

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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No. / CGRF /Nashik/NRC/N.R.Dn.477/08-15/

Date: 28/05/2015

(BY R.P.A.D.)

In the matter of
Change Of Tariff From Continuous To Non-Continuous

Date of Submission of the case :15/04/2015

Date of Decision : 28/05/2015

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, Distribution Company
Nashik
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 above named Complainant has submitted a representation against the decision dated 2nd March 2015 by the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd (IGRC) for change of tariff from continuous to non-continuous . The representation submitted in Schedule "A" is registered at inward No.88 of 2015 on 15 /04/2015.

The Forum in its meeting on 15/04/2015, decided to admit this case for hearing on 08/05/2015 at 12.00 pm in the office of the forum . A notice dated 16/04/2015 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 U.D. Patil, Dy.Ex. Engineer Nashik Rural Circle, represented the Distribution Company during the hearing. Shri P. Sengupta GM., Shri. Vinayak Salunke, Head (Energy, Electrical & systems) , Shri. Lucky A Popli, Secretary Thyssenkrupp Electrical Steel India Pvt Ltd. appeared on behalf of the complainant .

Consumers Representation in brief :

1. ThyssenKrupp Electrical Steel India Private Limited (TKES) is an existing HT-1 Consumer (No.052089006996) availing power from MSEDCL since 16/09/1995 with a contract demand of 15.5 MVA.
2. TKES is presently listed as continuous process industry, whereas all operation of the Company has become non-continuous in nature, which is evident from recorded load factor varying from 8-30 since last few years.
3. In spite of a non-continuous process and operation, we are compelled to pay higher tariff due to our listing as continuous process industry.
4. Due to the change in business scenario and continuous losses suffered by the Company past several years., it is utmost important that consumer category of the Company be changed to non-continuous from continuous. The company agrees to follow power outage schedule from MSEDCL, which may be necessary for any other consumer in non-continuous category.
5. TKES applied to MSEDCL for change of tariff category from continuous to non-continuous on 17/07/2014, but the request was rejected pointing out the following reasons:
 - ✓ Three other consumer are connected to TKES feeder.
 - ✓ TKES did not apply for tariff change within one month of tariff revision which was in August 2012.
6. TKES reverted back to MSEDCL (vide its letter 24/09/14) against which no reply has been received till date.
7. An appeal was also made before the Internal Grievance Redressal Cell (Vide our letter dated 30/12/2014) to draw its kind attention towards the following facts.
 - ✓ Out of the three consumers who are connected to TKES feeder two consumers Viz Jackwell is owned by TKEs and MSETCL substation control room have already been disconnected from TKES substation as on date.
 - ✓ The remaining consumer (Out of the three consumers who is connected to TKES feeder) is M/s. Rothe Erde India Private Limited, which has already applied for a separate connection from MSEDCL and the said application for new connection is already under process. However, they have already issued No Objection Certificate to accept power rationing as a consequence of change in consumer category.
 - ✓ MSEDCL tariff had not been revised for last 2 years, therefore consumers did not get any chance to apply for category change (within 30 days of tariff revision) . In such a situation; rejecting our application citing such unreasonable condition by MSEDCL denies consumers right to seek natural justice. Moreover there are ample examples where MSEDCL in past has approved similar tariff change request submitted to them much beyond stipulated 30 days period. The complainant challenge the permission granted to other consumer in past beyond the period of thirty days after change in tariff revision , and on what basis does MSEDCL have right to grant such permission when on same basis our application is being rejected ?
 - ✓ 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.
8. Their request was rejected by IGRC citing commercial circular No. 88 dated 26/09/2008 which stipulates - 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.

9. It is also very clear from the above circular that, the consumer have right only once in a year to apply for a tariff revision, but the consumer cannot be stopped from exercising such right where MSEDCL is not issuing any tariff revision in any year and as a matter of fact the tariff is not revised since August 2012.
10. Further it is hereby declared that, the Company has not opted for any change in category past several years, and MSEDCL is putting forth such arbitrary conditions, indulging in restrictive trade practices and misutilising its dominant position which is adversely causing harm and significant losses to the company.

