

**Maharashtra State Electricity Distribution Co. Ltd.'s  
Consumer Grievance Redresses Forum  
Nagpur Zone, Nagpur**

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**Case No. CGRF(NZ)/28/2018**

Applicant : M/s. Ramsons Industries. Ltd.,  
Plot No.46,Humpyard Road  
Dhantoli,  
Nagpur-440012.

Non-applicant : The Superintending Engineer,  
NRC, MSEDCL, Nagpur

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Applicant represented by : 1) Shri. D. D. Dave,  
2) Shri V. K. Tumane,

Non-applicant represented by: 1) Shri R.K.Giri, E.E (Adm), NRC, MSEDCL.  
2) Shri H.M.Gulhane,Dy.E.E.,NRC, MSEDCL.

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Quorum Present : 1) Shri Vishnu S. Bute,  
Chairman.  
2) Shri N.V.Bansod,  
Member  
3) Mrs. V.N.Parihar,  
Member Secretary.

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**ORDER PASSED ON 11.06.2018**

1. The applicant filed present grievance application before this Forum on 02.04.2018 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).
2. Non applicant, denied applicant's case by filing reply dated 07.06.2018.

3. Forum heard arguments of both the sides on 02-05-18 and perused the record.

4. The applicant's case in brief is that M/s. Ramsons Industries Ltd., bearing consumer No.420819011940 is a consumer of M.S.E.D.C.L. who was availing Open Access supply till March-17. Since April 17 to May 17, the connected load of applicant was 10000 KW with Contract Demand 9000 KVA connected at 33 KV voltage level. In June 2017 the said contract demand was reduced from 9000 KVA to 7900 KVA. MSEDCL vide letter bearing no. SE/NRC/8706 dated 13-12-2017, issued a bill amounting Rs.110,56,505.00 due to re-fixing of the Contract Demand at 9927 KVA as against 7900 KVA which according to them is Contract Demand recorded during off peak period i.e. (22.00 HRS TO 06.00 HRS). And further issued the energy bill of Dec 2017 quoting contract demand as 9927 KVA as against 7900 KVA without the applicant's request and without entering into agreement as specified in SOP of 2005 and 2014. As per applicant the said act is against the provisions of clauses 2.21, 8.32 & 8.12 of Hon. MERC Tariff order no. 48/2016.

5. Further the applicant contended that, they have exceeded contract demand during the off peak period to utilize throwaway energy. Clauses 2.21 and 8.32 of Hon. MERC order no. 48/2016 permits them to exceed their contract demand with Load factor incentive. But now the applicant is deprived of load factor incentive due to change in Contract Demand unilaterally by Non-applicant, resulting in huge loss of incentive and Govt. subsidy amount to them.

6. To substantiate this, the applicant rely on Case No. 139 of 2011 decided by the Hon. MERC and further stated that the review petition of the MSEDCL in respect of order dated 12<sup>th</sup> Sep 2010 passed by the Hon. Commission in case no. 111 of

2009 for withdrawal of load factor incentive who exceeds contract demand during off peak hours(i.e. 2200hrs to 0600hrs) and pay merger penalty has been dismissed as not maintainable by the Hon. MERC.

8. Therefore they pray the Forum as follows :

1. To direct the Non-applicant to follow the Hon. MERC orders i.e. Tariff order No. 48/2016 and order no. 139 of 2011 and adhere to moral principles.
2. To correct all the energy bills issued for Dec. 2017, January 2018 and onwards by following the rules of right and wrong, moral Principles.
3. To withdraw the undue Demand raised violating the Hon. MERC Tariff order No. 48/2016.

9. The Non applicant, denied applicant's case by filing reply dated 07.06.2018.

It is submitted that M/s. Ramsons Industries Ltd. bearing consumer No.

420819011940 is their HT consumer who was availing supply on Open Access till

March-17. From April-17 the consumer is using 100 % MSEDCL supply. The

connected load of the applicant was 10000 kW and Contract Demand was 9000 KVA

from April-17 to May-17. In June-17, as per request of applicant their Contract

Demand was reduced to 7900 KVA. However, the applicant has exceeded the

Contract Demand every month from June-17 to Nov-17 in Slot 'A'.

