BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 125 OF 2025

In the matter of the directions issued by the Hon'ble Bombay High Court in its Order dated 19.11.2025 in Writ Petition No. 10556 of 2023.

Viraj Profiles Private Limited………………………………… ……………..…Appellant
(Cons. No. 003019027510)

V/s.

Maharashtra State Electricity Distribution Co. Ltd. … ....Respondent
Chief Engineer (Commercial) Head Office. (MSEDCL)

Appearances:

Appellant : 1. Nayan Bhavsar, Asst. Manager
2. Dhiraj Yadav, Legal Manager
3. Satish Bapat, Representative.

Respondent: 1. Vinay Sudarshan Singh, Superintending Engineer (Commr.) HO, Bandra
2. Vinod Vipar, Executive Engineer
3. Susan Johnson Advent, Addl. Executive Engineer
4. Sumedh S. Koltey, Dy. Law Officer

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

Date of 1st hearing: 2nd March 2026

2nd hearing: 3rd July 2026

Date of Order: 31st July 2026

ORDER

This Representation was filed in the prescribed format on 31st December 2025 on the directions given by Hon'ble Bombay High Court in its order dated 19th November, 2025 in Writ Petition No. 10556 of 2023. The Hon'ble Bombay High Court has issued the following directions:

1. *Considering that the impugned order of Electricity Ombudsman is based on Regulation 32 of Open Access Regulations, the interpretation of the said regulation by this Court*

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assumes significance. The Electricity Ombudsman has not rendered any findings on the merits of the matter and has rejected the representation on the point of jurisdiction.

2. *Considering that subsequent decision of this Court has interpreted Regulation 32, it would be appropriate that the matter be remanded to the Electricity Ombudsman to be considered afresh on the aspect of jurisdiction by considering the decision of this Court in the case of Maharashtra State Electricity Distribution Company Limited vs. M/s. Viraj Profile Ltd. (supra) as well as the decision of Hon'ble Apex Court in the case of Maharashtra Electricity Regulatory Commission vs. Reliance Energy Ltd. (supra). It is also open for the Electricity Ombudsman, in event, it is found that issue of jurisdiction is required to be answered in favor of Petitioner herein, then to examine the merits of the matter and adjudicate the same.*
3. *In light of above, the impugned order dated 15th March, 2019 is hereby quashed and set aside.*
4. *The representation is restored to file of the Electricity Ombudsman to be considered afresh. As directed above, the parties to produce necessary decisions to assist the Electricity Ombudsman to arrive at a finding on the issue of jurisdiction and thereafter, on the merits of the matter if the issue of jurisdiction is answered in favor of Petitioner. It is clarified that this Court has not gone into the merits of the matter and has remanded the matter for consideration afresh as it was observed that subsequent decision was relevant for deciding the issue.*
5. *All rights and contentions including the aspect of limitation, delay and laches are expressly kept open.*
6. *Liberty to Parties to file Written Submissions before the Electricity Ombudsman.*
7. *The parties to appear before the Electricity Ombudsman on 2nd December, 2025 at 11:30 a.m. where the copy of this order to be produced before the Electricity Ombudsman.*
8. *Writ Petition stands disposed of in above terms.*

2. The Appellant, Viraj Profiles Ltd., challenged the Order dated 15th March 2019 passed by the Electricity Ombudsman, Mumbai, in Representation No. 234 of 2018 (Viraj Profiles Ltd. v. MSEDCL) before the Hon'ble Bombay High Court by filing Writ Petition No. 10556 of 2023. Pursuant to the directions of the Hon'ble High Court, the matter was reheard. A physical hearing was held on 2nd March 2026, followed by a second hearing on 3rd July 2026 through video conference. Both parties were heard at length. *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]*

3. The Appellant's submissions and arguments are stated as below:

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Background:

(i) Representation No. 234 of 2018 was disposed of by Order dated 15th March 2019 of the Electricity Ombudsman (Mumbai) holding that since the Appellant was an Open Access consumer, the Maharashtra Electricity Regulatory Commission alone had the jurisdiction to adjudicate the dispute. Aggrieved thereby, the Appellant filed Writ Petition No. 10556 of 2023 before the Hon'ble Bombay High Court. By Order dated 19th November 2025, the Hon'ble High Court set aside the said Order and remanded the Representation to this Authority for fresh consideration in the light of the decisions in *MSEDCL v. Viraj Profiles Ltd.* (Writ Petition No. 3708 of 2019) and *MERC v. Reliance Energy Ltd.* [(2007) 8 SCC 381]. The High Court's Order is taken on record.

Facts of the Case:

(ii) The Appellant is a company incorporated under the provisions of the Companies Act, 1956 and is engaged in the business of manufacturing stainless steel products. The particulars of its electricity connection and the sanctioned Open Access configuration are tabulated below:

Table 1:

Name of Consumer	**Consumer No.**	**Address**	Voltage Level	Sanctioned Contract Demand (Original)	Medium Term Open Access (MTOA)	Revised Open Access Quantum (MTOA)
Viraj Profiles Private Limited	003019027510	Plot No. G-2, G-1/3, G22 & G 23, MIDC Tarapur	132kV	50 MVA	Original Sanction: 34 MW Open Access (out of 50 MVA) for 01.06.2015–31.03.2018, with 16 MW MSEDCL retained CD.	As per the Appellant's request, Revised (20.07.2017): Open Access quantum reduced to 23 MW (effective 01.08.2017–31.03.2018), with MSEDCL retained CD increased to 27 MW.

(iii) The Respondent vide letter dated 20th July 2017 had sanctioned Medium Term Open Access (MTOA) capacity of 23,000 kVA to the Appellant with permission to retain Contract Demand from the Respondent (MSEDCL) to 27,000 kVA.

(iv) During September 2017, the open access source, being shut down temporarily, would not be available to the Appellant. Hence, the Appellant, by its letter no. 1180 dated 31st July 2017 addressed to Superintending Engineer, Palghar, requested the Respondent to restore the Contract Demand of the Respondent from 27,000 kVA to 50,000 kVA without any change in MTOA Capacity of 23,000 kVA. *[Note: This application should*

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ideally have been addressed directly to the Head Office (i.e. Chief Engineer) rather than to the field office (i.e. Suptd. Engr.), as the field office is not conversant with the intricacies of open access matters.] on the basis of the Daily Order dated 27th June 2017 in Miscellaneous Application No. 12 of 2017 in Case No. 76 of 2017 and Practice Directions dated 19th October 2016 issued by the MERC. The Appellant sought restoration of the Contract Demand with effect from 1st September 2017. The copies of the letter dated 31st July 2017, Daily Order dated 27th June 2017 and Practice Directions dated 19th October 2016 are kept on record.

(v) The Practice Directions issued by the MERC dated 19th October 2016 provide that under Regulation 4.2 of the MERC (Distribution Open Access) 2016, the matter of Contract Demand is to be governed by the provisions of the Electricity Supply Code and the Standards of Performance Regulations, and does not provide for any revision in Contract Demand by the consumer as a condition for grant of Open Access. The Practice Directions further provide that an Application for Open Access shall not be rejected on the ground that the consumer has not increased or otherwise revised his Contract Demand, which is entirely at his option.

(vi) Furthermore, upon an application M/s INOX Air Products Private Ltd., the MERC vide Daily Order dated 27th June 2017 in Miscellaneous Application No. 12 of 2017 in Case No. 76 of 2017 held that Open Access can be granted with the additional condition that the total power flow from the Respondent and Open Access shall be restricted to the quantum of the technical/metering constraint. The Respondent was directed to rectify the MTOA granted with reduction of CD.

(vii) **The Appellant also submitted an undertaking dated 31st July 2017, undertaking therein that at no point of time the Appellant would exceed the total demand beyond 50,000 kVA. The copy of the undertaking dated 31st July 2017 is kept on record.**

(viii) Upon receipt of such application, the Superintending Engineer of the Respondent issued a Letter dated 3rd August 2017, referred the request of the Appellant to the Chief Engineer (Commercial) of the Respondent seeking guidelines for granting permission to restore original contract demand to the Appellant in view of the Daily Order dated

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27th June 2017, and email of Chief Engineer (Commercial) dated 25th July 2017. A copy thereof was also marked to the Appellant. The copy of Letter dated 3rd August 2017 is kept on record. *[Note: The Respondent states that this application was rejected on 22nd August, 2017 citing technical / metering constraints.]*

(ix) The Appellant vide reminder letter no. 1203 dated 24th August 2017 addressed to the Respondent again requested for restoration of MSEDCL Contract Demand to the extent of 50000 kVA with effect from September 2017. *[Note: The Respondent claims that this was also rejected on 28th August as the combined demand (50 + 23 MW) would exceed 51.44 MVA limit.]* However, since there was no response to the Letter dated 24th August 2017, the Appellant yet again issued another Letter dated 28th September 2017 approached the Chief Engineer (Commercial), Corporate Office, Mumbai with a request to expeditiously approve the request of the Appellant about restoration of MSEDCL Contract Demand to 50000 kVA with effect from September 2017.

(x) After continuous follow up and delay of 2 months, on 3rd October 2017, the Respondents informed that the Competent Authority has considered and granted the request of the Appellant for restoration of MSEDCL Contract Demand to 50000 kVA, subject to condition that the Appellant shall restrict the power flow collectively from MSEDCL & Open Access to the extent permissible considering the metering / technical constraints.

(xi) The Appellant vide its email of 3rd October 2017 responded to the above email and stated that while the request of the Appellant was granted on 3rd October 2017, there is no specific date mentioned from which the original contract demand is being restored. It was once again requested that the original contract demand be restored from 1st September 2017 (retrospectively) as had been originally applied for and followed up by letters of 24th August 2017 and 28th September 2017.

(xii) The Respondent by its Letter dated 7th October 2017 notified the charges payable against the restoration of contract demand, amounting to Rs. 2006.00/-. The charges were paid by the Appellant on the same day.

(xiii) Thereafter, the Respondent by another Letter dated 7th October 2017 informed to the Appellant that the MSEDCL Contract Demand had been restored with effect from 1st

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October 2017 subject to the same condition. *[Note: During September 2017, the Appellant's Open Access Generator was closed for maintenance. The Appellant drew electricity from MSEDCL in excess of its retained MSEDCL CD of 27 MVA (as claimed by the Respondent) hence attracting penalty.]*

(xiv) Consequently, the Appellant vide its Letters dated 10th October 2017, again requested the Chief Engineer (Commercial) to direct the Superintending Engineer to restore the original contract demand from 1st September 2017. **It was highlighted that the delayed processing of the application resulted in additional billing of aggregating to Rs.3,69,08,539.76 (Rs.3.69 Cr.) without any fault of the Appellant.** It was also requested that the levy of the amount of Rs. 3,69,08,539.76 be withdrawn. *[Note: This penalty was the result of the Appellant drawing power of around 48 MVA from MSEDCL in September 2017, i.e. in excess of 27 MVA.]*

(xv) The payment against the said bill / amount of Rs.7,64,38,280.88/- including the excess amount charged i.e. Rs. 3,69,08,539.76 was made under protest and was also highlighted to the Respondent by the Appellant's email dated 8th November 2017.

(xvi) The Appellant again vide its letter dated 28th December 2017 approached the Chief Engineer (Commercial) of the Respondent and elaborated the complete sequence of events. **The Appellant intimated that the application dated 31st July 2017 being complete in all respects was required to be processed with the stipulated timeline i.e., 1 month,** and the original contract demand of the Appellant was required to be restored with effect from 1st September 2017 itself. The directives issued under the Order of the MERC in Miscellaneous Application No. 12 of 2017 in Case No. 76 of 2017 was also highlighted.

(xvii) In response to the above Letter, the Respondent by its Letter dated 10th January 2018, arbitrarily stated that as per the electricity supply code and regulations of the MERC governing standards of performance, the Appellant was required to pay processing fees, and the restoration could be given effect only after the receipt of fees. In the instant case the receipt of fees is on 7th October 2017 and restoration is given effect on 1st October 2017.

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(xviii) The arbitrariness in the decisions of the Respondent and stark contradictions in their communications was brought to their notice by the Appellant's Letters dated 9th March 2018 and 27th March 2018.

