

CONSUMER GRIEVANCE REDRESSAL FORUM
THE TATA POWER COMPANY LIMITED

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Ref.CGRF/TPC/2015/

Date: 07/03/2015

Case No.CG/01/2015
Date of Hearing: 19/02/2015

**In the matter of M/s. Theobroma Foods Private Ltd. (Consumer No. 2006789) V/s The Tata
Power Co. Ltd**
Reg. Redressal of grievance by the Forum and passing of order

This is with reference to the grievance submitted in Schedule-A form to CGRF received on 07/01/2015 and this office letter No.CGRF/TPC/2015 dated 10/02/2015 wherein CGRF (TPC) granted a personal hearing to Ms. Theobroma Foods Private Ltd. (Consumer No. 2006789) and representatives of TPC Limited on 19th Feb' 2015 at 14:30 Hrs.

Mr. Theobroma Foods Private Ltd. (Consumer No. 2006789) is having Three phase power supply with tariff category LT II – Comm'l load.

The following persons were present:

CGRF Members:

- 1) Mr. D N Singh, Chairperson
- 2) Ms. Varsha Raut, Member
- 3) Mr. Vrushal N. Pimple, Member

On behalf of the Complainant:

- 1) Mr. F. Messman
- 2) Cyrus Shroff
- 3) Vitthal Chavan

On behalf of The Tata Power Company Limited:

- 1) Mr. Manoj Salvi
- 2) Mr. Gaurav Gautam
- 3) Mr. Manish Varshneya
- 4) Mr. Sunny Puthran

Details of deliberations

M/s Theobroma Foods Private Ltd. has submitted his grievance to the forum and describe his complain in details as below:

That Tata Power to be directed to withdraw the provisional assessment order dated February 5, 2014.

That Tata Power be directed to classify Theobromo as an "industrial" user and to raise bills on them at the rate applicable to "industrial" users and to be further directed to revise its previous bills raised upon them by applying the rate applicable to "industrial" users.

That Tata Power should have refrained from serving and acting upon the disconnection notice and entering the premises on 31st Dec 2014 during festive season as the matter was under dispute.

Pending disposal of the matter Tata Power to refrain from discontinuation of electricity supply to the premises of Theobroma as it will affect Theobromo's business.

The Tata Power had sent a written reply to the Forum as well as to the complainant vide letter dated 20/01/2015. The relevant points reiterated by the representative of the Tata Power during the hearing are as follows:

- a. It is an undisputed fact that the Consumer had applied for load enhancement from 20 kW to 100 kW, post arrangement made by Tata Power at site to cater such load, the Consumer is using his premises with a load of 100 kW. However, due to error on the part of Tata Power, the Consumer was getting bills as per LT-II (a) instead of LT –II (c). Thus, as the Consumer had used supply under the LT-II (c), the Consumer now cannot take a stand that the Consumer is not entitled to make payment towards the difference in charges for LT-II (a) to LT-II (c).
- b. Further, the Consumer in its entire pleadings is claiming that the Consumer had time and again requested for industrial tariff and the Consumer was not granted industrial tariff by Tata Power. With regard to this we wish to inform you that the Consumer while change over from R Infra to Tata Power on 24/12/2009, filed R Infra bill, wherein the Consumer was under commercial category. Further, in the Power supply application filed by the Consumer at the time of changeover, the Consumer himself had ticked commercial category in the list of category given in the said application. Moreover, when the Consumer applied for load enhancement from 20 kW to 100 kW, even during that period the in the power supply application form and the power supply agreement, the Consumer categorized itself under commercial category. Till



date the Consumer had not applied for change in category from existing commercial to industrial..