10. Non applicant further submitted that Hon'ble Commission's Tariff order in Case No. 48 of 2016 stated that

*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 the 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).*

**Penalty for exceeding Contract Demand :** *In case a consumer (availing Demand-based Tariff) exceeds his Contract Demand, he will be billed at the applicable Demand Charge rate for the Demand actually recorded, and also be charged an additional amount at the rate of 150% of the applicable Demand Charge (only for the Demand in excess of the Contract Demand). Under these circumstances, the consumer shall not be liable for any other action under Section 126 of the EA, 2003, since the penal additional Demand Charge provides for the penalty that the consumer is liable to pay for exceeding his Contract Demand. In case a consumer exceeds his Contract Demand on more than three occasions in a calendar year, the action to be taken would be governed by the provisions of the Supply Code Regulations.”*

Accordingly Penalty for exceeding the Contract Demand was charged to the applicant in every month and granted Load factor incentive which was nearly 30-55 lakhs per month.

11. It was further contended that as per Hon'ble Commission's tariff order in case no.48 of 2016, the Consumers are not allowed to exceed Contract demand more than three occasions. But as the applicant has exceeded the Contract Demand more than 3 times during the year 2017, this office has acted as per Hon'ble Commission's order and issued a notice to the applicant vide letter No. 8706 dt. 13/12/2017 whereby the applicant was warned for exceeding the Contract Demand more than 3 times in a year and asked to make application to enhance the Contract Demand accordingly and pay the amount for enhancement of load within 15 days from receipt of notice. But the applicant did not take any cognizance of the notice served by the Non-applicant.

Therefore, Contract Demand of applicant was enhance to 9927 KVA in Dec-17 Energy bill. As the consumer has exceeded Contract Demand more than 3 times in a year, Non- applicant has to take action as per provisions of the MERC Regulations.

The proviso of clause no. 6 of the agreement reads as *“The consumer hereby agrees that its/his/her supply will be disconnected in case it/he/she fails to deposit arrears of electricity charges and other charges as may be due within 15 days from the date of receipt of demand notice for such charges.”* The applicant has exceeded the agreed Contract demand more than 3 time during 2017 and did not comply as per the notice served vide letter No.8706 dated 13-12-2018, the refer applicant has breached the agreement made with MSEDCL. Hence, 15 days disconnection notice was served upon the consumer vide letter no. 0269 dt.17/01/2018 .

12. To substantiate their action, it is further submitted that, MSEDCL builds its infrastructure as per the agreed contract demand of any consumer. The capacity of the installed Transformers/ Power Transformers, the conductor size of the 33 kV/11 kV feeders, the CT ratio of the installed CTs in Sub-Station or in the consumer's premises all depend upon the total sanctioned load / contract demand of the connected consumers. If the consumer exceeds the contract demand to avail the benefits like load factor incentive or Govt. subsidy, it will have negative impact on their system as follows:-

1. As the load increases the current in the conductor increases. The line losses which are directly proportionate to square of the current therefore increase drastically.

2. The ratio of the CTs connected in the consumer premises commensurate with the contract demand of the consumer. In case the consumer exceeds the contract demand ,the increased current causes the saturation of the CTs due to which the current recorded is less resulting in less billing to the consumer.

3. As the increased load causes extra stress on the entire system the electrical system deteriorates further increasing the losses.

4..Hence, to avoid this deterioration of the system, Hon'ble MERC has permitted the consumer to exceed the contract demand only thrice in a year. There were nearly 60 HT consumers under Nagpur Urban Circle who have exceeded the Contract demand more than thrice during 2017 whose Contract demand is refixed/enhanced by Non-applicant unilaterally, due to this technical reason and it was observed in all these cases, the intention of the consumers is to maximize the load factor incentive and the Govt. subsidy relating to Vidarbha region. In the instant case also, as the Contract Demand of the applicant was enhanced/refixed by Non-applicant, the applicant could not avail the high amount of load factor incentive hence lodged the grievance application.

