

CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE

Case No. 39/2019	Date of Grievance	: 11.06.19
	Hearing Date	: 05.07.19
		09.08.19
		21.08.19
	Date of Order	: 04.11.19

In the matter of accumulated bill due to change in tariff category.

Sangam World Centre, ----- APPELLANT
Opp.Phulenagar, Alandi Road,
Yerwada, Pune - 411006
(Consumer No. 170011374894)

VS

The Executive Engineer, ----- RESPONDENT
M.S.E.D.C.Ltd.,
Nagar Road Division,
Pune.

Present during the hearing:-

A] - On behalf of CGRF, Pune Zone, Pune.

- 1) Shri. A.P. Bhavathankar, Chairman, CGRF,PZ, Pune
- 2) Mrs. B.S. Savant, Member Secretary, CGRF, PZ, Pune
- 3) Mr. Anil Joshi, Member, CGRF, PZ. Pune.

B] - On behalf of Appellant

- 1) Mrs.Kumkum Naren, Consumer Representative
- 2) Uzma Khan, Representative
- 3) Mrs.Minakshi S.Jadhav, Representative

C] - On behalf of Respondent

- 1) Mr.D.N.Bhole, Ex.Engineer, Nagar Road Dn.
- 2) Mr.S.G.Ghodke, AEE, Vishrantwadi S/Dn.

Contract Demand 37 KVA, Connected Load 29 KW, date of connection
01.01.1979, Category -LT-II

The dispute for arrears of past recovery towards change of tariff itself. The above named consumer received bill alongwith request notice on 30.11.2018 informing that spot inspection was made on 26.11.2018 by MSEDCL official and report is filed & thereafter the case was kept on under observation, the Utility was directed to verify the document and fix the tariff category of this consumer accordingly & the purpose was found in the premises for Commercial category. Therefore the Respondent Utility issued the bill in the month of Jan. - 2019 for demand of tariff difference category LT V to LT II for amounting Rs. 23,02,530.98 for the period July-2014 to Oct.-2018 towards wrong tariff code was applied to the consumer and difference is demanded in the bill alongwith letter.

After receiving the said letter the consumer initially approached to IGRC for filing the grievance stating that employee of Pratiknagar visited Sangam World Centre on 14.11.2018 & informed that the bill was charged by mistake from LT-II Commercial to Industrial -LT V from July-2014. Hence the official has informed that the difference in payment between due to tariff office amounting to Rs. 23,02,530.98 need to be paid by the consumer. The consumer further alleged that the connection is since Jan-1979 until July-2014, the Commercial tariff bill is issued by the Utility & it is paid by the consumer. However in the month of July-2014 due to mistake, this office has charged the said bill under Industrial tariff and informed that the tariff category difference as Industrial LT V to Commercial LT II required to be paid by consumer. The consumer objected of category of the said bill charged by the Utility for retrospective period for July-2014 to Oct.-2018 and filed the grievance. The consumer attached copy of the said bill alongwith letter issued by the Utility dated 30.11.2018 and other relevant documents.

After filing the said disputes the IGRC registered the case on 20.5.2019 under case No.39/2019 and issued the notice to the consumer and the Respondent Utility & on 21.05.2019 directing to appear from hearing. Accordingly on dated 24.5.2019, the IGRC heard the dispute and gone through the complaint of consumer and also considered the reply of Utility. The IGRC directed consumer that the tariff difference bill issued for

amounting Rs. 23,02,530.98 is correct and the consumer is liable to pay the said bill. Being aggrieved by the order of IGRC, the present consumer approached to this Forum on 11.6.2019 and filed the grievance alongwith copy of the bill June & July - 2014 & April-2019. After filing the said dispute before this Forum on 11.6.2019, this office has registered the case vide Case No. 39 of 2019 . Thereafter this office has issued the notice to the Respondent Utility on 11.6.2019 directing to the Utility to filed reply on 26.6.2019. Thereafter the Utility filed the reply alongwith copies of documents, order of IGRC, and all other relevant documents. The Respondent Utility submitted that on 15.02.2019, this office has received objection of the consumer for payment of bill as on 26.11.2018 AEE, visited the premises and verify the supply of the consumer and found that the bill earlier issued to the consumer under the category of LT V B which is required to LT II B Commercial. Thereafter as per the spot inspection report and verification report supplementary bill was issued to the consumer for claiming tariff difference arrears since July-2014 to Oct.-2018 for amounting bill of Rs. 23,02,530.98. Accordingly the corrected revised bill no. 9752781 was issued to the consumer for Nov.2018 to Dec.2018 amounting to Rs.84,162.55 but charged & payable to the consumer & submission of the Utility is legal valid and proper.

Thereafter the said documents contention of the consumer and the Respondent Utility was perused by this Forum.

The following points arose for my consideration to which I have recorded my finding to the points given below:

1. Whether Utility entitled to recover the tariff difference bill from LT V to LT II B amounting to Rs.23,02,530.94 from consumer?
2. Whether the retrospective arrears recovery bill is legal valid and proper which category of tariff applicable to the consumer as activity running at the premises like as Girls Hostel & it is registration under "The World Association of Girls Guides & Girls Scouts".
3. What Order?
- 4.

