BEFORE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,

AT MUMBAI

Filing No.: ______________

Case No.: ______________

IN THE MATTER OF:

MISCELLANEOUS PETITION SEEKING INTERIM RELIEF FOR RECOVERY OF UNDER RECOVERY OF CROSS SUBSIDY AND THE ADDITIONAL WORKING CAPITAL REQUIREMENT FOR FY 2020-21

INDEX

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 9136
Exp- 20/10/202

BEFORE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION, AT MUMBAI

Filing No.: _______________

Case No.: _______________

IN THE MATTER OF:

MISCELLANEOUS PETITION SEEKING INTERIM RELIEF FOR RECOVERY OF UNDER RECOVERY OF CROSS SUBSIDY AND THE ADDITIONAL WORKING CAPITAL REQUIREMENT FOR FY 2020-21

AND

IN THE MATTER OF:

SECTION 94 (2) OF THE ELECTRICITY ACT, 2003 READ WITH REGULATION 105 & 106 OF THE MERC (MULTI YEAR TARFF) REGULATIONS 2019 AND REGULATION 92, 93 & 94 OF MERC (CONDUCT OF BUSINESS) REGULATIONS, 2004

AND

IN THE MATTER OF:

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED, PRAKASHGAD, BANDRA (EAST), MUMBAI

...PETITIONER

<u>AFFIDAVIT IN SUPPORT</u>

I, Yogesh Gadkari son of Madhukar Gadkari, aged 52 years, having my office at 6th Floor, Prakashgad, Bandra (East), Mumbai - 400 051, do hereby solemnly affirm and state as under:

NOTARY
RANJEET SINGH
SANTACRUZ (E)
MUMBAI M.S.
Reg. No. 9136
Exp- 20/10/2023
GOVT. OF INDIA

1. I am Director (Commercial) of the Petitioner i.e. Maharashtra State Electricity Distribution Co. Ltd., in the above matter and am duly authorized and competent to make this affidavit.

2. The statements made in paragraphs of the accompanying Petition are true to my knowledge that I have derived based on the records maintained by the Petitioner and based on information and I believe them to be true.

3. I say that there are no proceedings pending in any court of law/ tribunal or arbitrator or any other authority, wherein the Petitioners are a party and where issues arising and/or reliefs sought are identical or similar to the issues arising in the matter pending before the Hon'ble Commission.

Solemnly affirm at Mumbai on 22nd day of March, 2022 that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from.

Place: Mumbai

Date -22nd March, 2022

NOTARY GOVT. OF INDIA

(Deponent)

Director Commercial
M.S.E.D.C.L. Prakashgad.

Identified before me

NOTARY
RANJEET SINGH
SANTACRUZ (E)
MUMBAI M.S.
Reg. No. 3136
Exp- 20/10/2026
GOVT OF INDIA

BEFORE ME

RANJEET SINGH
M.Sc.LL.B.
NOTARY
MAHARASHTRA
GOVT OF INDIA

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22 MAR 2022

BEFORE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,
AT MUMBAI

Filing No.: ______________

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IN THE MATTER OF:

MISCELLANEOUS PETITION SEEKING INTERIM RELIEF FOR RECOVERY OF UNDER RECOVERY OF CROSS SUBSIDY AND THE ADDITIONAL WORKING CAPITAL REQUIREMENT FOR FY 2020-21

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AND

IN THE MATTER OF:

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED, PRAKASHGAD, BANDRA (EAST), MUMBAI

...PETITIONER

PETITION UNDER SECTION 94(2) OF THE ELECTRICITY ACT, 2003 READ WITH REGULATION 105 & 106 OF THE MERC (MULTI YEAR TARFF) REGULATIONS 2019 AND REGULATION 92, 93 & 94 OF MERC (CONDUCT OF BUSINESS) REGULATIONS, 2004.

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
GOVT. OF INDIA

The Petitioner above named most respectfully states as under:-

I. CONSPECTUS

1. The present petition ("**Petition**") is being filed by Maharashtra State Electricity Distribution Co. Ltd. ('**MSEDCL**" / '**Petitioner**"), under Section 94(2) of the Electricity Act, 2003 ("**Electricity Act**") read with Regulation 105 and 106 of the Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2019 ("**MERC MYT 2019 Regulations**") and read with Regulation 92, 93 and 94 of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 ("**MERC COB Regulations**"), *inter alia* seeking:
   a. Approval of recovery of under-recovery of the cross-subsidy and the additional working capital requirement for FY 2020-21 and interest thereof;
   b. Approval of interim relief of Rs.7,298 Crore for FY 2020-21 immediately by way of additional charge through an appropriate mechanism as may be approved by Hon'ble Commission.

2. It is submitted that the Petitioner has been severely affected by the ongoing pandemic of COVID-19 and the resultant restrictions/ measures adopted by the State Government as well as the Central Government. The pandemic has affected the sales of the Petitioner very gravely. Further, the grave financial situation of the Petitioner has been exacerbated by the various practice directions that have been issued by this Hon'ble Commission to provide relief to the consumers, on account of the pandemic.

3. Considering the concessions as granted by this Hon'ble Commission to the consumers, and due to the continuation of the pandemic of COVID-19, the Petitioner is facing issues with regard to under-recovery of cross-subsidy for the FY 2020-21. As a result of the same, the revenue deficit gap of the Petitioner has increased significantly, due to which the Petitioner was constrained to avail additional working capital.

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
GOVT. OF INDIA

4. Considering the above, the Petitioner is filing the present Petition, seeking the relief(s) as set out above.

II. DESCRIPTION OF PARTIES

5. The Petitioner has been incorporated under Indian Companies Act, 1956 pursuant to decision of Government of Maharashtra to reorganize erstwhile Maharashtra State Electricity Board ('**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. The Petitioner has been incorporated on 31.05.2005 with the Registrar of Companies, Maharashtra, Mumbai and has obtained Certificate of Commencement of Business on 15.09.2005. The Petitioner is a Distribution Licensee under the provisions of the Electricity Act, having license to supply electricity in the State of Maharashtra except some parts of city of Mumbai.

III. BRIEF BACKGROUND

Re: Outbreak of Pandemic of COVID-19

6. The Petitioner submits that the outbreak of COVID-19 has spread rapidly throughout the world, including India. The outbreak has been declared an epidemic in many Indian states and union territories, where provisions of the Epidemic Diseases Act, 1897 have been invoked, and educational institutions and many commercial as well as Industrial establishments have been shut down.

7. The State of Maharashtra was in a state of lockdown since 22.03.2020 and further, there was a pan-India lockdown since 25.03.2020. Moreover, the Central Government as well as the State Government had advised people to stay indoors and maintain social distancing. The said lockdown got extended

NOTARY
RANJEET SINGH
GOVT. OF INDIA

till 30.06.2020. However, even thereafter, the lockdown was only lifted partially in phases and the conditions did not come back to normal as envisaged throughout FY 2020-21.

Re: Practice Directions issued by this Hon'ble Commission in light of COVID-19

8. In order to control the spread of COVID-19 and in order to minimise public interface of Distribution Licensee's personnel, the Hon'ble Commission deemed it fit to provide certain relaxation in the Supply code to all the Distribution Licensees from performance of services which are not directly linked to maintaining continuity of power supply.

9. Accordingly, using its power vested under Regulation 22 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, ("**MERC Supply Code**") the Hon'ble Commission on 26.03.2020 has issued following practice direction:

    a) Distribution Licensee shall ensure continuity of supply. Complaints related to restoration of supply as also the safety related complaints shall continue to be attended by Distribution Licensee.
    b) The Distribution Licensees may suspend other non-essential services which require visiting consumer premises or meeting consumer in person i.e., Meter reading, Billing, Offline Bill Collection at Bill Payment Centres, release of new connections etc.
    c) Wherever Automated Meter Reading facility is available, same shall be used for meter reading.
    d) In absence of Meter reading the Consumers shall be intimated through digital channels such as email, sms, mobile app about their estimated bill computed on average basis as per Supply Code Regulations.
    e) For bill payment, Distribution Licensee shall facilitate and update alternate payment modes i.e. digital payment mode.

NOTARY GOVT. OF INDIA

f) All the above measures shall be communicated through social media, electronic media and print media for wider publicity.

Copy of the Practice Direction dated 26.03.2020 is annexed herewith and marked as **Annexure P [I]**.

10. Subsequently, this Hon'ble Commission issued MYT Order on 30.03.2020 in which the Hon'ble Commission has approved a moratorium on payment of fixed charges of the electricity bill by consumers under Industrial and Commercial category for next three billing cycles beginning from the lockdown date of 25.03.2020.