13. They further submitted that, the ratio of Current transformer used for metering for load of 7900 kVA is 150/5A, 0.2S class and beyond 9000 kVA the CT ratio required is 175/5, 02s class. Because the applicant regularly exceeds the contract demand beyond 9000 KVA., Due to this ratio error the losses increases.

14. Considering above mentioned facts, they submitted that as the applicant exceed the Contract Demand every month and used enhanced CD without consent of the utility and without consideration for the infrastructure, the action of the Non-applicant to enhance the Contract Demand to the extent Maximum Demand attained by the applicant in the year is justified .And hence prayed the Forum to reject and dismiss the consumer's application. Also they requested to provide any other relief as deem beneficial in the interest of MSEDCL.

15. Not satisfied with these arrears, Applicant approached the IGRC, Nagpur Rural Circle on 24.01.2018 asking for revision of the said bill.

16. The IGRC by its order no.1494 dated 28.03.2018 dismissed the Grievance application of applicant. The order says *"As the consumer has exceeded the contract demand more than 3 times in a calendar year :viz Jul'17 (9443 KVA), Sep'17(9902 KVA), Oct'17(9927 KVA), Nov'17 (9691 KVA) ,it is breach of contract as per supply code Regulation and Provisions of MERC Tariff Order. Hence, MSEDCL restated the contract Demand to the highest recorded demand during the calendar year 2017 only due to breach of contract. Hon'ble MERC Tariff order No. 48 of 2016, the clause 2.21 is not relevant with Contract Deman, it is totally related with Load Factor incentive.Hence the Grievance application is dismissed."*

17. Aggrieved by this order, the applicant approached this Forum on 02.04.2018.

18. During hearing, Non-applicant reiterated the facts already stated in their written submission.

19. After the hearing was over the case was discussed among the Members of the Forum. The Chairman and the Member/Secretary were of the same opinion. However the consumer representative was of the different opinion. Therefore as per provision given in clause 8.4 of MERC (CGRF & EO) Regulation 2006 the Member (CPO) gave a note which reads as under,

19. Note by Mr. Naresh Bansod Member (CPO) in Case No. 28/2017 dated

Arguments heard on 8-6-2018, persued all papers on record, as well as MERC Tariff orders etc.

(1) Applicant said that the grievance has started on receipt of letter bearing No. SE/NRC/8706 dated 13-12-2017, demanding undue amount of Rs.11956505/- raised against contract demand recorded during off peak period i.e. (22 hours to 6 hours). The applicant further said he has clarified the matter to S.E.(NRC) Nagpur vide letter 09-12-2017, 9-1-2018, 11-1-2018, Stating that the enhancement of Contract demand to 9927 KVA as against 7900 KVA (7900 KVA is mutually agreed by the non applicant and applicant through agreement) is against Tariff order no. 48/2016. Particularly Clauses 2.21, 8.32 & 8.12 of above tariff order which are self explanatory and does not provide scope for any ambiguity.

(2) Applicant said, non applicant has neither served any notice nor replied to the issues raised through letters of applicant. Non applicant further issued the wrong energy bill of Dec. 2017 mentioning. Contract demand as 9927 KVA of their own without specific request by applicant and without entering into agreement as specified in SOP 2005 and 2014.

(3) Applicant further said that contract demand is exceeded during "Off peak period" to substantiate this throwaway energy as per Hon. MERC order No. 48/2016, Clauses 2.21 and 8.32 and applicant was deprived of benefit of correct load factor due to change of contract demand by non applicant, resulting huge loss of incentive and Govt. subsidy amount. Applicant draw our attention and requested to refer the observations in order of MERC in case No. 139 of 2011.

(4) Applicant said, the review petition of the MSEDCL in order of MERC dated 12-9-2010 in Case No. 111/2009 for withdrawal of Load Factor incentive who exceed contract demand during off peak hours. (i.e. 22 hrs to 0600 hrs) and pay merger penalty and review petition of non applicant was dismissed as not maintainable by the MERC.

