

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/ARC/675/2018/15
Registration No. 2018040028**

Date of Admission : 10.04.2018

Date of Decision : 31.07.2018

M/s. Wockhardt Infrastructure : COMPLAINANT
Development Ltd.,
Plot No. E-1, Shendra MIDC,
Aurangabad
(Consumer No. 490539041580)

VERSUS

The Executive Engineer (Admn) : RESPONDENT
Nodal Officer, MSEDCL, Rural Circle,
Aurangabad.

Complainant Representative : Shri HA Kapadia,
Respondent : Shri YB Nikam, EE (Admn),
Rural Circle, Aurangabad

CORAM

Smt. Shobha B. Varma, Chairperson
Shri Laxman M. Kakade, Tech. Member/Secretary
Shri Vilaschandra S. Kabra Member.

CONSUMER GRIEVANCE REDRESSAL DECISION

1) The applicant M/s. Wockhardt Infrastructure Development Ltd., Plot No. E-1, Shendra MIDC, Aurangabad is a consumer of Mahavitaran having Consumer No. 490539041580. The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Rural Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 10.04.2018.

BRIEF HISTORY & FACTS RELATING TO THE GRIEVANCE:

2) The applicant has filed the complaint raising following contentions:-

The complainant has set up a pharmaceutical products manufacturing unit at above mentioned premises and is sourcing electricity supply from Respondent company which is engaged in distribution of electricity in the region. The complainant, as per provision of EA 2003 is a consumer of Respondent company.

1. The complainant has taken 33kv HT connection for manufacturing of pharmaceuticals products at Plot No. E-1, Five star MIDC area, Shendra, Aurangabad. The present contract demand and connected load are 3600 KVA and 6500 KW.
2. It is submitted that 33kv HT connection was released to the complainant's premises in the month of Nov. 2007 by tapping existing 33kv line provided for M/S Fortune Pharma Pvt. Ltd. a company which was situated adjacent to the premises of complainant.
3. It is submitted that, at the time of releasing 33kv HT connection, MSEDCL authorities assured that the 33kv line from which the supply has been extended to the complainant is a express feeder line and M/S

Skoda Auto & M/S Fortune Pharma are the only other two industries connected on the said express feeder line.

4. It is submitted that, Respondent issued all electricity bills as per HT express feeder tariff which were paid by consumer on assumption that the supply provided to consumer is having Express feeder status.
5. That in spite of assuring that the supply provided to the complainant is from express feeder, they suffered 92 hrs interruption in power supply during the period Sept. 2015 to July 2016.
6. It is submitted that, due to huge quantum of interruption hours the complainant is required to spent heavy amount for running their plant on DG sets. Therefore, they submitted to the Superintending Engineer, Rural circle, Aurangabad on 19.08.2016 and requested to issue bills as per Non express tariff.
7. Since its cognizance was not taken, so they had filed grievance before Internal Grievance Redressal Cell (IGRC) of Respondent company on 10.11.2016 and requested IGRC to refund cost of metering cubicle, excess charges collected towards testing , service connection etc. The complainant also requested IGRC to issue revise bill as per Non express tariff considering the heavy period of interruption and for not meeting norms of Express feeder as decided by Hon'ble Commission.
8. It is submitted that, IGRC after verifying their record of interruption, passed order on 28.12.2016
 - i) Both metering cubicle cost was ordered to be refunded to the consumer and same shall be adjusted in next electricity bill.

- ii) The excess service connection charges were ordered to be refunded to the consumer in the next bill as per tariff order dt.20.10.2006.
 - iii) The testing charges mentioned in the sanction letter SE/ARC/HT billing / 2243dt 29.04.2015 were ordered to be refunded to the consumer in the next energy bill.
 - iv) The IGRC further observed that as per consumer application dt. 19.08.2016 regarding regular failure of power supply from period Sept-15 to July -16 , it can be fairly ruled that the supply provided by MSEDCL during the period of Sept. 2015 to July 2016 has by no means confirmed to the expected norms and quality of continuous supply. Therefore the IGRC Cell is inclined to accept petitioners prayer in regards to classification of supply during this period as falling under Non continuous category. Hence tariff during said period should have applied as Non continuous tariff applicable to industrial category and difference of same shall be refunded by MSEDCL to the consumer in the energy bill.
9. It is pleaded that, since the order dt. 28.12.2016 passed by IGRC was not complied for long period, the complainant filed his grievance before CGRF on 19.09.2017 which was listed as case No. 653/2017.
10. That during the hearing before CGRF, the Nodal officer who has passed the IGRC order as chairman of IGRC stated that the order dt. 28.12.2016 passed IGRC is correct. However his higher authority i.e Superintending Engineer is not ready to comply the same.
- CGRF therefore directed Superintending Engineer, Rural circle to appear before the Forum and submit his say for non compliance of IGRC order.

