

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/ 155/0036

Date: 30.04.2019

Hearing Date:09.10.2018

CASE NO.155/2018

In the matter of billing

M/s. HPCL(M/s. United Motor store)
Teen Petrol Pump Nauvpada,
Thane.,(Consumer Number 000019053410)
Thane. (Hereinafter referred as Consumer)

Vs

Maharashtra state Electricity Distribution Company Ltd
Through it's Nodal Officer,
Thane Circle,Thane
..... (Herein after referred as Respondent)

Appearance:-

For Consumer – Shri.M.N.Nagnure

For Licensee:- Shri. Prakash Lele , Additional Executive Engineer,
Power House Sub-division

[Coram- Dr. Santoshkumar Jaiswal- Chairperson, Shri. R.S.Avhad -Member
Secretary

and Sharmila Ranade - Member (CPO)].

a) Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum &

Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with subsection 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Here in after referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience.

- b) This complaint is filed by M/s United Motores, Thane (MGL CNG Station) alleged that as per MERC tariff and notification issued by the office of Chief Engineer (Commercial), CNG process is consist of two activities, compression and dispensing. According to electricity tariff at all CNG stations are being considered as per relevant industrial tariff for compression load and commercial for lighting and dispensing load. Also, in the MSEDCL revised tariff order which was effective from 1st November 2016, where activities of CNG stations are sub divided into CNG bottling and retail sale. Recently flying squad visited the said CNG stations and without considering the different activities which are being carried out in the retail outlets, levied of commercial tariff to entire CNG station. He has given four retail outlet Aiki Auto service, Thane, Radha Kishan Lalchand, Thane, United Auto, Thane, Kailash Auto Thane.
- c) Respondent has filed his reply dtd 09.08.2018 state the consumer M/s HPCL (con. No 000019053410), Category of connection LT-IIC commercial ,Date of connection 15.11.2006, Connected Load 111.90 KW, Further submit said consumer is using the power supply for commercial purpose i.e retail Gas

filling Centre. As per MERC tariff order, the retail gas filling station come under commercial category. The flying squad had inspected the premises of consumer on dtd. 10.11.2017 & observed that consumer is using the power supply for commercial purpose i.e. retails gas filling centre, however billing is done as per industrial tariff. Hence flying squad intimated us to change the tariff of above consumer and to recover the short billed amount for the period of November 2016 to October 2017.

- d) As per the flying squad report the tariff of consumer changed from industrial to commercial w.e.f. November 2016 & plain tariff difference recovery bill amounting Rs. 31,86,970/- is issued to consumer in the month of December 2017. The consumer without any protest and without any grievance paid the entire recovery amount on dtd. 16.02.2018.
- e) He further submitted that as per MERC Regulations, Reg. No. 6.8(d), in case of recovery of arrears where the bill amount is not disputed such matters shall be excluded from the jurisdiction of CGRF. In present case, the consumer has paid the entire amount recovery amount without any protest. Hence, the bill amount is not disputed. In view of the above, the present matter is not maintainable before CGRF as per Reg. No. 6.8(d).The application is not maintainable.
- f) Further submit as consumer was found using supply for retail CNG Gas station , hence Industrial tariff of consumer changed to commercial tariff as per MYT Tariff order dtd 01 Nov 2016.
- g) The consumer has filed return submission on 08.10.2018 stating that in the year 2012 MSEDCL has granted industrial tariff at M/s. United Motores ,Thane (MGL CNG Station) consumer No000019053410 after bifurcation of load and installation of two separate meters for two different activities, as

per the directives of Chief Engineer Commercial vide notification no. PR-3/Tariff/21956 dated 26.06.2009 details of the meter installed at said CNG station is below

Sr. No.	Name of the CNG Station	Load	Consumer No.	Initial tariff	Tariff proposed by flying squad	Meter No.
1.	M/s. United Motores ,Thane	Compressor Load	000019053410	LT-V	LT-II C	055-MHD13711
		Dispensers Load	000011694349	LT - II A	-	053-09233194

h) At the said RO, the load bifurcation was already been done for two separate activities namely compression and retail sale, accordingly two separate meters had been installed for compression activity and retail sale. We are paying electivity bill under industrial and commercial tariff respectively. Refer the notifications issued by Commercial vide notification no. PR-3/Tariff/16925 dated 13.07.2018 and Commercial vide notification no. PR-3/Tariff/21956 dated 26.06.2009.

i) The applicant state that flying squad letter no. PR-3/Tariff/ 21956 dated 26.06.2009 recommended to change the tariff at above consumer without verifying and considering the load bifurcation. The recommendation of flying squad has not been verified by the concern engineer in-charge. Without verifying the facts, the tariff has been changed from industrial to commercial and raised the differential amount bill. MGL official before making arrears payment approached M/s. MSEDCL twice, for resolution of grievance. MSEDCL official suggest MGL to make payment to avoid disconnection of

power supply. He further suggested escalating the matter for resolution, as the revision has been proposed by flying squad. The applicant further state MGL has issued a letter on 12.02.2018 and made payment on 16.02.2018, against the consumer no 000019053410. The arrears payment has been done after raising the grievance.