Copy of the MYT Order dated 30.03.2020 is annexed herewith and marked as **Annexure P [II].**(Relevant Pages of MYT order i.e. Page No. 1 & 654 only)

11. It is submitted that the said moratorium granted by the Hon'ble Commission has badly affected the revenue mechanism of the Petitioner as the Petitioner continued to incur the expenditure due to its universal service obligations whilst the recovery got badly hit.

12. Further, the Hon'ble Commission, through its practice directions dated 09.05.2020 and 21.05.2020 gave certain relaxations to the consumers. The reliefs given were as follows:

- It was clarified that moratorium of 3 billing cycles has been given to the industrial and commercial establishments for payment of fixed charges which they will be liable to pay in the subsequent three billing cycles in equal interest free instalments.
- If the consumers choose to pay entire moratorium amount in one go, rebate of 1 % on that would be given to such consumers
- HT Industrial and HT Commercial consumers are allowed to revise their Contract Demand up to 3 times in a Billing Cycle.
- LT Industrial and LT Commercial consumers having demand-based tariff are allowed to revise their Contract Demand up to 2 times in a Billing Cycle.

NOTARY RANJEET SINGH SANTACRUZ (E), MUMBAI M.S. GOVT. OF INDIA

- For Industrial and Commercial consumers, only a token amount based on 10% of the average energy consumption would be billed to premises under Lockdown.

Copy of the Practice Directions dated 09.05.2020 and 21.05.2020 are annexed herewith and marked as **Annexure P [III] Colly.**

IV. SUBMISSIONS ON BEHALF OF THE PETITIONER

Re: Impact of Under Recovery of Cross-Subsidy for FY 2020-21

13. Due to the ongoing pandemic, the demand of the Petitioner crashed by about 4500-5000 MW than the expected projected demand. Due to this situation, MSEDCL's revenue cycle has been badly hampered.

14. Besides this, as has been mentioned under para 3 above, the Hon'ble Commission has provided special relief to Industrial and Commercial Consumers by way of various practice directions. The declaration of such reliefs by Hon'ble Commission has resulted in further worsening of the cash flows of MSEDCL.

15. The Petitioner would like to state that due to persisting pandemic situation in FY 2020-21, the sales of MSEDCL has remained badly affected in comparison to the approved sales by the Hon'ble Commission, particularly, for the subsidizing categories such as Industrial and Commercial consumers.

NOTARY RANJEET SINGH SANTACRUZ (E), MUMBAI M.S. Reg. No. 0136 Exp- 20/10/2026 GOVT. OF INDIA

The comparison of Approved Sales vs the Actual sales for the subsidizing category is shown below:

Sales (MUs)

Category	FY 2020-21	
	Approved	**Actual**
HT Industrial	33,933	28,473
HT Commercial	1,882	1,203
LT Industrial	9,619	9,028
LT Commercial	6,909	3,880
Total	**52,343**	**42,585**

From above table it is evident that the Industrial and Commercial category sales are reduced drastically i.e., by around 9,758 MUs. On the other hand, the Sales for the Agricultural consumers, i.e. subsidized category, has increased to large extent as compared to the approved sales for FY 2020-21 as shown below:

Sales (MUs)

Category	FY 2020-21	
	Approved	**Actual**
Agricultural	27,738	34,079

As shown above, due to such drastic change in consumer sales mix, the cross-subsidy balance as approved in MYT order is totally disturbed.

16. The actual sales of the subsidizing categories have decreased by around 19% and the sales of the subsidized category have increased by 23% as compared to the approved sales of FY 2020-21. Thus, it can be observed that for FY 2020-21, the amount of cross subsidy as approved in MYT Order is Rs. 12,496 Crore whereas in the actual case, the cross-subsidy received from subsidizing consumers is only Rs. 10,039 Crore. Also the cross subsidy requirement for

NOTARY RANJEET SINGH SANTACRUZ (E), MUMBAI M.S. Reg. No. 8136 Exp. 20/10/2026 GOVT. OF INDIA the subsidized categories as per actual sales of FY 2020-21 is increase to Rs.15,082 Crore,. The detailed table is as shown below:

Cross Subsidy Table for MSEDCL for FY 2020-21			
DETAILS OF SUBSIDIZING CONSUMERS FY 2020-21			
Sr. No.	**Category**	**Amount of Cross Subsidy (Rs.Cr)-as per MYT Order dated 30.03.2020**	**Amount of Cross Subsidy (Rs.Cr)-as per Actuals**
1	Industrial (HT and LT)	(4,993)	(3,363)
2	Commercial (LT and HT)	(4,137)	(2,966)
3	Domestic	(2,735)	(2,429)
4	Others *	(631)	(1,282)
5	**Total**	**(12,496)**	**(10,039)**
*Others include HT-Railway, HT & LT-Public Services, HT- PWW, HT- Group Housing.			
DETAILS OF SUBSIDIZED CONSUMERS FY 2020-21			
Sr. No.	**Category**	**Amount of Cross Subsidy (Rs. Cr)-as per MYT Order dated 30.03.2020**	**Amount of Cross Subsidy (Rs. Cr)-as per Actuals**
1	Domestic	1,866	1,342
2	Agriculture (LT and HT)	9,163	12,114
4	Others $	1,468	1,625
4	**Total**	**12,498**	**15,082**
$ Others include HT – MSPGCL Aux. Supply, LT - PWW, Street Light, LT &HT EV, and DF at Input Point.			

17. In light of the details as set out in the table above, it is evident that the cross-subsidy balance has been completely disturbed. As a result thereof, in order to balance the same, a sum of Rs. 5,043 Crore (Rs. 15,082 Cr – Rs. 10,039

Cr= Rs. 5,043 Cr) for FY 2020-21 is required immediately by the Petitioner herein.

18. The Petitioner is thus praying for grant of urgent interim relief to this end, and seeking approval of this Hon'ble Commission for grant of Rs. 5,043 crore towards maintaining the balance of cross-subsidy.

Re: Impact of Additional Working Capital Requirement for FY 2019-20 and FY 2020-21

19. The Petitioner submits that from the month of March 2020 onwards, the Petitioners revenue collection got badly hampered due to lockdown like situations. Also as mentioned above, the moratorium given by the Hon'ble commission and relaxations given in Contract Demand revisions for Industrial and Commercial (HT and LT) consumers further worsened the revenue recovery of the Petitioner. The Petitioner submits that the Industrial and Commercial consumers constitute a major chunk with respect to the Revenue Collection and the relaxations provided by the Hon'ble Commission, especially to these consumers, badly affected the collection efficiency of the Petitioner. The collection efficiency details from May-2020 till March 2021 is shown below:

Month	Demand * (Rs Crs)	Collection* (Rs Crs)	Collection efficiency (%)
May-20	5232.11	3686.64	70%
Jun-20	5139.34	3511.50	68%
Jul-20	4917.70	4137.37	84%
Aug-20	6948.23	5653.01	81%
Sep-20	8551.58	5923.77	69%
Oct-20	6396.28	5925.19	93%
Nov-20	5623.44	5267.81	94%
Dec-20	7092.82	5495.56	77%
Jan-21	5512.86	6068.09	110%
Feb-21	5261.42	7332.41	139%
Mar-21	7671.56	8928.39	116%

* - Excluding subsidy

NOTARY RANJEET SINGH SANTACRUZ (E), MUMBAI M.S. GOVT. OF INDIA

20. As can be seen from the above table, for the period of May 2020 to December 2020, the average collection efficiency was about a meager 80%. The collection improved only from the month of January 2021 and since past arrears got recovered to some extent, the collection efficiency appears to be more than 100% in January to March'2021. Thus, during the period from May 2020 to December 2020, the collection was badly hampered. Further, lower recovery from agricultural consumers which account to almost 30% of total sales of the Petitioner coupled with lower recovery from public water works and street-light consumers has also worsened the situation. Due to the reasons mentioned above coupled with under recovery of cross-subsidy in FY 2020-21, the Petitioner has resorted to avail additional working capital over and above the normative working capital.

21. It is submitted that the pandemic of COVID-19 and the resultant situation has prevailed for the whole of FY 2020-21. While partial unlock has taken place in phases, the complete normalization of business is yet to happen. Hence, the adverse financial impact due to lower sales of subsidizing category consumers continued.

22. Therefore, while the expenditure of the Petitioner remained almost same as approved, the revenue deficit gap has significantly broadened.

