

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

"Vidyut Bhavan" Ratanlal Plot ,Akola. Tel No 0724.2434475

ORDER

Dt:- 26.03.2019

Complaint No :- 07/2019 Dated 18.02.2019

In the matter of grievance pertaining to change of tariff from Commercial to Residential and SOP Compensation.

Quorum

Dr.V.N.Bapat- Chairman

Shri.D.M.Deshpande, Member (CPO)

Shri. R.A.Ramteke, Member – Secretary

1. Smt Gorubai Ramniwas Agrawal :- Complainant
Consumer No. CL 310070204371
Akot Fail Opposite Akot Fail
Police station, Akola-444003.

.....Vrs.....

Executive Engineer, :- Respondent
MSEDCL, O&M
Urban Division Akola

Appearances

1. Shri Raju Ramniwas Agrawal - Representative for Complainant
2. Shri A. J. Dinore - Additional Executive Engineer,
MSEDCL,

1) Complainant Smt. Gorubai Ramniwas Agrawal has filed grievance under section 6.2 of MERC (CGRF & OMBUDSMAN) Regulation 2006 as complaint dated 18.12.2017 to Mahavitaran Akola for change of tariff deemed to be a complaint before IGRC Akola which has not been resolved by MSEDCL or IGRC till filing grievance to CGRF Akola on 18.02.2019.

2) The Complainant's case in brief is that they are residing at Akot fail opposite police station Akola and constructed shop in the residential premisses where in commercial seasonal business of 'sugarcane juice' is carried out from Feb to Jun for five month. The main purpose of use of electricity is for residential and consumption is less than 300 KWH per month. According to complainant MSEDCL vide their circular no. 284 dated 11.04.2017 permitted using electricity for commercial purpose for small business being carried out from residence subject to consumption limit of 300 units per month and accordingly application for change of tariff was submitted on 18.12.2017 with reminder to Additional Executive Engineer III of MSEDCL on 11.01.2019 but the grievance remain unattended. According to complainant no communication is received from N.A. M.S.E.D.C.L and referred section 171 of EA 2003. According to complainant reading bills are not being issued regularly and consumption for Jun 18 to Oct 18 is read on Nov 2018 and bill for cumulative consumption of 1056 units was issued. Complainant prays for change of tariff from Dec 2017 from commercial to residential and difference of amount bel refunded with interest as per bank rate and referred sections 62 of EA 2003 and SOP Compensation for delay in change of tariff and for not issuing reading bill from Jun 18 to Oct 18. Complainant annexed copy of complaint dated 18.12.2017, 11.01.2019, energy bill for Jan 2019, inspection report dated 15.02.2019 and CPL From Jan 2015 to Dec 2018 with the complaint.

3) Reply came to be filed belatedly by N.A. M.S.E.D.C.L on 08.03.2019. According to N.A. M.S.E.D.C.L complainant is commercial consumer and on verification of CPL from April 2015 found to be billed as per commercial tariff. According to N.A. M.S.E.D.C.L on site inspection it is observed that complainant has constructed four commercial shops at his residence on front side and using one of the shops for kitchen and sugarcane machinery for residential and commercial use. According to N.A. M.S.E.D.C.L electric supply to the residence is from the meter located at one of the shops. According to N.A. M.S.E.D.C.L the contents of circular no. 284 dated 11.04.2017 issued by corporate office of MSEDCL is applicable only if commercial shop is part of residence and hence requested Forum to dismiss the complaint. N.A. M.S.E.D.C.L annexed copy of CPL from April 2015 and copy of circular no. 284 dated 11.04.2017.

4) Shri Raju Ramniwas Agrawal learned Representative for Complainant and Shri A. J. Dinore, Additional Executive Engineer, MSEDCL were present for the hearing held on 13.03.2019. Shri Raju Ramniwas Agrawal learned Representative for Complainant filed on record photo residential certificate from corporator and Elector's photo identity issued by Election commission of India as a proof for residential house at the place from last 40 years and submitted written note of arguments on 13.03.2019. Shri Raju Ramniwas Agrawal learned Representative for Complainant brought to the notice of Forum that the plea taken by MSEDCL in their reply of use of commercial meter for residential purpose is false and misleading as meter is fixed on back wall of the shop which is common wall for residence and photo identity card is issued by Election commission in 1994 with residential address and connection was released in 1986 for residential purpose only and documents with record is available with MSEDCL. It is also brought on record by learned representative for complainant that because of commercial use of electric supply from residence for sugarcane shop, the tariff was changed to commercial in the past 6 to 7 years before by MSEDCL and all related paper documents are in the custody of MSEDCL. Shri Raju Ramniwas Agrawal brought to the notice of Forum that concern record is not filed before Forum by N.A. M.S.E.D.C.L and urged Forum that since facility of non-residential activity is permitted from residence for the use of electricity as per circular no. 284 dated 11.04.2017 the residential tariff may please be restored from 01.04.2017 as total consumption in the year never exceeded 3600 units.

