

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
**World Trade Centre, Centre No.1, 13<sup>th</sup> floor, Cuffe Parade, Mumbai 400 005.**  
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**Case No. 77 of 2007**

**In the matter of**  
**Petition filed by M/s. Hanil Era Textiles Limited on MSEDCL not allowing**  
**subsidized Tariff for power loom and demand of additional amounts by MSEDCL**

**Shri. A. Velayutham, Member**  
**Shri. S. B. Kulkarni, Member**

M/s Hanil Era Textiles Limited  
New Era House, Mogul Lane,  
Matunga (W), Mumbai 400 016

... Petitioners

V/s

Maharashtra State Electricity Distribution Company Limited & Anr  
Prakashgad, Bandra (E),  
Mumbai 400 051

... Respondents

**ORDER**

**Dated: September 15, 2008**

M/s Hanil Era Textiles Limited (HETL) submitted a Petition under affidavit, on November 2, 2007, against the Maharashtra State Electricity Distribution Company Limited (MSEDCL) as Respondent No.1 and Superintending Engineer (Pen) (SE Pen), MSEDCL, as Respondent No.2, inter alia submitting that MSEDCL had not allowed subsidized tariff for HETL, which was made applicable for power looms as per the Commercial Circular No. 42 dated August 19, 2006, issued by MSEDCL. It has been submitted that MSEDCL had also demanded additional amounts from HETL.

2. The prayers of HETL are as under:

- a. *“That the Respondents be directed to compute the Petitioner’s electric bills by levying tariff at the rate of Rs. 1.60 per unit, based on the subsidized rate as per directives of Government of Maharashtra and as per the circular No. 42 dated 19<sup>th</sup> August 2006;*
- b. *That the Respondents be directed to compute the ADC strictly in accordance with the Tariff Order dated 8<sup>th</sup> September 2004 and in accordance with tables 11 and 12 thereof, by computing the maximum demand on hourly basis in accordance with the TOD meters and not in accordance with the maximum demand across all*



- zones for the entire month and accordingly, the appropriate credit be given to the Petitioner in the bills with effect from 1<sup>st</sup> July 2006 onwards;
- c. That the Respondents be ordered and directed to compute the ASC charges by treating the Petitioner on par with new consumers as mentioned in clause (b) on page 195 of the Tariff Order dated 18 May 2007 or in the alternative on par with units having undergone lockouts, strikes or seasonal units during the general reference period January 2005 to December 2005 and accordingly the appropriate credit be given to the Petitioner in the bills with effect from 1 August 2006 onwards;
  - d. That in the alternative to prayer (a) and (b) the Respondents be ordered and directed to compute the ADC on the basis that the Petitioners had a contract demand of 3000 kVA with effect from 1<sup>st</sup> August 2006 onwards;
  - e. That in the alternative to prayers (a) and (c) the Respondents be ordered and directed to compute the ASC charges on the basis that the Petitioners were sanctioned a contract demand of 3000 kVA with effect from 1 August 2006 onwards and appropriate credit be given to the Petitioners in the bills from 1 August 2006 onwards;
  - f. That the Respondents be ordered and directed to forthwith provide additional load of 1500 kVA sanctioned by the Respondents by the letters dated 1 August 2006 and 31 December 2006 without demanding any SLC charges or charges by whatever name called for providing such additional load to the Petitioner;
  - g. That pending the hearing and final disposal of the Petition the Respondents be restrained by an order and direction of this Hon. Commission from disconnecting the Petitioner's electricity supply, for non-payment of bills based on computation of the electric bills otherwise than as provided in prayers (a), (b), (c) or (d) hereinabove."

3. HETL contended that it should have been charged the subsidised tariff applicable for power looms, by considering HETL as a weaving unit having power looms, in accordance with MSEDCL's Commercial Circular No. 42 dated August 19, 2006. HETL contended that as per the Circular, MSEDCL needs to charge a tariff of Rs. 1.60 per kWh from the billing month of August 2006. Also, MSEDCL should recover the Additional Demand Charges (ADC) based on the mechanism as given in Table 12 of the Commission's Order dated September 8, 2004 in Case No. 55 and 56 of 2003 (in the matter of power purchase and other dispensation in respect of fossil fuel based captive power plants), since HETL was a Captive Power Plant (CPP) consumer.

4. HETL added that its request for enhancement of Contract Demand was withheld by MSEDCL due to non-payment of Service Line Charges (SLC), which according to HETL, are illegal charges. Had the SLC charges not been demanded, it would have been deemed that HETL was granted the enhancement in Contract Demand and HETL could have never exceeded their enhanced Contract Demand. Hence, HETL contended that there was no question of paying any ADC by HETL as the demand for SLC charges were illegal in the first place, and hence, the increase in Contract Demand should be deemed to have been effected.

5. HETL submitted that the reference period of January 2005 to December 2005 for computation of Additional Supply Charges (ASC) needs to be reconsidered by the Commission as a special case for HETL. HETL contended that it was a CPP user during the above reference period and the particular methodology of ASC calculation may not



be applicable to it, and requested the Commission to formulate a different method of calculation of ASC units for such typical cases. Alternatively, HETL may be treated on par with new consumers as mentioned in clause (b) on page 195 of the Commission's Order dated May 18, 2007, or consider the increased Contract Demand of 3000 kVA sanctioned by MSEDCL on December 15, 2006, and HETL be given the benefit of clause (g) on page 196 of the Commission's Order dated May 18, 2007.

6. HETL submitted that the Government of Maharashtra (GoM) had granted subsidy or concessional rate for power looms (weaving mills), hence, the difference between the applicable tariff and concessional tariff applicable to HETL needs to be collected from GoM. Further all ADC, ASC and other charges, if applicable, should also be subsidised by the GoM.

7. HETL submitted that the conditional increase in Contract Demand sanctioned by MSEDCL vide letter dated August 1, 2006, should be deemed to have been granted, as the demand for SLC in the sanction letter was illegal. Hence, applicable ASC needs to be calculated based on revised Contract Demand.

8. The Commission, vide its Notice dated December 11, 2007 scheduled the hearing in the matter on December 20, 2007, and directed HETL to serve a copy of its Petition along with its accompaniments to MSEDCL and the four authorized Consumer Representatives.

9. At the hearing held in the matter, Shri. Kiran Gandhi, advocate for MSEDCL, took an objection that certain proceedings had already been initiated by HETL before the Commission for setting aside certain disputed bills and disconnection notices issued by MSEDCL to HETL. He submitted that such proceedings were numbered as Case No. 42 of 2007 and when the said proceedings were pending, there was no reason for HETL to file the present petition. He, however, sought an adjournment on the ground that a copy of the Petition was served to MSEDCL only on December 19, 2007 and, therefore, enough time was not available for responding to the same.

10. Responding to the objection raised by Shri. Gandhi, Shri. Kevic Setalwad, Counsel for HETL, referred to the Order dated October 19, 2007 passed by the High Court of Judicature at Bombay in Writ Petition No. 2081 of 2007. He stated that the above Order expressly stipulated that HETL was at liberty to raise all its claims before the Commission. He further submitted that Case No. 42 of 2007 (as referred to by MSEDCL) did not deal with all the claims and grievances of HETL. The reliefs sought for under the present proceedings were distinct from the reliefs sought for under Case No. 42 of 2007.

11. Shri. Kevic Setalwad submitted that though he had no objection to the request for adjournment as sought for by Counsel of MSEDCL, MSEDCL should be directed not to take any coercive steps till the next hearing. In this regard, Counsel further submitted that as directed by the High Court under the said Order dated October 19, 2007, HETL has paid 50% of the disputed amount.

12. Per contra, it was argued by Shri. Gandhi, that payment of 50% of the disputed amounts, as provided in the said Order dated October 19, 2007, pertains to the payment of outstanding amounts with regard to two specific disputed bills only. Any Order restraining MSEDCL to not take coercive measures for non-payment of bills could only be in relation to the said two specific disputed bills only and not future bills.



13. The Commission directed that MSEDCL shall not take any coercive steps if HETL pays 50% of the disputed amount. Further hearing on the above matter was fixed for January 8, 2008 at 16:00 hrs.

14. MSEDCL, in its reply affidavit, submitted that HETL had initially applied for HT power supply for manufacturing of cotton, acrylic and blended yarn in May 1993. Since then, HETL has enhanced and reduced their Contract Demand and Connected Load as per their requirement, but the purpose of manufacturing of cotton, acrylic and blended yarn remained unchanged. Accordingly, MSEDCL has been issuing monthly energy bills as per the tariff applicable to the HT Industrial category during this period. Further, on the request of HETL for load enhancement, MSEDCL sanctioned the increase in Contract Demand from existing 1500 kVA to 3000 kVA and from existing sanctioned load of 6413 kW to 9561 kW vide Load Sanction Order dated August 1, 2006. The load enhancement was not effected due to non-payment of SLC by HETL, which was a valid requirement prior to the Commission's Order on Schedule of Charges in September 2006. Further, again on the request of HETL, MSEDCL modified the Load Sanction Order so as to increase existing connected load of 6413 kW to 9561 kW and increase the Contract Demand from existing 1500 kVA to 4900 kVA vide its Load Sanction Order dated June 20, 2007. The load was sanctioned through 22 kV dedicated/express feeder with requirement of additional payments of Rs 68,15,050/-, which consisted of additional security deposit of Rs. 66,88,775/- and other supervision and processing charges. Additional load was not released by MSEDCL as requisite payments for the same were not made.

15. MSEDCL further submitted that HETL had sought the concessional tariffs through its letter dated October 27, 2007, with reference to their Application dated October 19, 2006, for increase in Contract Demand. MSEDCL had issued conditional approval for enhancement of the Contract Demand, subject to payment as specified in the Load Sanction Order. Since, HETL had not made the requisite payments as per the Load Sanction Order, it was not eligible for concessional rates as per the Commercial Circular No. 42 dated August 19, 2006.

16. MSEDCL submitted that HETL has been charged penal demand charges for exceeding the Contract Demand at twice the normal demand charges on hourly basis as per MRI data. Hence, the penal demand charges levied are as per Commission's Order dated September 8, 2004.

17. MSEDCL submitted that with reference to clause (c) and (d) on page 195 of the Commission's Order dated May 18, 2007; HETL is neither a seasonal consumer nor has given any intimation of strike or lock out in their establishment during the reference period of January 2005 to December 2005. Hence HETL's claim for reconsideration of reference period for calculation of ASC needs to be rejected.

18. MSEDCL submitted that reduction in Contract Demand from 3000 kVA to 1500 kVA was sanctioned vide letter dated February 26, 2001 with a condition that any further enhancement, in the future, would be processed as afresh as per the prevailing rules and consumer shall pay all the charges as applicable and the letter shall form the part of the agreement, and the same was accepted by HETL. Hence, HETL should make the additional payments for enhancement of Contract Demand from 1500 kVA to 4900 kVA.

19. HETL submitted its rejoinder on January 8, 2008, wherein HETL denied MSEDCL's contention that manufacturing activity was limited to cotton, acrylic and blended yarn since the release of connection in the year 1993 till late 1997 and beyond.



HETL stated that its application for enhancement of demand to 3000 kVA dated October 20, 2006 was for manufacturing yarn and cloth as mentioned in its application. Hence, HETL was entitled for subsidised tariff rate of Rs. 1.60 per unit.

20. HETL submitted that MSEDCL vide its Load Sanction Order dated December 15, 2006, sought to levy SLC under various nomenclatures. Also, HETL had never requested for additional load through express feeder. HETL denied that it was required to pay SLC in accordance with conditionality imposed by MSEDCL that in future, any additional demand requirements would be processed as fresh. HETL had paid the SLC for 4900 kVA in 1993 and MSEDCL was seeking to again recover such charges, which is illegal. HETL submitted that penal demand charges for exceeding contract demand had been calculated by MSEDCL based on their own interpretation of the Commission's Order dated September 8, 2004, which should be rejected.

21. In the second hearing held on January 8, 2008, Shri. Kevic Setalwad, Counsel, appeared with Shri. Sean Wassoodew, Advocate, and Shri. R.K. Agarwal for HETL, and Shri. Gaurav Joshi, Counsel, appeared with Shri. Kiran Gandhi, Advocate, for MSEDCL.

22. Shri. Gaurav Joshi submitted that the matter was not a tariff dispute, but constituted a billing dispute, and had to be tried before the concerned Consumer Dispute Redressal Forum ("CGRF") constituted under Section 42 (5) of the Electricity Act, 2003 ("EA 2003"). Shri. Joshi submitted that HETL was not a power loom manufacturing unit but an integrated textile unit, and therefore, could not claim benefits under the Circular No. 42 dated August 19, 2006 issued by MSEDCL. It was submitted that MSEDCL had computed ADC applicable on HETL appropriately in terms of tariff tables under the Commission's Order dated September 8, 2004 ("the CPP Order"). It was further submitted that MSEDCL had computed the applicable Additional Supply Charge ("ASC") appropriately in terms of the Order dated October 20, 2006, as amended, while applying the same on HETL. It was denied that MSEDCL had levied Service Line Charges ("SLC") on HETL, post the operation of the Commission's Order dated September 8, 2006. In this regard, it was submitted that MSEDCL required HETL to deposit an additional amount of security deposit to substantiate the amounts due as arrears. HETL had misconstrued this as an imposition of SLC.

23. On an enquiry made by the Commission, Shri. Joshi submitted that the only issue for consideration before the Commission was HETL's prayer to be classified under a special tariff category in the ASC regime, owing to their being a CPP user. In this regard, it was submitted that the maintainability of the Petition of HETL as a Petition seeking review of the Commission's Order dated October 20, 2006, so far as imposition of ASC was concerned, would be considered vis-à-vis the accounting difficulties that MSEDCL faced in this regard.

24. Shri. Kevic Setalwad referred to paragraph Nos. 18, 19 and 20 in the Petition, and further to Orders passed by the High Court, Bombay. It was submitted that the fact that HETL had filed Case No. 42 of 2007 before the Commission, was brought to the attention of the High Court, culminating into the High Court's Order dated October 19, 2007. The said Order directed that HETL was entitled to raise "*all the claims which they made before the authorities*". It was submitted that the said Order was passed with the consent of the respondents herein. In this regard, it was submitted that the contents of the said paragraphs 18, 19 and 20, had not been denied by MSEDCL in their affidavit-in-reply. MSEDCL had, without placing any justification or reason, only denied the jurisdiction of the Commission to decide upon the present dispute, under the first and last unnumbered sub-paragraphs on page 4 in the said reply. Counsel argued that adoption of



the Circular No. 42 issued by MSEDCL was strictly a tariff issue and was not a billing dispute. Referring to paragraph No. 3 (II) on page 7 in the reply of MSEDCL, and the bills annexed to HETL's Petition, it was submitted that MSEDCL had considered single instances of highest consumption (should be read as demand) as base monthly consumption, to calculate ADC. This amounted to gross violation and malafide implementation of the CPP Order, and was not merely a 'billing dispute'. It was vehemently argued that the concept of charging 'additional security deposit' was misleading. It was submitted that MSEDCL had not increased the connected load of HETL, though sanction to the same was granted on December 15, 2006, owing to HETL not agreeing to pay charges in the nature of SLC.

25. Per contra, Shri. Joshi reiterated that the matter constituted a billing dispute. Counsel submitted that the Hon'ble Supreme Court, while deciding an appeal, has held that individual billing disputes should be tried before the concerned CGRF, and not before a State Electricity Regulatory Commission. So far as the averments under paragraphs 18, 19 and 20 in the Petition were concerned, Counsel submitted that HETL could not create a case by 'reading words in between the wording' employed in the Orders of the High Court dated July 26, 2007 and October 19, 2007. The Order dated October 19, 2007 did not mention, as pressed for by HETL, that the High Court was apprised of the initiation of Case No. 42 of 2007 before the Commission. Neither did it mention that the consent of MSEDCL was considered by the High Court while passing the said Order. It is settled that an Order can not be interpreted in terms of what transpired in court, but is to be interpreted as per the language of the Order. It was further submitted in this regard, that consent of a party could not affirm jurisdiction on any judicial authority. Counsel submitted that the mention of the word "*authorities*" in the last sentence of the Order dated October 19, 2007 could mean the concerned CGRF and not the Commission. It was further submitted that the High Court of Judicature could not confer jurisdiction to a State Electricity Regulatory Commission. The direction of the High Court that the Commission should '*hear*' the dispute of HETL could not be interpreted to hold that the Commission should decide and dispose of the said dispute.

26. Shri. Joshi submitted that the Commission may hear the matter on merits considering that arguments with regard to maintainability were complete. It was submitted that the Commission may decide on the issue of maintainability considering the factual issues in question.

27. On merits, Shri. Kevic Setalwad referred to the averments under paragraphs 14, and 15 in the Petition, and the reply to the same under paragraphs Nos. 3(I) (a), (b), the Commercial Circular No. 42 dated August 19, 2006, the application of HETL dated October 20, 2006 for supply of additional load and the Load Sanction Order. It was submitted that for grant of additional load of 3147.95 kW, MSEDCL sought to recover an amount of Rs. 5,33,780/-. This amount was actually SLC which was proposed to be imposed by MSEDCL, no matter that it was estimated under "*Cost of estimate for metering modification & renovation of feeder*". It was submitted that such costs were not in anyway applicable, as HETL had never requisitioned for dedicated distribution facility ("DDF"). Counsel submitted that further, the computation of ADC on the additional Contract Demand of 1500 kVA was wrong, as the Contract Demand was actually not increased owing to HETL denying payment of Rs. 6,50,000/- towards SLC in August 2006.



28. On an enquiry made by the Commission, Shri. Agarwal submitted that although HETL had never requisitioned for DDF, MSEDCL forced HETL to avail additional load through the mechanism of DDF, since the Order dated September 8, 2006 prevents the collection of SLC otherwise. It was submitted that the grievance of HETL was that such an arrangement would require HETL to bear all losses caused on account of power theft from the DDF line, stretching from the distribution mains of MSEDCL to the premises of HETL (measuring approximately 5 km). This act of MSEDCL amounted to MSEDCL seeking to secure the payment of SLC, which was otherwise under dispute by HETL.

29. Shri. Setalwad vehemently questioned as to how HETL not depositing SLC as estimated under the Load Sanction Order precluded HETL from enjoying the benefits under the Commercial Circular No. 42 dated August 19 2006 so far as their additional load of 3147.95 KW was concerned. Shri. Setalwad further argued that HETL was eligible to the subsidy benefits there under as MSEDCL had itself described the manufacturing activity of HETL as “Weaving Mills-Cotton” in the bills.

30. On an enquiry made by the Commission, Shri. Kevic Setalwad submitted that the Contract Demand of HETL was initially enhanced in July 1994 and thereafter reduced in 1997, with the reduction in Contract Demand on account of installation of a CPP. However, there was no change in the connected load, requiring any additional SLC and HETL was meeting its entire load through its CPP.

31. With regard to the applicability of the CPP Order on HETL, Counsel referred to paragraphs 9 and 10 in the Petition. The said averments were explained by Shri. R.K. Agarwal. Counsel submitted that Penal Demand Charges had not been charged on an hourly basis (but on a disputed ‘hours’ basis) in gross violation to the CPP Order.

32. As regards the issue of ASC levy on HETL as a CPP user (and therefore being subject to the CPP Order), Counsel Shri. Setalwad referred to the paragraphs 12, 13, 14 and 16 in the Petition of HETL. Counsel submitted that the intention behind the imposition of ASC (as it is presently leviable under the MYT Order of MSEDCL), was not to pressurize CPP users. The general directive of imposition of ASC may be modified in this regard for HT consumers like HETL, who are also CPP users.

33. Shri. Gaurav Joshi submitted that HETL had averred that it had “spinning mills and weaving mills” (paragraph 3 in HETL’s Petition) and described itself as “a textile mill having power looms” (paragraph 14 in HETL’s Petition). Counsel reiterated that HETL owned an integrated textile unit and was not essentially a power loom consumer of MSEDCL. Counsel referred to the averments under paragraph No. 3(I), (I)(a), (b) in the reply of MSEDCL, and further to the application of HETL dated October 20, 2006 for supply of additional load and the Load Sanction Order. It was submitted that the primary activity of HETL, for which energy was being consumed by HETL and a CPP was used, was for the manufacture of cotton, acrylic and blended yarn. HETL was therefore, not entitled to subsidized tariff as per the Commercial Circular No. 42 dated August 19, 2006. In fact, both the application dated October 20, 2006 for supply of additional load, and the Load Sanction Order issued by MSEDCL, specified that HETL required additional load for the manufacture of yarn and cloth, and not for any other purpose.

34. Shri. Gaurav Joshi submitted that the imposition of SLC in the Load Sanction Order dated August 1, 2006 was not unlawful considering that the Commission’s Order dated September 8, 2006 (prohibiting the levy of SLC) was operative prospectively from that date only.



35. Shri. Gaurav Joshi further submitted that the only major expenditure as estimated in the Load Sanction Order was towards "Additional Security Deposit". HETL had not challenged the imposition of this Additional Security Deposit vide any reply letter. HETL had not even dealt with this issue either in their rejoinder or in their oral arguments. It was reiterated in this regard, that MSEDCL required HETL to pay additional security deposit as HETL's monthly bill amounts vary from Rs. 80 lakh to Rs. 1 crore, while it had deposited a security deposit of Rs. 15 lakh only. It was submitted that under their application dated October 20, 2006 for supply of additional load, HETL for the first time had informed MSEDCL that activities in the nature of weaving shall commence from their factory. It was submitted that grant of the additional demand of 3147.96 kW for weaving activity required segregation of the metering unit for weaving from spinning (comprising of works in the nature of metering modification and feeder renovation). It was submitted that if HETL opted to contest the levy of Rs. 5,33,780/- under the present proceedings, such would form into a billing dispute which needs to be agitated before the concerned CGRF. Justifying the estimate for feeder renovation, it was submitted that MSEDCL had only a 22 kV transformer installed near the premises of HETL. 22kV transformers were not adequate for supply of power above 3000 kVA. Thus, to avail power of 4900 kVA, HETL should have ideally agreed to receive power through DDF or avail power on EHV. It was submitted that MSEDCL had maintained the said stand even afterwards in March 2007 and June 2007, in response to applications made by HETL seeking increase in Contract Demand. In this regard, Counsel referred to the last un-numbered paragraph on page 6, and the table under paragraph 3(VI) in the reply of MSEDCL. Referring to the said table, Counsel submitted that as per the Load Sanction Order dated June 20, 2007, MSEDCL had not levied any SLC. The amount of Additional Security Deposit (Rs. 66,88,775/-) had in fact neither been paid nor challenged by HETL.

36. On the issue regarding the computation of ADC as per the tariff table Nos. 8, 11 and 12 in the CPP Order, Counsel Shri. Joshi submitted that HETL had exceeded its Contract Demand several times in one month amounting to 629 hours. It was submitted that billing was done on a half-hour basis and a single case of exceeding the Contract Demand, within a period of 30 minutes, required the computation of ADC on the said exceeded quantum. Counsel placed certain documents from the office file of MSEDCL (charts recording the consumption of HETL) for the consideration of the Commission. Counsel referred to paragraphs 9 and 10 in HETL's Petition and categorically denied, in light of the said charts, that computation of ADC was not as per the CPP Order. It was further argued by Shri. Joshi that the argument that had been advanced by Shri. Kevic Setalwad, with respect to MSEDCL considering the single instances of highest consumption as base monthly consumption to calculate ADC, was not in line with the averments under Paragraphs 9 and 10 in HETL's Petition (which alleges wrongful implementation of the CPP Order). Counsel argued that as per the energy bill dated May 22, 2007, HETL's maximum demand in the "A" zone was 4506 kVA, being in excess of 3000 kVA. Shri. Kevic Setalwad objected to Shri. Joshi placing certain pages from the office file of MSEDCL on record, without providing copies of the same to HETL. Shri. Setalwad submitted that the issue in question lied not in HETL exceeding its Contract Demand but in the number of hours (or the total duration) when the Contract Demand was exceeded, to form as base index for computation of ADC.

37. With regard to the levy of ASC, Shri. Gaurav Joshi submitted that review of the directives of the Commission for the levy of ASC was barred by limitation, and further could not be considered in the absence of any written application seeking condonation of delay. It was submitted that the finality of Tariff Orders that had come into operation



should not be held up in review, on account of individual grievances of purely technical nature. Counsel further referred to the judicial intention behind the imposition of ASC and refuted the relief sought by HETL in that regard. It was observed by the Commission that shut down of CPP causes increase in the load, which further increased the need for additional procurement. Counsel Shri. Joshi concluded his arguments submitting that the arrears of HETL are over Rs. 2.5 crore and HETL should be directed to pay Additional Security Deposit.

38. Perusing the pages from the office file of MSEDCL, as brought on record by Shri. Joshi, Shri. Kevic Setalwad submitted that the bill amount of HETL (as recorded therein) was for the months of May and June 2007. However, the billing period under dispute was for the months of November and December 2007. It was submitted that there was no justified basis for alleging that HETL had exceeded its Contract Demand for a total of 629 hours (since the month the said total figure relates to is not certain) and further, the very page records that HETL had exceeded the Contract Demand for 589 hours. Shri. Joshi submitted that HETL had exceeded its Contract Demand for 629 hours in a particular month. However, MSEDCL was not implementing the CPP Order erroneously, whatever may be the total hours for which HETL's consumption exceeds Contract Demand per month (i.e., 629 hours or 589 hours). Shri. Setalwad enquired as to how and why, considering that HETL has exceeded its Contract Demand on several occasions (for one particular month) totalling to a duration of 589 hours, MSEDCL was calculating ADC taking the highest Maximum Demand and computing the excess Demand vis-à-vis the Contract Demand, as the base index?

39. Refuting the justification advanced by Shri. Joshi on the estimate for feeder renovation, it was submitted that since no increase in the connected load was sought for by HETL, there was no necessity for feeder renovation. Referring to various bills, which recorded the Maximum Demand of HETL at 4506 kVA, it was submitted that MSEDCL had been successfully supplying power of such magnitude to HETL, and the existing infrastructure (feeder or transformer) was sufficient for the supply of such load, as requisitioned by HETL. Shri. R.K. Agarwal submitted that MSEDCL was actually forcing HETL to bear penal charges on disputed bills. It was submitted that MSEDCL was sanctioning DDF to HETL without the latter making any application for the same. Shri. Setalwad refuted the submissions advanced by Shri. Joshi that HETL had not responded to the estimate on feeder estimation. It was submitted that the letter of HETL dated November 16, 2007, was in reply to the said unlawful estimation.

40. Per contra, it was argued by Shri. Joshi that the letter dated November 16, 2007 was sent by HETL after a period of nearly one year from December 2006, in which month the Load Sanction Order of MSEDCL was issued to HETL. This could not be taken as a proper response to the said Load Sanction Order. Counsel Shri. Setalwad clarified that the said letter of HETL actually challenged the estimates of SLC in subsequent Load Sanction Orders, and not the estimate provided in the Load Sanction Order in the rejoinder of HETL. Counsel for MSEDCL argued that therefore, HETL had never challenged the estimate of feeder separation as 'unlawful SLC' on receipt of the said Load Sanction Order in December 2006.



## **DECISION WITH REASONS:-**

41. Having heard the parties and after considering the material placed on record, the Commission is of the view as under:

42. The Parties have made several conflicting submissions and contentions on several issues that have been raised under this Petition. In addition, HETL has also filed another Petition before the Commission, numbered as Case No. 42 of 2007, wherein some of the same issues have also been agitated, based either on the same rationale or varying rationale. The Commission has dealt with the issues and contentions of the Parties as raised in the Petition and arguments before the Commission under this Case No. 77 of 2007, without any reference to the issues and contentions raised in Case No. 42 of 2007. A separate Order is being issued in that matter.

43. Further, the Commission has framed certain issues as elaborated below, followed by the Commission's ruling on each of the issues:

- a) Does HETL's Petition amount to a Review Petition against the Commission's Tariff Order for MSEDCL for FY 2006-07 in Case 54 of 2005 dated October 20, 2006? Whether the Petition filed by HETL is admissible under the provisions of the MERC (Conduct of Business) Regulations, 2004, in view of the fact that HETL has sought relief with effect from August 1, 2006, through a Petition filed on November 2, 2007? What is the import of the Judgment of the Honourable High Court allowing the Petitioners to approach the Commission for seeking the necessary relief?
- b) Whether HETL is eligible for getting subsidised tariff as per MSEDCL's Commercial Circular, which is applicable for powerlooms? Is the eligibility for subsidised tariff dependent on whether HETL has paid the additional demands raised by MSEDCL for release of additional Contract Demand? Which is the appropriate Forum for agitating this issue?
- c) Whether MSEDCL has levied the Additional Demand Charges (ADC) for months where HETL has exceeded the Contract Demand, in accordance with the Commission's Order for CPPs in Case 55 and 56 of 2003 dated September 8, 2004? What should be the base Contract Demand for computing the excess demand and ADC? Which is the appropriate Forum for agitating this issue?
- d) Whether there is any need to modify the provisions of the Commission's Tariff Order in the context of benchmark consumption for levy of Additional Supply Charges (ASC)? Is HETL eligible for being considered either on par with new consumers or as a case of lockout, strike, seasonal industry, etc., or as a case of increase in Contract Demand?
- e) Whether MSEDCL's claims for payment of additional Service Line Charges, and Additional Security Deposit at different points in time, while sanctioning the increase in Contract Demand for HETL, are justified? Which is the appropriate Forum for agitating this issue?

44. The Commission now proceeds on its findings on each of the issues framed above:



### **Admissibility of HETL Petition**

45. The admissibility of any Review Petition has to be tested against the provisions of Regulation 85 of the MERC (Conduct of Business) Regulations, 2004, which stipulates as follows:

*“85. (a) Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Commission.”*

46. The Commission’s jurisdiction can be invoked in the context of an Order passed by the Commission, either under Review or in case any clarification is being sought due to implementation difficulties. In case of review, the Petition has to be filed within the specified period of 45 days from the date of issue of the Order. Even in case clarification is being sought, the Petition would have to be filed within a similar period. However, HETL has filed the Petition more than a year after the passage of the Commission’s Order dated October 20, 2006 for MSEDCL for FY 2006-07, and has not sought condonation of delay in submission of the Petition. In fact, the Commission has also issued the subsequent Multi-year Tariff (MYT) Order for MSEDCL in Case 65 of 2006 on May 18, 2007, and HETL’s Petition has been filed around 5 months after the passage of the subsequent Tariff Order. Thus, there has been an inordinate delay on the part of HETL in filing the Petition. HETL has also not made any case for admissibility of the Petition under the review jurisdiction of the Commission, as no case has been made for justifying grant of review on account of any error apparent on the face of the record or on account of any new evidence that has come to light subsequently or for any other sufficient reasons. As regards the Judgment of the Honourable High Court in this regard in Writ Petition (Ldg) No. 2081 of 2007, dated October 19, 2007, the High Court held as under:

*“Learned Counsel for the Petitioner, without prejudice to his rights and contentions to urge various pleas raised in the present Writ Petition, wishes to withdraw this petition. However, he submits that the Petitioner would pay a sum of 50% of the disputed amount. In the circumstances, having heard Counsel for Respondent No. 2, we direct the Maharashtra Energy Regulatory Commission to hear the Petitioner and pass an appropriate order expeditiously, in the event that the Petitioner files his claim before the Commission within two weeks and pays 50% of the disputed amount within two weeks. In that event further demand which is the subject matter of the present matter will not be enforced except upon the final order to be passed by the Commission.*

*We make it clear that the parties would be at liberty to raise all the claims which they made before the authorities...”*



47. In view of the above, since the Commission has been directed by the Honourable High Court to hear the Petitioner and pass an appropriate order, the Commission has considered the Petition filed by HETL on merits and jurisdiction on specific issues, as detailed subsequently. It should be noted that the Commission draws its powers from the various provisions of the Electricity Act, 2003, its Regulations, and decisions of the High Court and Supreme Court in other matters. The Commission is of the view that High Court's Order dated October 19, 2007 has entitled HETL to raise its claims before the Commission. However, the Commission can only decide on issues that are within the jurisdiction of the Commission. The Hon'ble Supreme Court has in its judgment dated 14.08.2007 in Civil Appeal No 2846 of 2006 held that the Commission will have no jurisdiction to decide on billing disputes between the consumers and licensees. As per the said judgment of the Supreme Court, the Commission has jurisdiction to adjudicate on disputes between generating companies and licensees and as between licensees but not between consumers and licensees because the EA 2003 has made specific provisions under Section 42(5),(6),(7) for the redressal of such disputes and grievances by the consumer grievance redressal forums with further representation to the Electricity Ombudsman. In this view of the matter, Hon'ble High Court's Order dated October 19, 2007 cannot be taken to empower the Commission with jurisdiction, which it otherwise does not have. Hence, even though all issues raised by the Petitioner have been heard, the Commission has passed a specific order only on matters that are within its jurisdiction.

#### **Subsidised Tariff for HETL**

48. HETL has submitted that it is eligible for the subsidised tariff announced by the Government of Maharashtra for power looms as implemented by MSEDCL through its Commercial Circular No. 42 dated August 19, 2006, on account of it being a weaving unit with power looms. On the contrary, MSEDCL has submitted that HETL is not eligible for the subsidised tariff on account of the following reasons:

- i. HETL is an integrated textile mill getting supply at HT voltage, and is in the business of manufacturing cotton, acrylic and blended yarn, and has been charged at HT industrial tariff since the beginning. Hence, as HETL is not a power loom manufacturing unit, it is not entitled to the subsidised tariffs;
- ii. HETL has sought for application of the subsidised tariff by making reference to HETL's letter for increase in Contract Demand. Since the increase in Contract Demand has not been made effective due to non-payment of additional amounts sought by MSEDCL, HETL was not eligible for the concessional tariff.

49. The Commission does not find any merit in MSEDCL's submission that the eligibility of HETL for subsidised tariff is dependent on whether HETL has paid the additional demands raised by MSEDCL and whether the increase in Contract Demand has been effected. MSEDCL appears to have linked the two events, on the basis that the request for subsidised tariff has been submitted with reference to HETL's letter for sanctioning increase in Contract Demand. This linkage is illogical, and HETL's request for applicability of subsidised tariff has to be decided only on the basis of whether HETL is eligible for the subsidised tariff in accordance with the GoM's Government Resolution (GR) and relevant Commercial Circular of MSEDCL.



50. MSEDCL has also submitted that HETL is not eligible for the subsidised tariff, since HETL is not a power loom Unit, and is actually an integrated textile mill. MSEDCL's Commercial Circular No. 42 dated August 19, 2006 states,

*"...Now the State Government on dated 17/08/2006 in the Cabinet Meeting has taken a policy decision to extend subsidy in tariff to power loom consumer at the rate of 160 p/u with effect from April 2006.*

*In this regards you are requested to issue the bills to power loom consumers at the rate of 160 p/u from the billing month of August'06, if the bills for the month of August'06 are not issued, otherwise from the month of September'06 and the difference due to change in concessional rate to be recovered from the consumer for the month of April 06 and May 06 in present billing cycle and balance in next billing cycle.*

*All the concerned are requested to note the guidelines as above. Further requested to allow the Powerloom consumers (LT & HT) to pay energy bills at the rate of 160 p/u and the difference amount shall be recovered as instructed above..."*

51. The above Commercial Circular indicates that the subsidy is applicable for both, LT and HT power loom consumers. HETL is engaged in the business of manufacturing cotton, blended and acrylic yarn, and in its own words, is a textile mill having power looms and has spinning mills and weaving mills. The Commission is of the view that there is merit in MSEDCL's contention that HETL is an integrated textile mill and is therefore, not eligible for the subsidised tariff applicable for power looms. However, the applicability of subsidised tariff or otherwise is a billing dispute. The Hon'ble Supreme Court has in its judgment dated 14.08.2007 in Civil Appeal No 2846 of 2006 held that the Commission will have no jurisdiction to decide on billing disputes between the consumers and licensees. As per the said judgment of the Supreme Court, the Commission has jurisdiction to adjudicate on disputes between generating companies and licensees and as between licensees under Section 86(1)(f) of the EA 2003 but not between consumers and licensees because the EA 2003 has made specific provisions under Section 42(5),(6),(7) for the redressal of such disputes and grievances by the consumer grievance redressal forum with further representation to the Electricity Ombudsman. HETL may seek the desired relief under the appropriate grievance redressal mechanism, in case it desires to agitate the matter further. Also, since the provisions of MSEDCL's Commercial Circular in this regard are essentially based on the GoM's subsidy dispensation, the issue is within the purview of GoM and not the Commission.

#### **Levy of Additional Demand Charges by MSEDCL**

52. HETL has submitted that MSEDCL has not levied the Additional Demand Charges (ADC) for months where HETL has exceeded the Contract Demand, in accordance with the Commission's Order for CPPs in Case 55 and 56 of 2003, dated September 8, 2004. HETL has added that MSEDCL has determined the ADC payable by considering the highest recorded demand for the entire duration in hours, where the recorded demand is higher than the Contract Demand, even though the quantum of excess demand over the Contract Demand has varied over the month. On the other hand, MSEDCL has submitted that the ADC has been charged in accordance with the above referred Order of the Commission. HETL has also made an alternate prayer that the ADC should be computed by considering the increased Contract Demand of 3000 kVA, which



has not been effected by MSEDCL due to non-payment of certain additional amounts demanded by MSEDCL, which are not acceptable to HETL.

53. The Commission's Order in the matter of Power Purchase and Other Dispensation in Respect of Fossil Fuel based Captive Power Plants (CPP Order) in Case 55 and 56 of 2003, dated September 8, 2004, provides as follows: (refer Page 53 of the Order)

**“Commission’s Ruling**

3.38 *Applicability of Additional Demand Charges shall be as follows:*

- *The Additional Demand Charges should be charged to only those CPP Holders whose Captive Power Plants are synchronised with the grid.*
- *In line with the MERC Tariff Orders, HT consumers having captive generation facilities synchronised with the grid will pay Additional Demand Charges of Rs.20 per kVA per month only on the Standby component, and only on the quantum, if any, in excess of the consumer’s Contract Demand.*

3.39 *For exceeding the Contract Demand (over and above the standby component, if applicable), the CPP Holder would be levied penal charges as provided in Table 11.*

**Table 11**  
**Penal Additional Demand Charges for Exceeding Contract Demand plus Standby**

<b>Particulars</b>	<b>Excess Drawal in case of Planned Shutdown of CPP</b>	<b>Excess Drawal in case of Unplanned Shutdown of CPP</b>
<i>Penal Additional Demand Charges</i>	<i>1.5 times Demand Charges (on monthly basis) in force</i>	<i>2.0 times Demand Charges (on hourly basis) in force</i>

3.40 *The Penal Additional Demand Charges for exceeding Contract Demand under unplanned shutdown shall be linked to the reasonably closest possible duration of actual shutdown of the CPP. However, in order to make this “implementable”, the penal charges would be in terms of “hour-basis” as provided in Table 12.*

**Table 12**  
**Mechanism for Penal Additional Demand Charges for Exceeding Contract Demand plus Standby during Unplanned Shutdown of CPP**

<b>Un-planned Shutdown Duration: Illustrative Cases</b>	<b>Calculation Methodology for Penal Charges</b>	<b>Remarks</b>
<i>Case 1: 3 Hour</i>	<i>Penal Charges = [2.0 times Demand Charges (for month in kVA)/(30 * 24)]*3</i>	<i>For 3 hours, the penal charges per hour are multiplied by 3</i>
<i>Case 2: 2 Days (48 Hours)</i>	<i>Penal Charges = [2.0 times Demand Charges (for month in kVA)/(30 * 24)]*48</i>	<i>For 48 hours, the penal charges per hour are multiplied by 48</i>

**Note:** *In case of the odd-units of duration it would be rounded-off to the closest unit of selected time-duration. To implement this, it is necessary to have ToD meters installed at the CPP Holders end*



*3.41 Higher Penal Additional Demand Charges for unplanned shutdown (2 times normal Demand Charges) shall be levied to discourage incidences of unplanned shutdown.”*

54. Firstly, irrespective of HETL’s claim that it had disputed the levy of additional charges by MSEDCL as a pre-condition for release of the additional Contract Demand, the fact remains that the release of the additional Contract Demand has not been effected. Hence, the computation of Additional Demand Charges has to be done with respect to the actual effective Contract Demand of HETL, and there is no question of considering any deemed Contract Demand equivalent to the Contract Demand sought for by HETL and sanctioned by MSEDCL subject to certain payments, while doing this computation.

55. Secondly, from the explanation provided by the Parties, it appears that MSEDCL has billed the Additional Demand Charges in the correct manner. Normally, for any HT consumer, the excess demand is charged on a monthly basis for the difference between the highest demand recorded during the month and the Contract Demand, however, in case of CPP consumers, the Commission has given a special dispensation of charging the excess demand on an hourly basis. The excess demand charges have to be computed for the total hours of excess demand. The issue here is whether, the amount of excess has to be computed for each instance, and charged accordingly, or whether the total hours of excess demand should be treated as being at the highest level of excess. From the illustration given in Table 12 of the Commission’s CPP Order in Case 55 and 56 of 2003, dated September 8, 2004, it is clear that the ADC has to be computed for the total hours of excess demand at the highest level of excess demand, i.e., difference between the highest demand recorded during the month and the Contract Demand, else, the illustration would have been given differently. Hence, the Commission does not find any merit in HETL’s submissions in this regard. However, the issue as to whether ADC has been computed and charged correctly in case of HETL is nothing but a billing dispute. HETL may seek the desired relief under the appropriate grievance redressal mechanism, in case it desires to agitate the matter further.

#### **Levy of Additional Supply Charges by MSEDCL**

56. HETL has submitted that there is a need to modify the provisions of the Commission’s Tariff Order in the context of benchmark consumption for levy of Additional Supply Charges (ASC), since during the reference period from January 2005 to December 2005, HETL’s CPP was operational, and its consumption from MSEDCL was non-existent. HETL has submitted that due to the fact that HETL’s CPP has not been functional since June 2006, HETL is meeting its entire requirement from MSEDCL grid, and the consideration of the average consumption during the reference period from January 2005 to December 2005 as the benchmark consumption is leading to very high ASC. HETL has suggested that the Commission needs to treat such CPP consumers separately under the ASC regime, and the benchmark consumption for such cases should be modified. HETL has suggested that it could be considered at par with either new consumers or as a case of lock-out, strike, seasonal industry, etc., where the benchmark consumption has been specified differently and is based on the average consumption during the recent past six months or the six months after completion of one year of stabilisation, in case of new consumers. HETL has also suggested that in the alternative, HETL could also be considered as a case of increase in Contract Demand (which has been sanctioned by MSEDCL, though not effected on account of non-payment of



additional bills raised by MSEDCL, which have neither been accepted nor paid by HETL), and the benefit of change in reference period to a period after the increase in Contract Demand should be allowed to HETL.

57. On the other hand, MSEDCL has submitted that HETL cannot be included under the dispensation applicable for new consumers or lock-out, strike, seasonal industry, since HETL was clearly not such a case.