(xix) Since there was no response from the Respondent, the Appellant was constrained to approach the Internal Grievance Redressal Committee ("IGRC") of the Respondent. The Appellant filed an application before the IGRC citing its grievance of the Respondent's complete disregard of the order of the MERC dated 27th June 2017 in Miscellaneous Application No. 12 of 2017 in Case No. 76 of 2017 and the consequent losses ensued by the Appellant. After a hearing held on 11th June 2018, the complaint came to be disposed of by the IGRC on 28th June 2018 by simply stating that the Appellant's load has been enhanced as per the approval given by the Chief Engineer (Commercial) of the Respondent, which clearly indicates that the IGRC has dismissed the grievance of the Appellant without considering the merits thereof.

(xx) The Appellant thereafter approached the Forum assailing the order of the IGRC. The Forum, while upholding its jurisdiction on account of the grievance being under the SOP regulations, has erroneously held that there is no prayer made for SOP compensation and therefore the same cannot be granted. The Forum further refused to issue a revised bill on the erroneous ground that the same would be governed by regulations for obtaining fresh connection and if the consumer was not entitled for the same without the contract demand, the same would be construed as unauthorized extraction of energy. **The Forum while disposing of the complaint by its Order dated 26th September 2018 has held that there was no reason for non-grant of original contract demand from 1st September 2017 and there is a clear SOP violation by the Respondent.**

(xxi) The Appellant was therefore constrained to approach the Electricity Ombudsman against the Order of the Forum assailing the Order to the extent that the same holds:

a. That no prayer has been made for SOP Compensation;
b. That a prayer for a revised bill cannot be considered.

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(xxii) The appeal filed before this Hon'ble Authority came to be decided by the Order dated 15th March 2019, which erroneously holds that the Appellant has raised a dispute under the Distribution Open Access Regulations, 2016 and sought revision in the bill being an OA consumer, and therefore the Forum / Electricity Ombudsman would have no jurisdiction.

(xxiii) The Appellant challenged the Order dated 15th March 2019 before the Hon'ble Bombay High Court by way of Writ Petition No. 10556 of 2023, wherein, by an Order dated 19th November 2025, the Hon'ble Bombay High Court was pleased to remand back the above Representation to this Hon'ble Authority for reconsideration of the same.

(xxiv) The Appellant has filed the present submissions on the following issues:

a. Whether the present dispute is an individual consumer billing dispute; and whether the Forum /Electricity Ombudsman has jurisdiction to adjudicate the dispute;

b. Applicability of the judgments in *MSEDCL v. Viraj Profiles Ltd.* (W.P. No. 3708 of 2019) and *MERC v. Reliance Energy Ltd.* [(2007) 8 SCC 381]; and

c. The factual merits of the case.

The dispute between the parties is a consumer dispute:

(xxv) **The present dispute is an individual consumer billing dispute arising from the Respondent's delay in revising the Appellant's Contract Demand.** Since no issue relating to the grant or entitlement of Open Access is involved, the dispute falls within the jurisdiction of the Forum and the Electricity Ombudsman under Section 42 of the Electricity Act, 2003.

Applicability of the Judgments

(xxvi) The Hon'ble Supreme Court in *MERC v. Reliance Energy Ltd.* [(2007) 8 SCC 381] held that MERC has no jurisdiction over individual consumer grievances, which are to be adjudicated by the Forum and the Electricity Ombudsman under Sections 42(5) and 42(6) of the Electricity Act, 2003.

(xxvii) The Hon'ble Bombay High Court in *MSEDCL v. Viraj Profiles Ltd.* (W.P. No. 3708 of 2019) reaffirmed that disputes relating to delayed revision of Contract Demand and

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consequential excess billing are consumer billing disputes falling within the jurisdiction of the Forum and the Electricity Ombudsman, and not under Regulation 32 of the Open Access Regulations.

(xxviii) The present case is identical on facts. Accordingly, pursuant to the Hon'ble Bombay High Court's Order dated 19th November 2025 in W.P. No. 10556 of 2023 remanding the matter for fresh consideration in light of the above judgments, the Respondent's objection to jurisdiction is untenable. The Representation is maintainable and liable to be decided on merits. The decision in Appeal No. 36 of 2011 is distinguishable, as it concerns grant of Open Access and not an individual consumer billing dispute.

Factual Aspects:

(xxix) The application of the Appellant was filed on 31st July 2017 complete in all respects, the processing of which was delayed by the Respondent to October 2017 and therefore, the Respondent has arbitrarily given effect to the same from October 2017 onwards. The grievance of the Appellant is therefore solely in regards to the manner of performance of the licensee's part of the contract and infraction of the Distribution Licensee in performance of its duties. Therefore, the Forum has correctly exercised its jurisdiction by entertaining the grievance of the Appellant.

(xxx) **The Forum ought to have directed that the MSEDCL give effect of the revised contract demand from September 2017 itself and consequently directed the reversal of the additional charges levied upon the Appellant.** The Forum having held that the MSEDCL was in fact late in processing the application, ought to have directed consequences for the same.

(xxxi) At no stage did the Respondent reject the application dated 31st July 2017 or point out any technical, regulatory or documentary deficiency therein. The request was ultimately approved, which itself establishes that the application was valid and complete when first submitted.

(xxxii) The delay in granting effect to the revised Contract Demand arose solely from the Respondent's internal processing and correspondence, and not on account of any act or omission on the part of the Appellant. No technical or metering constraint was ever cited as a reason for denying effect from 1st September 2017.

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(xxxiii) By Daily Order dated 27th June 2017, the MERC has already directed that the Respondent shall grant the Open Access with additional conditions that the total power flow from the Respondent and the Open Access shall be restricted to the quantum of the technical/ metering constraint. There is therefore no dispute under the Distribution Open Access Regulations 2016 attracting the jurisdiction of MERC.

(xxxiv) The Appellant had submitted its undertaking to not exceed the total demand of 50000 kVA on 31st July 2017 itself. There was no new declaration submitted with the Letter of 28th September 2017. The Respondent could not have refused to give effect from 1st September 2017 alleging that the undertaking was only given on 28th September 2017.

(xxxv) Regulation 4.14 of SOP Regulations provides that reduction of contract demand shall be made before the second billing cycle after receipt of such request. Therefore, it is clear that MSEDCL has failed to perform its duties as envisaged in the Act as well as the regulations framed thereunder.

(xxxvi) Due to non-restoration of the contract demand from September 2017, the Appellant had to incur a humongous liability of Rs.7,64,38,280.88/- for the month of September 2017, which included the amount of Rs 3,69,08,539.76/- which was excess charged due to delay in applying restoration by the MSEDCL. **Had the application been processed in time, the said excess charges would not have been levied upon the Appellant.**

(xxxvii) It is therefore incumbent that the order passed by the Forum dated 26.09.2018 be set aside. The Respondent be directed to give effect to the revised Contract Demand of MSEDCL from 1st September 2017, and to grant adjustment or refund of excess bill paid amount of ₹3,69,08,539.76/- together with interest.

(xxxviii) The Appellant filed a rejoinder to the Respondent's submissions dated 13th January 2026, briefly as follows:

1) The issue is confined to the effective date of revision of the Appellant's Contract Demand in relation to its MTOA. The Respondent has wrongly sought to treat the dispute as one arising under the MERC DOA Regulations, 2016, whereas it is essentially a consumer billing dispute arising from the Respondent's delay and wrongful action. The material facts and chronology relevant to the present dispute are set out hereunder.

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Table 2:

Date	Particulars
20.07.2017	The Respondent, vide Letter No. 17794, sanctioned 23,000 kVA Medium Term Open Access (MTOA) to the Appellant with permission to retain 27,000 kVA Contract Demand (CD) from MSEDCL.
31.07.2017	The Appellant subsequently, made an application to the Respondent to restore the CD of the Respondent from 27000 kVA to 50000 kVA without any change in MTOA Capacity of 23000 kVA.
	This was done in pursuant of the Daily Order dated 27.06.2017 in MA No. 12 of 2017 in Case No. 76 of 2017 and Practice Directions dated 19.10.2016 issued by the Hon'ble MERC, wherein it has been held that Open Access can be granted with the additional condition that the total power flow from the Respondent and Open Access shall be restricted to the quantum of the technical/metering constraint. The Respondent was directed to rectify the MTOA granted with reduction of CD in that case.
	The Appellant also submitted an undertaking, therein that at no point of time the Appellant would exceed the total demand beyond 50,000 kVA.
	Note: The undertaking was submitted along with the Application dated 31.07.2017.
03.08.2017	Upon receipt of such application, the Superintending Engineer of the Respondent issued a Letter dated 03.08.2017, referred the request of the Appellant to the Chief Engineer (Commercial) of the Respondent seeking guidelines for granting permission to restore original contract demand to the Appellant.
24.08.2017	The Appellant issued a reminder letter and informed the Respondent that the generating plant would be under Annual Plant Maintenance Outage during September 2017 and requested restoration of CD at the earliest.
28.09.2017	The Appellant issued another reminder letter to process the application.
03.10.2017	The Respondents informed that the Competent Authority has considered and granted the request of the Appellant for restoration of MSEDCL CD, subject to condition specified therein.
03.10.2017	The Appellant vide email responded to the above email and stated that while the request of the Appellant was granted, there is no specific date from which the original CD is being restored mentioned.
07.10.2017	The Respondent, for the first time, by its Letter notified the charges payable against the restoration of contract demand, amounting to Rs. 2006.00/-
07.10.2017	The Charges were paid on the same date.
07.10.2017	The Respondents by another Letter informed that Appellant that the MSEDCL Contract Demand has been restored with effect from 01.10.2017.
10.10.2017	The Petitioner by a letter requested the Chief Engineer (Commercial) to direct the Superintending Engineer to restore the original contract demand from 01.09.2017 as was sought by the Petitioner by its application dated 31.07.2017.
08.11.2017	The Respondent raised a bill to the tune of Rs. 7,64,38,280.88/- for the month of September 2017, which was paid by the Appellant under protest.
28.12.2017	The Appellant while narrating facts once again requested that, inter alia, restoration of MSEDCL Contract Demand with effect from 01.09.2017 and issue a revised bill for September 2017.
10.01.2018	The Respondent by its Letter, arbitrarily stated that as receipt of fees is on 07.10.2017, restoration is given effect to on 01.10.2017.
09.03.2018 27.03.2018	The arbitrariness in the decisions of the Respondent and stark contradictions in their communications was brought to their notice by the Petitioner's Letters dated 09.03.2018 and 27.03.2018.

2) It is pertinent to highlight that:

a. The MERC (Standards of Performance of Distribution Licensees, Period of Giving Supply and Determination of Compensation) Regulation 2014, applicable to the present case, clearly provide that in case of application for supply of electricity the same is required to be processed within 1 month of the submission of the complete application. The Appellant

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submitted its complete application as on 31.07.2017, including the undertaking required pursuant to the MERC Order dated 27.06.2017.

b. The Consumer Grievance Redressal Forum, in its Order (Page 4, Para 4 – Pages 116–117 of the Bombay High Court Petition), has recorded that there were no reasonable grounds for not granting restoration of Contract Demand from 01.09.2017 and that there was a clear SOP violation on the part of the Respondent. The Respondent's present attempt to justify the delay is therefore contrary to findings of its own grievance redressal forum.

3) The Appellant has not sought adjudication of any issue relating to the grant, refusal, curtailment, or entitlement of Open Access. The present dispute arises solely on account of

   i. the inordinate and unexplained delay on the part of the Respondent in effecting revision of Contract Demand, and
   ii. the consequent incorrect and excessive billing for the month of September 2017, whereby exorbitant charges have been levied upon the Appellant. In fact, what has been sought is the revision in CD and not the OA.

4) Regulation 4.2 of the DOA Regulations, 2016 expressly provides that the CD of a consumer availing LTOA or MTOA shall be governed by the provisions of the Electricity Supply Code and the Regulations of the Commission relating to Standards of Performance. Thus, the regulatory framework itself segregates issues pertaining to CD from matters governed independently under the DOA Regulations.

Regulation 32 of the DOA Regulations, 2016 begins with the expression "save as otherwise provided", thereby making its application conditional. The said Regulation would apply only in cases where no specific provision exists elsewhere governing the subject matter of the dispute.

5) In the present case, CD and its revision are specifically governed by the Electricity Supply Code and the applicable Standards of Performance Regulations.

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Consequently, any dispute pertaining to the grant or revision of CD must necessarily be adjudicated within that framework. Regulation 32 of the DOA Regulations, 2016 would therefore have no applicability to the present controversy.

