

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
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Case No. 155 of 2011

In the matter of
Petition filed by Shri. Vinodkumar Giridharilal Mittal seeking uniform tariff on all consumers, at Rs 3/- per unit and single tax and other prayers.

Shri. V.P. Raja, Chairman
Shri. Vijay L. Sonavane, Member

Shri. Vinodkumar Giridharilal Mittal
Shivkunj Bungalow, Plot No 22,
60 feet Road, Satana Naka, Malegaon
Dist. Nasik

.....Petitioner

V/s

- 1. Principal Secretary,**
Office of Chief Minister, Mantralaya, Mumbai
- 2. Principal Secretary,**
Energy Department, Mantralaya, Mumbai
- 3. Maharashtra State Electricity Distribution Co. Limited (MSEDCL),**
5th Floor, Prakashgad, Bandra (East), Mumbai – 400 051
- 4. The MSEB Holding Company,**
Prakashgad, Bandra (East), Mumbai – 400 051 Respondents

Present during the hearings:

For the Petitioner: Shri. Vinodkumar Giridharilal Mittal, in person

For the Respondent: Shri. S.S. Katkar, Executive Engineer; Shri. C.B. Mankar,
Executive Engineer for the Respondent, MSEDCL

ORDER

Dated: 16.1.2012

Shri. Vinodkumar Giridharilal Mittal, submitted a petition on 16.9.2011 seeking uniform tariff on all consumers irrespective of their category, at Rs. 3/- per unit, single tax, and direction that subsidy should be recovered from the exchequer. The Petitioner has sought to invoke Regulation 13 of the "Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005".

2. The prayers of the Petitioner are as follows:

“ अ) वरील पिटीशनमधील कारणांचा विचार करण्यात येऊन महाराष्ट्र राज्यातील सर्व वीज ग्राहकांना भेदभाव न करता एक समान युनिट वीज आकारण्यात यावा.

[a) Considering the reasons mentioned in the petition, a Uniform tariff should be applied on all the consumers in Maharashtra without discrimination.]

ब) महाराष्ट्र राज्यातील सर्व ग्राहकांना ३/- रु. प्रति युनिट आणि इतर जे टॅक्स लावले जातात त्यात सर्व मिळून एकच स्वरुपाचा टॅक्स लावणेबाबत.

[b) There should be a tariff of Rs. 3.00 per unit for all the consumers in Maharashtra and a single tax which should cover all taxation.]

क) वीज ग्राहकांना जी सबसिडी दिली जाते ती सरकारी तिजोरीतून वसूल करण्यात यावी.

[c) The subsidy given to the electricity consumers should be recovered from the exchequer.]

ड) इतर योग्य ते न्यायाचे हुकूम अर्जदाराचे लाभात व्हावेत. ”

[d) Pass any other appropriate Order in favour of the Petitioner.]

3. The Petitioner, in its petition, submitted as under:

- a) The tariff for the electricity consumers of MSEDCL is not uniform, because the tariff for an industrial consumer is around Rs.10.54 per unit whereas it is Rs. 2.10 per unit for a powerloom consumer. Tariff for residential consumers having consumption of 1154 units is Rs. 7.41 per unit whereas it is Rs.7.00 per unit for commercial category consumers having consumption of 131 units. It has been submitted that MSEDCL should levy uniform tariff irrespective of the consumption being high or low.
- b) In the State of Maharashtra, generating companies are generating electricity at the rate of 50 paise per unit from hydro sources, Rs.1.00 per unit from gas based sources and Rs. 1.5 per unit from coal-based plants. The Distribution Company has been purchasing this power at the average rate of Rs. 1.00 to Rs. 1.25 per unit. After including all other expenses, the tariff should be Rs. 3.00 per unit and one single tax should cover all taxation.
- c) Only a few consumers benefit from the subsidy. Hence, the subsidy should be recovered from exchequer. It has been submitted that consumers who do not receive subsidy should not be made to pay a higher tariff.
- d) MSEDCL has been purchasing power from generating companies at very low and single rate but supplying the same to Industrial, Commercial, Residential, Power loom and Agriculture with different rates. MSEDCL should reduce distribution losses and electricity theft rather than focusing on collection of bills. This will reduce the additional burden on the consumers.