23. The revenue billed to consumers has significantly reduced from Rs. 75,432 Crore in FY 19-20 to Rs. 69,626 Crore in FY 2020-21. Further, collection has also dropped from Rs 70,048 Crore in FY 2019-20 to Rs. 64,653 Crore in FY 2020-21 considerably.

24. The additional working capital was mainly availed to bridge the gap between the expenditures incurred and the revenue realized from the consumers to maintain 24X7 power to its consumers. The Petitioner submits that to abide by universal service obligation, the Petitioner had to incur expenditure but on the other hand revenue recovered was very less.

25. The Petitioner also submits that considering the ongoing situation due to pandemic and the issues discussed in forgoing paragraphs, it has become difficult for the Petitioner to fulfill its payment obligations for e.g. payment to its long term contracted generators and transmission companies as the normalization of financial situation is yet to happen, even in FY 2021-22. The details of liability position as on date is shown below:

MSEDCL's Outstanding Dues

Sr No	Sources	As on 31 March 2020 (Rs. Crore)	As on 31 May 2021 (Rs. Crore)
1	MSPGCL	6,221	9,924
2	MSETCL	1,178	1,049
3	Co-Gen Wind	753	2,851
4	Independent Power Producers (IPP's)	78	578
5	Central PSU's	98	0
6	Employee / Suppliers Bills O/s	150	385
	Total	**8,477**	**14,787**

As seen from the above table MSEDCL's outstanding dues have increased by 74% from March 2020 to May 2021.

26. As mentioned in foregoing paragraphs, the pandemic has caused reduction in Industrial & Commercial activities, thereby depleting sales of the subsidizing consumers. While on the other hand the subsidized Agricultural sales has increased. Hence, this imbalance has caused a cross subsidy deficit of Rs. 5,043 crore. This has also triggered requirement of additional working capital.

NOTARY RANJEET SINGH SANTACRUZ (E), MUMBAI GOVT. OF INDIA

27. In view of the facts as set out above, the Petitioner has availed working capital for FY 2020-21 as shown in the table below:

Particulars	Opening as on 01.04.2020	Availed during the year	Repayment during the year	Balance as on 31.03.2021	Interest Payment during the year *
WORKING CAPITAL LOAN					
LONG TERM LOAN	0	2500	0	2500	181
SHORT / MEDIUM TERM LOAN	18018	3300	3223	18095	1596
OVERDRAFT/WCDL	3423	-	1188	2235	206
BILL DISCOUNTING	0	7849	2879	4970	413
TOTAL	**21441**	**13649**	**7290**	**27800**	**2396**

* - excluding impact of UDAY Yojna

28. Based on table above Interest on Working Capital for FY 2020-21 is Rs. 2396 Crore. The Hon'ble Commission vide Tariff Order dated 30.03.2020 in Case No. 322 of 2019 had approved normative Interest on Working Capital for FY 2020-21 of Rs. 140.96 Crore. Accordingly, Interest on Working Capital incurred by the Petitioner over and above the normative Interest on Working Capital works out to be Rs. 2255 Crore for FY 2020-21.

29. The Borrowings include the overdraft facility availed by the Petitioner to bridge the gap of the revenue receivables from the consumers which were delayed due to the pandemic situation. The Petitioner has also availed bill discounting wherein the bank does the payment to the generators on behalf of the Petitioner and the Petitioner must pay the bank along with interest. This has increased the total interest payout liability on account of Short term

NOTARY RANJEET SINGH SANTACRUZ (E). GOVT. OF INDIA

& Long term working capital loan further worsening the financial situation of MSEDCL.

30. The additional working capital requirement has been taken into cognizance by the Hon'ble Commission in the MYT Order dated 30th March 2020. The excerpts of the same are reproduced below:

31. *"11.1.4 The Distribution Licensees will be required to borrow/avail additional working capital over and above the Regulations. Also, there will be other additional cost required to be incurred for continuing of operations. Associated with this, there will be an additional working capital interest. The Commission opines that in the present situation, relief needs to be given to the electricity consumers affected by the Lockdown directions. The Commission will take an appropriate view on the additional expenses that are likely to be incurred by the Distribution Licensees on account of additional Interest on Working Capital during the MTR process."*

32. It is relevant to state that the Petitioner has made all efforts and has been prudent in complying with its obligations, to the extent expedient and not at the cost of public interest.

33. It is further submitted that the delay on the part of the Petitioner in making timely payments to some generators are attributable to the circumstances which are beyond the control of the Petitioner. The default in payment is not willful but is only attributable to the circumstances and ongoing cash crunch situation due to issues discussed above. As mentioned above since, the Petitioner is not able to pay the power purchase expenses within the stipulated time, which is resulting in mounting DPCs which has also been aggravating the situation.

34. The Petitioner humbly submits that the Hon'ble Commission must balance the interests and operations of the Petitioner. MSEDCL, as an electricity utility, incurs substantial costs on ongoing basis for maintaining the distribution and

retail supply of electricity and, therefore, is subjected to substantial cash outflow on continuous basis for meeting expenses such as employee cost, repair and maintenance, administration, and general expenses etc. which are also required to be met besides taking care of cost for procurement of power, cost of availing transmission from inter-state transmission system, etc. Due to such obligations and revenue recovery being hampered, the Petitioner had to resort to avail additional working capital.

35. In view of this, Petitioner requests the Hon'ble Commission to sympathetically consider precarious financial condition of MSEDCL and allow the interest on working capital of Rs. 2,255 Crore for FY 2020-21 for the additional working capital requirement through an immediate interim relief.

Re: Recognition of COVID-19 as a force majeure event:

36. The Petitioner humbly submits that even Ministry of Power ("**MOP**") in its Direction to CERC (Ref No. 23/22/2019-R&R Part-4 dated 28th March 2020) had acknowledged the gravity and unprecedented nature of the situation. The relevant excerpts are reproduced below:

*"2.The matter has been examined by the Ministry of Power. **The Ministry acknowledges the gravity and the unprecedented nature of the situation**. Payments received in the month of March 2020 account for a large share of the annual revenues of these companies. Extremely low receipts due to non-payment or delayed payment by consumers, the cash flow in the system may be impeded....."(emphasis added)*

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"4.In view of the above...

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 9136
Exp- 20/10/2026
GOVT. OF INDIA

*i. The Commission may specify a reduced rate of Late Payment Surcharge (LPS)....**treating the restrictions placed by Central Government to contain COVID-19 asa force majeure event....**"* (emphasis added)

Copy of the MOP Directions dated 28.03.2020 is annexed herewith and marked as **Annexure P [IV].**

37. Accordingly, CERC also vide its order dated 03.04.2020 passed in Suo Motu Petition No.6/SM/2020, has acknowledged the situation and passed an order for levy of reduced Late Payment Surcharge. The relevant portion of the said order is set out below for reference:

> *13. Keeping in view the directions issued by the Government of India under section 107 of the Act and to address the difficulties faced by the distribution companies (beneficiaries of the generating stations and long term customers of inter-State transmission systems) on account of the unprecedented situation arising out of the restrictions placed by the Central Government and State Governments on the movement of public and opening of offices and establishments etc., the Commission in exercise of its powers under Regulation 76 of the 2019 Tariff Regulations relaxes the provisions of Regulation 59 of 2019 Tariff Regulations to provide that if any delayed payment by the distribution companies to the generating companies and inter-State Transmission licensees beyond 45 days from the date of the presentation of the bills falls between 24.03.2020 and 30.06.2020, the concerned distribution companies shall make the payment with LPS at the reduced rate of 12% per annum that translates into 1% per month.*

Copy of the CERC order dated 03.04.2020 is annexed herewith and marked as **Annexure P [V].**

38. Further, the MOP vide its notification no.11/16/2020-Th-II, has directed all Central Public Sector Generation/Transmission Companies under MoP, GoI including their Joint Ventures/ Subsidiaries, to offer 20-25 % rebate to

NOTARY RANJEET SINGH MUMBAI M.S. Reg. No. 9136 Exp- 20/10/2026 GOVT. OF INDIA

Discoms for passing on to the same to end consumers for the lockdown period on account of COVID-19 pandemic and also interest free deferment of payment of fixed charges of unscheduled contracted generation capacity of Central Generating units till lockdown period in 3 equal installments to reduce the financial burden of troubled Discoms.

Copy of the MOP notification dated 16.05.2020 are annexed herewith and marked as **Annexure P [VI].**

39. As can be seen above, institutions like MOP and CERC have also acknowledged this pandemic as a force majeure event which has had a significant impact on power distribution companies and provided the reliefs accordingly. Thus, in line with the same, the Petitioner humbly requests the Hon'ble Commission to provide the interim reliefs as sought.

