

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 149 of 2020

Case of Maharashtra State Electricity Distribution Co. Ltd. seeking relief for residential consumers for 2% rebate for payment of the first bill based on actual meter reading after relaxation of lock down within due date and waiver of delayed payment charges and interest for delay in making payments of electricity bills due to the consumers exercising option of payment in three equal instalments

Coram

I.M.Bohari, Member
Mukesh Khullar, Member

Maharashtra State Electricity Distribution Company LimitedPetitioner

Appearance

For Petitioner: Shri Abhishek Khare (Adv)

ORDER

Date: 9 December, 2020

1. Maharashtra State Electricity Distribution Company Limited (MSEDCL) has filed the Petition on 18 July 2020, requesting to allow 2% rebate to residential consumers for payment within the due date of electricity bill, which was raised in June and July 2020 after actual meter reading post phased lifting of lockdown. MSEDCL has also requested for waiver of delay payment charges and interest on arrears for residential consumers who opted for payment of these electricity bills in three equal instalments (EMI). MSEDCL has filed this Petition under Regulation 37, 105 and 106 of the Multi Year Tariff Regulations, 2019 read with Regulations 94 of the Maharashtra Regulatory Commission (Conduct of Business) Regulations 2004.
2. E-hearing of the Petition was held on 20 October 2020. As Petition was not supported with data and analysis, the Commission directed MSEDCL to submit the supporting data and analysis.

3. Accordingly, MSEDCL has filed amended Petition on 9 November 2020. MSEDCL's main prayers are as under:
- a) *To admit the Petition as per the provisions of the Regulations 105 and 106 of the MERC (Multi Year Tariff) Regulations 2019 and Regulation 94 of the MERC (Conduct of Business) Regulations 2004;*
 - b) *To allow a rebate of 2% on the first bill based on actual meter reading, after relaxation of lock down, to the Residential category consumers of the Petitioner for payment of total bill at one go (including arrears), if paid within due date;*
 - c) *To allow the option of payment of first bill based on actual meter reading after relaxation of lock down in three equal instalments without any interest or Delay payment charges for Residential category consumers by relaxing the provisions of Regulation 37.2 of MERC (Multi Year Tariff) Regulations 2019;*
 - d) *To allow the financial impact of the said 2% rebate and interest on additional working capital due to waiver of the Delay payment charges & interest as a pass through in tariff of the Petitioner during next tariff determination process;*

4. MSEDCL in its amended Petition has stated as follows:

- 5.1 The COVID-19 outbreak has been declared as an epidemic in many States and Union Territories in India, where provisions of the Epidemic Diseases Act, 1897 have been invoked to contain the rapid spread of COVID-19 epidemic. The State of Maharashtra is under lockdown since 22 March, 2020.
- 5.2 Accordingly, using its power vested under Regulation 22 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, the Commission has issued various practice directions. On 26 March 2020, the Commission has issued practice direction wherein the Licensees were directed to suspend other non-essential services which require visiting consumer premises or meeting consumer in person i.e. meter reading, billing, offline bill collection at bill payment centres, release of new connections etc. Further, the Commission has directed that energy bills would be prepared on actual basis if Automatic Meter Reading (AMR) is in place. Otherwise, it would be average bill calculated as per the MERC Supply Code Regulations, 2005 which then will be adjusted subsequently once actual meter reading is available.
- 5.3 Further, in view of the prevailing situation due to COVID-19, various relaxations have been provided to industrial and commercial consumers such as moratorium period of 3 billing cycles is provided for payment of fixed/demand charges. They are allowed to pay the fixed charge amount for which moratorium is given in the subsequent three billing cycles in equal interest free instalments. Further, a token amount based on 10 % of the average energy consumption is billed to industrial and commercial premises under lockdown in case of non-availability of meter reading. Bank Guarantee (BG)

encashment is allowed against the payment of energy bill for April 2020 & prompt payment date is extended till 25 April 2020. Further, due date for the Bills issued in the month of March 20 is extended to 15 May 2020 and for the bills issued in the month of April 20 the due date has been extended to 31 May 2020 for all consumers. Further, HT Industrial and HT Commercial consumers are allowed to revise their Contract Demand up to 3 times in a Billing Cycle. Also, LT Industrial and LT Commercial consumers having demand-based Tariff are allowed to revise their Contract Demand up to 2 times in a Billing Cycle.