6) Pertinently, the decision in Appeal No. 36 of 2011 of the Appellate Tribunal for Electricity is not applicable because the said judgment was rendered in the context of a dispute relating to the grant and entitlement of open access under the Electricity Act, 2003, and the regulatory powers of the State Commission in that regard. The Appellate Tribunal was not concerned with an individual consumer billing dispute arising from delay or inaction on the part of the distribution licensee in revising contract demand, nor with a grievance governed by the Electricity Supply Code or the Standards of Performance Regulations.

7) The Hon'ble Supreme Court in the MERC V/s Reliance Energy Ltd & Others has ruled that where a complete statutory machinery is provided under Sections 42(5) and 42(6) of the Electricity Act, 2003, individual consumers can only resort to the Consumer Grievance Redressal Forum and thereafter the Electricity Ombudsman, and that the State Commission lacks jurisdiction to entertain or decide such disputes.

8) Furthermore, there is no 'denial' of additional open access as alleged or at all. The application was for revision of CD which was allowed after unexplained delay. Furthermore, there is no applicability of the regulatory framework governing partial Open Access to the facts of the instant case.

9) In so far as the aspect of overdrawal is concerned, **had the Respondent processed the application of the Appellant in time, the revised CD of 50,000 kVA would have been applicable, and there would have been no overdrawal.** The Appellant had submitted a complete application on 31.07.2017 and also the Undertaking on same date. The Respondent accepted the application without demur and kept it pending.

Despite the statutory mandate requiring processing within the prescribed period, the Respondent chose to act upon the application only in October 2017, at its own convenience and without any justification for the delay. Having failed to process

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the application within time, the Respondent then unjustly refused to grant the revision of Contract Demand with retrospective effect.

10) The Appellant categorically denies that there was any overdrawal. The Forum has already recorded that there were no reasonable grounds for not granting restoration from 01.09.2017. The alleged overdrawal is therefore a direct consequence of the Respondent's own delay and cannot be attributed to the Appellant.

11) The September 2017 invoice, amounting to approximately INR 7,64,38,280.88 (inclusive of alleged overdrawal charges and penalty), was paid by the Appellant under protest to avoid disruption of electricity supply. The said payment does not amount to any admission of liability.

(xxxix) In view of the aforesaid submissions, it is prayed that this Hon'ble Ombudsman be pleased to:

a) Allow the present Representation and direct the Respondent to grant restoration of Contract Demand with effect from 01.09.2017;

b) Direct issuance of a revised bill for September 2017 after setting aside the alleged overdrawal charges and penalties.

4. The Respondent's submissions and arguments are stated as below:

I. **Facts relating to Open Access and Revision of Contract Demand**

1. The Appellant is an Open Access consumer (No. 003019027510), availing electricity under the provisions of the MERC (Distribution Open Access) Regulations, 2014, as amended from time to time. The Appellant was initially granted Medium-Term Open Access (MTOA) for a quantum of 34 MW for the period from 01.06.2015 to 31.03.2018 for sourcing power from its Group Captive Generating Plant, M/s. Sai Wardha Power Generation Ltd. Subsequently, upon the request of the Appellant, the Open Access quantum was reduced from 34 MW to 23 MW vide Open Access Consent Letter dated 20.07.2017, effective from 01.08.2017 to 31.03.2018. Since the total sanctioned CD was 50 MVA, as a direct and automatic consequence of such reduction in Open Access quantum, the Contract Demand to be retained with the Respondent Distribution Licensee stood revised from 16 MW to 27 MW, computed as follows in Table 2.

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Table 3:

Total Contract Demand (MVA)	Original Open Access (MW)	Original MSEDCL Retained CD (MW)	MTOA Period	Date of Application at MSEDCL Corporate Office	Total Contract Demand (MVA)	Revised Open Access (MW)	Revised MSEDCL Retained CD (MW)	Effective Period of Revision
50	34	16	01.06.2015 – 31.03.2018	20.07.2017	50	23	27	01.08.2017 – 31.03.2018

2. The Open Access consent granted by the State Transmission Utility (STU) forms an integral part of the Open Access framework and is binding upon all stakeholders, including the Distribution Licensee. The Respondent was, therefore, under a statutory obligation to regulate billing, demand recording and settlement strictly in accordance with the revised Open Access approval. A copy of the Open Access Consent Letter has been placed on record.

3. The issue regarding determination of "Resultant Power Flow" and the methodology for computation of Contract Demand in Open Access cases was authoritatively examined in the 2nd Meeting of the Open Access Monitoring and Review Committee held on 19.04.2017 under the Chairmanship of the Chief Engineer (STU), MSETCL. The meeting was attended by representatives of the Maharashtra Electricity Regulatory Commission (MERC), State Transmission Utility, Distribution Licensees, Load Despatch Centre and consumer representatives. After detailed deliberations, the Committee unanimously resolved that:

> *"The summation of the Open Access Contract Demand and the Utility Retained Contract Demand has to be considered as the Resultant Power Flow."*

This decision was taken to ensure uniformity in implementation of the Open Access Regulations and to avoid inconsistent interpretation by different utilities. The said decision has been consistently followed by all concerned agencies dealing with Open Access transactions. Consequently, upon revision of the Open Access quantum from 34 MW to 23 MW with effect from 01.08.2017, the Utility Retained Contract Demand

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necessarily stood revised from 16 to 27 MW, in accordance with the MERC (Distribution Open Access) Regulations, the Open Access consent granted by the STU, and the unanimous decision of the Open Access Monitoring and Review Committee. The determination of Contract Demand in an Open Access arrangement is, therefore, not a matter of independent discretion of the Distribution Licensee but is governed by the statutory Open Access framework and the approvals issued by the competent authorities.

II. **Preliminary Objection regarding Jurisdiction and Maintainability of the Proceedings:**

4. At the outset, the Respondent has raised a preliminary objection that the present dispute is not maintainable before the Internal Grievance Redressal Cell (IGRC), the Forum, or the Electricity Ombudsman, as the controversy exclusively pertains to **implementation and interpretation of the statutory provisions governing Open Access**. The dispute, in substance, relates to:

a) Grant, revision, reduction and restoration of Open Access quantum;
b) Determination of Utility Retained Contract Demand consequent upon Open Access approval;
c) Computation of Resultant Power Flow;
d) Settlement and accounting under the Open Access framework; and
e) Implementation of the MERC (Distribution Open Access) Regulations and the decisions taken by the Open Access Monitoring and Review Committee.

Each of the above issues arises directly under the Open Access Regulations and falls outside the scope of an ordinary consumer billing dispute. Regulation 1.2 of the MERC (Distribution Open Access) Regulations, 2014 expressly provides that:

"These Regulations shall apply for Open Access to and use of the distribution system of Distribution Licensees in the State of Maharashtra and will also include cases where the network of the Distribution Licensee is not being used

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but supply to Open Access Consumer is being provided within the distribution area of the Licensee."

Thus, the entire field governing Open Access transactions, including Contract Demand allocation, billing methodology, scheduling, settlement and related issues, is comprehensively regulated under the said Regulations. More importantly, **Regulation 39.1** unequivocally provides:

"Any dispute under these Regulations shall be adjudicated upon by the Commission."

5. The language employed by the Regulation is mandatory and leaves no scope for concurrent jurisdiction. The Legislature, through the delegated legislation framed by MERC, has consciously vested the exclusive adjudicatory jurisdiction in the State Commission **considering the highly specialized and technical nature of Open Access transactions.** Open Access disputes involve interpretation and application of multiple inter-related statutory instruments, including the MERC (Distribution Open Access) Regulations, State Transmission Utility procedures, Maharashtra State Load Despatch Centre (MSLDC) protocols, scheduling and energy accounting principles, deviation settlement mechanism, Contract Demand allocation, Resultant Power Flow methodology, captive generation requirements and other dynamic regulatory provisions. **Such disputes require technical expertise extending beyond the conventional consumer grievance redressal mechanism. Recognizing this complexity, the Commission has consciously retained adjudicatory powers over Open Access matters** instead of entrusting them to the Consumer Grievance Redressal Forums constituted primarily for adjudication of routine consumer disputes relating to billing, metering, supply interruptions and allied matters.
6. There was no justification for the Consumer Grievance Redressal Forum, Kalyan, to pass the Order dated 26 September 2018 on the issue of Open Access billing. No other Consumer Grievance Redressal Forum in the State had adjudicated such disputes, as the jurisdiction to decide matters relating to Open Access was not vested in the Forum

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under the MERC Open Access Regulations then in force. It is significant that neither prior to nor subsequent to the said Order has the Kalyan Forum adjudicated any grievance pertaining to an Open Access consumer, whether relating to enhancement of load, billing disputes, or any other Open Access issue. The said Order thus appears to be an isolated instance, rendering its issuance all the more unusual.

7. **Reply on Merits (Without Prejudice)**

A. Contract Demand and Open Access Framework:

I. The Appellant had an original Total Contract Demand of 50 MVA with the Respondent Distribution Licensee.

II. Upon grant of Partial Open Access, the Contract Demand to be retained with the Respondent Distribution Licensee was required to be revised strictly in accordance with the provisions of the MERC (Distribution Open Access) Regulations, 2014. Consequently, when the Appellant was granted Open Access (34 MW), the Utility Retained Contract Demand stood reduced by the corresponding Open Access quantum, as mandated under the Regulations (to 16 MW).

III. Regulation 4.2.2 of the MERC (Distribution Open Access) Regulations, 2014 specifically provides as under:

> *"In case of Partial Open Access, contract demand stands reduced as per Regulation 4.2.1, the Admissible drawal / Allotted Capacity for the consumer shall be minimum of original contract demand of the consumer and sum of revised contract demand (reduced) of the consumer and scheduled entitlement.*

1. Explanation: If a consumer of a Distribution Licensee having a contract demand of 10 MW applies for Open Access of 4 MW from a conventional generator, the scheduled drawal of the consumer shall not exceed 10 MW.

Table 4:

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Sr. No.	Particulars	Demand (MW)
(a)	Original Contract Demand with the Distribution Licensee	10
(b)	Open Access Quantity	4
(c) =(a) -(b)	Revised Contract Demand with the Distribution Licensee	6

The Consumer's Contract Demand with the Distribution Licensee shall be 6 MW. As per above,

(a) Admissible drawal = Minimum of (Original Contract Demand 10 MW) and (Scheduled entitlement from Open Access 4 MW + Revised Contract Demand with the Distribution Licensee 6 MW), which shall be a ceiling of 10 MW.

(b) Scheduled entitlement from Open Access for the consumer shall be load equivalent to 4 MW.

IV. The above provision clearly demonstrates that in cases of Partial Open Access, the Contract Demand with the Distribution Licensee is automatically reduced by the quantum of Open Access granted, while the consumer's total admissible drawal continues to remain restricted to its original Contract Demand. The Regulation leaves no discretion either to the consumer or the Distribution Licensee to adopt any other methodology.

V. The Respondent further submits that the grant and revision of Open Access are governed by the statutory framework contained in the MERC (Distribution Open Access) Regulations. Regulation 8.10 of the MERC (Distribution Open Access) Regulations, 2016 mandates that Open Access can be granted only where the resultant power flow can be accommodated within the transmission and distribution system constraints. Thus, the determination of Open Access quantum, Utility Retained Contract Demand and resultant power flow forms an integral part of the regulatory mechanism governing Open Access and is required to be implemented

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strictly in accordance with the applicable Regulations and the approvals granted by the competent authorities.

B. Technical and Metering Constraints

(a) The Appellant is connected at 132 kV level, with a CT capacity of 225 Amps, limiting the maximum allowable power flow to approximately 51.44 MVA.

On 31.07.2017 the Appellant applied for increase in CD of MSEDCL from 27 MVA to 50 MVA, taking the total to 73 MVA. *[Note: During the hearing the Appellant explained that there was a short notice shut down of his open access source for maintenance, hence he had to switch to MSEDCL. He anticipated that the open access source would be restored soon, hence he wanted to retain its MTOA capacity of 23 MVA. In effect, he wanted the flexibility to switch back and forth between MSEDCL and his open access source.]* Any arrangement resulting in a total power requirement of 73 MVA, as proposed by the Appellant, was technically infeasible and contrary to the system constraints. The Respondent, therefore, correctly denied additional Open Access and restoration requests until appropriate undertakings were furnished.

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C. Undertaking and Restoration:

In 9th August 2017, the Appellant applied for 20 MW Short Term Open Access from M/s JSW Energy Ltd. for the period from 01.09.2017 to 30.09.2017, which MSEDCL rejected on 22.08.2017 citing technical/metering constraints. A subsequent request for restoration of the 50 MVA Contract Demand was also rejected on 28.08.2017, as the combined demand (50 MVA + 23 MW MTOA) would exceed the permissible 51.44 MVA limit.