40. Considering the precarious financial position and hardships faced by the Petitioner due to Covid-19 as a force majeure event, the Petitioner humbly requests the Hon'ble Commission to provide immediate interim relief for the recovery of the said amount for FY 2019-20 and FY 2020-21 in the form of an additional charge such that impact on MSEDCL is not aggravated and in turn the carrying cost of the said impact will not be passed on the consumers.

41. It is further submitted that Section 94 (2) of the Electricity Act empowers the Hon'ble Commission to pass interim orders as the Commission may find appropriate.

42. The excerpt has been produced below for reference.

"The Appropriate Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the Appropriate Commission, as that Commission may consider appropriate."

43. Further, Regulations 105 and 106 of the MERC (Multi-Year Tariff) Regulations, 2019 provide for inherent powers of this Hon'ble Commission which can be

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI
Reg. No. 9136
Exp- 20/11/2026
GOVT. OF INDIA

exercised to deal with matters which are not covered in any Regulations. The relevant extracts of the said provisions are reproduced hereunder:

"105. Power to Relax
The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected by grant of relaxation, may relax any of provisions of these Regulations on its own motion or on an application made before it by an interested person."

"106. 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."

44. Regulations 92, 93 and 94 of the MERC (Conduct of Business) Regulations, 2004 provide for inherent powers of this Hon'ble Commission which can be exercised to deal with matters which are not covered in any Regulations. The relevant extracts of the said provisions are reproduced hereunder:

Saving of inherent power of the Commission:

"92. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission.

93. Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these Regulations including summary procedures, if the Commission, in view of the special circumstance of a matter or class of matters and for reasons to be

NOTARY RANJEET SINGH SANTACRUZ (E), MUMBAI M.S. Reg. No. 2136 Exp- 20/10/2026 GOVT. OF INDIA

recorded in writing, deems it necessary or expedient for so dealing with such a matter or class of matters.

94. Nothing in these Regulations shall bar the Commission to deal with any matter or exercise any power under the Act for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit."

Limitations:

45. In view of the above regulations and its implications and also in light of the prayers made in the present Petition, it is most respectfully submitted that MSEDCL have approached the Hon'ble Commission under its inherent power to remove difficulties and thus, MSEDCL may not be required to file any Condonation of delay application as there cannot be any question of delay in approaching the Hon'ble Commission under the above stated Regulations.

46. In light of the above, the Petitioner most respectfully submits that Hon'ble Commission has sufficient powers to deal with the matter and issue orders on any matter as deemed appropriate.

Re: Summary of Interim Reliefs sought by the Petitioner:

47. The table below summarizes the summary of the interim reliefs asked by the Petitioner:

Impact of the Interim Relief (Rs. Crore)	
Particulars	**Impact (Rs. Crore)**
Under recovery of cross –subsidy for FY 2020-21	5,043
Impact of Additional Working Capital for FY 20-21	2,255
Total Impact	**7,298**

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 9136
Exp- 20/10/2026
GOVT. OF INDIA

48. Considering that the Mid Term Review (MTR) process would be done in November 2022 and subsequently the orders will be issued only by March 2023, this would lead to a long gap, which is difficult for the petitioner to sustain its operations with such precarious financial condition. Hence, an immediate interim relief on account of the reasons discussed above is necessary for the Petitioner in order to sustain its operations. This will also avoid the passing of future carrying cost on consumer. The Petitioner humbly submits that any adjustments due to such relief and the details of the same would be duly submitted during the MTR process.

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

50. Therefore, the Petitioner humbly requests the Hon'ble Commission to allow the interim relief of Rs. 7,298 Crore for FY 2020-21 immediately by way of additional charge through a mechanism as may be deemed appropriate and approved by Hon'ble Commission.

V. PRAYERS

51. The Petitioner, therefore, most respectfully prays to this Hon'ble Commission to:

    a. Admit the present Petition;

    b. Allow the impact of cross subsidy imbalance and interest on additional working capital requirement for FY 2020-21 by way of interim relief;

    c. Allow the interim relief of Rs.7,298 Crore for FY 2020-21 immediately by way of additional charge through an appropriate mechanism as may be approved by Hon'ble Commission;

    d. Consider the unforeseen and the unprecedented situation prevailing on account of COVID-19 as a Force Majeure event;

NOTARY RANJEET SINGH SANTACRUZ (E). MUMBAI M.S. Reg. No. 9136 Exp- 20/10/2026 GOVT. OF INDIA

e. Pass any other order as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice;

f. Condone any error/omission and to give opportunity to rectify the same;

g. Permit the Petitioner to make further submissions, addition and alteration to this Petition as may be necessary from time to time;

Date: 22/03/2022

Place: Mumbai

Director (Commercial)

Director Commercial
M.S.E.D.C.L. Prakashgad.

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 9136
Exp- 20/10/2026
GOVT. OF INDIA

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400 005
Tel. No. 022 22163964/65/69 – Fax 022 22163976
E-mail: mercindia@merc.gov.in
Website: www.merc.gov.in

PRACTICE DIRECTION

MEASURES TO MINIMISE PUBLIC INTERFACE IN VIEW OF CORONAVIRUS EPIDEMIC (COVID-19)

MERC (ELECTRICITY SUPPLY CODE AND OTHER CONDITIONS OF SUPPLY) REGULATIONS, 2005 (The Supply Code)

26 March, 2020

Preamble:

The Commission is aware that all out efforts are afoot to contain the rapid spread of Coronavirus (COVID-19) epidemic in the Country including Maharashtra. The Central Government and the State Government of Maharashtra have advised people to stay indoors and maintain social distancing. To ensure strict adherence to the advisory , the Government has imposed strict restrictions on the movement of general public.

Electricity being essential service, is exempted from such restriction and maintenance of uninterrupted power supply needs to be ensured by the Distribution licensee.

However, apart from maintaining continuous electricity supply, Distribution Licensee has to perform various consumer services such as meter reading, bill distribution, bill collection, redressal of consumer grievances etc which involves public interface. Further, all these activities are required to be performed as per procedure prescribed under MERC Supply Code Regulations, 2005 and within the timeline stipulated under MERC SoP Regulations, 2014.

TPC-D and AEML-D have informed the Commission that in view of COVID19, they may not be able to perform certain activities/duties as mandated in the MERC Supply Code Regulations, 2005 and MERC SoP Regulations, 2014.

Considering the critical situation and to ensure full implementation of the Government directives to ensure social distance in order control the spread of COVID-19 and in order to minimise public

NOTARY
GOVT. OF INDIA

interface of Distribution Licensee's personnel, the Commission deems it fit to provide certain relaxation in the Supply code to all the Distribution Licensees from performance of services which are not directly linked to maintaining continuity of power supply.

Accordingly, using its power vested under Regulation 22 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, the Commission issues following practice direction:

Practice Direction:

a. Distribution Licensee shall ensure continuity of supply. Complaints related to restoration of supply as also the safety related complaints shall continue to be attended by Distribution Licensee.

b. The Distribution Licensees may suspend other non-essential services which require visiting consumer premises or meeting consumer in person i.e. Meter reading, Billing, Offline Bill Collection at Bill Payment Centres, release of new connections etc.

c. Wherever Automated Meter Reading facility is available, same shall be used for meter reading.

d. In absence of Meter reading the Consumers shall be intimated through digital channels such as email, sms, mobile app about their estimated bill computed on average basis as per Supply Code Regulations.

e. For bill payment, Distribution Licensee shall facilitate and update alternate payment modes i.e. digital payment mode.

f. All the above measures shall be communicated through social media, electronic media and print media for wider publicity.

This Practice Direction shall remain in vogue till such time the Government's Order imposing restrictions on account of COVID-19 is in force.

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

NOTARY
RANJEET SINGH
SANTACRUZ
GOVT. OF INDIA

Annexure P [II]

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai – 400 005
Tel. 022 - 22163964/ 65/ 69 Fax No. 022 - 22163976
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Website: www.merc.gov.in

CASE No. 322 of 2019

Case of Maharashtra State Electricity Distribution Company Limited for Truing-up of Aggregate Revenue Requirement (ARR) of FY 2017-18 and FY 2018-19, Provisional Truing-up of ARR of FY 2019-20 and Projections of ARR and determination for the 4th Multi Year Tariff Control Period FY 2020-21 to FY 2024-25

Coram

I. M. Bohari, Member
Mukesh Khullar, Member

ORDER

Date: 30 March, 2020

Maharashtra State Electricity Distribution Company Limited (MSEDCL or Petitioner), "Prakashgad", Anant Kanekar Marg, Bandra (East), Mumbai has filed has filed a Petition on 27 November, 2019 for Truing-up of ARR for FY 2017-18 and FY 2018-19, Provisional Truing-up of ARR for FY 2019-20 and ARR and Tariff for Multi Year Tariff (MYT) 4th Control Period from FY 2020-21 to FY 2024-25.

