

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 127 of 2011

In the matter of
Petition of Maharashtra Veej Grahak Sanghatana seeking changes in Tariff Schedule including consumption by small commercial activities run in residential premises in to Residential Category.

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

Maharashtra Veej Grahak Sanghatana,
12 / 388, Mahatma Phule Road,
Ichalkaranji – 416115,
Dist. Kolhapur.

..... Petitioner

Vs.

Maharashtra State Electricity Distribution Company Ltd
Through, the Superintending Engineer (TRC),
5th Floor, Prakashgad,
Bandra (East), Mumbai – 400 051.

..... Respondent

Counsel / Representative for the Petitioner : Shri Pratap Hogade (Rep.)

Counsel / Representative for the Respondent : Shri. S. S. Dhande, CE, Commercial (Rep)
Shri. A. K. Nale, SE, Commercial (Rep)

ORDER

Date: 30th December, 2011

Maharashtra Veej Grahak Sanghatana (MVGS) filed a Petition before the Commission on 26 August, 2011 under Sections 61 (d) and 62 (3) of the Electricity Act, 2003 for seeking changes in applicable Tariff Schedule of MSEDCL so that energy

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consumed by small shops, tea stall and such activities which are running in residential premises will be treated as consumption under Residential Category (LT-1).

2. MVGS, in its Petition has prayed as follows:

- i) Similar to the use of residential premises by the professionals for their professional activities which is being categorized under Residential Category, use of residential premises for carrying out small commercial activities by poor families for earning their livelihood should also be categorized under Residential Category.
- ii) For giving effect to above, the Commission should make appropriate changes in Tariff Schedule.
- iii) Issue any other direction as the Commission deems fit.

3. MVGS in its Petition, submitted as follows:

- i. The Commission in its approved Tariff Schedule has categorized use of Residential Premises by professionals such as Lawyers, Doctors, professional Engineers, Chartered Accountants etc., in furtherance of their professional activities under LT-I Residential Category.
- ii. Hon. High Court, Bombay, through Judgment dated 4 August 2011 in the matter of Adv. Rajendra Shaha Vs MSEDCL in W.P. No. 6891/2010 ruled that in respect of the premises which are used by professionals like Lawyers and Doctors for their residence, the tariff for the electricity supplied to the premises would be charged on the basis of domestic use irrespective of the fact that the premises are used for whole or part of the day also for the purpose of carrying on their professional activity in the whole or part of the premises,
- iii. In almost all parts of rural Maharashtra and in hutments in urban area, residences are used for carrying out small commercial activities. Such commercial activities viz. small shops or tea stalls are confined to a small part of residential premises. Normally, females or children in family run such shops to support their family income. Use of electricity for such purposes is limited to one bulb or a tubelight. Use of electricity for such commercial activity is less than 20 % to 25% of total consumption in Residential premises. However, MSEDCL has initiated action against such consumers under Section 126 of the Electricity Act, 2003 for

unauthorized use of electricity and further such consumers are compelled to take separate Commercial connections.

- iv. Use of residence by professionals such as Lawyers and Doctors for their professional activity has been considered under Residential Category whereas use of small part of residence by poor families to carry out small commercial activities to earn their livelihood is considered as unauthorized use of electricity, which cannot be supported by any kind of reasoning.
- v. Residential Tariff for higher slabs i.e. 300 units and above is higher than Commercial categories. Therefore, person consuming more electricity for commercial activity in their residences will definitely opt for separate Commercial Category. However, for those who require very little amount of electricity for carrying out commercial activities in their residences it will not be feasible to take separate Commercial connections.
- vi. Number of such consumers would not be more than 1% of total Residential consumers of MSEDCL. Therefore the Petitioner requested to allow use of electricity by such type of consumers for small commercial activities to be categorized under Residential Category.

4. The Commission, vide Notice dated 16 September 2011, fixed a hearing in the matter on 3 October 2011 and directed the Petitioner to serve a copy of the Petition on the Respondent and Authorized Consumer Representatives.

5. The hearing in the matter was held on 3 October 2011. During the hearing, the Petitioner explained the submissions made in the Petition and requested to make appropriate changes in the tariff categories so that Residential electricity consumers using electricity for small activities for earning their livelihood can be included in Residential Category. The Petitioner submitted that as the number of such consumers is very small, the change in tariff category will not have any adverse impact on the revenue of MSEDCL. The Petitioner's emphasis is that in view of the penal action started by MSEDCL against such consumers under Section 126 of the Electricity Act, 2003 for unauthorized use of electricity, such changes in tariff category become important.

6. During the hearing, MSEDCL submitted its written submissions praying for rejection of the Petition. MSEDCL submitted that the group of consumers for which change of tariff from commercial to domestic is prayed for by the Petitioner, the area of domestic use and commercial use are distinctly earmarked and separate meters can be installed and separate billing for domestic use and commercial use can be easily carried out.

7. During the hearing, the Commission observed that the Petitioner may raise this issue during the public hearings in the MSEDCL's APR Petition for FY 2010-11 in October 2011. MSEDCL was directed to work out possible solutions to address the issue raised by the Petitioner. With these directives, the Commission scheduled next hearing in the matter on 3 November 2011.

8. As suggested by the Commission, during the Public hearing held at Navi Mumbai on 23 October 2011 in the matter of MSEDCL's APR Petition for FY 2010-11, the Petitioner raised the issue under this Petition along with the submission on other issues. During these Public hearings, several consumers also raised the same issue of penal action being taken by MSEDCL under Section 126 of the Electricity Act, 2003 for unauthorized use of electricity against such consumers.

9. MSEDCL, vide its letter dated 9 November 2011, informed the Commission that its additional submission regarding probable formulation of alternatives which will ease the implementation of applying LT residential tariff to consumers mentioned in this Petition is awaiting management approval and hence requested for additional time for submission of the same.

10. During the next hearing held on 11 November 2011, the Petitioner accepted that changes in tariff categories can be made only at the time of tariff proceedings under Section 64 of the Electricity Act, 2003. However the Petitioner requested that till the time changes in the Tariff Categories are made, MSEDCL may be directed not to take any action against such consumers. During the hearing MSEDCL submitted that field Officers have been instructed to concentrate on bigger consumers and not to initiate unnecessary actions against smaller consumers.

11. Having heard the parties and after considering all the documents available on record, the Commission is of the view that changes will be required to be made in the tariff category to include those households carrying out small commercial activities by using electricity into the LT-I Residential Category, as urged by the Petitioner. This can be done only through a Tariff Determination Process, under Section 64 of the Electricity Act, 2003 and not through the present Petition. This has been accepted by the Petitioner at the time of final hearing in the matter. However, the Commission is of the view that the issue is important and thus directs MSEDCL to consider the plea of the Petitioner after considering all pros and cons for the same and see to it that it is reflected appropriately in its next Tariff Petition as and when it is presented to the Commission.

With above observations and directives, the Case No. 127 of 2011 hereby stands disposed of.

-sd/-
(Vijay L. Sonavane)
Member

-sd/-
(V. P. Raja)
Chairman