



CONSUMER GRIEVANCE REDRESSAL FORUM
 UrjaBhavan, 3rd Floor, Bhigwan Road, Baramati -413102
 Tel. No. 02112-244772, 74 (O), Fax No. 02112- 244773
 E-mail: cebaramati@mahadiscom.in/cgrfbaramati1@gmail.com

Case No.: 09/2018

Date of Grievances: 15 /06/2018

Date of Order: 24/07/2018

Shri. Sachin D. Mane,
 A/P- Kalaj, Tal. Phaltan,
 Dist. Satara

Applicant
 (Herein after Referred to a consumer)

Versus

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

Opponent
 (Herein after 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. Shankar N. Mulik (Consumer representative)

For Respondent: - Mr. M. B. Suryvanshi, Dy. Executive Engineer, Sub-Division, Phaltan R.

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. Sachin Dadasaheb Mane is LT consumer having contract demand of 8 KVA and sanctioned load is 10 KW and consumer No is 202250460670. The Electric Supply was released on Dt. 09.12.2005. According to complainant it runs milk chilling plant at village Kalaj Tal. Phaltan Dist. Satara. It is the consumer of LT industrial Category and electric bills were charged as Industrial LT (V) (B) tariff. However from June 2015 the bills were charged as LT II commercial tariff at commercial rate and so the electric bills are become double causing economic loss and it become economically impossible to run said business. The opponent Licensee claimed said bills retrospectively and claimed the recovery Rs 1,39,110/- The Phaltan sub division sent the bill of recovery on 27/2/2017. 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 bill should be charge as LT V(B) Industrial category. The Licensee has claimed the bill illegally on the basic of wrong tariff. The consumer has paid the bills of Rs. 70,000/- under protest and calming refund of the amount of excess bills.
- 3- Complainant /Consumer further states that there are machineries in his milk chilling plant and with the help of such machineries there is activity of milk chilling, he is entitled for LT V.B industry tariff and same is the tariff for all milk chilling plants in Maharashtra. The Consumer thereby states that the bills shall be as per LT V (B) Industry tariff and excess amount recovered may be refunded with interest. Initially consumer has preferred grievance before. Internal grievance Redressal cell (IGRC) Satara but the grievance is rejected by order dated 17.03.2018.
- 4- The Licensee has resisted the complaint by filling say. It is contented that on 14.02.2017 flying squad satara inspected the premises of the consumer and directed sub division office Phaltan to change bills as per tariff LT II commercial tariff.
- 5- The License further contented that flying squad satara observed that consumer use to collect buge 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 activates. The Actual usage is for milk collection LT-II commercial activity as per MERC tariff order June 2015. The plain difference between the tariff shall be recovered from consumer. The spot inspection report is signed by consumer representative. The bill of

Rs. 1,39,110/- was issued to consumer and he is liable to pay the same. It is contended that as per MERC tariff 2015 above sanctioned demand of 10 HP for milk collection centre 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 June 2015 to Feb 2017. The Licensee submit 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 findings thereon for the reasons stated hereinafter.

7- 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

- 8- The learned representative of consumer shri. S.N. Mulik submitted say in writing and reitreated the same in his argument. He produced documents on record. On the other hand Dy. Executive Engineer, Sub- Division Phaltan Rural also reiterated the contents of written say on record.
- 9- There is no dispute that consumer is LT consumer having contract demand of 8 KVA and sanctioned load is 10 H.P. and actual load is 10 H.P. The date of connection is 9.12.2005. It may be noted that since the date of connection of Electricity, the bills were charged and paid as per LT-V (B) Industrial 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 June 2015 and also claimed amount of difference between the said tariff June 2015 to Feb 2017 and that recovery amount comes to Rs. 1,39,110/-.
- 10- 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. instrumented it's field officers that whenever the tariff category is redefined or newly created by MERC, the exiting or prospective consumers should be properly cate categorized by actual

field inspection immediately and data to be immediately updated in the IT database. In the case in hand flying squad inspected the premises on 14.2.2017 and thereafter directed to change the tariff and recovery of difference of bill.

- 11- We have to consider the sanctioned load and actual load as stated earlier. The documents indicated that sanctioned load is 10 HP and actual load is 10 H.P. We are unable to believe that such 10 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 centre 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. When there is milk processing and chilling, 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 on the milk. So in the present case earlier tariff category was legal and proper as per rules.
- 12- It is submitted on behalf of consumer that usage of electricity is merely for chilling milk and for collection of milk only 3 bulbs 100 vat are used. The electricity 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. 11/2009 clarified the consumer category which should relate to 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) Industrial tariff. Which includes milk processing chilling plants (dairy the collection of milk in this case is merely ancillary and incidental.)
- 13- It is also submitted on behalf of consumer that supplementary bills and recovery thereof is illegal and it cannot be retrospective. 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 where 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 process of material justice and the recovery if any would be prospective only as the earlier classification was done with 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"



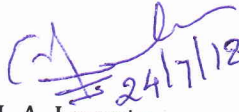



In the present case there is no question of any recovery because we have come to the conclusion that earlier classification as per rules and it is not necessary to change the same. On the contrary the consumer has paid Rs. 70,000/- as per change the tariff. The licensee has permanently disconnected supply on. 30/08/2017. Which is not just and proper.

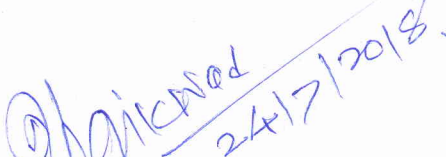
- 14- It is submitted on behalf of consumer that the consumer is entitled for interest on the excess amounts paid and recovered us 62 (6) of Electricity Act 2003 or the excess amount may be adjusted with interest in future bills. In the light of the provision of section 62 (6), there is no reason to reject the prayer of interest.
- 15- In view of above discussion, we answered above points No. I and II accordingly and pass following order.

ORDER

- 1- Grievance is 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 paid/recorded with bank interest u/s 62(6) The Electricity Act 2003 in future bills
- 4- The Licensee shall reconnect the electric supply which is made PD within one month as per rules.
- 5- No order as to cost.
- 6- The licensee to report compliance within one month from the date of receipt of this order.


24/7/18
M. A. Lawate
Member/Secretary
CGRE, BMTZ, BARAMATI


S.K. Jadhav
Member
CGRE, BMTZ, BARAMATI


24/7/2018
B.D. Gaikwad
Chairperson
CGRE, BMTZ, BARAMATI

Note:-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), Mumabi-51.

