

**CONSUMER GRIEVANCE REDRESSAL FORUM  
M.S.E.D.C.L., PUNE ZONE, PUNE**

**Case No.43/2016**

**Date of Grievance : 23.12.2016**

**Date of Order : 18.02.2017**

In the matter of application of appropriate tariff category.

Military Engineer Services  
(MES) Garrison Engineer  
MH & RH CWE Complex,  
Range Hill Road, Kirkee,  
Pune - 411003.

**Complainant**  
(Herein after referred to as Consumer)

**Versus**

The Superintending Engineer,  
M.S.E.D.C.L.,  
Ganeshkhind Urban Circle,  
Pune.

**Respondent**  
(Herein after referred to as Licensee)

**Quorum**

|                         |                        |
|-------------------------|------------------------|
| <b>Chairperson</b>      | <b>Mr. S.N.Shelke</b>  |
| <b>Member Secretary</b> | <b>Mrs. B.S.Savant</b> |
| <b>Member</b>           | <b>Mr. S.S.Pathak</b>  |

**Appearance**

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| <b>For Consumer</b> | <b>Mr.S.S.Partwardhan, (Representative)</b><br><b>Mr. Sudhir V.Chalanje,</b> |
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| <b>For Respondent</b> | <b>Mr.M.V.Diwakar, Supdt. Engineer, GKUC</b><br><b>Mr.P.G.Bapat, Ex.Engineer, GKUC</b> |
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- 1) The Consumer has filed present Grievance application under regulation No. 6.4 of the MERC (CGRF & E.O.) Regulations, 2006.
- 2) Being aggrieved and dissatisfied by the order dated 23.12.2016 passed by IGRC Ganeshkhind Urban Circle, Pune, thereby rejecting the grievance, the consumer above named prefers present grievance application on the following amongst other grounds.

- 3) The papers containing the above grievance were sent by the Forum to the The Supdt. Engineer, M.S.E.D.C.L., GKUC, Pune vide letter no. EE/CGRF/PZ/Notice/43 of 2016/270 dtd.26.12.2016. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 09.01.2017.
- 4) We heard both sides at length and gone through the contentions of the consumer and reply of the respondent and the documents placed on record by the parties. On its basis following factual aspects were disclosed.
  - i) The HT consumer namely Military Engineer Services (MES), Garrison Engineer, having consumer no.170019000985 with connected load 80 KW & contract demand as 150 KVA was connected on 12.12.1968. Similarly another connection of the said consumer having consumer no.170019063720 with connected load as 1950 KW & contract demand as 1000 KVA connected on 23.01.2010.
  - ii) The consumer applied to the Licensee vide application dated 20<sup>th</sup> Oct.2016 for revision in tariff category in respect of consumer No.170019000985 (non express feeder) & Consumer No. 170019063720 (Express feeder) i.e. changing of tariff category from HT IX (B) - Public services - Others to HT IX (A) public services - Government Educational institutes & Hospitals.
  - iii) The Licensee rejected the request of the consumer vide reply dated 24<sup>th</sup> Oct.2016 stating that the tariff applied to the consumer is correct as per the MERC tariff order & MSEDCL Circular.
  - iv) The consumer approached to the IGRC, GKUC, Pune with complaint dated 15.11.2016 for change of tariff category as mentioned above.
  - v) The IGRC rejected the complaint of the consumer vide impugned order dated 13<sup>th</sup> Dec.2016. Stating that Hospital is a defence establishment providing services exclusively for defence and not for common Public. Therefore tariff applied as HT-IX (B) is correct.
5. Mr.S.S. Patwardhan, the consumer representative submitted that Military Engineering Services (MES) is a subordinate organization of Government of

India (Central Government) Ministry of defence headed by Engineer -in Chief with HQ located at MOD, New Delhi and considered as deemed Licensee as per third proviso to Section 14 of the Electricity Act.2003 vide letter No.25/192004-R&R Ministry of power, Govt. of India dated 26<sup>th</sup> July 2004. It provides all types of Engineering support to Army, Navy, Air Force, Ordnance Factories, Defence R &D, Defence hospitals during operational necessities and day to day Requirements. The Electricity supply is one of the essential service requirements provided by MES to Defence. MES Organization all over India receives electricity from State supply agencies at HT/LT take over points through single metering arrangements. The electric supply received in bulk is further distributed through MES owned distribution supply net work. The cost of installation, distribution network and maintenance rests with MES, which is paid out of Government of India Defence estimates. Electricity received by MES in bulk is totally utilized for defence operation, training, sports recreation, hospitals and for family accommodations of defence personnel. It is not utilized for any profit earning activity of Commercial nature. The electricity is distributed to only defence.

