Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 82 of 2020

Case filed by Kalika Steel Alloys Pvt Ltd and 27 others seeking appropriate interim Orders/ directions to temporarily modify the SOP Regulations, 2014 for Revision/ Change in Contract Demand of the Consumers of the MSEDCL for shorter period of time.

Coram
I.M.Bohari, Member
Mukesh Khullar, Member

1. Kalika Steel Alloys Pvt Ltd	……Petitioner No 1
2. SRJ Peety Steels pvt. Ltd	……Petitioner No 2
3. Bhagyalaxmi Steel Alloy Private Limited	……Petitioner No 3
4. Metarolls Ispat Pvt. Ltd.	……Petitioner No 4
5. Omsairam Steels And Alloys Private Limited	……Petitioner No 5
6. Rajuri Steel Pvt. Ltd	……Petitioner No 6
7. Saptashrungi Alloy Private Limited Unit 1	……Petitioner No 7
8. Saptashrungi Alloy Private Limited Unit 2	......Petitioner No 8
9. MITC Rolling Mills Private Limited	……Petitioner No 9
10. Gajakesari Steels and Alloys Pvt Limited	……Petitioner No 10
11. Gajlaxmi Steel Pvt. Ltd	……Petitioner No 11
12. Matsyodari Steel & Alloys Pvt. Ltd	……Petitioner No 12
13. Jalna Siddhivinayak Alloys Private Limited	……Petitioner No 13
14. Laxmi Cotspin Ltd.	……Petitioner No 14
15. Shree Sushma Ferrous Alloys Pvt. Ltd	……Petitioner No 15
16. Surya Ferrous Alloys Pvt. Ltd	……Petitioner No 16
17. Thane Steels Pvt. Ltd Furnace Unit	……Petitioner No 17
18. Thane Steels Pvt. Ltd Mill Unit	……Petitioner No 18
19. Jaideep Mettalics Pvt. Ltd	……Petitioner No 19
20. Bholaram Metel Industries Pvt. Ltd	……Petitioner No 20
21. Guardian Castings Pvt.Ltd	……Petitioner No 21
22. Shivkrupa Steel & Alloys Pvt. Ltd	……Petitioner No 22
23. Bhagwati Ferro Metal Pvt Ltd	……Petitioner No 23
24. Bhagwati Steel Cast Ltd.	……Petitioner No 24
25. Geetai Steels Pvt Ltd	……Petitioner No 25
26. Sant Gyaneshewar Steels Pvt Ltd	……Petitioner No 26
27. Indrayani Ferrocast Pvt Ltd	……Petitioner No 27
28. New Steel Trading Pvt. Ltd	……Petitioner No 28

Vs

Maharashtra State Electricity Distribution Company Limited ……. Respondent

Appearance

For 28 Petitioners: …... Adv. Anil D'Souza

For Respondent: ….. Adv. Ashish Singh

ORDER

Date: 21 May, 2020

1. Kalika Steel Alloys Pvt Ltd and 27 others have filed this Petition on 6 May 2020 for seeking appropriate interim Orders/ directions to temporarily modify the SOP Regulations, 2014 for Revision/ Change in Contract Demand of the Consumers of the Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) for shorter period of time under Sections 57, 61, 86 and 181of the Electricity Act, 2003(EA). The said request is submitted on account of the present lockdown situation due to Covid19 pandemic and the uncertainty of conducting normal business resulting therefrom.

2. Petitioners' main prayers are as under:

   a) *To accept and admit the Petition through email and grant urgent hearing and issue interim temporary orders for at least 3 months.*

   b) *That the Hon'ble Commission be pleased to amend/ temporarily modify (till Covid 19 pandemic subsides)Regulation 4.14 of the MERC (SOP Regulations) 2014 appropriately permitting the Petitioners to revise the Contract Demand multiple times in one billing cycle (either with 24 hours advance notice or such appropriate period to concerned circle office (sent by email) and further direct the Respondent to comply with the said Regulations forthwith.*

3. The Petitioners vide letter dated 6 May 2020 requested the Commission to admit and accept Petition through Email and put the case on board for urgent hearing.

4. **Petitioners in its Petition has stated as follows:**

4.1 The Petitioners are industrial establishments that carry out the business of manufacture of steel and iron and are being supplied electricity by MSEDCL. These are high tension (HT) consumers classified under category of continuous supply industries and thus require uninterrupted power supply to their plants. Even a slight interruption in the power supply causes huge operational loss to the Petitioners. Apart from the quality of the electricity supply, the cost of the electricity works out to about 60% of the Petitioners' entire cost of production.

4.2 Due to lockdown on account of COVID-19 pandemic, almost all the Petitioners revised their Contract Demand on 22 March 2020.

4.3 Various circulars and notifications have been issued by the Central and State Government mandating social distancing, cancellations of travels, lockdowns, curfews etc. as a consequence of the COVID 19 causing disruption in normal business.

4.4 These circumstances have also been defined as *"Force Majeure"* circumstances as per most of the Agreements the Petitioners had executed with their suppliers and purchasers. While the Petitioners hope that these circumstances would eventually improve, it is likely that the present situation might continue for a little while longer.

