

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 96 OF 2022

In the matter of excess billing due to demand charges penalty

JK Files & Engineering Ltd. Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Ratnagiri (MSEDCL)..... Respondent

Appearances:

- Appellant : 1. Amol Kulkarni, Dy. Manager (plant maintenance.)
2. J.P. Biwalkar, Representative
- Respondent : 1. N.S. Palsule Desai, Superintending Engineer, Ratnagiri
2. S.P. Gawade, Deputy Executive Engineer


Coram: Vandana Krishna (Retd. IAS)

Date of hearing: 20th October 2022

Date of Order : 4th November 2022

ORDER

This Representation was filed on 20th June 2022 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 2nd May 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Kolhapur (the Forum).


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




2. The Forum, by its order dated 02.05.2022 rejected the grievance application in Case No. 09 of 2021.

3. The Appellant has filed this representation against the order of the Forum. The e-hearing was held on 22.10.2022 through Video Conference. Both parties were heard. The Appellant's written submission and arguments in brief is as below:

- (i) The Appellant is a 33 KV HT Industrial consumer (No. 210019006128) from 19.12.1977 having Sanctioned Load (SL) of 4035 KW and Contract Demand (CD) of 2100 KVA at Plot No.1, MIDC Area, Tal & Dist. Ratnagiri.
- (ii) Government of Maharashtra declared complete lockdown on 22.03.2020 during the state to stop the spread of Covid -19 pandemic. The factory of the Appellant was also closed from 22.03.2020.
- (iii) The Appellant applied online to reduce the CD from 2100 KVA to 150 KVA through online Web Self Service (WSS) Portal of the Respondent. The Respondent's system auto reduced the CD to 188 KVA.
- (iv) The Appellant's factory was closed from 22.03.2020 to 25.04.2020. Normal working of the company gradually started from 28.04.2021 in stages. The Appellant was one of the rare factories which applied to increase CD, as most of the other businesses were closing down and reducing CD. Since the Respondent's online system was not working, and did not respond to their online application to increase CD to 2100 kVA on 28.4.2020, the Appellant registered its **service request** online as under:

'We have started the plant on 26.4.2020 with minimum manpower so that our demand will increase slowly. Please note.'


However, the Respondent did not take any decision of this service request for the revision of CD. During pandemic situation, it was difficult to assess firmly the requirement of power demand as various factors like steady flow of orders,


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



availability of raw material, labour, transportation, cash flow etc. have a direct bearing on the ramp up of the business, and hence the exact requirement of electricity was difficult to assess. Increase in production in stages was envisaged. The Appellant had, therefore, given notice of a gradual increase in demand of electricity. The relative request ID 15629177 was assigned on 28.4.2020 as indicated in the Status Report. But upward revision in Contract Demand was not effected either in April 2020 or in May 2020. Thus, the Appellant continued to be billed with fixed charges based on the earlier CD of 188 kVA. The Appellant brought this fact to the notice of Respondent's Circle Office Ratnagiri in person, when bills were received. **An email was then sent to the Respondent's Supdt. Engineer on 11.6.2020 specifically to change the CD back to 2100 KVA.** Regretfully the Respondent did not respond to its email. The Appellant was compelled to pay the penalty charges under protest to avoid threat of disconnection.

- (v) The document received under Right to information shows that this Service Request was assigned to Jalalkheda Sub-Division which was not the proper Authority to deal with Service Requests. The Jalalkheda Sub-Division closed the Service Request on 09.6.2020 without any action. **The Respondent unfairly imposed a penalty of Rs.10,57,044.74 for exceeding CD for the period from April 2020 to June 2020** and electricity duty thereon of Rs.98,305/- In addition penalty towards CD and Electricity Duty was aggregated to Rs.8,71,292.67 in July 2020 and August 2020, making a total recovery of Rs.20,26,642.41.
- (vi) The Respondent neither approved nor rejected the service request followed by email on any ground, nor has it produced any proof of rejection. This means that their service request was pending with the Respondent without any decision for an inordinately long period. Though, 'service requests' were not under auto approval system, it was possible to change the CD in the second billing cycle on 11.6.2020 or thereafter in June 2020, as CD change can be effected from any date within a billing cycle, and need not mandatorily be done on the first day of a billing cycle, as stated


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



by the Maharashtra Electricity Regulatory Commission in its Order dated 21.5.2020 in Case No 82 of 2020.


