



CONSUMER GRIEVANCE REDRESSAL FORUM

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Case No.: 08/2018

Date of Grievances: 22 /05/2018

Date of Order: 24/07/2018

Shri. Datta Dudh Shitakaran Kendra,
A/p-Sombhali, Tal- Phaltan, Dist- Satara.

Applicant
(Hereinafter referred to a consumer)

Versus

Executive Engineer,
M.S.E.D.C.L.,O&M,
Division, Phaltan

Opponent
(Hereinafter referred to as Licensee)

Quorum

Chairperson	Mr. B. D. Gaikwad
Member	Mr. S. K. Jadhav
Member Secretary	Mr. M. A. Lawate

Appearance:-

For Consumer: - Mr. Vitthal N. Sodmise (Consumer)

For Respondent: - Mr. N. B. Kale, Add. Executive Engineer, Sub-Division, Phaltan Urban.

ORDER

(Date:-24/07/2018)

- 1- The Complainant above named has filed present Grievance under regulation 6.4 Maharashtra Electricity Regulation Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006, Hereinafter referred to as Regulation of 2006.
- 2- The Complainant Shri. Datta Dudh Shitakaran Kendra is LT consumer having contract demand of 28 KVA and sanctioned load is 30 KW and consumer No is 202510052619. The Electric Supply was released on Dt. 04.03.2016. According to complainant it runs milk & chilling plant (Dairy) at Somanthali Tal. Phaltan Dist. Satara. According to consumer the tariff applicable to it is of LT industrial Category and electric bill were charged as Industrial LT (V) (B) tariff. However form May 2017 the bills were charged as LT II commercial rate and so the

electric bills were increased causing economic loss. The opponent Licensee claimed said bills retrospectively from May 2017 and claimed the recovery of Rs. 3,16,795/- The Phaltan urban sub division sent the bill of recovery. The said change in the tariff is not admitted by the consumer and has made correspondence. As per MERC Tariff order dt 26/06/2015 in the case no 121/2014 for chilling plant (Dairy) the electric bills should be charged as LT V(B) Industrial category. The Licensee has claimed the bills illegally on the basis of wrong tariff.

- 3- Complainant/Consumer further states that there are different kinds of machineries in its premises. It is submitted that Milk Processing & chilling plant (Dairy) is being run with the help of machineries. It is entitled for LT V B industrial tariff and same is the tariff for all milk plants in Maharashtra. The Consumer thereby states that the bills shall be as per LT V (B) Industry tariff and excess amount should not be recovered from him. He has made complaint before IGRC Satara but his complaint was rejected and it is held that license is entitled to recover the amount of bill of Rs. 3,16,795/-. The Consumer thereby submitted his Grievance before this forum.
- 4- The Licensee has resisted the complaint by filing Say. It is contented that on 08.12.2017 flying squad Satara inspected the premises of the consumer and directed urban sub division office Phaltan to change tariff as LT II commercial instead of LT V (B) and so the tariff and recovery are claimed from the consumer.
- 5- The Licensee further contented that flying squad satara observed that consumer use to collect huge quantity of milk and preserve the milk in chilled good condition up to 3 to 4 degree c and dispatch the milk to Dairy through tankers. There is no processing of milk or production of milk products and milk is not chilled for dairy activities. The actual usage is for Milk collection LT -II commercial activity as per MERC tariff order of June 2015. The plain difference between the tariffs shall be recovered from consumer. The spot inspection report is signed by consumer's representative. The bill of Rs. 3,16,795/- was issued to consumer's and he is liable to pay the same. It is contended that as per MERC tariff 2015 above sanctioned demand of 30 HP milk collection centers are charged as per commercial tariff and the tariff charged is correct and proper and present grievance is devoid of merits. The recovery claimed from the consumer is from March 2016 to April 2017. The Licensee submits Grievance shall be dismissed with cost.
- 6- The hearing of the present grievance was fixed on 24.07.2018 before the forum and the representative of both parties were heard at length. On perusal of the documents on record and hearing of parties, following points arise for our consideration and we have recorded our Finding thereon for the reasons stated hereinafter.

POINTS**FINDINGS**

- | | |
|--|-----------------------|
| I) whether the tariff LT-II commercial is
Applicable in the present case? | - No. |
| II) Whether consumer is entitled for the reliefs claimed? | - Yes. |
| III) What order? | - As per final order? |

