

CONSUMER GRIEVANCE REDRESSAL FORUM
(Established under the section 42 (5) of the Electricity Act, 2003)
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
NASHIK ZONE

Phone: 6526484
Fax: 0253-2591031
E.Mail: cgrfnsk@rediffmail.com

Office of the
Consumer Grievance Redressal Forum
Kharbanda Park, 1st Floor,
Room N. 115-118
Dwarka, NASHIK 422011

No. / CGRF /Nashik/Nagar Circle /Sangamner Dn./596/72-2016-17/

Date: 05/04/2017

(BY R.P.A.D.)

Change Of Tariff Code From HT-IC To HT IN And Refund Of Excess Amount Collected Due to Tariff Difference.

Date of Submission of the case : 15/02/2017

Date of Decision : 05/04/2017

To.

1 M/s. D.J. Malpani,
S.No. 48/1, Kasar Dumala ,
Tq. Sangamner
Dist. Ahmednagar
(Con.No. 155049004640)

Complainant

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

Distribution Company

3 Executive Engineer,
Maharashtra State Electricity Distribution Com. Ltd.
Sangamner Divn. Office
Dist. Ahmednagar.

DECISION

M/s. D.J. Malpani . (hereafter referred as the Complainant). Sangamner is the industrial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant filed a complaint regarding change of tariff code from HT-IC to HT IN and refund the excess collected amount due to tariff difference 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 Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.31 of 2017 on 15 /02/2017.

The Forum in its meeting on 17/02/2017, decided to admit this case for hearing on 10/03/2017 at 11.30 am in the office of the forum . A notice dated 22/02/2017 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, Circle Office Ahmednagar for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri. J.S.Chavan , Nodal Officer 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.
2. The complainant has given a request for change of tariff HT IC to HT IN on date 30/11/2015.
3. The complainant have given the reminder on date 10/10/2016 for the effect in billing.
4. But the application is pending with MSEDCL.
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. Recently, MERC has issued the tariff order dated 03/11/2016, in which HT IC & HT IN both tariffs has merged.
7. The complainant have applied to CGRF for to allow our request application as per SoP regulation and refund the excess collected from the month of Nov.15 to Oct.16 tariff difference HT IC to HT IN amount with interest from the date of deposit to till the date of refund.

Relief:

Allow the change of tariff as per MERC tariff order dated 26/06/2015 and refund the tariff difference HT IC to HT IN from Dec. 2015 to Oct. 2016 with interest from the date of deposit of amount & till date of refund @ 9% p.a.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 09/03/2017 from the Nodal Officer Ahmednagar Circle. MSEDCL, and other relevant correspondence in this case. The Distribution Company has stated that:

- 1 Vide letter dated 30/11/2015 the Open access consumer, M/s. D. J. Malpani , S.No. 42/1/1/1 A, Tq. Sangamner, Dist. Ahmednagar, Consumer No. 155049004600 has submitted application for change of tariff from continuous to Non continuous (HT IC to HT IN) w.e.f. Dec. 2015.
- 2 Vide letter dated 30/11/2015 the HT consumer M/s. D. J. Malpani, S.No. 48/1, Kasar Dumala , Tq. Sangamner ,Dist. Ahmednagar, Consumer NO. 155049004640 has submitted application for change of tariff from continuous to Non continuous (HT IC to HT IN) w.e.f. Dec. 2015.
- 3 Vide letter dated 30/11/2015 the HT consumer M/s. Fasttrack Packers Pvt. Ltd. S.No. 48/1, Kasar Dumala Tq. Sangamner Dist Dist. Ahmednagar, consumer NO. 155049006680 has submitted application for change of tariff from continuous to Non continuous (HT IC to HT IN) w.e.f. Dec. 2015.
- 4 Vide letter dated 10/10/2016 the HT consumer M/s. Malpani Food Products, S.No. 50/1/2, 50/1/1, Sangamner Akole Road, Sangamner Tq. Sangamner Dist. Ahmednagar, consumer No. 155019011500 has submitted application for change of tariff from continuous to Non continuous (HT IC to HT IN) w.e.f. Jan.2016.
- 5 All above 3 nos of consumers are on 11KV water supply Group Express feeder and there are also another 3 Nos of consumers on this express feeder, the details are as below.

1. M/s. President Sangamner Municipal Council	Con. No. 155049002347	CD-300 KVA	tariff HT-IVE,	DOC-01/06/1960
2. M/s. D.J. Malpani	Con.No. 155049004600	CD-1500KVA	Tariff HT-IC	DOC 04/02/2000
3. M/s. D.J. Malpani	Con.No. 155049004640	CD-450 KVA	Tariff HT-IC	DOC 05/02/2000
4. M/s. Malpani Health Club	Con.No. 155049006670	CD-220 KVA	Tariff HT-IIE	DOC 23/10/2008
5. M/s. Fasttrack Packers Pvt.Ltd.	Con.No. 155049006680	CD-180 KVA	Tariff HT-IC	DOC 23/10/2008
6. M/s. Malpani Food Products.	Con.No. 155019011500	CD-140 KVA	Tariff HT-IC	DOC 02/01/2016