Demands of the Consumer:

It is humbly requested to the consumer Grievance Redressal Forum (CGRF) to consider the aforesaid facts and approve the application made for change in consumer category from HT continuous to HT Non-continuous

Arguments from the Distribution Company:

The Distribution Company submitted a letter dated 06/05/2015 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. 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 M.E.R.C.'s tariff order is revised in August 2012.
2. The consumer has submitted his request for change of tariff from continuous to non continuous on dt. 17/07/2014. This application is not as per commercial circular No. 88 dtd. 26/09/2008. Hence the request is not considered.
3. However he can freshly apply for change of tariff from continuous to non continuous within 1 month from issue of MERC tariff order.
4. Further it is not possible to switch ON and OFF the power supply of the consumer on staggering day as it is fed through multiparty agreement with other two HT consumers availing continuous supply.

Action by IGRC :

1. Internal Grievance Redressal Cell Nashik Rural Circle conducted hearing on 31/01/2015 for the complaint submitted on 30/12/2014
2. After hearing both the parties IGRC gave decision as per letter dated 02/03/2015 as under:
As per commercial Circular No. 88 dtd. 26/09/2008, 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 tariff period. Hon M.E.R.C.'s tariff order is revised in August 2012.
The consumer has submitted his request for change of tariff from continuous to non continuous on dt. 17/07/2014. The consumer's application is not as per the time specification in commercial circular No. 88 dtd. 26/09/2008. Hence your request is not considered. He can freshly apply for the same within one month from issue of MERC tariff order.

Observations by the Forum:

1. The complainant has been supplied electricity from the express feeder since 1995. The present tariff applicable is HT Continuous. The complainant had applied for change of tariff to HT Non-Continuous by an application dated 17/07/2014. The Superintending Engineer, Nashik Rural Circle however rejected the request on the following grounds as per letter dated 28/08/2014:
 - a. The connection is presently connected on 220 KV level from Raymond s/stn with other two continuous HT consumers & one LT consumer in Multiparty agreement. Hence It is

technically not possible to Switch On & Off the power supply of your premises on staggering day.

- b. As per MERC order dt.12/9/2008 in Case no.44 of 2008 consumer should apply within one month after issue of tariff order for exercising his choice for tariff.
2. The representation submitted to the IGRC was also rejected on the same ground.
3. The complainant has given appropriate explanation for the point 1(a) above. Out of the three consumers connected to this feeder one connection is for Jackwell is owned by the complainant, the connection to the MSETCL substation control room has already been disconnected and the remaining third consumer M/s. Rothe Erde India Private Limited, has already applied for a separate connection from MSEDCL and the same is under process. However, they have already issued No Objection Certificate to accept non-continuous supply as a result of the change in category. As such the question of the technical feasibility for change does not arise.
4. Subsequent to the tariff order of 20th June, 2008, MERC issued a Clarificatory Order on 12th September, 2008, directing the Distribution Company as under:
"However, it is clarified that 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 at the Tariff Order for the relevant tariff period. In the present instance, the consumer may be given one month time from the date of issue of this order for exercising his choice. In case such choice is not exercised within the specified period, then the existing categorisation will be continued."
- After this tariff order ,MERC has issued following tariff orders for MSEDCL so far:
- ✓ Tariff Order dated 12th September 2010 in case no. 111 of 2009
 - ✓ Tariff Order dated 16th August 2012 in case no. 19 of 2012
- In view of the above directives, the complainant had options to apply for change of tariff to non-continuous in the years 2008, 2010, and 2012 . The complainant, however has not exercised these options at that time. Now they have applied on 17/07/2014. The complainant has argued that as there was no tariff order issued by the MERC after August 2012 , they are deprived of their right to exercise the option because of the above criteria. The complainant has also stated that the MSEDCL has approved some cases even if they were not submitted in the stipulated time period of one month.
5. The Forum has noted that the Chief Engineer (Commercial) ,Mumbai has granted permission to the following consumers as per letter no.PR-3/Tariff/33830 dated 15/11/2011