- 5.4 As per the practice directions, Electricity Bills were raised on provisional basis based on average consumption in accordance with the provisions of the Supply Code Regulations, 2005 in respect of residential consumers. These bills were subject to adjustment after issuance of final bill. The same practice is being followed in case of containment zone or where meter reading is still not possible.
- 5.5 During the lock down period, consumers were encouraged to communicate their meter reading (figure & photo). However, the response was not that encouraging. Due to complete lock down and closure of collection centres, many consumers could not pay the bills of power supplied. For bill payment, MSEDCL facilitated and updated alternate payment modes i.e. digital payment mode. All the measures related to average billing were communicated through social media, electronic media and print media for wider publicity.
- 5.6 During the lockdown, average bills were issued to many consumers in the month of March, April and May 2020 on the basis of consumption in December-2019, January & February-2020 for which the consumption was low as compared to summer months. Therefore, the bills were lower compared to the actual bills that should have been issued to the consumers as per the actual consumption in summer. Further due to lock down almost all people were at home and there was rise in usage of electricity than in normal period by residential consumer. Subsequently, after relaxation in lock down, MSEDCL has started taking meter readings wherever possible from June 2020 and issued bills to consumers based on actual readings. Further, on 29 June 2020, the Commission has directed that wherever the bill is more than double that of the average for the period March to May 2020, the consumer should be given the option to make payment in 3 EMIs. Further, the Commission directed nobody's electricity connection should be disconnected for non-payment of bills until the bill related grievance of the consumer is redressed, including the exercising of choice for making payment in instalments.
- 5.7 It is observed that during the lock down, earnings of many consumers have been affected due to lock down and many residential category consumers have not paid the electricity bills and finding it difficult to pay their electricity bills for June 20 & July 20 at one go. MSEDCL is serving around 2.7 Crore consumers out of which around 2 Crore consumers are in residential category. Considering the substantial quantum (around 75% of total consumers) and the difficulties faced by residential consumers, it

is necessary that the residential consumers should be given the facility to make payment for the bills of June-20 and July-20 in instalments without any Delay Payment Charges (DPC) & interest, if they cannot pay their electricity bills at one go, by relaxing the provisions of Regulation 37.2 of the MERC (Multi Year Tariff) Regulations, 2019 for the limited period.

- 5.8 At the same time, residential consumers who are able to pay their complete billed amount, need to be provided rebate. This will give some relief to the Residential consumers and resultantly it will also help in improvement in cash flow situation of MSEDCL. Thus, this will be a win-win situation. Therefore, considering the financial difficulties faced by the common public as mentioned above and representations from many residential consumers and in public interest, MSEDCL has provided following reliefs to Residential consumers:
- Rebate of 2% to residential category consumers for payment of total bills (including arrears) of June-20 and July 20 based on actual readings, if paid within due date
 - Further, those residential category consumers who are not able to pay the electricity bills of June-20 and July-20 at one go, facility shall be provided to pay bills in three equal instalments without interest or DPC.
- 5.9 The present circumstances due to COVID-19 are unforeseen and unprecedented which requires balancing of the interest of consumers and utilities. Therefore, to mitigate the hardships to the public at large due to COVID-19 and in order to provide relief to public at large in such challenging situation, it is requested to the Commission to allow a rebate of 2% to residential category for payment of total bills (including arrears) of June 20 and July 20 based on actual readings if paid within due date. It is further requested to waive off the DPC and interest for the residential consumers who opt for three equal instalments for payment of their electricity bills for the month of June -20 and July-20, which otherwise are applicable as per Regulation 37.2 of the MERC (Multi Year Tariff) Regulations 2019. It is also requested to allow the financial impact of the said 2% rebate and interest on additional working capital due to waiver of the DPC & interest as a pass through in tariff of MSEDCL during next Tariff determination process.
- 5.10 MSEDCL has followed the Practice Direction given by the Commission and provided the necessary reliefs to various consumer categories as envisaged by the Commission. However, since last 6 months, it is passing through a critical financial situation and MSEDCL is not having sufficient funds even to discharge its liabilities towards the power procured.
- 5.11 During the lock down period, due to overall reduction in economic activities and financial stress to consumers, there is huge revenue shortfall to the tune of Rs. 9949Cr from April to September 2020 (Demand Rs. 32629 Crore and Collection Rs. 22679 Crore). Owing to this huge shortfall to tune of Rs. 9,949Crore from April to September 2020, the outstanding liabilities mainly towards power purchase increased by Rs. 4,432

Crore from Rs. 8,477 Crore as on 31 March, 2020 to Rs. 12,909 Crore as on 30 September, 2020.