(5) Applicant said, he is facing heavy losses in production & paying huge payments (under protest) against the wrong energy bill since Dec. 2017 onwards resulting in production loss of 50 lakhs each month in Feb. & March 2018 and prayed to direct non applicant to follow MERC i.e. Tariff order No. 48/2016 and order No. 139/2011 with moral principles and correct energy bills for Dec.2017, Jan 2018 onwards and withdraw undue demand raised violating Hon. MERC Tariff order No. 48/2016.

(6) Non applicants reply to grievance of the applicant and finding recorded in IGRC order are almost same and IGRC dismissed the grievance application on 21-3-2018.

(A) Non applicant in reply put more stress on clause 6.1 of the agreement in June 2017 executed after sanction for reduction of contract demand at 33 KV. Level of applicant from Maximum demand of 9000 KVA to 7900 KVA and taken connected load 8000 KW (Reduction in MD is 1100 KVA), and applicant consented the stereo type terms mentioned in agreement as Contract demand was reduced as per request of Applicant with mutual consent.

Clause 6 – Disconnection of Power Supply.

6.1 - The consumer hereby agrees that its/his/her supply will be disconnected in case it/he/she fails to deposit arrears of electricity charges and other charges as may be due within 15 days from the date of receipt demand notice for such charges

Firstly, the applicant has not defaulted on any occasion in paying electricity charges, may be under protest in the past on any occasion. The above mentioned clause relates to non payment of electricity charges or other charges and disconnection which is totally irrelevant in case of present consumer but non applicant bent upon applicant with threat of disconnection when matter is in dispute. Generally consumers consent such type of clauses not with free mind but under compulsion or duress.

“I rely on Judgement dated 18.01.2017 in the High Court of Judicature at Bombay Civil Appellate Jurisdiction – Writ petition No. 2798 of 2015 between.

M.S.E.D.C.L. & Anr. (petitioners) v/s M.R.Scion Agro Processors Pvt. Ltd. & Anr. (Respondent).

Hon'ble High Court while ordering in favour of Respondent(consumer) in case of Refund of infrastructure cost has observed in para 9 & 10 as under which is eye opener to the MSEDCL and shall take serious note of the same.

9} **“There cannot be a second opinion, that the orders which are passed by the Maharashtra Electricity Regulatory commission would become relevant from the point of view of the consumer’s interest. So also the regulations which are framed under the Electricity Act 2003 as noted above and relevant to the facts of this case, are required to be interpreted in a manner which are beneficial to the consumers. Further when it comes to distribution of electricity, the petitioners are in a monopolistic or in a dominant position, as no other player is in the field at least in this case. In this situation**

the consumers,, ( respondent No 1 in this case) cannot be said to be in a sound bargaining position in demanding supply of Electricity and its term and conditions. This inequality becomes relevant when such agreements as the MOU in the present case are required to be considered by the court. The applicability of doctrine of inequality to such contracts cannot be ignored. It is in this circumstance that the order passed by the MERC and the statutory regulation play a pivotal role for protection of the consumers interest. Thus in entering into such agreements the petitioners in their public character cannot be oblivious of the statutory regulations and the obligations cast on them under the various orders, which are passed by the authorities under the Act and which become binding on the petitioners as in the present case. Nor can the petitioners enter into such agreements which would defeat the regulations or render nugatory the orders passed by the adjudicating authorities under the act. Thus, the reliance of the petitioners on the decision of the Supreme Court in *Virgo steels Bombay (supra)* would not assist the petitioners and/or is misplaced in the facts of the present case”.

10) In the circumstances, in my clear opinion, as the agreement itself, being contrary to the requirement of law, the submission of estoppels or for that matter waiver of a legal right by respondent No.1, as urged on behalf of the petitioners cannot be accepted. It would be an argument contrary to the doctrine of public policy as envisaged under Section 23 of the Indian Contract Act.

