

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM  
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/ARC/687/2018/27  
Registration No. 2018070004**

Date of Admission : 03.07.2018  
Date of Decision : 09.10.2018

M/s. Dhoot Compact Pvt. Ltd., . : COMPLAINTANT  
Gut No. 100 Pharola,  
11/6 KM Stone, Paithan Road,  
Tq. Paithan,  
Dist. Aurangabad 431 001.  
(Consumer No. 493159040380)

**VERSUS**

The Executive Engineer (Admn) : RESPONDENT  
Nodal Officer, MSEDCL, Rural Circle,  
Aurangabad.

Complainant Representative : Shri Hemant Kapadia,  
Respondent Representative : Shri YB Nikam,  
EE(Admn), Rural Circle,  
Aurangabad

**CORAM**

Smt. Shobha B. Varma, Chairperson  
Shri Laxman M. Kakade, Tech. Member/Secretary  
Shri Vilaschandra S. Kabra Member.

**CONSUMER GRIEVANCE REDRESSAL DECISION**

1) The applicant M/s. Dhoot Compact Pvt. Ltd., Gut No. 100 Pharola, 11/6 KM Stone, Paithan Road, Tq. Paithan, Dist. Aurangabad is a consumer of Mahavitaran having Consumer No. 493159040380. The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Rural Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 03.07.2018.

**BRIEF HISTORY & FACTS RELATING TO THE GRIEVANCE:**

2) The complainant is authorized signatory of above named industrial unit situated at Gut No.100 village Pharola Tal. Paithan, Dist. Aurangabad. The consumer number is 493159040380.

Respondent is authorized officer of Maharashtra Electricity Distribution Company Ltd. which is working as Distribution Licensee as per provision of Electricity Act 2003. The complainant is sourcing electricity for his industrial unit from Respondent and therefore is a consumer of Respondent company

3) It is submitted that, the complainant has set up plastic extrusion units at Gut No. 100, village Pharola. Tal. Paithan, Dist. Aurangabad. Respondent has released 33kv supply in the month of Feb.2001 for his premises. The present sanction contract demand and connected load are 780 KVA and 1790 Kw respectively.

4) It is submitted that, there was no dispute till month of December 2017 . The complainant has paid all electricity bills regularly by availing prompt payment discount, power factor, load factor incentives provided by Hon'ble Maharashtra Electricity Regulatory Commission through its various tariff orders.

- 5) It is submitted that, the complainant was shocked to receive a bill for the month of January 2018 in which Respondent has abruptly changed the contract demand from 780 KVA to 830 KVA without any application or demand from the complainant. The complainant has neither submitted application for enhancement of contract nor paid any amount towards additional load nor executed any agreement with MSEDCL.
- 6) That, due to abrupt change in contract demand by MSEDCL, the complainant was deprived of availing legitimate and correct amount of incentives towards load factor from the month of Jan.2018 & Feb.2018 .
- 7) It is submitted that, on receipt of bill for the month of January 2018, the complainant immediately contacted Respondent office and brought to the notice of Respondent that due to abrupt enhancement in contract demand , he has suffered loss of Rs. 2,24,343/ towards load factor incentives.
- 8) That since the due date of payment of bill for the month of January 2018 (bill dt. 02.02.2018) was 08/02/2018 , in order to avail prompt payment discount, the complainant paid the said bill on 08/02/2018.
- 9) It is submitted that, inspite of receipt of letter dt.6.2.18 & 8.2.18, Respondent continued to issue bill for Feb.2018 showing contract demand as 830 KVA.
- 10) It is submitted that, on 17.02.2018 , the complainant was in receipt of letter dt. 22.12018 issued by MSEDCL which reads as "Notice to Comply" .
- 11) It is submitted that Respondent through the said notice, asked the complainant to submit application for enhancement of contract demand. As the same was exceeded during the month of Oct.2017 to Dec.2017 and further asked to pay Rs. 1,90,000/ to regularize the same.

12) That, since the contents of Notice to Comply issued by MSEDCL were not clear , the complainant contacted concerned officer of Respondent and requested to provide clarification about the contents mentioned in the said notice .

13) It is submitted that, during discussion, it was told to the complainant that since the demand recorded in the month of Oct-17 to Dec.17 is more than sanction, application for enhancement of demand is required to be submitted. Further the demand for amount of Rs, 1,90,000/ raised in the notice is towards additional security deposit which is required to be paid as per MERC regulations. (Average one month amount).

14) The complainant , after the discussion submitted his letter in the office of Respondent on 20.02.2018 and shown his readiness for payment of Rs.1,90,000/ towards additional security deposit and accordingly paid the same by way of Bank guarantee. As regards to submission of application for enhancement of contract demand , the complainant brought to the notice of Respondent that as the demand recorded for Oct-17 to Dec.17 is during off peak hours ( 22.00 to 06.00 hrs) and as per MERC tariff order the same is not considered for billing purpose.

