

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 6 of 2019

Petition of Maharashtra State Electricity Distribution Company Limited for removal of difficulties in implementation of MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 in connection with releasing new connections and determination of compensation for Agriculture connection/ wadi-wasti and remote hutments/farmhouse locations.

Coram

Anand B. Kulkarni, Chairperson
Mukesh Khullar, Member

Maharashtra State Electricity Distribution Co. Ltd. Petitioner

Appearance

For MSEDCL: Shri. Ankush Nale (Rep)

ORDER

Date: 22 February, 2019

1. Maharashtra State Electricity Distribution Co. Ltd. (**MSEDCL**) has filed a Petition on 4 January, 2019 under Regulations 14 and 15 of MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 (**SoP Regulations, 2014**) and under Regulations 25, 26 and 27 of MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (**CGRF & EO Regulations, 2006**) for removal of difficulties in connection with releasing new connections and determination of compensation for Agriculture (**AG**) connection/ wadi-wasti and remote hutments/farmhouse locations.
2. MSEDCL's prayers are as follows:

(a) To admit the Petition as per the provisions of the Regulation 14 and 15 of the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014; and as per the provisions of the

Regulation 25, 26 and 27 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006;

- (b) To amend the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 as proposed by the Petitioner;*
- (c) To amend and issue practice direction under MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 as proposed by the Petitioner;*
- (d) To pass any other order/relief as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice;*
- (e) To waive SoP for release of Agriculture connection.*

3. MSEDCL in its Petition has stated that:

- 4. The Commission has notified the SoP Regulations, 2014 on 20 May, 2014 and CGRF & EO Regulations, 2006 with effect from 20 April, 2006. Due to some inherent issues, MSEDCL is having major impact on its operations while implementing the SoP Regulations particularly for AG connections. Thus, under the provision of Regulations 14 and 15 of the SoP Regulations, 2014 and Regulations 25, 26 and 27 of the CGRF & EO Regulations, 2006 MSEDCL has sought following relief/amendment in certain provisions of SoP Regulations.

5. Exemption from SoP in respect of Release of AG Connection

- 5.1. While providing the electricity connections to the approaching consumers in Maharashtra (except some parts of Mumbai), MSEDCL complies with all the Regulations along with the Universal Supply Obligation (**USO**) as per Section 43 of the Electricity Act, 2003 (**EA**). As on 31 March, 2018 there are 2,49,357 nos. of AG paid pending consumers and approximate amount required is Rs. 6000 Crore.
- 5.2. Although the Commission has approved the Capital Investment Schemes (**Capex**) for High Voltage Distribution System (HVDS) for releasing connections to AG paid pending consumers, it has to rely on Government grants / loans on year to year basis for implementation of these projects.
- 5.3. The other mode i.e. loans from REC, PFC etc., is funding through ARR and covered in tariffs, by setting the principles for Loan and Interest rate in the Tariff Regulations. But, there is a limitation for availing loans by MSEDCL as well as the capacity to repay loans in time. Mostly, all other connection including residential, commercial and industrial are covered through Capex. However, it is difficult to submit Cost benefit analysis in AG connections.
- 5.4. The interest rate depends on the ratings of the borrower and there is limit on borrowing. However, the ultimate impact of these gets loaded in the ARR resulting in the increase in tariffs. Also, the AG consumers are not in a position to incur financial

investment for installation of necessary infrastructure for AG connection. Therefore, for releasing Ag connections, special dispensation is required.

- 5.5. In Tamil Nadu Electricity Regulatory Commission (TNERC) in its Electricity Distribution Standards of Performance Regulations, 2004, provided exemption on Duty to Supply for Agricultural and Hut Services. The relevant extract is provided below:

“The provision under section 43 of the Act is however not applicable in the case of agricultural and hut services, which shall be governed by the directives issued by the Commission from time to time, on the basis of the guidance on this matter by the National Electricity Policy (as stipulated in section 86(4)) of the Act and the policy directions in public interest by the State Government (as stipulated in section 108 of the Act)” (“Emphasis Added”).

Therefore, it has requested to suitably amend the SoP Regulations, 2014 and provide exemption from SoP for release of AG connection. The Commission has already provided a differentiation for frequency of meter reading of AG and other consumers.