(B) Whether the action of non applicant vide letter No. 8706 dated 13-12-2017 forcing Applicant for enhancement of contract demand is as per MERC (ESC & other conditions of supply) Regulations – 2005 & SOP Regulation 2005/2014 or MERC tariff order in case no. 48/2016 ? - No.

It is worthwhile to note that it is not say of non applicant that due to exceeding contract demand by applicant, the infrastructure of non applicant got affected adversely, on the contrary due to use in off peak hours revenue loss of non applicant curtailed and power utilized in the state than to sale outside in throw way price to other distribution licensee/state.

The Regulations 6 & 6.8 are as under.

Reg.6 - Agreement.

Reg. 6.8 - The distribution licensee shall increase or reduce the contract demand/sanctioned load of the consumer upon receipt of an application for the same from the consumer.

It is clear that applicant has not applied to non applicant to increase the contract demand. On perusal of electricity bills dated 1-10-2017,03-10-2017,5-12-2017, the contract demand was 7900 KVA but on perusal of bill dated 6-1-2018, the contract demand appears to be 9227 and so called presumption of non applicant and insistence on applicant to enhance contract demand vide letter No. SE/Nagpur Urban Circle/No.8706 dated 13-12-2017 is violating the Reg. 6.8 and any excess bills issued violating the Reg. 6.8 sumoto by non applicant is illegal in the eyes of The Electricity Act 2003 & MERC (ESC & ocs) Reg. 2005. It needs to record that applicant is guided by non applicant and followed by applicant while executing Agreement in June 2017 for Contract Demand 7900 KVA which was on his request and compliance of SOP Regulations 4.14.

(C) Whether action of non applicant on pretext of Applicant exceeded sanctioned contract demand of 7900 KVA on more than 3 times is correct and disconnection notice dated 17.01.2018 is correct ? - No

Non applicant referred clause 4.1 of the agreement in June 2017 is as under.

4 - Other conditions of supply.

4.1 - "During the period of supply, the licensee shall supply to the consumer and consumer shall take from the licensee all the electrical energy required by the consumer subject to the limits of contract demand/sanctioned load, for the purposes stated herein above at consumer's premises".

It is not in dispute that supply is not provided and not utilized the supply for the purpose & premises. It is admitted fact that contract demand has exceeded but entire dispute is regarding various slots of "TOD" specially contract demand recorded during off peak period i.e. (2200 hours to 06.00 Hrs) and the philosophy behind providing the various concessions i.e. load fact incentives, Power factor incenetives and Govt. subsidy amount.

Applicant's emphasis is on clauses of 2.21, 8.32 & 8.12 which are self explanatory and does not provide for any scope for ambiguity and agreement in June 2017 is against of above clauses. Applicant also rely on MERC case No. 139/2011 as well as MERC order in Case No. 111 of 2009.

On perusal of order of MERC in case No. 139 of 2011 dated 17-10-2011 in respect of MERC order dated 12-9-2010 in case No. 111 of 2009, it is revealed that it was review petition filed by MSEDCL on "Subject matter for withdrawal of load factor incentive to consumer who exceeds contract demand. (during off – peak hours i.e. 22.00 to 6.00 hours i.e. slot A and meager penalty and it was dismissed by MERC.

**It is necessary to mention that non applicant has raised the issues in reply as well as in arguments as was raised earlier by MSEDCL before MERC, in its petition para 3 i to vii regarding exceeding contract demand during off peak hours. So as to avail Load Factor incentive.**

**On perusal of para 6,a,b,c of order in Case No. 139 of 2011 it is clear & kept no scope for any ambiguity & I feel no need to write all para's as are well known to applicant as well as non applicant who are the learned Engineers of MSEDCL but intentionally raising the issues which needs to be ignore with a sole aim to extract more amount from Applicant even on false pretext ignoring the reality, which needs to be condemned.**

In para 2(c) The Commission added following conditions for load factor incentives.

