

**BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,
MUMBAI**

FILING NO:

CASE NO:

IN THE MATTER OF

**PETITION FOR AMENDMENT IN THE REGULATION 82 OF THE MERC
(MULTI YEAR TARIFF) REGULATIONS 2015**

AND

IN THE MATTER OF:

**REGULATIONS 101 AND 102 OF THE MERC (MULTI YEAR TARIFF)
REGULATIONS 2015**

AND

IN THE MATTER OF:

**MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED –
THE PETITIONER**

**Affidavit on behalf of Maharashtra State Electricity Distribution Company
Limited.**

I, Satish Chavan, son of Shri. Vithalrao Chavan, aged 51 years, having my office at MSEDCL, Prakashgad, Plot No.G-9, Anant Kanekar Marg, Bandra (E), Mumbai-400051, do solemnly affirm and say as follows:

I am Executive Director (Commercial) of Maharashtra State Electricity Distribution Co. Ltd., the Petitioner in the above matter and am duly authorized by the said applicant to make this affidavit.

The statements made in the enclosed Petition for amendment in Regulation 82 of the MERC (Multi Year Tariff) Regulation, 2015 are based on the information received from the concerned officers of the Company and I believe them to be true.

I say that there are no proceedings pending in any court of law/tribunal or arbitrator



or any other authority, wherein the Applicant is a party and where issues arising and /or relief sought are identical or similar to the issues arising in the matter pending before the Hon'ble Commission.

I solemnly affirm at Mumbai on this ____th day of November, 2016 that the contents of this affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from.

Ex. Dir. (Dist. - I) Commercial
M.S.E.D.C.L. Prakshgad,
Deponent



BEFORE ME

**SANTOSH K. SINGH
NOTARY
MAHARASHTRA
(Govt. of India)**

REGISTER	5237	10/11
Sr. No.		2016

10 NOV 2016

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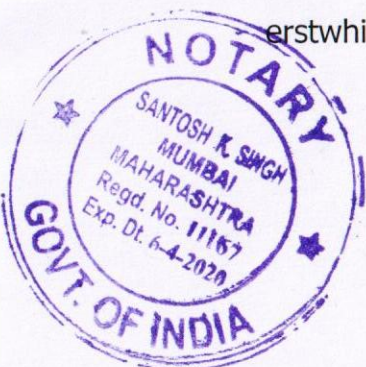
IN THE MATTER OF:

**MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED –
THE PETITIONER**

Maharashtra State Electricity Distribution Company Ltd. respectfully submits as under:

1. Background

- 1.1. Maharashtra State Electricity Distribution Co. Ltd. (hereinafter to be referred to as "MSEDCL" or "the Petitioner") has been incorporated under Indian Companies Act, 1956 pursuant to decision of Government of Maharashtra to reorganize erstwhile Maharashtra State Electricity Board (herein after referred to as



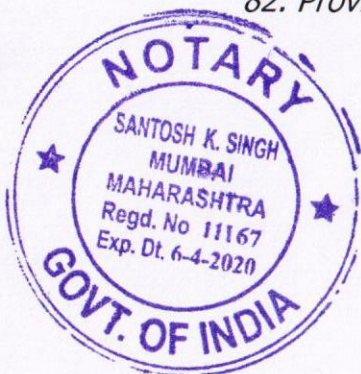
"MSEB"). The Petitioner submits that the said reorganization of the MSEB has been done by Government of Maharashtra pursuant to "Part XIII – Reorganization of Board" read with section 131 of The Electricity Act 2003. The Petitioner Company is constituted under the provisions of Government of Maharashtra, General Resolution No. PLA-1003/C.R.8588/Energy-5 dated 25th January 2005 and is duly registered with the Registrar of Companies, Mumbai on 31st May 2005 and has obtained Certificate of Commencement of Business on 15th Sep 2005. The Petitioner is a Distribution Licensee under the provisions of the Electricity Act, 2003 (EA, 2003) having license to supply electricity in the State of Maharashtra except some parts of city of Mumbai.

1.2. The Petitioner is functioning in accordance with the provisions envisaged in the Electricity Act, 2003 and is engaged, within the framework of the Electricity Act, 2003, in the business of Distribution of Electricity to its consumers situated over the entire State of Maharashtra, except some parts of city of Mumbai.

1.3. The Petitioner herein has approached the Hon'ble Commission to alter/vary/modify or amend the Regulation 82 of the MERC (Multi Year Tariff Regulations) 2015 (hereinafter to be referred as "**said Regulation**") i.e. Provisions for Bad and Doubtful Debts which in the most humble submission of the present Petitioner has been passed without inadvertently considering the comments/suggestions submitted by the Petitioner herein vide its letter no. 35332 dated 30.09.2015 before the finalization of the said Regulation vide No. MERC/Legal/2015/1084 dated 8th December, 2015 applicable from FY 2016-17 to FY 2019-20. The true copy of the said letter dated 30.09.2015 submitted by Petitioner herein is attached and marked herewith as **Exhibit A**.

