

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 127 of 2020

Case of Guardian Castings Pvt. Ltd and 15 others seeking clarification in respect of the applicability and interpretation of the Multi-Year Tariff Order dated 30 March 2020 in Case No. 322 of 2019 relating to Load Factor Incentives to single shift HT Industrial consumers

Coram

I.M.Bohari, Member
Mukesh Khullar, Member

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| 1. Guardian Castings Pvt.Ltd |Petitioner No 1 |
| 2. Mitc Rolling Mills Private Limited |Petitioner No 2 |
| 3. Matsyodari Steel & Alloys Pvt. Ltd |Petitioner No 3 |
| 4. Surya Ferrous Alloys Pvt. Ltd |Petitioner No 4 |
| 5. Bhagwati Ferro Metal Pvt Ltd |Petitioner No 5 |
| 6. Bhagwati Steel Cast Ltd |Petitioner No 6 |
| 7. Sant Gyaneshwar Steels Pvt. Ltd |Petitioner No 7 |
| 8. Sohn Steel (P) Ltd |Petitioner No 8 |
| 9. G.D. Met Steel (P) Ltd |Petitioner No 9 |
| 10. Nilanjan Iron (P) Ltd |Petitioner No 10 |
| 11. Shri Karvir Nivasini Mahalaxmi Ispat (P) Ltd |Petitioner No 11 |
| 12. Bhuleshwar Steel and Alloys (P)Ltd |Petitioner No 12 |
| 13. Indryani Ferro Cast (P) Ltd |Petitioner No 13 |
| 14. Meenakshi Ferro Ingots (P) Ltd |Petitioner No 14 |
| 15. M/S. Pushpak Steel Industry (P) Ltd |Petitioner No 15 |

Vs

Maharashtra State Electricity Distribution Company LimitedRespondent

Appearance

For Petitioner: -Shri. Anil D'Souza (Adv)
For Respondent: -Shri. Ashish Singh (Adv)

ORDER

Date: 11 December, 2020

1. Guardian Castings Pvt. Ltd and 15 others have filed this Petition on 12 June 2020 under Section 86 read with Section 94 of the Electricity Act, 2003 (**EA, 2003**) read with Regulation 96 of the Maharashtra Electricity Commission (Conduct of Business) Regulations, 2004 seeking clarification in respect of the applicability and interpretation of the Multi-Year Tariff Order dated 30 March 2020 in Case No. 322 of 2019 relating to the applicability of the Load Factor Incentives (LFI) to the single shift HT Industrial consumers.
2. **Petitioners' main prayers are as under:**
 - a) *issue the necessary clarificatory order specifically clarifying that the consumers who avail "10 Hours Single Shift" are entitled for Load Factor Incentives*
 - b) *That the Hon'ble Commission be pleased to specifically lay down the following formula in case of the consumers who avail "10 Hours Single Shift" are entitled for Load Factor Incentives:*
Maximum Consumption Possible during the month in MU= 10 hours X7 days X30 days and further direct the Respondent to comply with the said formula;
3. **Petitioners in their Petition have stated as follows:**
 - 3.1 The Petitioners are industries engaged in the business of manufacture of steel and iron and are the HT consumers of MSEDCL
 - 3.2 The Petitioners are seeking clarification on applicability of Load Factor Incentive (LFI) to the single shift HT Industrial consumers as per the MYT Order in Case No 322 of 2019 dated 30 March 2019.
 - 3.3 On the request of MSEDCL, the Commission vide its MYT Tariff Order in Case No 322 of 2019 dated 30 March, 2020 has allowed levy 60% of applicable demand charges as per Tariff Schedule in case of HT-industrial consumers operating in single shift subject to the following conditions
 - a) *Single shift operation means running of operations at a stretch for maximum 10 Hrs. For illustration, a consumer running 4hrs.in one stretch and 6hrs.in another stretch cannot be considered as running in a single shift. However, a maximum of three instances of running beyond 10hrs up to 12hrs is permitted in a billing cycle.*
 - b) *Consumer must declare in advance about one shift operation. In absence of such*

declaration, it shall be billed as per the applicable demand charges.

c) *Billing will be done based on MRI/AMR Data.*”

3.4 The Commission has also approved the formula for computation of the load factor incentive in the MYT Order as follows:

“Load Factor Incentive:

a. Consumers having Load Factor above 75% and upto 85% will be entitled to an incentive in the form of a rebate of 0.75% on the Energy Charges for every percentage point increase in Load Factor from 75% to 85%. Consumers having a Load Factor above 85 % will be entitled to a rebate of 1% on the Energy Charges for every percentage point increase in Load Factor from 85%. The total rebate will be subject to a ceiling of 15% of the Energy Charges applicable to the consumer.