However, the Superintending Engineer deliberately avoided to attend the hearing.

11. It is submitted that CGRF, after observing that the order passed by IGRC was without giving reasoning, disposed the case by its order dt. 09.01.2018 by giving liberty to the complainant to file fresh application for execution.
12. That, the complainant, thereafter contacted various MSEDCL officers and gathered the history of 33kv feeder from which supply was extended to his premises and after getting confirmation that the said feeder is not an express feeder once again submitted his grievance to IGRC on 10.01.2018 and requested to refund excess charges paid towards express feeder.
13. The complainant has stated that, IGRC postponed the hearing scheduled on 20.02.2018 and kept the same on 01.03.2018. Since no documents were provided to the complainant request was made to IGRC vide our letter dt. 05.03.2018 to provide all documents before conducting the hearing.
14. The complainant was in receipt of letter No. 1140 dt. 14.03.2018 by which IGRC directed to contact Dy. Ex. Engineer, Rural Sub Div. No. 2 for the desired documents. The above facts disclose that the IGRC was unable to conduct hearing due to non availability of documents which are important to confirm status of 33kv feeder from which the supply has been extended to the complainant. That the above documents and information are with the concerned officer of Respondent Company.
15. Since no details were provided to the complainant nor any order has been passed by IGRC within stipulated time period of two months, the

complainant has therefore left with no other alternative but to once again approach before this Forum.

16. The complainant, in view to obtain details of 33kv feeder from which supply has been released to consumer, contacted other concern officers of MSEDCL & MSETCL and gathered the information.
 - a) 33kv HT connection to their factory was released in year 2007 by extending 33KV line provided to their adjacent factory M/S Fortune Pharma Ltd.
 - b) It is submitted that the first 33kv HT connection in MIDC Shendra area was released to M/S Skoda Auto in year 2000-01 , by tapping 33kv line namely Gadhejalgaon feeder. The said feeder was emanating from 132 Kv MIDC, Chikalhana substation and ending at village Gadhejalgaon where 33/11kv substation was erected for providing supply to nearby villages and Ag. pumps.
 - c) It is submitted that 33kv line from which supply was released to M/S Skoda Auto Ltd. was later on extended to Respondent own 33/11kv substation at MIDC Shendra and connection to all 11kv HT and LT consumers were released from same 33kv feeder.
 - d) It is also submitted that later on said 33kv line was extended for providing 33kv connection to M/S Pruthvi Prakashan Pvt. Ltd. (Lokmat) and to other 33kv consumers like M/S Siemens India, M/s Harmen Finochem Ltd. etc.
 - e) It is submitted that after commissioning of 220kv Shendra substation in the year 2012-13, the feeder (Gadhejalgaon feeder) emanating from 132 KV Chikaltahana substation was diverted to 220 KV Shendra substation.

- f) It is submitted that after commissioning of 220kv substation at Shendra, a separate feeder was started from 22kv substation which was named as Skoda feeder. Thus all the consumers whether 33kv or HT or LT (Through MSEDCL 33KV /11 KV substation) situated within MIDC Shendra area were connected on this single feeder namely Skoda feeder.
17. That MERC in its various orders have Define Express as “one which is emanating from substation and ending at consumers premises or contingency premises. Further the concept of Hon’ble Commission behind creating express feeder category was to provide 24x7 hrs supply to industries with higher tariff than others. That all the above named consumers were situated at far distance from each other. This alternately means that all these consumers are not situated in contingency nor said to have formed group for availing express feeder supply for their industry.
18. It is submitted that as the feeder from which supply was provided to the complainant was not express feeder, there were regular interruption which resulted in financial losses due to incurring expenses on diesel for operating DG sets.
19. It is pleaded that since there was interruption of 92 hrs during the period Sept.2015 to July 2016, the complainant filed his grievance before CGRF. Respondent during the hearing admitted that the interruption of @ 73 hrs.
20. That, the said interruption are due to fault on other consumer installation or line which alternatively confirms that the supply

provided to the complainant does not meet norms of Express feeder as observed by IGRC in its order dt.28.12.2016 .

