

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 117 TO 163 OF 2023

In the matter of change of tariff category

Mumbai Agricultural Produce Market Committee (APMC)..... Appellants

Rep. No.	Consumer No.	Address/ Place	Rep. No.	Consumer No.	Address/ Place
Onion Potato Market			Phase-II : Market-II		
117	000481820511	C Block	141	000072209010	A Block
118	000481821746	G Block	142	000072200942	B Block
119	000481822181	H Block	143	000072200951	C Block
Fruit Market			144	000072200969	D Block
120	000070319853	F Block	145	000072200977	E Block
121	000070319861	G Block	146	000072200985	F Block
122	000070319870	H Block	147	000072200993	G Block
123	000070319896	M Block	148	000072201001	J Block
124	000070319900	N Block	149	000072201019	K Block
125	000070319888	J Block	150	000072201027	L Block
Vegetable Market			151	000488253247	M Block
126	000070319837	Area Light D Block	152	000072201035	N Block
127	000070319845	Area Light E Block	153	000072201051	Q Block
128	000070319811	Area Light A Block	154	000072201060	R Block
129	000070319918	Area Light C Block	155	000488253255	S Block
130	000077346830	Street Light	156	000488253182	T Block
Phase-II : Market-I			157	000488253191	U Block
131	000072184327	A Block	158	000488253204	V Block
132	000072184335	B Block	159	000488253271	Co. Pas W Block
133	000072184351	D Block	160	000488420453	CFB Staircase
134	000072184360	E Block	161	000488420461	Cfb Staircase
135	000072184378	F Block	162	000488283227	Co. Pas Y Block
136	000072184386	G Block	163	000488253239	Z Block
137	000072184408	J Block			
138	000072184416	K Block			
139	000072184424	L Block			
140	000072184432	M Block			

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Vashi (MSEDCL).....Respondent

(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai



Appearances:

- Appellant : 1. S. S. Tambhale, Elect. Engr., APMC
2. Vijaykumar Kamanna, Representative
- Respondent : 1. Dananjay Mohod, Executive Engineer
2. Anirudh Ghadge, Addl. Ex. Engineer
3. Vijay Namdev, A.E.
4. Rajiv Vaman, Asst. Law Officer

Coram: Vandana Krishna [I.A.S.(Retd.)]

Date of hearing: 18th December 2023

Date of Order : 28th February 2024

ORDER

These Representations were filed on 12th October 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 15th June 2023 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup (the Forum). The Appellant paid statutory deposits together of Rs. 11,75,000/- as per Regulation 19.22(h) of the CGRF & EO Regulations 2020. The Forum by its order partly allowed the grievance applications in Case No. 90/2022-23. The operative part of the order is as below:

- “2. The Applicants should be billed at Commercial tariff and the claim of Applicant for change of tariff as Street Light is rejected.*
- 3. The bill issued for the period from 2015 to 2022 is quashed and set aside.*
- 4. The Respondent is directed to issue the revised supplementary bill for the period from June 2020 to June 2022 without any interest and DPC and to refund any excess amount paid as a credit in the subsequent bills of the consumer.*
- 5. The Respondent is directed to give instalments for payment of bill if the Applicant desires. If Applicant fails to pay any instalments along with current bill then the facility of instalment along with concession of waiver of interest and DPC will stand cancelled forthwith and the Respondent has the liberty to action as per law.*



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6. The Interim Order given on 15.03.2023 in Case No. 187 of 2022 – 23 is hereby revoked.”

2. Aggrieved by the order of the Forum, the Appellants have filed these representations. The subject matter of all representations are common in nature. Hence, all these representations are clubbed together for the purpose of a common order. The hearing was held on 18th December 2023. The Appellant’s representatives were present physically whereas the Respondent attended the hearing through video conference. Parties were heard at length. The submissions and arguments of the Appellants are as below: -