- 5.12 The Commission has allowed annual Return on Equity (RoE) to the tune of Rs. 2,110 Crore (combined for wire and supply business) for FY 20-21. For a period of 6 months, the amount works out to be around Rs. 1055 Crore. MSEDCL had to utilize its RoE to finance the shortfall in revenue and to meet the revenue expenses including working capital, and therefore, due to the precarious financial position emerged because of the lock down, the ROE is already exhausted within six months of FY 2020-21 and MSEDCL is not in a position to bear any additional cost.
- 5.13 MSEDCL has been taking all the possible efforts including taking short term loans from financial institutions to cover the revenue shortfall from April to September 2020. However, these are short term measures involving interest cost as well as repayment and therefore cannot be relied upon for long term.
- 5.14 When MSEDCL began implementing the directions it was faced with several issues which have been elucidated herein more particularly with respect to the financial problems which were faced by various residential consumers. It is only around July 2020 that MSEDCL gathered the entire enormity of the financial problems being faced by households due to lockdown due to COVID-19. The imposition of the lockdown given the COVID-19 situation was so sudden that MSEDCL could not have had any chances to gather this kind of information or data w.r.t. financial difficulties of residential consumers. Thus, MSEDCL thought it appropriate to approach the Commission with the instant Petition.
- 5.15 Due to the rebate of 2% to the residential consumers, the working capital position of MSEDCL has improved to some extent otherwise it would have been much worse. Thus, the consumers of MSEDCL would definitely get the benefit of this lower working capital requirement to that extent. The Commission also agreed to the fact that various relief measures will require additional working capital over and above the Regulations and ruled that it would take an appropriate view on the additional expenses on account of additional interest on working capital during the MTR process. Therefore, it is requested to the Commission to provide similar treatment to the 2% rebate to the residential consumers and interest on additional working capital due to waiver of the DPC & interest.
- 5.16 The provisional/unaudited impact of 2% rebate given to the residential category consumers is summarised below:

Month	No. of Consumers	Amount (Rs. Crs)
Jul-20	46,20,456	23
Aug-20	17,62,990	12
Sep-20	4,25,507	3
Total	69,52,919	38

- 5.17 The above impact is provisional and actual impact may change based on Audit of the Accounts and benefits actually availed by residential consumers. The actual financial impact will be submitted to the Commission during the truing up exercise based on the audited figures. The details of DPC amount will be available after the end of 3 months of relaxation given to consumers. So, the impact of the said amount shall also be submitted to the Commission subsequently.
- 5.18 Due to practical difficulties in issuing bills on actual meter readings, some of the consumers were billed based on actual readings after lockdown in the months of August, September and October-2020 also. MSEDCL has been providing the rebate of 2% to such consumers (first bill based on actual reading after lockdown) also, if paid within due date. MSEDCL requested the Commission to allow the additional impact for these subsequent months also.
- 5.19 Regulation 105 and Regulation 106 of the MERC (MYT) Regulations 2019 and Regulation 94 of the MERC (Conduct of Business) Regulations 2004 empower the Commission to deal with the matter and issue orders on any matter as deemed appropriate.
5. At the time of E hearing held on 24 November 2020 MSEDCL has reiterated its submission mentioned in the amended Petition.

Commission's Analysis and Ruling

6. The Commission notes that MSEDCL has filed this Petition seeking approval for allowing 2% rebate to the residential consumers if they pay their first bill post lockdown, which has been issued based on actual meter reading (thereby making adjustment for bills raised on average basis during lockdown), within due date. Similarly, for residential consumers who opt for instalments for making payment of such electricity bill, MSEDCL has requested the Commission to waive off DPC and interest on arrears. MSEDCL justified this request on the ground that residential consumers are finding it difficult to pay such corrected electricity bill during Covid-19 pandemic. MSEDCL also requested the Commission to allow the impact of such rebate and waiver of DPC & interest be made passthrough in the ARR.
7. Justifying its request, MSEDCL stated that due to lower recovery of electricity bill amount in Covid-19 pandemic, there is revenue shortfall to the tune of Rs. 9949 Crore from April to September 2020 and its 50% of RoE for FY 2020-21 i.e Rs. 1055 Crore has been utilised to finance the revenue shortfall and therefore MSEDCL is not in a position to bear any additional cost. It has further stated that due to 2% rebate offered to the residential consumers, the working capital position of MSEDCL has improved to some extent, otherwise it would have been much worse. It submitted that unaudited impact of 2% rebate to residential consumers is around Rs 38 Crore and the impact of DPC and interest would be known at a later stage.