21. That, the observation recorded and the order passed by IGRC on 28.12.2016 is only after observing that the said feeder is not express feeder and therefore passed order to issue revise bill as per Non express tariff.

Hence it is prayed that,

1. 33KV feeder from which HT connection was released to complainant may be declared as Non express feeder.
 2. Respondent may be directed to produce single line diagram along with name of consumers connected on Gadhejalgaon feeder at the time of releasing HT connection to the complainant.
 3. Respondent may be directed to confirm the date of commissioning of Skoda feeder emanating from 220 KV Shendra substation and names of consumers on Skoda feeder.
 4. Respondent may be directed to provide name of consumers connected to 33/11kv substation at MIDC Shendra prior to shifting of Gadhejalgaon feeder from 132 KV Chikalhana to 220 KV Shendra substation.
 5. Respondent may be directed to refund the excess amount paid towards express feeder charges.
 6. Respondent may be directed to pay 18% interest as per provision of section 64 of EA 2003.
- 3) The Respondent has filed say (Page No. 41) as under :

1. That the contents of paragraph no. 1 are admitted to the extent that supply is provided on 33KV HT Line and the consumer is having contract demand of 3600 KVA and connected load of 6500 KW.
2. The Respondent has denied about release of HT connection in November 2007 to the complainant, by tapping 33 KV line provided to M/s. Fortune Pharma Co. It is further denied that, at that time, the Respondent has assured to the complainant that the said 33 KV line from which supply was extended is express feeder line & that Skoda & Fortune are the only other companies connected on express feeder. It is further denied about payment of electric bills as per HT Express tariff by the complainant on assumption that it is express feeder. There was no any communications given by any officials of respondent.
3. That the power supply to the consumer was supplied on HT express feeder and it has enjoyed the continuous power supply.
4. It is pleaded that there was no any communications about express feeder given by any officials of respondent. That the consumer has to prove interruption during the period September 2015 to July 2016.
5. It is submitted that, the consumer has not produced evidence regarding heavy financial loss such as loss of man power and wastage of raw material on account of interrupted power supply. Also no any record is produce about running hours of D.G. set and the mandatory required Chief Electrical Inspectors permission as required under the provisions of Rule 4 of Bombay Electricity Duty rule 1962. There is also no any record in respect of B Return of the energy so generated in the quarter in the prescribed proforma for the quarter ending March / June / September and December.

6. Filing of complaint before internal grievances redressal cell (IGRC) is admitted CGRF has passed order in case No. 653/17.
10. The Respondent has denied about any communication about higher authorities has not complied the order & therefore CGRF directed about his attendance, but he remained absent.
11. The Respondent has denied about observation made by CGRF as stated in para 11 i.e. about criticizing order of IGRC. It is submitted that complainant has every opportunity to approach before officials of Respondent.
12. It is denied that, the complainant gathered information that the said feeder is not express feeder. It is stated that, consumer has to produce the source of information which he has relied and made all these allegations.
13. It is denied that, IGRC postponed the hearing, but documents are not provided to the complainant. About request dtd. 05.03.2018 for documents are denied. It is further denied that by letter dtd. 14.03.2018, IGRC has directed the complainant to contact Dy. Executive Engineer, Rural Sub Division No. 2 for desired documents. It is denied that IGRC was unable to conduct hearing on account of non availability of documents of 33 KV Feeder. It is also denied that these documents are with the concerned officers of the respondent. It is stated that the Respondent official vide letter No. SE/ARC/TS/ 1012 dtd. 05.03.2018 & SE/ARC/TS/1653 dtd. 17.04.2018 has instructed to its concern official Dy. Executive Engineer. RSD-II, Aurangabad for submission of fresh data of interruption record of on 33 KV Gadhejalgaon feeder/33KV Skoda feeders as per the request of

consumer. Upon the directions of Respondent Dy. E.E. RSD-II, Aurangabad has requested to MSETCL for submission of interruption record vide letter no. Dy. E. E/ R-II Abad/TS/270, dtd. 23/2/18 & Dy.E. E/R-II Abad/TS/466, dtd. 21.04.2018, but till today this record is not made available by MSETCL Authorities.