- (i) APMC Mumbai is one of the 350 agricultural market yards spread over the State of Maharashtra. It is an enterprise / organization formed in the year 1977 under the Cooperation & Marketing Department of Government of Maharashtra (GOM) under the APMC Act 1963. These organizations are controlled by the Director of Marketing, GOM. **The main purpose of this organization is to facilitate farmers of Maharashtra to get reasonable prices for their agricultural produce.**
- (ii) This APMC Market includes Potato-onion market, fruits market, vegetable market, and additional vegetable at Phase – 2 Market -1, Phase-2 Market -2 at Vashi Navi Mumbai. For this purpose, the GOM has appointed Secretary of APMC Vashi.
- (iii) There are total more than 6500 LT individual connections in APMC Markets for traders of several agricultural products, other service providers like banks, hotels, offices etc. The Secretary of the APMC is the Service Provider for common services like street lights, common lighting, water supply, sewerage pumps, etc. since 1981. For this purpose, APMC availed power supply from the erstwhile Maharashtra State Electricity Board (MSEB) (now MSEDCL). This APMC has installed 47 LT streetlights (common lighting) at APMC yard Sector 18 and 19 in Vashi, Navi Mumbai which are being used as streetlights of potato onion market, fruits, vegetable, additional vegetable at Phase-2 Market-1 and Phase-2 Market-2 from the date of connection. The details of consumer numbers, connected load,



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date of supply, place etc., are tabulated in **Table 1**. These connections were charged on commercial basis from the date of connections.

- (iv) The Maharashtra Electricity Regulatory Commission (the Commission) created a new tariff category as per its Tariff Order dated 16.08.2012 in Case No. 19 of 2012, called “Public Services” for Government offices, Govt. Educational Institutes, Hospitals and Dispensaries, etc.

Subsequently, the Commission further sub-categorized the “Public Services” tariff category into two sub-categories as per Tariff Order dated 26.06.2015 in Case No. 121 of 2014 which are as below:

1. LT X (A): LT - Public Services - Government Educational Institutes & Hospitals,
2. LT X (B): LT – Public Services – Others.

This classification was continued in the following subsequent Tariff Orders of the Commission:

- Case No. 48 of 2016 dated 03.11.2016
- Case No. 195 of 2017 dated 01.09.2018
- Case No. 322 of 2019 dated 31.03.2020

- (v) The APMC had paid all bills regularly. It was unaware of the tariff categories till 2015. After a detailed study in the year 2015, it came to know that MSEB / MSEDCL was charging the wrong tariff (as commercial) to these 47 connections. Hence, the Appellants by its letter no. 757 (APMC) dated 31.03.2015 requested MSEDCL Vashi to change the tariff category from LT-II Commercial to LT-VI Streetlight. Accordingly, the Executive Engineer MSEDCL Vashi directed, by its office letter dated 29.04.2015 to the Dy. Executive Engineer of the concerned subdivision to take necessary action to change the tariff. After prolonged discussions and inspection by the Competent Authority of the Respondent, the Sub Divisional Office Vashi changed the tariff category from LT-II Commercial to LT-VI Streetlight to these 47 connections.


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- (vi) The Additional Executive Engineer (AEE) Flying Squad Vashi of the Respondent visited the premises of the Appellant in the month of April/May 2022 and carried out routine inspections as presented in Table 1. During inspection, the Respondent pointed out that the existing tariff category of “Streetlight” applied for these common connections was wrong, and all these 47 common connections should be billed under commercial tariff category. Accordingly, the Respondent issued the assessment bills for the tariff difference between streetlight and commercial tariff category for these 47 connections for the period from June 2015 to May 2022, which are charted in Table 1.
- (vii) The said instruction / decision is wrong because APMC is facilitating farmers / traders of agricultural products. The electricity used for streetlights should be charged on the basis of LT VI Street light tariff, as the usage is for street light purpose.
- (viii) The Appellants filed a common grievance application in the Forum on 26.08.2022. The Forum by its order partly allowed the grievance application and has restricted retrospective recovery of assessment bills to 24 months but applied Commercial tariff. The Forum failed to understand that the Appellants are a Government Undertaking and provide common services of lighting at nominal cost and not for profit making.
- (ix) The Appellant referred to the Tariff Order of the Commission dated 30.03.2020 in Case No. 322 of 2019 for applicability of street light tariff, which is squarely applicable to the Appellants.
- (x) The Appellants pray that the Respondent be directed to quash the retrospective recovery of assessment bills. The interest and delayed payment charges levied be withdrawn from the date of issue of the supplementary bill till cancellation of bills. “Streetlight” tariff be applied.