(vii) The Respondent finally revised the CD to 2100 kVA only on 14.08.2020. Thus, the Appellant had to unfairly pay penalty charges for the months of April to August 2020. The Appellant filed its grievance in Internal Grievance Redressal Cell (IGRC) on 23.03.2021. The IGRC by its order dated 15.04.2021 rejected the grievance application. The Appellant approached the Forum on 11.06.2021. The Forum, by its order dated 02.05.2022 also rejected the grievance application. The Forum failed to understand the basic issue that

- There was a specific request from the Appellant for increase in CD up to 2100 KVA on 11.06.2020 by email.
- No decision was taken /conveyed by the Respondent about change in CD.
- The request for CD change was not even considered in the ordinary course to be effective in the next billing cycle i.e. June 2020.

The Forum, thus, erred in reaching the conclusion that there was no specific prayer of the consumer for change of CD from 188 KVA to 2100 KVA.

(viii) The Appellant argued that there was teething trouble on WSS portal of the Respondent when the Appellant was trying to increase CD on WSS Web Portal towards April end. Hence, a “service request” was logged online in Auto System of the Respondent by the Appellant on 28.04.2020. However, the service request was not properly allocated and was closed without any action. The Appellant by its email dated 11.06.2020 specifically requested to increase CD to 2100 KVA and take action on the previous service request; however, no decision was taken on this specific request.

(ix) The Progressive Maximum Demand recorded was 755, 822, 832, and 1101 KVA in the months of April, May, June and, July 2020 respectively. The sanctioned CD



(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai



remained 188 KVA which resulted in heavy penalty to the Appellant due to mistake of the Respondent.

(x) Taking all the above points into consideration, the Appellant prays that

- The Order dated 02.5.2022 passed by the Forum be set aside.
- Penalty for excess CD from April 2020 to August 2020 be cancelled
- Electricity duty charged and recovered on penalty for excess demand may be cancelled.
- The Respondent be directed to refund the total amount of Rs.20,26,642.41 along with interest at bank rate in terms of Section 62(6) of the Electricity Act, 2003.


4. The Respondent filed its written reply dated 23.08.2022. Its written submission along with its arguments on 20.10.2022 in brief is stated as below: -

- (i) The Appellant is a HT Industrial consumer (No. 210019006128) from 19.12.1977 having SL of 4035 KW and CD of 2100 KVA at Plot No. 1, MIDC Area, Tal & Dist. Ratnagiri.
- (ii) The Respondent's reply to the points raised by the Appellant are as below:-

Appellant's Grievances:

1] *MSEDCL has charged and recovered penalty for exceeding the contract demand from March -2020 to August 2020, though our "service request" for increase in contract demand was duly registered and assigned on 28.04.2020*

The Appellant applied on 07.04.2020 for load reduction with application ID-26212158 and the same was effected on the same date i.e., 07.04.2020 through the auto processing approval system of MSEDCL, solely dedicated for load/demand change applications through **online mode only**. It was Appellant's own decision to reduce demand from 2100 kVA to 150 kVA due to the lockdown.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



The lower limit for load reduction within HT category was 188 KVA, hence the CD was reduced to 188 KVA by the Auto System Web Self Service (WSS) portal.

After that, the Respondent did not receive any load/demand application to increase CD through the proper channel of WSS Portal (expected in the same way as the load had been reduced by the Appellant). During the hearing, the Respondent clarified that their portal has a distinct provision for “change of load / Contract Demand”, but the Appellant did not use this facility. Therefore the Appellant was charged as per its revised sanctioned CD of 188 KVA. However, the Appellant has started exceeding this reduced CD, hence excess demand charges have been recovered from the Appellant by the System.