In its Daily Order dated 14.09.2017 in Case No. 76 of 2017, the Commission recorded that MSEDCL had started granting Open Access based on undertakings furnished by consumers. The Commission observed that MSEDCL ought not to have reduced or denied Open Access by erroneously treating it as additional to the sanctioned Contract Demand and suggested obtaining undertakings from consumers. Accordingly, on 28.09.2017, the Appellant requested restoration of the 50,000 kVA Contract Demand while retaining 23,000 kVA MTOA, giving an undertaking that the total drawal would not exceed 50,000 kVA. Based on this undertaking, MSEDCL restored the 50,000 kVA Contract Demand prospectively from October 2017.

In September 2017, the generator, M/s Sai Wardha Power Generation Ltd., failed to supply the scheduled 23,000 kVA Open Access power. Consequently, the Appellant drew power in excess of the retained 27,000 kVA MSEDCL Contract Demand, attracting charges and demand penalty under Regulation 19.2 of the MERC (Distribution Open Access) Regulations, 2016 which states as below:

> *19.2 Settlement of Energy at Drawal Point in respect of Open Access Consumer, or Trading Licensee on behalf of Open Access Consumer: Deviations between the Contract Demand and the actual drawal in respect of an Open Access consumer shall be settled as follows:*
>
> *19.2.1. Over-drawal: Over-drawal by an Open Access Consumer shall be settled at the higher of the following:*

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(i) the System Marginal Price ('SMP') plus other incidental charges (Net Unscheduled Interchange ('UI') charges, additional UI charges) or any other intra-State Availability-based Tariff ('ABT') settlement charges as identified under the mechanism operating in Maharashtra from time to time or,

(ii) The Energy charge or Variable Charge of Temporary Tariff category, whichever is applicable, as determined by the Commission in respect of the Distribution Licensee:

Provided that the Consumer shall also be liable to payment of penalty for exceeding Contract Demand as provided in the Commission's Orders determining the retail tariff applicable to such Consumer.

The Respondent has merely applied the statutory provisions as mandated by law and has not acted arbitrarily or discriminatorily.

D. No Equity In Favour of Appellant:

The Appellant is an experienced Open Access consumer and was fully aware of the MERC Open Access Regulations, including Contract Demand, scheduling, energy accounting, **and the consequences of overdrawal**. It cannot claim ignorance or seek relief contrary to the statutory framework. The generator's failure to supply scheduled Open Access power does not absolve the Appellant of its statutory obligations. The Respondent has merely implemented the MERC (Distribution Open Access) Regulations without exercising any discretionary power.

8. The Respondent, therefore, prays that the Representation be dismissed as not maintainable for want of jurisdiction under Regulation 39.1 of the MERC (Distribution Open Access) Regulations or, alternatively, dismissed on merits by upholding the Respondent's actions as being in accordance with the applicable Regulations, with costs.

9. The Respondent, by its email dated 21.04.2026, filed Additional Submissions, pursuant to the Order dated 19.11.2025 passed by the Hon'ble Bombay High Court in Writ

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Petition No. 10556 of 2023, whereby the Order dated 15.03.2019 passed by the Electricity Ombudsman was quashed and set aside. The Hon'ble High Court, by the aforesaid Order dated 19.11.2025, restored and remanded Original Representation No. 234 of 2018 to the Electricity Ombudsman with a direction to first determine the issue of jurisdiction and, only if the issue is decided in favour of Viraj Profiles Private Limited (the Appellant), to thereafter adjudicate the matter on its merits.

10. The present Additional Submissions are filed in response to the Appellant's Written Submissions dated 31.12.2025 and Rejoinder dated 02.03.2026, to place certain material facts and clarifications necessary for the proper adjudication of the Representation.

11. The Appellant had a sanctioned Contract Demand of 50 MVA with MSEDCL. Initially granted 34 MW MTOA (01.06.2015 to 31.03.2018) for sourcing captive power from M/s Sai Wardha Power Generation Ltd. The MTOA was subsequently revised, at the Appellant's request, to 23 MW for the period 01.08.2017 to 31.03.2018, resulting in the retained MSEDCL Contract Demand being correspondingly revised to 27 MW (Total 50 MW = 23 MW Open Access + 27 MW MSEDCL CD), as shown in Table 3.

12. In the meantime, the Maharashtra Electricity Regulatory Commission (MERC), by its Practice Directions dated 19.10.2016 issued under the MERC DOA Regulations, 2016, clarified certain operational aspects relating to Open Access. Under Practice Direction No. 3, MERC clarified that an Open Access application should not be rejected solely because the consumer had not revised its Contract Demand. However, it also emphasized that the Distribution Licensee must assess the availability of the requisite infrastructure and system capacity, and that Open Access could be permitted only where the resulting power flow could be accommodated within the existing distribution system and metering arrangement. The relevant extract of the Practice Directions dated 19.10.2016 is reproduced below:

"*(…)*

3. Under Regulation 4.2 of the DOA Regulations, the matter of Contract Demand is to be governed by the provisions of the Electricity Supply Code and the Standards of Performance Regulations, and does not provide for any

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revision in Contract Demand by the consumer as a condition for grant of Open Access. Hence, an Application for Open Access shall not be rejected on the ground that the consumer has not increased or otherwise revised his Contract Demand, which is entirely at his option. However, the Regulations also provide that the Distribution Licensee verify the availability of necessary infrastructure and capacity of the distribution system, and grant Medium or Short-Term Open Access only if the resultant power flow can be accommodated in the existing distribution system.

(…)" ***(Emphasis added)***

MERC, by its Daily Order dated 27.06.2017 in M.A. No. 12 of 2017 in Case No. 76 of 2017, clarified certain issues relating to the implementation of the Open Access Regulations. The relevant observations of the Commission are reproduced below:

"(…)

3. The Commission observed that the OA can be granted with the additional condition that the total power flow from MSEDCL and OA shall be restricted to the quantum of the technical/metering constraint.
(…)
5. The Commission directs MSEDCL to submit the following within a week:
(a) MSEDCL shall rectify the MTOA granted with reduction of CD."
(Emphasis added)

13. Pursuant to the aforesaid Order, **the Appellant, by its letter dated 31.07.2017, requested restoration of its retained Contract Demand with MSEDCL from 27,000 kVA to 50,000 kVA, while retaining 23,000 kVA under MTOA, thereby increasing the total proposed demand to 73,000 kVA.** It was contended that such enhancement was subject to verification by MSEDCL regarding the availability of the requisite infrastructure, metering arrangements, system capacity and technical feasibility to accommodate the resultant power flow in the existing distribution system. The events are tabulated as below:

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Table 5:

Sr. No.	Date	Event	Remarks
1	20.07.2017	The original sanctioned MSEDCL Contract Demand was 50 MVA. On the Appellant's request, the MTOA quantum was revised to 23 MW (effective 01.08.2017 to 31.03.2018), with the retained MSEDCL Contract Demand reduced to 27 MVA.	MSEDCL Contract Demand reduced to 27 MVA on the request of the Appellant
2	31.07.2017	The Appellant applied for restoration of the retained MSEDCL Contract Demand from **27 MVA to 50 MVA**, while retaining **23 MVA MTOA** (aggregate proposed demand: **73 MVA**).	Application submitted to the Superintending Engineer, MSEDCL, Palghar instead of the CE (Commercial), Nodal Officer, despite the Appellant's full load capacity being only 51.440 MW..
3	03.08.2017	The Superintending Engineer, MSEDCL, Palghar referred the proposal to the Chief Engineer (Commercial) for guidance.	Sought guidance on restoration request from CE (Comm.)
4	22.08.2017	MSEDCL rejected 20 MW Short Term Open Access (STOA) request for Sept 2017 on technical ground of full load Capacity was 51.440 MW	Existing technical system capacity limited to 51.440 MW, considering full load capacity of infrastructure
5	24.08.2017	The Appellant submitted application requesting restoration of MSEDCL CD to its original and maintain MTOA Capacity at its present sanctioned level **without any undertaking.**	Requested urgent consideration due to annual maintenance.
6	28.08.2017	MSEDCL issued a rejection letter to Viraj Profile Ltd. for restoration of MSEDCL Contract Demand to total Contract Demand	Restoration of the original retained CD was rejected as the proposed 73 MVA arrangement exceeded the system capacity of 51.440 MVA.
7	28.09.2017	The Appellant submitted an undertaking confirming that the total combined power drawal from MSEDCL and Open Access would not exceed 50,000 kVA. Furthermore, the Appellant requested power restoration, reaffirming through a suitable undertaking that total power flow would remain within 50 MVA.	Undertaking intended to address technical concerns.
8	03.10.2017	MSEDCL approved restoration of the retained Contract Demand to **50 MVA**, while continuing **23 MVA Open Access**, subject to the stipulated power-flow limits.	Aggregate sanctioned configuration became **73 MVA**.
9	07.10.2017	The Appellant paid the prescribed processing charges, and MSEDCL made the restoration effective from **01.10.2017**.	Effective date of restoration communicated by MSEDCL.
10	Sep-17	Billing month in dispute.	—
11	May-18	The Appellant filed a complaint before the Internal Grievance Redressal Cell (IGRC).	—
12	28.06.2018	IGRC dismissed the complaint.	—
13	Aug-18	The Appellant filed a grievance before the Consumer Grievance Redressal Forum (CGRF).	Challenged the IGRC Order dated 28.06.2018.
14	26.09.2018	CGRF dismissed the grievance.	—
15	22.11.2018	The Appellant filed a representation before the Electricity Ombudsman.	Challenged the CGRF Order.
16	15.03.2019	The Electricity Ombudsman rejected the representation.	Not maintainable as per Regulation 32 of DOA Regulations 2016
17	30.08.2023	VPPL filed Writ Petition No. 10556 of 2023 before the Bombay High Court	—

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Upon receipt of the Appellant's request dated 31.07.2017, the Superintending Engineer, MSEDCL, Palghar, by communication dated 03.08.2017, referred the matter to the Chief Engineer (Commercial), MSEDCL, seeking guidance and appropriate instructions regarding the Appellant's request for restoration of the original retained Contract Demand. The Respondent by its letter dated 28.08.2017, (issued in response to the Circle Office communication dated 03.08.2017 and the Appellant's letter dated 31.07.2017) informed the Appellant that its request for restoration of the retained MSEDCL Contract Demand to the original Total Contract Demand could not be considered. By his reminder letter dated 24.08.2017, the Appellant informed MSEDCL that its captive generating plant was scheduled to undergo annual maintenance during September 2017 and requested expeditious consideration of its application for restoration of the retained Contract Demand.

14. During the same period, the Appellant had also applied for 20 MW Short-Term Open Access (STOA) from M/s JSW Energy Ltd. for September 2017 (presumably as a back-up). MSEDCL, by its letter dated 22.08.2017, rejected the request on the same ground that the proposed arrangement would increase the total resultant power flow to 73 MVA, whereas the existing metering and distribution system had a maximum capacity of only 51,440 kVA.
15. By its letter dated 28.08.2017, MSEDCL rejected the Appellant's request for restoration of the retained Contract Demand to the original Total Contract Demand, reiterating that the existing metering and distribution infrastructure could accommodate power only up to 51,440 kVA, rendering the proposed arrangement technically infeasible.
16. By its letter dated 28.09.2017, the Appellant furnished an undertaking that its total drawal would not exceed 50,000 kVA, while once again seeking restoration of the retained Contract Demand (back – dated from 01.09.2017).
17. The Respondent by email dated 03.10.2017 informed that, MSEDCL restored the Appellant's retained Contract Demand to 50 MVA, while the 23 MVA Open Access Contract Demand continued, resulting in an aggregate sanctioned configuration of 73 MVA. The restoration was, however, expressly made subject to the condition that the

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total power flow from MSEDCL and Open Access together would remain within the limits permissible under the existing technical and metering constraints.

18. Pursuant thereto, on 07.10.2017, MSEDCL intimated VPPL (the Appellant) the applicable processing charges of Rs. 2,006 /- payable towards restoration of the retained Contract Demand, and VPPL duly remitted the said charges on the same day. Furthermore, on the very same day MSEDCL communicated to VPPL that the restoration of the retained MSEDCL Contract Demand had been given effect from 01.10.2017.