- j) Further, state MoPNG (ministry of petroleum and gas), has authorised MGL to distribute natural gas in Mumbai and adjoining area. Accordingly, MGL have commissioned CNG stations, which are co located with OMC stations. According to the agreement between MGL and OMC, MGL is paying the electricity bill of compressors and dispensers installed at CNG stations. The net additional amount paid up to 08.10.2018 is Rs. 64 Lakh. From November 2016 to February 2018 Rs. 31,86,970./- from March 2018 to September 2018 Rs. 32, 00,000/-(approximately).
- k) Heard both sides and gone through the Maharashtra State Electricity Distribution Ltd Commercial Circular no. 284 dated 11.04.2017 issued by Chief Engineer Commercial regarding revision of Electricity Tariff with effect from 1 April 2017 and implementation thereof describe LT II:LT- Non Residential or commercial e) Automobile and all other types of repairs , servicing and maintenance centres(unless specifically covered under another tariff category); Retail Gas Filling Stations, Petrol, Pumps and Service stations, including Garages;
- l) I gone through Chief Engineer Commercial letter dated 26.06.2009 was issued the decision of recovery committee held on dtd. 26.05.2009 that ***" Consumer must take two separate connections (since there are two separate purposes), one for each activity. Tariff of respective category shall be relevant industrial bifurcation of load as per the activity. Compressing the***

CNG from gas pipe line up to the delivery point of the dispenser is to be treated as an industrial activity and relevant industrial tariff is to be applied. Retail selling of CNG to vehicle/customer form the dispenser is a commercial activity and hence relevant commercial tariff is to be applied."

m) I have gone through the order of IGRC 19.06.2016 it was held that retails Gas CNG station including garages come under LT II non residential or commercial therefore industrial category is not application for the retails Gas filling station.

n) On hearing both sides, it appears prima-facie that the Retail Gas filing station for distribution of Gas from the selling station is in commercial activity and it is as per LT II non residential or commercial which is declared by commercial circler no. 284 dtd 11.04.2017. I have gone through commercial circular and the decision of recovery committee of MSEDCL communicate by Chief Engineer commercial PR-3/Tariff/21956 dated 26.06.2009 which clearly shows that consumer must take two separate connection (since there are two separate purposes) one for each activity . Tariff for the respective category shall be applied only on bifurcation of load as per the activity.

Compressing the CNG form Gas pipe line to the delivery point of the dispensary it to be treated industrial activity and relevant industrial tariff is to be applied

Retail selling of CNG to vehicle/ customer from the dispensary is a commercial activity and hence relevant commercial tariff is to be applied.

o) The Chief Engineer commercial vide letter PR-3/Tariff/16925 dated 13.07.2018 reaffirmed which activity comes under which tariff and inform its official M/s Mahanagar Gas Ltd vide their representation under reference

"2" have stated that even if above guidelines are in existence, MSEDCL has started applying commercial tariff to entire activity at some of the stations and changed the tariff from industrial to commercial category for compression activity at the following CNG stations.

- 1.M/s Shah & Cheddha Reality , Neural (Consumer No 000339039180)
- 2.M/s United Motore, Thane (Consumer No 000019053410)
3. M/s Radhakrishna Lalchand , Thane (Consumer No 000019053400)
- 4.M/s Ravi Auto,Shilphata, Kalyan (Consumer No 000340039882)
- 5.M/s Gurukripa Gas Station , Shilphata, Kalyan (Consumer No 00041009315).

- p) It is requested to take necessary action as per guidelines issued vide letter no. PR-3/Tariff/ 21956 dated 26.06.2009 and inform the consumer accordingly under intimation to this office. All the filled officer is requested look at note of above decision and taken necessary action hardly.
- q) I have gone through letter no. PR-3/Tariff/ 21956 dated 26.06.2009, it appears order of separate connection for industrial activity and commercial activity. Therefore, applicant taken separate meter for each activity and pay regularly bill entitled for separate tariff of industrial activity and commercial activity. Regarding the payment made by the consumer without any protest and consumer has filed compliant to the IGRC and after decision of IGRC filed compliant to this Forum. There complaint for challenge the decision taken by flying squad. Hence, I found that the tariff of commercial tariff is for retail selling of CNG to the vehicle from the dispensary only and the supply of CNG gas form pipe line up to delivery point of the dispensary as treated the industrial activities as applied industrial tariff. I proceed to pass following order.

ORDER

1. The application in case 155/2018 is here by partly allowed.
2. The respondent is directed to separate tariff for CNG to the dispensary as industrial tariff and dispensary to the vehicle as commercial tariff.
3. The amount recovered from applicant shall be adjusted in future bills.
4. No order as to the cost

I Agree/Disagree

I Agree/Disagree

**MRS. SHARMILA RANADE,
MEMBER
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address. " Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-

"Maharashtra Electricity Regulatory Commission, 13th floor,world Trade Center, Cuffe Parade, Colaba, Mumbai 05"

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.