MSEDCL specially provided Auto Approval Facility for change of load/CD Online through WSS Portal during the Covid-19 Pandemic. Due to the complete lockdown from 22.03.2020, during April and May-2020, only 5% staff of the Respondent was working at all Govt. and MSEDCL Offices, only for emergency work. Auto generated emails from billing @ mahadiscom.in had been sent to all HT consumers, in which it was clearly specified that *"Manual Applications submitted offline or through Mail will not be accepted"*. In these mails, a link for load/demand change was clearly sent, along with instructions on the detailed procedure to change load or demand of Consumer. The Appellant had followed the same process while reducing its CD as per its requirement in April 2020.

The Appellant has raised the issue of working problem of MSEDCL site during April 2020 and May 2020, because of which they were unable to apply online for change of CD. However, we wish to bring on record that Auto Approval Facility provided by MSEDCL to change consumers' load/CD online was effective and working smoothly during the Covid -19 Pandemic. In this period i.e. April -2020

(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai



and May-2020, MSEDCL load change System was working smoothly and effectively; hence there is no reason why the Appellant could not use it to change its CD.

The Appellant did not apply online to change CD from 03.05.2020 to 09.08.2020. Necessary information and guidelines were provided from time to time on MSEDCL website, and through mails from Head Office. All information was given from time to time when the Appellant visited this office. They were fully aware that they had to apply online for change in CD, and not on service request or through email. During the lockdown, no staff was available to respond to individual requests; that is why the automated online system was developed to facilitate change in CD without any hitches. The Respondent being an experienced HT consumer was also fully aware that it would have to pay a penalty if it exceeded its approved CD of 188 kVA. Yet it neglected to do so through the proper channel.

The list of Consumers who participated and availed the CD change auto approval facility for entire Maharashtra is kept on record including Ratnagiri District. This list shows that there was no technical hitch in the portal and all these consumers could apply smoothly for change in CD. The Appellant has not produced any snapshot of login showing that they applied to increase CD on MSEDCL WSS portal. It clearly indicates that the Appellant did not apply for increase in CD online as per the facility provided during Covid-19. The Appellant's email dated 11.06.2020 indicates that change of CD to 2100 kVA was a manual application, and thus could not be considered during Covid-19 due to the shortage of staff.

2] *MSEDCL has also recovered electricity duty on the amount of penalty.*

As the Appellant had breached the CD agreement signed digitally on 07.04.2020, excess demand charges have been recovered from Appellant, and also applicable electricity duty as per Govt. Circulars has been recovered from Appellant. This is

(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai



not a manual recovery but system generated as per billing programme. The electricity duty recovered is sent to the Govt.

3] *The inaction to change contract demand by MSEDCL has caused huge financial loss to the Appellant.*

The facility to change CD online through auto-approval system has been provided. The Appellant was completely aware of the procedure for load change. Appellant on its own made the application to change CD from 2100KVA to 188 KVA; MSEDCL auto system promptly approved the application and changed the CD as desired by the Appellant. MSEDCL's auto approval system will only act as per Appellant's application and not otherwise.

An auto-generated mail from billing@mahadiscom.in was also sent to the Appellant in which it was clearly specified that manual applications submitted offline or through mail would not be accepted. Link for load/demand change was clearly mentioned in the same mail, along with the procedure to change load or demand of Appellant.

- a) Appellant did not make any load/demand change request from 08.04.2020 up to 10.08.2020, which indicates that the Appellant wished to keep the demand as reduced i.e., at 188 KVA.
- b) Appellant in its grievance made a statement that *"We sought reduction in CD on 07.04.2020 from 2100kVA to 188kVA by our service request ID No: 0000015432373 as the factory was closed due to lock down. This report was assigned to Ratnagiri Sub Dn as indicated on the status report."* Actual fact is, the load was reduced as per Application ID: 26212158 and not as per service request ID No: 0000015432373. Also, all applications for load change and new connections are assigned or processed through Circle office and not at Ratnagiri Sub Division.

(Dilip Dumbre)
Secretary


Electricity Ombudsman Mumbai



- c) Appellant also stated that: on 28.04.2020, the Appellant registered a “*service request*” of original CD of 21 00 kVA, as the online system did not respond to their efforts for CD revision.