"(2) the billing demand definition excludes the demand recorded during non peak hours i.e. 22 hours to 6 hrs. and therefore even if, the maximum demand exceeds the contract demand in that duration, load factor incentives would be applicable.

(3) However the consumer would be subjected to the penal charges for exceeding the contract demand in b,c,d slot of ToD and only ambiguity in the mind of non applicant is regarding slot 'A' i.e. during non peak hours i.e. 22 hours to 6 hours intentionally or with ulterior motive without support of regulations and MERC dirctions.

Non applicant in reply at page 2 elaborated by way of chart on page 1 also enclosed Annexure A i.e. page 458 to 463 of MYT 2016-2017. The relevant portion of Tariff in case no. 48 of 2016 is 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.).

Penalty for exceeding Contract Demand: In case a consumer (availing Demand-based Tariff) exceeds his Contract Demand, he will be billed at the applicable Demand Charge rate for the Demand actually recorded, and also be charged an additional amount at the rate of 150% of the applicable Demand Charge (only for the Demand in excess of the Contract Demand). Under these circumstances, the consumer shall not be liable for any other action under Section 126 of the EA, 2003, since the penal additional Demand Charge provides for the penalty that the consumer is liable to pay for exceeding his Contract Demand. In case a consumer exceeds his Contract Demand on more than three occasions in a calendar year, the action to be taken would be governed by the provisions of the Supply Code Regulations.”

Non applicant in reply, “it is not specified that the consumers contract demand was 9000 KVA at that time itself, the consumer have exceeded the contract demand in all the 4 slots. Yet the consumer further reduced the contract demand to 7900 KVA and without any reduction in connected load and continuously exceeded the contract demand in the ‘A’ slot keeping M.D. in other slots below the contract demand.

This was done by the consumer only to avail the load factor incentive and the subsidy given by Govt. of Maharashtra relating to Vidarbha region vide GR dated 29-06-2016 and 24-03-2017 as MERC have permitted the Load Factor Incentive even if the consumer exceeds the contract demand in slot ‘A’, But the consumer did not pay any heed to the fact that MERC has permitted to exceed the contract demand only 3 times in a calendar year and if the contract demand is exceeded more than 3 times in a year MSEDCL is to take action as per provisions of the Supply Code Regulations” hence it is for non applicant to take action as per provision of the supply code Regulation 2005 if regulation permit but not by increasing contract demand arbitrarily.

It is very surprising that Non applicant was fully aware that the consumer have exceeded the contract demand when C.D. was 9000 KVA in all the slots, and later on also as to why the contract demand was allowed to reduce to 7900, keeping the connected load same which creates doubt about the entire working of non applicant.

Not considering but assuming that applicant is exceeding contract demand in B, c, d slot of TOD and paying the additional amount at the rate 150% of the applicable demand

charge (only for the demand in excess of the contract demand) and not liable for any action under section 126 of the Electricity Act 2003 and without any grievance applicant has paid the charges.

Non applicant alleged that applicant has exceeded his contract demand on more than 3 occasions in a year, MSEDCL is to take action as per provisions of the Supply Code Regulations and as per Clause 6.1 of Agreement, which can be applied only, when applicant defaulted in payment of arrears but in case in hand no arrears are noted by non applicant towards regular bills. Hence entire correspondence on submission of non applicant is futile attempt just to create the situation to deprive the applicant from benefits of Load Factor Incentives/Power Factor Incentives & Govt. subsidies and to get the contract demand enhanced with their ulterior motive but intentionally forgotten to look the philosophy & background of allowing LF incentives & PF incentives and G.S. when excess load remains unutilized and sale to other D.L. or state at throw away cost (during 22 H to 6 H) off peak period. But in this case dispute is about contract demand exceeded during off peak period to substantiate this throwaway energy as per MERC order No. 48/2016. (Clauses 2.21 & 8.32). Hence submission of non applicant as well as order of IGRC is without application of philosophy background behind offer of incentives and any demand violating MERC T.O. NO.48/2016 be withdrawn and correct the energy bills issued for Dec.2017, Jan. 2018 & onwards on contract demand of 7900 KVA, As no violation of supply code regulation 4.6.

