

Case No.: 13/2018

Date of Grievance: 01/08/2018

Date of Order: 05/09/2018

Hutatma Sahakari Dudh Utpadak Sangh Ltd.,
Walwa, Dist- Sangli.

Applicant

(Hereinafter referred to a consumer)

Versus

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

Opponent

(Hereinafter referred to as Licensee)

Quorum

Chairperson Mr. B. D. Gaikwad

Member Secretary Mr. M. A. Lawate

Appearance:-

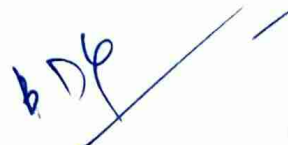
For Consumer: - Mr. A.L. Redekar (Consumer)

For Respondent: - Mr. D. B. Ghare, Dy. Executive Engineer, Sub-Division, Karad.

ORDER

(Date:-05/09/2018)

- 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 Hutatma Sahakari Dudh Utpadak Sangh Ltd is LT consumer having contract demand of 83 KVA and connected load is 83 KW and consumer no. is 197370001144. The Electric Supply was released on 16.01.2011. According to complainant it runs milk & milk production plant at village Vadgaon, Tal. Karad, Dist. Satara. It is the consumer of LT industrial Category and electric bill were charged as Industrial LT (V) (B) tariff. However form June 2015 the bills were charged as LT II (A)

tariff at commercial rate and so it became impossible to pay the electric bills and to run said business. The opponent Licensee claimed said bills retrospectively from June 2015 and claimed the recovery of Rs. 20, 01,378/-. The Karad 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 bill should be charged as LT V(B) Industrial category. The Licensee has claimed the bill illegally on the basis of wrong tariff.

- 3- Complainant further states that the milk chilling plant is being run and also there is production of milk products. 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. 20, 01,378/- The Consumer thereby submitted his Grievance before this forum.
- 4- The Licensee has submitted say and contented that on. 28/07/2017 the flying squad Satara inspected the premises of the consumer and directed sub division office Karad to change tariff as LT II A instead of LT V (B) and so the tariff recovery is claimed from the consumer. It is submitted on behalf of Licensee that the usage of Electricity is for collection of milk and chilling centre. The milk is collected and chilled up to three to four degrees and then transported to other dairies. There is no any processing on the milk and there is no manufacturing of milk products and so the commercial tariff is applicable. It is submitted that as per the order passed by MERC in Case No. 121/2014 activity of milk collection is commercial activity. Even in case no. 48/2016 Hon'ble MERC held that activity of milk collection is covered under commercial tariff. It is submitted that the present Grievance is devoid of merits and shall be dismissed with cost.
- 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 A 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 representative. The bill of Rs. 20, 01,378/- was issued to consumer and he is liable to pay the same. The recovery claimed from the consumer is from June 2015. The Licensee submits Grievance shall be dismissed with cost.

- 5- The hearing of the present grievance was fixed on 05.09.2018 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.

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. A.L. Redekar submitted say in writing and reiterated the same in his argument. He produced documents on record. On the other hand representative of MSEDCL has also reiterated the contents of written say on record.
- 8- There is no dispute that consumer is LT consumer having contract demand of 83 KVA and sanctioned load is 83 KW. The date of connection is 16.01.2011. It may be noted since the date of connection of Electricity, the bills were charged and paid as per LT-V-B 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 retrospectively and also claimed amount of difference between the said tariff from June 2015 onwards. And that recovery amount comes to Rs. 20, 01,378/-.
- 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 28.07.2017 and thereafter directed to change the tariff and recover the difference.

10- We have to consider the contract load, sanctioned load and actual load as stated earlier. The documents indicates that sanctioned load is 83 KW and connected load is 83 KW. We are unable to believe that such 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 is also submitted that there is production of Ghee and Basundi in the said plant. 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, 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 100 to 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 of milk and so the tariff applicable is LT-V (B) Industry-general which include 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".

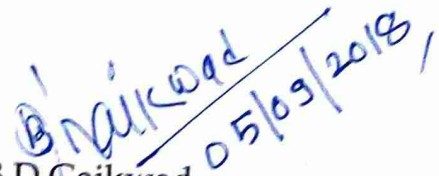
13- In the present case there is no question of any recovery because we have come to the conclusion that earlier classification is as per rules and it is not necessary to change the same. It is submitted by the consumer that two bills at commercial rate are paid so as to avoid disconnection of electricity. It is submitted that consumer is paying the bills regularly. The said consumer is cooperative institution for the benefit of large number of agriculturists. It is submitted that excess amount paid may be refunded or adjusted in future bills with interest u/s 62 (6) of Electricity Act 2003. In our opinion, the consumer is entitled for the interest on the excess amount paid. In view of above discussion we answered above points I and II accordingly and pass following order.

ORDER

- 1- Grievance is allowed.
- 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
CGRF, Baramati Zone.



B.D. Gaikwad
Chairperson
CGRF, Baramati Zone.

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.