4.5 The pandemic had an unforeseen and extremely adverse impact on the entire iron and steel and allied industries and have effectively, disrupted the entire industry. In these exceptional circumstances, it is impossible for the Petitioners to plan for the future with exact precision. The business outlook is uncertain and would remain uncertain for at least next 6/8 months.

4.6 All Petitioners have received permission from MIDC to start their operations. But due to pandemic, demand for their manufactured goods is uncertain. The orders from the Petitioners' customers are either being cancelled or postponed thereby affecting the manufacturing activities. It has become virtually impossible for the Petitioners to perform their normal business activities as a result of unforeseeable and presently unavoidable events and circumstances.

4.7 Petitioners' 60% cost of the production is that of electricity. If the Petitioners do not prudently plan their electricity demand, then it has the potential to cause severe threat to their existence.

4.8 Considering the above facts and circumstances, Standards of Performance (SOP) Regulations, 2014 pertaining to revision of the Contract Demand ought to be modified appropriately so that the Petitioners are given option to revise the Contract Demand with 24 hours advance notice to the MSEDCL. The freedom to Change / Revise the Contract Demand multiple times during each Billing Cycle is the need of the hour.

4.9 In the circumstances, appropriate interim (temporary till the COVID-19 pandemic subsides) Orders/ directions are required for at least for the next 3 months by modifying the Regulation 4.14 of the SOP Regulations, 2014 pertaining to the Revision/ Change in Contract Demand of the Consumers of the MSEDCL, so that the Petitioners are permitted to revise the Contract Demand multiple times in one billing Cycle in order to suit their business and survive the present unprecedented circumstances.

5. **MSEDCL in its submission dated 12 May 2020 has stated as follows:**

5.1 Petitioners have not joined the other Distribution Licensees (Adani Electricity, Tata Power and BEST and other Distribution Licensees) as Respondent parties to the present proceedings. These parties are important stakeholders who had also participated in the public consultation process before the Commission when the MERC (SOP Regulations) 2014 was floated for public consultation. Moreover, these are essential and important parties to whom the MERC (SOP Regulations) 2014 strictly applies. Hence, joining the above parties as Respondents is essential for proper adjudication/determination of the present Petition.

5.2 MERC (SOP Regulations) 2014 was notified by the Commission after taking into account the comments/suggestions/objections of all the stakeholders. Hence, any amendment/modification to the existing MERC (SOP Regulations) 2014 can only be done after a "Draft" regarding the same is floated by the Commission with the "Statement of Reasons" and an opportunity is provided to all stakeholders to put forward their comments/suggestions/objections on the same. However, whether such amendment is really warranted, is necessary to be assessed by the Commission.

5.3 MSEDCL procures power for its consumers based on the contract demand which the consumers maintain with MSEDCL. Such frequent change of contract demand would not only hamper MSEDCL's power procurement but would also lead to a situation of financial turmoil for MSEDCL wherein it would end up paying fixed cost to generators without even procuring the said power, as the contract demand would keep varying each day. Moreover, such daily change in contract demand would also defeat the very intent and purpose of "Contract Demand" as allowing the prayer of the Petitioner would mean nullifying the entire concept of "Contract Demand".

5.4 Any under recovery of revenue will again be passed on to consumers including the Petitioners in the truing up process with carrying cost leading to unwarranted tariff hike. The Prayer made by the Petitioners is for a specific group of consumers, protecting the interest of small number of consumers which will burden the remaining consumer base at large. This will lead to discrimination among the consumers.

5.5 As per provisions of Supply Code regulations, 2005 and Standards of Performance Regulations 2014:

(i) revision of the Contract Demand multiple times in one billing cycle is not allowed;
(ii) execution of fresh agreement is required for revised load before the second billing cycle;
(iii) notice of thirty days is mandatory for termination of existing Agreement.

5.6 The Petitioners have requested for temporary amendment in SOP Regulations till COVID 19 pandemic subsides. However, it is not just SOP Regulations 2014, but several other Regulations/provisions will be required to amended including but not limited to Supply Code Regulations 2005 along with provisions of MYT Order and Schedule of Charges. Some of these Regulations are as under:

a) **SOP Regulations 2014:** Clauses related to Change of name and change of tariff category; Reduction in Load etc. where change from second billing cycle is provided;

b) **Supply Code Regulations 2005:** Clauses related to change of name; Agreement including execution of fresh agreement after every change, format, termination, requirement of notice, requirement of application for change of load, recovery of charges as per Schedule Of Charges (SoC), definition of Contact Demand, Security Deposit etc.

c) **MYT Order dated 30 March, 2020:** Definition of Billing Demand; Load Factor Computation and LF incentive; Billing Period; computation of incremental consumption; Penalty for exceeding Contract Demand, multiple charging of Schedule of Charges etc.

5.7 Everyone including the MSEDCL is affected due to the outbreak of COVID-19. Power demand has crashed down from 21570 MW (19-02-2020) to around 14500 to 15000 MW during this period because of close down of industrial and commercial units in the State which otherwise remains in the range of 20500-21000 MW.