3. The Respondent filed its reply dated 06.12.2023. Its submissions and arguments are stated as below: -


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- (i) The APMC is a statutory market committee constituted by the State Government in respect of trade in certain notified agricultural/horticultural/livestock products. Mumbai Agricultural Produce Market Committee was established on 15th January 1977 under the provisions of the Maharashtra Agricultural Produce Marketing (Regulation and Development) Act, 1963. It is a Body Corporate under Section 12 of the said Act. Amongst others, the main objectives of establishment of Mumbai APMC are - to develop modern market yards for agricultural commodities, help the farmers to fetch a better price for their produce, create infrastructural facilities for orderly development of trade, to maintain and manage the markets. A Committee has been established for regulation of marketing of agricultural produce, establishment of markets, etc. It is empowered to regulate entry of persons and vehicles, to prevent adulteration and to promote and organize grading and standardization.

As per the provisions of Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, every functionary involved in sale and purchase of agricultural produce has to obtain a license for operating in the market yards / area of Mumbai APMC. There are various types of licenses such as - commission agent, trader, mapadi, mathadi, etc. Mumbai APMC charges a fee for the same. Entry of vegetable vehicles in Mumbai APMC is restricted and charged with an entry fee. The commission agents, traders etc. have to pay an annual fee as commission for activities in the Market. An annual fee is charged to traders for occupation of Galas.

- (ii) In the area of APMC, Navi Mumbai there are more than 3793 Gala's. There are 3467 separate electric connections given to these 3467 Gala's in the name of various traders. **The tariff applied to all these connections is LT-II Commercial; therefore the supply used to illuminate the passage in front of each gala also falls under LT-II Commercial tariff, as clarified by the Commission in tariff orders in force.** The statement of 47 common connections for lighting the passage etc. are listed in Table 1.



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- (iii) The Respondent referred to the Multi Year Tariff Order of the Commission dated 30.03.2020 in Case No. 322 of 2019. The same is reproduced below:

“LT VI: LT Street Light Applicability:

This tariff category is applicable for the electricity used for lighting of public streets/ thoroughfares which are open for use by the general public, at Low / Medium Voltage, and at High Voltage.

Street-lights in residential complexes, commercial complexes, industrial premises, etc. will be billed at the tariff of the respective applicable categories.

This category is also applicable for use of electricity / power supply at Low / Medium Voltage or at High Voltage for (but not limited to) the following purposes, irrespective of who owns, operates or maintains these facilities:

- a. *Lighting in Public Gardens (i.e. which are open to the general public free of charge);*
- b. *Traffic Signals and Traffic Islands;*

LT II: LT Non-Residential or Commercial Applicability:

*This tariff category is applicable for electricity used at Low/Medium voltage in **non-residential, non-industrial and/or commercial premises** for commercial consumption meant for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/ leisure and water pumping in, but not limited to, the following premises:*

- a. ***Non-Residential, Commercial and Business premises, including Shopping Malls and Showrooms;***
- b. *Combined lighting and power supply for facilities relating to Entertainment, including film studios, cinemas and theatres (including multiplexes), Hospitality, Leisure, Meeting/Town Halls, and places of Recreation and Public Entertainment; Offices, including Commercial Establishments; Marriage Halls, Hotels / Restaurants, Ice-cream parlours, Coffee Shops, Guest Houses, Internet / Cyber Cafes,*



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Telephone Booths not covered under the LT I category, and Fax / Photocopy shops;

c.to e

f. Common facilities, like Water Pumping / Lifts / Fire-Fighting Pumps and other equipment / Street and other common area Lighting, etc., in Commercial Complexes;

g.