REASONS

- 7- The learned representative of consumer shri. V. N. Sodmise submitted say in writing and retreated the same in his argument. He produced documents on record. On the other hand Add. Executive Engineer urban sub-division Phaltan also reiterated the contents of written say on record.
- 8- There is no dispute that consumer is LT consumer having contract demand of 28 KVA and sanctioned load is 30 H.P. and actual load is 30 H.P. The date of connection is 04.03.2016. It may be noted since the date of connection of Electricity, the bills were charged and paid as per LT-V-B II tariff and there was no dispute regarding the tariff. However, Licensee has changed the tariff without any notice and on the directions of Flying squad. It started to charge bills on the basis of LT-II commercial tariff from March 2016 and also claimed amount of difference between the said tariff form March 2016 to April 2017 and that recovery amount comes to Rs. 3,16,795/-.
- 9- As per MERC Tariff order dated 26.06.2015 in case No. 121/2014, the revised tariffs are applicable from 1.06.2015 and MSEDCL in its commercial circular No. 243 dated 3/7/2015. instructed its field officers that whenever the tariff category is redefined or newly created by MERC, the exiting/prospective consumers should be properly categorized by actual field inspection immediately and data to be immediately updated in the IT data base. In the case in hand flying squad inspected the premises on 08.12.2017 and thereafter directed to change the tariff and recovery of difference.
- 10- We have to consider the contract load, sanctioned load and actual load as stated earlier. The documents indicates that sanctioned load is 30 HP and actual load is 30 H.P. We are unable to believe that such 30 H.P. electricity is used merely to collect milk and to run milk collection centre. It is rightly submitted on behalf of consumer that for chilling plant of milk, the collection of milk is primary activity. The record indicates that the consumer is having machineries and also building for chilling plant and it is not merely milk collection center to which LT-II commercial tariff is applicable. It being chilling plant (Dairy) the applicable tariff is LT-V (B) LT industry general which was earlier applicable to the present consumer. It is clear that when there is milk processing and chilling of milk, the LT-V (B) tariff shall be applicable.





The milk collection centre is in commercial category because there is no much consumption of electricity and there is no processing of the milk and so in the present case earlier tariff category was legal and proper as per rules.

11- It is rightly submitted on behalf of consumer that usage of electricity is mainly for chilling milk and for collection of milk only 200 vat Bulbs/Tubes are used. The electricity is used for running machineries of chilling plant. It is rightly submitted that chilling of milk is immediately required so as to prevent growth of Bacteria and spoilage to maintain its quality. The MERC order dated 12.9.2010 in case no. 111/2009 clarified the consumer categorization which should reflect main purpose of the consumer premises. In the present case main purpose of usage is to run chilling plant and so the tariff applicable is LT-V (B) Industry-general and applicable clause is (B) in the tariff order which includes milk processing, chilling plants (dairy). The collection of milk in this case is merely ancillary and incidental.

12- It is also submitted on behalf of consumer that supplementary bills and recovery thereof is illegal and it cannot be retrospective without admitting the claim of Licensee. It is submitted that in any case recovery must be prospective from the date of detection of error. The reliance is placed on the order of MERC in case No.24/2001 dated 11.02.2003 wherein in Para 23 of the order it is observed

"No retrospective recovery of arrear can be allowed on the basis of any abrupt reclassification of consumer even though same might have been pointed out by the Auditor. Any reclassification must follow a definite process of natural justice and the recovery if any would be prospective only as the earlier classification was done with a distinct application of mind by the competent people. The same cannot be categorized as an escaped billing in strict sense of the term to be recovered retrospectively".

In the present case there is no question of any recovery because we have come to the conclusion that earlier classifications is as per rules and it is not necessary to change the same.

13- It is submitted on behalf of consumer that the consumer is entitled for interest on the excess amounts paid and recovered u/s 62 (6) of Electricity Act 2003 or the excess amount may be adjusted with interest in future bills. In the light of the provision of section 62 (6), there is no reason to reject the prayer of interest, if excess amount of bill is paid.

14- The consumer also claims compensation or damages of Rs 25000/- on account of mental, physical and economic loss However there is no any cogent evidence to that effect and said relief cannot be granted to the consumer.

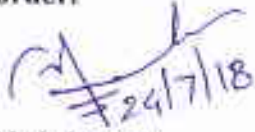
15- In view of above discussion, we answered above point's No. I and II accordingly and pass following order.





ORDER

- 1- Grievance is partly allowed as under.
- 2- It is hereby declared that the present consumer is entitled for tariff LT V (B) Industry General and Licensee shall issue monthly bills accordingly.
- 3- The Licensee shall adjust excess amount If paid/recovered with bank interest u/s 62(6) Electricity Act 2003 in future bills.
- 4- No order as to cost.
- 5- The licensee to report compliance within one month from the date of receipt of this order.



M. A. Lawate
Member/Secretary
CGRE, BMTZ, BARAMATI



S.K. Jadhav
Member
CGRE, BMTZ, BARAMATI



B.D. Gaikwad
Chairperson
CGRE, BMTZ, BARAMATI

The Consumer if not satisfied may file representation against this order before the Hon'ble Ombudsman within 60 days from date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Building, BandraKurla Complex,
Bandra (East), Mumbai-51.