5.8 As per practice directions issued on 26 March 2020, meter reading (except automated meter reading) and physical bill distribution work has been suspended and bills are being issued on average usage basis till the current crisis gets subsided.

5.9 Further, moratorium on payment of fixed charges for three billing cycles for commercial and industrial consumers has been put in place. This has adversely impacted the revenue of MSEDCL to a large extent affecting the cash flows.

5.10 Due to COVID 19, monthly receivables of MSEDCL for March 2020 has already been deferred to April 2020. This has impacted the recovery and broken the financial backbone of MSEDCL. A comparative statement of revenue recovery impacted due to COVID-19 is as below

Year	**Amount in (Rs. Crs)**
March-20	5287.67
April-20	2231.84
% Reduction	**58%**

5.11 Further, on 9 May 2020, the Commission has issued Practice Directions which will help consumers to mitigate the impact of COVID-19 to a large extent. However, these measures will definitely have adverse financial impact on MSEDCL.

5.12 With introduction of DSM regime as per MERC DSM Regulations, 2019, the licensees/ generators/ TSUs would be subject to stringent scheduling and despatch regime with consequent implications of the Deviation charges/Additional Deviation charges for deviation from the schedule, if any. Thus, meticulous power planning is necessary so as to avoid any DSM deviation charges.

5.13 With frequent change in Contract Demand, it will be difficult for MSEDCL to smoothly manage the operations be it power purchase planning, billing, execution of new agreements, keeping track of Agreements/ Security deposits etc. With such complications, there are chances of unnecessary grievances arising which may further lead to unnecessary litigations.

5.14 Majority of expenses incurred by MSEDCL are fixed in nature and need to be incurred irrespective of any distribution / retail business undertaken by it. Fixed costs/Capacity Charges of power purchase, O&M Expenses including R&M and Employee Expenses, depreciation, obligation for loan repayment, interest on loan payments etc. are required to be incurred irrespective of the change in the demand/sales.

5.15 For multiple revisions in Contact Demand, MSEDCL will face a lot of operational difficulties. It will be a huge task to maintain evidence and records of multiple requests of large number of consumers (3.5 Lakh Industrial & more than 19 Lakhs Commercial category). The Demand based Billing will become more complex with multiple revisions in Contract Demand in a billing month. As the Billing involves determination of billing demand, TOD charges, Incentives, Penalties, Subsidy calculations which are time bound and depends upon various billing parameters including Contract Demand. The system may not be in a position to handle such huge complex information & process it. The entire billing mechanism will be difficult to understand and would give rise to large number of grievances & litigations.

5.16 This is a transient period and the difficulties are temporary. Once the lock down gets lifted, the situation will slowly get back to normalcy. Industrial Consumers have already been given various encouragements including moratorium on payment of fixed charges for three billing cycles, billing of token amount based on 10 % of the average energy consumption, BG encashment, extension of due date etc. Hence, any unilateral change in Regulation in not at all warranted and would severely prejudice the financial rights of MSEDCL and its large consumer base.

5.17 MSEDCL has initiated New Functionalities for HT Consumers in Web Self Service (WSS) Portal regarding Load/ Contract Demand (CD) Change and Consent for BG Encashment. Date of payment is extended for March up to 31 May 2020. The Respondent has provided immediate Auto reduction facility for CD reduction and enhancement. This facility has been availed by 1993 consumers (out of which 66 for CD enhancement & 1927 for CD reduction). MSEDCL has processed these applications without insisting on processing fee & any advance payment of charges applicable as per Schedule of Charges.

5.18 In view of the above MSEDCL has requested the Commission to dismiss the present petition

6. At the time of E- hearing dated 14 May, 2020, submission made by the Advocates for Petitioners and MSEDCL are summarised as under:

6.1 **Advocate for Petitioners:**

Advocate of Petitioners reiterated the submission made in the Petition. He stated that Petitioners were facing difficulties in the running their businesses smoothly due to COVID-19 and having uncertainty in labour availability & getting steady purchase Orders. Under such unforeseen and uncertain conditions, for survival of the business, he requested Commission to modify/ amend the 14.4 SOP Regulations and allow the Petitioners to reduce or enhance their power demand within one month with 24/48/72 hours prior notice to MSEDCL. The Commission is vested with powers under Section 57, 61 of EA to modify the same. The request is for temporary relief for three months and is not of permanent nature. With prior notice in advance, MSEDCL may not face difficulty in power procurement planning. In addition to that it can be implemented on trial basis and if any difficulties in operation arrives then it can be reinstated as it is. In reply to MSEDCL's objection of not making other Licensees as Respondents in the matter, he said that as Petitioners were consumers of MSEDCL, they made MSEDCL as Respondent. It is further stated that there would not be any drastic variation in demand but certainly there will reduction/ enhancement of some MWs and therefore requested to give relief to the industries for their survival. Further, Petitioners agreed to submit details of financial impact on them due to COVID-19 and expected flexibility in the contract demand by each of the Petitioner.