19. Thereafter, VPPL by its letter dated 10.10.2017 **sought retrospective effect** to the restoration of the retained Contract Demand from 01.09.2017. For this purpose, VPPL contended that **its original application had been made on 31.07.2017** and that the subsequent letter dated 28.09.2017 was merely a reminder / follow up communication.

20. In the meantime, on 08.11.2017, MSEDCL raised an electricity bill for the month of September 2017 corresponding to Rs. 7,64,38,280.88/-, which was paid by VPPL under protest, alleging that the billing had been carried out on the basis of the then operative retained MSEDCL Contract Demand of 27,000 kVA rather than 50,000 kVA, which VPPL claimed ought to have been made applicable.

21. The required undertaking (not to exceed 50 MVA) was given by VPPL only on 28.09.2017, and the prescribed processing fee for restoration of Contract Demand was paid on 07.10.2017. The restored MSEDCL Contract Demand was therefore rightly made effective from 01.10.2017.

22. On 27.05.2018, VPPL approached the Internal Grievance Cell (IGRC), MSEDCL, Palghar, by filing a Appellant seeking, *inter alia*, restoration of the retained MSEDCL Contract Demand from 01.09.2017 and issuance of a revised electricity bill for September 2017. Thereafter, by its Order dated 28.06.2018, IGRC Palghar rejected / dismissed the complaint preferred by VPPL.

23. On 11.08.2018, VPPL being aggrieved by the Order dated 28.06.2018 passed by IGRC Palghar, approached the Forum, Kalyan.

24. By its order dated 26.09.2018, the Forum disposed of the complaint filed by VPPL. The Forum ultimately dismissed the grievance on the ground that revision of the bill for

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September 2017 could not be granted since the process for restoration of Contract Demand was governed by the regulations for obtaining fresh connections. Furthermore, the Forum also observed that, without the requisite Contract Demand being in place, the consumer was not entitled to draw power, and any such drawal would amount to unauthorized drawal of energy. For ease of reference the relevant extract of the Forum's Order dated 26.09.2018 is reproduced hereunder:

> "*(…)*
> *7) Consumer Representative submits that besides SOP he has claimed for revising bill for the month of Sept 2017 considering 50000 as C.D.* ***It is very difficult to consider the said prayer for the simple reason that the restoration of original C.D is governed by the regulations for obtaining fresh connection by submitting 'A' form, as such consumer was not entitled to draw any power without there being a contract demand required, which would in fact amount to unauthorized extraction of energy****.*
> *(…)*"

(Emphasis added)

25. On 22.11.2018, VPPL file Representation No. 234 of 2018 before the Electricity Ombudsman assailing the above Order passed by the Forum. By Order dated 15.03.2019 the Electricity Ombudsman dismissed the aforesaid representation, *inter alia*, holding that VPPL being an Open Access consumer of MSEDCL has raised a dispute under MERC DOA Regulations, 2016 and sought revision in bill, and therefore Forum / Electricity Ombudsman would have no jurisdiction to entertain the same. The relevant extract of Order dated 15.03.2019 is reproduced hereunder:

> "*(…)*
> ***22. The Appellant consumer is an Open Access consumer and has claimed revision in the bill being an OA consumer. The case of the Appellant consumer is based on Practice Directions and the Order dated 4th May, 2018 of the Commission. It would, therefore, not be appropriate 'to pass any order as prayed for by the Appellant.***
> ***23. In the result, this representation is rejected****.*
> *(…)*"

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26. On 30.08.2023, (i.e. after about 4 years), VPPL filed Writ Petition No. 10556 of 2023 before the Hon'ble Bombay High Court challenging the order dated 26.09.2018 passed by the Forum and the order dated 15.03.2019 passed by the Electricity Ombudsman. The said Writ Petition was filed after considerable delay, without any satisfactory explanation.

27. By order dated 19.11.2025, the Hon'ble Bombay High Court set aside the Order 15.03.2019 passed by Electricity Ombudsman and remanded the matter for fresh consideration, expressly directing that the question of jurisdiction be decided at the threshold. Pursuant to the Hon'ble Bombay High Court's Order dated 19.11.2025, the present proceedings have been restored before the Electricity Ombudsman.

I. Preliminary Submissions on Jurisdiction:

28. The present dispute at hand is not a mere simple billing dispute, as is being sought to be characterized by VPPL. The Appellant is interpreting 'Contract Demand' during September 2017 as 50 MVA, while actual CD with MSEDCL during this period was 27 MVA, as the CD was revised only from October 2017. An open access consumer cannot take for granted that CD will be enhanced within 1 month of application, as this may involve complex issues which may take 2 billing cycles to decide. The consumer is expected to wait for the final sanction order before availing revised CD. Short notice enhancement of CD may necessitate high-cost purchase of power by MSEDCL as a back-up. This decision is taken after multi-stakeholder consultation with the State Transmission Utility (STU). The decision need not be clear cut, but may fall in the grey zone where open access and power purchase considerations have to be weighed and balanced. That is precisely the reason why MERC has retained with itself the powers to decide such cases involving open access.

29. The present dispute fundamentally pertains to the following:

(a) Grant, reduction, restoration and governance of Open Access quantum;

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(b) Contract Demand adjustment linked to and consequent upon Open Access;

(c) Settlement of deviations under the Open Access Framework; and

(d) Application and interpretation of MERC DOA Regulations, 2016.

30. It is relevant to note that Regulation 1.2 of the MERC DOA Regulations, 2016 categorically delineates the field of operation of the said Regulations. The Regulation expressly states that the DOA Regulations, 2016 shall apply to matters concerning Open Access and use of the Distribution System of Distribution Licensees in the State of Maharashtra, including cases where the Distribution Licensee's network is not being used, but supply is being provided to an Open Access consumer within its distribution area. The relevant extract of the MERC DOA Regulations, 2016 is provided herein below:

> "*1. Short Title, extent and commencement*
> *1.1. These Regulations may be called the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2016.*
> ***1.2. These Regulations shall apply for Open Access to and use of the Distribution System of Distribution Licensees in the State of Maharashtra, and where the network of the Distribution Licensee is not being used but supply to an Open Access Consumer is being provided within the distribution area of the Distribution Licensee**.*
> *(…)*"

(Emphasis added)

The attempt of VPPL to characterize the present matter as one outside the DOA Regulations, 2016 is wholly misconceived, **the dispute being plainly rooted in and arising out of the Open Access arrangement itself.**

31. Furthermore, Regulation 32 of the MERC DOA Regulations, 2016 provides as follows:

> "*(…)*
> *32. Disputes*
> ***Save as otherwise provided, any dispute under these Regulations shall be adjudicated upon by the Commission**.*
> *(…)*"

(Emphasis added)

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It is stated that the phrase '*save as otherwise provided*' in Regulation 32 is clearly conditional in nature and operates only where the applicable legal framework specifically carves out some other forum or mechanism for adjudication. In the present case, no such express alternative remedy or forum is provided in relation to disputes concerning Contract Demand adjustment / restoration linked to Open Access consumers under the MERC DOA Regulations, 2016. The necessary consequence, therefore, is that the present dispute continues to be governed by Regulation 32, and falls within the adjudicatory domain of MERC in the present case.

32. In addition to the above, it is submitted that the Hon'ble Appellate Tribunal for Electricity ("**APTEL**") in its Order dated 28.07.2011 passed in Appeal No. 36 of 2011 ("**APTEL Order dated 28.07.2011**"), has categorically held that disputes involving Open Access fall outside the jurisdiction of the Forum and must be adjudicated only by the State Commission i.e., in the present case MERC. For ease of reference the relevant extract of APTEL Order dated 28.07.2011 is reproduced hereunder:

> "*(…)*
> ***46. The dispute relating to the Open Access would be dealt only by the Commission as the Act clearly provides that the Commission must ensure fulfillment of the mandate to provide such Open Access which would include issuing directions to grant Open Access which has rightly been given in the impugned order. This, jurisdiction vested with the Commission cannot be usurped or taken away by the Consumer Grievance Redressal Forum. In other words, the Consumer Grievance Redressal Forum established by the Distribution Licensee will have no jurisdiction to entertain or decide a dispute where the statutory mandate to provide Open Access has been violated by the Distribution Licensee. Therefore, the dispute in question can be resolved by the State Commission alone and not by the Consumer Grievance Forum. As such, there is no infirmity in the impugned order***.
> *(…)*"
>
> *(Emphasis added)*

The aforesaid principle laid down by the Hon'ble APTEL squarely applies to the facts of the present case. VPPL is admittedly an Open Access consumer, and the dispute raised

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by it arises directly out of the Contract Demand arrangement and its alleged restoration in the context of MTOA. **The controversy is therefore plainly rooted in the Open Access framework and cannot be treated as an ordinary consumer billing grievance falling within the jurisdiction of the Forum or the Electricity Ombudsman. Consequently, the present dispute is one that falls within the adjudicatory domain of the State Commission (MERC in the present case) alone.** VPPL is an Open Access consumer availing MTOA under the applicable MERC DOA Regulations, initially under the 2014 framework and thereafter under the MERC (Distribution Open Access) Regulations, 2016. By letter dated 20.07.2017, VPPL was granted revised MTOA capacity of 23,000 kVA, and, as a direct consequence of such Open Access arrangement, the retained MSEDCL Contract Demand stood reduced from 50,000 kVA to 27,000 kVA. The said configuration arose directly from the Open Access regime and was governed by the applicable DOA Regulations.

33. The subsequent request made by VPPL vide its letter dated 31.07.2017, seeking restoration of the retained MSEDCL Contract Demand from 27,000 kVA to 50,000 kVA while simultaneously retaining the existing MTOA quantum of 23,000 kVA, was plainly and inextricably connected with the subsisting Open Access arrangement. Such a request necessarily fell within the framework of the Open Access Regulations (i.e., MERC DOA Regulations, 2016), including the aspects of resultant power flow, technical feasibility and regulatory treatment of retained Contract Demand.

34. Regulation 4.2 of the MERC DOA Regulations, 2016 provides as follows:

> "*(…)*
> *4.2. Revision of Contract Demand*
>
> ***The Contract Demand of a Consumer availing LTOA or MTOA shall be governed by the provisions of the Electricity Supply Code and the Regulations of the Commission governing Standards of Performance**:*
> *(…)*"

(Emphasis added)

While the aforesaid regulation cross-refers to the Electricity Supply Code for the procedural aspects of Contract Demand revision, it does not oust the jurisdiction of the

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State Commission over disputes arising in the context of Open Access consumers. The regulatory framework itself segregates the procedure (governed by Supply Code) from the dispute resolution mechanism (governed by Regulation 32 of DOA Regulations, 2016). VPPL's reliance on Regulation 4.2 to argue that the dispute is governed solely by the Supply Code is misconceived. **The said regulation merely provides that the procedure for revision of Contract Demand shall follow the Supply Code, but the adjudication of disputes arising from such revision in the context of Open Access consumers remains squarely within the exclusive domain of the State Commission under Regulation 32 of the MERC DOA Regulations, 2016.**

35. VPPL's application for restoration of Contract Demand was thus made under and pursuant to these regulatory directions issued under the MERC DOA Regulations, 2016 framework, and any dispute arising therefrom necessarily falls within the exclusive jurisdiction of the MERC. Even otherwise, MERC observed that Open Access can be granted with the additional condition that the total power flow from MSEDCL and Open Access shall be restricted to the quantum of the technical/metering constraint. VPPL sought increase in its Contract Demand without any alteration to the Open Access capacity. Therefore, it became imperative for MSEDCL to independently decide whether such a request can be accommodated subject to various Regulations, especially considering that **it would require MSEDCL to keep the Open Access capacity blocked for VPPL, even though not utilized by VPPL. This issue, being alien to previous cases, requires fresh consideration by the MERC.**

36. VPPL's attempt to characterize this matter as a simple billing dispute or consumer grievance is a mischaracterization of the true and complex nature of the controversy. The core issues in the present case include (a) whether restoration of Contract Demand should be granted to an Open Access consumer while retaining Open Access quantum, (b) the interplay between Contract Demand and Open Access quantum in the context of metering/technical constraints, (c) The effective date of restoration of Contract Demand in relation to Open Access framework and regulatory directions issued by MERC and (d) Settlement of deviations and overdrawal under the Open Access regime

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in September 2017. These are not simple billing disputes but complex regulatory issues arising out the MERC DOA framework, which requires specialized adjudication by the State Commission (MERC in the present case).

