

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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CASE No. 321 of 2018

**Case of Maharashtra State Electricity Distribution Company Limited (MSEDCL) for
review of certain aspects of Mid Term Review Order dated 12 September, 2018 in Case
No. 195 of 2017**

Coram

**I. M. Bohari, Member
Mukesh Khullar, Member**

Maharashtra State Electricity Distribution Company Limited

Petitioner

Appearance

For the Petitioner:

Shri. Milind Digraskar (Rep)

ORDER

Dated: 24 December, 2018

1. Maharashtra State Electricity Distribution Company Limited (**MSEDCL**) has filed this Petition dated 29 October, 2018 under Section 94 (1) (f) of the Electricity Act, 2003 (**EA**) read with Regulation 85 of the MERC (Conduct of Business) Regulations, 2004 for review of certain aspects of the Mid Term Review (MTR) Order dated 12 September, 2018 in Case No.195 of 2018.
2. MSEDCL's prayers are as follows:

- (a) *To correct the opening GFA amount considered for calculation of O&M Expenses for FY 15-16;*
- (b) *To correct O&M expenses for FY 2016-17 to FY 2019-20 based on the revised base O&M expenses of FY 2015-16;*
- (c) *To correct sharing of gains on account of O&M expenses for FY 2015-16 and FY 2016-17;*
- (d) *To correct Energy Balance and Distribution Losses for FY 16-17 based on metered energy at Distribution Periphery as submitted by Petitioner;*
- (e) *To allow correction in sharing of gains on account of distribution losses;*
- (f) *To allow expenses on account of obsolescence of fixed assets and on account of natural calamities for FY 2015-16;*
- (g) *To allow expenses on account of the interest on the amount of refund of service line charges, ORC and meter cost for FY 2016-17;*
- (h) *To allow correction in Non-Tariff Income for FY 2018-19 and FY 2019-20;*
- (i) *To correct interest rate on Working Capital requirement for FY 2018-19 and FY 2019-20 and accordingly interest charges on Working Capital;*
- (j) *To allow Fixed Cost of Koradi 6 TPP for FY 2019-20;*
- (k) *To allow revision in normative loan and approve interest charges on normative loan due to difference in opening normative equity for FY 2015-16;*
- (l) *To correct the utilization factors for computation of revenue from demand/ fixed charges for LT category and approve the required fixed charges for FY 2018-19 and FY 2019-20;*
- (m) *To correct sharing of loss due to Interest on working Capital for FY 2016-17*
- (n) *To allow 50% of IDC due to excess capitalization and corresponding depreciation, RoE and Interest on loan disallowed by the Hon'ble Commission;*
- (o) *To allow depreciation, RoE and Interest on Loans on GFA of Rs. 927 Crore for intervening years disallowed by the Hon'ble Commission;*
- (p) *To consider revision in definition of Billing Demand;*
- (q) *To allow Cross Subsidy Surcharge as per the formula in National Tariff Policy 2016 (NTP) without putting any ceiling;*
- (r) *To allow standby charges for SEZ and Railways;*
- (s) *To allow amendment in formula of Load Factor Incentive;*
- (t) *To approve metered AG consumers for FY 2016-17 as submitted by the Petitioner in MTR Petition;*

- (u) To change the tariff applicability to hotels in Notified Tourism Districts (having eligibility certificate from MTDC) as Industry;
 - (v) To allow metered AG sales as submitted by MSEDCL and not as per derived AG Index;
 - (w) To allow linking of 0.25% incentive towards online payment with prompt payment and past arrears;
 - (x) To allow Carrying Cost on the Financial Impact of this Review Petition.
 - (y) To allow the recovery of the Financial Impact of Review Petition by way of revision in retail tariff for FY 2018-19 and FY 2019-20;
 - (z) To allow capitalization due to Non DPR Schemes disallowed in the MTR Order
 - (aa) To allow revision in reconnection charges;
 - (bb) To condone any error/omission and to give opportunity to rectify the same;
3. At the hearing held on 27 November, 2018, MSEDCL reiterated their submission in the review Petition.
 4. The Commission noted that the Review Petition has been filed under Regulation 85 of the MERC (Conduct of Business) Regulations, 2004 which specifies as follows:

Review of decisions, directions, and orders:

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

Thus, the ambit of review is limited and MSEDCL’s Petition has to be evaluated accordingly.

5. MSEDCL’s contentions and the Commission’s rulings on each issue are set out below, considering the provisions of Regulation 85(a) of the MERC (Conduct of Business) Regulations, 2004 which governs review.

ISSUE I: Error in value of Opening Gross Fixed Assets (GFA) considered for computation of Normative O&M Expenses for FY 15-16

MSEDCL's Submission

6. In MTR Petition, it had submitted the reconciliation of GFA and requested the Commission to approve an additional/ difference amount of Rs. 1135 Crore in the opening GFA of FY 2015-16. The Commission has approved Rs. 927 Crore as against Rs. 1135 Crore. Accordingly, the opening GFA of FY 2015-16 got revised to Rs. 40568 Crore (39641 + 927).
7. However, for the computation of O&M Expenses for FY 2015-16, the Commission considered Opening GFA as Rs. 39641 Crore thereby missing out the inclusion of Rs. 927 Crore in the opening GFA for computation of O&M Expenses. This is error apparent on face of records.
8. Hence, it is requested to revise the approved normative O&M expenses from Rs. 6792 crore to Rs. 6826 Crore and accordingly revise computation of sharing of gains/ losses for FY 2015-16. Accordingly, approve Rs. 469 Crore as gains to be passed on to the consumer as against Rs. 458 Crore approved in the MTR Order.
9. Further, Regulations 72 and 81 of the MYT Regulations, 2015 as amended specified that the O&M expenses for FY 2015-16 forms the basis for computation of normative O&M expenses for future years. These expenses shall be determined by escalating these base year expenses for FY 2015-16 by reducing an efficiency factor of 1% or as may be stipulated by the Commission from time to time, to arrive at the permissible O&M expenses for each year of the Control Period.
10. In the MTR Orders, the Commission has uniformly deducted 1% as efficiency factor in escalation rate for computation of O&M expenses for all utilities i.e. BEST, R-Infra, Tata Power and MSEDCL. Applying such uniform efficiency factor to Mumbai licensees which operates only in urban area to MSEDCL is incorrect considering the vast difference in operational activities. In case of Mumbai licensees, the boundaries are not expanding whereas in case of MSEDCL, through various schemes, it has been expanding its network to remote uncovered areas and also strengthening its network. Thus, applying similar efficiency factor of 1% for computation of O&M expenses for MSEDCL has resulted into lower approval, restricting it to allocate sufficient funds to its O&M activities.
11. Hence, it is requested to correct the escalation factor to 6.06 % as requested in the MTR Petition without reducing it by 1% efficiency factor.
12. The overall impact on O&M expenses for FY 2015-16 to FY 2019-20 due to reasons as detailed above is summarized in the table given below:

Impact (Rs Crore)	FY 15-16	FY 16-17	FY 17- 18	FY 18-19	FY 19- 20	Total Impact
Additional Normative O&M Expenses to be approved	34	87	159	240	328	849
Impact on sharing of gains on account of revised O&M expenses	(11)	(58)	0	0	0	(69)