8. In this regard, the Commission notes that although MSEDCL through present Petition which was originally filed on 18 July 2020 sought approval of the Commission to grant such additional rebate and waiver of DPC & interest to residential consumers, it has already implemented the same vide its Commercial Circular dated 3 July 2020. Therefore, present Petition is in effect seeking post facto approval of its own decision. Present Petition did not contain any explanation as to why MSEDCL could not approach the Commission for prior approval for such rebate. Petition only mentions that MSEDCL became aware of the financial problems being faced by residential consumers due to lockdown in and around July 2020. In the opinion of the Commission, such explanation does not justify MSEDCL's approach of avoiding to take prior approval of such rebate when it intends to make impact of such rebate as passthrough in ARR.
9. MSEDCL, in its petition has also not covered the impact of this pass through on the other consumer categories who will be required to take on the burden of this rebate if granted, as proposed by MSEDCL.
10. The Commission notes that MSEDCL's action of allowing additional rebates and waiving of DPC & interest on delayed payment can be justified as per following clause of Commission's practice direction dated 9 May 2020:

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

Thus, after allowing possible reliefs to consumers the Commission has allowed Distribution Licensees to extend any further benefit to its consumers through their RoE or reserves. MSEDCL's action can be justified under this provision of the Practice Direction. However, instead of adjusting impact of such relief against RoE, as is mandated in the Practice directions, MSEDCL is now requesting to make this expense as passthrough in ARR.

11. While justifying its request, MSEDCL has submitted that during the 6 months period of April to September 2020 it has already consumed RoE of Rs.1055 Crore. (50% of RoE i.e. Rs. 2110 Crore. approved for FY 2020-21) for funding revenue shortfall of Rs. 9949 Crore due to non-payment of energy bills. In the opinion of the Commission this is not correct representation. Any shortfall in revenue is funded through working capital and as per the MYT Regulations interest on normative working capital is allowed as passthrough. The Commission in its MYT Order dated 30 March 2020 has already recognised the fact that due to Covid-19 pandemic situation, working capital requirement of Distribution Licensees would increase beyond normative level and the Commission will take appropriate view on the same during MTR proceeding. Relevant part of MYT Order is reproduced below:

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

Thus, once the Commission has made its intentions clear about considering the additional expenses incurred by Distribution Licensee for funding additional working capital due to revenue shortfall in Covid-19 pandemic, all other expense heads, including RoE allowed in ARR remains unaffected thereby balancing the financial requirement of MSEDCL. Therefore, MSEDCL’s contention that it has consumed 50% of RoE for meeting revenue shortfall and hence it cannot adjust impact of rebate offered by it in RoE is not correct. In fact, due to lower billing and further lower recovery of bill amount, MSEDCL could not have recovered 50% of RoE amount in six months and hence question of adjusting same against revenue shortfall through the RoE of 6 months is misplaced.

12. Further, the ARR of Distribution Licensee consists of expenses head such as O&M Expenses, Depreciation, Interest on long Term loan, RoE, fixed cost of power purchase agreements etc. which are fixed in nature i.e. irrespective of quantum of energy sale, these expenses are required to be incurred. As stipulated in MSEDCL’s MYT Order dated 30 March 2020, 55% expenses in ARR of MSEDCL are fixed in nature but fixed part of retail tariff recovers only 16% of such expenses and balance fixed expenses are being recovered through variable part of retail tariff which is linked to energy sale. It is a fact that energy sale during Covid-19 pandemic has been reduced which may lead to under recovery of fixed expenses and hence creating revenue gap if any at the time of truing up exercise would be considered during MTR proceedings. Therefore, allowing impact of additional rebate and waiving of DPC & interest allowed by MSEDCL as passthrough would further increase such revenue gap and ultimately adversely impact the tariffs of all the consumers. Therefore, the Commission is not inclined to allow such impact as passthrough in ARR.
13. However, MSEDCL has already offered such rebate and waived off DPC and interest to residential consumers and would be allowing similar relief to some other residential consumers whose billing is yet to be completed. MSEDCL can do so and adjust the impact of the same through its RoE and/or reserves. As already explained in para 10 above, MSEDCL would be getting all its prudent cost through ARR and hence it can easily accommodate such impact of around Rs.38 Cr (plus impact towards DPC & Interest) from its annual RoE of Rs. 2110 Cr.
14. As informed through the Practice directions, the Commission will consider the additional interest on Working Capital (subject to prudence check) at the time of MTR.

15. Hence following Order.

ORDER

1. Case No 149 of 2020 is partly allowed.
2. Maharashtra State Electricity Distribution Co. Ltd. at its own discretion may continue to give reliefs to the consumers as per the Practice directions however its impact needs to be adjusted against its Return on Equity without passing it through in ARR.
3. MSEDCL is at liberty to file the details of the expenses towards additional working capital due to non recovery of bills in the initial two months of the Pandemic. The Commission will consider the same during MTR proceedings subject to the provisions of the Regulations, Practice Directions and Prudence Check.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member


(Abhijit Deshpande)
Secretary


MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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