1.4. Regulation 82 of the MERC (Multi Year Tariff Regulations) 2015 is reproduced as under:-

"82. Provision for Bad and Doubtful Debts—



The Commission may allow a provision for bad and doubtful debts upto 1.5 % of the amount shown as Trade Receivables or Receivables from Sale of Electricity in the audited accounts of the Distribution Licensee for that Year:

Provided that the Commission, in its MYT Order, shall provisionally approve provision for bad and doubtful debts for each Year of the Control Period, based on the actual provision for bad and doubtful debts made by the Distribution Licensee in the latest Audited Accounts available for the Petitioner, as allowed by the Commission:

Provided further that such provision allowed by the Commission for any Year shall not exceed the actual provision for bad and doubtful debts made by the Distribution Licensee in the audited accounts of that Year, duly allocated to the Retail Supply Business, excluding the provision made by the Distribution Licensee for unbilled revenue at the end of the Year:

Provided also that in the Year when the cumulative provisioning for bad and doubtful debts allowed by the Commission, duly allocated for the Retail Supply Business exceeds five per cent of the amount shown as Trade Receivables or Receivables from Sale of Electricity in the audited accounts of the Distribution Licensee, no such appropriation shall be allowed, which would have the effect of increasing the cumulative provisioning beyond the said maximum :

Provided also that the actual amount of bad and doubtful debts written off by the Distribution Licensee shall be adjusted by the Distribution Licensee against the accumulated provision for bad and doubtful debts and shall not be allowed separately as an expense in its Aggregate Revenue Requirement."

2. CONCEPT OF BAD AND DOUBTFUL DEBTS:-

- a. A business is rarely able to collect cash from all sales that are made on credit. Its business customers can avoid paying their bills by declaring bankruptcy, and individuals can simply refuse to pay. Recoverability of some receivables may be doubtful although not definitely



irrecoverable. Such receivables are known as doubtful debts. Prudence requires that an allowance be created to recognize the potential loss arising from the possibility of incurring bad debts. To account for this, accountants create a provision for bad debts.

- b. Not all businesses maintain a bad debt provision. Businesses that don't need to comply with generally accepted accounting principles, or GAAP, standards may choose to write off bad debts as they occur. However, GAAP requires a business to match revenues with expenses. That means accountants should try to record bad debt expense when the sale initially occurs, not when the debt becomes uncollectible. To do this, accountants estimate the amount of bad debt the business will incur and spread out the expense over each accounting period.

Percent-of-Sales Method

- c. One way to estimate a bad debt provision is to use a percent-of-sales method. Promoters of this method assume that the amount of bad debt for a company is a function of how much in sales the business makes on credit. To calculate a monthly bad debt provision, an accountant can multiply the amount of credit sales in the month by a predetermined percentage. For example, if a business estimates that 2% of credit sales are usually uncollectible and it sold Rs. 1 Crs on credit during the month, the bad debt provision will be Rs. 2 Lakhs.

Accounts Receivable Balance Method

- d. Some businesses use the accounts receivable balance as a base for calculations. The rationale behind this method is similar to the credit sales method: A certain amount of receivables will always be uncollectible. Using this method, the accountant adjusts the bad debt provision based on the current accounts receivable balance. For instance, if the monthly accounts receivable balance is Rs. 70,000 Crs and management thinks 2% of accounts receivable will be uncollectible, the monthly provision is Rs. 1400 Crs.



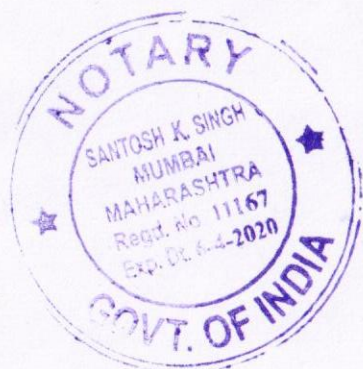
Accounts Receivable Aging Method

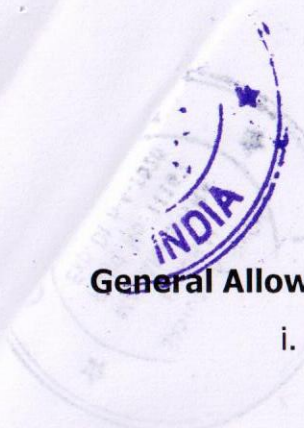
- e. As a general rule of thumb, the older a credit sale is, the less likely it is that the customer will pay up. If managers feel this is especially true for their business, they may use an aging method to calculate a bad debt provision. The logic behind the aging method is that a business with older accounts receivable will incur more bad debts. To calculate a debt provision using the aging method, the accountant sorts accounts receivables by age and multiplies each group by a predetermined rate.
- f. The allowance for doubtful debts is created by forming a credit balance which is deducted from the total receivables balance in the statement of financial position. This works in the same way as accumulated depreciation is deducted from the fixed asset cost account. The allowance for doubtful debts reduces the receivable balance to the amount that the entity prudently estimates to recover in the future.