6.2 **Advocate of Respondent: -**

Advocate of the Respondent reiterated its submission in the Petition. He stated that SOP Regulations, 2014 are the balancing regulations which protect and balance the interest of Licensee and the consumer. But by seeking relief as mentioned in the Petition, Petitioner itself unbalances the provision without considering its effect on large section of other consumers of MSEDCL. He stated that due to COVID-19 MSEDCL itself was facing financial crisis due to large amount of unpaid bills. In addition to that if the relief prayed by the Petitioner was to be allowed, it would worsen the financial condition of MSEDCL. It would also affect large section of consumers such as residential, commercial agricultural with subsequent tariff hike in the revenue neutral regime. In addition to that, with frequent change in contract demand, MSEDCL would not be in a position to forecast power procurement demand and if it failed to operate the grid within the specified range, it would again be penalised under DSM Regulations. MSEDCL also highlighted operational difficulties as well as billing constraints in order to accommodate the frequent change in contract demand. Modifications in SOP Regulations requires amendments in Supply Code Regulations, 2005 and MYT Order as these are interlinked with each other. MSEDCL has reiterated that the Commission through various practice directions has already passed on benefits to the Industrial consumers. Also, Central Govt is coming out with relief packages to help Industrial consumers. Hence, no further assistance by way of reducing revenue of MSEDCL may be given. MSEDCL has requested the Commission to dismiss this Petition.

7. **Petitioners in its additional submission dated 15 May 2020 has stated as follows:**

7.1 Contract demand is determining factor in restarting their business units and there is a penalty provision for exceeding the contract demand as per MYT Order.

7.2 Out of 28 petitioners, 19 petitioners have started partly, 9 Petitioners have not yet started their Units. Total Load of 28 Petitioners is 411762 KVA and in the present situation total load of 19 petitioners (who have started between 4th May, to 12th May) is 173570 KVA. Once the conditions normalised, Petitioners will move ahead and enhance their balance load of 238192 KVA. In the present situation, Petitioners may opt for reduction of 1000 kVA on temporary basis.

7.3 Due to reduction in contract demand by the Petitioners, MSEDCL is getting revenue of Rs 6.94 Cr per month and facing total loss of Rs 9.52/- Cr per month

7.4 Due to low power demand the MSEDCL is procuring cheaper power from Power Exchanges and if the relaxation in revision of Contract Demand is allowed then the MSEDCL would earn more profits.

7.5 Petitioners would be either reducing or enhancing their Contract Demand by about 30% to 35% of its original Contract Demand. However, the temporary relaxation in revision of Contract Demand is so crucial and determining factor to the Petitioners that it will decide the reopening/restarting of the Petitioners Units.

7.6 Without the temporary relaxation in revision of Contract Demand the Petitioners may be reluctant to restart / reopen their Units. This will severely impact the MSEDCL's Revenue as the MSEDCL will not get any amounts from the Petitioners towards MD Charges.

8. **MSEDCL in its additional submission dated 16 May 2020 has stated as follows:**

8.1 There are inherent/ inbuilt penalty provisions in the MYT Order for deviation of contract demand (i.e. signed Agreement/Contract) on exceeding the contracted value. The basic purpose of such penalty is that the consumer should honor the contract and maintain its use within the Contracted Capacity since contract demand is the basis of demand estimation. However, Petitioner's prayer for frequent changing of "Contract Demand" is just for reducing his liability in respect of payment of committed charges and to get profits at the cost of common consumers of MSEDCL.

8.2 Entire business of a distribution licensee is based on the concept of "Contract Demand" which enables a distribution licensee to take up power planning in order to meet the gap between demand and supply in the most economical manner. Hence there needs to be sanctity of "Contract Demand" maintained over a period of defined timeline as has already been provided in the MERC (SOP Regulations) 2014. Further, the recovery of fixed cost of MSEDCL is largely dependent on the Contract Demand.

8.3 It has executed long term power purchase agreement under MOU route (under Section 62 of EA) with National Thermal Power Company (NTPC) and Maharashtra State Power Generation Company Limited (MSPGCL) and under competitive bidding (under Section 63 of EA) with Independent Power Procurers (IPPs). MSEDCL has to pay fixed cost irrespective of actual generation/ scheduling. Further on real time basis, MSEDCL has to follow Merit Order Dispatch (MoD) and optimises its power purchase cost by purchasing cheaper power from Power Exchanges. The sole purpose of short term power purchase is cost optimization and not profiteering. This helps MSEDCL in reducing the burden of energy charges.

8.4 Recovery of its fixed cost is directly linked to Billing Demand which in turn is dependent on Contract Demand. Further, any frequent revision in contract demand as suggested by petitioner would not only hamper power planning but also recovery of fixed cost, that has direct impact on MSEDCL's operations.

8.5 The 28 Petitioners have Contract Demand of around 412 MVA. Considering the 30% to 35% expected change, the deviation would be in the range of 125 MVA to 145 MVA which is significant that too multiple times in a month. This quantum is only for selected 28 Petitioners. If other consumers also seek such change, the quantum would be much higher and the losses that would accrue on account of such huge abrupt and frequent change in "Contract Demand" are undisputable and cannot be ignored.