Applicant in last para of application mentioned about losses are suffered but in the absence of cogent evidence, it cannot be considered.

In view of the above observations. I am of the firm opinion that application deserves to be allowed.

### **ORDER**

1. Non applicant is directed to correct the contract demand to 7900 KVA as per agreement W.E.F. Dec. 2017 onwards.
2. Non applicant is directed to withdraw undue demand of Rs.11956505/- vide letter dated 13-12-2017.
3. Non applicant is further directed to withdraw the letter dated 17-01-2018 and no coercive action to enhance contract demand be contemplated.

The compliance of this order shall be done be within 30 days from the date of this order.

**Naresh Bansod  
Member (CPO)**

20. We have perused the note. We disagree with the Ld Member for the reasons discussed below,

21. We have perused the record. We have heard the arguments of both the parties. On perusal and consideration of both the oral and written submissions made by both the parties, it is seen that the applicant has exceeded the contract demand in "A" slot every month from June-17 to Nov-17, after reducing their sanctioned contract demand to 7900 kVA from 9000 KVA without any reduction in the connected load slot keeping the MD in other slots below the Contract demand. This seems to be deliberate act of the applicant only to grab the load factor incentive and the subsidy given by the Govt. of Maharashtra relating to Vidarbha region vide GR dated 29-06-2016 and 24-03-2017 as Hon'ble MERC has permitted the Load Factor Incentive even if the consumer exceeds the contract demand in slot 'A'.

22. The applicant has ignored the pertinent fact that Hon'ble MERC has permitted to exceed the contract demand only 3 times in a calendar year otherwise there is penalty for such act as per provision clearly stated on page 461 of case no. 48 of 2016 as follows:-

*Penalty for exceeding Contract Demand : In case a consumer (availing Demand-based Tariff) exceeds his Contract Demand, he will be billed at the applicable Demand Charge rate for the Demand actually recorded, and also be charged an additional amount at the rate of 150% of the applicable Demand Charge (only for the Demand in excess of the Contract Demand). Under these circumstances, the consumer shall not be liable for any other action under Section 126 of the EA, 2003, since the penal additional Demand Charge provides for the penalty that the consumer is liable to pay for exceeding his Contract Demand. In case a consumer exceeds his Contract Demand on more than three occasions in a calendar year, the*

*action to be taken would be governed by the provisions of the Supply Code*

*Regulations.”*

23. In view of above and contention submitted by Non-application, it is also seen that as MSEDCL's circular such as Chief Engineer (Commercial) No. 1298 dt. 18-01-2018 and Commercial circular 291 dt.29-06-2017, If a consumer opts for reduction in Contract Demand the same must not be denied and the Contract Demand shall be changed immediately prospectively. As per the powers delegated by these circulars and as per action of applicant who is taking shelter of it, it is seen that ,on one hand licensee is providing facilities to their consumers ,but on the other hand some consumers are reducing CD just to grab/avail load factor incentive without any regard to the system. Due to such acts licensee is incurring revenue loss, as well technical losses as per aforesaid technical aspects rightly contended by the Non-applicant. This act of applicant is not in the interest of the other general consumers. Hence Non-applicant in taking the action of increasing the Contract Demand to the highest Maximum Demand attained by the consumer in the calendar year as per Hon'ble commission's tariff order 48 of 2016 is justified.

24. Hence we are of the opinion that there is no force in the grievance application and therefore it is rejected and dismissed.

In view of the position as explained above, we hold that the application deserves to be dismissed .Hence we proceed to pass the following order by majority

**ORDER**

1. Application is dismissed.
2. As such order passed by the IGRC is correct. It needs no interference.

Sd/-  
**(N.V.Bansod)**  
MEMBER

Sd/-  
**(Mrs.V.N.Parihar)**  
MEMBER/SECRETARY

Sd/-  
**(Vishnu S. Bute)**  
Chairman