According to the Appellant, they tried to apply for revision but the automated system did not respond. This is not true. Appellant in his any of his service requests' has not mentioned that they encountered some problem while making the online application for load change but the system did not respond to their efforts. Appellant has not submitted any documentary evidence showing that they tried to apply online, nor taken screen shots at errors which allegedly occurred. Also they have not communicated this problem while making any load/demand change application till date.

- (iii) The Respondent argued that there are two other HT consumers of the same group of the Appellant namely J.K. Files (India) Ltd. (Cons. No. 219209000727) and J.K. Talabot Ltd. (Cons. No. 21962901000) in the periphery of this Ratnagiri Circle of the Respondent. They did not face any difficulty for reducing CD or increasing CD on the WSS portal of the Respondent. If there was genuinely a problem in applying online, the Appellant could have easily communicated with their sister concerns and got their help to apply. This clearly indicates that there was a lapse from Appellant's side, and they are just trying to shift responsibility to the Respondent.
- (iv) The Respondent put the following documents as vital evidence on record: -
1. Email sent to all HT Consumers on 27.04.2020 and 29.04.2020.
 2. Email sent to Appellant on 26.05.2020 from billing@mahadiscom.in
 3. Appellant Application ID: 26212158 on 07.04.2020
 4. Appellant Service Request ID: 15629177 on.28.04.2020
- (v) In view of the above, the Respondent prays that the representation of the appellant be rejected.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Analysis and Ruling

5. Heard the parties and perused the documents on record. The Appellant is a 33 KV HT Industrial consumer from 19.12.1977 having SL of 4035 KW and CD of 2100 KVA at Plot No. 1, MIDC Area, Tal & Dist. Ratnagiri.

6. The Commission, in its Order dated 31.07.2020 in Case No. 137 of 2020 for seeking extension of the Commission's earlier Order in Case No. 82 of 2020 pertaining to the Revision/ Change in Contract Demand, has referred to practice direction dated 21.05.2020 allowing Industrial and Commercial consumers to ramp-up their productions/activities post lockdown. Accordingly, by using power under Regulation 22 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, The Commission issued Practice Direction as follows :-

- a. *HT Industrial and HT Commercial consumers shall be allowed to revise their Contract Demand up to 3 times in a Billing Cycle.
Provided that subsequent to third change in Contract Demand in a Billing Cycle by HT Consumers, for the remaining period of that particular billing cycle, maximum possible Load Factor Incentive shall be restricted to 10% of energy charges as against 15% provided in Tariff Order. For subsequent Billing Cycle, maximum limit of Load Factor Incentive shall be restored to 15% till consumer does not exercise its option of Changing Contract Demand for the third time in that Billing Cycle.*
- b. *LT Industrial and LT Commercial consumers having demand-based tariff shall be allowed to revise their Contract Demand upto 2 times in a Billing Cycle.*
- c. *Consumer shall apply to the concerned Distribution Licensee at least 3 days in advance for revision in Contract Demand.*
- d. *Distribution Licensee shall grant such revision in Contract Demand after receipt of completed application from requested date subject to technical feasibility.*
- e. *Component of electricity bill which are linked to Demand such as Demand Charges, Penalty for exceeding Contract Demand and LFI shall be computed by applying proportionate rates to the respective Billing Demand corresponding to time intervals between revisions in Contract Demand.*
- f. *All other electricity bill component shall be computed for the period of billing cycle.*



(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai




- g. *In case AMR data is not available, Distribution Licensee needs to arrange for MRI data at least for consumers who have opted for such revision in Contract Demand. Concerned consumers should facilitate Distribution Licensee in taking MRI data. In case AMR/MRI data is not available, Distribution Licensee has to resort to average billing which can be reconcile with last/ available meter data when the Lockdown gets lifted and normalcy is restored. This Practice Direction shall remain valid till 31 July 2020.*”

The Commission extends applicability of its Practice Direction till 31.03.2021 by further order. As per practice direction issued by the Commission on 21.05.2020, the following facilities are made available by the Respondent to all HT consumers,