- 5.6. There are 42,04,472 nos. of AG consumers in Maharashtra excluding Mumbai. It has released following connection in last 5 years:

Sr. No	Financial Year	No. of Connection
1.	FY 13-14	1,24,769
2.	FY 14-15	1,47,993
3.	FY 15-16	1,30,000
4.	FY 16-17	1,25,522
5.	FY 17-18	66,174

Generally, on an average for releasing connection to individual consumer, LT line of 500 meters is required to be erected and for releasing 10-15 connections, new DTC of 100 KVA is required to be erected along with associated 11 kV/ 22 kV & LT lines. It has released on an average 1,25,000 Nos. of connections/year. For releasing these connections infrastructure of new LT lines 18,750 KM, 100 KVA DTCs 12,500 Nos. and 11 kV / 22 kV line 6250 km is required. The approximate estimated cost of erecting above infra approximately Rs 1,148 Crore are required every year. The details are as below:

Details	Quantity	Cost (Rs. Crore)
HT Line(km)	6250	256.38

Details	Quantity	Cost (Rs. Crore)
LT line (km)	18750	498.19
100 KVA DTC (Nos.)	12500	393.63
Total		1148.19

- 5.7. Various provisions of the EA and the MERC Regulations stipulate to provide supply on request. Under Section 43 of EA, Duty to supply on request is defined whereas as per clause no. 4 of the SoP Regulations, 2014 period for giving supply is defined. And thus, MSEDCL is required to make such huge investment every year.
- 5.8. In order to restrict tariff rise in other category due to huge investment for establishing infrastructure for releasing AG connections, GoM is making funds available for creating infrastructure. The details of funds provision in last five years is as below:

(Amount in Rs Crore)

Year	Special Package	Backlog	Total
2015-16	819.00	220.00	1039.00
2016-17	266.00	138.72	404.72
2017-18	154.74	39.30	194.04
2018-19	312.20	0.00	312.20

- 5.9. MSEDCL experienced following difficulties to establish infrastructure for releasing AG connections:
- The infrastructure can be created as and when the Govt. funds are received.
 - If MSEDCL thinks of taking the loans from financial institutions there will be carrying cost associated with the loan which will further raise tariff of other category of consumers and there is a limit on borrowing capacity of MSEDCL. MSEDCL already has taken Rs.14,755 Crore of long term and Rs. 17,053 Crore short term loans.
 - For laying the lines, there are various problems and many times farmers are taking objection for laying the lines particularly when crops are in the field (RoW issues).
 - In rainy season farming lands are not approachable therefore, it is very difficult to lay the lines.
- 5.10. Thus, it has been very difficult to MSEDCL to follow the Regulations as prescribed in SoP Regulations, 2014 for releasing new connections to AG consumers. The relevant time lines in the SoP Regulations, 2014 are shown below:

S No.	Particular	Days
1	Supply given on existing network	20 days
2	Requires extension of augmentation of distribution mains	3 months
3	Requires commissioning of a new sub-station.	1 year

5.11. Thus, the Commission needs to exempt MSEDCL from the SoP Regulations provision regarding the time period for releasing AG connections. Any postponing of ARR will adversely impact MSEDCL's revenue and operations and will force the commission to raise tariff in FY 2020-21 which again will be objected in public hearing.

6. Ceiling on Compensation:

6.1. As per SoP Regulations, 2014 in case of delay in release of the supply, it has to pay compensation to consumers. In one particular case vide Case No. 202 of 2010 dated 17 July, 2014, CGRF, Latur has directed MSEDCL to pay Rs 1,000/- day for period of almost one year where MSEDCL feels that the authority exceeded its powers and ignored the provisions of SoP Regulations, 2014.

6.2. Being a Government Company, MSEDCL is having limited resources and thus needs to give relief from paying such penalties. Releasing AG connections within the time stipulated and also providing the AG connection by breaking chronology in the SoP Regulations, 2014 is not possible for MSEDCL for the various reasons. The present SoP Regulations, 2014 do not recognize these grounds which are beyond the control of the MSEDCL. The quasi-judicial authorities established under the EA and Regulations, often award exorbitant amount as compensation.

6.3. The Commission is empowered under Regulation 11.2 of the SoP Regulations, 2014 to grant general or particular exemption. The delay on the part of MSEDCL is not intentional and it is trying hard to achieve the SoP Regulations' targets. However, due to various unavoidable reasons, there is delay.

