on Express Feeder for consumers in the month in which they have not supplied continuous supply. The tariff during the said period in question which should have been applied is non continuous tariff applicable to industrial category. Accordingly, the difference between the tariff charged and the tariff as applicable shall be refunded by the Respondent to the Petitioners with interest at the present bank interest rate.”

7. In view of the MERC order dated 16 July, 2013, referred above , the Distribution Company should not charge tariff applicable to continuous industry on Express Feeder for the complainant in the month involving interruptions due to tripping, break down , shut down and load shedding . The tariff for these months during the said period of April 2011 to April 2015 should be non continuous tariff applicable to industrial category. Accordingly, the difference between the tariff charged and the tariff as applicable shall be refunded by the Distribution Company to the Complainant with interest at the present bank interest rate.
8. The complainant has demanded compensation against the financial loss due to the interrupted power supply at the hands of MSEDCL. But as per regulation 8.2 of the CGRF & EO Regulations,2006 : *“.....Provided however that in no case shall any consumer be entitled to indirect, consequential, incidental, punitive, or exemplary damages, loss of profits or opportunity.”* In view of this the Forum is unable to concede to this demand.

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 tariff during the months involving interruptions due to tripping, break down , shut down and load shedding during the period of April 2011 to April 2015 should be non-continuous tariff applicable to industrial category. Accordingly, the difference between the tariff charged and the tariff as applicable shall be refunded by the Distribution Company to the Complainant with interest at the present bank interest rate within 90 days of the date of this order.

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.
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 appellant 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 Elec.Distribution Company Ltd. , Vidyut Bhavan,
Nashik Road 422101 (For Ex.Engr.(Admn)
- 2 Chief Engineer , Nashik Zone, Maharashtra State Elect. 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. .