- HT consumers can apply for change in contract demand up to 3 times in a billing cycle, with auto approval, subject to the following requirements:
- i. *Requested reduced demand is more than minimum value of 20% of original contract demand & 187 KVA.*
 - ii. *If requested reduced demand is less than 188 KVA, such demand will be restored to 188 KVA immediately after withdrawn of Lockdown.*
 - iii. *The consumer has to pay charges for CT compensation error, if levied in billing for the period till the replacement of existing CT's by MSEDCL with appropriate one or maximum 2 billing cycles whichever is earlier.*
 - iv. *After availing an auto-load reduction facility, the application for reinstatement of original demand will be auto approved, subject to enhanced CD is less than or equal to the original CD as available before lockdown I.e. CD before 22.03.2020.*
 - v. *Registered mobile number & registered email ID shall be ensured before submission of application. Application is verified through OTP sent on registered mobile number/E mail ID. After acceptance & approval of CD change application, SMS is sent on registered mobile number*
 - vi. *The Consumer can view the status of submitted application at consumer portal link at <http://grouppaybill.mahadiscom.in/PayNCCharges/UI/Load change>*

7. The above facility is given as a privilege to the consumers considering Covid-19 Pandemic. It is a matter of record that as per practice directions issued by the Commission on 21.05.2020 for revision of contract demand in billing cycle, MSEDCL provided special online facility to apply for change in contract demand up to 3 times in a billing cycle for HT Consumers. **An automated system was developed to provide auto approval for load**


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



reduction & reinstatement of original demand. It was also specified that manual application sent offline or through email would not be entertained. Consumers had the rights and the facility for submitting changes in contract demand through online system as per practice direction of the Commission dated 21.05.2020.


8. The Appellant applied on WSS Portal (load Change/Demand Change request) on 07.04.2020 for load reduction from 2100 kVA to 150 kVA with application ID-26212158 and the same was effected on the same day i.e., 07.04.2020 through auto processing approval system of MSEDCL. The demand was reduced to 188 KVA as per system programme. After that the Appellant was billed as per its revised sanctioned CD of 188 KVA.

9. The Appellant made a service request. The snapshot of service request with main abstract is tabulated below:

Main Abstract				
Web Self Service	Service Request Status			
My Account	Connection Information			
	Consumer Number 210019006128			
Change Password				
Update Profile				
Energy Bill Calculator	Request ID	Type of Request	Status	Upload Date
New Connction request	0000015432373	Request: Change in Contract Demand	Closed	02-05-2020 18:34
	0000015629177	Enquiry, others, enquiry	Assigned	28 Apr 2020 12:04:50 PM
Track Status, Upload documents, & Pay Charges				

From the above table, it is seen that the Appellant did not use the basic part of the WSS portal for Load Change/Demand Change.

The main abstract of login on Load Change/Demand Change of WSS portal is tabulated as below:


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai




Main Abstract							
Load Change/Demand Change Request							
Consumer Number	210019006128						
Mob.	9561693180						
Application ID	Application Date	Effective Date	Original Contract Demand	Revised Contract Demand	Status of Application	Status ID	Auto Approved
26212158	07 Apr 2020	07 Apr 2020	2100.0		Application approved	19	N
27271416	11 Aug 2020	14 Aug 2020	150.0		Application approved	19	Y

From the above table, it is crystal clear that the Appellant did not use the WSS portal for increase of CD till 11.08.2020. The Appellant registered its application for increasing CD from 188 KVA to 2100 KVA online on the specific load/demand Change portal only on 11.08.2020.

10. The Appellant's email to the Respondent's Supdt. Engineer on 11.06.2020 for changing CD to 2100 KVA cannot be considered as an official application for enhancement of load, where the supply code specifies change of enhancement of load in two billing cycles. **The Commission has already directed to set up an online WSS portal to all licensees for facilitating change of CD, in its practice direction dated 21.05.2020. Hence, manual applications submitted offline or through mail will not be accepted considering Covid-19 pandemic.** The other two sister concern companies of the Appellant have availed these WSS facilities without any technical hitch in the same O & M Circle. Hence, the grievance of the Appellant does not stand on merit.

11. The Forum has rightly rejected the case. Hence, the instant Representation is rejected and disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