37. VPPL seeks to rely upon the judgment of the Hon'ble Bombay High Court in Writ Petition No. 3708 of 2019 (MSEDCL v. Viraj profiles Limited) dated 28.11.2023 to make a case that such disputes as the present one fall within the jurisdiction of Forum. However, this reliance is misconceived. The facts in WP 3708/2019 pertained to a different cause of action regarding execution of a Forum order dated 29.08.2018 relating to **load reduction of Open Access capacity and enhancement of Contract Demand. The Hon'ble High Court in that matter was examining whether MSEDCL had accepted and implemented the Forum's order, and not the jurisdictional issue as to whether Forum had jurisdiction to entertain such disputes in the first instance**. The present remand by the Hon'ble Bombay High Court specifically requires the Electricity Ombudsman to examine the issue of jurisdiction afresh and also whether the judgment of Hon'ble Supreme Court in ***Maharashtra Electricity Regulatory Commission v. Reliance Energy Ltd., (2007) 8 SCC 381*** would be applicable in the instant case.

38. The present case is distinguishable from ***Maharashtra Electricity Regulatory Commission v. Reliance Energy Ltd., (2007) 8 SCC 381,*** as the current dispute involves:

a. An Open Access consumer governed by specialized DOA framework.
b. Issues arising from implementation of regulatory directions issued by MERC vide Order dated 27.06.2017 and Practice Directions dated 19.10.2016.
c. Interplay between Contract Demand and Open Access quantum.
d. Technical and metering constraints in the context of Open Access framework.
e. Application of regulatory policy / framework regarding 'resultant power flow' in Open Access cases.

These are matters requiring specialized regulatory adjudication and falls squarely within the exclusive domain carved out by Regulation 32 of the MERC DOA Regulations, 2016. It is pertinent to note that the MERC is the specialized forum deriving its power from

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Electricity Act and equipped to deal with complex Open Access related disputes, including those involving Contract Demand adjustments in the Open Access framework. The list of some open – access cases resolved by the Hon'ble Commission are kept on record. (Table 7)

Objection With Regards to Delay and Laches:

39. Without prejudice to the preliminary objection on jurisdiction, it is submitted that the present claim for restoration of the retained Contract Demand with effect from 01.09.2017, and consequential revision of the bill for September 2017, is hopelessly belated and is liable to be rejected on the grounds of delay, and limitation. The Hon'ble Bombay High Court, while remanding the matter, has expressly kept open all rights and contentions of the parties, including the aspect of limitation, and delay. The Electricity Ombudsman passed its Order on 15.03.2019, the Writ Petition came to be filed by VPPL only on 30.08.2023, i.e. after more than 4 years from the Order of the Electricity Ombudsman, and after a gross and unexplained lapse of time.

40. Even otherwise, any monetary claim referable to a period beyond three years would clearly be stale and barred as per Article 137 of the Limitation Act. In this regard, the Hon'ble APTEL in ***DCM Shriram Ltd. v. Jaipur Vidyut Vitran Nigam Limited, 2018 SCC Online APTEL 59*** held, in substance, that a claim for recovery beyond three years would be impermissible as being barred by limitation. The relevant extract of the aforesaid judgment is reproduced hereunder:

> "*35. The Respondent Discoms have sought to recover the money after having duly given the adjustment at the relevant time. The Respondents raised the invoice for the recovery of amounts for the first time on 20.02.2013 as an afterthought and the final bill was raised only on 17.05.2013. The LOI was dated 30.6.2009 and the period in question was 01.07.2009 to 30.06.2010. During this period, based on mutual discussions and the Procedural Order dated 17.08.2009, the Appellant had raised invoices for supply of power after adjustment of the entire HT Bill and the Respondent Discoms had accepted the same. The Respondent Discoms sought to revise the methodology more than three years after the commencement of the contract.* ***As per the Limitation Act, the period of limitation for recovery of money is three years and therefore the Respondents are not entitled to any recovery of amounts beyond three years***."
>
> *(Emphasis added)*

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41. Further, it is submitted that the Hon'ble Supreme Court in the matter of ***SBI v. M.J. James, (2022) 2 SCC 301***, while discussing on the doctrine of delay and laches has categorically held that a right not exercised for a long time is non-existent. The relevant extract of the afore-mentioned judgment is reproduced hereunder:

> "*36. What is a reasonable time is not to be put in a straitjacket formula or judicially codified in the form of days, etc. as it depends upon the facts and circumstances of each case.* ***A right not exercised for a long time is non-existent. Doctrine of delay and laches as well as acquiescence are applied to non-suit the litigants who approach the court/appellate authorities belatedly without any justifiable explanation for bringing action after unreasonable delay***."
>
> *(Emphasis added)*

42. It is further stated that Hon'ble Supreme Court in the matter of ***Basawaraj v. Land Acquisition Officer, (2013) 14 SCC 81***, has held, regarding the law of limitation as follows:

> "***12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.***"
>
> *(Emphasis added)*

43. Therefore, the claim pertaining to restoration from 01.09.2017 and revision of the bill for September 2017 is clearly vitiated by gross delay and is beyond the permissible period of limitation, being agitated after nearly four years post rejection by Electricity Ombudsman.

44. The Respondent argued upon the Daily Order dated 27th June 2017 passed by the Hon'ble Maharashtra Electricity Regulatory Commission (MERC) in Miscellaneous Application No. 12 of 2017 in Case No. 76 of 2017. The said Miscellaneous Application

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was filed by M/s INOX Air Products Pvt. Ltd. seeking ad interim relief, inter alia, directing the Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) to forthwith issue a No Objection Certificate (NOC) for Short-Term Open Access (STOA) for June 2017 and Medium-Term Open Access (MTOA) for the period from July 2017 to March 2018. The relevant observations and directions contained in the said Daily Order are summarized below:

M/s INOX Air Products Private Ltd. …… ………………..………… …………. Applicant

V/s

M/s Sai Wardha Power Generation Limited …… ………… ………………..….Original Petitioner

(1) Maharashtra State Electricity Distribution Co. Ltd; (2) M/s Ramsons Industries Ltd;
(3) M/s Ramsons Castings Private Ltd.; (4) M/s Pudumji Paper Products Ltd. ;
(5) M/s Inox Air Products Private Ltd.; (6) M/s Mahindra CIE Automotive Ltd.;
(7) M/s ACG Associated Capsules Pvt. Ltd.; (8) M/s Asahi India Glass Ltd.;
(9) M/s Hindalco Industries Ltd. ……………. ……………………………… …Original Respondents

Maharashtra State Electricity Transmission Co. Ltd. …… ……… …. ……… … .Impleaded party

1. Advocate of the Petitioner stated that:

(i) Applicant is one of the Captive Open Access (OA) consumers of M/s Sai Wardha Power Generation Ltd. (SWPGL) having Contract Demand (CD) of 7650 kVA with MSEDCL. It has filed the Miscellaneous Application for adinterim relief, viz. directing MSEDCL to issue No Objection Certificate (NOC) for Short Term Open Access (STOA) for June 2017 and Medium Term Open Access (MTOA) from July 2017 to March 2018.
(ii) to (vi) … ……………
(vii) SWPGL has given an undertaking for reduction of CD of the Applicant and now the permissions have been granted by MSEDCL for STOA and MTOA. However, MSEDCL may not compel the Applicant for reduction of CD for the future period. As the MTOA from June, 2017 was not granted by MSEDCL, the Applicant applied for STOA of June 2017.
(viii) MTOA from July, 2017 to March, 2018 has been granted by reducing the CD, which may be reinstated by MSEDCL.

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2. *Advocate of MSEDCL stated that:*

(i) *MSEDCL has filed its submission in the main Case No. 76 of 2017. As the issues involved in Case No.76 of 2017 and in this MA are similar, that Reply may be treated as its Reply to the MA also.*
(ii) *It was proposed to reduce the CD with MSEDCL so that the resultant power can be accommodated in the MSEDCL distribution system.*
(iii) *Accordingly STOA and MTOA permissions have been granted to the Applicant after the consent submitted by SWPGL.*
(iv) *To a query of the Commission regarding the ratio of the Current Transformers (CT), MSEDCL replied that the earlier CT ratio was 50/1 Ampere. In April, 2017, the CTs were replaced by 25/1 Ampere ratio on the request of the Applicant.*

3. *The Commission observed that the OA can be granted with the additional condition that the total power flow from MSEDCL and OA shall be restricted to the quantum of the technical/metering constraint.*
4. *The Commission expressed its displeasure on the lackadaisical approach of MSEDCL towards issuance of OA permissions to the Captive Power Plant (CPP) even after the Commission's clear directives.*
5. *The Commission directs MSEDCL to submit the following within a week:*
   a) *MSEDCL shall rectify the MTOA granted with reduction of CD*
   b) *MSEDCL's action plan for issue of OA permission for Captive Open Access consumers and Generators.*

Miscellaneous Application (MA) 12 of 2017 in Case No. 76 of 2017 is reserved for Order. Final Order will be issued in Case No. 76 of 2017.

The reliance placed by the Appellant on the Daily Order dated 27th June 2017 is misconceived and wholly misplaced, as the said order has no bearing on the issues involved in the present case. It is pertinent to note that several Daily Orders were passed by the Hon'ble Commission during the pendency of Case No. 76 of 2017. Such Daily Orders merely record the day-to-day proceedings of the case, including submissions made by the parties, procedural directions, and interim discussions. They did not constitute the final determination of the rights and liabilities of the parties.

A Daily Order (Roznama) is essentially a contemporaneous record of the proceedings conducted on a particular date and is administrative or procedural in nature. It neither embodies the Commission's final adjudication nor has the binding force of a reasoned and signed final order or judgment. Under settled principles of Indian procedural law,

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the rights of the parties are determined only by the final signed order or judgment, and not by interim observations, tentative views, or discussions recorded in the Daily Order (Roznama). Consequently, the Appellant could not derive any substantive support from the Daily Order dated 27th June 2017 in the absence of any corresponding finding in the final Order passed by the Hon'ble Commission in Case No. 76 of 2017.

The final adjudication in the matter was rendered only on 4th May 2018. Therefore, any reliance on the Daily Order, while ignoring or overlooking the final Order dated 4 May 2018, is legally unsustainable. The rights of the parties' flow from the final signed order and not from interim observations or procedural orders recorded during the pendency of the proceedings.

45. Even otherwise VPPL cannot derive any advantage merely from the pendency of earlier proceedings. The material events giving rise to the present dispute all occurred in 2017; the grievance redressal mechanisms under the applicable MERC DOA Regulations, 2016 were available. Despite this, VPPL has failed to furnish any legally sustainable or satisfactory explanation for the extraordinary delay with which the present claim has been pursued.

46. VPPL's case is founded on the incorrect assumption that its application dated 31.07.2017 for restoration of retained Contract Demand was complete. VPPL furnished the mandatory undertaking (restricting the aggregate drawal to 50 MVA) only by its letter dated 28.09.2017, received on 29.09.2017. Only thereafter did the application become complete and technically feasible. MSEDCL accordingly approved the restoration by email dated 03.10.2017. The restoration was therefore rightly made effective from 01.10.2017, consistent with the stage at which the application became complete, the payment of prescribed charges, and Regulation 4.14 of the MERC SOP Regulations, 2014, which envisages giving effect to Contract Demand changes in accordance with the billing-cycle framework. Consequently, VPPL has no legal basis to seek retrospective restoration from 01.09.2017.

47. **During September 2017, VPPL's Open Access generator remained under scheduled maintenance and failed to supply the scheduled quantum. VPPL drew electricity in excess of its retained MSEDCL Contract Demand of 27 MVA,**

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thereby attracting the penalty prescribed under Regulation 19.2 of the MERC DOA Regulations, 2016.

48. The Respondent further contended that the Appellant initially applied for enhancement of Contract Demand from **16 MW to 27 MW on 20.07.2017**, as reflected in Table 3. The said enhancement was approved by MSEDCL in accordance with the provisions of the MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees) Regulations, 2005, then in force, **considering the Appellant as an Open Access consumer** in accordance with the MERC (Distribution Open Access) Regulations, the Open Access consent granted by the STU, and the decision of the Open Access Monitoring and Review Committee.