Another method for Allowance for doubtful debts consist of two types: Specific Allowance and General Allowance:-

Specific Allowance:-

- g. This is allowance created in respect of specific receivables which are known to be facing serious financial problems or have a trade dispute with the entity. Such balances may be identified by examining an aged receivable analysis which details the time lapsed since the creation of a receivable. Long outstanding balances identified from such analyses could be considered for inclusion in the allowance for doubtful debts.
- h. The difference between the treatment of a bad debt and a specific allowance for doubtful debt is that in the latter case, the receivable ledger of the specific debt is not removed in case the debtor actually pays whereas in the case of bad debts, the receivable ledger is reduced to nil. Also, specific allowance may not be created for the





entire amount of the doubtful receivable but only a portion of it. For instance, if there is a 50% chance of recovering a doubtful debt in respect of a certain receivable, a specific allowance of only 50% may be required. On the contrary, bad debt is normally recognized in full.

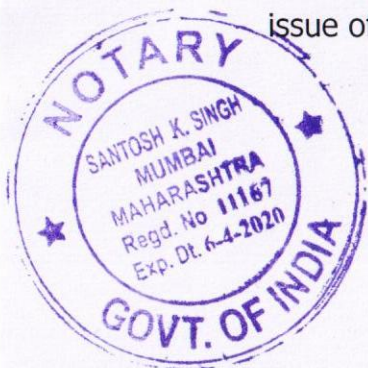
General Allowance

- i. Past history of a business may show that a portion of receivable balances is not recovered due to unforeseen circumstances. Therefore, it may be prudent to create a general allowance for doubtful debts in addition to the specific allowance. The general allowance may be calculated on the basis of past experience concerning recoverability of debts.
- j. The practice of creating general provisions is on the decline after revisions in the International Financial Reporting Standards (IFRS). Specifically, IAS 39 prohibits creation of general provisions on the basis of past experience due to the subjectivity involved in creating such an estimate. Instead, reporting entity is required to carry out impairment review to determine the recoverability of the receivables and any associated allowance.
- k. However, IAS 39 is applicable at present for making the provision for any assets to be eligible for impairment. IFRS 9 will be applicable from FY 2018 onwards.
- l. Impairment loss is calculated as a difference between assets carrying amount and the present value of estimated cash flows discounted at the financial assets original effective interest rate.

3. Key Issues of The Petitioner:-

The Petitioners are approaching the Hon'ble Commission on the following amongst grounds and issues which are without prejudice to each other.

- 3.1. The Petitioner would like to invite kind attention of Hon'ble Commission on the issue of provision for Bad and Doubtful Debts:



- 3.2. The Petitioner most respectfully submits that the term bad debts usually refer to accounts receivable (or trade accounts receivable) that will not be collected.
- 3.3. The Petitioner further submits that the provision for doubtful debts is the estimated amount of bad debt that will arise from accounts receivable but not yet collected. It is identical to the allowance for doubtful accounts. The provision is used under accrual basis accounting, so that an expense is recognized for probable bad debts in the same accounting year so as to get clear picture of expenses and losses during the same period. Thus, the net impact of the provision for doubtful debts is to accelerate the recognition of bad debts into earlier reporting periods.
- 3.4. The Petitioner also submits that a business typically estimates the amount of bad debt based on historical experience, and charges this amount to expense with a debit to the bad debt expense account (which appears in the income statement) and a credit to the provision for doubtful debts account (which appears in the balance sheet). The organization should make this entry in the same period when it provides the goods or services to the consumer, so that revenues are matched with all applicable expenses (as per the matching principle).
- 3.5. The Petitioner humbly submits that the bad debts are inseparable incidents of the business of electricity distribution.
- 3.6. The Petitioner submits that the Regulation 82 of the MERC MYT Regulations 2015 provides for the provision of bad and doubtful debts for supply business up to 1.5 % of the amount shown as Trade Receivables or Receivables from Sale of Electricity excluding the provision made for unbilled revenue for bad and doubtful debts.



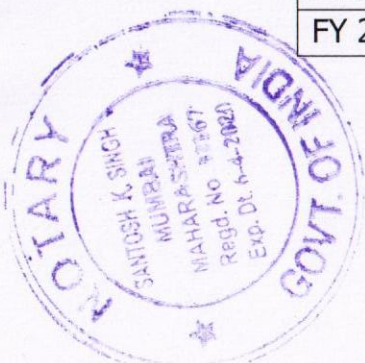
3.7. The Petitioner respectfully submits that the change took place in the provision of bad and doubtful debt in its tariff regulations over a period of time.