Reasons:-

This Forum gave opportunity to hearing by issued the notice as on 26.06.2019. The consumer and their Representative and Respondent Utility was heard the matter on 5.7.2019 by this Forum. I have perused contention of consumer spot inspection report & after verification of documents and earlier category of bill issued to the consumer. Thereafter this Forum found that there was short fall and clarification of documents required from the Utility to verify opportunity given to the consumer with directions to the Utility official to visit the premises and verify all the documents and the supply given to the premises is used for what purpose. Accordingly the verification again was done by the Utility & document was verified, copy of this documents produce by the consumer representative and matter was heard again on 5.8.2019 to consider the dispute of consumer it appears that since the date of connection on 01.01.1979. This consumer was charged as LT-II Commercial category and thereafter the bill was issued from July-2014 onwards as Industrial category. As per the contention of consumer relevant documents submitted to the Forum & the consumer was issued bill under LT II category upto June - 2014 & thereafter Industrial tariff upto inspection. According to the Utility, the premises was inspected on 26.11.2018 and the activity was found as per the LT II Commercial & therefore the Utility issued to the difference of tariff bill from July-2014 to Oct.2018 amounting to Rs.23,02,530/. The judgment of the IGRC is perused, & the IGRC submitted during that during the course of inspection and the report dated 26.11.2018, that the category was found as commercial activity but the consumer was charged Industrial tariff category since July-2014 & therefore according to IGRC the tariff difference was claimed properly for amounting Rs.23,02,530.98 payable towards tariff difference from Industrial to LT II Commercial tariff & the bill was issued.

On perusal of the documents the issue was appropriate tariff is considered by this Forum. It is submitted on supporting of documents that the premises is running activity like as Girls Hostel & Registration under

World Association of Girl Guides & Girls Scouts. The said Institute is registered and Income Tax certificate issued to the said incentive by Competent Authority. The copy of the said certificate dtd.26.12.2010 is filed on record. The consumer also attached the copy of exemption under 80 G Charitable Trust of Institute certificate granted to the Chairman, World Association of Girl Guides & Girls Scouts, at Sangamwadi, Alandi Road on dated 17.5.1976. On the basis of the said certificate the Utility required to consider the activity and also prayer of consumer is to determine appropriate tariff which was not considered by the official of the Utility & not it is considered in the hearing of IGRC. Therefore all the circumstances minutely perused and considered by this Forum. It appears from the recorded that the tariff difference is charged from the Industrial to Commercial since July-2014 is claimed. In supplementary bill to my view retrospective recovery more than 24 months from the date of inspection cannot be allowed. In view of full bench recent judgment MSEDCL cannot allow to claim the recovery more than period of 2 years from the date of first demand. In this case first demand apparently made by the Utility in the bill dated Nov.'18 and the retrospective recovery from July-2014 to Oct.-2018 was added. The said addition if calculated is more than 24 months. Therefore to my view such recovery which is forbidden more than 2 years cannot be allowed. Therefore claiming retrospective recovery from July-2014 is absolutely bad in Law and illegal. Hence I am inclined to squash and set aside the demand of arrears claim in supplementary bill and demanded in the bill of Nov.2018 stands illegal and set aside.

To my view the Utility required to assess and verify the documents and fixed the category of tariff which falls as per the tariff determination category as LT I Residential for Girls Hostel which was defined as under star should have been applied to the consumer as apparently. The activity false under Girls Hostel and which claim under LT residential tariff. Therefore the effected period should have been for previous 24 months from the date of inspection date 26.11.2018 & it should be calculated by the Utility and re issued the corrected bill if any recovery is liable to be paid.

At the safe side, the consumer produce the copy of registration and exemption of Income tax certificate issued by Competent Authority, therefore whether consumer is entitled for supply used for Charitable Hostel by applying appropriate application in Format by consumer which should be considered by the Utility. In this circumstance, I am of the opinion to give direction to the Respondent Utility to revise and reassessed the bill as consumer category fall under LT residential Girls Hostel activity found in the premises and correct the bill accordingly. The consumer if any recovery amount payable shall be paid in 12 equal monthly installments. No interest, DPC and penalty shall be charged to the consumer. The Respondent Utility official is to reassess and verify the proper tariff and fix the category. The enquiry shall be held against the officer who error committed resulted in loss of revenue at appropriate time.

The time limit of 60 days prescribed for disposal of the grievance could not be adhered due to submission of both the parties made during the instructions given at the time of hearing by the Forum.

Hence I am inclined to allow the consumer complaint partly and proceed to pass the following order:

ORDER

1. The Consumer Complaint of Case No.39 of 2019 is partly allowed.
2. The retrospective arrears recovery since July-2014 to Nov.2018 is illegal stands set aside.
3. The Respondent Utility shall revise and reassess the category of LT I residential as activity in the premises is Girls Hostel and shall reclassify and fix the tariff accordingly.
4. The tariff difference if any payable by the consumer shall be restricted to 24 months i.e. from date of inspection 26.11.2018 payable amount shall be recovered in 12 equal monthly installments.
5. No interest DPC & penalty shall be charged against the consumer.
6. No order as to the cost.

7. The Licensee is directed to report the compliance within one month from the date of this order.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune 4th Nov.- 2019.

Note:-

- 1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I agree / ~~Disagree~~

I agree / ~~Disagree~~

Sd/-
ANIL JOSHI
MEMBER
CGRF:PZ:PUNE

Sd/-
A.P.BHAVTHANKAR
CHAIRPERSON
CGRF: PZ:PUNE

Sd/-
BEENA SAVANT
MEMBER- SECRETARY
CGRF:PZ:PUNE