The Petition has been submitted in accordance with the MERC (Multi Year Tariff) Regulations 2015 ("MYT Regulations, 2015"), for Truing-up of ARR for FY 2017-18, FY 2018-19 , Provisional Truing-up of ARR for FY 2019-20 and in accordance with MERC (Multi Year Tariff) Regulations 2019 ("MYT Regulations, 2019") for ARR of Control Period FY 2020-21 and FY 2024-25.

The Commission, in exercise of the powers vested in it under Sections 61, 62 and 86 of the Electricity Act, 2003 (EA, 2003) and all other powers enabling it in this behalf, and after taking into consideration all the submissions made by MSEDCL , and in the public consultation process, and all other relevant material, has approved the Truing-up of ARR for FY 2017-18 and FY 2018-19, Provisional Truing-up of ARR for FY 2019-20 and ARR and Tariff of Control Period FY 2020-21 to FY 2024-25 in this Order.

NOTARY
RANJEET SINGH
SANTACRUZ
GOVT. OF INDIA

11 APPLICABILITY OF THE ORDER

11.1.1 This Order shall come into effect from 1 April, 2020.

Special Interim Dispensation:

11.1.2 This Tariff order is being issued at a critical time when the country is passing through one of the most debilitating epidemics in the form of Covid19. In fact taking note of the current situation prevailing in the state, commission issued a practice direction on 26/3/2020 whereby meter reading and physical bill distribution work was suspended and utilities were asked to issue bills on average usage basis till the current crisis gets subsided. Commission is aware that a number of industrial and commercial establishments have been shut down due to the lockdown enforced by Government.

11.1.3 To mitigate to some extent the difficulties being faced by the Electricity consumers of Maharashtra and all out efforts to contain the spread of Corona Pandemic, the Commission deems it fit to put a moratorium on payment of fixed charges of the electricity bill by consumers under Industrial and Commercial category for next three billing cycles beginning from the lockdown date of 25/3/2020.

11.1.4 The Distribution Licensees will be required to borrow/avail additional working capital over and above the Regulations. Also, there will be other additional cost required to be incurred for continuing of operations. Associated with this, there will be an additional working capital interest. The Commission opines that in the present situation, relief needs to be given to the electricity consumers affected by the Lockdown directions. The Commission will take a appropriate view on the additional expenses that are likely to be incurred by the Distribution Licensees on account of additional Interest on Working Capital during the MTR process.

The Petition of Maharashtra State Electricity Distribution Company Limited in Case No. 322 of 2019 stands disposed of accordingly.

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

(Abhijit Deshpande)
Secretary

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400 005
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PRACTICE DIRECTION

CLARIFICATIONS RELATING TO BILLING OF CONSUMER DURING COVID-19 LOCKDOWN

MERC (ELECTRICITY SUPPLY CODE AND OTHER CONDITIONS OF SUPPLY) REGULATIONS, 2005 (The Supply Code)

9 May, 2020

Preamble:

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

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

Now, some of Distribution Licensees in the State have sought clarification on certain aspects of billing to consumers during lockdown period. On enquiry, it is observed that every Distribution Licensee is adopting different approach for consumer billing. Therefore, in order to remove any billing ambiguity among consumers of different utilities especially among those of Mumbai where parallel licensees operate, the Commission thinks it fit to issue clarifications through the instant Practice Direction for the guidance of the Distribution Licensees and Consumers.

NOTARY RANJEET SINGH SANTACRUZ (E), MUMBAI M.S. GOVT. OF INDIA

Accordingly, using its power vested under Regulation 22 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, the Commission issues following practice direction:

Practice Direction:

a. The Commission has made it clear in its tariff order of 30 March 2020 that moratorium of 3 billing cycles has been given to the industrial and commercial establishments. It is further clarified that those consumers would be liable to pay this amount in the subsequent three billing cycles in equal interest free instalments. If the consumers choose to pay entire moratorium amount in one go, rebate of 1 % on that would be given to such consumers.

b. Energy bills would be prepared on actual basis if Automatic Meter Reading (AMR) is in place. Otherwise, it would be average bill calculated as per Supply Code Regulations which then will be adjusted subsequently once actual meter reading is available. In normal circumstances, no holding cost is paid, or interest is recovered from consumers for higher or lower assessment. However, considering lockdown situations on account of COVID-19, for excessive recovery from Industrial and Commercial consumers, on account of possibility of higher assessment for a month, only a token amount based on 10 % of the average energy consumption would be billed to premises under Lockdown.. A holding charge (@ rate of one month MCLR of SBI applicable on date of billing) would be payable by utilities to the consumers on the excess money recovered. Similarly, carrying cost would be levied on consumers if the average bill as above works out to be less than the actual bill. Consumers can voluntarily pay any amount over and above the assessed bill to avoid payment of carrying cost.

c. Delayed Payment Charges on the unpaid amount would be reduced to 50 % if the recovery is 80% and above of the bill amount. If the bill amount based on actual energy consumption works out to be less than the billed amount raised based on average consumption, then DPC amount needs to be recomputed based on actual bill amount and any excess paid DPC shall be refunded with holding charge at rate mentioned in para 'b' above.

d. There is no change in all the other billing issues including prompt payment discount, incentive for digital payment etc.

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Exp- 20/10/2026
GOVT. OF INDIA

e. Utilities are free to extend any further concessions as part of their business needs from out of their 'return on equity' amount or any other own 'reserve' that they have built in their accounts over time.

This Practice Direction shall remain valid for consumer billing for the period in which the Government's Order imposing restrictions on account of COVID-19 is in force.

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

(Abhijit Deshpande)
Secretary

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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PRACTICE DIRECTION

REVISION OF CONTRACT DEMAND IN A BILLING CYCLE

MERC (ELECTRICITY SUPPLY CODE AND OTHER CONDITIONS OF SUPPLY) REGULATIONS, 2005 (The Supply Code)

21 May, 2020

Preamble:

1. Due to the hardships being faced on account of lockdown to arrest the spread of COVID-19 pandemic, a group of consumers have approached the Commission to allow revision in Contract Demand on multiple occasions in a Billing Cycle. The issue has been dealt at length by the Commission in its order in Case No. 82 of 2020 dated 21 May 2020. After considering all the aspects relating to such request, the Commission deems it fit to invoke its power to issue Practice Directions under Regulation 22 of the Supply Code for allowing revision in Contract Demand upto 3 occasions to HT Industrial and HT Commercial consumers subject to curtailment of LFI at 3^{rd} revision and upto 2 occasions to LT Industrial and LT Commercial consumers in a billing cycle for a limited period upto 31 July 2020.

2. Prevailing Regulatory provisions relating to revision in Contract Demand is summarised below:

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

   2.2 On receipt of completed application for revision in Contract Demand, as per Standards of Performance (SoP) Regulations, 2014, Distribution Licensee shall give effect to such application within second billing cycle.

   2.3 Vide Practice Direction dated 5 December 2018, the Commission has removed requirement of executing agreement for new connection, change of name or revision in

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 9136
Exp. 20/10/2026
GOVT. OF INDIA

contract demand and directed Distribution Licensees to provide option of online acceptance of terms and conditions of agreement by consumers.

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

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

3. In the prevailing circumstances of COVID-19, Industry and Commercial consumers could face difficulty in firmly projecting their electricity demand as the assessment depends on various factors including steady flow of purchase orders in hand, availability of raw material, labour, transportation facility, cash flow etc. Therefore, these consumers may require to ramp-up (or at times ramp down) their productions in stages which requires corresponding additional contracts for raised Electricity Demand. As per existing practice, revision of Contract Demand is allowed only once in Billing Period. Hence, if revision of Contract Demand is lower side, then Industries for which electricity contribute major portion of their expenses, may not ramp up their production to avoid contract demand penalty. Similarly, in case of possibility of ramping up the production and in order to avoid Contract Demand Penalty, if Contract Demand revision is made on higher side, then due to uncertainties, there would be case when such industries may not able to earn Load Factor Incentives on account of lower utilisation.