b. This incentive is applicable only to consumers in the tariff categories HT I: Industry, HT II: Commercial and HT VIII: Public Services HT VIII (A) and HT VIII (B) only.”

c. The Load Factor incentive will be available only if the consumer has no arrears with the Distribution Licensee, and payment is made within seven days from the date of the electricity bill. However, it will be available to consumers in whose case payment of arrears in instalments has been allowed by the Distribution Licensee, and such payment is being made as scheduled. The Distribution Licensee shall take a commercial decision on the schedule for such payments.

The Load Factor is to be computed as follows:

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

Maximum consumption possible = Contract Demand (kVA) x Unity Power Factor x (Total no. of hours during the month, less actual interruptions hours recorded on meter for billing period)

In case the consumer exceeds its Contract Demand (including during the non-peak hours, i.e., 22:00 hrs to 06:00 hrs.) in any particular month, the Load Factor Incentive will not be payable to the consumer in that month”

3.5 The above provisions of the said Tariff order pertaining to 10 Hour Single Shift vis-à-vis the stipulations for availing the LFI are not very clear and need to be clarified. These two provisions are required to be harmoniously construed.

- 3.6 Upon considering the rationale behind the various incentives that the Commission has approved in the aforementioned Order, it can be seen that it is not the intention of the Commission to deny the LFI to those consumers who avail “10 Hours Single Shift”. It is submitted that the MSEDCL too, could have never intended such a scenario where the consumers who avail “10 Hours Single Shift” are denied LFI .
- 3.7 In the case of consumers who avail “10 hours single Shift” the LFI ought to be calculated in the following manner:
Maximum Consumption Possible during the month in MU= 10 hours X7 days X30 days
- 3.8 The above formula is just and proper and acts fairly to all the consumers as well as the MSEDCL. Such a formula does complete justice to all the stakeholders and does not act or impact adversely to anyone.
- 3.9 Without prejudice to the above, if the Commission is of a considered opinion that it was indeed an intention of the Commission to deny the LFI to the consumers who avail “10 Hours Single Shift”, then it is submitted that the Commission may kindly consider the following facts and circumstances of the case and grant the relief of LFI even to consumers who avail “10 Hours Single Shift”:
- a. There is huge labour shortage in Maharashtra due to Covid-19 pandemic.
 - b. The consumers are suffering tremendous hardships due to economic slowdown and cancelations of orders.
- 3.10 In the abovesaid facts and circumstances of the case, the Commission may please grant relief as prayed for.
4. **MSEDCL in its submission dated 31 July, 2020 has stated as follows:**
- 4.1 The Tariff Order makes no discrimination in applicability of LFI. The class of consumers entitled to receive LFI is well defined and all such consumers are entitled to LFI. The tariff Order is clear in that sense and hence needs no further clarification.
- 4.2 The Petitioners are seeking applicability of a new formula/ Change in formula for applicability of LFI to single shift consumers (10 hours). This prayer of the Petitioner cannot be granted in the present Petition. In case, the Petitioner is not satisfied with the formula applicable for LFI or wants to seek a different dispensation w.r.t formula applicable to single shift consumers (10 hours) then he can either file a Review Petition or an Appeal against the Tariff Order.
- 4.3 The prayers in the present form and manner are without the force of law and in fact are against the provisions of law. Hence the Petition needs to be dismissed being non-maintainable.

5. **At the time of E-hearing held on 2 December, 2020**

- 5.1 Petitioners and MSEDCL reiterated their submissions filed in their Petition / Reply.
- 5.2 Advocate of MSEDCL stated that it has no objection on seeking clarification of MYT Order but for seeking changes, he is objecting to the maintainability of the Petition. He stated that if the Petitioners were seeking any modification/ change in the MYT Order, it shall be in the form of Review Petition or Appeal. Without exercising the options available as per the EA 2003, Petitioners cannot seek changes in MYT Order.
- 5.3 Advocate of Petitioners stated that single shift concept has been introduced by MSEDCL for the first time in this MYT Order. Though it is beneficial for the industries to manage the load in these Covid-19 situations, the formula for LFI is not clear about the industries working in single shift. To avail benefits of LFI to these consumers, instead of 24 hours, 10 hours are required to be considered under maximum consumption possible in the formula. He has stated that this is not the review Petition but the clarificatory Petition and the prayer of change in formula is the consequential reliefs to be provided if its clarification is allowed by the Commission. Therefore, the Petition is maintainable before the Commission and the Commission has ample powers under the MERC (Conduct of Business) Regulations, 2004 to modify its Order.