14. That, the Respondent official has already submitted the interruption record from Sept-2015 to Aug- 2016 in the Grievance submitted by of M/s. Wockhardt Infrastructure Development Ltd. Case no. CGRF/AZ/AUR/R/ 653/ 2017/46 in which data of the total interruption of 76.61 hrs on the feeder is submitted on the record of CGRF. Out of that total interruptions, only 21.26 hrs. of interruptions pertains to breakdown and tripping on 33kv Shendra feeder mainly because of tripping due to earth faults with duration of 10 to 20 minutes.
15. Further, the interruptions for the period of 1 to 16 hrs. are due to Line permits or outages taken for the maintenance or release of new connections on approved staggering day with due intimation to consumer through calls / Personal intimations. Also the breakdown on the 33 KV feeder have been occurred for less than 15 times in 12 months and it is not more than 12 hrs. The basic cause of the said breakdown is failure of CT/PT, substation equipments, or fault at consumer end. As the above phenomenon is technical and unavoidable the interruptions were occurred. The detail interruption record received from MSETCL for the Case no. CGRF/AZ/AUR/R/ 653/2017/46 is produced.
16. Further, the Single Line Diagram of 33kv Gadhejgaon feeder at the time of releasing of complainant's HT connections at present is not

available with respondent. As the infrastructure work, relating to the every line, equipments connected on the feeders are always under system up gradations hence the data of particular period cannot be retrieved. Also it was the request of the consumer to provide the data relating to the names of consumers connected on 33/11KV MIDC Shendra substation prior to shifting of Gadhejalgaon feeder from 132 KV Chikalthana to 220 KV Shendra Sub Station, is not available with respondent due to the time to time system up gradation work and old record. Also there is no any methodology/ to freeze and maintain such type of data which is demanded by the consumer in particular format.

17. The date of commissioning of 33kv Skoda feeder as per MSEDCL online RAPDRP-NDM record and present Single Line Diagram (SLD) of 33 KV Skoda feeder along with name of consumers is produced.
18. That, the contents of the para 16 are denied, It is denied that the complainant has collected information from officers of the Respondent. The consumer has to submit the source of the information on which he has relied.
18. That the contents of para 17 regarding definition of express feeder propounded by MERC stands denied by the Respondent. In this respect, it is explained that
“ Only HT Industries connected on express feeder and demanding continuous will be deemed as continuous and given continuous supply, while all other HT consumers will be deemed as HT non continuous industry.
However, it is clarify 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 the issue of the tariff order for the relevant tariff period” The commercial circular of MSEDCL No. 80 dtd. 10.05.2008 along with its appendix -1 is attached herewith Annexure-D & E resp. (Pgs-20)

19. That the contents of the paragraph no 18 regarding the fact that the feeder from which supply was provided to the complainant was not express is denied. Further regular interruption & financial losses of complainant are denied.
20. That the contents of the para 19 about 92 hrs. interrupted during September 2015 to July 2016 are denied. It is further denied that, those interruptions were due to fault on other consumer installation or line which confirms that supply provided to the complainant did not meet norms of express feeder. It is submitted that those points are discussed in by CGRF in case No. 653/2018. It is submitted that, in this case provisionally related to failure of supply as per MERC supply code regulation are applicable. Also as per MERC Regulation no. 6.6 of the MERC (Consumer Grievance Redressal Forum and Ombudsman) Regulation 2006, as the consumer has not filed its grievance within the time limit prescribed under the Regulation, the same is liable to be dismissed.
21. The complainant in its application (Page No. 106) has submitted that the Hon. Commission in many orders has defined express feeder as under.
“One which is emanating from Sub Station & ending at consumers premises”