4. At this stage (almost two months from imposition of lockdown on account of COVID-19), many consumers have already reduced their contract demand to meet their consumption requirement and the effect of the same has been given and thus the number of consumers requesting further reduction in Contract Demand would be less. Therefore, with improvement in situation, the request for revision in Contract Demand would most likely be for increasing Contract Demand which would help in increasing the revenue of Distribution Licensees.

5. Hence in order to address concerns of consumers and at the same time limit frequent changes of revision in Contract Demand, the Commission has decided to allow revision in Contract

NOTARY RANJEET SINGH SANTACRUZ (E), MUMBAI M.S. Reg. No. 9138 Exp- 20/10/2026 GOVT. OF INDIA

Demand upto 3 occasions to HT Industrial and HT Commercial consumers and upto 2 occasions to LT Industrial and LT Commercial consumers in a billing cycle for a limited period upto 31 July 2020. Further, subsequent to third change in Contract Demand by HT Consumers, limit of maximum Load Factor Incentive has been reduced to 10% of energy charge for concerned period.

6. For reflecting such multiple change in Contract Demand into electricity bill, it is important to have load profile data which is available either remotely through AMR enabled meters or by manually downloading through Meter Reading Instrument (MRI). In case AMR data is not available, Distribution Licensee needs to arrange for MRI data at least for consumers who have opted for such revision in Contract Demand. In case AMR/MRI data is not available, Distribution Licensee has to resort to average billing which can be reconcile with whatever meter data available when the Lockdown gets lifted and normalcy is restored.

7. Accordingly, using its power vested under Regulation 22 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, the Commission issues following practice direction:

Practice Direction:

a. HT Industrial and HT Commercial consumers shall be allowed to revise their Contract Demand upto 3 times in a Billing Cycle.

   Provided that subsequent to third change in Contract Demand in a Billing Cycle by HT Consumers, for the remaining period of that particular billing cycle, maximum possible Load Factor Incentive shall be restricted to 10% of energy charges as against 15% provided in Tariff Order. For subsequent Billing Cycle, maximum limit of Load Factor Incentive shall be restored to 15% till consumer does not exercise its option of Changing Contract Demand for the third time in that Billing Cycle.

b. LT Industrial and LT Commercial consumers having demand-based tariff shall be allowed to revise their Contract Demand upto 2 times in a Billing Cycle.

c. Consumer shall apply to the concerned Distribution Licensee at least 3 days in advance for revision in Contract Demand.

d. Distribution Licensee shall grant such revision in Contract Demand after receipt of completed application from requested date subject to technical feasibility.

e. Component of electricity bill which are linked to Demand such as Demand Charges, Penalty for exceeding Contract Demand and LFI shall be computed by applying proportionate rates to the respective Billing Demand corresponding to time intervals between revision in Contract Demand.

f. All other electricity bill component shall be computed for the period of billing cycle.

g. In case AMR data is not available, Distribution Licensee needs to arrange for MRI data at least for consumers who have opted for such revision in Contract Demand. Concerned consumers should facilitate Distribution Licensee in taking MRI data. In case AMR/MRI data is not available, Distribution Licensee has to resort to average billing which can be reconcile with last/ available meter data when the Lockdown gets lifted and normalcy is restored.

This Practice Direction shall remain valid till 31 July 2020.

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

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 9136
Exp- 20/10/2026
GOVT. OF INDIA

No. 23/22/2019-R&R Part-4
Government of India
Ministry of Power
***

Annexure P [IV]

Shram Shakti Bhawan, Rafi Marg,
New Delhi, 28th March 2020

To,

The Chairperson,
Central Electricity Regulatory Commission,
Chanderlok Building, Janpath,
New Delhi

Subject: Direction to the Central Electricity Regulatory Commission (CERC) under section 107 of the Electricity Act, 2003 regarding reduction of Late Payment Surcharge (LPS)

Sir,

1. We are in receipt of representations from power distribution companies and state governments requesting to waive payment of Late Payment Surcharge in view of the force majeure situation arising due to severe restrictions placed on movement of public and opening of offices and establishments etc. by the state governments and vide order dated 24.03.2020 of Ministry of Home Affairs (MHA), Government of India. It has been informed that the consumers of the power distribution companies (discoms) are unable to pay their dues because of this unprecedented situation which is likely to continue for some time. This will affect the liquidity position of the discoms thereby reducing their ability to make timely payments to generating companies (gencos) and transmission companies (transcos).

2. The matter has been examined in the Ministry of Power. The Ministry acknowledges the gravity and unprecedented nature of the situation. Payments received in the month of March 2020 account for a large share of the annual revenues of these companies. Extremely low receipts due to non-payment or delayed payment by consumers, the cash flow in the system may be impeded. To mitigate the problem, some relief requires to be granted to the discoms to make payments to generating companies and transmission licensees.

3. CPSU gencos/transco are being advised not to use coercive means for recovering dues and continue supply/transmission of electricity since it is an essential service, as also recognised by MHA vide its order dated 24.03.2020. RBI has also provided a three-month moratorium on repayments of outstanding loans and interest on working capital.

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 9136
Exp- 20/10/2026
GOVT. OF INDIA

following directions are issued to Central Electricity Regulatory Commission in public interest:

i. The Commission may specify a reduced rate of Late Payment Surcharge (LPS) for payments which become delayed beyond a period of 45 days (from the date of presentation of the bill) during the period from 24th March 2020 to 30th June 2020 to generating companies and licensees treating the restrictions placed by the central government vide its order dated 24.03.2020 to contain COVID-19 as an event of force majeure. The reduced LPS shall be applicable for such delayed payments till 30th June 2020. The LPS should not be more than the cost that the generating companies or transmission licensees would have to bear because of the delayed payment.

ii. For generating companies and transmission licensees whose tariff was determined under section 63 by the Central Commission, discoms may claim relief from its obligations regarding the rate at which LPS is to be paid, as per force majeure provisions given in respective power purchase agreement.

5. This issues with the approval of Minister of State (Independent Charge) for Power and New and Renewable Energy, Government of India.

Yours faithfully,

28/3/2020

(Ghanshyam Prasad)
Chief Engineer (RR &OM)
Tele No. 2371 0389

Copy to:

1. All Joint Secretaries/Directors/Deputy Secretaries, Ministry of Power
2. CMD, CPSUs (generation/transmission) with the advice to not use coercive means to recover dues and continue supply/transmission of electricity without any interruption
3. PS to MOS(I/C) for Power & NRE
4. PPS to Secy(P), PPS to AS(SM), PPS to AS(SKGR)
5. Technical Director, NIC Ministry of Power with the request to upload this communication of MoP's website.

Copy also to:

1. The Chief Secretaries, All State Governments/Union Territories: with a request that similar directions under section 108 may be issued by State Governments to respective SERCs and that the distribution companies pass on similar or more benefits to the consumers with regard to LPS.

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 9136
Exp- 20/10/2026
GOVT. OF INDIA

CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

SUO MOTU PETITION NO.6/SM/2020

CORAM:
Shri P K Pujari, Chairperson
Shri I S Jha, Member

Date: 3rd of April 2020

IN THE MATTER OF:
Implementation of the directions of the Government of India dated 28.03.2020 under section 107 of the Electricity Act, 2003 to Central Electricity Regulatory Commission regarding reduction of Late Payment Surcharge

IN THE MATTER OF:
The Commission on its own Motion

VS

1. All Central Government Generating Companies
2. All Other Generating Companies having Inter-State Generating Stations
3. Powergrid Corporation of India Limited
4. All Inter-State Transmission Licensees
5. All Beneficiaries of Respondent No.1 and 2
6. All Long term customers of Respondent No. 3 and 4

... Respondents

ORDER

Ministry of Power, Government of India vide its letter No. 23/22/2019-R&R Part-4 dated 28.3.2020 has issued the following directions under Section 107 of the Electricity Act, 2003 (hereinafter referred to as "the Act") to the Central Electricity Regulatory Commission with regard to the Late Payment Surcharge to be charged by the generating companies and transmission licensees on account of the unprecedented

NOTARY RANJEET SINGH SANTACRUZ (E), MUMBAI M.S. Reg. No. 3136 Exp- 20/10/2026 GOVT. OF INDIA

situation arising out of the restrictions placed by the Central Government and State Governments on the movement of public and opening of offices and establishment etc.:

"To,
The Chairperson
Central Electricity Regulatory Commission
Chanderlok Building, Janpath
New Delhi

Subject: Consequential order to give effect to the directions of Government of India to the Central Electricity Regulatory Commission (CERC) under Section 107 of the Electricity Act, 2003 regarding reduction of Late Payment Surcharge (LPS)

Sir,

1. We are in receipt of representations from power distribution companies and State Governments requesting to waive payment of Late Payment Surcharge in view of the force majeure situation arising due to severe restrictions placed on movement of public and opening of offices and establishments etc. by the State Governments and vide order dated 24.03.2020 of Ministry of Home Affairs (MHA), Government of India. It has been informed that the consumers of the power distribution companies (discoms) are unable to pay their dues because of this unprecedented situation which is likely to continue for sometime. This will affect the liquidity position of the discoms thereby reducing their ability to make timely payments to the generating companies (gencos) and transmission companies (transcos).