3.8. Before the notification of the MYT Regulations 2011, Hon'ble Commission had followed a convention to allow the provision of bad and doubtful debts **at a rate of 1.5% of the revenue** of the corresponding year and there was no specific provision in the MERC (Terms and Conditions of Tariff) Regulations 2005. However, as stated in the MERC Tariff Order for MSEB – FY 2001-02; Hon'ble Commission considered it appropriate to make a provision equivalent to 1.5% **of revenue** since the same in the opinion of the Hon'ble Commission was reasonable and hence continued to allow the same in the subsequent Orders as well. Considering the general business practices, provision for bad debt equivalent to certain percentage of Revenue would be more realistic.

3.9. Subsequently, in the MERC (MYT) Regulations 2011, Hon'ble Commission provided that provision for bad and doubtful debts can be made upto 1.5 % of the amount shown as **receivables** in the audited accounts of the Distribution Licensee, duly allocated for the Wires or supply Business as the case may be. However, it is respectfully felt that there seems no basis for providing 1.5% or linking it to receivables.

3.10. Submissions regarding actual write off with reasons for FY 2012-13, 2013-14 and 2014-15.

Provisioning of Bad and Doubtful Debt			Rs. Crs
Financial Year	Provision for Bad Debt	Approved in True Up	Bad Debt Written off
FY 2005-06	204	254	0
FY 2006-07	283	283	0
FY 2007-08	302	302	180
FY 2008-09	352	342	0
FY 2009-10	415	399	0



FY 2010-11	499	477	178
FY 2011-12	593	589	1729
FY 2012-13	684	665	1131
FY 2013-14	353	210	2796
FY 2014-15	301	No True Up Order	399
Total	3986	3521	6413

3.11. It could be seen from the above table that, the amount of provision made as per the Regulation is much less than the actual amount of Bad Debts written off. The primary reason for the lesser approval is insufficient regulatory provision of bad debts. The arrears from agriculture consumer consists of around 50% of total arrears of MSEDCL. By and large, the capacity of agriculture consumers to pay electricity bills is less. In case of natural calamities such as drought, flood, fire etc and debt burden, the arrears amount is increased and the possibility of recovering this amount is remote. Thus, considering the past trend and high uncertainty of realization of revenue, the provision of bad debts needs to be increased. The higher amount of provision for bad debt will lead to higher expenses and higher amount of appropriation to Profit & Loss Account in the reporting period, else it will involve an additional charge to the bad debt expenses account in the year when it is actually unpaid or declared bad debt.

3.12. MSEDCL states that the current provision for Bad Debt for FY 13-14 and FY 14-15 will financially affect MSEDCL in a big way. MSEDCL is passing through a precarious financial situation and this provision will add to its already depleted financial position. A comparison of provision for Bad Debt as per previous practice and present regulatory provision is shown below.



(Rs. Crs)

Financial Year	Revenue	Receivables excl GOM Subsidy (Including unbilled revenue)	Provision for Bad Debts (1.5% of Revenue) (Old)	Provision for Bad Debts (1.5% of Receivables) (New)	Difference
FY 13-14	50,961	21,219	764	318	446
FY 14-15	55,135	22,533	827	338	489

3.13. MSEDCL further submits that considering the Provision for Bad Debts as per previous practice followed by Hon'ble Commission i.e. 1.5% of Revenue, the financial impact on MSEDCL is around Rs. 500 Crs per year.

3.14. The Petitioner most respectfully submits that the provision of bad debt generally depends on the nature of the business, the risk involved in the business. Considering the very nature of bad debts, it may **not** be appropriate to put a ceiling on the provision of the bad debt. Following table shows the provision of the bad debt in Tariff Regulations of the other SERCs in the country.

Sr. No.	State	Provision for Bad Debt
1.	GUJARAT As per Gujarat Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2011 As per Gujarat Electricity Regulatory Commission (Multi-Year Tariff) Regulations, 2016	98.8 Bad debts written off: 98.8.1 The Commission may allow bad debts written off as a pass through in the aggregate revenue requirement, subject to prudence check . 94.9 Bad debts written off: 94.9.1 The Commission may allow bad debts written off as a pass through in the Aggregate Revenue Requirement, based on the trend of write off of bad debts in the previous years, subject to prudence check : Provided that the Commission shall true up