22. That, the simple line diagram approved by the Respondent discloses that 33 KV feeder from which supply was provided to complainant can't be termed as Express Feeder. As such order dtd. 28.12.2016 passed by IGRC declaring the feeder as Non-Express is correct.
- 4) That, the respondent MSEDCL has submitted rejoinder (Page No. 112) as follows :
1. The Respondent already denied the truthness of single line diagram submitted by the complainant from Sr. No. 1 to 6. Also these SLD's were never approved by the respondents in its earlier say.
 2. Vide MERC case No. 72 of 2007 the applicability of HT-1 (Continuous industry) the commission has specified that only HT industries connected on express feeder and demanding continuous will be deemed as continuous and given continuous supply while all other HT consumers will be deemed as HT non continuous industry.
However, it is clarify 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 the issue of the tariff order for the relevant tariff period.
 3. The 33 KV Gadhejgaon feeder emanating from 132 KV Chikalhana Sub Station, 33 KV Skoda Industrial feeder all are load shedding free and free from weekly staggering day, hence the consumer has availed continuous power supply. Hence, complaint is devoid of merits & may be dismissed.
- 5) The complainant has submitted rejoinder (Page No. 113) as under :-
1. The complainant, after observing that Respondent are deliberately avoiding to provide the information, the complainant submitted single

line diagram (6 Nos. of SLD) showing status of 33kv Skoda feeder from period 2004 to 2018.

2. Respondent verbally avoided to confirm correctness of single line diagram but on other side confirm the status of feeder by suggesting some changes in its written submission.
 3. The complainant, after receiving information from Respondent once again submitted corrected single line diagram on record.
- 6) That six Nos. of single line diagram showing status of 33kv Skoda feeder from which supply has been extended to the complainant clearly disclose that the said 33kv feeder is a common feeder and in no way can be termed as Express feeder within the meaning of terms defined by Hon'ble Commission.
- 7) We have gone through pleadings & all the documents placed on record by both the parties. We have heard both parties. Following points arise for our determination with our findings thereon for the reasons to follow :

Sr. No.	POINTS	FINDINGS
1)	Whether the dispute filed is within limitation?	Yes
2)	Whether 33 KV feeder from which HT connection was released to the complainant was express or non express ?	Express Feeder
3)	Whether declaration as claimed by the complainant can be granted ?	No
4)	Whether the complainant is entitle for refund of excess amount paid towards express feeder charges ?	No
5)	Whether the complainant is entitled for interest at the rate of 18% p.a. on the amount as claimed ?	No
6)	What order & Costs ?	As per final order

Reasons

8) **Point No. 1** : Parties are not at dispute that HT connection was released to the complainant in November 2007. The complainant has claimed 92 hrs. interruption in power supply during the period September 2015 to July 2016. On 19.08.2016 for the first time grievance was raised by the complainant by writing letter (Page No. 15) to the Superintending Engineer, Rural Circle, Aurangabad. On 10.11.2016 complaint (Page No. 16 &17) was filed by the complainant before IGRC. On 28.12.2016 IGRC has passed order on the complaint. However, as it was not complied, so on 19.09.2017, the complainant has filed complaint before this Forum & it was decided on merits on 09.01.2018, order is at (Page No. 19 to 32). According to complainant, thereafter, it has made inquiry & on confirmation that their connection is non express feeder, again submitted complaint before IGRC on 10.01.2018 (Page No. 34 to 37) Letter issued by IGRC (Page NO. 37A) dtd. 05.03.2018, shows that IGRC has closed that dispute for the reason that complainants representative was absent for hearing on dtd. 01.03.2018 & hearing was hampered & could not be completed, hence decision could not be given. That on 14.03.2018 IGRC further wrote letter to the complainant to get the desired documents from the office Dy EE, Rural Sub Dn-2, Aurangabad. Thereafter on 10.04.2018, present dispute is filed considering the fact the, series of litigation were going on between the parties, on same subject matter of payment made by complainant on the connection of express feeder & interruptions in power supply. So cause of action for this dispute also arose on 14.03.2018, i.e. on the date of aforesaid communication made by Respondent to complainant. From 14.03.2018, present dispute being filed within one month. So, it is well within limitation. R. 6.6 does not come in the way of complainant. As such we answer point No.1 in the affirmative.