58. The Commission has elaborated on the concept of Additional Supply Charges (ASC) in its Tariff Orders dated October 20, 2006, Multi-Year Tariff Order dated May 18, 2007, and the applicability of ASC has been clarified through Clarificatory Orders issued by the Commission from time to time. The basic concept of ASC was that consumers who are benefiting from reduction in load shedding should contribute towards the expenses on costly power purchase undertaken by MSEDCL to ensure that such consumers are not subjected to load shedding, after the non-costly power has been equitably allocated to all categories and regions within MSEDCL licence area. Further, the Commission has incorporated a mechanism of incentive and disincentive within the ASC regime, to act as a deterrent to consumers from increasing their consumption with respect to specified benchmark consumption. The benchmark period has been specified as the average monthly consumption during the period from January 2005 to December 2005, and certain exceptions have been provided for new consumers, industrial units that were either sick or under lockout during the above reference period, consumers whose Contract Demand has increased either during the reference period or after the reference period, etc. In all these cases, the reference period has been specified differently.

59. In the case of HETL, its consumption was admittedly negligible during the reference period from January 2005 to December 2005, on account of its CPP being functional at that time. Subsequently, due to the non-functioning of the CPP since June 2006, the entire demand of HETL's plant has been shifted to MSEDCL. Such a shift from CPP mode to grid consumption has directly caused an increase in MSEDCL's energy requirement, which has resulted in increasing the requirement of additional costly power purchase from available sources. Hence, in accordance with the principle of ASC and benchmarking concept, HETL has to be charged at ASC rate for the base percentage of ASC consumption in accordance with the ASC matrix, as well as the consumption in excess of the benchmark consumption. As regards HETL's request to be considered as a new consumer or an industrial units that was either sick or under lockout during the above reference period, or a consumer whose Contract Demand has increased, the same cannot be accepted as the said necessary event should have actually occurred, which is not so in the case of HETL. Even the increase in Contract Demand that has not been effected due to various reasons cannot be considered to modify the benchmark consumption. The very fact that HETL has suggested these options leads the Commission to believe that HETL has no specific basis to be eligible for any dispensation other than that already specified by the Commission through its various Orders. Hence, the Commission rejects HETL's submissions in this regard, and opines that no change is required to be made to the benchmark consumption for levy of ASC during the period under consideration.

#### **Levy of Service Line Charges & Additional Security Deposit by MSEDCL**

60. HETL has submitted that MSEDCL's claims for payment of additional Service Line Charges (SLC) and Additional Security Deposit (ASD) at different points in time, while sanctioning the increase in Contract Demand for HETL, are illegal and are different



methods of charging SLC for the increase in Contract Demand, which has not been permitted by the Commission. On the other hand, MSEDCL has submitted that SLC was levied for the increase in Contract Demand that was sanctioned in August 2006, which was legally permitted at that point in time, since the Commission's Order on MSEDCL's Schedule of Charges was issued in September 2006. MSEDCL has added that the ASD was levied at the time of sanctioning the increase in Contract Demand in June 2007, since the Security Deposit of HETL with MSEDCL was only around Rs. 15 lakh, whereas HETL's monthly bill was around Rs. 80 lakh to Rs. 1 crore.

61. The Commission's Order dated September 8, 2006 on MSEDCL's Schedule of Charges provides as under:-

***"6.4 Commission's Ruling***

*The Commission totally rejects MSEDCL's proposal to recover Service Line Charges from the prospective consumers except in cases of consumers requiring dedicated distribution facility. As per the provisions of the Act, developing infrastructure is the responsibility of Licensee. The Commission, therefore directs that the cost towards infrastructure from delivery point of transmission system to distributing mains should be borne by MSEDCL. The recurring expenses related to the capital investment on infrastructure shall be considered during ARR determination.*

...

***Applicability & Validity:***

*The entire Schedule of Charges as approved by the Commission shall be applicable with effect from September 8, 2006 and will continue to remain in force till further orders."*

62. The above Order issued by the Commission on MSEDCL's Schedule of Charges thus, specifies that SLC should not be charged, except in case of dedicated distribution facility. Further, since the demand for SLC has been raised by MSEDCL prior to the issue of the above-said Order by the Commission, the Commission is of the view that SLC could have been charged by MSEDCL. However, whether in the particular instance of HETL, the demand for SLC is legitimate and whether the quantum of SLC sought by MSEDCL is justified or not, or whether HETL had requisitioned for dedicated distribution facility, depends on the specific case of HETL, which is nothing but a grievance, and may be agitated by HETL if desired under the appropriate grievance redressal mechanism, which will have the jurisdiction to go into these aspects.

63. As regards the demand for Additional Security Deposit by MSEDCL for effecting the increase in Contract Demand sanctioned in June 2007, the legal validity of the same has to be verified with respect to the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, which specifies as reproduced below:

***"11. Security Deposit***

*11.1 Subject to the provisions of sub-section (5) of Section 47 of the Act, the Distribution Licensee may require any person to whom supply of electricity has been sanctioned to deposit a security in accordance with the provisions of clause (a) of sub-section (1) of Section 47 of the Act.*

*11.2 The amount of the security referred to in Regulation 11.1 above shall be an equivalent of the average of three months of billing or the billing cycle period,*



*whichever is lesser. For the purpose of determining the average billing under this Regulation 11.2, the average of the billing to the consumer for the last twelve months, or in cases where supply has been provided for a shorter period, the average of the billing of such shorter period, shall be considered:*

...

*11.3 Where the Distribution Licensee requires security from a consumer at the time of commencement of service, the amount of such security shall be estimated by the Distribution Licensee based on the tariff category and contract demand / sanctioned load, load factor, diversity factor and number of working shifts of the consumer.*

*11.4 The Distribution Licensee shall re-calculate the amount of security based on the actual billing of the consumer once in each financial year.*

...

*11.6 Where the amount of security re-calculated pursuant to Regulation 11.4 above, is higher than the security deposit of the consumer, the Distribution Licensee shall be entitled to raise a demand for additional security on the consumer.*

*Provided that the consumer shall be given a time period of not less than thirty days to deposit the additional security pursuant to such demand.*

...

64. Thus, the Commission's Supply Code Regulations provide for MSEDCL seeking Additional Security Deposit, in case of a shortfall in the Security Deposit of HETL with MSEDCL. However, whether in the particular instance of HETL, the demand for Additional Security Deposit is legitimate and whether the quantum of Additional Security Deposit sought by MSEDCL is justified or not is a billing dispute and HETL may seek the desired relief under the appropriate grievance redressal mechanism, in case it desires to agitate the matter further.

With the above, HETL's Petition in Case No. 77 of 2007 stands disposed of.

(S.B. Kulkarni)  
Member

(A. Velayutham)  
Member



(P.B. Patil)  
Secretary, MERC