6. Mr. Patwardhan further submitted that Military Hospital Kirkee is a Government of India Hospital budgeted & funded through Ministry of Defence rendering medical services. The Military Hospital Kirkee has acquitted itself creditably by treating battle casualties of major operations. MH Kirkee with having 881 beds is the third largest hospital of Indian Armed Forces after CH (SC) and Base Hospital, Delhi Cantt. Pioneer in Joint Replacement. This Hospital pioneered joint replacement Surgery and Arthroscopy in the Armed Forces. State of the art joint replacement surgery is undertaken here. The Military Hospital Kirkee provided sterling medical support during major relief operations such as riots, earthquake & floods by arranging medical camps.
7. Mr. Patwardhan further submitted that in Aug.2012 (MSEDCL) re-categorized its consumers depending on the usage of electricity. As per the

re-categorization, the consumers rendering public services were brought under category HT -IX Public services. All defence establishments have been included in this category. The category IX- Public services had two sub-categories viz IX-Public Services (A) Express Feeder and (B) Non-Express feeder. The tariff for express and non-express feeder was Rs.8.21 and Rs.7.65 per unit respectively. At this stage rate applied by the MSEDCL to this office consumer no. is correct.

8. He further submitted that in June-2015 the Commission further re-categorized HT IX Public Services category as 1) HT-IX A Public services Government Educational Institutes and Hoaspitals and ii) HT-IX (B) Public Services. Others, which includes all defence establishment other than Government Educational Institutes & Hospital. The rate payable for supply of Electricity on express feeder under category HT IX (A) is Rs.7.20 per unit & in respect of non express feeder the rate is Rs.6.60 per unit. Similarly in respect of category HT IX (B) Public Services others, the rate payable is Rs.8.89 per unit for express feeders & Rs.8.41 per unit for non express feeders. After re categorization the tariff applied to above mentioned consumer is IX B Others is incorrect. It should be IX (A) :- HT Public services, Government Educational Institutes and Hospital.
9. Mr. Patwardhan further submitted that the Licensee has ignored the parameter of purpose for which the supply is required as mentioned in Section 62 (3) of the Electricity Act, 2003 and supply code Regulation No. 13. The purpose for which the supply is required cannot be equated at par with other consumers in the category HT IX (B) others. The MES is seeking separate categorization on the basis for which supply is required being a Government of India Military Hospital.
10. Mr. Patwardhan further submitted that the IGRC in the impugned order erred in observing that Military Hospital providing treatment to Military personnel & not for common public and it is a defence establishment and therefore billed under HT IX (B) tariff category. He submitted that in the MSEDCL Circular No.243 it is nowhere mentioned that category IX (A) is

applicable only to those who are providing services to Common Public. That means all Central Government Hospitals including Military Hospitals are come under category IX (A). The category IX (B) is applicable to Education Institutes, Hospitals, Dispensary, Primary Health Care Centres, Pathology laboratories etc. which are not covered in HT IX (A) . He lastly submitted that in view of the above mentioned facts, Government of India Military Hospital i.e/ present consumer be applied with tariff category HT IX (A) instead of HT IX (B) and MSEDCL be directed to refund the excess amount paid by the consumer.