Sr. No.	State	Provision for Bad Debt
		<p>the bad debts written off in the Aggregate Revenue Requirement, based on the actual write off of bad debts excluding DPC waived off, if any, during the year, subject to prudence check:</p> <p>Provided further that if subsequent to the write off of a particular bad debt, revenue is realised from such bad debt, the same shall be included as an uncontrollable item under the Non-Tariff Income of the year in which such revenue is realized.</p>
2.	MADHYA PRADESH MPERC (Terms and Conditions for Determination of Tariff for Supply and Wheeling of Electricity and Methods and Principles for Fixation of Charges) Regulations 2015 [2015(RG-35(III) of 2015]	<p>35 Bad and Doubtful Debts</p> <p>Bad and Doubtful Debts in the ARR shall be allowed based on actually written off bad debts in the past as per the available latest audited financial statements to the extent Commission considers it appropriate and shall be trued up during the true up exercise for the relevant year subject to a maximum limit of 1% of the yearly revenue.</p>
3.	CHATTISGARH CSERC MYT Regulations, 2015	<p>66.8 A provision of maximum 1% revenue of retail supply business shall be allowed. The same shall be subject to true up on aggregate basis at the end of control period on actual basis and prudence check made by the Commission.</p>
4.	Kerala Kerala State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2014	<p>83.Provision for bad debts.– (1) The Commission may allow a provision for bad and doubtful debts in the revenue requirement of the distribution business/licensee, based on past data</p>
5.	Bihar Bihar Electricity Regulatory Commission (Multi Year Distribution Tariff) Regulations, 2015	<p>28. Bad and Doubtful Debts: Bad and Doubtful Debts shall be allowed as a legitimate business expense provided the distribution licensee actually identifies and writes off bad debts as per the transparent policy approved by the Commission. In case there is any recovery of bad debts already written off, the recovered bad debt will be treated as other income.</p>



3.15. From the above table, it can be inferred that the bad debts written off can be allowed as a pass through in the aggregate revenue requirement, subject to prudence check. Further, the ceiling is linked **to revenue** and not the receivables. Therefore, the Petitioner most respectfully prays to the Hon'ble Commission to link the Bad Debts to revenue and not receivables as was the case before MYT Regulations 2011.

3.16. MSEDCL would like to quote some of the Case Laws in support of its claim towards Bad Debt. The brief about the case laws is summarized below:

1. Torrent Power Ltd. Vs GERC (Appeal No. 150 of 2014) before APTEL


In the said Appeal, the Torrent Power Ltd. (Appellant) claimed that the State Commission has erred in considering bad debts written off as a controllable item of expense and recovery from bad debts as uncontrollable while approving the ARR and reiterated the same in order dated 17.11.2014 passed in the clarificatory petition No. 1435 of 2014. APTEL has ruled that as long as the bad debts are within the allowable limits, treatment for both income and revenue should be the same. The relevant extract of the APTEL Judgement is reproduced below:

*17. We find that the impugned order has not given any explanation to treat the deviation in bad debts as income and expense being treated differently. The State Commission in the clarificatory order dated 17.11.2014 has held that the income on account of bad debts should be considered as uncontrollable as it is unexpected income. We find that the State Commission in the impugned order as well as clarificatory order has not examined the issue wholistically for treating the variation in bad debts differently as expense and as revenue. **We feel that as long as the bad debts are within the allowable limits, treatment for both income and revenue should be the same.** Accordingly, we remand the matter to the State Commission for reconsideration and deciding the issue as per law without being influenced by its earlier decision. ("**Emphasis added**")*

2. Salim Akbarali Nanji Vs Union of India & Ors. Before Supreme Court of India (Appeal (civil) 6715 of 2004)

The Appellant claimed that the Reserve Bank of India being the statutory and regulatory authority, illegally approved the proposal of the Development





Credit Bank Ltd. for writing off of debts, amounting to Rs.120 crores, of the Bank without following the proper procedures prescribed under the provisions of Sections 13 and 14 of the Securitization Act, 2002 and Sections 19 and 31A of the Recovery of Debts Due to Banks Act, 1993. However, the Supreme Court dismissed the Appeal due to lack of merit will the following observations.

*It is no doubt true that amounts advance by banks must be recovered. Such debts should not be permitted to become non-performing assets. However, one cannot lose sight of the realities of the situation. Having regard to the nature of banking business, it is possible that the Bank may commit an error of judgment in advancing funds to a particular party or industry. **It may be that on account of other factors beyond its control, or even beyond the control of the borrowers, it may become difficult, or even impossible to recover the loan advanced in accordance with the schedule of re-payment, or to recover the loan at all.** These are risks inherent in the banking business, though a wise banker with foresight and anticipation may reduce such risks to the minimum level. One cannot however, jump to the conclusion that only because some of the debts have become bad, there is lack of proper management of the Bank, or that the conduct of the Bank is dishonest or mala-fide.*

In a given case, there may be evidence of such mis- management or dishonest conduct, but in the absence of any such accusation one cannot draw an adverse inference against the Bank. In the instant case, though some of the debts have to be written off, with little chance of substantial recovery, we cannot lose sight of the fact that the Bank has generated considerable operating profits and has built up a substantial general reserve over the years, against which the debts written off have been adjusted.
("Emphasis added")

- 3.17. Thus from the above Case Laws it is evident that Bad Debt is an uncontrollable factor which is beyond the control of Utility.
- 3.18. In view of the above submission, The Petitioner requests the Hon'ble Commission to link the Bad Debts to revenue and 1.5% of the revenue or more may be provided for provision for the bad and doubtful debts.