9) **Point Nos. 2 to 5** : They being interrelated, so, discussed together. In the backdrop of the relief of declaration claimed by the complainant that 33 KV feeder from which HT connection was released to him is non express feeder, it is material to note down, in brief history of the litigation occurred between the parties. For the first time on 19.08.2016 complainant raised it's grievance by issuing letter (Page No. 15) wherein, it is claimed that, "we are on express feeder & billed as per tariff applicable for express feeder, we are not getting continuous power supply due to regular failure of 33 KV incoming power supply. We are herewith submitting details of power failure recorded during last 12 months. In view of above fact, we request you to issue revise bill as per tariff applicable for Non express feeder".

10) For purpose of elucidation, original record and proceedings of complaint No. IGRC/ARC/Gra/2016-17 & of case No. 653/17 are called & perused. On going through the complaint & judgement of IGRC (Page No. 16 & 19), & also in case No. 653/2017 before this Forum Judgment (Page No. 19-32), the complainant has pleaded that his power connection was express feeder. Not only that, but in a case before IGRC the complainant has claimed that 33 KV connection given to him, it is express feeder & this fact was admitted by MSEDCL in their say. Further on the basis of such admission IGRC has passed following order :-

11) "As per consumer application dtd. 19.08.2016, regarding regular failure of power supply from period September 2017 to July 2016, it can be fairly ruled that the supply provided by MSEDCL during the reported period of September 2015 to July 2016 had by no means confirmed to the expected norms & quality of continuous supply."

12) “Therefore the Forum is inclined to accept the petitioner’s prayer in regard to classification the supply during this period as falling under non continuous category. Hence, tariff during the said period should have been applied as non continuous tariff applicable to industrial category & difference of the same shall be refunded by MSEDCL to the consumer in the energy bill”

13) From the above pleading & order, it is crystal clear that both parties have admitted the fact that power connection of the complaint is express feeder. It is material to note that, the aforesaid order dtd. 16.12.2016, passed by IGRC till to-date is not challenged by either party. However, the Respondent did not execute it’s own order & therefore dispute was referred in case No. 653/17 before this Forum with a request for refund of amount as per order dtd. 28.12.2016 passed by IGRC & for interest. Rather pertinent to note that, the order of IGRC till to date is in existence. Once the complainant in their pleading have admitted that power connection is express feeder on the basis of which order is also passed by IGR Cell, then now, by principles of estopped, the complainant is not allowed to change its own stand. It is not permissible under rules of Evidence Act. Parties are not allowed to change their stand in order to suit their purpose. On the basis of said submissions, order of IGRC was passed & received finality, then such pleas claiming the power connection as Non express feeder can’t be raised. Hence, relief claimed of declaration is not maintainable & can’t be granted.

14) That apart, even otherwise if merits are considered the complainant has relied upon inquiry made by it & collecting information. In this respect, it is strenuously submitted by complainant representative Shri Kapadia that, the Respondent is in custody of the record & hence in the prayer clause claimed to direct the Respondent for :-

- 1) Production of single line diagram alongwith names of connected on Gadhejalgaon feeder at the time at releasing HT connection to the complainant.
 - 2) To confirm the date of commissioning of Skoda feeder emanating from 220 KV Shendra Sub Station & names of consumers on Skoda feeder.
 - 3) Providing name of consumers connected to 33/11 KV Sub Station at MIDC Shendra prior to shifting of Gadhejalgaon feeder from 132 KV Chikalhana to 220 KV Shendra Sub Station.
- 15) Same prayer is repeated by the complainant in their application (Page No. 93) dtd. 15.05.2018 & (Page No. 95) dtd. 29.05.2018. The Respondent has submitted non availability of documents regarding single line diagram with names of consumers on Gadhejalgaon feeder & 33/11 KV Sub Station at MIDC Shendra prior to shifting of Gadhejalgaon. The Respondent in their say (Page No. 41, 43) para 3 has submitted about non availability of single line diagram. Cause of non availability explained is that, infrastructure work, relating to every line equipments connected on the feeders are always under system up gradations, hence the data of particular period can't be retrieved. About providing data relating to the names of consumers connected on 33/11 KV MIDC Shendra substation prior to shifting Gadhejalgaon feeder from 132 KV Chikalhana to 220 KV Shendra Sub Station is not available with the Respondent on account of time system up gradation work & old record. It is also stated that there is no methodology to maintain or freeze such record. The date of commissioning 33 KV Skoda feeder is produced by Respondent at (Page No. 62, 63). It goes to show that the date of commissioning Skoda Feeder is 5th August 2016. It is strenuously submitted by consumer Representative Shri Kapadia, that the reason of non availability at record is not true as shown by the Respondent. Be the fact as it