8.6 Petitioners themselves have computed the impact of Rs.9.52 Crs monthly which is quite substantial. This impact is only for selected 28 Consumers. If the prayer of the Petitioners is allowed and other consumers with similar Contract Demand or otherwise approach MSEDCL for reduction in Contract Demand, the impact would be enormous and it would be difficult for MSEDCL to financially survive in such critical situation.

8.7 MSEDCL has already provided immediate auto reduction facility for CD reduction and enhancement once in a billing cycle considering the unprecedented situation of COVID-19. MSEDCL has sent out email communications to all industrial consumer allowing "Change of Contract Demand once in a billing cycle" keeping in view the difficult times caused by the Pandemic. 1993 consumers have already requested for change in Contract Demand (out of which 66 is for CD enhancement & 1927 is for CD reduction). The 1927 consumers have requested for change in Contract Demand from 4016 MVA to 1552 MVA. The reduction of 2464 MVA or 61% is already quite substantial. MSEDCL would like to submit that the facility is given by it, is within the provisions of the applicable Regulations which only fix an upper time frame for reduction of "Contract Demand" before the expiry of the second billing cycle. The Petitioners have also availed the benefit of this facility and reduced their contract demand from 412 MVA to 24 MVA (~95%). Considering the methodology adopted by the Petitioners, for 387 MVA, the impact would be Rs. 15.50 Crs which is higher that the impact estimated by the Petitioners.

8.8 Allowing change of Contract Demand multiple times within a month would be practically and technically difficult to implement and it is not as per existing regulations. Therefore, MSEDCL has requested the Commission to dismiss the present petition.

Commission's Analysis and Ruling

9. Commission is aware that electricity sector as a whole is passing through a very difficult phase due to the present lockdown condition to address the COVID-19 pandemic. The Commission has proactively taken several steps and will continue to take steps so as to balance the interests of the stake holders (Distribution Licensees and the Consumers) for mitigating the effects of lockdown.

10. The Commission notes that COVID-19 has adversely affected Consumers as well as Distribution Licensees. Due to lockdown, Industrial and Commercial Premises are closed which has led to drastic reduction in power demand of Distribution Licensees. In order to help consumers and Distribution Licensee to mitigate such impact to the extent possible, the Commission has already taken following steps:

    10.1 For ensuring compliance of social distance norms for controlling the spread of COVID-19 and to minimise physical public interface of Distribution Licensee's personnel, the Commission has already issued a Practice Direction dated 26 March 2020 suspending meter-reading activities and issuing bills to the consumers based on actual meter reading, if available through AMR or based on average consumption as per provisions of Supply Code Regulations.

    10.2 Vide MYT Orders dated 30 March 2020, the Commission has approved a moratorium on payment of fixed charges of the electricity bill by consumers under Industrial and Commercial category for next three billing cycles beginning from the lockdown date of 25 March, 2020.

    10.3 In subsequent Practice Direction dated 9 May 2020, Commission has clarified the three-month moratorium on fixed charges to mean that those consumers would be liable to pay this amount in the subsequent three billing cycles in equal interest free instalments. If the consumers choose to pay entire moratorium amount in one go, rebate of 1 % on that amount has been allowed.

    10.4 Further in the same Practice Direction dated 9 May 2020, in order to avoid excessive recovery from Industrial and Commercial consumers, on account of possibility of higher assessment for a month (in case of non-availability of meter reading), the Commission has directed that for Industrial and Commercial Consumers who do not have AMR/MRI billing and subject to reconciliation with the meter readings when available, only a token amount based on 10 % of the average energy consumption would be billed to premises under Lockdown.

10.5 The Commission in its MYT Order dated 30 March 2020 has recognised that for allowing moratorium on fixed charges, Distribution Licensees will be required to borrow/avail additional working capital over and above the Regulations. Also, there will be other additional cost that might be required to be incurred for continuing the supply operations. Associated with this additional working capital, there will be an additional interest on the borrowed amount. Hence, in that MYT Order, the Commission has stated that it will take an appropriate view on the additional interest related and other expenses that are likely to be incurred by the Distribution Licensees during the Mid Term Review (MTR) process of Tariff determination.

10.6 In addition to above, Distribution Licensees have been allowed to extend any further concessions as part of their business needs from out of their 'return on equity' amount or any other own 'reserve' that they have built in their accounts over time.

Thus, this Commission has always been proactive to provide assistance to consumers and Distribution Licensees to minimise the adverse impact of COVID-19 pandemic.