4. Powers to issue Orders

4.1. It is humbly submitted that as per Regulation 101 and 102 this Hon'ble Commission has powers to review, vary, alter, amend or modify the Multi Year Tariff Regulations 2015. The relevant clauses are reproduced as under:

MERC (Multi Year Tariff) Regulations 2015

Regulation 101 of MYT Regulations 2015, Power to amend:

The Commission may, at any time, vary, alter, modify or amend any provisions of these Regulations.

Regulation 102 of MYT Regulations 2015, Power to remove difficulties:

If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

4.2. The Petitioner most respectfully submits that Hon'ble Commission is vested with sufficient powers to deal with the matter and issue orders on any matter as deemed appropriate.

5. Prayers

5.1. The Petitioner therefore, based on the submissions made in the foregoing paragraphs, most respectfully prays to this Hon'ble Commission:

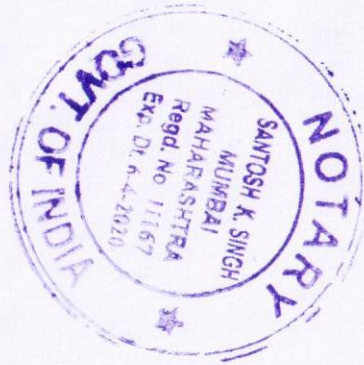
- a) To admit the Petition as per the provisions of Regulation 101 and 102 of the MERC (MYT) Regulations 2015;
- b) To consider the submissions made by the Petitioner and consider the same positively while deciding the Petition;
- c) To link the Bad Debts to revenue and 1.5% of the revenue or more may be provided for provision for the bad and doubtful debts being Regulation 82 of the MERC (Multi Year Tariff) Regulations 2015 ;
- d) To pass any other order/relief as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice;



- e) To condone any error/omission and to give opportunity to rectify the same;
- f) To permit the Petitioner to make further submissions, addition and alteration to this Petition, if necessary from time to time.



Executive Director (Commercial)
MSEDCL





MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.

(A Govt. Of Maharashtra Undertaking)

CIN:U40109MH2005GC153645

"Prakashgad", 5th Floor, Bandra (E), Mumbai 400 051.

(P) 26476843, (O) 26474211 / 26472131, Fax- 26475012,

REF.: SE / TRC /

35332

DATE:

30 SEP 2015

To,
The Secretary,
Maharashtra State Electricity Regulatory Commission
13th Floor, Centre No. 1, World Trade Centre,
Cuffe Parade, Mumbai – 400 005

Subject: Comments on Draft MERC MYT Regulations.
Reference: MERC Public Notice & email dated 09.09.2015 from MERC.

The Maharashtra Electricity Regulatory Commission has prepared the Draft MERC (Multi Year Tariff) Regulations, 2015, for the Third Control Period (FY 2016-17 to FY 2019-20) and invited comments, suggestions and objections on the same vide public notice dated 9th September 2015.

MSEDCL submits that the MYT framework aims at providing regulatory certainty to the Utilities, investors and consumers by promoting transparency, consistency and predictability of regulatory approach Thus, minimizing the regulatory risk. MYT framework also aims at promoting operational efficiency.

MSEDCL notes that the Hon'ble Commission has proposed MYT Regulations which promotes the operational efficiency and ensures the protection of Consumer as well as Utility interest.

MSEDCL further would like to submit that it has gone through the draft MYT regulations and is of the opinion that the certain provisions of the Draft MYT Regulations are detrimental to MSEDCL functioning which may result into financial burden on MSEDCL. MSEDCL also submits that for financial viability and to sustain in the competitive market, urgent redressal of these concerns is necessary.

MSEDCL is hereby submitting the comments on the proposed MERC (Multi Year Tariff) Regulations, 2015. MSEDCL would like to earnestly request the Hon'ble Commission to kindly consider the said comments & also to incorporate the same in the final version of MERC (Multi Year Tariff) Regulations, 2015 after following the due process.



Accordingly, MSEDCL would like to make humble submission to the Hon'ble Commission to consider the following comments / suggestions before MERC (Multi Year Tariff) Regulations, 2015 is finalized.

1. **O&M Norms**

1.1. Regulation 71 and 80 provides for norms of Operation and Maintenance Expenses of wires and supply business respectively. A comparison of existing norms as per MYT Regulations 2011 and proposed norms is given in following table.

FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Distribution Wire Business						
Corresponding to Wheeled Energy (paise/kWh)						
12.83	13.57	14.34	11.32	11.88	12.48	13.10
Corresponding to Consumers in Wire/Supply Business (Rs. Lakh/'000 consumers)						
6.62	7.00	7.40	6.54	6.86	7.21	7.57
Corresponding to Opening GFA (% of Opening GFA)						
4.00%	4.00%	4.00%	2.50%	2.50%	2.50%	2.50%
Retail Supply Business						
For Energy Sales (paise/kWh)						
8.89	9.40	9.94	9.46	9.94	10.44	10.96
For Consumers in Wire/Supply Business (Rs. Lakh/'000 consumers)						
4.59	4.85	5.13	4.72	4.96	5.21	5.47
Opening GFA (% of Opening GFA of Retail Supply Business)						
0.50%	0.50%	0.50%	2.50%	2.50%	2.50%	2.50%