LT VII (B): LT - Public Services - Others Applicability:

This tariff category is applicable for electricity supply at Low/Medium Voltage for:

a. Educational Institutions, such as Schools and Colleges; Health Care facilities, such as Hospitals, Dispensaries, Clinics, Primary Health Care Centres, Diagnostic Centres, Blood Banks, Laboratories; Libraries and public reading rooms - other than those of the State or Central Government or Local Self-Government bodies such as Municipalities, Zillah Parishads, Panchayat Simitis, Gram Panchayats, etc.

b. Sports Clubs and facilities / Health Clubs and facilities / Gymnasium / Swimming Pools attached to such Educational Institutions /Health Care facilities, provided that they are situated in the same premises and are meant primarily for their students / faculty/ employees/ patients;

*c. **all offices** of Government and Municipal/ Local Authorities/ Local Self-Government bodies, such as Municipalities, Zillah Parishads, Panchayat Samitis, Gram Panchayats; Police Stations and Police Chokies; Post Offices; Armed Forces/Defence and Paramilitary establishments;*

d. Service-oriented Spiritual Organisations;

e. State or Municipal/Local Authority Transport establishments, including their Workshops

f. Fire Service Stations; Jails, Prisons; Courts;



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- g. Airports;
- h. Ports and Jetties;
- i. Railway/Metro/Monorail Stations, including Shops, Workshops, Yards, etc, if the supply is at Low/ Medium Voltage.
- j. Waste processing units not covered under LT PWW category
- k. All Students Hostels affiliated to Educational Institutions not covered under LT Public Service - Government;
- l. All other students or working men/women hostels.
- m. Other types of Homes/Hostels, such as (i) Homes/Hostels for Destitutes, Disabled Persons (physically or mentally handicapped persons, etc.) and mentally ill persons (ii) Remand Homes (iii) Dharamshalas, (iv) Rescue Homes, (v) Orphanages - subject to verification and confirmation by Distribution licensees Zonal Chief Engineer or equivalent;

(iv) MERC in MYT tariff Order in Case No. 226 of 2022 dated 31st March 2023 has defined the applicability of LT VI: LT Street Light which is reproduced below: -

LT VI: LT – Street Light Applicability:

This tariff category is applicable for the electricity used for lighting of public streets/ thoroughfares which are open for use by the general public, at Low / Medium Voltage, and at High Voltage.

Street-lights in residential complexes, commercial complexes, industrial premises, etc. will be billed at the tariff of the respective applicable categories.

This category is also applicable for use of electricity / power supply at Low / Medium Voltage or at High Voltage for (but not limited to) the following purposes, irrespective of who owns, operates or maintains these facilities:

- a. Lighting in Public Gardens (i.e. which are open to the general public free of charge);
- b. Traffic Signals and Traffic Islands;

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- c. *Public Water Fountains; and*
- d. *Such other public places open to the general public free of charge.*

From this, it is clear that, LT VI: LT – Street Light tariff is applicable to streetlights run by Municipal bodies, and such other public places which are open to the general public free of charge. Mumbai APMC charges an entry fee, annual fee for various activities in the Market to traders/commission agents etc. Mumbai APMC Market at Navi Mumbai falls within the jurisdiction of Navi Mumbai Municipal Corporation. Streetlights in the area of Mumbai APMC are not provided by the Navi Mumbai Municipal Corporation. Markets of APMC across Maharashtra are billed with LT-II Commercial tariff. Electricity bills of APMC are kept on record.

- (v) The Secretary, Mumbai, APMC Market, APMC, Vashi has 47 connections at the APMC Market, Administrative building, Vashi, Navi Mumbai. The purpose of supply is illuminating the passages in front of the shops/Galas in APMC market.
- (vi) Initially (from 1981 onwards), LT II Commercial tariff was applied to these connections, which was changed to the lower tariff of LT VI Street light in the year 2015 and billed accordingly up to May 2022.
- (vii) In 2022, the flying squad inspected the premises of the Appellants in April/May 2022 and pointed out the wrong application of the lower street light tariff category. The disputed electrical connections had been wrongly billed under street light tariff (LT-VI) category from June 2015. Therefore it was proposed to recover the tariff difference between street light and commercial tariff category for the said period. The Respondent accordingly issued assessment bills towards tariff difference between LT VI: LT- Public street light and LT-II commercial tariff category for the period from June 2015 to May 2022 which are tabulated as below:



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Table 1:

Rep. No.	Consumer No.	Address/ Place	Conn. Load (KW)	Date of supply	Purpose	Date of Inspection	Assessment towards tariff difference between Jun 15 & May 22 (Rs.)
Onion Potato Market							
117	000481820511	C Block	4.2	12.02.1981	APMC Market	19.05.2022	5,10,650
118	000481821746	G Block	4.4	20.04.1981	Streetlight	23.05.2022	72,380
119	000481822181	H Block	4.7	18.02.1981	APMC Market	23.05.2022	6,55,400
Fruit Market							
120	000070319853	F Block	4.5	10.01.2012	APMC Market	19.05.2022	25,84,070
121	000070319861	G Block	6.2	13.12.2011	APMC fruit Market	19.05.2022	6,53,830
122	000070319870	H Block	5.7	10.01.2012		23.05.2022	7,03,460
123	000070319896	M Block	3.1	10.01.2012	APMC Market	19.05.2022	12,42,440
124	000070319900	N Block	4.1	10.01.2012	APMC Lighting	19.05.2022	20,95,150
125	000070319888	J Block	5.2	10.01.2012	Streetlight	19.05.2022	11,11,910
Vegetable Market							
127	000070319845	Area Light E Block	6.6	13.03.2012	Streetlight	19.05.2022	28,41,530
128	000070319811	Area Light A Block	7.8	27.01.2012	Streetlight	19.05.2022	11,29,810
129	000070319918	Area Light C Block	5.9	25.01.2012	Streetlight	18.05.2022	11,95,660
130	000077346830	Street Light		16.08.2009	Streetlight	19.05.2022	66,462
Phase-II : Market-I							
131	000072184327	A Block	3	15.02.1991	Streetlight	20.04.2022	4,45,530
132	000072184335	B Block		15.02.1991	Streetlight	20.04.2022	4,44,750
133	000072184351	D Block	3.7	15.02.1991	Streetlight	20.04.2022	11,11,380
134	000072184360	E Block	3.7	15.02.1991	Streetlight	28.04.2022	10,17,600
135	000072184378	F Block	3.7	15.02.1991	Streetlight	28.04.2022	5,53,950
136	000072184386	G Block	3	15.02.1991	Streetlight	28.04.2022	6,48,130
137	000072184408	J Block	3.8	15.02.1991	Streetlight	06.04.2022	1,93,700
138	000072184416	K Block	3.4	15.02.1991	Streetlight	06.04.2022	8,00,640
139	000072184424	L Block	1.2	15.02.1991	Streetlight	06.04.2022	6,22,380
140	000072184432	M Block			Streetlight	20.04.2022	5,17,390
Phase-II : Market-II							
141	000072209010	A Block	3.9	10.02.1994	Streetlight	02.05.2022	6,43,580
142	000072200942	B Block	2.7	10.02.1994	Streetlight	02.05.2022	3,44,270




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143	000072200951	C Block	3.3	10.02.1994	Streetlight	02.05.2022	3,54,720
144	000072200969	D Block	3.8	10.02.1994	Streetlight	02.05.2022	4,34,800
145	000072200977	E Block	3.8	10.02.1994	Streetlight	02.05.2022	8,18,440
146	000072200985	F Block	3.3	10.02.1994	Streetlight	02.05.2022	3,17,820
147	000072200993	G Block	3.5	10.02.1994	Streetlight	09.05.2022	3,69,080
148	000072201001	J Block	3.9	10.02.1994	Streetlight	09.05.2022	7,59,280
149	000072201019	K Block	3.9	10.02.1994	Streetlight	09.05.2022	11,92,810
150	000072201027	L Block	4	10.02.1994	Streetlight	09.05.2022	6,85,970
151	000488253247	M Block	3.5	22.12.1998	Streetlight	17.05.2022	5,01,320
152	000072201035	N Block	4.3	10.02.1994	Streetlight	17.05.2022	6,26,540
153	000072201051	Q Block	3.8	10.02.1994	Streetlight	09.05.2022	5,27,750
154	000072201060	R Block	4	10.02.1994	Streetlight	17.05.2022	5,19,520
155	000488253255	S Block	3.5	22.12.1998	Streetlight	17.05.2022	3,08,790
156	000488253182	T Block	3.5	22.12.1998	Streetlight	17.05.2022	3,55,480
157	000488253191	U Block	4	22.12.1998	Streetlight	18.05.2022	3,76,860
158	000488253204	V Block	4	22.12.1998	Streetlight	18.05.2022	3,11,330
159	000488253271	Co. Pas W Block	4	22.12.1998	Streetlight	18.05.2022	3,11,800
160	000488420453	CFB Staircase	3.9	10.02.1994	Central facility building Market II	23.05.2022	3,38,810
161	000488420461	CFB Staircase	3.9	07.02.1994	Streetlight	23.05.2022	8,70,210
162	000488283227	Co. Pas Y Block	0.75	22.12.1998	Streetlight	18.05.2022	3,29,620
163	000488253239	Z Block	2.5	22.12.1998	Streetlight	18.05.2022	5,33,810
Total assessment for tariff difference between LT VI: Public Streetlight & LT-II commercial for the period of June 2015 to May 2022							2,34,21,522