11. On the other hand Mr.M.V. Diwakar the Superintending Engineer, GKUC, submitted on behalf of Licensee that the usage of electricity in Case of consumer No.170019000985 is towards staff quarters, grocery shops, military canteen, mess, cinema Hall etc. Similarly the usage of electricity in Case of consumer No.170019063720 is towards Hospital, AC plant, Staff quarters etc. The Commission had introduced new tariff category as Public Services for the first time as per the tariff order dated 16.8.2012 i.e.HT IX - Public Services. In this category various consumers including defence establishments (Army, Navy & Airforce) had been covered. Thereafter the Commission, in the tariff order dated 26.6.2015 recategorized Public services category in high tension supply as HT IX (A) & HT IX (B). The category HT IX (A) covers all Government Educational Institutes & Hospitals whereas the HT IX (B) covers public services - others. Accordingly tariff of the consumers was changed from HT IX to HT IX (B) from June-2015 i.e. bill date from 10.7.2015. In both HT as well as LT supply categories the MERC had suggested tariff for armed forces /defence and para military establishments as HT/LT - IX (B). Moreover MERC had never categorized the various organizations covered under Defence establishments & covered all defence institutes, premises & organizations under & operated by Indian Military under one category as Defence establishments under one tariff. Also though this is a Hospital run by Indian Military under Government of India, this hospital is providing treatment only to Military persons & not for common

public. Therefore Mr.Diwakar lastly submitted that the tariff applied to both the consumers as HT IX (B) is proper and correct and therefore grievance be rejected.

12. The Commission (MERC) for the first time had introduced new tariff category as public services as per tariff order dated 16.8.2012 in Case No.19 of 2012. It is as under:

***HT IX - Public Services***

***Applicability:***

*This tariff shall be applicable to education institutes, hospital, dispensaries, primary health care centres, pathology laboratories, police stations, Post Offices, Defence establishments (army, navy and airforce), Public libraries and Reading rooms, Railway except traction (Shops on the platforms/railway station/bus stands will be billed under Commercial Category as per the respective slab), State transport establishments, Railway and State Transport Workshops, Fire Services Stations, Jails, Prisons, Courts, Airports (Only activities related to aeronautical operations) Sports Club/Health Club/ Gymnasium /swimming pool attached to the Educational Institution/ Hospital provided said Sports Club/Health Club/ Gymnasium Swimming Pool is situated in the same premises and is exclusively meant for the students/ patients of such Educational Institutions & Hospitals.*

13. Thereafter the commission in tariff order dated 26.6.2015 in Case No.121 of 2014 further recategorized the Public service category on high tension supply as under :

***HT IX : HT Public Services***

***HT IX (A) : HT - Public Services - Government Educational Institutes and Hospitals:***

***Applicability :***

*This Tariff shall be applicable to all Educational Institutions such as Schools and Colleges and Hospitals, Dispensaries, Primary Health Care Centres and Diagnostic Centres/Pathology Laboratories and Libraries and Public reading rooms of State or Central Government, Local self Government*

*bodies such as Municipal Bodies, Zilla Parishads, Panchayat Samities or Gram Panchayat. Sports Club/ Health Club/ Gymnasium/ Swimming pool attached to the Educational Institution/ Hospital provided said Sports Club/ Health Club/ Gymnasium/ Swimming pool is situated in the same premises and is primarily meant for the students /faculty/ employees/ patients of such Educational Institutions & Hospitals.*

**HT IX (B) : Public Services – Others**

**Applicability:**

*This Tariff shall be applicable to education institutions hospitals, dispensaries, primary health care centres, pathology laboratories etc. Which are not covered in HT IX(A), Spiritual Organizations Police Stations, Post offices, Defence establishments (army, navy and Airforce) Public libraries and Reading rooms, Railway/Metro/Monorail except traction, State transport establishments; Railway and State Transport Workshops, ire Service Stations, Jails, Prisons, Courts, Airports (only activities related to aeronautical operations) Pumping of Water Tankers, Public Gardens owned by Local Self Government Bodies such as Gram Panchayat, Municipal Council/Corporation.*

*Sports Club/Health Club/ Gymnasium/ Swimming Pool attached to the Educational Institution/ Hospital provided said Sports Club/ Health Club/ Gymnasium/ Swimming Pool is situated in the same premises and is primarily meant for the students/ faculty/employees/ patients of such Education Institutions & Hospitals.*

14. Subsequently the Licensee issued Commercial Circular No.243 dated 3<sup>rd</sup> July 2015 with reference to tariff order dated 26.6.2015 in the case No.121 of 2014 explaining that in both HT as well as LT supply categories the MERC has suggested category as HT/LT- IX/X.
  - (A) Public Services and
  - (B) Public Services – Others
15. It is necessary to take into consideration provisions of supply code regulations regarding classification and reclassification of consumers into tariff categories.