6.4. Thus, ceiling on the compensation amount needs to be indicative and not onerous which shall not provide unjust enrichment, profit to applicant. In Madhya Pradesh Electricity Regulations Commission's (Performance Standards) Regulations, 2004, the ceiling is provided for delay in Application for new connection/additional load. The relevant extract is provided below:

(vi). Application for new connection/additional load		
<i>Deviation from target in case of LT</i>	<i>As notified under Chapter X of this Regulation</i>	<i>Rs 25 per day (or part thereof) of delay and the total amount shall not exceed 10% of the monthly bill or Rs. 100/- whichever is less</i>
<i>Deviation from target in case of HT and EHT</i>	<i>As notified under Chapter X of this Regulation</i>	<i>Rs 50 per day (or part thereof) of delay and the total amount shall not exceed 10% of the monthly bill or Rs. 100/- whichever is less</i>

6.5. Similarly, in Gujarat Electricity Regulatory Commission's Standards of Performance of Distribution Licensee, Regulations, 2005, ceiling is provided for delay in replacement of meters, responding to consumer's complaint etc. The relevant extract is provided below:

<i>Replacement of meters</i>	<u><i>Rs.25 for each day of delay subject to a maximum of Rs.2,500 for LT connections and Rs. 250 per day of delay subject to a Maximum of Rs. 5,000 for HT connections.</i></u>
<i>Responding to consumers complaint</i>	<u><i>Rs 25 for each day of delay subject to maximum of Rs.500/-</i></u>
<i>Interruption of supply</i>	<u><i>Rs.25 for each six hours (or part thereof) of delay in restoration of supply subject to a maximum of Rs.500 for LT connection and Rs. 50 for each six hours (or part thereof) of delay in restoration of supply subject to a maximum of Rs.1,000 for LT connection</i></u>

6.6. On the similar lines, the Commission can provide a upper ceiling of ten times the basic compensation given relevant SoP Clause (e.g. if change in name is not completed within second billing cycle then Rs 100 per week is compensation payable to the applicant. In this case maximum compensation will be ten times of Rs 100/- which will be Rs 1000/-) so that the provisions for compensation does not result in unjust enrichment to consumer.

7. Ultra Vires Directions by the Forums:

7.1. MSEDCL has been complying with the CGRF/EO/MERC Orders. However, due to various reasons, it is not always possible to comply with the SOP. Therefore, before awarding the penalty, validity of the reasons also needs be checked. If MSEDCL is unable to provide the connection within due time because of valid reasons and it informs the consumer in advance by way of communication, then compensation/penalty need not be awarded.

7.2. Once the quasi-judicial forums have given direction that the fine/interest etc. shall be recovered from the concerned employee without affording opportunity of hearing and

submission from the concerned employees, the authority has to initiate disciplinary actions as per such directions even in cases having valid reasons for the delay.

- 7.3. A separate departmental mechanism to fix the responsibility on erring / delinquent employees and to take action, has been provided under the Service Regulation based on model service regulation. These rules and regulations are based on principles of fair play and natural justice.
 - 7.4. But, many a time, the Orders are passed, without following due process and in disregard to the principles of natural justice and fair play. Therefore, practice direction desisting the quasi-judicial Forums from unilaterally affixing responsibility needs to be issued.
 - 7.5. Lastly, the employee appears before these Forums, not in individual capacity but as a representative of the Distribution Licensee, which has ample and independent powers to take suitable action under the applicable provisions of Service Regulations. Thus, the compensation should not be levied on individual employee of MSEDCL. On the other hand MSEDCL will initiate disciplinary action against defaulter employee if any.
8. During the hearing held on 4 February, 2019, MSEDCL reiterated its difficulty in releasing new connection to agriculture Connection and requested for amendment in SOP Regulations, 2014.
 9. MSEDCL's additional submission dated 4.02.2019 is summarized below:
 - 9.1. Under Section 43 of the EA, MSEDCL is bound by USO, it complies with all statutory and regulatory mandates and has been providing the electricity connections to all prospective consumers approaching it.
 - 9.2. Maharashtra is agrarian state, with 41,77,880 Nos. of Agricultural pumps (as on March-2018). Considering increasing demand of AG pump connections, MSEDCL is striving to reach the stage of 'electricity connection on demand' and removal of backlog of electrification. For the said purpose, MSEDCL has rolled out schemes such as Special Project for AG Pump Electrification (SPA:PE), Backlog Removal Schemes in Thane, Raigad, Ratnagiri, Chandrapur and Gadchiroli districts and AG special package for Vidharbha & Marathwada. In spite of mobilizing all resources, AG paid pending consumers are 2,49,357 Nos. as on 31 March, 2018.
 - 9.3. In order to carry out intensive electrification, GoM vide GR No. dated 5 May, 2018 has envisaged High Voltage Distribution System (HVDS) scheme for energization of 2,24,785 nos. of paid pending consumers as of end of March, 2018. GoM has sanctioned Rs. 5048.13 Crore for implementation of HVDS scheme out of which fund of Rs. 2242.09 Crore is approved as a grant from GoM for energization of the paid