2. The matter has been examined in the Ministry of Power. The Ministry acknowledges the gravity and unprecedented nature of the situation. Payments received in the month of March 2020 account for a large share of the annual revenues of these companies. Extremely low receipt due to non-payment or delayed payment by consumers, the cash flow in the system may be impeded. To mitigate the problem, some relief requires to be granted to the discoms to make payments to generating companies and transmission licensees.

3. CPSU gencos/transcos are being advised not to use coercive means for recovering the dues and continue supply/transmission of electricity since it is an essential service, as also recognized by MHA vide its order dated 24.03.2020. RBI has also provided a three-month moratorium on repayments of outstanding loans and interest on working capital.

4. In view of the above, using powers under section 107 of the Electricity Act, 2003, the following directions are issued to Central Electricity Regulatory Commission in public interest:

i. The Commission may specify a reduced rate of Late Payment Surcharge (LPS) for payment which become delayed beyond a period of 45 days (from the date of presentation of the bill) during the period from 24th March 2020 to 30th June 2020 to generating companies and licensees treating the restrictions placed by the Central Government vide order dated 24.03.2020 to contain COVID-19 as an event of force majeure. The reduced LPS shall be applicable for such delayed payments till 30th June 2020. The LPS should not be more than the cost that the generating companies or transmission licensees would have to bear because of the delayed payment.

ii. For generating companies and transmission licensees whose tariff was determined under section 63 by the Central Commission, discoms may claim the relief from its obligations regarding the rate at which LPS is to be paid, as per the force majeure provisions given in the respective power purchase agreement.

5. This issues with the approval of Minister of State (Independent Charge) for Power and New and Renewable Energy, Government of India.

Yours faithfully,

Sd/-
(Ghanashyam Prasad)
Chief Engineer (RR & OM)"

2. The Commission has considered the above directions of the Government of India issued under Section 107 of the Act. This Commission determines the tariff of the generating companies covered under section 79(1)(a) and (b) of the Act and tariff of the inter-State transmission licensees under section 79(1)(d) of the Act in accordance with the tariff regulations framed under section 61 read with section 178 of the Act. Further, this Commission also adopts the tariff of the generating companies and inter-State transmission licensees under Section 63 of the Act where the tariff has been discovered through competitive bidding in accordance with the Guidelines issued by Government of India under Section 63 of the Act.

3. As regards the generating companies and transmission licensees whose tariff is determined by this Commission under Section 62 of the Act, the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter "2019 Tariff Regulations") provides for rebates and late payment surcharge as under:

> ***"58. Rebate.*** *(1) For payment of bills of the generating company and the transmission licensee through letter of credit on presentation or through National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) payment mode within a period of 5 days of presentation of bills by the generating company or the transmission licensee, a rebate of 1.50% shall be allowed.*
>
> *<u>Explanation</u>: In case of computation of '5 days', the number of days shall be counted consecutively without considering any holiday. However, in case the last day or 5th day is official holiday, the 5th day for the purpose of Rebate shall be construed as the immediate succeeding working day (as per the official State Government's calendar, where the Office of the Authorised Signatory or Representative of the Beneficiary, for the purpose of receipt or acknowledgement of Bill is situated).*
>
> *(2) Where payments are made on any day after 5 days and within a period of 30 days of presentation of bills by the generating company or the transmission licensee, a rebate of 1% shall be allowed.*
>
> ***59. Late payment surcharge:*** *In case the payment of any bill for charges payable under these regulations is delayed by a beneficiary or long term customers as the case may be, beyond a period of 45 days from the date of presentation of bills, a late payment surcharge at the rate of 1.50% per month shall be levied by the generating company or the transmission licensee, as the case may be.*

4. The beneficiaries of the generating stations and long term customers of the inter-State transmission systems avail rebates under Regulation 58 of the 2019 Tariff Regulations if the payments are made to the generating companies and the transmission licensees within the timeline specified in the said regulations. On the other hand, as per Regulation 59 of the 2019 Tariff Regulations, a late payment surcharge (LPS) of 1.5% per month is payable by the beneficiaries and long term customers to the

generating companies and transmission licensees, as the case may be, if the payment is delayed beyond 45 days from the date of presentation of bills.

5. As per the directions issued by Government of India under Section 107 of the Act, the Commission is required to specify a reduced rate of LPS where payment to generating companies and inter-State transmission licensees is delayed beyond a period of 45 days from the date of presentation of the bill during the period from 24th March 2020 to 30th June 2020 by treating the restrictions placed by the Ministry of Home Affairs, Government of India vide order dated 24.03.2020 to contain COVID-19 as an event of force majeure.

6. The Commission also observes that the Reserve Bank of India has permitted lending institutions and banks to grant a moratorium of three months on repayment in respect of all term loans and has clarified that interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period. Similarly, in respect of working capital facilities, the Reserve Bank of India has permitted lending institutions and banks to defer the recovery of interest on such facilities, but has clarified that accumulated accrued interest shall be payable after the deferment period from 01.03.2020 up to 31.05.2020. The relevant portion of the RBI circular No. RBI/2019-20/186 DOR.No.BP.BC.47/21.04.048/2019-20 dated 27th March, 2020 is extracted below:

"(i) Rescheduling of Payments – Term Loans and Working Capital Facilities

2. In respect of all term loans (including agricultural term loans, retail and crop loans), all commercial banks (including regional rural banks, small finance banks and local area banks), co-operative banks, all-India Financial Institutions, and NBFCs (including housing finance companies) ("lending institutions") are permitted to grant a moratorium of three months on payment of all instalments[1] falling due between March 1, 2020 and

May 31, 2020. The repayment schedule for such loans as also the residual tenor, will be shifted across the board by three months after the moratorium period. Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period.

3. In respect of working capital facilities sanctioned in the form of cash credit/overdraft ("CC/OD"), lending institutions are permitted to defer the recovery of interest applied in respect of all such facilities during the period from March 1, 2020 up to May 31, 2020 ("deferment"). The accumulated accrued interest shall be recovered immediately after the completion of this period."

7. Thus, generating companies and inter-State transmission licensees can opt for moratorium on payment of installments of term loan and defer the payment of interest in respect of working capital facilities during the period from March 1, 2020 up to May 31, 2020 ("deferment"), but the interest accrued is not waived. Further, in case of working capital facilities, accumulated accrued interest shall be recovered immediately after the completion of this period. The interest rate applicable will be the lending rate of the lending institutions or banks. Thus, the generating companies and the transmission licensees will have to incur the cost of working capital facilities even during the deferment period.

8. Therefore, generating companies and inter-State transmission licensees regulated by this Commission shall be required to continue to discharge their debt service obligations and arrange for working capital for day to day operation of their generating stations and transmission assets. Clauses (3) and (4) of Regulation 34 of 2019 Tariff Regulations relating to computation of the rate of interest on working capital are extracted as under:

"(3) Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2019 or as on 1st April of the year during the tariff period 2019-24 in which the generating station or a unit thereof or the transmission system

including communication system or element thereof, as the case may be, is declared under commercial operation, whichever is later:

Provided that in case of truing-up, the rate of interest on working capital shall be considered at bank rate as on 1st April of each of the financial years during the tariff period 2019-24.

(4) Interest on working capital shall be payable on normative basis notwithstanding that the generating company or the transmission licensee has not taken loan for working capital from any outside agency."

9. "Bank rate" has been defined in Clause (7) of Regulation 3 of the 2019 Tariff Regulations as under:

(7) 'Bank Rate' means the one year marginal cost of lending rate (MCLR) of the State Bank of India issued from time to time plus 350 basis points;"

10. Therefore, Commission is of the view that in the given situation, the provisions of 2019 Tariff Regulations with regard to interest on working capital should be adopted as the normative rate of LPS in place of the penal rate of LPS specified under Regulation 59 of the 2019 Tariff Regulations, for delayed payments falling due beyond 45 days, during the period from 24.03.2020 and 30.06.2020. As per the MCLR historical data from website of State Bank of India, one year MCLR as on 10.03.2020 is 7.75%. By adding 350 basis points, the Bank Rate as per Clause (7) of Regulation 3 of 2019 Tariff Regulations works out to 11.25% per annum.