may, even if submission is considered, still non production of documents does not adversely affect the Respondent for the reason that complainant in earlier proceedings before IGRC & CGRF has admitted the fact about express feeder & Respondent also did not challenge it.

16) It is important to note that, the Respondent has produced diagram (Page No. 62) showing existing situation of power supply of 3 KV Skoda feeder. It is seen from the said diagram that power supply 33 KV is given to Skoda from Shendra 220 KV Sub Station from 33 KV Skoda feeder, the power supply is extended to the complainant. Same 33 KV Skoda feeder later on was extended for power supply to M/s Siemens, Harman Finocem. As the Respondent has not produced the documents claimed by the complainant, hence the complainant has produced diagram (Page No. 98 to 101) privately prepared by them. From the said diagram the complainant has tried to submit following things. For purpose of elucidation we have given it below in tabular form along with respondents comments on it :-

Submissions of complainant	Comments of Respondent
<u>Drawing No. 1</u> (Before 2004) 33 KV Feeder emanating from 132 MIDC, Chikalthana, Aurangabad Sub Station was laid for providing supply to 33/11 KV GadheJalgaon Sub Station (Village situated ahead at MIDC Shendra)	Correctness denied as no date is mentioned.
<u>Drawing No. 2</u> 33 KV supply released on 24.10.2004 to M/s. Skoda feeder by tapping 33 KV Feeder	No record with Respondent. No provision of feeding single line diagram / record in network, data management, record from 2011 is available in NDM.

<p><u>Drawing No. 3</u> Respondent developed 33/11 Sub Station for providing supply HT/LT Industries.</p>	<p>Correctness denied. 33 KV MIDC, Shendra Sub Station is commissioned on 21.12.2004</p>
<p><u>Drawing No. 4</u> 33 KV correction to M/s Lokmat, Fortune Pharma, Wockhardt, Siemens, Harman, Finochem etc. Industries was released from 33 KV feeder (Above all industries are not situated to M/s. Skoda or each other)</p>	<p>Correctness denied Harman Finochem connected on 29.03.2015, it was connected on 220 KV Shendra Sub Station</p>
<p><u>Drawing No. 5</u> New 220/33 KV Sub Station started at MIDC, Shendra in the year 2010. All above mentioned 33 KV consumers were also connected on same feeder. 33 KV connection to M/s. Sterlite, Neepat, Semen Industries, were released by creating 33 KV express feeder from 220 KV Shendra Sub Station. Above 33 KV express feeders are providing connection to individual consumers, which is as per definition of express feeder laid down by MERC.</p>	<p>Correctness denied wrongly shown as 33 KV GadheJalgaon feeder emanating from 132 KV Chikalhana, whereas it is connected to 220 KV Shendra Sub Station from 14.06.2010</p>
<p><u>Drawing No. 6</u> Separate 33 KV feeder laid from 220 KV Skoda Sub Station for 33/11 KV MSEDCL Sub Station. Skoda, Wockhardt, Fourtune, Pharma, Siemens, Harman are connected on older 33 KV Feeder. M/s. Harman is having status as Non express feeder.</p>	<p>Not correct, 33 KV Gadhe Jalgaon feeder is disconnected on 14.06.2010 from 132 KV Chikalhana Sub Station. New 33 KV Skoda Industrial feeder is charged on 05.08.2016 & M/s Fortune Pharma HT connection is made P.D. in the year.</p>

17) The Respondent thus denied correctness of all diagrams. It is also submitted by Respondent (Page No. 103) that,

- A) From 24.11.20107 Complainant Company is connected on 33 KV Gadhejalgaon feeder emanating from 132 KV MIDC Chikalhana S/Stn.