6. 11 KV express feeder constructed by M/s President Sangamner Municipal Council Sangamner for their water supply scheme as per their application for continuous, interruption free supply necessary for water supply scheme.
7. Consumer at Sr. No. 2 to 6 are the HT connections of Malpani Group, all 5 Nos of connections were released on 11KV water supply feeder of M/s. President Sangamner Municipal Council as per the request of Malpani group companies.
8. Due to group express feeder, consent is required for change of feeder category from express to non express from M/s. President Sangamner Municipal Council, Sangamner because express feeder constructed by them only due to requirement of continuous and interruption free supply for their water supply scheme and consumer D.J. Malpani and Fasttrack Packer have not submitted consent of M/s. President Sangamner Municipal Council, Sangamner.
9. Vide letter dated 18/11/2016, this office informed HT Consumer M/s. Malpani Food Products, Con No. 55019011500 to avail supply from another 11KV Non express feeder in order to change the tariff category from HT-IC to HT-IN, till date consumer has not replied for change of category.
10. Vide letter dated 20/01/2017, IGRC Nagar has given the decision regarding 4 No. of cases of change of tariff category in R/o. M/s. D.J. Malpani ,Con.No. 155049004600, M/s. D.J. Malpani ,Con.No. 155049004640, M/s. D.J. Malpani ,Con.No. 155049004640, M/s. Malpani Food Products. Con. No. 155019011500 but Malpani group submitted only 3 Nos of application at CGRF, Nashik and application of M/s. Malpani Food Products. Con. No. 155019011500 not submitted in CGRF.
11. Vide MERC order dated 26/06/2015 and CE (commercial) letter no. 30803 dated 11/08/15 , new provision made in Tariff order dated 26/06/2015 for change of tariff from HT continuous to HT Non-continuous is as under.

The consumer availing supply on express feeder may exercise his option to choose between continuous and non-continuous supply anytime during a financial year but only once in such financial year with one month prior notices, Such consumer shall be required to submit a written request to MSEDCL giving one months notice and the Tariff applicable to non-continuous supply shall apply, from the ensuing billing cycle.

But in the present Case, 11 KV feeder is group express feeder, specially for water supply scheme & Malpani group of companies availed supply on this feeder as per their request & now wants financial benefit due to change of tariff category.

Action by IGRC:

1. Internal Grievance Redressal Cell Ahmednagar Circle conducted hearing on 21/01/2017 for the complaint submitted on 07/12/2016 by M/s. D.J. Malpani (Con.No. 155049004640) and others.
2. After hearing both the parties IGRC gave the decision as per common order dated 25/01/17 as under:
 Lknjhy xtgdkph oxbkjh o xtgdkl vkdkj.; kr vkysyh fotns d ; kx; o cjkaj vkgr- R; kpi æk. ks xtgcd da 155049004600 ; k oht tkM.khl yko.; kr vkysys Transmission & Whiling charges gs e[; dk; kj; kP; k l pui æk.kp yko.; kr vkysys vkgr o rs ; kx; vkgr-

Observations by the Forum:

1. The complainant has been supplied electricity from the 11 KV express feeder. The complainant had applied for change of tariff to HT Non-Continuous by an application dated 30/11/2015 to the Superintending Engineer, Ahmednagar Circle .
2. As per the MERC tariff order dated 26/06/2015 [In Case No. 121 of 2014] applicable from 1st June 2015, the provision regarding the change of tariff from Continuous to Non-Continuous is as under :
 6.10.7 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. 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.*
4. In the extant case , the complainant has applied for change of tariff from Continuous to Non-Continuous on 30/11/2015 (in the FY 2015-16) ,hence entitled for change to non-Continuous with effect from the Month of January 2016.
5. However no action has been taken by the Superintending Engineer , ANC on the application dated 30/11/2015 and when the complainant submitted the grievance to the IGRC ,Ahmednagar Circle , the same has been rejected by the IGRC letter dated 25/01/2017 without taking any cognizance of the MERC tariff order dated 26th June 2015 or Circular no. 246 dated 11th August 2015 issued by the Chief Engineer (Commercial) MSEDCL, Mumbai.
6. The Distribution Company has argued that the consent is required for change of feeder category from express to non express from M/s. President Sangamner Municipal Council. But no such pre-condition is envisaged in the MERC Regulations/MSEDCL Circular for exercising the option of change of tariff.
7. 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.
8. The issue is regarding the HT I C tariff applied to the complainant till 31/10/2016 in spite of the application submitted for change of tariff on 30/11/2015 .
9. In view of the above facts, the Forum directs the Distribution Company to apply the tariff category of HT IN with effect from January 2016 till 31/10/2016 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 till the date of refund.
10. It has been reported by the Distribution Company that they have sought guidance from the CE (Commercial) Mumbai by a letter dated 01/03/2016 regarding change of tariff code from HT IC to HT IN in respect of M/s Fast Track Packers Pvt. Ltd. (Con. No. 155049006680)and M/s. D.J. Malpani (Con. No. 155049004640) . There is no reply yet. The Forum is amazed to note that the IGRC has rejected the grievance outright instead of waiting for the guidance from the CE (Commercial).

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 Distribution Company should apply the tariff category of HT IN with effect from January 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

(Sandeep 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. ,
Circle office, Ahmednagar .