11. In the present Petition, in addition to above mentioned relief measures provided by the Commission for mitigating adverse effects on electricity sector due to lockdown situation, the Petitioners are seeking modification in SoP Regulations for a short duration of time so as to enable them the option of exercising revision in Contract Demand on multiple occasions within a billing cycle. Petitioners have stated that due to COVID-19 circumstances, they have reduced their Contract Demand which would require to be enhanced once Industrial Units restart and attain normalcy after lockdown is lifted or there is relaxation in conditions of lockdown. It has been further stated that due to un-availability of labour, deferment of purchase orders etc. exact period for fully operationalising the Industry is difficult to predict and Industries would need to scale-up their production in a phased manner. However, due to restriction on number of revisions that can be allowed within a billing cycle, Contract Demand would not be reflective of Industry's actual load requirement and firm commitment in this regard may lead to imposition of Demand Penalty on account of them exceeding contract demand beside attracting non-eligibility for availing Load factor Incentives. As 60% of total expenses of these Industries are on electricity, these factors are critical for the viability of running the Industrial units.

12. MSEDCL has opposed the maintainability of this Petition on technical/legal grounds in addition to objection to such relaxation on operational and financial difficulties which MSEDCL would be facing. Thus, the Commission has framed following issues which need to be addressed in the present matter:

   a. Maintainability of the Petition
   b. Financial Difficulties
   c. Operational Difficulties

13. The Commission is addressing above issues in subsequent paragraphs. However, before dealing with these issues in the present Petition, the Commission would like to summarise present Regulatory provisions relating to revision in Contract Demand:

    13.1 As per Supply Code Regulations, 2005, concerned consumer has to apply for revision in Contract Demand.

    13.2 On receipt of completed application for revision in Contract Demand, as per provisions of the SoP Regulations, 2014, Distribution Licensee shall give effect to such application within second billing cycle.

    13.3 Vide Practice Direction dated 5 December 2018, the Commission has removed requirement of executing agreement for new connection, change of name or revision in contract demand and directed Distribution Licensees to provide option of online acceptance of terms and conditions of agreement by consumers.

    Thus, as per existing Regulations, consumers can request revision in Contract Demand and Distribution Licensee has to give effect to such application, if it is complete in all respect, within second billing cycle. Although there is no mention of number of revisions of Contract Demand that can be allowed in a billing cycle, due to time limit of second billing cycle for giving effect to request of change in Contract Demand, it is presumed and so practiced that Contract Demand can be changed only once in a Billing Cycle.

    Further, such change in Contract Demand may become effective at any date within billing cycle and it need not be mandatorily on first day of the billing cycle. Under such circumstances, components of electricity bill which are linked to Demand such as Demand Charges, Penalty for exceeding Contract Demand and Load Factor Incentive (LFI) are computed for two intervals (prior and post revision in Contract Demand) by applying proportionate rates to the respective Billing Demand in these two intervals.

14. With the above background of existing regulatory framework, the Commission now deals with the issues framed at para 12 above.

    A. Maintainability of Petition:

15. MSEDCL has objected to the maintainability of this Petition on the ground of non-joinder of other Distribution Licensees in the State and also on the due process which needs to be adopted while making changes/amendment to any Regulations. In reply, Petitioners have stated that they are consumers of MSEDCL and hence they have made MSEDCL as responding party in this matter and not other Distribution Licensees in the State. On the issue of amendment of Regulations, Petitioners state that the Commission can issue directions allowing relief sought by them.

16. The Commission has noted the objections of MSEDCL and agrees that any amendment of Regulations would need to be undertaken through laid down process that includes

publication of the proposed amendment and public consultation thereon. However, these Regulations also provide the Commission with, “Powers to Remove Difficulties” and “Powers to issue Practice Directions” which can be exercised by the Commission without mandatorily following the process of prior publication.

17. Although, Petitioners have requested for amendment of Regulations, the actual relief sought by them is only for temporary short period in view of COVID-19 circumstances. For such transitory relief, amendment of Regulations is neither practical nor desirable. Further, the Commission does not find it necessary to invoke its inherent powers to remove difficulty. Besides, for mitigating impact of COVID-19, the Commission has already issued two Practice Directions under Supply Code Regulation, 2005. Thus if the Commission finds it necessary, its powers to issue Practice Direction can be invoked. The Commission is also aware of the fact that while invoking such powers all the similarly placed consumers of the State would need to be treated equally without any discrimination.

18. The Commission will now deal with the merits of this case and only if found necessary and justified will decide the extent and the manner to grant relief.

a. <u>Financial Difficulties</u>

19. MSEDCL has stated that on account COVID-19 circumstance various relief measures have already been extended to Industrial and the Commercial consumers which have in turn adversely affected MSEDCL’s revenue. Any further relaxation may result in further decrease in revenue of MSEDCL and worsen its financial position. Revision of Contract Demand at multiple occasions will reduce its revenue. In reply, Petitioners have stated that allowing revision in Contract Demand would enable consumers to start Industries at the earliest without waiting for new billing cycle to start and this will in fact, increase the revenue of MSEDCL.