Commission's Analysis and Ruling

13. Upon verification of the financial model of the MTR Order, the Commission observes that for the computation of normative O&M Expenses for FY 2015-16, opening GFA has been considered as Rs. 39641 Crore thereby not included Rs. 927 Crore in the opening GFA. This is an error apparent from the face of record while considering the GFA for working out such normative expense.
14. Opening GFA to be considered for calculating normative O&M Expenses for FY 2015-16 is to be corrected as Rs. 40568 Crore (Rs 39,641 Crs + Rs 927 Crs), and the O&M expenses for FY 2015-16 has to be recalculated. Thus, the difference after recalculation of O&M Expense that is to be allowed is Rs. 34 Crore. Also, the consequent difference of Rs. 11 Crore in gains is to be passed on to the consumers.
15. Further, the correction in GFA of FY 2015-16 and consequent change in O&M expense of base year, i.e., FY 2015-16, has an overall impact on computation of O&M Expenses for Ensuing Years i.e., FY 2016-17 to FY 2019-20. This also impacts the working of sharing of gains and loss during FY 2016-17. The impact of revision in O&M expense for FY 2016-17 to FY 2019-20 works out to Rs. 104 Crore and the impact of incremental gain to be passed on to the consumers as part of truing up of FY 2016-17 works out to Rs. 15 Crore. Accordingly the same needs to be allowed under this review Order.
16. However, MSEDCL's request regarding not considering 1% efficiency factor while projecting O&M Expenses for FY 2016-17 to FY 2019-20 cannot be allowed as the Commission has adopted this approach uniformly across all Distribution Licensees in the State. Further, even after considering efficiency factor of 1%, approved O&M expenses for FY 2016-17 is higher than actual O&M expenses incurred by MSEDCL. Thus, there is no loss to MSEDCL on this account.
17. In case, MSEDCL incurs higher O&M Expenses during the period FY 2017-18 to FY 2019-20, then during Truing-up process limited to these years, it can submit justifications towards variation, if any, for consideration of the Commission.

ISSUE II: Energy Balance for FY 2016-17 and Sharing of Gains/ (Losses) on account of Distribution Loss

MSEDCL's Submission

18. Energy at Distribution periphery is metered energy at sub-station end which has been verified with the final data received from MSLDC and thus while submitting the Energy Balance for FY 2016-17, it has considered the Distribution Losses based on the actual metered energy sales and metered energy available at T<>D periphery.
19. However, in the MTR Order, the Commission has considered Energy at T<>D Periphery for FY 2016-17 as 117126 MU instead of actual metered energy of 116300 MU. This needs to be corrected.
20. While computing the sharing of gains / loss on account of distribution loss, the Commission in MTR Order has considered the MYT approved loss trajectory as 13.50%. In MYT Order dated 3 November, 2016 the Commission has approved the distribution loss trajectory as 17.76% (excluding EHV sales) for FY 2016-17. The actual distribution loss as computed by MSEDCL for FY 2016-17 works out to be 15.33% (excluding EHV) and hence the comparison should have been done with respect to EHV excluding loss trajectory approved in MYT order and not with 13.50%.
21. Overall impact on sharing of gains to be passed on to the consumer on account of distribution losses for FY 2016-17 comes out to Rs. 1042 Crore. This needs to be reviewed and corrected.

Commission's Analysis and Ruling

22. Upon verification of financial Model, it is observed that the approved input of 117126 MU at T<>D periphery for FY 2016-17 has been worked out by deducting Inter State Losses (3.66%) and Intra State Losses (3.63%) from the ex-bus energy procured from Inter State Sources and energy available at Intra State level, respectively. In Energy Balance table, metered energy is available at three stages vis. Generator ex-bus (G <>T periphery), T <> D periphery and at Consumer end. As the input at T<>D periphery is metered, it needs to be maintained as it is. Replacing such metered value by a derived number is not appropriate. Hence, it is an error apparent from the face of records
23. Hence, input at T<>D periphery for FY 2016-17 is revised to 116300 MU which is based on metered energy. This leads to revision in Distribution Loss to 15.33% from 15.95% approved in impugned MTR Order. On account of revision of distribution loss level, impact of Rs. 178 crore on sharing of loss needs to be allowed to MSEDCL.

24. Regarding, MSEDCL's contention that actual Distribution Loss should be compared with trajectory set under MYT Order dated 3 November, 2016 instead of 13.50% which was the target loss for FY 2015-16, the Commission notes that such comparison for sharing of gain and losses is based on following decision of the Commission in MYT Order dated 3 November, 2016:

"While approving the Distribution Loss trajectory, the Commission had discussed the excess power purchase in the 3rd Control Period due to the Distribution Loss restatement necessitated in FY 2015-16. Such additional power purchase expenditure owing to the higher loss level is significant, and passing on its entire burden to consumers cannot be justified. Hence, the Commission has decided on the sharing of the impact between consumers and MSEDCL in the ratio of 1:2, i.e. two-thirds would be borne by MSEDCL and the remaining by consumers, on a provisional basis. This is also in line with the provisions of the MYT Regulations, 2015 relating to sharing of efficiency loss on account of controllable expenses."

25. Such considered decision of the Commission cannot be termed as error apparent on face of record. Hence, review on this ground needs to be rejected.

ISSUE III: Other expenses of Rs. 8 Crore disallowed in FY 2015-16

MSEDCL's Submission

26. While considering the other expenses for FY 2015-16, the Commission has not approved Rs. 8 Crore on account of "loss of obsolescence of fixed assets and on account of natural calamities." While disallowing the said expenses, the Commission in para 3.16.3 of the MTR Order stated as follows:

"...certain heads were disallowed, based on the principles detail in the previous Orders of the Commission."

27. However, in the MYT Order in Case No.48 of 2016, the Commission had approved Rs. 10 Crore on account of "loss of obsolescence of fixed assets and on account of natural calamities" for FY 2014-15.
28. Therefore, it is requested to review and approve Rs. 8 Crore as other expense on account of loss of obsolescence of fixed assets and on account of natural calamities.

Commission's Analysis and Ruling

29. While considering the other expenses for FY 2015-16, the Commission has not approved Rs. 8 Crore on account of "loss of obsolescence of fixed assets and on account of natural calamities." However, In MYT Order dated 3 November, 2016, the Commission has

allowed such expenses. Hence, it is an error apparent from the face of records, and therefore, other expenses of Rs. 8 Crore needs to be allowed.

ISSUE IV: Other expenses of Rs. 113 Crore disallowed in FY 2016-17

MSEDCL's Submission

30. While approving the "Other Expenses" for FY 2016-17, the Commission has not allowed Rs. 113 Crore on account of "*Interest to be given to consumers on the amount of refund of service line charges, ORC and meter cost.*" As stated in the MTR Order, such disallowance is on account of delay in implementation of the Commission's directive by MSEDCL.
31. In its Order dated 21 August 2007 (Case No. 82 of 2006) in the matter of compliance of directions issued under Order dated May 17, 2007, the Commission had directed MSEDCL to refund the amount collected along with the interest. In that Order, nowhere the pass through of the interest amount was restricted in the ARR.
32. It had filed a statutory appeal before the Supreme Court (Appeal no. 4305 of 2007) under section 125 of the Electricity Act, 2003 against the Order dated 15 May, 2007 passed by Appellate Tribunal for Electricity in Appeal No. 22 of 2007. The Supreme Court was pleased to stay the refund vide its Order dated 31 August 2007 and the said order was further made absolute on 14 September 2007.
33. Hence, the issue of refund was subjudice before the Supreme Court from year 2007 to 2016, during which period the stay Order was in vogue. Therefore, holding MSEDCL responsible for delay in refund is totally unjustified and therefore disallowance of interest amount of Rs 113 Crore is an error apparent on the face of record.
34. Therefore, it is requested to approve Rs. 113 Crore towards interest.