- (viii) The recovery of tariff difference was initiated as per the MSEDCL, Commercial Circular No 323 (Revision of Tariff) dated 03.04.2020.
- (ix) **The electricity supply from the disputed 47 connections is used to illuminate the passages in front of the shops/Galas in the APMC market, and for illuminating the streets in APMC. In some cases, this power supply is utilized for illuminating canteens and toilets / bathrooms in APMC. The benefit of this power supply is enjoyed by the traders and not by the general public. Hence,**


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APMC Vashi is seen as a commercial installation; therefore, the application of commercial tariff was proper.

- (x) Aggrieved with the supplementary bills, the Appellants filed grievance applications before the Forum on 26.08.2022. The Forum passed its order on 15.06.2023 and held the LT-II Commercial tariff as appropriate, but restricted recovery to 24 months only.
- (xi) The Respondent is dissatisfied with the order of the Forum and has therefore decided to file a Writ before the Bombay High Court to challenge the decision of the Forum. The process of filling the Writ is in progress.
- (xii) In view of the above, the Respondent prays that the representations of the Appellants be rejected.


4. During the course of the hearing, the parties were directed to carry out a joint inspection of all 47 connections at the earliest. The Appellant/Respondent submitted a Joint Inspection Report of 47 connections on 22.02.2024, the details of which have been taken into account.


Analysis and Ruling:

5. The main point of contention between the parties is whether the 47 streetlight connections in the Mumbai APMC are commercial in nature or not. The Respondent contends that the said connections are commercial since there is no free public access, and APMC collects fees through entry passes from traders and customers who enter the premises. The Appellants contend that the APMC is constituted by the state government for the benefit of farmers and to facilitate trade in agricultural produce. Since its main objective is the welfare of farmers, traders and consumers, and it maintains its infrastructure for that purpose, its streetlight connections used for common purposes should not be treated as purely commercial.

We have examined the claims of the parties, and the joint inspection report dated 22.02.2024 of the disputed 47 connections, which is summarised below: -

Table 2:


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Rep. No.	Consumer Name	Consumer No.	Actual Connected load						% of Street Light load wrt total Load
			Street Light Load (KW)	Toilet Load (KW)	Admin Load (KW)	High Mast load (KW)	Common Load (KW)	Total Load (KW)	
117	Secretary APMC	000481820511	4.00	0.12	0.00	0.00	0.12	4.24	94
118	Secretary APMC	000481821746	4.25	0.12	0.00	0.00	0.12	4.49	95
119	Secretary APMC	000481822181	4.50	0.12	0.30	0.00	0.12	5.04	89
120	Secretary APMC	000070319853	3.00	0.00	0.00	0.00	1.58	4.58	66
121	Secretary APMC	000070319861	4.50	0.00	0.00	0.00	1.75	6.25	72
122	Secretary APMC	000070319870	4.00	0.00	0.00	0.00	1.75	5.75	70
123	Secretary APMC	000070319896	2.00	0.00	0.00	0.00	1.10	3.10	65
124	Secretary APMC	000070319900	3.50	0.00	0.00	0.00	0.63	4.13	85
125	Secretary APMC	000070319888	3.75	0.00	0.00	0.00	1.53	5.28	71
126	Secretary APMC	000070319837	5.00	0.00	0.00	0.00	1.52	6.52	77
127	Secretary APMC	000070319845	5.25	0.00	0.00	1.60	1.38	8.23	64
128	Secretary APMC	000070319811	3.50	0.00	0.00	0.00	1.34	4.84	72
129	Secretary APMC	000070319918	5.25	0.00	0.00	0.00	0.70	5.95	88
130	Secretary APMC	000077346830	5.00	0.00	0.00	0.00	1.80	6.80	74
131	Secretary APMC	000072184327	1.08	0.00	0.30	0.00	0.00	1.38	78
132	Secretary APMC	000072184335	2.40	0.12	0.00	0.00	0.60	3.12	77
133	Secretary APMC	000072184351	3.00	0.12	0.00	0.00	0.72	3.84	78
134	Secretary APMC	000072184360	3.12	0.12	0.00	0.00	0.64	3.88	80
135	Secretary APMC	000072184378	3.12	0.12	0.00	0.00	0.62	3.86	81
136	Secretary APMC	000072184386	2.40	0.12	0.00	0.00	0.60	3.12	77
137	Secretary APMC	000072184408	1.68	0.12	0.00	0.00	0.34	2.14	79
138	Secretary APMC	000072184416	3.12	0.12	0.00	0.00	0.68	3.90	80
139	Secretary APMC	000072184424	2.76	0.12	0.00	0.00	0.64	3.52	78
140	Secretary APMC	000072184432	1.20	0.00	0.30	0.00	0.00	1.50	80
141	Secretary APMC	000072209010	3.75	0.00	0.00	0.00	0.24	3.99	94
142	Secretary APMC	000072200942	2.50	0.00	0.00	0.00	0.28	2.78	90
143	Secretary APMC	000072200951	3.00	0.00	0.00	0.00	0.34	3.34	90
144	Secretary APMC	000072200969	3.50	0.00	0.00	0.00	0.34	3.84	91
145	Secretary APMC	000072200977	3.50	0.00	0.00	0.00	0.34	3.84	91
146	Secretary APMC	000072200985	3.00	0.00	0.00	0.00	0.34	3.34	90
147	Secretary APMC	000072200993	3.25	0.00	0.00	0.00	0.30	3.55	92
148	Secretary APMC	000072201001	3.75	0.00	0.00	0.00	0.24	4.29	87
149	Secretary APMC	000072201019	3.75	0.00	0.00	0.00	0.24	3.99	94
150	Secretary APMC	000072201027	3.75	0.00	0.00	0.00	0.30	4.35	86
151	Secretary APMC	000488253247	3.25	0.00	0.00	0.00	0.30	3.55	92
152	Secretary APMC	000072201035	4.00	0.00	0.00	0.00	0.34	4.34	92
153	Secretary APMC	000072201051	3.50	0.00	0.00	0.00	0.30	3.80	92
154	Secretary APMC	000072201060	3.75	0.00	0.00	0.00	0.30	4.35	86



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155	Secretary APMC	000488253255	3.50	0.00	0.00	0.00	0.00	3.50	100
156	Secretary APMC	000488253182	3.50	0.00	0.00	0.00	0.00	3.50	100
157	Secretary APMC	000488253191	4.00	0.00	0.00	0.00	0.00	4.00	100
158	Secretary APMC	000488253204	4.00	0.00	0.00	0.00	0.00	4.00	100
159	Secretary APMC	000488253271	4.00	0.00	0.00	0.00	0.00	4.00	100
160	Secretary APMC	000488420453	3.75	0.00	0.00	0.00	0.24	3.99	94
161	Secretary APMC	000488420461	3.75	0.00	0.00	0.00	0.24	3.99	94
162	Secretary APMC	000488283227	0.75	0.00	0.00	0.00	0.00	0.75	100
163	Secretary APMC	000488253239	2.50	0.00	0.30	0.00	0.00	2.80	89


It is seen that common streetlights constitutes the dominant load of these connections.

6. A comparison between the tariff categories of Commercial, Street light and Public Services –Others as per the Tariff Order of the Commission dated 30.03.2020 in Case No. 322 of 2019 is as below:

Tariff w.e.f. 1 April, 2020 to 31 March, 2021 : Consumer Category											
LT II: LT – Non-Residential or Commercial				LT VI: LT – Street Light				LT VII (B): LT - Public Services – Others			
Consumption Slab (kWh)	Fixed/ Demand Charges (Rs)	Wheeling Charge (Rs/kWh)	Energy Charge (Rs/kWh)	Consumer Category	Fixed/Demand Charge (Rs/kW/Month)	Wheeling Charge (Rs/kWh)	Energy Charge (Rs/kWh)	Consumption Slab (kWh)	Fixed/ Demand Charges (Rs)	Wheeling Charge (Rs/kWh)	Energy Charge (Rs/kWh)
LT II (A) 0-20 kW	403	1.45	7.36	(B) Municipal Corporation Areas	111	1.45	5.97	(i) < 20 kW	362	1.45	4.86

The Streetlight tariff within the Municipal Corporation area is more than the Public Services – Others tariff. The Appellant has prayed for applying Streetlight tariff, as APMC yard comes under Navi Mumbai Municipal Corporation area.

7. Having examined all aspects of the issue, we come to the conclusion that the above 47 streetlight connections cannot be considered to be commercial in nature, as the common streetlights' connections are for the benefit of public, even though there may be some nominal entrance fees. Streetlights provide convenience of movement and security. APMC is a government undertaking, and whatever fees it collects are for the purpose of being self-sustainable, not for making profit. Considering the overall functioning of APMC, its activity of maintaining streetlights is equivalent to that of Navi Mumbai Municipal Corporation. It


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also falls in the Corporation area. Hence, we hold that the appropriate tariff for the 47 connections should be that for streetlights, and not commercial.

8. The Commission in its Tariff Order dated 30.03.2020 in Case of 322 of 2019 has specified that

“LT II: LT Non-Residential or Commercial Applicability:

This tariff category is applicable for electricity used at Low/Medium voltage in non-residential, non-industrial and/or commercial premises for commercial consumption meant for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/ leisure and water pumping in, but not limited to, the following premises:

a. Non-Residential, Commercial and Business premises, including Shopping Malls and Showrooms;

b. Combined lighting and power supply for facilities relating to Entertainment, including film studios, cinemas and theatres (including multiplexes), Hospitality, Leisure, Meeting/Town Halls, and places of Recreation and Public Entertainment; Offices, including Commercial Establishments; Marriage Halls, Hotels / Restaurants, Ice-cream parlours, Coffee Shops, Guest Houses, Internet / Cyber Cafes, Telephone Booths not covered under the LT I category, and Fax / Photocopy shops;

.....

f. Common facilities, like Water Pumping / Lifts / Fire-Fighting Pumps and other equipment / Street and other common area lighting, etc., in Commercial Complexes;

.....

In the present grievance, we observe that there is a mixed load of streetlights as well as common lighting between rows of Gala/Shops which are billed under commercial tariff category. The outer Streetlights / High Mast are provided in the larger interest of the Society. Hence, these connections are to be billed under Streetlight Tariff category. However, the inner common lighting between these rows of Galas/Shops are used for common commercial purpose as per the Tariff Order of the Commission in force, and



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hence should be billed under Commercial Tariff Category. Hence, the Appellants are advised to segregate this mixed load into (1) outer streetlight and (2) inner load between the Gala/Shops, taking the Respondent in confidence.

9. The Forum's order is set aside. The Forum should have considered that the APMC is a Government Undertaking, and its function of providing streetlights should not be considered under commercial tariff category.

10. The Respondent is directed as under: -

- a) To withdraw the total retrospective assessment of RS. 3,44,46,872/-tariff difference between LT II: LT –Commercial and LT VI: LT – Street Light for the period from June 2015 till May 2022 along with interest and DPC levied, if any.
- b) To revise the tariff as LT VI: LT Street Light (as applicable to Municipal Corporation) from June 2022 onwards.
- c) Compliance to be submitted within two months from the date of issue of this order.
- d) The other prayers of the Appellant are rejected.

11. The representation is disposed of accordingly.

12. The secretariat of this office is directed to refund the total amount of Rs.11,75,000/- which was taken as deposit against Rep. 117 to 163 of 2023.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)

(Dilip Dumbre)
Secretary

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