15) The complainant further requested Respondent not to change the contract Demand and to issue revise bill showing original contract demand of 780 KVA.

16) It is submitted that, since no cognizance of letter dt. 20.02.2018 was taken by Respondent, it has submitted reminder letter on 01.03.2018 followed by another reminder letter dt. 07.03.2018 and once again requested to retain the contract demand to 780 KVA.

17) That, the complainant was shocked to receive sanction letter dt. 08.03.2018 issued by Respondent for load reduction from 830 KVA to 780 KVA . It is submitted that instead of issuing revise bill as per previous sanction of 780 KVA,

Respondent asked the complainant to pay Rs. 2226/- which includes Rs.1700/ & Rs. 220/ towards processing charges & Agreement charges respectively.

18) Since, the Respondent was not ready to reduce the contract demand without payment of charges and without executing agreement , the complainant , in order to avoid his financial loss , was forced to pay amount of Rs. 2226/ and executed the agreement on 15.3.2018.

19) It is submitted that, it is only after receipt of payment of Rs. 2226/ and execution of agreement, Respondent started issuing future bill from March 2018 onwards showing previous contract demand of 780 KVA on the bills.

20) The complainant, aggrieved by the monopolistic action of Respondent, filed his grievance before IGRC of Respondent Company on 12.03.2018. The complainant during the hearing before IGRC specifically asked to produce any circular of MSEDCL or any order passed by Hon'ble MERC by which MSEDCL has been authorized and empowered to make abrupt changes in the contract demand of consumer without his application or demand.

21) The complainant wish to submit that IGRC in order to avoid liability to refund excess amount collected towards load factor , without going into details of various tariff orders passed by Hon'ble MERC regarding billing demand and without producing any proof of authority for changing contract demand of consumer without his application , passed its order on 05.04.2018.

The complainant has challenged the order dt. 05.04.2018 passed by IGRC, Aurangabad.

22) **GROUND FOR APPEAL:**

A) The complainant has submitted that, there was no dispute regarding bills till the month of Dec.2017. Respondent has issued all the monthly bills by showing sanction contract demand of 780 KVA on the bills.

- B) Respondent , without giving any intimation to the complainant and without any application or demand from complainant abruptly changed the contract demand from 780 KVA to 830 KVA in the months of Jan.2018 & Feb.2018.
- C) That, Hon'ble Commission, through its various tariff orders has given incentives to consumers who maintained their load factor above 75 % . However, due to monopolistic action of Respondent of increasing contract demand which resulted in less recording of load factor. The complainant is deprived of getting correct amount of incentives towards load factor

The extract related to billing demand and load factor incentives of MYT tariff order dt. 03.11.2016 (Case No. 48/2016) passed by Hon'ble MERC is as follows :-

**Billing demand for HT tariff category: ( Page 578/617)**

- a) Actual max. demand recorded in the month during 06.00 hrs to 22.00 hrs.
- b) 75% of highest billing demand recorded during the preceding eleven months, subject to limit of contract demand .
- c) 50% of contract demand

**NOTE: Only the demand registered during the period 0600 to 2200 hrs. will be considered for billing demand.**

It is submitted that, the contract demand exceeded in the month of Oct 17 to Dec.17 was during off peak hrs. (i.e. from 2200-to 0600hrs) which is not considered for billing purpose.

The above facts confirms that the action of changing contract demand abruptly by Respondent is illegal and violates the provision of tariff order passed by Hon'ble MERC.

**23) LOAD FACTOR INCENTIVES: ( Page 574/617)**

Consumers having load factor above 75% and upto 85% will be entitled to an incentive in the form of rebate of 0.75% on the energy charges for every percentage point increase .Consumers having load factor above 85% will be entitled to rebate of 1% on the energy charges for every percentage point increase in load factor from 85%.

The total rebate will be subject to ceiling of 15% of the energy charges applicable to the consumer.

**LOAD FACTOR COMPUTATION : ( Page 575/617)**

$$\text{Load Factor} = \frac{\text{Consumption during the month in MU}}{\text{Maximum Consumption Possible during the month in MU}}$$

Max. Consumption possible during the month in MU is

$$= \text{Contract Demand} \times \text{Power Factor} \times \text{No. of hrs. during month}$$

The above formula for calculating load factor shows that if contract demand is increased the load factor will be less.

Since Respondent has abruptly increased the contract demand from 780 KVA to 830 KVA, Load Factor was recorded less and complainant is deprived of getting correct amount of incentives.