pending consumers in the Vidarbha and Marathwada region and for remaining funds of Rs. 2799.59 Crore. GoM has allowed MSEDCL for borrowing loans from market for energization of paid pending consumers in the rest of Maharashtra region. Timeframe for implementation of HVDS scheme is 2 years and the funding from GoM is also expected in phase manner in 2 years. Hence it is difficult for MSEDCL to release the AG-connections through HVDS scheme within the timeline specified in SoP Regulations, 2014.

- 9.4. Considering difficulties in rolling out networks in difficult terrains, losses at LT level, reducing carbon foot print and right of way issues etc. GoM vide GR No. dated 15 November, 2018 and subsequently vide dated 1 January, 2019 has envisaged roll out of *Mukhyamantri Saur Krushi Pump Yojana (MSKPY)* with an objective of providing the reliable day time power to farmers by providing the standalone solar pumps to the AG-consumers in remote places of the state. In the said scheme 1, 00,000 connections will be initiated for processing in phased manner for stand-alone solar pumps to 25,000 consumers in phase-I, 50,000 consumers in phase-II and 25000 consumers in phase-III in next three years. Each phase shall be completed within the timeframe of 18 months from date of each phase's commencement. As per the directives of GoM this scheme will be implemented with the financial support of beneficiaries contribution and Government grant as follows:

Funding arrangement for MSKPY:

Beneficiary Type	Beneficiaries Contribution	Government Grant	Add. ToSE (@10 paise/unit)	Total
General	10.00%	10.00%	80.00%	100%
SC	5.00%	95.00%	-	100%
ST	5.00%	95.00%	-	100%

Note:

- 1) Grant for the SC beneficiaries is from Social Welfare Department.
- 2) Grant for the ST beneficiaries is from Tribal Development Department.

- 9.5. MSEDCL is the implementing agency for these schemes and for doing so; it has to depend upon Government grant. Thus releasing the connections under this scheme depends upon the receipt of the funds from GoM.
- 9.6. MSEDCL intends to extend the said scheme to all paid pending connections after 31.03.2018 and to new requests for connections. For initial 1 lakh connections over 3 years, GoM will provide a capital subsidy support.

- 9.7. In situation like this, MSEDCL will remain dependent upon government financial support. Considering above situation, releasing the connections under this scheme in stipulated timeline specified in SoP Regulation, 2014 is dependent on timely release of government funds which is not in the control of MSEDCL and therefore adherence to the timelines will be difficult.
- 9.8. Similarly, MSEDCL strives hard to electrify wadi-wasti (hutments) and has rolled out social benefit projects like RGGVY, DDUGJY etc. Similar to AG pump case, there are difficulties like hard terrain, lack of road connectivity to mobilize the man and material, Forest clearances and right of way issues which are causing substantial delay for rolling out of projects. It is observed that AG consumers generally establish their residences nearby or adjacent to their farms. It may be possible to release connection to remote hutments/farmhouse once connection to its AG pump is provided.
- 9.9. As per Section 43 of Electricity Act, 2003 - (Duty to supply on request): —
“
*(1) licensee shall on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:
Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:
Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.” (Emphasis added)*

As per this provision, the Commission is empowered to relax condition of time period for providing supply.

- 9.10. MSEDCL in its additional submission has prayed as follows:

b) To exempt MSEDCL from the provisions of MERC ((Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulation, 2014 for release of remote hutments/farmhouse and all types agriculture connections.

Commission’s Analysis and Rulings

10. MSEDCL has filed present Petition under Regulation 14 and 15 of SoP Regulation, 2014 and Regulations 25, 26 and 27 of MERC (CGRF & EO) Regulations, 2006 for removal of difficulties in implementation of SoP Regulations, 2014 with regard to releasing new

connections and determination of compensation for Agriculture connection/ wadi-wasti and remote hutments/farmhouse locations.