49. **W**ithin merely 11 days, the Appellant filed another application dated 31.07.2017 before the Superintending Engineer, Palghar, seeking further enhancement of Contract Demand from 27 MW to 50 MW, instead of submitting the proposal to the Chief Engineer (Commercial), who was the designated Nodal Officer. At the relevant time, the Appellant was already under a binding obligation to receive 23 MW of Medium-Term Open Access (MTOA) power. Consequently, the proposed arrangement would have resulted in an aggregate power flow of 73 MW, whereas the existing CT/PT ratio permitted a maximum capacity of only 51.44 MVA. The Respondent further contended that the undertaking allegedly furnished by the Appellant to cap the drawal at **50 MW** did not resolve the technical or regulatory constraints, since it did not negate or modify the Appellant's subsisting obligation to receive **23 MW** under the MTOA arrangement. The second application was therefore neither technically feasible nor maintainable under the **Supply Code & SoP Regulations, 2005**, as the Regulations did not contemplate repeated enhancement of Contract Demand within a short span of **11 days**, particularly where the proposed demand exceeded the technical capacity of the existing metering and distribution infrastructure and conflicted with the Appellant's existing MTOA commitment.

50. The Respondent contended that the Appellant deliberately refrained from approaching the Hon'ble Commission, being fully aware that the issues raised pertained to an Open Access consumer and fell within the regulatory jurisdiction of the Commission. Instead,

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the Appellant consciously invoked the jurisdiction of the Consumer Grievance Redressal Forum, Kalyan, and thereafter the Electricity Ombudsman (Mumbai), despite the settled legal position that disputes relating to Open Access consumers are outside the scope of the conventional consumer grievance redressal mechanism. The Electricity Ombudsman rightly held that grievances concerning Open Access consumers are required to be adjudicated by the Hon'ble Commission and not by the Consumer Grievance Redressal Forum or the Electricity Ombudsman. Despite this, the Appellant did not pursue the alleged grievance before the Hon'ble Commission. Instead, after remaining silent for nearly **four years**, the Appellant chose to invoke the writ jurisdiction of the Hon'ble Bombay High Court. This sequence of events demonstrates that the Appellant's present challenge is a clear afterthought, adopted only after failing to pursue the appropriate statutory remedy within a reasonable time. The Respondent therefore contended that the Appellant has attempted to create jurisdictional confusion and has not approached the competent authorities with truthfulness and/or consistency.

51. In view of the foregoing, the Respondent respectfully prays that the Representation be dismissed for want of jurisdiction. Alternatively, the Representation is liable to be dismissed as being barred by limitation, delay and laches. Without prejudice to the above, the Representation is also devoid of merits, as MSEDCL acted strictly in accordance with the applicable MERC Regulations and Practice Directions, and there exists no legal basis for retrospective restoration of the Contract Demand with effect from **01.09.2017**.

5. The Appellant by its email dated 02.06.2026 submitted a Rejoinder to these points, which (in Brief) is as below: (Many points are repeated, hence not reproduced):

(a) The Appellant submits that the Hon'ble Bombay High Court, by order dated 19.11.2025 in W.P. No. 10556 of 2023, remanded the matter for fresh consideration in light of the judgments in MSEDCL v. Viraj Profiles Pvt. Ltd. and MERC v. Reliance Energy. The dispute is confined to the effective date of restoration of Contract Demand and the consequential revision of the September 2017 bill.

(b) The application dated 31.07.2017 was complete in all respects, referred to the MERC Daily Order dated 27.06.2017, contained all required particulars, and was

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accompanied by the requisite undertaking limiting the total power flow to 50,000 kVA. Hence, MSEDCL was bound to process the application without delay.

MSEDCL's internal email dated 03.08.2017 itself establishes that the application was received and processed without any contemporaneous objection or deficiency, confirming its completeness.

The Appellant issued reminders on 24.08.2017 and 28.09.2017, yet approval was granted only on 03.10.2017. Processing charges were demanded on 07.10.2017 and paid on the same day. The entire delay is attributable to MSEDCL, which failed to comply with the timelines prescribed under the MERC SOP Regulations and cannot derive any benefit from its own default.

The alleged letter (undertaking) dated 28.09.2017, relied upon for the first time in these proceedings, was never served on the Appellant, was not produced before the Forum, the Ombudsman, or the Hon'ble High Court, and is unsupported by any proof of dispatch. It is therefore an afterthought and cannot displace the original application dated 31.07.2017.

The Respondent's attempt to treat 28.09.2017 as the date of a complete application is misconceived. The letter dated 28.09.2017 was merely a reminder reiterating the original request and undertaking submitted on 31.07.2017, and does not alter the date of the original application.

MSEDCL's failure to process the application within the prescribed period constitutes a clear violation of the MERC SOP Regulations. Such statutory delay cannot prejudice the Appellant or postpone the effective date of restoration.

(c) The contention that restoration could take effect only after payment of processing charges is unsustainable, as the demand itself was raised belatedly by MSEDCL and was paid immediately by the Appellant.

(d) Under the DOA Regulations, 2016, the earlier provision for automatic revision of Contract Demand corresponding to Open Access was omitted, and Regulation 4.2 provided that revision of Contract Demand would thereafter be governed by the Electricity Supply Code and MERC SOP Regulations. Consequently, enhancement or

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reduction of Contract Demand fell outside the scope of the DOA Regulations and could not be made a pre-condition for grant of Open Access.

(e) The MERC Practice Directions dated 19.10.2016 further clarified that an Open Access application cannot be rejected merely because the consumer has not revised its Contract Demand. The Distribution Licensee is only required to verify the availability of infrastructure and system capacity and, if augmentation is necessary, communicate the same to the consumer. The Practice Directions do not require any unconditional undertaking from the consumer. The MERC Order dated 27.06.2017 further clarified that Open Access could be granted subject to the condition that the total power flow remains within the existing technical/metering constraints. Accordingly, the Appellant applied on 31.07.2017 for enhancement of Contract Demand from 27 MW to 50 MW, while retaining 23 MW Open Access, and simultaneously submitted an undertaking that the total power drawal would not exceed 50 MW, despite the aggregate sanctioned capacity being 73 MW. The application, together with the undertaking, was complete and valid. The application was forwarded by the Superintending Engineer on 03.08.2017 without any objection regarding incompleteness, demonstrating that no deficiency was noticed. Had the undertaking been absent, the application would have been returned for compliance.

(f) In any event, the subsequent approval dated 03.10.2017 was granted on the basis of the original application, rendering the alleged letter irrelevant.

(g) The Appellant continued to pursue the matter through reminder letters dated 24.08.2017 and 28.09.2017, the latter merely reiterating the original application and enclosing its copy. It did not constitute a fresh or complete application, nor was the undertaking furnished for the first time on that date.

(h) The Appellant also submits that there was no delay in filing the Representation before the Ombudsman. The order of the Hon'ble Bombay High Court was dated 19.11.2025, and the Appellant filed this representation on 31.12.2025.

Analysis and Ruling

6. Heard the parties and perused documents on record.

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7. The present matter arises out of Representation No. 234 of 2018, which was originally filed under Regulation 17.2 of the MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006 challenging the Order dated 26.09.2018 passed by the Consumer Grievance Redressal Forum, MSEDCL, Kalyan Zone. The dispute concerned the effective date of restoration of the Appellant's retained Contract Demand from 27,000 kVA to 50,000 kVA. The Respondent restored the Contract Demand with effect from 01.10.2017, whereas the Appellant contended that, having regard to the applicable MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 and the Maharashtra Electricity Regulatory Commission's Practice Directions governing Open Access consumers, the restoration ought to have been made effective from 01.09.2017. On that basis, the Appellant sought consequential revision of the electricity bill for September 2017 by considering the restored Contract Demand from the earlier date. The Forum dismissed the grievance. Although the Forum examined the issue of restoration of Contract Demand under the applicable Standards of Performance Regulations, it declined to grant the consequential relief of revision of the September 2017 electricity bill, holding that the Appellant was not entitled to draw power at the restored Contract Demand (50,000 KVA) prior to its formal approval.

8. The regulatory framework governing enhancement or reduction of Contract Demand/Sanctioned Load is prescribed under Regulation 6.8 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, which provides as follows:

> *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:*
>
> *Provided that where such increase or reduction in contract demand / sanctioned load entails any works, the Distribution Licensee may recover expenses relating thereto in accordance with the principles specified in Regulation 3.3, based on the rates contained in the schedule of charges approved by the Commission under Regulation 18:*

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Provided further that any dispute with regard to the need for and extent of any such works pursuant to an application for increase or reduction in contract demand / sanctioned load shall be determined in accordance with the procedure set out in the Grievance Redressal Regulations.

9. The MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 prescribe the standards and timelines for rendering various consumer services, including reduction or enhancement of Contract Demand/Sanctioned Load. The relevant provisions are contained in Appendix A, which specifies the prescribed time limit for providing the service and the compensation payable in the event of delay. The relevant extract of Appendix A is reproduced below:

<table>
<tr><td colspan="3">MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014</td></tr>
<tr><td colspan="3">Appendix A : Level Of Compensation Payable to Consumer for Failure to Meet Standards Of Performance</td></tr>
<tr><td colspan="3">Applicable from 20.05.2014</td></tr>
<tr><td>Supply activity / event</td><td>Standard</td><td>Compensation payable</td></tr>
<tr><td colspan="3">8 : Other Services</td></tr>
<tr><td>ii. Time period for other services from the date</td><td></td><td></td></tr>
<tr><td>change of name</td><td>Second Billing Cycle</td><td rowspan="3">Rs 100 per week or part thereof delay.</td></tr>
<tr><td>change of tariff Category</td><td>Second Billing Cycle</td></tr>
<tr><td>reduction in contract demand / sanctioned load</td><td>Second Billing Cycle</td></tr>
</table>

10. The principal issue for determination is whether the grievance relating to restoration of Contract Demand and consequential revision of the September 2017 bill of an Open Access consumer fall within the jurisdiction of the Consumer Grievance Redressal Forum and the Electricity Ombudsman, or exclusively within the jurisdiction of the Maharashtra Electricity Regulatory Commission under the MERC (Distribution Open Access) Regulations, 2016. The earlier Electricity Ombudsman, by Order dated 15.03.2019, rejected the Representation solely on the ground that the dispute arose under the Open Access Regulations and, therefore, fell within MERC's jurisdiction under Regulation 32, without examining the merits. Pursuant to

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the Hon'ble Bombay High Court's Order dated 19.11.2025 in Writ Petition No. 10556 of 2023, which set aside the said Order, the matter has been remanded for fresh consideration with a direction to first determine the issue of jurisdiction in the light of the decisions in *MSEDCL v. Viraj Profiles Ltd.* and *MERC v. Reliance Energy Ltd.* and, only if jurisdiction is found to exist, to adjudicate the dispute on merits. The Hon'ble High Court has clarified that it has expressed no opinion on the merits of the case.

11. The Appellant contended that the dispute is an individual consumer billing dispute arising from the Respondent's delay in restoring the Contract Demand from 27 MVA to 50 MVA, and not a dispute relating to grant or entitlement of Open Access. It was submitted that the application dated 31.07.2017 was complete in all respects, including the required undertaking, that under the applicable Supply Code, Standards of Performance Regulations and MERC Practice Directions, the restoration ought to have been made effective from 01.09.2017. The Respondent, however, delayed processing the application until 01.10.2017, resulting in excess billing of about ₹3.69 crore, which was paid under protest. The Appellant further contended that there was no technical, metering or regulatory impediment to granting the revised Contract Demand from 01.09.2017, and that the delay was solely attributable to the Respondent. Reliance was placed on the judgments of the Hon'ble Supreme Court in MERC v. Reliance Energy Ltd. and the Hon'ble Bombay High Court in MSEDCL v. Viraj Profiles Ltd. to submit that the present dispute falls within the jurisdiction of the Consumer Grievance Redressal Forum and the Electricity Ombudsman, being a billing dispute and not an Open Access dispute. The Appellant accordingly prayed for restoration of Contract Demand with effect from 01.09.2017, revision of the September 2017 bill by refund/adjustment of the excess amount with applicable interest, and setting aside of the Forum's Order to that extent.

12. The Respondent contended that the Appellant is an Open Access consumer whose Contract Demand is governed by the MERC (Distribution Open Access) Regulations, 2016 and the approvals issued by the STU. Restoration of Contract Demand, resultant power flow, technical constraints and consequential billing are integral components of the Open Access framework and fall exclusively within MERC's jurisdiction under Regulation 32. It was contended that this was a complex matter relating to open access, as it would require MSEDCL

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to keep the open access capacity of 23 MW blocked for the Appellant during September 2017, even though this capacity would not be utilised. This had repercussions and implications for power purchase costs and obligations for MSEDCL. It was further contended that the Appellant's request was incomplete until the undertaking dated 29.09.2017 was furnished and, therefore, restoration was rightly granted prospectively from 01.10.2017. Without prejudice, the Respondent also raised objections regarding limitation, delay and laches.