**24) LOAD SANCTION DT. 08/03/2018:**

It is submitted that, Respondent without any application or demand from the complainant and without any authority given by Hon'ble MERC or any of the provisions of MERC Regulations and EA 2003 Act, abruptly changed the contract

demand from 780 KVA to 830 KVA. The complainant during hearing before IGRC requested to produce any such document, however IGRC, in order to avoid refund and without going in to merit of the issue, passed its order and dismissed the grievance of the complainant. It is alleged that, action of Respondent is monopolistic, incorrect and illegal and is without any authority, the order passed by IGRC may be quashed.

25) That, the Respondent issued bills for month of Jan.18 & Feb. 18 showing contract demand of 830 KVA. That, after continuous follow up and filing 3-4 complaints, Respondent on its own issued sanction letter dt. 08.03.2018 for reduction of contract demand from 830 KVA to 780 KVA.

26) The complainant has not submitted prescribed A- 1 form to the Respondent which is basic document required to be submitted by consumer while making fresh / additional/ reductions of load application. The complainant has neither executed any agreement for enhancement of load from 780 KVA to 830 KVA. This facts confirms that the agreement executed on 15.3.2018 for reduction of load is void and illegal

27) It is prayed that,

1. The order dt. 5.4.2018 passed by IGRC may be quashed.
2. Respondents may be directed to issue revise bills by calculating load factor as per sanction contract demand of 780 KVA.
3. Respondent may be directed to refund excess amount paid by the complainant along with interest.
4. Respondent may be directed to refund Rs. 2226/ paid towards agreement & processing charges.

28) The Respondent has filed written statement (Page No. 42) as follows :

The contents of the representation which are not specifically admitted may be deemed to be denied.

29) The consumer M/s Dhoot Compack Ltd is an existing 33KV HT consumer & the date of connection of consumer is 14 Feb-2001 with CD 780 KVA & CL 1790 KW. The consumer has exceeded the contract demand in the month of Oct 2017 (798 KVA), Nov 2017 (830 KVA) and Dec 2017 (809 KVA) on more than 3 occasions in the calendar year 2017-2018. Since exceeding of contract demand on more than 3 occasions is breach of agreement also amounts to unauthorized use of electricity. "Notice to comply" was served to the consumers by Superintending Engineer of O&M Rural circle Aurangabad on date 22 January 2018.

30) Instead of giving application of load enhancement, consumer has submitted the application of wrong billing for Jan-18 to this office & paid the bill under protest. The Respondent has also given reply to M/s Dhoot Compack Ltd vide letter no. 854 dtd. 20.02.2018 for wrong billing application. AS consumer has exceeded its contract demand without intimation to MSEDCL, Head office has decided that contract demand of such consumers will be revised with maximum demand recorded, hence consumers CD re-instate as 830 KVA.

31) That, MERC tariff order in case 48 of 2016 dtd 03.11.2016 also stipulates, in case a consumer exceeds his contract demand on more than three occasions in calendar year, the action would be taken under MERC Supply code Regulation.

32) The various provisions in Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations 2005 relating to contract demand may be considered.

33) Further these consumers have exceeded their contract demand during night hours i.e. between 22.00 hrs. to 6.00 hrs. As per the tariff order, load factor

incentives have been passed on to these consumers similarly, other subsidy benefits under GoM GR's dt. 29.06.2016 and 24.03.2017 relating to Vidharbha, Marathwada, North Maharashtra, D and D+ region are also getting passed on these consumers when actually there is unauthorized use of electric supply.

34) The clause (6) of Model agreement may be considered.

The Contents of the "Grounds for appeal" are denied by the respondent.

35) Load factor calculation

Load Factor = Consumption during the month in MU/Maximum Consumption Possible during the month in MU

Maximum consumption possible = Contract Demand (kVA)

X Actual Power Factor

x (Total no. of hours during the month, less planned load shedding hours\*)

As per billing of Oct-17 & Dec-17, it is observed that consumer has increased its contract demand as 798 KVA & 809 KVA & got load incentive as Rs. 46051 & Rs.170588.

If as per above formula if Load incentive is calculated on actual CD, then consumer will not get/less LF incentive.

As per actual =  $448729/798*1*31*24=75.58$

As per Consumer/bill of oct-17= $448729/780*1*31*24 =77.32$

For Dec- 17

As per actual =  $476974/809*1*31*24=79.24$

As per Consumer/ bill of Dec-17= $476974/780*1*31*24=82.19$

In Jan-18 billing, LF is calculated on re-instate load CD i.e.

830 KVA, hence consumer cannot get the benefit of LF.

Month	CD as actual consumption	Load factor as per actual	CD on Electricity bill	Load Factor as per consumer bill
October-2017	798 KVA	75.58 %	780 KVA	77.32 %
November-2017	830 KVA	76.90 %	780 KVA	81.83 %
December-2017	809 KVA	79.24 %	780 KVA	82.19 %

That due to increase in contract demand in the non peak hrs. i.e. 22.00 hrs. to 6.00 hrs. the consumers has achieved the load factor more than the actual load factor which is below the respective month bill load factor. Hence, the consumer is taking advantage of exceeding contract demand in the non peak hrs. which amounts to breach of contract between MSEDCL & the consumer and also taken the advantage of higher load factor incentive on account of increasing contract demand beyond specified contract demand.

However, there was no any penal charges implemented in the consumer bill for exceeding the contract demand. Means the consumer has taken dual advantage as exceeding the contract demand i.e. unauthorized use of electricity and got the load factor incentive.

36) The consumer vide its letter dtd. 7.3.2018 accepted that, they have exceeded their demand due to temporary load which is now discontinued and also mentioned that they would be maintain the demand within the sanction CD, and requested to maintain the existing contract demand. Hence, as per the agreement executed by consumer on dtd. 15.03.2018 the consumer load is restored to its original contract demand i.e. 780 kva

37) That, the respondent has submitted that, there is no question of refund of agreement & processing fees Rs. 2226/-, which are as per Hon. Commission order in case no 19 of 2012 dtd 16<sup>th</sup> Aug 2012.

Hence, it is prayed that the compliant may be dismissed.

38) The complainant has submitted the rejoinder (Page No. 62) & submitted following facts:

That, Hon'ble Commission, in its tariff order dt.03.11.2016 (Case No. 48/2016, Page No. 578/617) has clarified the definition of billing demand.

That, the complainant has exceeded the demand during off peak hours i.e. during period 22.00 hrs to 06.00 hrs. which is not considered as billing demand as per the definition.

39) That, the Respondent has accepted the fact the contract demand of the complainant was increased abruptly from 780 KVA to 830 KVA without any intimation and without any application from the complainant.

40) It is stated in the reply of Respondent that the action of increasing contract demand from 780 KVA to 830 KVA was taken as per directives issued by their head office, however copy of same was not submitted *along* with reply. Respondent may be directed to produce any such provision of MERC Regulations / Electricity Act 2003.

Respondent failed to produce or show any provision in said Regulation, wherein Distribution Licensee has been authorized to make any change (either increase or decrease ) in contract demand without application of consumer.

41) The Respondent has submitted copy of agreement containing terms and conditions of agreement. The terms and conditions also confirms that Respondent has no authority to increase or decrease the contract demand of any consumer without his application.

42) The Respondent has submitted formula of calculating load factor incentive. That, the Respondent has admitted that load factor incentive was given in the

month of Oct. 2017 to Dec. 2017 during which the recorded demand exceeded the sanction contract demand.

43) That, the Respondent has neither stated that, load factor incentives given in the bills of Oct. 17 to Dec. 17 during which the recorded demand exceeded was incorrect neither has made any demand for its recovery. This alternatively confirms that a load factor incentive is applicable to all such consumers who has exceeded contract demand during off peak period i.e. from 2200hrs to 0600 hrs.

44) The complainant has already paid penalty for exceeding contract demand which can be verified from the monthly bills issued for period of Oct. 17 to Dec. 17.

45) The Respondent has filed Say (Page No. 68) to rejoinder as under :-

As per MSEDCL HO IT Circular dtd. 11<sup>th</sup> December 2017 the consumers who have exceeded Contract Demand for more than 3 times up to billing month of November 2017 in Calendar Year 2017, the demand violation notice is generated automatically through the IT System. The contents of Para of rejoinder 2, 4, 6 are denied by the respondent.

46) The complainant has further filed rejoinder (Page No. 71) & submitted as under :-

The agreement executed on 11.12.2013 for contract demand of 780 KVA, the said agreement along with terms and conditions mentioned therein is binding on both parties.

47) It is submitted that, they have not violated any of the provisions of Electricity Act 2003 nor violated any of the provisions of Regulations passed by Hon'ble Regulatory Commission. The Respondent failed to produce any

documents confirming violations of any of the terms and conditions of agreement executed for contract demand of 780 KVA .

48) That, from Dec.2013 to Dec. 2017 , Respondent issued all monthly bills showing contract demand as 780 KVA and the same were paid by the complainant within stipulated time period.

49) It is submitted that the disputes started from Jan.2018 , when Respondent unilaterally and without any application from the complainant , on its own changed, the contract demand from 780 KVA to 830 KVA.

50) That, the Respondent's letter dt. 22.01.2018 (recd. on 17.2.2018) also does not show any such proposed action. That, no agreement was executed while changing contract demand from 780 KVA to 830 KVA. As per conduct of business Regulations, execution of agreement is one of the important legal formality required to be completed while releasing additional load or in the matter of approval for reduction of load for all HT consumers. The above fact confirms that Respondent has no authority to change the contract demand without receipt of application from consumer.

51) **Standard of performance Regulations 2014**

1. That the Hon'ble Commission has passed revised standard of performance Regulation (SOP) in the year 2014.

2. The para 4 of the said Regulations is reproduced as under.

“ Period for giving supply” : ( Including temporary connections/  
Additional load / Reduction in load )

“The Distribution Licensee shall, on an application made by post or by hand by the owner or occupier of any premises, give supply of electricity to such premises after receipt of application by chronological order of receipt of its complete applications requiring such supply.”

The above provision clearly discloses that Distribution Licensee has no authority to give electricity connection (Additional load/ reduction load etc.) without receipt of application from consumer.

52) **MSEDCL Circular No. 15940 dt. 29.06.2017**

It is submitted that the competent authority of MSEDCL published above said circular which deals with delegation of powers in respect of load sanction, estimate sanction etc.

Para "D" of the circular deals with Procedure for release of HT connection. It is clearly mentioned in the said para that on receipt of application in A-1 form the consumer, all further process up are required to be completed.

The above facts also confirms that no activity like release of new connection/ additional load or reduction in load etc. can be undertaken without receipt of application in prescribed forms from the applicant/ consumer.

53) **Letter dt. 11.12.2017 issued by General Manager (IT)**

The complainant has noticed that afore said letter is internal correspondence between the officers of Distribution Licensees (MSEDCL). The Respondent in its reply dt. 04.08.2018 has wrongly stated that, it is a Head office circular.

That MSEDCL is limited company formed under companies Act. The powers to issue circular/s are vested with authorities like Chief Engineer (Commercial) etc. The circular also requires to bear No. and signature of designated officer.

That, letter dt. 11.12.2017 is without any No. and does not bear any signature of issuing authority.

54) That, on going through the contents "purpose of Amendment" It is discloses that demand violation notice are to be issued for consumers who have exceeded contract demand for more than three times in a calendar year.

The letter dt. 22.1.2018 of Respondent which discloses that the contract demand was exceeded for three times only (Not more than three times). This alternatively confirms that the said amendment is not applicable to the complainant.

55) In view of above submission, the action of Respondent to change the contract demand for 780 KVA to 830 KVA and then to reduce the same from 830 KVA to 780 KVA without application of complainant is totally incorrect, wrong and illegal.

56) The complainant is in receipt of copy of recently passed tariff order dt. 11.09.2018 by Hon'ble Commission in case No. 195/2018. From the above said order it is clear that Hon'ble Commission has from 1<sup>st</sup> Sept. 2018 onwards discontinued the load factor incentives to consumer who exceeds contract demand during off peak hours, i.e. during 22.00 hrs to 06.00 hrs. The above order alternatively clarifies that the load factor incentives was available to consumers who exceeds contract demand during off peak hours prior to this order.

57) We have gone through the pleadings, the documents & arguments advanced by both parties. We have heard Complainant Representative Shri Hemant Kapadia & Respondent Representative, Shri Y. B. Nikam, Executive Engineer (Admin), Rural Circle, Aurangabad. Following points arise for our determination, & we have recorded our findings thereon for reasons to follow:-

Sr. No.	POINTS	FINDINGS
1)	Whether calculation of load factor is required to be made as per sanctioned contract demand of 780 KVA & revised bill requires to be issued ?	Yes

2)	Whether the complainant is entitled for refund of excess amount along with interest as claimed ?	Partly Yes
3)	Whether the complainant is entitled for refund of Rs. 2226/- paid towards agreement & processing charges ?	No
4)	Whether order dtd. 05.04.2018 passed by IGRC required to be quashed?	Yes
5)	What order & cost ?	As per final order

### REASONS

58) **Point No. 1 & 2 :-** The Parties are not at quarrel about following facts :-

That, the complainant is having 33 KV HT Connection, since February 2001 & present contract demand & connected load is 780 KVA to 1790 KW respectively.

59) That, in the month of January 2018 & February 2018 the contract demand was changed by the Respondent from 780 KV to 830 KVA. It is alleged by the complainant that, it was abrupt change without any demand or application by the complainant. The bill for month of December 2017 (Page No. 14) goes to show that contract demand was 780 KVA. Bill (Page No. 15) for month of January 2018) & for month of February 2018 (Page No. 33) go to show increase of contract demand from 780 KVA to 830 KVA. The complainant has paid bills of January 2018 & February 2018 under protest (Letters dtd. 06.02.2018 (Page No.17) & 07.03.2018 (Page No.23) are on record. It is not disputed by the Respondent. Receipt of payment of February 2018 is at page No. 32.

60) The complainant has alleged that, such abrupt change deprived it of availing legitimate & correct amount of incentives towards load factor for the month of January & February 2018. For that purpose, communication was made

by complainant by issuing letter dtd. 05.02.2018 (Page No. 16)] dtd. 06.02.2018 (Page No. 17) & brought to the notice of Respondent load factor loss of Rs. 2,24,343/- in the month of January 2018. By letter date 07.03.2018, further the said grievance was brought to notice of Respondent.

61) That, the Respondent issued "Notice to comply" dtd. 22<sup>nd</sup> January 2018 (Page No. 19) to the complainant & communicated as follows :

"On examining of billing data for the calendar year 2017, it has come to notice that you have exceeded your sanction contract demand of 730 KVA on more than 3 occasions. The details of occurrences are as below. "

Month	Contract Demand Recorded
December 2017	809
November 2017	830
October 2017	798

"This is breach of agreement executed between yourself & MSEDCL as per regulation No. 4 & 6 of supply code regulation & provisions of MERC tariff order."

"In the matter this notice is served upon you to make application with payment of Rs. 1,90,000/- to regularize the same within a period of 15 days."

"If the corrective action as mentioned above is not taken on your part then it will treated as breach of contract and action would be initiated as per the provisions of Electricity Act 2003 & MERC Supply Code Regulations 2005."

62) The complainant by issuing letter dtd. 20.02.2018 (Page No. 20) replied to the Respondent that, it was ready to pay additional security deposit Rs. 1,90,000/- However, regarding increasing in contract demand though, it has accepted that, they have exceeded contract demand. However it is stated that, it was during off peak hours. i.e. in 'A' Zone (22.00 hrs to 6.00 hrs) & that it was within tariff

philosophy & tariff order passed by MERC. It is also communicated that, they were not ready to increase contract demand & requested for revised power bill of January 2018 & for refund of load factor benefit, as per sanctioned contract demand 780 KVA.

63) In the letter issued by complainant to Respondent dtd. 01.03.2018 (Page No. 22) same request as above was repeated. But, it was under taken to maintain actual demand. Again on 07.03.2018, the complainant wrote a letter (Page No.23) to the respondent about payment of the bill of February 2018 under protest. That, on 8<sup>th</sup> March 2018 the Respondent by letter (Page No. 24) accepted request of the complainant for reduction of demand i.e. to maintain it 780 KVA. It was permitted subject to terms & conditions & one of them is to enter in to fresh agreement for reduction of contract demand & to pay to 2226 for charges. That, on 15.03.2018, both parties entered into fresh agreement (Page No. 27 to 31).

64) That on 07.03.2018, the complainant had lodged complaint (Copy is at Page No. 35) before IGRC, with a prayer to refund excess amount paid by them in the power bill of January & February 2018 due to less load factor calculation of 830 KVA of contract demand. The said complaint was dismissed by IGRC on 05.04.2018, (copy of it is produced at Page No. 37 to 41). Said order is assailed in the present complaint.

65) It is important to note that, the complainant in their letter dtd. 01.03.2018 (Page No. 34) & in the complaint before IGRC (Page No. 35 & 36) has admitted the fact , that they have exceeded contract demand as referred above. However, the complainants contention is that the said demand was recorded during off peak hours i.e. during the period 22.00 hrs. to 6.00 hrs. is not disputed by the Respondent (at para 5 of their written statement).

66) Now, let us point out definition of contract demand, as contemplated under clause 2 of Maharashtra State Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005.

1.9 "Contract Demand" means demand in kilowatt (KW) /Kilovolt Ampere (KVA), mutually agreed between Distribution Licensee & the consumer as entered in to the agreement or agreed through other written communication."

67) Such, mutually agreed 780 KVA contract demand as per agreement entered mutually by both the parties on 11<sup>th</sup> Dec. 2013, copy of it is at Page No. 76 to 82.

68) In the backdrop of these admitted facts, now, the reference of tariff order dtd. 03.11.2016 (Case No. 48 of 2016) passed by Hon'ble MERC s important, it speaks as under:-

The Billing Demand for HT category (Page No. 578 / 617)

- (a) Actual Maximum Demand recorded in the month during 0600 hours to 2200 hours;
- (b) 75% of the highest Billing Demand recorded during the preceding eleven months, subject to the limit of Contract Demand;
- (c) 50% of the Contract Demand.

**Note** : Only the Demand registered during the period 0600 to 2200 Hrs. will be considered for Billing Demand.

69) In this respect Page No. 461 /617 Para 5 – (Load Factor Incentive) is important & reproduced as under :-

In case the Billing Demand exceeds the Contract Demand in any particular month, the Load Factor Incentive will not be payable in that month. (The Billing Demand definition excludes the demand recorded during the non-peak hours, i.e., 22:00 hrs to 06:00 hrs and, therefore, even if the Maximum Demand exceeds the Contract Demand in that period, Load Factor Incentive would be applicable.

However, the consumer would be subject to and shall have to pay the penal charges applicable for exceeding such Contract Demand.)

70) In addition Consumer Representative, Shri Kapadia has produced on record recent tariff order passed by Hon'ble MERC in Case No. 195 of 2017 dtd. 12.09.2018 (Page No. 91-96)

### **Commission's Analysis & Ruling**

2.9.9. Load Factor Incentive (up to 15% of energy charge) has been introduced by the Commission for incentivizing bulk consumers in the State to maintain steady demand on the system. However, Load Factor Incentive is not applicable in a month when Billing Demand exceeds the Contract Demand. As definition of Billing Demand excludes the demand recorded during the off peak hours of 2200 to 0600, and considering rebate in ToD tariff applicable at off-peak hours, the consumers tend to exceed their contract demand during this period while paying a small amount towards contract demand penalty while availing Load Factor Incentive.

2.9.10. In order to avoid such misuse of the provision, the Commission, in its Tariff Order, has stipulated that if a consumer exceeds its Contract Demand in more than three occasions in a Calendar Year, the Distribution Licensee may take corrective action of restating Contract Demand as per Supply Code Regulations, 2005. However, as per provision of Supply Code Regulation, 2005, contract demand can be restated only on receiving an application from the consumer in this respect. The Commission has come across the cases wherein consumers have refused to cooperate with the Distribution Licensee for restating their Contract Demand.

71) It is submitted by Consumer Representative Shri Kapadia that, these two paras alternatively clarifies that the Load Factor incentive is available to the consumer, who exceeds contract demand during off peak hours prior to this order & now from 12.09.2018, it is discontinued. This order is applicable from 12.09.2018, so it is inapplicable to present dispute.

72) Considering the tariff order of No. 48 of 2016 as discussed above, contract demand exceeded during non-peak hours in this case, as demanded by consumer & also not denied by opponent, hence, excluded from billing demand, but load factor incentive is applicable to consumer.

73) It is important to note that on exceeding contract demand by the consumer, the Respondent abruptly increased his contract demand from 780 KVA to 830 KVA.

74) Such action was taken without any application or A1 form submitted by the consumer & also without any agreement & payment by him. It was reflected in the energy bill of January 2018 & February 2018. Such action on the part of Respondent is illegal & unauthorized. In this respect, the Respondent though has taken a stand that, it was taken as per directives of head office, but it is not produced on record, hence not considerable. The standard of performance Regulations 2014. Para 4- also provides that "period for giving supply" (including temporary connection / Additional load (Reduction in load)).

"The Distribution Licensee shall on application made by post or by hand by the owner or occupier of any premises, give supply of electricity to such premises after receipt of application by chronological order of receipt its complete application requiring such supply."

Considering the aforesaid provision – the abrupt increase of contract demand by Respondent was illegal. Consequently, it has effect on less calculation of load factor incentive.

75) It is important to note that, the Respondent by issuing “Notice to comply” dtd. 22.01.2018 (Page No. 19) informed to the complainant to apply for enhancement of contract demand & to make payment of Rs. 1,90,000/- to regularize the same. Further, communicated that on non compliance of those direction action would be initiated under MERC supply Code Regulation 2005. The complainant by its letter dtd. 20.02.2018 (Page No. 20) communicated to the Respondent that they do not wish to increase their sanctioned contract demand of 780 KVA. Then, on 08.03.2018 the respondent issued sanction letter for reduction in max demand, fresh agreement dtd. 15.03.2018 (Page No. 22) was executed mutually by both the parties & then contract demand was reduced from 380 KVA to 780 KVA. By execution of this particular agreement the Respondent tried to correct its own mistake of abrupt charge made in contract demand. Fact remains that, the old agreement entered between the parties dtd. 11.12.2013 is still in existence. Be the fact as it may, it is clear that on account of such abrupt increase in contract demand resulted in to less benefits of load factor incentive to the consumer. Therefore the energy bill of January 2018 & February 2018 requires to be revised to the extent of load factor incentive.

76) The submission of the Respondent that, the action against the complaint would also lie under MERC supply Code Regulation as consumer exceeds demand on more than three occasions does not stand, as exceeding of contract demand was not more than three times. So also in this premises issuance of demand violation notice is irrelevant.

For aforesaid reasons, we hold that the energy bills for the month of January 2018 & February 2018 be revised considering contract demand of 780 KVA. That, excess amount of load factor incentive be refunded to the consumer. Considering the communication going on between the parties & pendency of dispute before IGRC, it is not proper to award interest, therefore claim of interest is rejected. For these reasons we hold point No. 1 in affirmative. Point No. 2 partly in the affirmative.

77) **Point No. 3** :- While executing agreement dtd. 15.03.2018 (Page No. 22 to 26) paid Rs. 1700/- processing charges, Rs. 220/- for agreement & tariff booklet charges & Rs. 306/- GST, Total Rs. 2226/-. Though, the complainant has claimed that the agreement dtd. 15.03.2018 is void & executed under force to avoid their financial loss, however once they have executed the agreement & signed it, they are thereafter estopped from denying it, for the reason that, they have other remedies to avoid financial loss. As such, the aforesaid charges Rs. 2226/- paid by the complainant can't be refunded. We answer point No. 3 in the negative.