5) Shri A. J. Dinore, Additional Executive Engineer, for MSEDCL urged that the record prior to the year 2011 in respect of this complaint is not available and since year 2011 the complainant is billed as per commercial tariff. Shri A. J. Dinore, Additional Executive Engineer brought to the notice of Forum that complainant did not submit the residential proof along with the application for change of tariff and hence complainant is not entitled for change of tariff from Dec 2017 and SOP Compensation is also not payable. Shri A. J. Dinore, Additional Executive Engineer, MSEDCL urged that the facts brought on record by written note of arguments on 13.03.2019 by complainant are not denied.

6) Having heard the parties and considering the material placed on record Forum is of the view that regulatory commission have extended certain facilities to residential consumers undertaking business or

commercial activity from part of a residence whose monthly consumption is upto 300 units a month and annual consumption in the previous financial year was upto 3600 units. This facility was first time extended in the tariff order issued in the year 2012 from 01.09.2012 and incorporated in tariff order 48 of 2016 made applicable by MSEDCL by issuing commercial circular no. 284 dated 11.04.2017 effective from 01.04.2017 against which complainant is requesting for change of tariff to residential from 17.12.2017. It is fact on record that single phase connection with 3 KW load was released by N.A. M.S.E.D.C.L on 20.12.1986. According to complainant electric connection was released by N.A. M.S.E.D.C.L in the year 1986 for the purpose of residence and billed as per residential tariff some time upto the year 2010 and submitted on record residential proof 'Electro's photo identity card' issued by Election commission in the year 1994' the document has not been disputed by N.A. M.S.E.D.C.L and Forum finds no reason to dispute and of the view that there is substance in the plea that electric connection was released by N.A. M.S.E.D.C.L in 1986 for residential purpose and subsequently converted into commercial tariff by N.A. M.S.E.D.C.L because of electric supply from residence was used for shop. Forum is of the view that record of new connection issued in the year 1986 and change of tariff to commercial prior to the year 2012 is with N.A. M.S.E.D.C.L and burden to produce the facts on record before Forum is the responsibility of N.A. M.S.E.D.C.L which they have neglected and submitted during hearing that record prior to the year 2011 is not available. Even after giving opportunity to N.A. M.S.E.D.C.L by Forum shown inability to file facts on record because of unavailability of old record prior to the year 2011. From above observation Forum is convinced that original electric connection was issued for residential purpose in the year 1986 and because of unauthorised use for commercial purpose tariff was changed to commercial by N.A. M.S.E.D.C.L in absence of any facility approved by MERC in tariff order, and Forum is of the view that since facility of commercial activity from residence is allowed to the extent of 300 units per month as per tariff order 48 of 2016 the tariff should be restored to residential from the next billing cycle of date of application. Forum finds substance in the defence brought on record by N.A. M.S.E.D.C.L that since complainant did not enclosed the proof of residence with application dated 18.12.2017 which is filed on record on 13.03.2019, complainant is not entitled from change of tariff from 18.12.2017. Forum is of the view N.A. M.S.E.D.C.L should be directed to effect the change of tariff from commercial to residential from the date of complaint to Forum on 18.02.2019.

The other grievance of SOP Compensation for not issuing reading bill for the period June 18 to Oct 18 is not tenable since claim is time barred.

With these observations, Forum proceeds to pass following unanimous order.

ORDER

1. That the Complaint No. 07/2019 Dated 18/02/2019 is hereby partly allowed.
2. That N.A. M.S.E.D.C.L is directed to effect in change of commercial tariff to residential tariff from 18.02.2019 for connection no. 310070204371 and continue to bill as per residential tariff till tariff rules are followed by the complainant.
3. No order as to the cost.
4. That N.A. M.S.E.D.C.L is directed to submit compliance report to this Forum within one month of this order.

S/d/-
Member Secretary

S/d/-
Member (CPO)

S/d/-
Chairman

Contact details of Electricity Ombudsman appointed by
MERC (CGRF&EO) Regulations 2006 under Regulation 10:

THE ELECTRICITY OMBUDSMAN,
Office of Electricity Ombudsman (Nagpur)
Plot No.12, Shrikrupa, Vijaynagar,
Chhaoni, Nagpur-440 013. Phone:- 0712-2596670.

No. CGRF/AKZ/Akola/69

Dt:- 26.03.2019

To,
The Nodal Officers
Executive Engineer,
MSEDCL, O&M
Urban Division Akola.

The order passed on **26.03.2019** in the Complaint No. **07/2019** is enclosed herewith for further compliance and necessary action.

Secretary,
Consumer Grievance Redressal Forum,
MSEDCL, Akola Zone, Akola.

Copy s.w.r. to:-

- 1) Chief Engineer, MSEDCL, Akola Zone, Akola.
- 2) Superintending Engineer MSEDCL, O&M Circle, Akola.

Copy to :-

- 1) Smt Gorubai Ramniwas Agrawal, % Raju Ramniwas Agrawal, Akot Fail,
Near Police station, Akot Fail, Akola-444003.