11. MSEDCL in the present Petition has sought following relief:

- 1) Exemption from relevant SoP Regulations for delay in releasing AG Connection.
- 2) Exemption from relevant SoP Regulations for electrification of AG pumps by means of off-grid solar solutions under MSKPYP Scheme.
- 3) Exemption from Relevant SoP regulations for Electrification of Wadi-Wasti (Hutments)
- 4) In case of compensation, by providing upper ceiling for relevant SoP provision upto ten times of the basic compensation.
- 5) To issue practice direction to CGRFs and EOs for avoiding onerous recovery of compensation from individual employee of MSEDCL.

The relief sought by MSEDCL is discussed are as under:

12. **Issue No.1** To exempt MSEDCL from relevant SoP Regulations for delay in releasing AG Connection and connections to wadi vastis.

12.1.MSEDCL has contended that, the infrastructure required for AG connections can be created only when MSEDCL receives funds from GoM. Further there is limit on borrowing of loan, as it has already taken long term and short term loans to the tune of Rs. 14,755 crore and Rs. 17,053 crore respectively. It has also contended that while executing the work related to AG connections, problems like infrastructure work to be executed in remote areas during rainy season, also addressing objections from farmers preventing MSEDCL officials to enter their field and farming lands when there are standing crops, RoW issues etc. MSEDCL has stated that it has rolled out various schemes to supply to new and backlog AG consumers and still AG paid pending consumers are 2,49,357 nos. as on 31 March, 2018.

12.2.The section 57(1) of EA empowers the Commission to specify standards of performance of a licensee. The Relevant extract of the Section 57 (1) is reproduced below:

57. (1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.

12.3 Accordingly, the Commission had specified the SOP Regulations, 2014. The Regulation 4 of the SOP Regulations, 2014 specifies time period for releasing the connections to consumers as below:

Period for Giving Supply

New Connection (including Temporary Connection)/Additional Load/ Reduction of Load

.....

4.7 *The Distribution Licensee shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, **within one (1) month after receipt of the completed application and payment of charges for requiring such supply**, if the supply to an applicant is to be given from an existing network of the Distribution Licensee.*

4.8 *Where the supply of electricity to a premise requires extension or augmentation of distributing mains, the Distribution Licensee shall give supply to such premises **within three (3) months from the date of receipt of the completed application and payment of charges**. The extension or augmentation of distributing mains includes the extension of HT, LT lines and augmentation of distribution transformer substation.*

4.9 *Where the supply of electricity to a premise requires commissioning of a new sub-station forming a part of the distribution system, the Distribution Licensee shall give supply to such premises **within one (1) year from the date of receipt of the complete application and payment of charges**. The commissioning of new sub-station forming a part of the distribution system will include substation having transformation from HT to HT or HT to LT or switching station from where the HT distribution lines originate.*

12.4 For determination of Compensation the Regulation 3.2 of SoP Regulations, 2014 and Appendix A for compensation Payable to consumer for failure to meet the SOP is as follows:

3.2 Any failure by the Distribution Licensee to achieve and maintain the standards of performance specified in these Regulations shall render the Distribution Licensee liable to payment of compensation under the EA 2003, as specified in Appendix 'A', to an affected person claiming such compensation.

**LEVEL OF COMPENSATION PAYABLE TO CONSUMER
FOR FAILURE TO MEET STANDARDS OF PERFORMANCE**

Supply Activity/Event (1)	Standard (2)	Compensation Payable (3)
1. Provision of Supply (Including Temporary connection)		
(i) Time period for completion of inspection of applicant's premises from the date of submission of application	Seven (7) days (Class I Cities) Seven (7) days (Urban Areas) Ten (10) days (Rural Areas)	Rs 100 per week or part thereof of delay
(ii) Time period for intimation of charges to be borne by applicant from the date of submission of application	Fifteen (15) days (Class I Cities) Fifteen (15) days (Urban Areas)	Rs 100 per week or part thereof of delay
(a) In case connection is to be given from an existing network	Twenty (20) days (Rural Areas)	
(b) Where extension or augmentation of distribution main	Thirty (30) days.	
(c) In case applicant seeks dedicated distribution facility, time period for intimation of charges to be borne by applicant from the date of submission of application.	Thirty (30) days.	
(iii) Time period for provision of supply from the date of receipt of completed application and payment of charges :		Rs 100 per week or part thereof of delay
-in case connection is to be from existing network	One (1) month	
-where extension or augmentation of distributing main is required	Three (3) months	
- where commissioning of new sub-station forming a part of the distribution system is required	One (1) year	

12.5 The Section 43 of EA empowers the Commission to extend the period considering the difficulty for electrification of villages or hamlet or area. The relevant section of the Section 43 is reproduced below:

Duty to supply on request-

(1)

*Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the **Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.***

12.6 Further, the Commission notes that, as claimed by MSEDCL TNERC, GERC and MPERC in their Regulations provides certain ceiling limit on compensation payable in case of violation of SOP Regulations.

12.7 MSEDCL has stated various reasons about difficulties in execution of various schemes for release of connection to wadi-wasti and remote hutments/farmhouse and stated possible other solution to resolve issue while praying for relief from the provisions of SoP Regulation, 2014.

12.8 It is pertinent to note here that fulfillment of universal service obligation, USO is the responsibility of every Distribution Licensee and in order to comply with it, necessary efforts shall have to be put in by them. In fact, the licensee should take advance action to develop the distribution network, so as to fulfill USO as per the spirit of the EA and the Regulations made there under. Also, the reason of insufficient funding from GoM is not fully justifiable since the USO as provided in the section 43 of EA casts this responsibility of release of connection within the specified time limits on the Distribution Licensee. The Commission also does not agree that the insufficiency of funds is encountered only for Ag connections. The provisions of the Act and the tariff regulations permit the legitimate capital cost as a pass through for inclusion in the Aggregate Revenue Requirement (ARR). Since, there is no case made out by MSEDCL to consider and necessitate the use of the Commissions inherent powers u/s 14, of the MERC, SoP Regulations, 2014 i.e. "Power to Amend". Therefore, the Commission is of the view that, MSEDCL shall take necessary steps to provide electricity connections to all the consumers including the Agriculture and residential consumers of wadis/vastis as per the provisions of the MERC, SoP Regulations, 2014.

13 Issue No. 2 Ceiling on Compensation:

13.1 MSEDCL has cited difficulties for releasing AG-connections through HVDS scheme within the timeline specified in SoP Regulations, 2014 due to which it is also required to

pay compensation as per the provisions. Hence, the Commission is of the view that, the submission of MSEDCL regarding difficulties needs to be reviewed.

13.2 The Commission notes that for releasing AG paid pending connection (approx 2,49,357), MSEDCL requires sufficient funds to develop the needed infrastructure. MSEDCL has already taken efforts by submitting a Capital Investment Schemes for releasing connections to those AG paid pending consumers under HVDS. Also, Solar Ag schemes are underway for releasing Ag connections. However, under this scheme it has to rely on Government grants / loans for implementation of these projects. MSEDCL has stated that it has already taken short term and long term loans which are affecting its ARR and is increasing the Consumer's Tariff. MSEDCL has cited difficulties for releasing AG-connections through HVDS scheme within the timeline specified in SoP Regulations, 2014. Hence, the Commission is of the view that, the submission of MSEDCL regarding such difficulties needs to be looked into.

13.3 The provision with regards to Power to Remove Difficulties in the SOP Regulations, 2014 is as under-

15. Power to Remove Difficulties

15.1 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.

13.4 The Commission notes that MPERC, GERC and TNERC in their Regulations have provided upper ceiling limits for the compensation payable to the consumer for failure to meet standards of performance.

13.5 The Commission also notes that, under Regulation 3.2 of SoP Regulations, 2014, existing provisions relating to compensation are necessary to maintain minimum standard of performance of Licensee. But, in this regard, it is also necessary to consider the various issues cited by MSEDCL and it is incumbent upon the Commission that penalty levied on MSEDCL should not be so onerous that it will cause financial hardships to them. Such penalty needs to have a ceiling so that it does not result in unjust enrichment in some cases. . Hence, the Commission exercising its power under Powers to Remove Difficulties under Regulations 15 of SoP Regulations, 2014, provides a Ceiling on the compensation upto twice the amount paid by the general Ag consumers/Residential consumer in notified Wadis/Vastis respectively. The ceiling is with respect to the amount paid by General/Residential Wadi/Vasti consumer while applying for a new AG/Residential connection. CGRF's and EO's shall consider the revised ceiling while determining the compensation for the pending cases also. Except for these changes, the compensation amount for other

activities/events payable as per SOP Regulations shall remain unaltered. The relevant changes are as below:

<i>Supply Activity/Event (1)</i>	<i>Standard (2)</i>	<i>Compensation Payable (3)</i>	<i>Revised</i>
<i>1.Provision of Supply (Including Temporary connection)</i>			
<i>i) Time period for completion of inspection of applicant's premises from the date of submission of application</i>	<i>Seven (7) days (Class I Cities) Seven (7) days (Urban Areas) Ten (10) days (Rural Areas)</i>	<i>Rs 100 per week or part thereof of delay</i>	<i>In Case of general Ag Consumer/ Residential consumer in notified Wadi's / Vastis the maximum compensation payable shall be twice the Service connection charges deposited by the consumer for that category.</i>
<i>ii) Time period for intimation of charges to be borne by applicant from the date of submission of application</i>	<i>Fifteen (15) days (Class I Cities) Fifteen (15) days (Urban Areas)</i>	<i>Rs 100 per week or part thereof of delay</i>	
<i>(a) In case connection is to be given from an existing network</i>	<i>Twenty (20) days (Rural Areas)</i>		
<i>(b) Where extension or augmentation of distribution main</i>	<i>Thirty (30) days.</i>		
<i>(c) In case applicant seeks dedicated distribution facility, time period for intimation of charges to be borne by applicant from the date of submission of application.</i>	<i>Thirty (30) days.</i>		
<i>iii) Time period for provision of supply from the date of receipt of completed application and payment of charges :</i>		<i>Rs 100 per week or part thereof of delay</i>	
<i>-in case connection is to be from existing network</i>	<i>One (1) month</i>		
<i>-where extension or augmentation of distributing main is required</i>	<i>Three (3) months</i>		
<i>- where commissioning of new sub-station forming a part of the distribution system is required</i>	<i>One (1) year</i>		

14 Issue No. 3 To issue practice direction to CGRFs and EOs for avoiding onerous recovery of compensation from individual employee of MSEDCL.

14.1 MSEDCL has stated that the CGRFs or EOs are passing Orders to recover fine/interest from concerned employees without giving opportunity of hearing and

submission of concerned employees which is beyond the principles of fair play and natural justice.

14.2 MSEDCL has stated that a separate departmental mechanism to fix the responsibility on erring / delinquent employees and to take action, has been provided under the Service conditions of the employees as per the model service regulation. Therefore practice direction under Regulation 25, 26 and 27 of CGRF & EO Regulations, 2006, desisting the quasi-judicial Forums from unilaterally affixing responsibility needs to be issued and compensation should not be levied on individual employee of MSEDCL.

14.3 While the Commission agrees that a separate administrative mechanism exists to deal with issues pertaining to employees, the Commission is also of the view that giving complete relief to erring officers from recovering fine/penalty amount would hamper the required genuine functioning of Distribution Licensee and it would create an environment of defiance citing organisation difficulties.

14.4 While this issue needs to be addressed by CGRF and EO on case to case basis looking into the merits/demerits of each Individual case, the Commission on various occasions has observed that, field officers (Technical Staff) representative are not well versed for representing before legal forum. Hence, CGRFs and EOs are expected to harmoniously give effect to the SOP Regulations, while dealing with the issue of fixing responsibility; unless there is a blatant individual default, to the extent possible, it should be left to the management of distribution Licensee to fix responsibility after internal enquiry as per the extant departmental mechanism. Hence following Order.

ORDER

- 1. Case No. 6 of 2019 is partly allowed.**
- 2. The Commission is not inclined to invoke provisions of sec 14 of the MERC, SoP Regulations, 2014, "Powers to Amend" for exempting the timelines for releasing the connections to Agriculture and residential consumers of notified wadis/vastis. MSEDCL shall release the connections to these categories also within the specified time lines.**
- 3. The Commission in exercising its power to remove difficulties under these Regulations, provides ceiling of twice the service connection charges on the compensation amount payable. This ceiling is applicable for only Agriculture and residential consumers of notified wadis/vastis.**
- 4. While dealing with the issue of fixing responsibility, CGRFs and EOs shall harmoniously give effect to the provisions of these SoP Regulations, to the extent**

possible, leave the issue to Distribution Licensee to determine personal liability of the concerned field officers based on its departmental enquiry mechanism.

5. CGRF's and EO's shall consider the revised ceiling while determining the compensation for the pending cases also. The Secretariat of the Commission shall forward a copy of this Order to all CGRF's and EO's.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(Anand B. Kulkarni)
Chairperson