1.2. MSEDCL submits that Hon'ble Commission has considered 3 year average for deriving the norms of Operation and Maintenance Expenses for FY 15-16. However, the norms proposed for FY 16-17 (specifically the Wheeled Energy/Energy Sales and for Consumers in Wire/Supply Business) are lower than the existing norms for FY 15-16 (in fact lower than the actual for FY 13-14). MSEDCL categorically submits that such lower norms are arbitrary, unrealistic and unsustainable. MSEDCL further submits that such norms (lower than the actual for FY 13-14) will hamper the O&M of MSEDCL as well it will financially weaken the position of MSEDCL. MSEDCL also would like to submit that neither the sales of MSEDCL have grown in manifold nor there is negative inflation. Considering the fact that the inflation has been around 6%, the norms for FY 16-17 should have been more than existing norms for FY 15-16. Therefore, MSEDCL most respectfully submits that the O&M Norms need to be reconsidered.

1.3. MSEDCL further submits that Operation and Maintenance expense being considered as a controllable cost under MYT Regulations; any variation in O&M Expenses will add financial



burden on MSEDCL without any fault. Therefore the same needs to be reconsidered. MSEDCL suggests that the O&M Norms may be derived by providing escalation per year on the existing norms for FY 15-16 at escalation rate of 6.35% p.a. as provided in the CERC (Terms and Conditions of Tariff) Regulations, 2014.

2. Working Capital

- 2.1. Regulation 31.3 and 31.4 of the Draft MYT Regulations 2015 provides for working capital requirement and interest on working capital for wires and supply business respectively.
- 2.2. MSEDCL submits that the working capital is mainly required to meet the liabilities relating to fuel / power purchase and is beyond the reasonable control of MSEDCL. Further, the provision of reducing the working capital by the total amount of security deposit is making the net working capital as NEGATIVE.
- 2.3. Again if Hon'ble Commission proposes lower norms for working capital calculation, the working capital requirement will work out to be negative and no interest on working capital would be allowed to MSEDCL. Therefore, MSEDCL would like to submit that the current norms for calculation of working capital may be continued.
- 2.4. Also, it is submitted that as per proposed draft MYT Regulations, under clause 36.2, the due date considered for billing period is around 30 days which means a consumer payment is received with 30 days of monthly consumption and 30 days of billing period resulting in 60 days of working capital cycle. The proposed increase in the billing period from 15 / 21 days to (HT consumers and Residential consumers respectively) to 30 days will surely affect the working capital of the licensee. Therefore, the existing provision of Two (2) months equivalent of the expected revenue from sale of electricity at the prevailing tariff may be continued.

3. Delayed Payment Charge

- 3.1. Regulation 36 of the Draft MYT Regulations 2015 provides for Delayed Payment Charge. If payment is delayed beyond a period of 30 days from the date of billing, Delayed Payment Charge at the rate of 1.25% per month on the billed amount shall be levied. Such increase in billing period to 30 days will affect the working capital of the Licensee and therefore needs to be reconsidered.
- 3.2. Also, MSEDCL submits that the Delayed Payment Charge may be considered based on the actual amount received from the consumers and not on the accrual basis as DPC can be recognized on the basis of certainty of collection of such amount against uncollectible Delay Payment Charge (DPC) imposed on defaulting consumers. Hon'ble Commission has adopted a similar principle for interest on security deposit and therefore, income needs to be considered on cash basis only otherwise unnecessarily licensee will be burdened with the notional income which is not recovered from the consumers.
- 3.3. This submission is also in line with para 9.2 of the Accounting Standard (AS)-9 on Revenue Recognition which has been referred which is reproduced as under:



9.2 Where the ability to assess the ultimate collection with reasonable certainty is lacking at the time of raising any claim, e.g., for escalation of price, export incentives, interest etc., revenue recognition is postponed to the extent of uncertainty involved. In such cases, it may be appropriate to recognise revenue only when it is reasonably certain that the ultimate collection will be made.

3.4. In such cases, it may be appropriate to recognise revenue on account of DPC and interest only when it is reasonably certain that the ultimate collection will be made, i.e. on receipt basis

4. Provision for Bad and Doubtful Debts

4.1. MSEDCL submits that as per the proposed MYT Regulations 2015, a provision for bad and doubtful debts up to 1.5 % of the amount shown as Trade Receivables may be allowed by Hon'ble Commission provided that the provision made by the Distribution Licensee for unbilled revenue at the end of the year will not form a part of the Trade Receivables.

4.2. MSEDCL states that unbilled revenue is the revenue which has accrued but which has not been billed to the consumers as on 31st March of the respective year. Such provision of unbilled revenue is necessary since the Accounts of the MSEDCL are being maintained on accrual basis, and is followed every year.