20. In this regard, the Commission notes that as per details submitted by MSEDCL, during COVID-19 lockdown, 1927 consumers requested for reduction in Contract Demand from 4016 MVA to 1552 MVA i.e. 61% reduction in Contract Demand. Thus, consumers have reduced their Contract Demand to maintain critical/minimum operations of Industries. With relaxation being announced by Government in the designated Green and Orange Zones, Industries in these areas are likely to start/upscale their operations and this may require increase in their Contract Demand. Thus, it is an incorrect assumption of MSEDCL that the petitioners are seeking this relief only to reduce their Contract Demand further. At this stage (almost two months from imposition of lockdown), number of consumers requesting reduction in Contract Demand would be less as most of consumers must have already opted and availed the reduction. The Commission also notes that the reduction of Contract Demand was immediately considered by MSEDCL without following their normal practice and allowing such reduction from the beginning of the next billing cycle.

21. The Commission is fully aware of the adverse financial impact that is likely on MSEDCL due to further reduction of CD. The Commission is also aware of the provisions of Contract Demand penalty (for exceeding the CD) vis-a vis the load factor incentive. Thus, as mentioned above, the Commission assumes that the major reduction in CD has already been implemented by MSEDCL and that in future further reduction of CD would be less compared to the increase in the Contract Demand. Further, with the possible improvement of situation and opening up of lockdown, the CDs could be increased to avail higher production levels which would be financially beneficial to MSEDCL.

22. The Commission also notes that under the existing circumstances of COVID-19, Industry and Commercial consumers may face difficulties in projecting their electricity demand as the assessment depends upon Orders in hand, availability of raw material, labour, transportation facility, cash flow etc. Therefore, the Industry and the Commercial consumers may require to ramp-up their productions/activities in phased manner, in stages which will require corresponding additional contracts for raised Electricity Demand. As per existing practice followed uniformly, the revision in Contract Demand is allowed only once in Billing Period. Hence, if revision in Contract Demand is lower that what is required, then the electricity intensive Industries (electricity expenses contribute major portion of their expenses), may not be able to ramp up their production for avoiding contract demand penalty which will increase the production cost. Similarly, in order to avoid Contract Demand Penalty, if through Contract Demand revision, higher CD is availed, the industries may not be able to earn Load Factor Incentives on account of lower utilisation. The Regulatory arrangement works in a very balanced manner in the normal circumstances, but the present circumstances are admittedly not the normal ones.

23. The Industrial and commercial units are subsidizing category of consumers and increase in consumption/billing of these consumers benefits MSEDCL in improving its financial position. Thus, in the opinion of the Commission, in these difficult times of following COVID-19 pandemic control measures, the Industry needs to be supported in a manner that to the extent possible also should balance the interest of MSEDCL. One such relief has been sought by the petitioners which would gradually permit them to ramp up the production activities (or at times reduce the production activities) depending on the improvement in the situation due to concessions getting extended in the lockdown areas. Thus, if Industries are provided with the option of revising their Contract Demand more than once in a billing cycle, it will be helpful to Industries and possibly improve/increase the power consumption of MSEDCL.

b. <u>Operational Difficulties</u>

24. MSEDCL has opposed this Petition on the ground of operational difficulties that such multiple revision would make it difficult to forecast its demand. In reply, the petitioners have offered to provide advance notice of 48/72 hours, as may be decided by the Commission.

25. In this regard, the Commission notes that although contract demand of the consumer is one of the criteria for projecting overall demand of a power distribution utility, various other factors such as historical demand recorded during previous days, environmental conditions etc. also play important role in demand forecasting. The Commission also notes that the billing Demand for HT consumers could be either of a) actual recorded Maximum Demand b) 75% of highest billing demand recorded in preceding 11 months, subject to limit of CD or c) 55% of the CD, whichever is higher. Thus, in the normal circumstances also while planning the power procurement, MSEDCL is required to deal with the difference between the Contract demand and the Actual Billing Demand. The Commission agrees that in this abnormal unforeseen situation and with the CD reduction permitted by MSEDCL, the power requirement has reduced to a very large extent. MSEDCL has already been procuring ~4000-5000 MW less power during the past two months and managing the demand supply balance and thus there may not be any major operational difficulties in power planning.

26. Also, MSEDCL has more than sufficient long-term contracts with generators to accommodate the changes in the Contract Demand. For day ahead procurement through power exchanges, 72 hours advance notice of revision in contract demand would be adequate to address the concerns of MSEDCL.

27. However, MSEDCL has objected that multiple changes of Contract Demand in a billing cycle will pose difficulty in billing system. In this regard, the Commission notes that MSEDCL has already allowed auto reduction facility to HT consumers and hence their billing system is able to capture one change in Contract Demand in a Billing Cycle. This scenario is always implemented after the tariffs are revised. Thus, such Billing software which caters to one change can be modified for 2 or 3 changes in Contract Demand in a Billing Cycle. At the same time, Industries also need to take responsibility for revising and projecting their demand correctly, to the extent possible so as to assist MSEDCL in its power planning. The Commission does not find any merit in the request of the Petitioner for multiple revisions in CD with a notice of 24 hours. The Commission fails to understand as to how the Petitioners could plan and change their production activities by changing all the down-stream actions of arranging/changing the manpower, raw material and cash flow every 24 hours. Hence, in order to balance the difficulties of the Petitioners and MSEDCL, in the opinion of the Commission, option of revision of Contract Demand on 3 occasions in one billing cycle will address the concerns of HT Industries / Commercial consumers at the same time it would not complicate the power procurement activities and the billing systems of Distribution Licensee. However, such options should be exercised judiciously and in a fair manner for covering the difficulties mentioned in the petition faced by the consumers due to the present lockdown. To balance the concerns of all the stake holders, the Commission rules 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.