Commission's Analysis and Ruling

35. While disallowing the "Other Expenses" for FY 2016-17, the Commission in para 4.15.4 of the MTR Order has stated as follows:

"As regards, the amount claimed towards 'interest to be given to consumers on the amount of refund of service line charges, ORC and meter cost', the Commission notes that the same has arisen on account of delay in implementation of the Commission's directive in the matter in the past by MSEDCL. Therefore, the same cannot be allowed to be passed on to the consumers."

36. Such refund was on account of recovery towards the charges which were specifically stopped by the Commission in its Order in Case No. 82 of 2006 dated 17 May, 2007.
37. Recovery of charges, which are not authorized by the Commission, has to be refunded with interest. Such interest, which is penal in nature, cannot be allowed to be included in ARR.
38. Further, MSEDCL itself has chosen to file stay application before the Supreme Court. As Supreme Court vide Judgment dated 10 November, 2016 has rejected main appeal in Civil Appeal No. 4305 of 2007, MSEDCL is liable to make necessary refund along with interest.
39. Hence, there is no error in disallowing interest cost. Accordingly, review needs to be rejected on this ground.

ISSUE V: Deferred Income Liability has not been deducted from Non-Tariff Income for FY 2018-19 and FY 2019-20.

MSEDCL's Submission

40. In its MTR Petition, MSEDCL had requested the Commission to take cognizance of the prevailing INDAS 20 and accordingly to consider Depreciation on Gross Asset (including Grant) and Grant deferred (other income) as per Audited Accounts. It is requested that in case the Commission adheres to the provisions in MYT Regulations, 2015 and computes depreciation by deducting grant and consumer's contribution from GFA, the Commission may exclude deferred income from non-tariff income.
41. Accordingly, for FY 2016-17 and FY 2017-18, the Commission computed the depreciation by deducting grant and consumer's contribution from GFA and accordingly, excluded the deferred income from non-tariff income. However, for FY 2018-19 and FY 2019-20, the Commission computed depreciation by deducting grant and consumer contribution from GFA but has not excluded the projected deferred income liability from non-tariff income.
42. Therefore, Rs. 670 Crore and Rs. 704 Crore which is included in other/ miscellaneous receipts should be deducted from the projected non-tariff income for FY 2018-19 and FY 2019-20, respectively as deferred income liability. Accordingly, the revised non-tariff income for FY 2018-19 and FY 2019-20 should be considered as Rs. 381 Crore and Rs. 400 Crore, respectively.
43. Hence, it is requested to review and exclude deferred income from non-tariff income for FY 2018-19 & FY 2019-20.

Commission's Analysis and Ruling

44. For FY 2016-17 and FY 2017-18, cognizance of accounting practice was taken as truing up and provisional truing up had to be done based on audited/provisional audited figures for the respective years.
45. As far as treatment of FY 2018-19 and FY 2019-20 is concerned, the Commission has approved purely on the basis of projection submitted by MSEDCL. The treatment with respect to accounting practice shall be undertaken at the time of truing up/provisional true up based on Audited Accounts of such financial years FY 2018-19 and FY 2019-20, subject to necessary prudence check.
46. Hence, review cannot be allowed on this ground.

ISSUEVI: Interest Rate on Working Capital requirement for FY 2018-19 and FY 2019-20

MSEDCL's Submission

47. Consideration Regulations 31.3 and 31.4 of the MYT Regulations 2015, and amendments thereof MSEDCL has calculated the Interest on Working Capital for the period FY 2018-19 and FY 2019-20 by considering the rate of interest as 9.75% (One year MCLR as on June 2018 – 8% + 150 basis points). However, the Commission has calculated the Interest on Working Capital for the period FY 2018-19 to FY 2019-20 considering the rate of Interest as 9.45%.
48. Therefore it is requested to approve the Interest on Working Capital considering the rate of interest rate as 9.75% instead of 9.45% considered in MTR Order. Accordingly the total Interest on Working Capital would increase by Rs. 4 Crore each for FY 2018-19 and FY 2019-20, respectively.

Commission's Analysis and Ruling

49. As per Regulation 31.3 (b) and 31.4 (b) of the MERC (Multi Year Tariff) Regulations, 2015 and its amendments, the rate of Interest on Working Capital should be equivalent to Base Rate (One year MCLR of State Bank of India) + 150 basis points at the time of filing of the Petition.
50. At the time of filing of the Petition (original Petition dated 21 Dec 2017), the MCLR rate was 7.95% (1-12-17 to 31-01-2018) and accordingly the interest rate considered is 9.45% (7.95%+150 basis point).

51. Hence, there is no error and review on this ground needs to be rejected.

ISSUE VII. Capacity Charges of Koradi Unit 6 has not been considered for FY 2019-20

MSEDCL's Submission

52. While approving the Power Purchase Cost of for FY 2019-20, the Commission has considered the capacity charges of Koradi Unit 6 as Nil. But in MTR Order for MSPGCL (Case No. 196 of 2017), the total capacity charges approved for Koradi Unit 6 and 7 for FY 2019-20 is Rs. 334.16 Crore. Thus, for Koradi Unit 6, the same comes out to be Rs. 167.08 Crore

53. Therefore it is requested to approve the Capacity Charges of Rs. 167.08 Crore for Koradi Unit 6 for FY 2019-20.

Commission's Analysis and Ruling

54. The Commission finds that this is an error in the impugned MTR Order. However, since it is in the nature of a projection of power purchase expenses, the difference between the projected and the actual expenses will be adjusted through the FAC mechanism. Hence, there is no need to restate the power purchase expenses on this account.

ISSUE VIII. Difference in opening normative equity for FY 2015-16 as submitted by the Petition and as approved in the MTR Order

MSEDCL's Submission

55. In the 'Form 8 – Return on Regulatory Equity' of the MTR Petition, it has submitted Rs. 10244 Crore as opening normative equity (Rs 9220 Crore for Wires + Rs 1024 Crore for Supply) for FY 2015-16 whereas the Commission has approved Rs. 9681 Crore (Rs 8713 Crore for Wires + Rs 968 Crore for Supply) as opening normative equity in MTR Order .

56. While scrutinizing the same, it has been observed that:

- In the Form F4.4 – Funding Details of MYT Petition (Case No. 48 of 2016) submitted by the Petitioner, the portion of Internal Accruals in capex for FY 2014-15 was Rs. 1,400 Crore which was inclusive of Consumer Contribution (CC) of Rs. 350 Crore
- However, while computing equity portion of capex in 'Form 8 – Return on Regulatory Equity' of the MYT Petition, Internal Accrual considered as Rs. 1050 Crore and CC of Rs. 350 Crore was again erroneously deducted from the same.

- This has resulted in lower regulatory equity at the end of year for FY 2014-15.
57. It is requested therefore to consider the revised computation of normative opening equity for FY 2015-16 and its corresponding impact.
58. Due to revised computation in equity addition of 431 Crore during FY 2014-15 being in excess of 30% of capitalization (Net of grants & consumer contribution), the excess portion would get converted into normative loan as per Regulation 26 of MYT Tariff Regulations 2015. It is requested therefore to consider the revision in normative loan and approve interest charges on normative loan amounting to Rs. 273 Crore as per correction considered.