4.3. MSEDCL submits that as per the MSEDCL Audited Account Statements, Receivables include the provision for unbilled revenue also since it is a part of the Revenue which already gets reflected in the Audited Account Statements. Excluding provision for unbilled revenue will result into deviation from the Audited Account Statements and Accounting Principles. Therefore, MSEDCL requests the Hon'ble Commission to delete the proviso wherein the provision is made for exclusion of unbilled revenue. (3rd Proviso of Regulation 72).

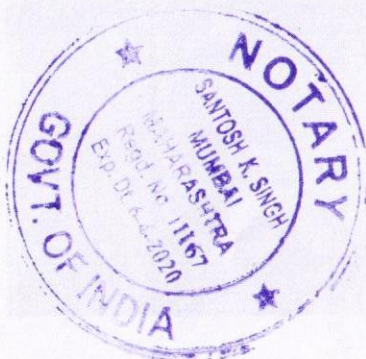
5. Operational Norms for Generators

5.1. MSEDCL submits that the Operational Norms such as SHR, Aux. Consumption, Secondary Fuel Oil Consumption and O&M Norms appear to be relaxed. Therefore, operational efficiency needs to be given more importance considering the financial prudence check as specified in the Regulations.

6. Norms for Initial Spares

6.1. As per the Draft Regulations, the norms for the Initial Spares for Generation and Transmission Function have been revised on a higher side based on the CERC norms.

6.2. MSEDCL submits that adopting provision of CERC without considering local issues may not be advisable and therefore the benchmark needs to be considered based on the spares maintained with efficiency at the generating stations in the State and transmission lines/substation.



7. Approval of power purchase agreement/arrangement

7.1. Regulation 20.1 of the Draft MYT Regulations 2015 provides that every agreement or arrangement for power procurement including on a Standby basis shall come into effect only with the prior approval of the Hon'ble Commission.

7.2. MSEDCL presumes that by Standby basis mean an idle power plant kept ready on standby basis and used as and when basis. For such arrangement only prior approval of Hon'ble Commission required. MSEDCL also requests the Hon'ble Commission to clearly define the Standby arrangement.

8. Fuel Adjustment Charge (FAC)

8.1. With reference to Clause 10 of MYT Regulations, MSEDCL submits that since billing for the Ag Metered and unmetered consumers of MSEDCL is being done on quarterly basis, MSEDCL suggest that FAC needs to be calculated on a quarterly basis and to be charged to consumers.

9. Insurance Proceeds

9.1. As per the draft MYT Regulations, it is specified that the amount of insurance proceeds received towards damage to any asset shall be first utilised to reduce the capital cost of such replaced asset, and the balance amount, if any, shall be considered as Non-Tariff Income.

9.2. MSEDCL submits that it is not necessary that insurance proceeds may exceed the net value of replaced assets and in case the insurance proceeds are less than the net value of replaced assets, the loss on such assets is to be recovered separately in ARR.

10. Decisions of higher Courts or Tribunals

10.1. Regulation 10.10 of the Draft MYT Regulations 2015 provides that the consequential impact of decisions of higher Courts or Tribunals will be passed through under the Other Uncontrollable Cost component of the Z-factor Charge (ZOUC), as an adjustment in the Tariff on a yearly basis.

10.2. In this regards, MSEDCL would like to submit that decision of MERC is not included in the above said Regulation. Therefore, MSEDCL presumes that Hon'ble Commission may not issue any Orders except the yearly Order under the Draft MYT Regulation. Otherwise, Impact of MERC Order is needs to be considered for pass through.

10.3. In this regard, MSEDCL submits that against the order of the higher Courts, the generator or transmission licensee will raise the bills which are required to be paid by MSEDCL. However, this will adversely affect the cash flow of MSEDCL. It is therefore proposed that, the Z-factor OUC Charge may be allowed to be passed on to the consumers through Z FAC as per the bills raised by generators / transmission licensee instead of annual adjustment.

10.4. However, in case of Central Utility, if the CERC or higher Courts or Tribunals allow recovery on monthly basis, then such recovery may be allowed on monthly basis. Further, any



variation on account of uncontrollable factors (other than due to variation in fuel and power purchase rates) may also be added in the yearly recovery.

11. Template for Publication

11.1. Regulations 14.6 of the proposed draft MYT Regulations, specifies that within three days of intimation in line with Regulation 14.4, Petitioner has to publish a notice, in daily newspapers regarding the Petition pertains, outlining the proposed Tariff, and other matters as may be stipulated by the Commission, and inviting suggestions and objections from the public.

11.2. MSEDCL submits that considering the cost involved in the printing of detailed Notice and the advance technology available with the consumers, Hon'ble Commission may allow MSEDCL to print an abridged Notice in Newspapers and detailed Notice may be uploaded on the MSEDCL website along with the Petition which is also required as per Regulations.

Based on above submission, MSEDCL humbly request the Hon'ble Commission to extend its kind consideration on comments / suggestions on the subjected matter.

Yours Faithfully

Chief Engineer (IR & TRC)