It is pertinent to note that at the time of the Appellant's original application dated 31.07.2017, the MERC had not issued final orders as to whether such open access should be granted if the total drawl was restricted to the metering constraint level. At that point of time this was a Daily Order (roznama) under challenge by MSEDCL. This order attained finality only on 4th May 2018. In these circumstances, MSEDCL was within its rights to reject the application.

13. It is an admitted position that Representation No. 234 of 2018 was earlier decided by the Electricity Ombudsman, Mumbai, by Order dated 15.03.2019. After considering the pleadings, the MERC (Distribution Open Access) Regulations, 2016, the Commission's Practice Directions and the judgments relied upon by the parties, the Ombudsman held that the grievance relating to restoration of Contract Demand and consequential revision of the September 2017 bill arose under the MERC (Distribution Open Access) Regulations, 2016 and, in view of Regulation 32, was required to be adjudicated by the Maharashtra Electricity Regulatory Commission. The Appellant neither sought review of the said Order of the Electricity Ombudsman under Regulation 19 of the MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006 nor approached MERC for adjudication of its Open Access grievance. Consequently, the Order dated 15.03.2019 attained finality insofar as the proceedings before the Electricity Ombudsman were concerned. The Appellant approached the Hon'ble High Court, Bombay after more than 4 years, a clear after-thought.

14. Nature of the Dispute: The Appellant has projected the grievance as one relating to delayed restoration of Contract Demand and the consequential revision of the electricity bill

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for September 2017. However, the dispute arises entirely in the context of the Appellant being an Open Access (MTOA) consumer. The restoration of the retained Contract Demand from 27 MW to 50 MW was sought while simultaneously retaining 23 MW of Open Access capacity. The Appellant's claim is founded upon the MERC Practice Directions dated 19.10.2016 and the Commission's Orders dated 27.06.2017 and 04.05.2018 issued in Case No. 76 of 2017, which govern the implementation of the MERC (Distribution Open Access) Regulations, 2016. The dispute, therefore, cannot be treated as an ordinary billing dispute under the Supply Code but is one arising under the Open Access regulatory framework. It involves complex policy issues of whether an open access consumer c ould expect to keep its OA capacity blocked by MSEDCL, even though it did not intend to use it for a period. Had the application been a simple one to reduce Open Access to zero, and to enhance MSEDCL's Contract Demand to 50 MW for September 2017, the case would have different. But the actual application was different; it was to enhance MSEDCL's CD to 50 while retaining OA of 23 MW.

15. Jurisdiction under the Statutory Scheme: Section 42(5) of the Electricity Act, 2003 provides for establishment of the Consumer Grievance Redressal Forum to redress grievances relating to supply of electricity, while the Electricity Ombudsman exercises appellate jurisdiction under Section 42(6). Their jurisdiction is confined to consumer grievances concerning supply, billing, metering, recovery and deficiency in service.

16. In contrast, disputes relating to grant or implementation of Open Access, Contract Demand linked with Open Access, scheduling, wheeling, banking, Cross Subsidy Surcharge, Additional Surcharge, deviation settlement and other matters governed by the MERC (Distribution Open Access) Regulations are regulatory disputes falling within the jurisdiction of the Maharashtra Electricity Regulatory Commission under Sections 86(1) (f) and 86(1) (k) of the Electricity Act, 2003.

17. Application to the Present Case: The relief claimed by the Appellant necessarily requires determination of issues relating to implementation of the MERC (Distribution Open Access) Regulations, **including whether restoration of Contract Demand could have been granted while retaining 23 MW of Open Access**, its implications for power purchase costs

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for MSEDCL, whether the applicable technical and regulatory requirements stood satisfied, and whether the Appellant is entitled to consequential retrospective billing benefits flowing from the Commission's Open Access Orders. Adjudication of these issues necessarily involves interpretation and enforcement of the Open Access Regulations. Regulation 32 of the MERC (Distribution Open Access) Regulations, 2016 expressly provides that, save as otherwise provided, disputes arising under the said Regulations shall be adjudicated by the Commission. Consequently, neither the Consumer Grievance Redressal Forum nor the Electricity Ombudsman can assume jurisdiction over such disputes.

18. Judicial Precedents : The above statutory position is consistent with the judgments of the Hon'ble Supreme Court recognizing the regulatory jurisdiction of the State Commission in matters arising under the Electricity Act, 2003 and the decisions of the Appellate Tribunal for Electricity, including MSEDCL v. MERC (Appeal No. 36 of 2011), wherein it has been held that disputes concerning grant, denial or implementation of Open Access fall outside the jurisdiction of the Consumer Grievance Redressal Forum and the Electricity Ombudsman.

19. Effect of Earlier Proceedings: The earlier Order dated 15.03.2019 passed by the Electricity Ombudsman had also held that the present dispute substantially arose under the MERC (Distribution Open Access) Regulations, 2016 and was therefore beyond the jurisdiction of the Consumer Grievance Redressal Forum and the Electricity Ombudsman. The Appellant neither sought review of that Order nor approached MERC for adjudication under the applicable statutory framework. The Appellant cannot, therefore, invite this authority to adjudicate matters which the statute reserves for the Commission.

20. Accordingly, this Representation, though couched as a claim for revision of an electricity bill, is in substance a dispute arising from the implementation and interpretation of the MERC (Distribution Open Access) Regulations, 2016. In view of Regulation 32 read with Sections 86(1) (f) and 86(1) (k) of the Electricity Act, 2003, the dispute falls within the exclusive jurisdiction of the Maharashtra Electricity Regulatory Commission. The Representation is, therefore, not maintainable before the Electricity Ombudsman and is liable to be disposed of on the ground of lack of jurisdiction, leaving it open to the Appellant to pursue

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such remedy as may be available before the competent statutory forum, subject to limitation and other applicable legal provisions.

21. The conclusion regarding jurisdiction is further reinforced by the regulatory framework prevailing across various States in India. A comparative examination of the grievance redressal mechanisms in Maharashtra, Gujarat, Karnataka, Tamil Nadu, Delhi, Uttar Pradesh and Rajasthan reveals a consistent statutory approach, namely, that the jurisdiction of the Consumer Grievance Redressal Forum and the Electricity Ombudsman is confined to individual consumer grievances relating to supply of electricity, billing, metering, recovery and deficiency in service by the Distribution Licensee. In contrast, disputes concerning Open Access, revision of Contract Demand linked with Open Access, and compliance with the Open Access Regulations are uniformly treated as regulatory matters falling within the adjudicatory jurisdiction of the respective State Electricity Regulatory Commissions constituted under the Electricity Act, 2003. Thus, the statutory framework prevailing across different States consistently recognises that Open Access consumers are not without a remedy; however, such remedy lies before the concerned State Electricity Regulatory Commission and not before the Consumer Grievance Redressal Forum or the Electricity Ombudsman constituted under Section 42(5) and Section 42(6) of the Electricity Act, 2003.

22. In Maharashtra, Regulation 32 of the MERC (Distribution Open Access) Regulations, 2016 expressly provides that disputes arising under the said Regulations shall be adjudicated by the Maharashtra Electricity Regulatory Commission. While enhancement or reduction of Contract Demand for ordinary consumers is governed by the Standards of Performance Regulations (2014, now replaced by the MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021), applications involving Open Access consumers are additionally governed by the specialised regulatory framework under the MERC (Distribution Open Access) Regulations, 2016. An illustrative list of States where grievances relating to Distribution Open Access are adjudicated by the respective State Electricity Regulatory Commission is given below:

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Table 6:

Sr. No.	State	State Electricity Regulatory Commission	CGRF / Ombudsman Jurisdiction	Forum for Open Access Disputes
1	Maharashtra	MERC	Supply, billing, metering and service deficiency	MERC
2	Gujarat	GERC	Service-related consumer grievances	GERC
3	Karnataka	KERC	Billing and service complaints	KERC
4	Tamil Nadu	TNERC	Consumer service grievances	TNERC
5	Delhi (NCT)	DERC	Retail consumer grievances	DERC
6	Uttar Pradesh	UPERC	Consumer grievances under CGRF	UPERC
7	Rajasthan	RERC	Service deficiency matters	RERC

The Hon'ble Maharashtra Electricity Regulatory Commission (MERC) has, from time to time, adjudicated several disputes concerning Open Access consumers involving issues such as restoration of contract demand, Open Access billing methodology, energy settlement, net metering, and recovery of wheeling and transmission charges. Some of the relevant decisions of the Hon'ble Commission are reproduced below for ready reference:

Table 7:

Sr. No.	Case No.	Details of Case
1	Case No. 37 of 2017 & Case No. 38 of 2017 (M/s Kores Ltd. & M/s Copper Corporation Ltd. respectively)	Restoration of Contract Demand of an Open Access Consumer
2	Case No. 248 of 2018	Review of Case No. 37 of 2017 & 38 of 2017 – Restoration of Contract Demand
3	Case No. 109 of 2020 (M/s Praxair India Pvt. Ltd.)	Adjudication of dispute regarding incorrect/excessive charges levied in Open Access energy bills of December 2017 and January 2018
4	Case No. 139 of 2016	Adoption of correct monthly Open Access billing methodology for adjustment of Renewable Energy and Captive Power under Open Access
5	Case No. 219 of 2024	Facilitation of Net Metering and Open Access
6	Case No. 223 of 2024	Removal of billing error by adopting the correct methodology of pro-rata adjustment for energy settlement regarding power sourced under Open Access from multiple sources of the same category
7	Batch Matters	Refund of excess Wheeling and Transmission Charges

23. Under the prevailing regulatory framework, applications for enhancement or reduction of Contract Demand in respect of <u>ordinary consumers</u> are required to be submitted electronically through the Web Self Service (WSS) Portal of the Distribution Licensee. During the relevant period, the Respondent had discontinued the practice of accepting or processing

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such requests through physical applications for ordinary consumers. Upon successful submission of an online application along with the prescribed documents and charges, the Distribution Licensee is obligated to process the request within the period stipulated under the applicable Standards of Performance Regulations, which ordinarily provide a timeline of two monthly billing cycles, subject to compliance with the prescribed technical and commercial requirements.

24. However, the procedure applicable to Open Access consumers stands on a different footing. Since Contract Demand revision in the case of Open Access consumers has direct implications on Open Access permissions, scheduling, banking, energy accounting and other regulatory compliances, such matters are centrally dealt with by the Chief Engineer (Commercial), Corporate Office, who functions as the designated Nodal Agency of the Distribution Licensee. Owing to the specialised nature of such applications and the requirement of inter-departmental scrutiny and coordination with State Load Despatch Centre (SLDC) and other authorities, applications from Open Access consumers have historically been accepted and processed in physical form, in addition to the prescribed internal processing mechanism.

25. Thus, while the WSS Portal constitutes the prescribed and exclusive mode for filing Contract Demand enhancement or reduction applications by ordinary consumers, the regulatory and administrative practice governing Open Access consumers has consistently recognized the necessity of processing such requests through the designated Nodal Agency at the Corporate Office. Consequently, the procedure applicable to ordinary consumers cannot be mechanically applied to Open Access consumers, whose applications are governed by a distinct processing mechanism necessitated by the special regulatory framework governing Open Access transactions.

26. In view of the foregoing discussion, this Electricity Ombudsman holds that it has no appellate jurisdiction to adjudicate disputes relating to billing of Open Access consumers. The statutory framework governing Open Access consumers is contained in the MERC (Distribution Open Access) Regulations, which constitute a complete and self-contained code. These Regulations do not confer appellate jurisdiction upon the Consumer Grievance Redressal

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Forum or the Electricity Ombudsman in respect of billing disputes arising under the Open Access regime. Consequently, this Representation is not maintainable before the Electricity Ombudsman.

27. The grievance redressal mechanism in respect of such disputes lies within the statutory framework prescribed under the MERC (Distribution Open Access) Regulations, and the Appellant is at liberty to avail such remedy as may be available in law before the appropriate forum or authority in accordance with the applicable statutory provisions.

28. Accordingly, the Representation stands disposed of in the above terms.

29. There has been a delay of approximately six months in the adjudication of this representation, owing to the complex question of whether the subject matter falls within the jurisdiction of this Authority. The parties had also sought additional time to file further submissions, coupled with the substantial pendency of other cases before this office.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)

(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

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