With respect to facts of the case and averments of the complaint, Tata Power wish to submit as under:

- a. On 24/12/2009 the Consumer had applied for changeover with commercial category as category of supply. Thereafter, after changeover order was passed by MERC, we carried out changeover of Consumer by carrying out Joint meter reading at site along with representative of R Infra.
- b. Thereafter, the Consumer in and around 15th November 2011, applied for Load enhancement from the existing 20 kW to 100 kW [i.e. from LT II (a) to LT II (c)] under same commercial category as category of supply. As the load was more than 100 kW, the consumer also signed Power supply agreement under commercial category. Post receipt of application, the process of load enhancement was initiated along with R Infra, as the Consumer was a changeover consumer and the meter was also replaced with new meter to cater the enhanced load of the Consumer. However, all the activities at site were completed, but inadvertently, the officials missed to update the same in the system and hence, as per system the Consumer load was not enhanced from 20 kW to 100 kW. As the load was not enhanced in the system, the consumer was being billed under LT II (a) instead of LT II (c). We reiterate that this fact is not disputed by the Consumer in its pleadings and hence it is responsibility of Consumer to pay differential charge between LT II (a) and LT II (c) for the period, when the Consumer was being wrongly billed because of the error in updating in the system, post processing of load enhancement application.
- c. On 24/12/2013, during random site inspection, the vigilance team of Tata Power inspected premises of Consumer and found that Consumer was using load more than the sanctioned load and hence booked the Consumer under section 126 of Electricity Act, 2003 for unauthorized use of supply. On 5th February 2014, Tata Power served the consumer with copy of Provisional assessment as per provisions of law. Post receipt of provisional assessment, the Consumer in the personal hearing as well as through its correspondence informed that it had applied for Load enhancement and based on application, the meter was also replaced at site. After investigating the issue internally, we came to know about the error that though the Consumer applied for load enhancement, the same was not updated in the system

and hence the Consumer was being billed on the same load i.e. 20 kW and under LT II (a) category, which could not be tracked by the vigilance department at the time of booking case of unauthorized use of supply. After knowing this error, immediately on 5th March, the Consumer was informed that Tata Power is in process of dropping case under unauthorized use of supply through email from the vigilance department. However, in the same email, it was informed to Consumer that a bill for the differential amount of tariff category change from the date of change of meter will be sent to the Consumer. On receipt of the email, the representative of Consumer through its email on 10th March 2014, sought time as the Director of the Consumer co. was out of town and further asked us the details of the amounts to be paid by the Consumer. The difference in tariff category takes a detail calculation as the LT II (a) is single part billing process and LT-II (c) is two part billing process and the same has to be derived through system and hence through an email dated 27th March 2014, we informed the Consumer that the demand for differential amount what the Consumer may liable to pay shall be Rs. 26 Lakhs, based on broad level calculation.

- d. Thereafter, there were lot of correspondences between Consumer and Tata Power on telephone. Thereafter on 15th April, 2014, the Consumer responded against Tata Power email dated 27th March, 2014, wherein the consumer demanded details and calculations, based on which we have demanded Rs. 26 lakhs. The Consumer also denied the demand as totally false and frivolous and such demand leads to unnecessary harassment to Consumer. However, through this letter, for the first time the Consumer raked up the issue of industrial tariff. Thus, based on the email dated 27th March 2014 from Tata Power to Consumer, where the Consumer was informed about the amount required to be paid against the differential amount and thereafter the Consumer denying the demand as being false and frivolous, through its letter dated 15th April, 2014 by itself clarifies that Tata Power had informed the demand amount to the Consumer to which Consumer had objected as same being false and frivolous.

- e. On 25th June 2014, replying to the Consumer's letter dated 15th April 2014, we along with our letter shared the calculations of differential amount demanded from the Consumer for the period, when the Consumer's application for load enhancement was allowed i.e. from March 12 to April 14. On receipt of the letter, the Consumer responded through its letter dated 18th July, 2014 wherein the Consumer sought time to respond as the Consumer wanted to seek advised from the legal consultants on the legal points raised by us in our letter. The Consumer also informed us through



the same letter that they shall respond our letter dated 25th June 2014, not later than 10th August, 2014. However, instead of responding the letter, the Consumer through its representative personally met Tata Power officials at their office on dates such as 14th August, 2014, 26th August, 2014, etc.

- f. On 25th September 2014, the Consumer's representative through its email demanded details such as statement/ calculation of total unit consumption, previous rate per unit and other charges if any, of the working/ statement earlier sent to the Consumer. It was request to arrange a meeting with the Tata Power Directors/ seniors urgently to discuss the issue once for all. The said email was replied by Tata Power through its email dated 26th September 2014, wherein the details were provided as required by Consumer, with a further option of explaining the said calculation and as requested by the Consumer a meeting was fixed with the officials of Tata Power, informing the Consumer about the date of meeting. Thereafter, though the meeting was scheduled by us but every time the meeting was postponed from Consumer's side and we always tried to accommodate the Consumer as per Consumer convenience. Since the Consumer had disputed the demand amount made by us and had continuously taken up the issue with the officials of Tata Power, though we kept on requesting the Consumer to make payment of the outstanding amount towards the supplementary, however we didn't take any action such as disconnection of supply against the said Consumer. The Consumer always had an option to make payment under protest, however, the Consumer opted not to make payment till date. The Consumer's representatives met many officials of Tata Power, post its letter dated July 2014, disputing the differential amount.
- g. It is matter of record that since March-14, we have been informing the Consumer that we may be dropping the case of for unauthorized use of supply and hence the issue of vigilance case was not under discussion. Thus, it is abundantly clear that the only issue which was being discussed by the Consumer and the officials post March-14. was only with respect to differential tariff amount that the Consumer dispute to pay, as demanded by Tata Power.
- h. On 1st November, 2014, as the Consumer failed to make payment towards the earlier demand even after above correspondences and meetings, Tata Power issued a supplementary bill from 22nd March 2012 to 31st May, 2014 for Rs. 2964377/-. The copy of the supplementary bill is annexed in the Complaint of Consumer. However, instead of making payment towards the differential tariff, the Consumer disputed the

same before the Internal Grievance Cell by its application dated 01st December 2014. However, even before approaching the IGR, the Consumer didn't make payment towards the supplementary bill. The Consumer was given detailed hearing before IGR and on 10th December, 2014, reply was given by IGR, which is aggrieved by Consumer before the Forum. The Copy of the IGR reply is also enclosed with the complaint of Consumer. In the said order, the IGR captured minute of details of the matter and covered issues raised by Consumer such as erroneous notice under section 56 of EA, 2003, nuisance and harassment, wrongful demand and licensing default. We rely on the said reply of IGR.

Based on documents submitted by The Tata Power Co. Ltd and the outcome of deliberations with the complainant & the representatives of Tata Power, the Forum observed that:

Consumer had applied for Load enhancement from 20Kw to 100KW (i.e. from LT II(a) to LT II (C) under commercial category on 15th Nov 2011. Post receipt of application the process of load enhancement was initiated by Tata Power along with R Infra, as the consumer was changeover consumer. The meter was also replaced with new meter on site to cater the enhanced load of 100KW of the consumer on 20th March 2012.

But, inadvertently the officials of Tata Power missed to update the load enhancement in the metering and billing system, this error is accepted by Tata Power on various occasions during the time period.

Also the non reflection of change in category in the bill was not noticed by the consumer. As the load was not enhanced the consumer was billed under LT II (a) instead of LT II (c) for 23.5 months i.e. from 20th March 2012 to 05th March 2014 when the provisional assessment bill was served to consumer.

Section 56 (2) of EA 2003 says "*Not with-standing anything content in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of 2 years from the date when such became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supply and the licensee shall not cut off the supply of the electricity*".

During random site inspection the vigilance team of Tata Power had inspected premises and found that consumer was using load more than the sanctioned load and hence consumer was booked under section 126 of Electricity act 2003, for unauthorized use of supply on 24th Dec 2013.

On 5th February 2014 copy of provisional assessment for unauthorized use of supply was served by Tata Power to consumer. In the mean time Tata Power had realized the error on there part that consumer had applied for load enhancement but the same was njot

updated in their system and hence the consumer was wrongly billed on the same load of 20Kw under LT II(A) category.

On 05th March 2014 Tata Power through email informed the consumer that they are dropping the case of unauthorized use of supply. However in the same email it was informed that bill of differential amount will be sent to consumer. On 27th March 2014 Tata Power through an email communicated an amount of Rs. 26 Lakhs based on broad level calculations.

After three months i.e. on 25th June 2014 Tata Power replying to consumer's letter dated 15th April 2014 shared calculations for differential amount shared earlier; and then on 1st November 2014 supplementary bill from 22nd March 2012 to 31st May 2014 of Rs. 29, 64,377.00/- was raised to consumer.

On 22nd Nov 2014 Tata Power served the disconnection notice to consumer for non payment of Rs. 23, 63,688.00/-

On 1st Dec 2014 consumer made application to IGR cell of Tata Power to which IGR has issued an order on 10th Dec 2014. Thereafter consumer applied to CGRF through application dated 06th January 2015 received by CGRF office on 07th January 2015.

Order from Forum:

In view of the fact Tata Power failed to change the category of consumer from LT II(a) to LT II (c) under commercial category for a period of 23.5 months as detailed in above observation, Tata Power is directed to pay a compensation of Rs. 100 per week to consumer for the error as per SOP regulation 2014 clause 8 (ii) under sub clause of change of tariff.

Also in view of the fact as per the above observations of the forum Tata Power has delayed the issuance of supplementary bill to consumer from 05th March 2014 to 01st November 2014 i.e. for a period of 8 months, Tata Power is thereby directed to pay a compensation of Rs. 100 per week to consumer for the delay as per SOP regulation 2014 clause 6 (ii) under sub clause (i) regarding non receipt of electricity bill.

The forum after detailed deliberations and facts of the case comes to conclusion that the bill was raised on consumer before the completion of 24 months as required under the provisions of section 56(2) of EA 2003. Hence the forum directs consumer to pay entire outstanding supplementary bill.

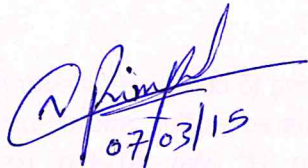
Tata Power may give installments if desired by consumer.

Order of the Forum is required to be complied within 30 days of the receipt. The payment of the bills shall be as per the clause 15.5 of MERC (Electricity Supply Code & Other Conditions of Supply) Regulations, 2014.

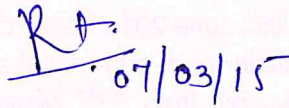
The grievance of the complainant will stand closed at this stage.




If Consumer is not satisfied with the decision of the Forum, he may make a representation to the Electricity Ombudsman in Schedule B form within sixty (60) days from the date of this order. Contact details of the Electricity Ombudsman appointed or designated by MERC under Regulation 10 is "Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606-608, 6th Floor, Keshava Building, Bandra-Kurla Complex, Bandra (E), Mumbai-400 051. Tel: 022-26592965/26590339/30680528.



(Vrushal N. Pimple)
Member



(Varsha Raut)
Member



(D.N. Singh)
Chairperson

To

1) M/s. Theobroma Foods Private Ltd.,
5-1/1, HWAR Bandra Reclamation,
Opp. Sarita Building,
Bandra (W), Mumbai-400050

2) Mr. Sunil Joglekar,
Head (DCS),
Tata Power Co. Ltd.,
Mumbai 400 019.

Copy to:

- 1) Mr. Bhaskar Sarkar, Head -Business Strategy & Regulations, Tata Power Co Ltd., Mumbai
- 2) Mr. Gautam Gaurav, Nodal Officer, Tata Power Co. Ltd., Mumbai