Regulation No.13 of MERC (Electricity supply code and other conditions of supply Regulations, 2005, reads as under :

*The Distribution Licensee may classify or reclassify a consumer into various Commission approved tariff categories based on the purpose of usage of supply by such consumer:*

*Provided that, the Distribution Licensee shall not create any tariff category other than those approved by the Commission.*

16. As regards MES consumer No.170019000985 the usage of electricity is towards staff quarters, grocery shop, Military Canteen, Mess, Cinema Hall etc. It is not towards Government Educational Institutes and Hospitals. Therefore this consumer does not cover under the tariff category - **HT IX(A) : HT- Public Services- Government Educational Institutes and Hospitals.** The defence establishments (Army, Navy & Air force) cover under the tariff category - HT IX (B) : Public Services - Others. Therefore we find that the tariff category as **HT-IX (B) : Public Services - others** applied by the Licensee to this consumer is proper and correct and no interference is called for in the findings of the IGRC.
17. As regards MES consumer No.170019063720, the usage of Electricity is towards Hospital, AC plant and staff quarters of Hospital. The said Hospital is a Military Hospital of Government of India having 881 beds and budgeted and funded through ministry of defence and rendering medical services for defence persons. The usage of Electricity is not for any profit earning activity of commercial nature. AC plant in the Hospital is ancillary to the main purpose for better medical services. Staff quarters are intended for use by the staff employed in the Hospital. Hospital cannot run in the absence of such ancillary activities. Therefore the said consumer covers under the tariff category - **HT IX (A): HT Public Services - Government Educational Institutes and Hospitals.** On the contrary it will not cover under defence establishments since the Military Hospital run by Govt. of India is different from defence establishments. Therefore the tariff category - HT IX (B) applied by the Licensee to this consumer is not correct. The correct and



proper category to be applied to this consumer is **HT IX(A) : HT Public Services - Government Educational Institutes and Hospitals**. Finding recorded by the IGRC that the said Hospital is a defence establishment and rendering services exclusively for defence and not for common Public is erroneous. Hence needs to be interfered.

18. The Consumer No.170019063720 is entitled to be applied tariff category - **HT IX (A)** from 1.6.2015 as per tariff order dated 26.6.2015 in Case No.121 of 2014 and also entitled to get tariff differentiation amount from 1.6.2015 along with interest equivalent to bank rate as per section 62(6) of Electricity Act, 2003.
19. Lastly, we proceed to pass the following order.

### ORDER

1. Grievance of the consumer is partly allowed with cost.
2. Impugned order dated 23.12.2016 passed by IGRC is hereby set aside.
3. Licensee to apply tariff **HT IX (A) : HT Public Services Government Educational Institutes & Hospitals** in respect of Consumer No.170019063720 from 1.6.2015 as per tariff order dated 26.6.2015 in Case No.121 of 2014.
4. The Licensee to refund tariff differentiation amount to the consumer along with interest at the rate equivalent to Bank rate as per Section 62(6) of Electricity Act, 2003.
5. The Licensee to adjust above mentioned tariff differentiation amount with interest in the future bills of the consumer.
6. The Licensee to report compliance within one month from the date of this order.

Delivered on: - 18.02.2017

**S.S.Pathak**  
Member  
CGRF:PZ: PUNE

**B.S.Savant**  
Member/Secretary  
CGRF:PZ: PUNE

**S.N.Shelke**  
Chairperson  
CGRF:PZ:PUNE

Note: - The consumer if not satisfied may filed representation against this

order before the Hon.'ble Ombudsman within 60 days from the date of this order at the following address.

Office of the Ombudsman,  
Maharashtra Electricity Regulatory Commission,  
606/608, Keshav Bldg.,  
Bandra Kurla Complex,  
Bandra (E), Mumbai-51.