Commission's Analysis and Ruling

59. The opening equity for FY 2015-16 has been considered same as closing equity of FY 2014-15 which was approved after final true-up in the MYT Order dated 3 November, 2016 in Case No. 48 of 2016. Therefore, the Commission does not see any error in the specific issue.
60. By seeking review of equity allowed for FY 2014-15, MSEDCL is trying to review MYT Order dated 3 November, 2016, which is beyond the time limitation specified under the Regulations. Thus, the present claim of MSEDCL to revise the opening equity of FY 2015-16 does not qualify for review under the present proceedings.

ISSUE IX. Impact of Utilization Factor on computation of revenue from Demand/ Fixed Charges for LT Categories for FY 2018-19 and FY 2019-20

MSEDCL's Submission

61. In its MTR Petition, while computing the revenue from existing tariff for FY 2018-19 and FY 2019-20 in Form 14.1 and Form 14.2 respectively, MSEDCL has considered actual billed demand for the LT categories where the demand based fixed charges have been approved. Further, MSEDCL in its MTR petition prayed for revision in definition of billing demand for LT category as follows:

Actual MD recorded OR 85% of the Contract Demand whichever is higher

62. However, in the MTR Order, the Commission has not accepted MSEDCL's prayer for revision in definition of Billing Demand.

63. While approving the revenue from demand/fixed charges for LT category, the Commission considered projected Contract Demand/ Sanctioned Load and applied the utilization factor of 65% and 75% for FY 2018-19 & FY 2019-20 respectively.
64. Since the revision in definition of billing demand has not been approved by the Commission, it should have computed the revenue from Fixed/Demand Charges for demand based LT Categories considering the utilization factor as submitted by MSEDCL. The Commission has computed the projected revenue from fixed charges for demand based LT categories by considering a much higher utilization factor.
65. It is requested to compute the demand/ fixed charges for LT categories (where the demand based fixed charges have been approved) based on the actual utilization factors

Commission's Analysis and Ruling

66. The Commission is of the view that it would be a vague exercise to compute the demand/ fixed charges for LT categories (where the demand based fixed charges have been approved) again based on the actual utilization factors. Basically, utilization factor of LT categories is estimation. Therefore, based on actual variation in sales and utilization, any short fall in revenue would be adjusted at the time of truing up.
67. In view of the above, the Commission does not find merit in revising the computation as made under the MTR Order at this point of time. However, necessary revision may be done at the time of true-up as the same has been worked out on projection basis.

ISSUE X. Sharing of loss due to Interest on working Capital for FY 2016-17

MSEDCL's Submission

68. In its MTR petition, MSEDCL has submitted the actual interest on Working Capital as per the Audited Accounts for FY 2016-17 as Rs. 771 Crore. In MTR Order the Commission approved Rs 1250 Crore as the normative Interest on Working Capital for FY 2016-17.
69. While approving the Sharing of Gains/Losses for FY 2016-17 in MTR Order the Commission has considered actual Interest on Working Capital as Rs. 438 Crore instead of Rs 771 Crore. This has resulted into wrong computation of sharing of gains/losses.
70. It is requested to approve Rs. 340 Crore as MSEDCL's entitlement as against Rs. 228 Crore approved in the MTR Order i.e. additional impact of Rs 112 Crore after revision in computation of sharing and gain loss

Commission's Analysis and Ruling

71. The deduction in actual Interest on Working Capital for computation of sharing of gain and losses is in line with the Regulation 31 of the MYT Regulations, 2015. The deduction is because of the revenue accrued on account of the contribution of delay payment charges. The relevant provision is reproduced as under:

“Provided that the contribution of delay in receipt of payment to the actual interest on working capital shall be deducted from the actual interest on working capital, before sharing of the efficiency gain or efficiency loss, as the case may be”

72. Hence, there is no error in the impugned order and the review on this ground needs to be rejected.

ISSUE XI. Disallowance of 50% of IDC in GFA due to excess capitalization

MSEDCL's Submission

73. In impugned MTR Order dated 12 September 2018, the Commission has disallowed 50% of IDC on account of excess capitalization as given below:

Financial Year	Amount (Rs. Crore)	MTR Order Reference
FY 2015-16	7.00	Para 3.9.8
FY 2016-17	1.31	Para 4.8.10
FY 2017-18	2.01	Para 5.7.8
FY 2018-19	0.13	Para 6.9.5
FY 2019-20	0.04	
Total	10.50	

74. In this regards, it is submitted that while executing different network schemes at ground level it faces various difficulties such as getting Right of Way, forest clearance, clearances from various Government departments, change of scope as per the actual field conditions etc. which are beyond the normal control of MSEDCL, resulting in revision in time and cost. Excess capitalization also happens due to provision of Price Variation built in the contract which also affects the project cost. Thus, excess capitalization is not only due to time/ cost overrun but also due to above mentioned contingent factors. Thus, considering these circumstances, the interest during construction (IDC) due to excess capitalization should not be disallowed for distribution utilities.

75. Hence, the Commission is requested to approve the disallowed amount of 50% IDC on excess capitalization and restate the GFA for the respective years.

76. Accordingly, the Depreciation, RoE and Interest on Loan for FY 2015-16 to FY 2019-20 would also get revised. Total impact comes out to be Rs. 4.94 Crore and accordingly requests the Commission to approve the same.

Commission's Analysis and Ruling

77. The Commission has reviewed the MSEDCL's submission and is of the view that the treatment provided in the impugned MTR Order is in-line with the earlier Orders of the Commission. The Commission has also given its detail rationale in the MTR Order, relevant extract is reproduced as under.

“4.8.6. Some of these schemes are those on which excess capitalisation has also been claimed in FY 2015-16, for which the Commission has disallowed 50% of the IDC on account of delay. The Commission has taken the same view on these schemes for the 3rd Control Period as well, and has disallowed 50% of the IDC.”

78. Thus, the Commission does not find any error in disallowing 50% of IDC on account of excess capitalization.

ISSUE XII. Revision in RoE, Depreciation & Interest on Loan for intervening years on account of approval of Rs. 927 Crs capitalization for past years.

MSEDCL's Submission

79. The Commission in the MTR Order allowed capitalization to the extent of Rs. 927 Crore pertaining to past years, the details of which are as provided below:

S. No	For Financial year	Amount
1	2007-08	Rs 815 Crore
2	2011-12	Rs 112 Crore

80. However, the Commission has not approved RoE, Depreciation and Interest on Loan on this amount for intervening years i.e. for the period FY 2007-08 to FY 2014-15 for capitalization of Rs. 815 Crore and for the period FY 2011-12 to FY 2014-15 for capitalization of Rs. 112 Crore citing that MSEDCL has not made any claim for the same.

81. In the previous tariff petitions, MSEDCL has always requested the approval of the disallowed capitalisation and also requested the Commission to approve the corresponding impact on depreciation, RoE and Interest on Working Capital. However, the Commission has repeatedly disallowed the approval of the disallowed capitalization. In the MTR Order, the Commission though has allowed the GFA of Rs. 927 Crore, but

still not approved MSEDCL’s rightful claim of depreciation, RoE and Interest on Loan on such amount for the past period.

82. Therefore, it is requested to approve RoE, depreciation and Interest of Loan for the intervening period.

Commission’s Analysis and Ruling

83. The claim of RoE, depreciation and Interest Expenses on the reinstated GFA is a fresh claim made by MSEDCL through this review Petition. No claim towards this was made by MSEDCL in the MTR Petition. Since the MTR Petition, which was published for public consultation, neither had such claim nor had stipulated its impact on the proposed tariff, the same cannot be allowed through review now.
84. MSEDCL may approach the Commission in the next tariff filing with detailed computation of impact and justification.