28. The Commission also notes that present Petition has been filed by a group of HT consumers and hence reply filed by MSEDCL mentioning operational / financial difficulties is limited to HT consumers. Auto demand reduction facility provided by MSEDCL is also available only to HT consumers. However, Industrial and Commercial category consumers for whom demand based fixed charges are applicable include LT consumers (above 20 kW load) also. Petitioners or MSEDCL have not mentioned anything about enabling a similar option of changing Contract Demand more than once in a billing cycle to LT consumers. Hence, the Commission thinks it fit to consider this issue suo-motu to provide similar relief to LT consumers also. The Commission notes that for the similarly placed consumers (in all respects) the dispensation would be equally applicable. However there does not exist complete similarity between HT and LT industrial and commercial category consumers as regards the definition of Billing Demand, tariffs/Fixed Charges, impact of the incentives/disincentive mechanisms. The differences between definition of Billing Demand, based on which fixed charges are levied, between LT and HT consumers are tabulated below:

Particular	LT Consumer	HT Consumer
Billing Demand	Higher of the following: a) 65% of the actual Maximum Demand recorded in the month during 0600 hours to 2200 hours; b) 40% of the Contract Demand.	Higher of the following: a. Actual Maximum Demand recorded in the month during 0600 hours to 2200 hours; b. 75% of the highest Billing Demand recorded during the preceding eleven months, subject to the limit of Contract Demand. c. 55% of the Contract Demand

As can be seen from the above Table, as per definition of Billing Demand, LT consumers are billed for only 65% of recorded demand as against actual (100%) recorded demand for HT consumers. Also, minimum threshold of Billing Demand is 40% of CD for LT consumers as against 55% of CD for HT consumers. Hence, definition of Billing Demand provides more flexibility to LT consumers while deciding its Contracted Demand. Therefore, even though phased increase in production would also be applicable to LT consumers, as Billing Demand definition is already providing desired flexibility, the Commission is restricting the temporary option of changing Contract Demand to LT Industrial and Commercial consumers to 2 occasions in a Billing Cycle.

29. Accordingly, the Commission deems it appropriate to allow HT Industrial and HT Commercial Consumers to revise their Contract Demand at 3 occasion in a billing month. And considering hardships which LT consumers would also face due to lockdown situations, for the reasons mentioned at para 28 above, the Commission deems it fit to allow LT Industrial and LT Commercial consumers to revise their Contract Demand on 2 occasions in a billing month. Consumer should file such request at least 3 day in advance

and Distribution Licensee shall give effect to such request of revision in Contract Demand from a date requested by the consumer, subject to technical feasibility.

30. The Commission also notes that for subsequent reconciliation of the bills and more specifically for reflecting the associated effects of such multiple change in Contract Demand into electricity bill, it is important to have the complete billing data which is available either remotely through AMR enabled meters or by manually downloading through Meter Reading Instrument (MRI). In case due to some reason, AMR data is not available, Distribution Licensee needs to arrange for MRI data for all the concerned consumers and especially for those consumers who have opted for such revision in Contract Demand. Concerned consumers should facilitate Distribution Licensee in whatever way possible so as to ensure availability of at least MRI data so that the reconciliation is carried out seamlessly. The Distribution Licensee as well as the consumers shall make all out efforts to minimise the average billing to the extent possible. In case AMR/MRI data is not available, Distribution Licensee shall resort to average billing which can be reconciled with last/ available meter data when the Lockdown gets lifted and normalcy is restored.

31. As per the above analysis, the Commission is inclined to allow option of revising Contract Demand at multiple (3/2) occasions subject to conditions as elaborated in earlier paragraphs. As this is only a transitory/temporary change, the Commission is of the opinion that Practice Directions similar to those issued by this Commission dated 26 March 2020 and 9 May 2020, would be necessary.

32. The Commission thinks it fit to invoke its power under Regulation 22 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 to issue Practice Direction for allowing revision in Contract Demand upto 3 occasions to HT Industrial and HT Commercial consumers and upto 2 occasions to LT Industrial and LT Commercial consumers in a billing cycle for a limited period upto 31 July 2020.

33. The Commission directs its Secretariat to prepare and issue Practice Direction to that effect.

34. Hence following Order

ORDER

1. **Case No 82 of 2020 is partially allowed.**
2. **Secretariat of the Commission shall prepare and issue Practice Direction allowing revision in Contract Demand upto 3 occasions to HT Industrial and HT Commercial consumers subject to curtailment of LFI for 3rd revision and upto 2 occasions to LT Industrial and LT Commercial consumers in a billing cycle for a limited period upto 31 July 2020.**

Sd/-	**Sd/-**
(Mukesh Khullar)	**(I.M. Bohari)**
Member	**Member**

(Abhijit Deshpande)
Secretary

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION