IN THE COURT OF THE LOKPAL (OMBUDSMAN),

 ELECTRICITY, PUNJAB,

66 KV GRID SUB-STATION, PLOT NO. A-2,

INDUSTRIAL AREA, PHASE-1, S.A.S NAGAR (MOHALI)

Appeal No. 38 / 2017 Date of Order : 27.12.2017

Surjit Kumar Arora

# B-X /527, Muktsar Road,

Battian Wala Chowk,

Kotkapura-151 204

District Faridkot.

 …….Petitioner

Account No. 3002801831

*Through:*

Shri Ranjit Singh, Petitioner’s Counsel (PC)

Versus

Punjab State Power Corporation Limited

 …..Respondent

*Through:*

Er. Mandeep Singh,

Sr. Executive Engineer,

DS Division ,

PSPCL, Kotkapura.

Appeal No. 38 / 2017 dated 17.07.2017 was filed against order dated 19.06.2017 in Case No. CG-65 of 2017 of the Consumer Grievances Redressel Forum (Forum) which decided that:

*“The amount charged on account of demand surcharge in the bills issued to the Petitioner dated 01.07.2015, 20.08.2015, 10.09.2015 is correct and chargeable. However, no demand surcharge is payable by the petitioner for the bill issued on 05.10.2015 for the period from 31.082015 to 30.09.2015”.*

2. Arguments, discussions and evidence on record were held on 17.10.2017, 02.11.2017, 05.12.2017, 26.12.2017 and 27.12.2017.

3 Shri Ranjit Singh (PC) alongwith Shri Surjit Kumar Arora (Petitioner) attended the Court proceedings on behalf of the Petitioner. Er. Mandeep Singh, Sr. Executive Engineer, and Shri Amardeep Singh, UDC DS Division, PSPCL, Kotkapura, alongwith Er. Harinder Singh, AEE, DS, City Sub Division, PSPCL, Kotkapura appeared on behalf of the Respondent Punjab State Power Corporation Limited (PSPCL).

4. Presenting the case on behalf of the Petitioner, Shri Ranjit Singh, PC stated that the Petitioner filed a Petition before the Divisional Level Dispute Settlement Committee (DDSC), PSPCL, Kotkapura against the Demand Surcharge raised in the bills detailed as under:

a) Demand of Rs. 66,345/- raised on account of demand surcharges vide bill issued on 01.07.2015,

b) Demand of Rs. 30,135/- raised on account of demand surcharge vide bill issued on 20.08.2015,

c) Demand of Rs. 76,913/- raised on account of demand surcharge vide bill issued on 10.09.2015,

d) Demand of Rs. 78,563/- raised on account of demand surcharge vide bill issued on 05.10.2015.

 PC stated that on 16.09.2016, the disputed case of Rs.66,345/- was decided by the said Committee and the decision was forwarded to AEE, DS City Sub Division, vide letter No.12960 dated 17.11.2016, but no copy of the order of the DDSC was ever supplied to the Petitioner. PC also stated that the Petitioner received the bill issued on 20.01.2017 for Rs. 2,04,360/-, in which Rs. 1,71,596/- had been charged as sundry charges. When the Petitioner visited the office of AEE, DS City Sub Division, PSPCL, Kotkapura, it was told that disputed case of the Petitioner had been decided by the DDSC and the amount had been charged as per its decision. PC stated that the Petitioner filed the appeal before the Forum, PSPCL, Patiala against the decision of DDSC. The appeal of the Petitioner was partly accepted by the Forum vide decision dated 19.06.2017, as per which, the demand surcharge levied in the bills issued on 01.07.2015, 20.08.2015 and 10.09.2015 was decided as chargeable. However, the demand surcharge levied in the bill issued on 05.10.2015 was decided in favour of the Petitioner, as not chargeable. After the decision of the Forum, the disputed amount remained Rs. 1,56,709/- which related to the bills issued on 01.07.2015, 20.08.2015 and 10.09.2015.

 PC further stated that the sanctioned load of the Petitioner, as shown in the bill, was 54.520 kW but the same had been got extended to 64.520kW by depositing requisite fee of Rs. 24,500/- vide Receipt No. 97/11595 dated 04.10.2014, but the new load was not reflected in the bills issued to the Petitioner. Moreover, the connected load of the Petitioner was as per sanctioned load and the same was admitted in the reply filed by the PSPCL. The Maximum Demand (MD) of the Petitioner, recorded in the previous bills was as under:-

06 / 2014 60.14kVA

 07 / 2014 60.14kVA

 10/ 2014 48.94kVA

 11 / 2014 59.19kVA

 12 / 2014 60.03kVA

 01/2015 60.03kVA

 02/2015 60.03kVA

 03/2015 60.03kVA

 04/ 2015 60.66kVA

 05/2015 57.33kVA

 06/2015 65.63kVA

 PC also stated that the bill issued on 01.07.2015 showed the Maximum Demand as 149.040kVA, which was very excessive as comparison to the sanctioned / connected load of the Petitioner, as there was no unauthorized load at the premises of the Petitioner. PC contended that under no circumstances, MD of the Petitioner could be 149.040kVA, which showed that there was some defect in the metering equipment and the amount charged as demand surcharge in the bill to the tune of Rs. 66,345/- was illegal. The electricity bill of Rs. 2,39,336/-, in which the demand surcharge of Rs.66,345/- had been charged, was illegal and excessive and the Petitioner was ready to deposit the current bill, except demand surcharge of Rs.66,345/- as per provisions contained in Regulation 35.1.1 (b) of Supply Code -2014, as there was no demand surcharge levied during the previous six bills of the Petitioner.

 PC further stated that the Petitioner again received the bill issued on 20.08.2015, in which MD had been shown 100.730kVA and demand surcharge of Rs. 30,135/- was charged. Thereafter, again on 10.09.2015, the Petitioner received the bill, in which MD had been shown 174.240kVA and demand surcharge of Rs.76,913/- was charged. Similarly, on 05.10.2015, the Petitioner received the bill, in which MD had been shown 176.440kVA and demand surcharge of Rs.78,563/- was charged. All the above disputed amounts were challenged by the Petitioner before the DDSC after depositing every time 20% of the disputed amount alongwith the current bills.

 PC also stated that as the load of the Petitioner was never more than the sanctioned load, the MD was being shown very excessively in the bills due to some defect in the metering equipment. The Petitioner challenged the Energy Meter and also deposited Rs. 2400/- on 11.09.2015 as Energy Meter Challenge Fee, whereafter, the Energy Meter of the Petitioner was replaced. After this change of Energy Meter, the MD has been recorded within limits of sanctioned contract demand. Thus, there was no excess load installed at the premises of the Petitioner. In every representation made by the Petitioner to AEE, DS City Sub Division, PSPCL, Kotkapura, it was requested that the connected load of the Petitioner could be checked by the competent authority to know about the exact cause of excess MD being shown by the Energy Meter, inspite of the fact that no excessive load was installed or being used by the Petitioner. The load of the Petitioner was never checked at site by any authority of the PSPCL inspite of repeated requests every time by the Petitioner and after replacement of the Energy Meter, there was no problem about the MD and Contract Demand was recorded within the sanctioned limits. This showed that due to some defect in the metering equipment, excessive MD was being shown.

 PC further stated that as per the written reply submitted by the Respondent before the Forum, it was admitted that connected load of the Petitioner was as per sanctioned load and also that, if there was no unauthorized load at the premises of the Petitioner, this did not mean that excess Contract Demand could be used by the Petitioner.
The Respondent also pleaded before the Forum that Contract Demand might have exceeded due to some other technical reasons, but failed to explain the other technical reasons and the premises of the Petitioner was not checked by any competent authority, even after repeated requests of the Petitioner. But, during the oral discussion before the Forum, Senior Executive Engineer, DS Division, PSPCL, Kotkapura contended that the MD as per DDL report of MMTS, had gone on higher side and the data actually showed that the consumer had connected more load during the violation period.

PC stated that Forum, during the proceeding dated 30.05.2017, directed the Respondent to get checked the connection of the Petitioner, jointly from Addl. S.E/DS Division and Addl. S.E/Enforcement concerned including load checking, capacity of the transformer, cable size, whether any other consumer was also fed from this transformer or not, if yes, load of other consumers and also confirm whether MD of 176.440kVA was possible or not keeping in view the capacity of transformer and cable size and submit the same to the Forum. The connection of the Petitioner was checked on 13.06.2017 jointly by Addl. S.E/Enforcement, PSPCL, Bathinda, Senior Executive Engineer, DS Division, PSPCL, Kotkapura. As per report, the connected load of the consumer was 56.690kW. But there was no report about the fact that 176.440kVA load was possible to be run in view of the capacity of transformer and size of cable. However, while submitting a separate report dated 16.06.2017, Senior Executive Engineer, DS Division, PSPCL, Kotkapura observed that 176kVA load could run for a short period. However, there was no joint report about this fact in the checking report dated 13.06.2017. Forum, in its decision, only mentioned the fact as given by Senior Executive Engineer, DS Division, PSPCL, Kotkapura, in which it had been stated that, *"keeping in view the capacity of transformer and cable size connected with the connection of the Petitioner, load of 176kVA can run for a short period"*. No technical observation was given by the Forum, which had expertise in electrical technology and having a technical expert, Chief Engineer as its Chairman. The simple observation of only Senior Executive Engineer, DS Division without technical specification that load could run for short period is a vague justification. How much time was a short period for which this load can be fed, was not explained. As per data presented before the Forum by the Respondent, on dated 14.08.2015, the excessive load shown as running from 7:00 to 13:00 hours and on dated 08.07.2015, the excessive load shown as running from 16:30 to 18:00 hours, which was not a short period. There was no excess load installed at the premises of the Petitioner, how the excess load could be used by the Petitioner. The load shown as excessive used during the particular period was only due to some defects in the Metering equipment, that was why, the MD remained within limit after the change of Energy Meter. The Petitioner had no objection in getting it checked practically, whether the load of 176kVA could run from the same transformer with the same cable. The Forum had failed to apply technical mind while deciding the appeal of the Petitioner.

 PC requested that the appeal of the Petitioner may be accepted and the amount deposited by the Petitioner be refunded with 18% interest per annum from the date of deposit till its refund. PC also prayed that any other appropriate relief, which this Court deems just and proper and to which the Petitioner was entitled, may also be granted.

5. Defending the case on behalf of the Respondent, Er. Mandeep Singh, Senior Executive Engineer, DS Division, PSPCL, Kotkapura stated that:

 (a) Demand of Rs. 66,345/- was raised on account of demand surcharge in the bill issued on 01.07.2015 as the MD was recorded as 149.040kVA against the sanctioned demand of 71.689kVA.

(b) Demand of Rs. 30,135/- was raised as demand surcharge vide bill issued on 20.08.2015 wherein MD was recorded as 100.730 kV against the sanctioned demand of 69.580kVA.

 (c) Demand of Rs.76,913/- was raised on account of demand surcharge vide bill issued on 10.09.2015 wherein the MD was recorded as 174.240kVA against the sanctioned MD of 71.689kVA.

(d) Demand of Rs. 78,563/- was raised on account of demand surcharge vide bill issued on 05.10.2015 wherein the MD was recorded as 176.440kVA against the sanctioned MD .

 The Respondent stated that on 16.9.2016, the disputed case of Rs. 66,345/- was decided by the DDSC and a copy of decision was sent to AEE, DS City Sub Division, PSPCL, Kotkapura and others vide endst. no. 12632 / 35 dated 04.11.2016 and a copy was handed over to the consumer in person. The Petitioner’s contention, that no copy of the order was ever supplied to it, was incorrect. The same decision was also imposed on the remaining three disputed cases by the Senior Executive Engineer, DS Division, PSPCL, Kotkapura, vide memo. no. 12960 dated 17.11.2016, and a copy of the letter was also handed over to the consumer who also put its signature in token of its receipt. Hence, bill was issued on 20.01.2017 amounting to Rs. 1,87,946/- on the basis of decision given by the DDSC. This bill included the amount of Rs. 1,71,596/- as demand surcharge.

 The Respondent further stated that the Petitioner filed the appeal against the decision of DDSC before the Forum which decided on 19.06.2017 that the Demand Surcharge levied in the bill issued on 01.07.2015, 20.08.2015 and 10.09.2015 was chargeable and the Demand Surcharge levied on 05.10.2015 was not chargeable. The Respondent also admitted that load was extended to 64.520kW from 54.520kW but the extended load was not reflected in the bill issued on 01.07.2015 and 20.08.2015 following which, it was got corrected in the bills issued on 10.09.2015.

The Respondent also admitted that no demand surcharge was levied during six bills prior to first disputed bill issued on 01.07.2015. But in the bill issued on 01.07.2015, the demand surcharge was charged as the demand was 149.040kVA which was recorded by the Meter Reader and M.E. Lab, PSPCL, Bathinda declared the Energy Meter as correct. DDL report of Energy Meter also showed that the MD had actually increased.

However, in the bills issued on dated 20.08.2015, 10.09.2015 and 05.10.2015, the demand surcharge was levied as excess MD was recorded by the Meter Reader while taking the monthly readings.

The Respondent further stated that the Petitioner challenged the Energy Meter on 11.09.2015 and after replacement of the Energy Meter, it was checked in the ME Lab, PSPCL, Bathinda, on 22.01.2016 and the results were within limits. Besides, the MD from 10 /2015 to 03/2017 was within limits and no surcharge was levied. There was no provision in Schedule of Tariff that the load surcharge shall be levied on the basis of extra load connected by the consumer temporarily or otherwise thereby exceeding sanctioned connected load. As such, the load checking was not performed. The MD shown by the Energy Meter was correct as the Energy Meter was declared correct by the ME Lab, PSPCL, Bathinda.

The Respondent stated that the excessive MD showed that the excess load was running during violation period and this was also shown in DDL report. The excessive load could be run by adding some extra mechanical load or machinery on the same motor or by adding extra Motor and compressor temporarily or by using faulty machinery.

The connection was checked jointly by Senior Executive Engineer, DS Division, PSPCL, Kotkapura and Addl. S.E/Enforcement on 13.06.2017 as per directions of the Forum and checking report included the report about running load, Transformer Capacity, LT and HT cable size and about other load running included in that report. A separate report of Senior Executive Engineer, DS Division, suggested that load of 176.440kVA may be possible to run for a short period on 100kVA Distribution Transformer. In the present case, on 14.08.2015, load ran between 7:00 to 10:30 hours and on 08.07.2015, load ran between 16:30 to 18:00 hours is short period as compared to 24 hours for a day. The excessive load could be used by connecting temporary extra load on the system or by faulty motor / machinery. The Respondent prayed that, keeping in view the above facts, the appeal may be rejected and the partial relief given by the Forum in its decision dated 19.07.2017, about the bill issued on 05.10.2015, may also be withdrawn.

**Decision**

6. The relevant facts of the case are that the Petitioner, having a Medium Supply category connection for Ice Factory at 11KV Supply Voltage, was charged Demand Surcharge, as Maximum Demand (MD) exceeded the sanctioned Contract Demand (CD), as detailed given below, in the bills issued to the Petitioner, by the office of the AEE, DS City Sub Division, PSPCL, Kotkapura:

|  |  |  |  |
| --- | --- | --- | --- |
| Date of issue of Bill | Demand Surcharge ( in Rupees) | Maximum Demand recorded (in kVA) | Sanctioned Contract Demand (in kVA) |
| 01.07.2015 | 66,345 | 149.040 | 71.689 |
| 20.08.2015 | 30,135 | 100.730 | 71.689 |
| 10.09.2015 | 76,913 | 174.240 | 71.689 |
| 05.10.2015 | 78,563 | 176.440 | 71.689 |

 The Petitioner suspected some defect in the metering equipment as the load of its connection was never more than the sanctioned load and the Maximum Demand was shown very excessive in the aforesaid bills as compared to that shown in six bills prior to the bill dated 01. 07.2015. The Petitioner challenged these bills, one after the other, before the DDSC, Kotkapura by depositing every time 20% of the disputed amount alongwith current bills. As per the directions of the DDSC, the DDL of the Energy Meter was carried on 03.09.2015. Load Survey Data showed that CD of the Petitioner exceeded the sanctioned CD on 08.07.2015 between 16:30 to 18:00 hours and on dated 14.08.2015, between 7:00 to 10:30 hours. The Petitioner also challenged the Energy Meter by depositing the Energy Meter Challenge Fee on 11.09.2015 and the MCO was effected on 04.11.2015. The challenged Energy Meter was sent, vide Challan no. 55 dated 22.01.2016, to ME Lab. PSPCL, Bathinda which reported, vide memo no. 385 dated 29.02.2016, that accuracy of the Energy Meter was within limits.

 In the meantime, DDSC, Kotkapura decided the disputed bill/case of Rs. 66,345/- in its meeting dated 16.09.2016 by observing that as per Data Down Loaded (DDL) report dated 03.09.2015, the bill dated 01.07.2015 issued to the Petitioner was correct keeping in view the MD recorded in DDL and the amount charged, as per increased CD, for Rs. 58,013/- was chargeable. A copy of this decision was sent to AEE, DS City Sub Division, PSPCL, Kotkapura and others vide endst. no. 12632-35 dated 04.11.2016 and a copy was handed over to the Petitioner on a specific request made by it. Based on the above decision, the Senior Executive Engineer, DS Division, PSPCL, Kotkapura, vide memo no. 12960 dated 17.11.2016, applied and conveyed the same decision for the remaining three disputed bills/cases and a copy thereof was also handed over to the Petitioner and acknowledgment was obtained. Accordingly, in the bill issued on 20.01.2017 for Rs. 2,04,360/-, a sum of Rs. 1,87, 946/- was charged on the basis of decision ibid. The said amount was reduced to and shown as Rs. 1,71,596/- as Demand Surcharge after some adjustment in the bill. Aggrieved with the decision of DDSC, the Petitioner filed a Petition on 06.04.2017 before the Forum and as directed by the Forum, the connection was checked at the premises by Senior Executive Engineer, DS Division, PSPCL, Kotkapura and Senior Executive Engineer, Enforcemen-1, PSPCL, Bathinda jointly vide ECR no. 14/1902 dated 13.06.2017. As per the checking report, the connection was being fed from Distribution Transformer of capacity 100kVA, HT cable of size 35mm2  and LT cable of size 70mm2. The report also mentioned that on this Distribution Transformer, no other connection was running. In a separate report dated 16.06.2017, Sr. XEN, DS Division, PSPCL, Kotkapura reported that load of 176.440kVA might have run on 100kVA transformer for a short period and also that the excessive load could be used temporarily by connecting extra load on the system or due to faulty Machinery. The Forum, after hearing both sides, decided on 19.06.2017 that the amount charged on account of Demand Surcharge in the bills dated 01.07.2015, 20.08.2015 and 10.09.2015 were chargeable and Demand Surcharge charged in the bill dated 05.10.2015 (for the period from 31.08.2015 to 30.09.2015) was not payable by the Petitioner. Not satisfied with the decision of the Forum, the Petitioner has filed the present Appeal and prayed for refund of amount of Demand Surcharge deposited with 18% interest per annum from the date of deposit till its refund. On the other hand, the Respondent has requested for rejection of the Appeal filed by the Petitioner and withdrawal of the partial relief given by the Forum in regard to the bill issued on 05.10.2015.

 The case was originally heard on 17.10.2017 when the PC, after arguing the case, requested the Court to allow it to send documents having bearing on the case by 20.10.2017. Though the PC sent the requisite document by e-mail on 20.10.2017, it sought a hearing to explain the point in person and on its request, a hearing was fixed for 02.11.2017. In the meantime, another request was received from the Petitioner stating that PC could not attend the Court on 02.11.2017 due to hospitalization of its (PC’s) wife and some other date be given. Accordingly, the case was listed for hearing on 05.12.2017 when the PC did not appear in the Court on the plea of illness while the Petitioner appeared and requested for fixing hearing on some other date. Though the Respondent objected, it was made to agree to give last opportunity to the PC to argue the case. Accordingly, the case was listed for 26.12.2017 when the Petitioner, PC and authorized representative of the Respondent (AEE/DS City Sub Division, PSPCL, Kotkapura) attended the Court .

 I have gone through the written submissions made by the Petitioner in the Petition, written reply of the Respondent as well as oral arguments made by the Petitioner’s Counsel and Representative of the Respondent, PSPCL alongwith materials brought on record by both the sides. The issue, requiring adjudication in the present dispute, is legitimacy of the Demand Surcharge charged to the Petitioner in electricity bills dated 01.07.2015, 20.08.2015, 10.09.2015 and 05.10.2015.

 *My findings on the points emerged and deliberated, after hearing both sides, are as under:*

1. I find that the Respondent admitted the contention of PC that the Sanctioned Load of the Petitioner’s connection was shown incorrectly as 54.520kW in the bill dated 01.07.2015 and 20.08.2015 despite the fact that it had got the same extended to 64.520kW by depositing the requisite fee on dated 04.10.2014.

 *I observe that necessary correction was made in the Petitioner’s bill dated 10.09.2015.*

1. *As per evidence on record, reading of MD of the MS category electric connection of the Petitioner during disputed period was actually recorded by AAE who was competent to do so in terms of provisions contained in Instruction no. 81.1(iii) of ESIM.*
2. PC contended that after increase of CD, its load was never checked by any authority of the Respondent inspite of repeated requests made.

*I observe that this checking is not required as per Regulation SII.6.1.2 of General Schedule of Tariff approved by Punjab State Electricity Regulatory Commission (PSERC) during FY 2014-15 which reads as under:*

*“No load surcharge shall be levied w.e.f. 01.01.2015 for the extra load connected by the consumer temporarily or otherwise thereby exceeding sanctioned connected load. However, the installation of extra load shall conform to CEA (Measures relating to Safety and Electric Supply) Regulations – 2010 and statutory clearances wherever applicable shall be obtained by the consumer*.”

1. PC argued that the bill issued on 01.07.2015 showed Maximum Demand as 149.040kVA which was very excessive in comparison to sanctioned Contract Demand while there was no unauthorized load at the premises of the Petitioner. PC added that excessive MD was due to some defect in metering equipment and the Demand Surcharge of Rs. 66,345/- charged in the bill dated 01.07.2015 was illegal.

The Respondent, in its defence, stated that as per DDL report dated 03.09.2015, the MD actually exceeded sanctioned CD as was evident from Commulative Energies Head under Reset Data and also that accuracy of the Energy Meter was subsequently found within limits as per checking report dated 29.02.2016 of ME Lab PSPCL, Bathinda. The Respondent also contended that likewise, in the bills issued on 20.08.2015, 10.09.2015 and 05.10.2015, the Demand Surcharge of Rs. 30,135/-, Rs. 76,913/- and Rs. 78,563/- respectively was levied as Maximum Demand recorded by the Energy Meter, exceeded the sanctioned CD.

 *There appears justification in the contention of the Respondent that Maximum Demand exceeded not only due to excessive load but due to defective Machinery also and this was also evident in DDL report dated 03.09.2015, according to which, MD of the Petitioner’s connection recorded in the DDL exceeded the sanctioned CD.*

1. During the course of oral arguments, the PC claimed that the period in Load Survey Data was for half an hour meaning thereby that if the load runs for half an hour continuously, then, it will be recorded on Load Survey Data. The PC was directed to submit evidence in support of its contention for which the PC requested for giving sometime. Accordingly, the PC was directed to send the requisite documents by e-mail latest by 20.10.2017. In response, the PC, vide e-mail dated 20.10.2017, sent a copy of the ‘General Conditions of Tariff,’ appended in Electricity Supply Instruction Manual (ESIM) and quoted Instruction no. 10.3 of said ESIM which reads as under:

*“The maximum demand for any month shall be considered as highest average load measured in KiloVolt Ampere (kVA) during a block of 30 minutes period.”*

PC also referred to the Regulation of Sales Manual (Fourth Edition, revised upto 31.12.1991, issued by PSEB) and also requested for giving a hearing to further clarify the definition. Accordingly, the hearing was fixed for 02.11.2017 at 12.00 Noon. But the Petitioner, vide application dated 28.10.2017, sought adjournment on the plea of hospitalisation of the wife of the PC in Fortis Hospital, Amritsar. Accordingly, the request of the Petitioner was allowed and the case was listed for hearing on 05.12.2017. But the PC did not attend the Court on the said date. However, the Petitioner appeared in the Court on 05.12.2017 and requested for giving another date as its Counsel could not attend the Court due to illness. Though the Respondent objected, it was made to agree to give another opportunity to the PC for hearing on 26.12.2017.

During the hearing on 26.12.2017, the P.C. clarified that demand averaged over a period of 30 minutes was taken into consideration because the instantaneous demand, which may be very high at a particular point of time, did not have much effect on the overall system. This meant that demand recorded average load used during a block of 30 minutes by the Consumer. PC further clarified that the MD, as the highest of all the demands during a given period in the present case, was the month as the billing was done on monthly basis and accordingly, the MD was measured by the Energy Meter.

*I agree with the PC that the MD for any month shall be considered as highest average load measured in kVA. After going through DDL dated 03.09.2015, the MD was recorded, as evident from the Reset Data on a particular date and time in the month of billing. Hence, the demand surcharge over and above sanctioned C.D. is chargeable. But, I do not agree with the PC referring to the instructions of Sales Manual because after coming into force of Indian Electricity Act-2003, the Supply Code-2007 and 2014 have been approved and notified by the PSERC. Hence, the instructions of Sales Manual, quoted by PC, are not relevant in the present context.*

*I have perused the Load Survey Data from which it is clear that half hourly data is recorded by the Energy Meter is for integration period for 30 minutes which implies that it is not compulsory that load runs continuously for half an hour. The Energy Meter picks up MD at any point of time during a particular integration period of half an hour. Hence, the interpretation about MD by the PC is not correct. I also observe from the Load Survey Data that when the demand (kVA) increased, the corresponding kW also increased meaning thereby that energy consumption also increased which had not been contested by the PC either in the Forum or in this Court.*

During the course of hearing on 26.12.2017, Er. Harinder Singh, AEE/City Kotkapura (deputed by the Senior Executive Engineer/DS Division, PSPCL, Kotkapura to attend the proceedings on its behalf) was directed to bring on record the Technical Specifications of the Energy Meter installed at the premises of the Petitioner. Accordingly, Senior Executive Engineer, DS Division, Kotkapura, vide e-mail dated 27.12.2017, sent a copy of Technical Specifications for 220/132/66/33/11KV Trivector Static Energy Meter (Tariff and Load Survey Type), mentioned in the Purchase Order issued by the erstwhile PSEB.

*I have gone through the Technical Specification at Serial Number 9 under the head ‘Maximum Demand Integration’ which reads as under:*

*“9. MAXIMUM DEMAND INTEGRATION*

*The meter shall monitor demand in kVA during the integration period set and record & display the maximum registered values. The rising demand under the current integration period shall be displayed alongwith the elapsed time. The integration period shall be 30 minutes. This maximum demand shall correspond to any consecutive 30 minutes for block interval. The meter shall have provision of maximum demand resetting through sealable push button and also have feature in software for re-setting MDI through Base computer for remote monitoring at later stage.”*

 *I observe that the above Technical Specification further confirms that the Energy Meter recorded the Load Survey Data in kVA for 30 minutes. integration period and averaged over for 30 minutes Hence, the contention of the PC that when the load runs continuously for 30 minutes, then only the Meter records the Maximum Demand during half an hour, is not correct.*

 PC argued that as per Load Survey Data, the load of 174kVA ran continuously for three hours.

The point emerges is whether Distribution Transformer of capacity 100kVA can take load of 174kVA for three hours continuously.

The Respondent contested the contention of PC by stating that this load did not run continuously for three hours because Load Survey Data recorded the load for integrated period of 30 minutes meaning thereby that in 30 minutes, this load had been averaged out.

*I agree with the contention of the Respondent as per Technical Specification of Trivector Energy Meter as the Meter monitors in kVA during Integration Period Set and records and displays the maximum registered value during the integration period of 30 minute. Hence, the MD recorded in any consecutive 30 minutes for a block interval corresponds to MD run by the Meter. As such, the load of 174kVA could not run continuously for half an hour but for a fraction of second(s). Accordingly, the contention of the PC that the load ran continuously for Three hours is not sustainable since the Energy Meter recorded the Load Survey Data for integration period of 30 minutes implying thereby that the average load ran during half an hour.*

1. PC argued that as per material brought on record, MD prior

to disputed period i.e. prior to issuance of bill dated 01.07.2015 and after the replacement of Energy Meter on 04.11.2015, was within limits of sanctioned CD which showed that due to defect in metering equipment, excessive MD was shown by the Energy Meter.

*In my view, this contention of the Petitioner is not sustainable as the challenged Energy Meter was checked in M.E. Lab, Bathinda which reported on 29.02.2016 that accuracy of the Energy Meter was within limits. On perusing the records, I find that the Petitioner’s connection was checked at its premises jointly by the Senior Executive Engineer, DS Division, PSPCL, Kotkapura and Senior Executive Engineer, Enforcement-1, PSPCL, Bathinda vide ECR no. 14/1902 dated 13.06.2017 and as per its report, the capacity of the Distribution Transformer is 100kVA, HT Cable Size was 35MM2 and LT cable of size was 70mm2 which fed the connection. The report also mentioned that no other connection was running on this Transformer. I observe that the Petitioner protested that the above report did not mention as to whether MD of 176.440kVA was possible and did not keep in view the capacity of Distribution Transformer and size of cable. Rather, the Respondent put up defence by referring to the separate report dated 16.06.2017 of Senior Executive Engineer, DS Division, PSPCL, Kotkapura stating that keeping in view the capacity of Distribution Transformer installed for the connection and cable size connected with the connection of the Petitioner, load of 176kVA could be run for a short period due to faulty Machinery for fraction of a second.*

*The Respondent added that since this possibility could not be ruled out, so, the Petitioner’s contention that MD of the connection in the pre-disputed period and after replacement of the Energy Meter was within limits, was without merit.*

1. I find that the Respondent, in its reply to the Petition, prayed to withdraw the partial relief given by the Forum in its decision in regard to bill issued on 05.10.2015.

 *I have perused the decision of the Forum deciding , inter-alia, that “no Demand Surcharge is payable by the Petitioner for the bill issued on 05.10.2015 for the period 31.08.2015 to 30.09.2015.”*

I observe that the Forum, while passing the order ibid, took into consideration the contention of the Respondent that DDL of the Energy Meter replaced on 04.11.2015 was not available and could not be produced and also that the Petitioner was charged the Demand Surcharge in the bill issued on 05.10.2015 for the period from 31.08.2015 to 30.09.2015 on the basis of MD recorded. During the course of oral arguments in this Court, the Respondent on enquiry, reiterated that the aforesaid DDL was not available and could not be produced and also that the Petitioner was charged the Demand Surcharge in the bill issued on 05.10.2015 for the period from 31.08.2015 to 30.09.2015 on the basis of MD recorded in the consumption data.

 *I am of the view that since DDL was intended to cross check the MD recorded as per consumption data and was taken after the Petitioner challenged the Energy Meter on 11.09.2015, the Forum rightly observed that“ in the absence of DDL, it can not be ascertained whether MD has exceeded sanctioned CD or not. So, the petitioner is not liable to pay Demand Surcharge for the bill issued on 05.10.2015 for the period from 31.08.2015 to 30.09.2015.*

**As a sequel of above discussions, it is held that decision dated 19.06.2017 of CGRF in Case No. CG-65 of 2017, warrants no interference and is therefore upheld.**

7. The Appeal is disposed off accordingly.

8. In case, the Petitioner or the Respondent (Licensee) is not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of Punjab State Electricity Regulatory Commission

(Forum and Ombudsman), Regulations - 2016.

 (VIRINDER SINGH)

 LokPal (Ombudsman)

Place: S.A.S. Nagar (Mohali) Electricity, Punjab.