Name of the Consumer	Circle	Date of Appn
M/s Shree Vaishnavi Castings Pvt. Ltd.	Nashik	28/09/2011
M/s Kartika Ispat Pvt. Ltd.	Nashik	05/10/2011
M/s Nilesh Steel and Alloys Pvt. Ltd.	Jalna	19/09/2011
M/s Gajalaxmi Steel Pvt. Ltd.	Jalna	19/09/2011

- ✓ All these applications are submitted in the year 2011 . The relevant Tariff order dated 12th September 2010 was in force at that time and the stipulated dead line for applications was 11th October 2010.
 - ✓ The CE (Commercial) has however approved these cases subject to certain conditions.
 - ✓ It has been mentioned in this letter that , all similar cases shall be dealt by commercial section , Head Office only.
6. It has also been directed by the Chief Engineer (Commercial) vide letter No. PR-3/Tariff/No. 27836 dt. 03/09/2010 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.
7. The Regulation No. 4.13 (b) of the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 stipulate that

"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 charges." SOP Regulations, 2005 valid upto 19th May 2014 contained equivalent regulation 9.2 This regulation provides all time right to the consumer for change of category as per his need. But the time period of one month from the date of tariff order for making application is envisaged in the MERC's clarificatory order dated 12th September, 2008. While issuing the order dated 12th September, 2008 it has been recorded by the Commission that :

"The Commission is of the view that MSEDCL should not ignore the benefits of load relief that could be achieved, in case certain HT-I continuous industries, who are presently not subjected to load shedding, voluntarily agree to one day staggering like other industries located in MIDC areas. Hence, the HT industrial consumer connected on express feeder should be given the option to select between continuous and non –continuous type of supply," It means there has been conscious effort on the part of Distribution Company and the Commission to encourage shifting of HT-I continuous consumers to the non-continuous category in the situation of power shortage.

Now in the changed scenario MSEDCL has proposed in its current petition of tariff revision (Multi Year Tariff for FY 13-14 to FY 15-16) which is in process with the Commission that:

"with sufficient power availability time has come to do away with the bifurcation of continuous and non continuous categories. Therefore MSEDCL has proposed to bridge the gap between continuous and non continuous categories and have Tariffs for these two sub categories in such a manner that resultant tariff component (Fixed as well as Energy Charge) payable by both the type of (continuous and non continuous) consumers on express and non express feeders may be same."

The interpretation of the MERC's clarificatory order dated 12th September, 2008 needs to be done on this background correlating it with the regulation 4.13 (b) of MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014

8. It was informed by the Distribution Company during hearing that they have referred this case to the Chief Engineer (Commercial) ,Mumbai. It is seen that the Superintending Engineer , Nashik Rural Circle under letter no. SE/NSK/T-2/ No 4854 dated 25/08/2014 has referred the case of M/s Thyssenkrupp Electrical Steel India Pvt. Ltd. in view of their request application dated 17/07/2014 for change of tariff from continuous to non continuous and as per instructions contained in the HO L.no.PR-3/Tariff/33830 dt.15/11/2011 .
9. The Distribution Company informed the Forum that the Chief Engineer (Commercial) has not yet conveyed any decision on this case. However it is strange to note that the Superintending Engineer has referred the case to Chief Engineer (Commercial) on 25/08/2014 and without waiting for any decision from the HO , conveyed the rejection on 28/08/2014.
10. It is 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 since about last 9 months. Hence , unless the application is finally decided by the Distribution Company, it would not be appropriate at this stage to pass any order on the representation. The Distribution Company is however directed to decide the application of the complainant in accordance with rules and regulations within a period of

two month from the date of receipt of this order. The complainant will be at liberty to approach the Forum, if aggrieved by the decision of the Distribution Company.

11. Representations are accordingly disposed of.

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.