Commission's Analysis and Ruling

6. The Commission notes that Petitioners have filed the Petition seeking clarification in respect of the applicability and interpretation of the provision of Load Factor Incentive pertaining to the 10 hour single shift HT Industrial consumers and have requested to modify the same considering 10 Hrs as maximum consumption possible in the LFI formula instead of 24 hours for such consumers.
7. MSEDCL has opposed the maintainability of the Petition which has been filed seeking modification of MYT Order. EA 2003 and MERC Conduct of Business Regulations, 2004 specify the procedure for seeking modification through Review Petition or filing appeal before higher courts. Without exercising these options available as per the EA 2003, Petitioners cannot seek modification in MYT Order.
8. The Commission notes the objection raised by MSEDCL on maintainability of the Petition. At the same time, to avoid any multiplicity of proceedings the Commission is addressing the merits of the relief sought in the Petition. The Commission notes that LFI has been introduced for the first time in Order dated 10 March, 2004 in Case No 2 of 2003. The relevant extract of the Order is as follows:

*42. The Commission is of the opinion that the MSEB faces a threat from movement of consumers having very high consumption to captive generation, under the provisions of the Electricity Act, 2003 (EA 2003). **In order to incentivize such high***

consumption consumers who also contribute a steady load to the MSEB system, the Commission has introduced a Load factor incentive for consumers having Load Factor above 75% based on contract demand. Consumers having load factor over 75% upto 85% will be entitled to a rebate of 0.75% on the energy charges for every percentage point increase in load factor from 75% to 85%. Consumers having a load factor over 85 % will be entitled to rebate of 1% on the energy charges for every percentage point increase in load factor from 85%. The total rebate under this head will be subject to a ceiling of 15% of the energy charges for that consumer. Further, the load factor rebate will be available only if the consumer has no arrears with the MSEB, and payment is made within seven days from the date of the bill or within 5 days of the receipt of the bill, whichever is later.

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The Load Factor has been defined below:

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

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

- Interruption/non-supply to the extent of 60 hours in a 30 day month has been built in the scheme.

Thus, intent of introducing LFI was to incentivise the high consumption consumer who contributes a steady load in the MSEDCL system. After introducing such LFI and formula for computing the Load factor in the year 2004, same has been continued in all subsequent Tariff Orders with minor necessary changes, whenever required.

9. Request of Petitioners to consider only 10 hrs as maximum possible hours of supply in Load Factor formula is contradictory to the basic intent of introducing LFI i.e. incentivising consumers who contribute steady load in MSEDCL system by consuming electricity upto their Contracted Demand throughout 24 hours in a day. Agreeing to such request would lead to providing incentive to consumer who is consuming electricity only for 42% time, which obviously is not a steady load for 24 hours. Therefore, such request cannot be granted. Further, when incentive is designed for specific purpose, same can be availed only if conditions stipulated for the same are achieved. Relaxing such conditions only to provide additional relief to consumers who cannot meet such stipulated conditions would defeat the purpose of introducing such conditions and rebate.
10. Petitioners have also contended that provision relating to single shift industrial consumers which has been for the first time introduced in MYT Order needs to be harmoniously read with the provision of LFI. Single shift consumer will not be able to meet the criteria for LFI due to existing formula, which cannot be the intent of the

Commission. In this regard, the Commission notes that provision of single shift consumer has been introduced to lower the burden of Demand Charges on consumers who use electricity only upto 10 hours in a day. Such provision introduced for lowering impact of Demand Charges do not have any co-relation with LFI which is applicable to consumers who can support the system by consuming steady load for maximum possible period in 24 hours. Hence, contention of Petitioners that provision of single shift needs to be co-related with Load Factor Incentive is not correct.

11. Petitioners also relied upon Covid-19 circumstances and requested the Commission to modify such formula to provide additional relief to consumers in this difficult time. In the opinion of the Commission, this cannot be a ground for modifying formula of LFI and allow non-eligible consumer to avail such rebate. Through its various Practice Directions, the Commission has already taken several measures to support industrial and commercial consumers in Covid-19 circumstances.
12. In view of foregoing, there is no merit in the relief sought in the present Petition and hence the case needs to be rejected.
13. Hence, the following Order:

ORDER

1. Case No. 127 of 2020 is dismissed.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member

