

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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CASE No. 2 of 2003

In the matter of
Non- compliance of Tariff Order directions by MSEB regarding installation of meters,
violation of connected load, power factor norms by LTPG consumers, etc.

Dr Pramod Deo, Chairman
Shri A. Velayutham, Member

ORDER

Dated: July 14th, 2005

Mumbai Grahak Panchayat (MGP), through their letter No. 41/05/AP dated 18th January, 2005, has brought to the Commission's notice the alleged non-compliance of Tariff Order directions by Maharashtra State Electricity Board (MSEB) regarding installation of meters for accurate and correct metering for sanctioned load, power factor norms for LTPG consumers, etc., while persisting with the connected load concept which the Commission has progressively dispensed with, and penalizing and/or disconnecting consumers on that basis. The Application has the following prayers:

- i) MSEB should be asked for Zonewise data on connected load notices (under Section 126 of the Electricity Act (EA), 2003) issued after 10th March, 2004 regarding (a) Notice given and total amount collected; (b) Notice given and partial amount collected; and (c) Notice given and no amount collected.
- ii) The entire amount collected should be refunded to the consumers, and notices withdrawn forthwith.
- iii) Disciplinary action should be initiated against the concerned staff for non-compliance of the Commission's Orders, and report submitted.

MSEB's comments, sought by 1st March, 2005 (under letter dated 9th February, 2005 and reminder dated 9th March, 2005) were not received. Instead, under letter dated 8th April, 2005, MSEB sought a further month for submission of the data sought, without commenting on the issues.

2. Similarly, Thane Small Scale Industries Association (TSSIA), vide letter No. TCSG/326/03/05/275 dated 11th March, 2005, enclosing a copy of letter dated 4th March, 2005 from Director (Vigilance), MSEB, has also alleged that the concept of connected load is being wrongly used to harass consumers, and arbitrary decisions regarding violation of connected load, contrary to the Commission's Orders, are being taken, often resulting in disconnection and disputed arrears.

3. In the absence of any Reply from MSEB, and after postponements at their request, the matter was heard on 25th April 2005. At the outset, Dr. Ashok Pendse, on behalf of both MGP and TSSIA, and elaborating also on his further written submission dated 29th March, 2005, submitted that, in the third Tariff Order of December 2003, the Commission had clearly stipulated, as in earlier Tariff Orders, two types of demand-based tariff for LTP-G (General Motive Power) category of consumers. These consumers were given two options:



- (a) Demand charges at Rs. 60/- per HP per month for 50% of the sanctioned load, in which case the demand charges will remain the same on month-to-month basis; or alternatively,
- (b) Maximum demand (MD)-based tariff, irrespective of Contract Demand, in which case the demand charges, governed further by the “Billing Demand” definition, will vary from month to month depending on recorded usage.

4. Dr. Pendse submitted that the issue was how to assess that the consumer availing of tariff under option (a) above has exceeded the sanctioned load. He explained that, in case of a consumer who has opted for MD-based tariff, MSEB can charge on a month-to-month basis. But in case he is billed on the sanctioned load basis and does not have a meter capable of measuring maximum demand, the question is whether MSEB can use the concept of “Connected Load” for checking whether the consumer is within the sanctioned load. In this context, he queried as to whether there could be two different methodologies for this purpose for the same category of consumer, i.e. whether in one case one could check whether the consumer has exceeded the sanctioned load by measurement, and in the other on the basis of connected load, which is highly presumptive and open to misinterpretation by field staff. The Commission observed that it is clear from the Tariff Order as well as the approved Tariff Booklet that ‘connected load’ cannot be substituted for ‘sanctioned load’.

5. Dr. Pendse submitted that the Tariff Booklet approved by the Commission stipulated that the consumer shall be billed on the actual drawn demand, and would be levied penal charges for unauthorized demand beyond the sanctioned load. In addition, in the Tariff Order of December 2003, the Commission has directed that all consumers with load exceeding 20 kW should have MD-based ToD meters. In this context, he submitted that, as stated in the second Tariff Order dated 10th January, 2002 (page 97), the Commission had introduced ToD tariff for HT industrial consumers in May 2000, and declared that it intended to introduce ToD based tariff for other HT consumers as well as LT industrial consumers. He submitted that MSEB have delayed installation of ToD meters for HT industrial consumers. The objective of introduction of ToD tariff was to enable flattening of the load curve, which had been achieved to a certain extent. In that Order, the Commission had extended ToD tariff to HT and LTPG consumers in line with Commission's philosophy. He further submitted that in the third Tariff Order dated 10th March, 2004, the Commission had also directed MSEB to install ToD meter for all consumers with a connected load of over 20 kW so that the demand (MD) based ToD tariff could be availed of by them. He pointed out that, right from the first Tariff Order of May, 2000, the Commission had envisaged that assessment for electricity consumption should be done only on the basis of measurement rather than on a presumptive basis.

6. Dr. Pendse submitted that the existing provisions contained in Clause 31(e) of MSEB's Conditions of Supply and the Tariff Order need to be examined in the light of the new Electricity Act (EA), 2003. He submitted that the Commission has already provided for the penalty for exceeding sanctioned load. Assuming this is not clear, and the provisions of Section 126 come into play, EA, 2003 also provides that anything inconsistent with the Act cannot prevail. He submitted that the Clause 31(e) of the Conditions of Supply, which allows disconnection in case of unauthorized extraction, is inconsistent with EA, 2003 and cannot override it or the Commission's Tariff Order. The Commission also observed that, under Regulation 19 of the Supply Code, MSEB are required to review and revise their various circulars relating to terms and conditions of supply to the extent that they are inconsistent with statutory provisions.

7. Dr. Pendse pointed out further that there is a large number of consumers who are still disconnected on account of arrears of connected load penalty which are disputed. He feared that, even if a revised circular in this regard is issued by MSEB, field officials would not act upon it and effect reconnection within the stipulated time period. The Commission observed that, in such cases, the penal provisions of Sections 142 and/or 146 might have to be resorted to. Referring to Chief Engineer (Commercial), MSEB's belated letter No. PR-3/Tariff/011704 dated 16th April 2005 addressed to field officers (and which was circulated at the hearing), the Commission stated that it should have been



given wide publicity through the press and other media. The letter contains the following instructions:

- a) *Irrespective of the quantum of sanctioned load and whether the energy consumed being recorded by a LT MD meter or conventional single phase/ three phase meter can be penalized for unauthorized connected load, on the basis of physical verification;*
- b) *CT operated LT MD Meters should be installed to all Low Tension consumers, more particularly consumers having connected load of 20 HP and above, even though the consumer has not opted for MD based tariff;*
- c) *Sanctioned load in terms of kVA Demand of all Low Tension consumers (having sanctioned load of 20 HP or more) should be determined based on the sanctioned load in HP or kW, with 90% power factor, irrespective of whether the consumer has opted for LT MD based tariff or otherwise;*
- d) *Instructions should be given to the respective concerned IT Centers to indicate the such sanctioned load on the energy bill of the respective consumers;*
- e) *Instructions should be given to record the kVA maximum demand of all such consumers at the time of routine meter reading and in case the kVA Maximum Demand during a particular month happens to be more than the sanctioned load in terms of kVA Demand, penalty should be charged and recovered;*
- f) *The practice of checking/ inspection of consumer's installation and physical verification of the actual connected load should be continued as it is, provided no penalty for excess connected load is levied simply based on such physical verification;*
- g) *In all such cases, wherever the consumer has already been issued with the demand of penalty, the same should not be insisted for the time being till further instructions in this regard."*

8. In this context, referring to MGP's prayers, Dr. Pendse submitted that, MSEB should be stopped from collecting payments from consumers served with penal recovery notices, and refunds should be made to those who have made such payments already on account of connected load penalty notices. He pointed out that MSEB have till date not given Zone-wise data on the connected load penalties as sought.

9. Dr. Pendse then drew attention to the letter dated 4th March 2005 from the Director (Vigilance), MSEB addressed to the President, TSSIA. The letter stated inter alia that:

"Your perception about the abolition of concept of connected load by MERC vide its Order dated 1st December, 2003 is incorrect. In this matter, your attention is invited towards tariff category LTP G for General Motive Power and corresponding Notes stated in the above mentioned Tariff Order that there are Two options of Tariff available (1) Fixed charge and (2) Optional M.D. based Tariff. As per fixed charge tariff, fixed charges at the rate of Rs 60/ HP or 80.58/KW per month is to be recovered for 50% of sanctioned load. The implied condition of this tariff is that the consumer should not exceed the sanctioned connected load. In case, the consumer exceed the sanctioned load, the fixed charges will be recovered on the basis of Actual Connected Load.

As such in order to ascertain, whether the consumer use the connected load within the limit of sanctioned load or otherwise, it is necessary to check the connected load. And if found excess, appropriate action will be taken against the consumer.

Further in same Order, the M.D. based tariff is made optional and is available to all the consumer irrespective of contact Demand at the rate of Rs 220/KVA/Month. The consumer who desire to opt for M.D. based tariff will have to communicate to the Board his option in writing at least



one month in advance. The Board will take appropriate action regarding installation of LTMD meter etc. after receipt of application in the matter. It is not necessary to install the LT MD meter to the consumer who have opted the fixed charge Tariff.

Further as per provisions of existing condition No. 16 of Board's Conditions of Supply of electrical energy which will prevail till the formulation of new supply condition and approved by M.E.R.C. , any extension and alteration to existing system without giving notice alongwith test report to the Board will be liable to discontinue the supply summarily."

Dr. Pendse strongly objected to Director (Vigilance)'s incorrect interpretation of the Tariff Order. He submitted that the Commission had in the last year or so given several clarifications on various issues, and in case of any further doubt regarding its directions or the statutory provisions, additional clarification should have been sought.

10. Referring further to Director (Vigilance)'s letter, wherein it had been stated that the perception of abolition of connected load by the Commission was incorrect. Dr. Pendse pointed out that there is no such thing as "sanctioned connected load" referred to in their letter. The letter states further that "...any extension and alteration to existing system without notice alongwith test report to the Board, will be liable to discontinue the supply summarily". Dr. Pendse submitted that, other than Sections 56 and 163 of the Electricity Act, there are no provisions to discontinue supply.

11. In this context, Dr Pendse submitted a copy of the Order dated 22nd January, 2003 in Revision Petition No.604 of 2003 of the National Consumer Disputes Redressal Commission, New Delhi, and quoted as under:

"It appears that the negligent staff is not accountable for the harassment done to a poor consumer. District Forum awarded a paltry sum of Rs.5,000/- as compensation to the complainant and State Commission held that to be quite sufficient. State Commission took serious view of the default committed by the officers of the Electricity Department and yet it found the compensation awarded to be quite reasonable. It is certainly paradoxical situation if the members comprising the State Commission or District Forum had their electricity disconnected for 65 days without any primary reason, they would have certainly then felt that the amount of compensation of Rs. 5,000/- was pitiable. Unfortunately, we do not put ourselves in the position of a consumer as to how he suffered. In our view, there is clear miscarriage of justice and in fact award of Rs. 5,000/- is adding insult to injury. We would enhance the compensation to Rs. 33,500/- @ Rs. 500/- for each day the electricity remained disconnected which amount shall be recoverable by the department from its negligent and defaulting officials."

Dr. Pendse pointed out that Director (Vigilance)'s letter was issued after the Supply Code had come into effect on 20th January 2005, and inspite of it, reflecting MSEB's highhandedness and arbitrary actions in violation of the Commissions' directives. The Commission directed that it be withdrawn immediately by MSEB. (This was done subsequently, and TSSIA and the Commission informed accordingly under letter dated 18th June, 2005.)

12. Shri Ashwin Treasurer of Maharashtra Chamber of Commerce and Industry submitted that, as far as consumers with 20 kW and above are concerned, MSEB did not choose to comment since the Commission had repeatedly made it clear that such consumers would have to be provided with ToD meters. This indicates that MSEB are fully aware of the violation of directives in the Tariff Order.



13. Referring to MSEB's instructions dated 16th April 2005 [Point (a)], Dr. Pendse submitted that no consumer can be penalized for unauthorized connected load on the basis of physical verification. He submitted that MSEB have been making their own rules and procedures and disconnecting supply at will regardless of clear directions and legal provisions, and that this was a fit case for invoking Section 142.

14. Dr. Pendse further addressed the issue of the method of assessment, viz. if it has been done on the basis of connected load, it is simply presumptive billing. He pointed out that there are cases which are pending prior to the EA, 2003 also, which will have to be assessed as per Section 31(e) of Conditions of Supply. Cases from the enactment of the EA, 2003 till the last Tariff Order will have to be assessed as per Section 126. He suggested that the Commission should again give directions as to how the assessment should be done as there are number of cases which are pending for a couple of years or more.

15. Shri B.R. Khedkar, Secretary, Akhil Bharatiya Grahak Panchayat, Pune submitted that MGP's Application also refers to the problems of assessment and penalty prior to the EA, 2003 and prior to the May, 2000 Tariff Order, which are still continuing. He stated that charging on connected load basis was never intended even in the erstwhile Electricity (Supply) Act, the Supply Conditions or the Indian Electricity Rules. The Model Supply Conditions also never envisaged connected load being used as a tariff parameter.

16. Shri Varhokar, Chief Engineer (Comm.), MSEB submitted that below 20 HP, the concept of connected load would have no meaning as far as tariff and its penal provisions are concerned. However, he questioned whether such consumers could increase their connected load without intimation to MSEB, or without submitting their test reports and taking safety measures. He pointed out that, below 20 HP, there are about 2.40 lakh consumers, and in many cases the ToD meters have still not been installed. He stated that meters installed by MSEB can take load of up to 40 Amperes, but will not show the maximum demand although the tariff is based on the sanctioned load. He pointed out that it would be difficult to detect if these consumers increase load and draw power in excess of the sanctioned load. He submitted further that, once the connected load concept is done away with, problems will arise in respect of agricultural consumers because meters have not yet been installed by MSEB. He submitted that some solution is also necessary for consumers below 20 HP.

17. The Commission acknowledged the possibility of such problems upon abolishing the connected load concept, which is mainly used for planning power systems, particularly when proper metering is not done by the MSEB even after five years of the regulatory regime and the Commission's directives in this regard. It observed, however, that various field level problems (unauthorized load, reactive compensation, etc.) associated with agricultural consumers should not be mixed up with LT industrial consumers availing of general motive power load based on fixed demand charges per month. The Commission asked as to the method of assessment that can be adopted when there is a fixed charge on the basis of sanctioned load (HP) in certain consumer categories.

18. Dr. Pendse submitted that, as far as the LTPG group is concerned, the issues of concern to MSEB could be addressed in two parts in respect of consumers below 20 HP consumers, viz. safety, which has necessarily to be a primary concern, and measurement. As far as measurement is concerned, he suggested that there could be two options, viz. either MSEB install the meter themselves, or allow the consumers to use their own meter over a period of time. One cannot lose sight of measurement in such cases, whatever the option.

19. Addressing MSEB's concerns, Shri Khedkar submitted that unauthorized load on the distribution system must be restricted. He contended that the agency to check the increase in the connected load and other things is the Electrical Inspector. He referred to Rule 45 of the Electricity Rules, 1956, under which no person other than an authorised electrical contractor can carry out



electrical installation work. He suggested that MSEB submit the list with the report of the connections to the Electrical Inspector in respect of consumers who, in their view, have exceeded the sanctioned load. The Electrical Inspector has the powers to question the consumers and penalize them, and also to prosecute.

20. The Commission observed that the role of the Electrical Inspector under the new EA, 2003 is different from the past. As far as agricultural connections are concerned, it has been observed that consumers are not necessarily using the same rating of the motor that was released by MSEB for supply. If the connected load (only agricultural pumps in such cases) is found to be more than the sanctioned load, that can be ascertained again based on measurement. The Commission also pointed out that even so, the abolition of the 'connected load' concept would not necessarily act to the detriment of MSEB. The problem arises due to failure of MSEB in metering such agricultural or LT industrial consumers over the years and continuing with HP based tariff.

21. Shri Girish Sant of Prayas submitted that agriculture, where the measurable ampere load (either monoblock pump or centrifugal pump or submersible pump) is more or less constant, is one of the major issues of concern, and requested the Commission to clearly separate the two issues. Shri Sant suggested that the solution was to have MD based tariff.

22. With reference to MD metering and ToD metering above 20 KW, the Commission pointed out that it needs to be clear that it is not 20 HP but 20 KW (around 27 HP with 40 amps full load current) as per its earlier directive. The Commission further observed that, with respect to 0 to 20 kW, the proposition could have come from MSEB in their tariff proposal itself that they wished to discontinue the HP based tariff for LTPG industries. MSEB cannot at this stage mix up the issue of the 'HP' based tariff for agricultural consumers, who are a separate category, with that of LTPG consumers using motive power. The Commission observed that, in their Conditions of Supply, MSEB had a method for assessing the consumption for a particular connected load. The Commission suggested that the energy consumption over the last 3 or 6 months could be considered in order to see the trend, and check if there is any violation (taking the benchmark consumption, allowing maximum flexibility) on the part of the consumer.

23. The Commission further observed that, in the absence of suitable meters, the concerned consumers could not be penalized merely on the basis of presumption, which is often without basis and used as a tool for harassment by errant field staff. Dr. Pendse stated that some other means were required only for the period until the meters are installed, as an interim measure. The Commission also observed that there should be a time bound programme for providing such meters. Dr. Pendse suggested that if assessment is to be carried out ultimately by metering, then the consumers should be allowed to procure their own meters as per prescribed specifications. In the intervening period, till such meters are installed either by the consumer or by MSEB, other means would have to be used for assessment. Shri Khedkar pointed out that no question of checking loads, motor etc., or penalizing would arise if anyone who wanted to connect load in excess of the sanctioned load had installed the ToD meter.

24. Shri Treasurer submitted that if the connection is released as per the sanctioned load but if, subsequently, in place of 10 HP, say 15 HP is connected, the consumer cannot be penalized as per the present dispensation. He suggested that if the load is 10 HP (i.e. below 20 HP), the consumer should install the MD meter. He submitted that consumers below 20 HP, being greater in number, were more of a concern.

25. The Commission observed that, based on the billing software, MSEB could generate data on a continuous basis. The previous 6 months' data would enable them to detect some trend and possible violation. Otherwise it could be done by measurement. Shri Varhokar responded that assessed kW from units (kWh) consumed would still depend upon the number of hours that the consumer utilizes



the load. The Commission remarked that MSEB's documentation would show whether the LT industry is operating for a single shift or for 3 shifts. Even in the case of 24 hour use, it does not necessarily mean that the consumer is violating sanctioned load for which he is being charged with penalty now. MSEB can detect a trend by framing an appropriate methodology (such as taking sanctioned load operating with appropriate load factor for 24 hours a day), and ascertain persisting violation. If the consumption trend indicates this, meters can be installed on priority in such cases. During the intervening period, at least those violations which are persistent can be detected. The MSEB representative submitted that what this effectively meant was that MSEB are not allowed to check the connected load, but should check whether the consumer was running his factory in single shift, or two or three shifts as per the sanction taken and the load he is utilizing.

26. Dr. Pendse clarified further that the consumer's consumption level for the last six months or a year (to take care of seasonal variations) should be recorded. Once he exceeds that average, it is likely that he has exceeded his sanctioned load. Consumers exceeding the sanctioned load can be filtered accordingly. He submitted that generally such consumers would not make a significant change in their demand pattern. Their demand pattern is basically dependent on need and not because the consumer does not want to pay demand charges. Therefore, if the consumer exceeds his average consumption for the last six months or a year, a meter should be immediately installed in his case in preference to other remaining consumers. The representative of MSEB submitted that this would be a difficult process. For instance, if a connection had been taken 5 or 10 years back and if MSEB were to start this process now and if the consumer is exceeding consumption for the last one year, then it would not be possible to differentiate whether that consumer has exceeded during the past year or not as compared to his earlier pattern. The Commission pointed out that if, on the other hand, MSEB were to go by the concept of "Connected Load", they would be doing injustice by being arbitrary and highhanded. Therefore, a solution based on energy audit principles will have to be found.

27. Dr. Ashok Pendse submitted that another issue which also needs to be considered in addition to the sanctioned load is that of Power Factor measurement, since power factor is also not assessed through measurement. Both sanctioned load and power factor measurement should go together.

28. The Commission while summing up the deliberations, reiterated that MSEB have ways and means by virtue of computerized billing to look at the past six months or one year's billing pattern, and to evolve some method based on it.

29. At this point, it is useful to recapitulate the chronology of events and the dispensation arrived at by the Commission relevant to the issues in the present Applications as follows:

- (a) The Commission asked MSEB in its first Tariff Order (May 2000) to install ToD meters for all HT consumers, and expressed the intention to expand ToD tariff to encompass all categories of consumers. The Commission advised MSEB to embark upon a meter installation programme so as to cover all consumers within three years.
- (b) Subsequently, during meetings with the Commission on submission of metering plans, the need to expedite appropriate metering in line with tariff and the latest electronic technology was impressed upon.
- (c) In the Commission's last Tariff Order dated 10th March, 2004 MSEB were directed to install ToD meters (which obviously would have MD or RkVAh metering capability) for all consumers with a connected load of over 20 kW, while changing the definition of connected load.
- (d) Pursuant to the Tariff Order dated 10th March 2004, MSEB submitted their draft Tariff Booklet, which was duly approved by the Commission vide letter dated 28th May, 2004, with an annexure giving the reasons for modifications carried out by the Commission.



- (e) Thereafter, vide their letters dated 6th July, 2004 and 11th August, 2004, MSEB approached the Commission regarding difficulties with regard to the Tariff Order provisions in respect of 'Power factor Penalty' and 'Excess Load Penalty'.
- (f) However, in its replies dated 27th July, 2004 and 14th September, 2004, the Commission denied MSEB any leeway in the matter.

30. While submitting the draft Tariff Booklet for approval following the last Tariff Order, in the section on Miscellaneous and General Charges for LT supply, MSEB had included the following:

"In case of excess connected load, the consumer shall be billed, based on the actual connected load and shall be levied penal charges for the unauthorized connected load at double the rate of Fixed Charges applicable under Tariff applicable to General Motive Power consumers prevailing from time to time."

The Commission had deleted the references to connected load, and revised the dispensation to read as follows:

"In case of load drawal exceeding sanctioned load, to be measured through the MD meters (Tri-vector or Accu-check meters as the situation demands), the consumer shall be billed based on the actual drawn demand and, shall be levied penal charges for the unauthorized demand beyond the sanctioned load at double the rate of demand charges applicable for MD based tariff to General Motive power consumers and non-domestic consumers, prevailing from time to time."

Explaining the reasons for the change, the Commission had stated that:

"The Commission has recommended that all customers, particularly LT General Motive Power consumer category, and LT commercial category (opting for MD based tariff) having load more than 20 KW shall be provided with MD based ToD meters (ref. Directive 44 at page 14 of tariff Order dated 10th March 2004). MSEB in order to prevent misuse of connected load based penalty, both by the internal people and external customers, shall fall upon measurement based assessment for detecting suspected unauthorized extraction of energy beyond the sanctioned load for consumers having more than 20 KW sanctioned load in the first phase. This is also in line with the Supply Code, which has abolished the concept of connected load, and developed the Code on the basis of sanctioned load only."

Similarly, the Commission had deleted the reference to connected load in the Note on Optional MD based tariff in the case of LTPG. Reference in the draft Tariff Booklet to a power factor penalty even in cases where the LT consumer did not have a power factor measuring instrument (which was expected to be provided by MSEB) was deleted. The Tariff Booklet approved by the Commission provides that the power factor penalty would be levied only if the recording instrument is available.

Thereafter, under letter dated 6th July, 2004, MSEB submitted that "in the absence of facility in the meter to indicate the kVA demand, it would be very difficult to establish the actual demand drawn by a consumer" and requested the Commission to reconsider its stand and "allow the Board to continue to follow the previous provisions for the time being". Stating that, in effect, MSEB were seeking a substantive modification of the findings or directions in the Tariff Order, the Commission pointed out (in letter dated 27th July, 2004) that MSEB's plea could not be entertained outside the framework of appeal or review provided under the Act and/or Conduct of Business Regulations.



31. The Commission notes that if MSEB had taken timely action and executed the metering program, these issues (often resulting in disputed arrears or loss of revenue after forced disconnection) would not have arisen and many disputes with consumers could have been obviated. There are many complaints about MSEB's levying 'connected load' penalty or power factor penalty without adhering to the Commission's directions in the Tariff Order or the stipulations in the approved Tariff Booklet. In particular, MSEB's stand, as reflected in Director (Vigilance)'s letter dated 4th March 2005, is a novel way of interpreting the Commission's Order which is also likely to encourage the errant activities of field staff.

32. During these proceedings, Dr Pendse representing both MGP and TSSIA, also drew attention to cases where even consumers supplied through MD/ToD meters have been charged with violation of 'Connected Load' relying on physical verification of load and without following the definition laid down by the Commission, which reflects on the double standards adopted by MSEB in its treatment of the Commission's directions. In spite of specific provisions in the Tariff Order and its directions, field staff continue to use connected load as a concept as against measurement. These actions, using connected load as a basis and then assessing under Clause 31(e) of the erstwhile Conditions of Supply, and disconnection of consumers on this account, are clear violations of the approved dispensation in this regard.

33. In view of the above, and keeping the circumstances of the case in mind, the Commission directs as follows:

- (a) All LT consumers (except LT agricultural consumers) who have been disconnected on the charge of exceeding sanctioned load governed by the MSEB's terms and conditions of supply from 10th June, 2003 (when EA, 2003 came into force) shall be reconnected forthwith without any charges or preconditions. Such reconnection shall be completed within one month from the date of this Order, and confirmed under affidavit to the Commission by 31st August, 2005, failing which the Commission may be constrained to penalize MSEB and/or the defaulting officials under the provisions of the Act.
- (b) Any demand notice or other charges arising out of the above shall be withdrawn forthwith, with an intimation to the consumers.
- (c) All LT consumers (except LT agricultural consumers) with sanctioned load exceeding 20 kW will be assessed only by Maximum Demand recording through the meter. MSEB shall take immediate steps to install suitable meters in line with the directions in the Tariff Order dated March 10, 2004 (para 44), if not done so far. In the intervening period, any remaining such cases shall be dealt with as per the dispensation at (d) below.
- (d) As an interim dispensation for LT consumers (other than agricultural and residential) with less than 20 kW load, MSEB shall review/ monitor the last one year's consumption (kWh) of the concerned consumer, and compare it with the normalized maximum limit of energy consumption for the sanctioned load, month-wise. In case such normalized consumption is found to be lower than the actual consumption in at-least six months out of twelve, then MSEB shall install a MD (Tri-vector) meter at its own cost, or shall notify the concerned consumer to install the prescribed MD meter at his own cost within a reasonable stipulated time frame, failing which he would be liable to penal provisions regarding violation of sanctioned load limit, and demand charges accordingly, with prospective effect from the date of notice.
- (e) Assessment for violations would differ depending on the period of occurrence and its corresponding tariff and loads, as follows:

- (1) Period prior to 10th June, 2003 (i.e. prior to EA, 2003): As per Clause 31(e) of MSEB's Conditions of Supply.



- (2) Period from 10th June 2003 to 30th November, 2003 (uptil date of effect of Tariff Order): One and a half times the normal tariff for the load exceeding the sanctioned load, measured by connected load method.
- (3) Period from 1st December, 2003 onwards: If exceeding the sanctioned load has been measured by maximum demand recorded by meter, then two times the tariff applicable for the exceeded portion of the load (maximum demand minus sanctioned load). No penalty will be applicable if exceeding of sanctioned load is claimed on the basis of connected load method.
- (f) MSEB shall refund any amounts collected on account of invocation of Connected Load/ Power Factor penalty not in line with this dispensation, to the concerned consumers along with interest at the rate applied by MSEB to their consumers, from the date of collection till the date of refund, but not later than three months from this Order.
- (g) MSEB shall furnish by 30th July, 2005 the data sought by MGP in its Application, and which MSEB had earlier sought one month's time to submit (vide their letter dated 8th April, 2005), under affidavit.

34. MSEB's distribution function has recently been vested with the Maharashtra State Distribution Company. However, the term 'MSEB' has been used throughout this Order for convenience.

Sd/-

(A. Velayutham)
Member

Sd/-

(Dr Pramod Deo)
Chairman, MERC



(A.M. Khan)
Secretary, MERC