ISSUE XIII. Revision in definition of Billing Demand disallowed by the Commission

MSEDCL’s Submission

85. In MTR Petition, it has mentioned that due to restriction on billing demand (i.e., due to existing definition of billing demand) the recovery of the revenue from Fixed Charges as approved by the Commission is not happening. In order to ensure that fixed cost is recovered through fixed charges, MSEDCL requested the Commission to revise the definition of Billing Demand in the MTR Petition.
86. However, the Commission in its impugned MTR Order has rejected the proposal of revising the definition of billing demand as it has revised eligibility conditions for applicability LF incentive.
87. Though the Commission’s directive of putting restriction on the eligibility of LF incentive may put a check on the misuse of load factor incentive to some extent, it will still not ensure the recovery of approved revenue from fixed charges and the concern of MSEDCL regarding under recovery of revenue still remain unaddressed.
88. Therefore, it is requested to consider the proposal of revision in definition of billing demand as given below:

	Existing	Proposed
	Maximum of	Maximum of
LT	65% of actual MD recorded during 06 to	Actual MD recorded OR

	Existing	Proposed
	Maximum of	Maximum of
	22 Hrs OR 40% of the Contract Demand	85% of the Contract Demand
HT	Actual MD recorded during 06 to 22 Hrs OR 75% of the highest Billing Demand OR 50% of the Contract Demand	Actual MD recorded OR 90% of the Contract Demand

Commission’s Analysis and Ruling

89. The Commission has already provided the rationale on the issue in the MTR Order. The relevant extracts of the Order have been reproduced below:

“2.26.16. The Commission observes that several consumers have raised objections to change in the definition of the billing demand during the public hearing process and also through written objections. The dual impact of revision in the Fixed/Demand Charges along with revision in the definition of Billing Demand would have significant tariff impact/shock for the consumers. Besides, the concern raised by the Utility regarding mis-use or selective use of the billing demand to claim LF incentive also need to be addressed.

2.26.17. Accordingly, the Commission has revised the eligibility conditions for applicability LF incentive, which would hopefully address the concerns raised by MSEDCL. Hence, the Commission has not accepted MSEDCL’s proposal for revision in definition of Billing Demand but has put restriction on the eligibility of LF incentive; in case Billing Demand exceeds Contract Demand in any of the time block duration through the day.”

90. Through review Petition, MSEDCL is re-agitating the same issue which on which Commission has taken a considered decision. Hence, review sought in this matter needs to be rejected.

ISSUE XIV. Modification in Cross Subsidy Surcharge

MSEDCL’s Submission

91. In MTR Petition, MSEDCL has proposed Cross Subsidy Surcharge as per the formula in National Tariff Policy 2016 (NTP) without putting any ceiling, keeping in view the full recovery of current level of Cross Subsidy as mandated in the Act.

92. However, the Commission, in the MTR Order has worked out the Cross Subsidy Surcharge within the ceiling of +/- 20% as provided in the NTP.
93. In this regard, it is submitted that the proviso (2) of Section 42 of the Electricity Act, 2003 provides for complete recovery of the current level of cross subsidy through Cross Subsidy Surcharge and does not provide for any ceiling on Cross Subsidy Surcharge. National Tariff Policy can only be guiding principle and does not take any precedence on the Electricity Act, 2003.
94. Mandate of the Commission is to reduce cross subsidies in tariffs so as to bring the tariffs within $\pm 20\%$ of Average Cost of Supply (ACoS) and once, that is achieved; the Cross Subsidy Surcharge will automatically fall within 20% of ACoS. Hence till the time the tariffs are not within $\pm 20\%$ of ACoS, the Commission should approve the entire Cross Subsidy Surcharge without putting any ceiling of 20%.
95. In view of the above, it is requested to approve the Cross Subsidy Surcharge without putting any ceiling.

Commission's Analysis and Ruling

96. The Commission has already provided the rationale in the MTR Order. The relevant extracts of the Order have been reproduced below:

“9.37.10. The Commission has taken a note of the concern raised by MSEDCL and the Stakeholders during the Public Consultation process, regarding the application of ceiling cap of +/- 20% across consumer categories as per the Para. 8.3 (2) of the Tariff Policy, 2016. Further, the Commission also notes the reference to the Consultation Paper issued by MoP in August 2017 as regards implementation of both Para. 8.3 (2) and first proviso to para 8.5.1. of the Tariff Policy, 2016 simultaneously.

9.37.11. The Commission here would like to highlight that, while working out the CSS, in the previous MYT Order in Case No. 48 of 2016, the basic intent of keeping the cap of +/- 20% was to keep the gradual reduction trend of the cross-subsidy over the ensuing years and determine the tariff as close as possible to the ACoS as well as keeping the cognizance of avoiding tariff shock all across the consumer categories.

9.37.12. The Commission appreciates the suggestion of the Committee as referred by MSEDCL, however, in the present Order, the Commission has worked out the CSS by keeping the ceiling of +/- 20% for most of the consumer categories in order to maintain the consistency with the principle adopted in the previous MYT Order. In addition, while working out the proposed tariff for FY 2018-19 and FY 2019-20 the overall

increase in the HT Category Tariff is 117%, which is already within the cut-off limit of 20%.”

97. Such considered decision of the Commission cannot be ground for review. Hence, review sought in this matter needs to be rejected.

ISSUE XV. Standby charges for railways and SEZ

MSEDCL's Submission

Standby charges for Railways

98. MSEDCL in its MTR Petition, it has submitted that SEZ and Deemed Licensees including railways do not have any Standby arrangement and hence in order to maintain grid stability, requested the Commission to make it mandatory for SEZ and Deemed licensee to contract Standby arrangement for supply of power in case of failure of the source generator.
99. The Commission has approved the Standby charges for the three Mumbai Licensees and Indian Railways for Mumbai Area for FY 2018-19 and FY 2019-20 in the InSTS Tariff Order dated 12 September, 2018.
100. The Commission has determined Standby charges for Indian Railways only pertaining to Mumbai area, and no information of standby charges for Indian Railways outside Mumbai area has been elaborated in the order.
101. Indian Railway has a tie up with Bharat Rail Bijalee Corporation Ltd, Nabinagar, Bihar (BRBCL) for meeting its demand of Mumbai area and with RGPPL, Ratnagiri for meeting its demand in rest of Maharashtra. In case of tripping of any unit of RGPPL, there is presently no arrangement for controlling its overdrawl from the grid. The Indian Railways is acting as a Deemed Distribution Licensee since 26 November, 2015 and based on FBSM data available for FY 2015-16 and FY 2016-17 (till 30-09-2016), it is observed that there are instances where Indian Railway has resorted to over drawl of more than allowed 12% of demand from the grid.
102. In view of the same, it is requested to approve the standby charges for Railways for Rest of Maharashtra area also.

Standby charges for SEZ

103. MSEDCL in its MTR Petition has requested the Commission to determine Standby charges for SEZs also. However, in the MTR Order the Commission has not accepted the

same citing that many of the deemed licensees including SEZs have their own standby arrangements where the demand is fulfilled by DG sets installed in different premises within their licensee area.

104. At present there is no mechanism to ensure that whether there is really any such standby arrangement within the SEZ/Deemed Licensee area as claimed. Moreover there is no real time monitoring system with SLDC to ensure such standby arrangement.
105. M/s. Serene Properties Private Limited (SPPL) for the IT/ITES SEZ at Airoli, Thane (Presently name changed to Mind space Business Parks Private Limited vide notification dated 04.08.2016) is state pool participant from 9 April, 2015 and M/s. Gigaplex Estate Pvt. Ltd. for IT & ITES SEZ at Airoli (Airoli Knowledge Park, TTC Industrial Area, Airoli, Distt. Thane) is state pool participant from 9 April, 2015. Both these SEZs which have started working independently as Deemed Distribution licenses, power is being scheduled under interstate short term transaction. In case of tripping of generator, SEZs have to meet their demand either by curtailment of load or by meeting part/full load from standby arrangement like Diesel generator.
106. However, as per the latest FBSM data available for FY 2015-16 and FY 16-17 (till 30-09-2016), it can be seen that there are instances where SEZs have resorted to over drawl of more than allowed 12% demand from the grid. Further on 18 July 2018 for some time blocks, power under STOA to M/S Serene Properties was revised to zero and M/S Serene Properties was meeting its 100% demand by over drawl from grid. If the SEZs would have had their own standby arrangement then there was no need for over drawl of power from the grid.
107. The undue financial burden of such instances is getting passed onto the consumers of MSEDCL for no fault on their part. Therefore it is requested to make it mandatory for the SEZs and deemed licensees to have standby arrangement and also approve standby charges as proposed in the MTR Petition.

Commission's Analysis and Ruling

108. The Commission has already provided the rationale in the MTR Order on standby charges for SEZ. The relevant extracts of the Order has been reproduced below:

“2.1 The Commission notes the submission of the SEZs and MSEDCL. There is no legal mandate on SEZ for the Standby arrangement. In the ordinary course, in pursuance of its obligations under Section 33 of the EA, 2003, MSLDC would have been expected to ask the Distribution Licensees including SEZ's to curtail its load to match the reduced availability of its contracted Generator. SEZs are at liberty to source stand-by power through a Diesel Generator Set or a separate arrangement

with any other Generator or entity which it considers to be more financially beneficial to it. Therefore, the Commission does not see any reason to apply the standby charges on SEZs. The issue has been dealt with in detail separately in Chapter 9 of this Order.”

109. Regarding standby charges for Railways in MSEDCL area, the Commission has already ruled in its previous Order dated 19 March, 2018 in Case No. 114 of 2016 as follows:

“15.5 Thereafter, no consensus has been reached between MSEDCL and Indian Railways regarding the stand-by arrangement. In the meantime, Indian Railways has continued to over-draw from the Grid from time to time, which not only affects Grid security but also has financial implications for the other SPPs. In the ordinary course, in pursuance of its obligations under Section 33 of the EA, 2003, MSLDC would have been expected to ask Indian Railways to curtail its load to match the reduced availability of its contracted Generator. However, for reasons best known to it, MSLDC has not done so. Indian Railways cannot be allowed to continue to violate Grid discipline. In these circumstances and in the absence of a consensus between MSEDCL and Indian Railways, the Commission has addressed the issue of stand-by supply to Indian Railways as follows.

15.6 The Commission notes that the main area of disagreement is regarding the levy of Demand Charge at the Temporary category tariff rate for stand-by supply.

15.7 Stand-by is the support provided by a Distribution Licensee to Open Access consumers in circumstances such as the failure of their contracted Generators or other sources. For this purpose, Open Access consumers pay the Demand Charges applicable to their consumer category, Additional Demand Charges for exceeding their Contract Demand, and the Temporary category tariff for that quantum.

15.8 The Temporary category and other tariffs are determined and approved by the Commission through Tariff Orders in respect of the Distribution Licensees after a due process of public consultation. The levy of Demand Charges is intended to recover all or part of the fixed costs of the Licensees, and is applicable to all consumers. While these Demand Charges may vary from one consumer category or sub-category to another, there is prima facie no reason to discriminate in favour of the Indian Railways in the Demand Charge applicable to Temporary category supply, in terms of Section 62(3) of the EA, 2003. However, Indian Railways is free to make its suggestions during the forthcoming Mid-Term Review proceedings in respect of MSEDCL.

15.9 Indian Railways is also at liberty to source stand-by power through a separate arrangement with any other Generator or entity which it considers to be more

financially beneficial to it, provided that arrangement adequately addresses the circumstances discussed above.

15.10 In the absence of such a stand-by arrangement with MSEDCL or other entity, MSLDC shall take appropriate steps to curtail the drawal of Indian Railways and limit it to the availability of the Generator(s) contracted by it.”

110. Hence, the Commission does not see any error regarding the above said issue.

ISSUE XVI. Amendment in formula of Load Factor Incentive

MSEDCL's Submission

111. In the Load Factor formula, the maximum possible consumption is computed based on the actual load factor. However, there is a lacuna in the formula for computation of maximum possible consumption. For a consumer having low power factor, the computed maximum possible consumption would be low resulting in higher computed Load Factor thereby increasing the Load factor incentive. Thus the consumer having low power factor ends up having better LF incentive. This is not the desirable situation for the grid stability.

112. Therefore, it is requested to revise the formula for computation of Load Factor by considering normative Power Factor of unity for maximum possible consumption.

113. As this is the realization of new fact, it is well within the ambit of the Review Petition.

Commission's Analysis and Ruling

114. The request to revise the formula for computation of Load Factor is fresh claim raised by MSEDCL through this review Petition. No claim towards this was made by MSEDCL in the MTR Petition.

115. The Commission notes that the formula stipulated in the Tariff Order for computation of Load Factor reads as follows:

$$\text{Load Factor} = \frac{\text{Consumption during the month in MU}}{\text{Maximum Consumption Possible during the month in MU}}$$

Where,

Maximum Consumption possible = Contract Demand (kVA) x Actual Power Factor x (total no. of hours during the month, less planned load shedding hours)*

**-Interruption/non-supply to the extent of 60 hours in a 30 day month.*

116. As can be seen from above formula, Maximum Consumption Possible will reduce with lower power factor thereby reducing denominator in the formula for computing Load Factor. Thus, the consumer having lower power factor will enjoy incentive of higher Load Factor. Tariff Order which imposes penalty for low power factor is also having formula wherein lower power factor helps in getting higher Load Factor Incentive. In the opinion of the Commission this is an anomaly that needs to be rectified.
117. Further, such additional benefit of higher load factor is being loaded on other consumers of MSEDCL. Hence, in order to correct this inconsistency in the Tariff Order, the Commission is revising the formula for 'Maximum Consumption possible' in the impugned MTR Order as follows:
- $$\text{Maximum Consumption possible} = \text{Contract Demand (kVA)} \times \text{Unity Power Factor} \times (\text{total no. of hours during the month, less planned load shedding hours}^*)$$
- *-Interruption/non-supply to the extent of 60 hours in a 30 day month.
118. However, in order to avoid impact of retrospective applicability of such change on the consumers, this revision in formula shall be applicable from 1 January, 2019.
119. Further, this formula of 'Maximum Consumption possible' has been uniformly stipulated in the Tariff Orders of all Distribution Licensees in the State. Accordingly, revision in formula as stipulated in paragraph 117 above, will be applicable to consumers of all Distribution Licensees in the State from 1 January, 2019. Secretariat of the Commission shall forward copy of this Order to all Distribution Licensee in the State.

ISSUE XVII. Metered AG consumers for FY 2016-17

MSEDCL's Submission

120. It has submitted live metered AG consumers as on 31 March of the respective years of FY 2015-16, FY 2016-17 and FY 2017-18 as per its IT System. The Commission in its MTR Order in Table 4.2 has approved 24.65 Lakhs metered Ag consumers as against 25.38 Lakhs submitted by MSEDCL.
121. The Commission has computed the metered AG consumers for FY 2015-16 and FY 2016-17 by adding the AG pumps released during the said financial years on the live metered AG consumers for FY 2014-15.
122. However, in the entire process, the disconnected AG consumers which were reconnected in FY 2015-16 and FY 2016-17 were excluded by the Commission.

123. It is requested to consider the live consumers data as on 31st March of every financial year as submitted by MSEDCL in the regulatory formats of its MTR petition.

Commission's Analysis and Ruling

124. Table 4.2 in the impugned MTR Order referred by MSEDCL is relating to approved Agricultural sale for FY 2016-17. In the impugned Order, the Commission has clarified that Agricultural sales will be subjected to third party study as follows:

“7.2.8. The Commission would undertake a detailed review of the methodology of determination of AG Sales based on the Study proposed to be carried out by the Commission through a third party agency appointed. The methodology finalised through this study shall form the basis for approval of AG sales during truing up exercise to be carried out at the end of the 3rd Control Period and for years FY 2014-15, to FY 2016-17. However, it is clarified that as the true-up of ARR for these years is already over (except for the assessment of AG sales and corresponding revision in the distribution loss thereof (if any)), the revision of revenue gap (over-recovery or under-recovery) shall be undertaken only in terms of sharing of distribution loss. For this purpose of sharing of gains/losses same methodology and principles as adopted through this MTR Order for respective years shall be followed for such adjustment.”[Underline added]

125. Hence, this issue of considering correct number of consumers will be considered in the next Multi Year Tariff (MYT) Petition on the basis of Agricultural sales based on third party study report.

ISSUE XVIII. Industrial Tariff to hotels in Notified Tourist Districts

MSEDCL's Submission

126. MSEDCL in its MTR Petition proposed Industrial Tariff for hotels in Special Tourism Districts of Nagpur, Aurangabad and Sindhudurg having eligibility certificate issued by MTDC in line with Government of Maharashtra's letter No. Sankirna 2017/ Pra.Ka.235/ Urja-5 dated 7th March 2018. However, the Commission did not consider the proposal citing that,

“.....Petitioner has not referred to any GR notification as such but only referred to a letter. Hence, the Commission has not allowed the same”

127. The Government of Maharashtra in the GR No. MTC 0399/ CR 201/ Tourism dated 07th April 1999 of Tourism Department has given the industrial status to tourism.

128. As per Tourism Policy 2016 of Government of Maharashtra; Nagpur, Aurangabad and Sindhudurg are declared as Special Tourism Districts. The Government of Maharashtra vide its letter no Misc-2017/CR-235/Energy-5 dated 9th October 2018 has requested MSEDCL to submit a review petition for change in tariff of said eligible hotels.
129. It is requested to allow applicability of Industrial Tariff to hotels in Nagpur, Aurangabad and Sindhudurg districts, having eligibility certificate issued by MTDC.

Commission's Analysis and Ruling

130. The Commission has already provided the rationale in the MTR Order on Industrial Tariff to hotels in notified Tourist Districts. The relevant extracts of the Order has been reproduced below:

"9.16.3. The Commission would like to highlight that; the applicability of 'Hotels' has already been covered under 'LT II Commercial' and 'HT II: Commercial' Category in the Tariff Schedule.

9.16.4. Further, the Commission notes that, such distinction based on geography within a particular consumer class is not envisaged and cannot be used to re-classify into another consumer category. Petitioner has not referred to any GR notification as such but only referred to a letter. Hence, the Commission has not allowed the same."[Underline added]

131. Such considered decision of the Commission cannot be ground for the review. Hence, review on this issue needs to be rejected.

ISSUE XIX. Disallowance of Metered AG Sales

MSEDCL's Submission

132. The Commission has revised the AG Unmetered as well as Metered Sales (LT Ag IV - A and B categories) in MTR Order for FY 2015-16 to FY 2019-20.
133. Except the sales of AG unmetered category (LT Ag IV – A) all other category wise sales of MSEDCL are metered sales. The Commission approved the sales of all other categories except LT Ag IV - A & B categories. Not approving the sales of metered AG (LT IV – B) category, even these being metered, is incorrect. And hence requested that AG Metered sales, being a metered one, should be approved as submitted without any disallowance/changes.

Commission's Analysis and Ruling

134. As stated in para 123 above, Agricultural sales of MSEDCL will be reviewed once third party report on Agricultural consumption is received by the Commission. Hence, this issue may be dealt with appropriately at that point of time.

ISSUE XX. Linking of 0.25% incentive towards online payment with prompt payment

MSEDCL's Submission

135. In its MTR Petition, it has proposed discount of 0.5% on the bill amount for LT category consumers making online payments with condition that this incentive shall be applicable if the consumer makes full payment within due date and has no previous arrears.

136. The Commission has approved a discount of 0.25% (subject to cap of Rs 500) but has not mentioned anything about linking the same to the prompt payment as proposed by MSEDCL. Therefore it is requested to make correction that the discount for online payment for LT category shall be made applicable only if the consumer makes full payment within due date and has no previous arrears.

Commission's Analysis and Ruling

137. The Commission notes that 'Discount for digital payment' has been articulated identical to the already existing 'Prompt Payment Discount'. Hence, rules applicable for 'Prompt Payment Discount' would also become applicable to 'Discount for digital payment'.

ISSUE XXI. Disallowance of Non DPR schemes

MSEDCL's Submission

138. MSEDCL in its MTR Petition has proposed capitalization of DPDC-NT/SCP/TSP+OTSP under non DPR category. The bifurcation of these schemes and other Non-DPR Schemes is as follows:

(All figures in Rs. Crore)

Financial Year	2015-16	2016-17	2017-18	2018-19	2019-20
DPDC/Non-Tribal+ DPDC SCP+ DPDC/(TSP+OTSP)					
Capital Expenditure	266	298.05	389	475	475
Capitalisation	135	423.22	372	418	458
Other Non-DPR Schemes					
Capital Expenditure	561	1003.55	1332	1500	1400
Capitalisation	330	1195.05	1263	1301	1380

139. DPDC - NT/SCP/TSP+OTSP schemes are driven by Government of Maharashtra Grant. The implementation of said schemes is carried out at circle (District) level and grant component is released by respective District Collectors, as per requirement and agenda of District Planning Development Council. As the DPDC-NT/SCP/TSP+OTSP scheme is implemented at circle level and the circle wise capital expenditure does not exceed the limit of capital expenditure as specified in MYT Regulation, 2015, MSEDCL used to include DPDC-NT/SCP/TSP+OTSP scheme as Non-DPR scheme in its CAPEX portfolio of tariff petitions.
140. The Commission in MTR order has allowed capitalisation towards non-DPR schemes only up to that threshold level of 20% of the total capital expenditure approved for that year as per Regulation 23.6 of MYT Regulations, 2015. This capping has impacted the capitalization of such important schemes having social benefits which are rolled out using grant received from Government of Maharashtra. The Commission has given combined approval to Non DPR schemes in its tariff Order, due to which it is difficult to ascertain which schemes are approved and which are not. Non DPR schemes basket is having various schemes with different funding pattern and it will further intricate computations of components like RoE, Depreciation, Interest on long term loans etc.
141. In view of above, it is requested to pass appropriate directions to consider the DPDC-NT/SCP/TSP+OTSP schemes in approval of capitalisation for FY 2016-17 onwards and allow MSEDCL to submit the DPRs for said schemes for in principle approval as per MERC Guidelines. Accordingly, it is requested to reinstate its GFA to the extent of above schemes and appropriate adjustments in other relevant expenditure heads be approved as per MYT Regulations, 2015.