11. It would be pertinent to mention in this context that the direction under section 107 stipulates requirements for reduced rate of LPS and that the LPS should not be more than the cost that the generating companies or transmission licensees would have to bear because of the delayed payment. Given that the Commission follows normative approach for the purpose of interest on working capital irrespective of the actual loan

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 8136
Exp- 20/10/2026
GOVT. OF INDIA
7

taken by the generating company or the transmission licensee (reference clause (4) of Regulation 34 of the 2019 Tariff Regulations), the Commission is of the view that providing normative LPS rate would satisfy the requirements of direction under section 107 of the Act.

12. The Commission is vested with the power to relax any of the provisions of the 2019 Tariff Regulations on its own motion or on an application made by an interested person. Regulation 76 of the 2019 Tariff Regulations is extracted as under:

> ***"76. Power to Relax:*** *The Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person."*

13. Keeping in view the directions issued by the Government of India under section 107 of the Act and to address the difficulties faced by the distribution companies (beneficiaries of the generating stations and long term customers of inter-State transmission systems) on account of the unprecedented situation arising out of the restrictions placed by the Central Government and State Governments on the movement of public and opening of offices and establishments etc., the Commission in exercise of its powers under Regulation 76 of the 2019 Tariff Regulations relaxes the provisions of Regulation 59 of 2019 Tariff Regulations to provide that if any delayed payment by the distribution companies to the generating companies and inter-State Transmission licensees beyond 45 days from the date of the presentation of the bills falls between 24.03.2020 and 30.06.2020, the concerned distribution companies shall make the payment with LPS at the reduced rate of 12% per annum that translates into 1% per month.

14. It is clarified that if the period of 45 days beyond the due date of the presentation of the bill by the generating companies or inter-State transmission licensees, as the case may be, falls before 24.03.2020 or after 30.06.2020, the concerned distribution company shall be liable to pay the LPS as per Regulation 59 of the 2019 Tariff Regulations.

15. It is further clarified that the beneficiaries of the generating stations and long term customers of the inter-State transmission systems will continue to avail rebates under Regulation 58 of the 2019 Tariff Regulations if the payments are made to the generating companies and the transmission licensees within the timeline specified in the said regulations.

16. As per the directions issued under Section 107 of the Act, the generating companies whose tariff has been determined under Section 63 of the Act by this Commission, relief on the Late Payment Surcharge for payment which become delayed beyond 45 days (from the date of presentation of the bill) during the period from 24.03.2020 to 30.06.2020 may be claimed in terms of the force majeure provisions of the respective power purchase agreements (PPAs).

17. Similarly, in cases of inter-State transmission licensees whose tariff has been adopted under Section 63 of the Act by the Commission, Late Payment Surcharge shall be governed in accordance with the provisions of Transmission Service Agreements (TSAs) read with Central Electricity Regulatory Commission (Sharing of Transmission

NOTARY RANJEET SINGH Reg. No. 9136 Exp- 20/10/2026 GOVT. OF INDIA

Charges and Losses) Regulations, 2010 as amended from time to time and the procedures issued there-under.

18. Petition No.6/SM/2020 is disposed of in terms of the above.

Sd/- **(I S Jha)** **Member**	Sd/- **(P K Pujari)** **Chairperson**

Annexure P [VI]

CORRIGENDUM

No. 11/16/2020-Th-II (C.No. 252648)
Government of India
Ministry of Power
Shram Shakti Bhawan, Rafi Marg,

New Delhi, 16th May, 2020

To,

1. All Power Generation and Transmission CPSEs under Ministry of Power
2. All Subsidiaries/ Joint Ventures of Power Generation and Transmission CPSEs under Ministry of Power

Subject: Rebate to Distribution Companies (DISCOMS) by Central Generating and Transmission Companies of Ministry of Power for the Lock down period on account of Covid-19 pandemic

Sir/ Madam,

Please refer to the Advisory/ letter of even No. issued on 15.05.2020 (Copy enclosed) on the above subject. The Para 2 ii of the said Advisory/ letter may please be read as follows:

"Rebate of about 20-25% on power supply billed (fixed cost) to Discoms and inter-state transmission charges levied by PGCIL."

Enclosures: as above

-

Yours Sincerely,

(Anoop Singh Bisht)
Under Secretary to the Govt. of India
PH. 23719710

Copy to :

1. **Chief Secretaries of all States/UTs.**
2. **Secretaries of Power of all States/UTs** for kind information and necessary action please.

NOTARY
RANJEET SINGH
Exp- 20/10/2026
GOVT. OF INDIA

No. 11/16/2020-Th-II
Government of India
Ministry of Power
Shram Shakti Bhawan, Rafi Marg,

New Delhi, 15th May, 2020

To,

1. All Power Generation and Transmission CPSEs under Ministry of Power
2. All Subsidiaries/ Joint Ventures of Power Generation and Transmission CPSEs under Ministry of Power

Subject: Rebate to Distribution Companies (DISCOMS) by Central Generating and Transmission Companies of Ministry of Power for the Lock down period on account of Covid-19 pandemic

Sir/ Madam,

This is in the light of the announcements made by Honb'le Finance Minister on 13.05.2020 under the Atmanirbhar Bharat (आत्मनिर्भर भारत) special economic and comprehensive package including therein the liquidity infusion by PFC/REC of Rs.90,000 crore to DISCOMs against receivables and loans to be given against State guarantees for exclusive purpose of discharging liabilities of DISCOMS to power Generating companies (Gencos), and also giving rebate to DISCOMs by Central Public Sector Generation Companies for passing on to the final consumers.

2 In view of the above, it has been decided that all Central Public Sector Generation Companies under Ministry of Power including their Joint Ventures/Subsidiaries and Central Public Sector Transmission Company, may consider to offer following rebate to the Distribution Companies (Discoms) for passing on to the end consumers for the lockdown period on account of Covid-19 pandemic:

i. Deferment of capacity charges for power not scheduled, to be payable without interest after the end of the lockdown period in three equal monthly instalments.

NOTARY RANJEET SINGH GOVT. OF INDIA Exp- 20/10/2026

ii. Rebate of about 20-25% on power supply billed to Discoms and inter-state transmission charges levied by PGCIL

3. Accordingly, Central Public Sector Generation Companies and PGCIL may kindly consider taking necessary action in this regard, including concurrence of respective Board of Directors required, if any.

This issues with the approval of Hon'ble Minister of State (Independent Charge) for Power and New & Renewable Energy.

Yours Sincerely,

24.4.2020

(Anoop Singh Bisht)
Under Secretary to the Govt. of India
PH. 23719710

Copy to :

1. **Chief Secretaries of all States/UTs.**
2. **Secretaries of Power of all States/UTs** for kind information and necessary action please.

NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 9136
Exp- 20/10/2026
GOVT. OF INDIA

BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

MUMBAI

Case No. _____ of 2022

IN THE MATTER OF:

MISCELLANEOUS PETITION SEEKING INTERIM RELIEF FOR RECOVERY OF UNDER RECOVERY OF CROSS SUBSIDY AND THE ADDITIONAL WORKING CAPITAL REQUIREMENT FOR FY 2020-21

IN THE MATTER OF:

SECTION 94 (2) OF THE ELECTRICITY ACT, 2003 READ WITH REGULATION 105 & 106 OF THE MERC (MULTI YEAR TARFF) REGULATIONS 2019 AND REGULATION 92, 93 & 94 OF MERC (CONDUCT OF BUSINESS) REGULATIONS, 2004

AND

IN THE MATTER OF:

Maharashtra State Electricity Distribution Co. Ltd. .....Petitioner

Memo of Authorization

I, Yogesh Madhukar Gadkari, the Director (Commercial) of the Petitioner abovenamed do hereby nominate, appoint and constitute DSK Legal to act, plead and appear on behalf of the Petitioner in the aforesaid matter.

IN WITNESS WHEREOF, I have set and subscribed my hands to this writing on this 22nd day of March, 2022.

Place : Mumbai
Date: 22nd March, 2022.

Director Commercial
M.S.E.D.C.L. Prakashgad.

Petitioner

We accept:

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NOTARY
RANJEET SINGH
SANTACRUZ (E),
MUMBAI M.S.
Reg. No. 9139
Exp- 20/10/2026
GOVT. OF INDIA