78) **Point No. 4** :- Considering aforesaid reasons, the view taken by IGRC that, the consumer is taking dual advantage of exceeding contract demand in non peak hours. Which is breach of contract & also taking advantage of higher load factor incentive on account of increasing contract demand beyond specified contract demand & that the consumer is taking dual advantage i.e. exceeding contract demand i.e. unauthorized use of electricity & getting the load factor incentive is incorrect. The dismissal of the complaint by IGRC is found illegal & incorrect & requires to be set aside, we answer point No. 4 in the affirmative.

79) For the aforesaid reasons, we allow the complaint & proceed to pass follower order in reply to point No. 5.

**ORDER**

The complaint is hereby partly allowed as under :

- 1) Order dated 05.04.2018, passed by IGRC in case No. IGRC/ARC/Gra/2017-18/ID No. 21/2018 is hereby set aside & quashed. In its place follower order is substituted :-
- 2) The Respondent is hereby directed to issue revised bills for the month of January 2018 to February 2018 by calculating Load Factor as per sanctioned demand of 780 KVA.
- 3) The Respondent is directed to refund the excess amount of Load Factor incentives paid by complainant & to adjust it in the post energy bills.
- 4) Claim of refund of Rs. 2226/- is hereby rejected.
- 5) Parties to bear their own costs.
- 6) Compliance be reported within 30 days from the date of receipt of the order.

Sd/-  
Shobha B. Varma  
Chairperson

Sd/-  
Laxman M. Kakade  
Member / Secretary

Sd/  
Vilaschandra S.Kabra  
Member

**CONSUMER GRIEVANCE REDRESSAL FORUM**  
**MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.**

Old Power House Premises, Dr. Ambedkar Road, Aurangabad. Phone: 0240 - 2336172

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No : CGRF/AZ/ARC/687/2018/27/**091**

Date : **03.07.2018**

To,  
The Executive Engineer(Admn.),  
Nodal Officer,  
MSEDCL, Rural Circle,  
Aurangabad.

Sub : Forwarding of grievance in respect of M/s. Dhoot Compact Pvt. Ltd., Gut No. 100 Pharola, 11/6 KM Stone, Paithan Road, Tq. Paithan, Dist. Aurangabad  
(Consumer No. 493159040380) (Case ID No. **2018070004** )

Please find enclosed herewith a copy of the grievance application received by the Forum, in respect of M/s. Dhoot Compact Pvt. Ltd., Gut No. 100 Pharola, 11/6 KM Stone, Paithan Road, Tq. Paithan, Dist. Aurangabad (Consumer No. 493159040380)

You are requested to submit your para wise reply (in case of billing complaint submit CPL of disputed period) on the grievance in Three (3) Nos. of copies to this office at the time of hearing (**Print/ Xerox Copies attached should be readable otherwise will not accept it**) & also handover One (1) No. of copy in advance directly to the complainant. The hearing in the matter will be held on 17.07.2018 at 11.00 Hours.

Encl : As above

Member/Secretary  
CGRF(AZ) MSEDCL  
Aurangabad

**Copy to :**

M/s. Dhoot Compact Pvt. Ltd., Gut No. 100 Pharola, 11/6 KM Stone, Paithan Road, Tq. Paithan,  
Dist. Aurangabad 431 001

CONSUMER GRIEVANCE REDRESSAL FORUM  
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.  
AURANGABAD ZONE AURANGABAD.

Old Power House Premises, Dr. Ambedkar Road, Aurangabad. Phone No. 2336172

No. CGRF/AZ/ARC/687/2018/27/ **131**

Date : **09.10.2018**

To,  
M/s. Dhoot Compact Pvt. Ltd.,  
Gut No. 100 Pharola, 11/6 KM Stone,  
Paithan Road, Tq. Paithan,  
Dist. Aurangabad

Sub:- Grievance in Case No. CGRF/AZ/ARC/687/2018/27

Please find enclosed herewith a copy of the order passed by the Forum in the case mentioned above. The consumer, if not satisfied with the decision of the Forum, is at liberty to make a representation to the Electricity Ombudsman, the contact details of whom is as under, within a period of 60 days from the date of this order.

Encl: As above

Member/ Secretary,  
CGRF(AZ) MSEDCL,  
Aurangabad

**Copy Swr's to:-**

The Chief Engineer, MSEDCL, Zone Office, Aurangabad.

**Copy Fwc's to:-**

The Executive Engineer (Admn), Nodal Officer, MSEDCL, Rural Circle, Aurangabad

**Contact details of:**

The Electricity Ombudsman,  
Plot No.12, Shrikrupa, Vijaynagar, Chhaoni, Nagpur – 440 013  
Phone No. (Office) (0712) 25 96 670 (E-mail – Secretaryombudsmannagpur@gmail.com )