Commission's Analysis and Ruling

142. The Commission does not see any error in computation of its GFA to the extent of above mentioned schemes and appropriate adjustments in other relevant expenditure heads. The Commission is of the view that the treatment given in MTR Order is as per MYT Regulations, 2015.
143. The disallowance of capitalization towards Non-DPR Schemes have been made in line with provisions under Regulation 23.6 of MYT Regulations, 2015. The relevant provisions is reproduced as under.

“23.6 The amount of capitalisation against non-DPR schemes for any Year shall not exceed 20% or such other limit as may be stipulated by the Commission through an Order, of the amount of capitalisation approved against DPR schemes for that Year :”

144. Accordingly, there is no case of error apparent from face of record regarding the treatment in the matter and hence, no review is called for.

ISSUE XXII. Revision in reconnection charges

MSEDCL's Submission

145. MSEDCL in its MTR Petition sought revision in reconnection charges. It has submitted the detailed computation of the schedule of charges as part of replies to the Data Gap Set. The Commission in para 10.7.12 and 10.7.13 of the MTR Order stated that,

“10.7.12. The Commission notes that in its calculation, MSEDCL has allocated 100% cost of concerned employee to the activity. However, most of the cases such employees are also performing various other works and hence it is not appropriate to assume 100% allocation of employee expenses to such activity. Also time take to perform such activities has not been substantiated with any documentary evidence or industrial standards.”

146. While proposing the revision in reconnection charges, MSEDCL has not considered 100% cost of manpower. Estimated time required to complete the activity is in the range of 1 to 4 hours and accordingly, labor charges computation has been done considering average per hour cost of the employee for the estimated duration for the activity. Hence the Commission's rationale that it is not appropriate to consider 100% allocation of employee expenses to such activity is not true as the calculation has been done only on the basis of time required to carry out the activity.

147. Hence, it is requested to approve the Reconnection Charges as proposed by MSEDCL in its MTR Petition

Commission's Analysis and Ruling

148. Relevant part of the Commission's ruling on reconnection charges in the impugned MTR Order is reproduced below:

“

10.7.12. The Commission notes that in its calculation, MSEDCL has allocated 100% cost of concerned employee to the activity. However, most of the cases such employees are also performing various other works and hence it is not appropriate to assume 100% allocation of employee expenses to such activity. Also time take to perform such activities has not been substantiated with any documentary evidence or industrial standards.

10.7.13. In view of above, as most of the activities are labour incentive, the Commission has considered the six year average of Consumer Price Index published by the Labour

Bureau, Government of India to escalate previously approved charges in Order dated 16 August, 2012 on compounded basis. Accordingly, approved charges for Miscellaneous and General activities are mentioned in table below.”

149. Thus, 100% allocation of employee cost was not the only reason for not allowing reconnection charges as proposed. MSEDCL did not substantiate claimed hours required for performing such activity with any evidence or reference point. Hence, the Commission has used CPI index for escalating re-connection charges approved in 2012 to arrive at approved charges in the impugned MTR Order.

150. Hence, there is no error in allowing lower reconnection charges than claimed by MSEDCL.

ISSUE XXIII and XXIV: Carrying cost and Financial Impact of Review Petition

MSEDCL's Submission

151. MSEDCL requested the Commission to approve Rs. 1,205 Crore as carrying Cost on the financial impact of review petition and accordingly, the net financial impact of review petition is Rs. 6,962 Crore

Commission's Analysis and Ruling

152. Earlier in this Order, the Commission has ruled on each issue raised by MSEDCL in its Review Petition. On some issues, the financial impact is already being adjusted through the FAC mechanism. The impact of some other issues would be dealt with in the forthcoming MYT Petition. The precise financial impact due to MSEDCL would be determined in those proceedings, which would include a process of public consultation. As the impact of the issues admitted in review will be considered in the forthcoming MYT proceedings, the issue of carrying cost will be considered at that time.

Cheque bouncing Charges:

153. MSEDCL has not raised this issue in this review Petition. However, considering various media reports the Commission is suo-motu reconsidering the charges for Cheque Bouncing approved in the impugned MTR Order dated 12 September, 2018.

154. In its MTR Order dated 12 September, 2018, while approving MSEDCL's proposal of Rs. 1500 as administrative charges for cheque bouncing, the Commission has ruled as follows:

“10.7.16. Regarding, proposed cheque bouncing charges of Rs. 1500 irrespective of cheques amount, the Commission notes that such charges are punitive and will create deterrent to the wil full defaulters. Hence, the Commission approves the cheque bouncing charges as proposed by MSEDCL.”

155. However, through media repots the Commission has come across cases where consumers have been imposed Rs. 1500/- cheque bouncing charges for bill amount less than Rs. 1500/-. Also, it has been noted that cheque bouncing charges levied by Banks are varying from Rs. 250 to Rs. 500 /- depending upon the Bank policy. Prior to MTR Order dated 12 September, 2018, approved cheque bouncing charges was Rs. 350.

156. In view of above, the Commission has decided to review the cheque bouncing charges approved in MTR Order dated 12 September, 2018 as follows:

Category	Approved in MTR Order dated 12 September, 2018	Revised approved in this Order
Administrative Charges for Cheque Bouncing	Rs. 1500/- or Bank charges whichever is higher	Rs. 750/- or Bank charges whichever is higher

157. Above charges shall be effective from date of applicability of MTR Order i.e. 1 September, 2018. Accordingly, MSEDCL should take corrective actions.

158. Hence the following Order.

ORDER

- 1) Case No. 321 of 2018 is partly allowed**
- 2) The Order dated 12 Sept, 2018 in Case No. 195 of 2017 is reviewed to the following extent:**
 - a. Opening GFA of FY 2015-16 used for calculating of normative O&M Expenses is corrected as Rs. 40568 Crore [paragraph 14 and 15 of this Order].**
 - b. Input at T < >D periphery for FY 2016-17 is corrected to 116300 MU. Accordingly, Distribution Loss of FY 2016-17 is corrected to 15.33% [paragraph 23 of this Order].**
 - c. Rs. 8 Crore on account of “loss of obsolescence of fixed assets and on account of natural calamities has been allowed for FY 2015-16 [paragraph 29 of this Order].**

- d. Formula for ‘Maximum Consumption possible’ used in computation of Load Factor Incentive has been modified which will be effective from 1 January, 2019 [paragraphs 117 and 118 of this Order].
- e. Reviewing of agricultural sales shall be considered on the basis of third party study report at the time of next MYT Petition [paragraph 134 of this Order].
- f. Rules applicable for “Prompt Payment Discount” would be applicable also to “Discount for Digital Payment” [paragraph 137 of this Order].
- g. Administrative Charges for Cheque Bouncing has been revised to ‘Rs. 750/- or Bank charges whichever is higher’ [paragraph 156 of this Order].

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M.Bohari)
Member