B) That from 14.06.2010, it is connected on 33 KV Shendra Feeder emanating from 220 KV Sub Station Shendra.

C) After commissioning of new 33 KV Skoda Industrial feeder emanating from 220 KV Sub Station MIDC Shendra on 05.08.2016, the complainant company is connected on 05.08.2016 to this feeder.

18) In the backdrop of denial of Pvt. Diagram prepared by the complainant & further it is not authentic source of information, hence it is not worth considerable. No inference is allowed to be drawn based on such diagrams. On the other hand the Respondent is within special knowledge about how the power supply was provided from time to time & explained, it in detail (P. No. 103). We do not find any discrepancy or misstatement so as to disbelieve these statements. As such the facts propounded in the comments (P. No. 103) of Respondent to the extent as to how provision of power supply was made are found plausible.

Now, let us refer to tariff order 2012 :-

Tariff Order - in case No. 19/12 dtd. 16.08.2012 decided by Hon'ble MERC, it is stated that, "Only HT Industries connected on express feeder & demanding continuous supply will be deemed as HT continuous industry & given continuous supply while all other HT industrial consumers will be deemed as non continuous industry.

19) Considering the above facts, it is clear that disputed connection is express feeder. Now, the complainant has come out with a case 92 hrs. of interruption in power supply during the period September 2015 to July 2016, so it is required to be examined as to whether from the said date it became non continuous supply. In this respect, the Respondent has produced detail sheet (Page No. 52 to 61). The monthwise duration calculated by Respondent 76.61 hrs. & out of that

- | | | |
|----|---|------------|
| 1) | MSETCL outage | 28.22 hrs. |
| 2) | MSEDCL outage | 21.16 hrs. |
| 3) | Break downs,
Tripping (including
Consumer end fault | 21.16 hrs. |

20) As such, it is submitted by Respondent that only 21.26 hrs. of interruption were there & those pertains to break down & tripping on 33 KV Shendra Feeder, mainly because of tripping due to earth faults with duration of 10 to 20 minutes. Considering the cause of interruption, record of interruptions produced by the Respondent, we feel that even the complainant can't be treated for tariff difference as non continuous industry supply from September 2015 to August 2016. It is important to note that for purpose of refund at tariff difference, Hon'ble MERC in case no. 105/2013, MSEDCL Vs Kolika Steel & Alloys Pvt. Ltd., & 16 others in a review petition on the point of levy of additional electricity charges for HT-1 Express feeder (Continuous Supply) category consumers – laid down at para 12.2 as under.

12.2 Taking in to consideration the Commission's order in case no. 88 of 2012, the Commission is of the view that regardless of undertaking or agreement on supply on sub – SoP level, MSEDCL was bound to supply continuous power as envisaged for continuous process industry. MSEDCL is directed to verify that the Respondents (in Case No. 105 of 2013) had DIC Certificate as continuous process industry issued by the Directorate of Industries, Government of Maharashtra during those billing months under consideration of this Petition and refund these Respondents. The Respondents who did not have a valid certification as continuous process Industry issued by the

Director of Industries, Government of Maharashtra for the period will not be entitled for any relief.

21) Considering the said ratio, the complainant has not come out with a case of valid certification issued by Directorate of Industries, Government of Maharashtra. Therefore also disentitled for any relief as claimed. Under the circumstances, the complainant is at liberty to seek remedy under MERC (Standards of performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014.

22) Considering the total facts, circumstances of the dispute, we hold that the disputed feeder is found express feeder. As such we answer Point No. 1, that, it is found express feeder. Consequently, the complainant is disentitled for refund of excess amount paid towards express feeder charges & interest. We answer points 2 to 5 in the negative & proceed to pass following order in reply to Point No. 6

ORDER

- 1) Complaint is hereby dismissed.
- 2) Parties to bear their own costs.

Sd/-
Shobha B. Varma
Chairperson

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/
Vilaschandra S.Kabra
Member