4. The Commission vide Notice dated 14.11.2011 scheduled a hearing in the matter on 5.12.2011 and directed the Petitioner to serve copy of his petition, along with its accompaniments on the Respondents and authorized Consumer Representatives.
5. During the hearing held on 5.12.2011, the Petitioner reiterated his contention as made in his petition and reiterated that MSEDCL should apply uniform tariff for all consumers.
6. Having heard the Petitioner and the representatives of the Respondents, and after considering the material placed on record, the Commission is of the view as follows:-

(i) **Uniform Tariff:-**

- (a) The Petitioner states that there should be uniform tariff for all consumers in the State irrespective of their consumption and that too at Rs. 3 / - per unit. Section 62(3) of the Electricity Act, 2003 ("EA 2003") provides as follows:-

“(3) The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.”

Thus, the Legislature itself contemplates different tariffs according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.

(b) The Tariff Policy notified by the Government of India, inter alia, provides as follows:-

“8.32.....the tariff progressively reflects the cost of supply of electricity, the SERC would notify roadmap within six months with a target that latest by the end of year 2010-2011 tariffs are within ± 20 % of the average cost of supply. The road map would also have intermediate milestones, based on the approach of a gradual reduction in cross subsidy.

For example if the average cost of service is Rs 3 per unit, at the end of year 2010-2011 the tariff for the cross subsidised categories excluding those referred to in para 1 above should not be lower than Rs 2.40 per unit and that for any of the cross-subsidising categories should not go beyond Rs 3.60 per unit.”

Hence, even the Government of India has stipulated in the Tariff Policy that cross subsidy cannot be eliminated at one go and furthermore, the Tariff Policy also stipulates different tariffs for different consumer categories.

(c) It is not true that MSEDCL purchases power from generating companies at single rate. There are inherent differences in cost of generation to the distribution companies from various generating stations which depends upon the various parameters such as fuel, location, technology, etc.

(d) Though the EA 2003 permits differentiation between similarly-placed consumers, the Commission has attempted to minimize the tariff differential across different license areas, which has been possible to a limited extent. For instance, in the city of Mumbai, BEST undertaking has the distribution license in Mumbai City District, viz., from South Mumbai to Mahim and Sion, whereas RInfra-D has the distribution license in part of suburban Mumbai and Mira Bhayander. Also, MSEDCL supplies electricity to parts of Bhandup and Mulund, which are parts of Mumbai Suburban District. The category-wise tariff for different consumer categories in each of the license areas has always been different, due to reasons of difference in the cost of supply, consumer mix, consumption mix, etc. The cost of supply depends upon various factors

such as the cost of power procured, distribution losses, operational and administrative expenses, capital related expenditure such as depreciation and interest, etc., which is bound to vary among different licensees, due to inherent differences in power purchase mix, availability and cost of own generation, operational efficiency in controlling distribution losses. Therefore, it is practically not possible to determine uniform Retail Supply Tariff in the State across all licensees. The Commission has to determine category-wise tariffs for different licensees on the basis of the respective cost of supply and consumption mix.

(e) The Petitioner has sought to invoke Regulation 13 of the “Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005”, which provides as follows:-

“13. Classification and Reclassification of Consumers into Tariff Categories
The Distribution Licensee may classify or reclassify a consumer into various Commission approved tariff categories based on the purpose of usage of supply by such consumer:
Provided that the Distribution Licensee shall not create any tariff category other than those approved by the Commission.”

In terms of the aforesaid Regulation, MSEDCL can classify or reclassify a consumer into various tariff categories which have been approved by the Commission. Furthermore, tariff categories are to be based on the purpose of usage of supply by a consumer.

(f) The Commission appreciates the sentiments of the Petitioner in filing the petition. However, it will not be appropriate to consider having a uniform tariff for all consumers in the State, irrespective of their consumption in view of the reasons provided above.

(ii) Only one tax to be levied -

The Petitioner has prayed that there should be only a single tax in the bills of consumers and not multiple taxes. The Commission is of the view that the jurisdiction to levy taxes on electricity consumers is of the State Government. Hence, this Commission is not an appropriate forum for the Petitioner to seek reliefs associated with the levy of tax.

(iii) Subsidy:-

Section 65 of the EA, 2003, provides as follows:-

“65. If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance in the manner as may be specified, by the State Commission the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government: Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall be applicable from the date of issue of orders by the Commission in this regard.”

As can be seen from Section 65, it is the prerogative of the State Government to decide the matter relating to payment of subsidy. The Commission’s jurisdiction is to decide, by regulations, the manner of payment of subsidy and to direct the implementation of the subsidy provided for by the State Government.

With above observations, the present petition stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman