

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 147 of 2021

Case of Minex Metallurgical Pvt. Ltd. for non levy of transmission charges for wheeling of power under Open Access from its Wind Generator injected at 33kV and drawn at 11kV.

Coram

Sanjay Kumar, Chairperson
I. M. Bohari, Member
Mukesh Khullar, Member

Minex Metallurgical Pvt. Ltd. Petitioner
V/s
Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) Respondent

Appearance

For the Petitioner : Shri R.B. Goenka (Rep.)

For MSEDCL : Shri. Pulkit Tare (Adv.)

ORDER

Dated: 16 March 2022

1. Minex Metallurgical Pvt. Ltd. (**Minex/Petitioner**) has filed a Case on 28 September, 2021 under Sections 86, 42 and 142 of the Electricity Act, 2003 (**EA**) and Distribution Open Access (DOA) (First Amendment) Regulations, 2019 (**DOA First Amendment regulations 2019**) for non levy of transmission charges and refund of Transmission Charges wrongly levied by Maharashtra State Electricity Distribution Co. Ltd (MSEDCL) for wheeling of power under Open Access (OA) from its Wind Generator injected at 33 kV and drawn at 11kV distribution network of MSEDCL.

2. Prayers of the Petitioner are as follows:

- (a) “ *Direct Respondent to refund open access transmission charges charged to the applicant in the energy bills along with interest under section 62(6) of EA 2003*
- (b) *Direct Respondent not to charge transmission charges in future open access energy bills.*

(c) *Penalize Respondent MSEDCL under section 142 of EA 2003 for violation of MERC distribution open access regulation 2016 and amendment in 2019, ---”*

3. The Petition States as follows:

- 3.1 M/s Minex has 1.25 MW Wind Power Generation Capacity located at Ranjangaon Dhule District and it is availing power under Short Term Open Access (STOA) for its self-use at Nimji Tehsil Kalmeshwar, District Nagpur. The wind Power Generation Plant is connected at 33 kV distribution network (i.e., injection point of OA) of MSEDCL and is wheeling power through STOA at 11kV (i.e., drawl point of OA) for its industrial unit at Nimji since April 2021.
- 3.2 MSEDCL has wrongly levied transmission charges from April 2021 to Minex in spite of the fact that the injection point of OA is at 33 kV level and the drawal point is also at 11 kV level and such wheeling transaction has not utilised Intra State Transmission Network (InSTS). The month wise transmission charges levied by MSEDCL are as follows:

Sr.No.	Month	Transmission Charges in Rs.	Energy wheeled in Units (kwh)
1	April 2021	41412	99135
2	May 2021	104371	200084
3	June 2021	128132	205109
4	July 2021	233710	278888
5	August 2021	153572	182143
	Total Rs.	6,61,197	965359

- 3.3 As per the Regulation 14.1(v) of the DOA Regulations, 2016, transmission charges shall be applicable only when transmission network is used. (i.e., either injection or drawl point connected at EHV). Every distribution feeder or network is ultimately connected to transmission network. It does not mean that transmission charges and losses should be made applicable to the consumers connected to distribution network otherwise the Commission could have specified to levy transmission charges in addition to wheeling charges to every consumer using distribution network in the electricity tariff specified by the Commission.
- 3.4 Regulation 9 of the DOA First Amendment Regulations 2019 provides a matrix of applicable wheeling charges for power injection and drawal point. As per the Matrix, Applicant's wheeling charges for the injection point are as per M(wc)33 i.e I(2) and drawal is at 11 kV i.e. M(wc)11 D(4). Also, the foot note to the Regulations provides that in addition to wheeling charges, transmission charges shall be applicable on OA wheeling transaction if InSTS is used for wheeling of power. Applicant is not using any transmission network as OA injection is at 33kV and drawal is at 11 kV. However, MSEDCL has wrongly levied transmission charges.

4. MSEDCL's reply dated 21 January 2022 is summarised as follows:

- 4.1 The Petitioner is a HT Consumer located at Nagpur with contract demand of 1400 kVA, supplied at 11 kV voltage level. The Petitioner is injecting power at 33 kV level at Ranjangaon Dhule and drawing the power at 11 kV level at Nagpur since April,2021.

- 4.2 The DOA First Amendment Regulations 2019 was notified on 8 June 2019 wherein Regulation 14.6 (A) mentions applicability of transmission charges and wheeling charges and transmission loss and wheeling losses for various combination of OA transactions. The Regulations also provides that in addition to wheeling charges, transmission charges shall be applicable on OA wheeling transaction if InSTS is used for wheeling of power.
- 4.3 If power is injected at one end of MSEDCL grid and if it is drawn at far end from MSEDCL grid, then both distribution network as well as InSTS are necessarily put to use. The transmission of power over a long distance is carried out at Extra High Voltage (EHV) system comprising of 132/ 220/ 400 / 765 kV networks, sub stations and power transformers in order to reduce loss of energy and cost of network. Lower voltage would mean higher current, higher loss and higher conductor size of network so higher cost of system. However, EHV system is required to step down for use at the premises of end consumer by using distribution network such as 11/22/33 kV and LT 230/415 V networks, distribution transformers etc.
- 4.4 Only in case of dedicated (single) transmission line from generating station upto the destination of use i.e., consumer end, only one system either distribution or transmission depending upon the voltage level will be used. In that case either wheeling or transmission charges will be applicable. In all other cases, transmission as well as wheeling charges & losses are applicable if distribution system is used either for injection or drawal.
- 4.5 The Commission vide its Order dated 20.11.2007 in Case No. 33 of 2007 (Case of MSEDCL for procurement of Wind Energy) has clarified that depending on nature of OA wheeling transactions, the injection point(s) and drawal point(s) for OA wheeling transactions could lead to use of distribution assets of multiple Distribution Licensees and/or use of InSTS. Even in case of particular Distribution Licensees, the wheeling charges applicable for a particular OA transaction shall depend on voltage level at injection point(s) and drawal point(s), as wheeling charges are determined in accordance with voltage level. Accordingly, transmission charges, transmission losses, wheeling charges and wheeling losses applicable for a particular transaction have to be ascertained on the basis of use of assets of concerned licensee and extent of use at a particular voltage level. In addition to above wheeling charge, transmission charges (long-term or short-term), as the case may be, shall be applicable, in case InSTS is being used for OA wheeling transaction.
- 4.6 The subject matter has also been referred to and the clarifications are re-iterated by the Commission in its Order dated 24 October 2018 in Case No. 156 of 2018 (*Pudumjee Vs MSEDCL*)
- 4.7 In the present case, power is being wheeled from injection point at 33 kV distribution network located at Dhule to consumption end at 11 kV located at Nagpur which involves use of InSTS. Therefore, MSEDCL has duly levied transmission charges and transmission loss in accordance with the prevailing Rules and Regulations and the settled law.
- 4.8 MSEDCL has been uniformly levying transmission charges and transmission losses (and wheeling charges and wheeling losses) to all OA consumers who are wheeling power by using an InSTS in accordance with the applicable OA Regulations. Further, no other OA consumer has disputed such a levy, except for the Petitioner.

4.9 Hence, owing to wheeling of power through InSTS, the Petitioner is obligated to pay both transmission charges and transmission losses and cannot wriggle out of its obligations by incorrectly stating that it is connected with distribution network only and not on the transmission network.

5. The Rejoinder of the Petitioner dated 31 January 2022 is summarised as follows:

5.1 It is misleading to say that DOA First Amendment Regulation 2019 have specified to levy transmission charges and transmission losses upon the OA power being sourced by the Petitioner. Also, it is incorrect to say that the Petitioner is using InSTS for purpose of wheeling of power as it is not connected to InSTS.

5.2 It cannot be proved that the Petitioner's power is being transmitted through transmission network because the power may be used by other consumers connected to the same distribution network. In such case the power shall not flow through the transmission network.

5.3 MSEDCL has done wrong interpretation of Commission's Order in Case No. 33 of 2007 wherein the Commission clearly specified that:

“Even in case of particular distribution licensee, the wheeling charges applicable for a particular open access transaction shall depend on voltage level at injection points and drawal points as wheeling charges are determined in accordance with voltage level. Accordingly, transmission charges, transmission losses, wheeling charges and wheeling losses applicable for a particular transaction have to be ascertained on the basis of use of assets of concerned licensee and extent of use at a particular voltage”.

5.4 The rulings of the Commission in the aforesaid Order specifies that in case injection as well as drawl points are at EHV level then only transmission charges shall be applicable. In case one point is connected to EHV level and another point to distribution level then transmission charges as well as wheeling charges along with transmission losses and distribution losses shall be applicable. However, in the present case injection as well as drawl points are connected to distribution level hence only wheeling charges and wheeling losses should be applicable.

5.5 The Commission's Order dated 24 October, 2018 in Case No.156 of 2018 (Pudumjee Vs MSEDCL), referred by MSEDCL is not relevant in the present case since the OA transaction of the Petitioner in that Case was from power exchange i.e., Interstate transactions.

5.6 There are no prevailing Rules and Regulations to apply transmission charges & losses in case both injection and drawal points are connected to distribution system. There is no connection agreement of the petitioner with transmission network which is necessary for applying transmission charges. The petitioner is not Transmission System User.

5.7 Provisions of the TOA Regulations 2016:

- a) The eligibility to seek OA in transmission network is subject to grant of connectivity to InSTS as per MERC TOA Regulations 2016. Further as per **Regulation 4** of these Regulations, a TSU has to enter into an agreement with transmission licensee.

- b) Regulation 14.1 specifies that TSU shall pay transmission charges for use of InSTS as stipulated by the Commission and the bill for the charges for the preceding month shall be served by STU.
- c) The Regulation 14.6 specifies that a consumer who has a supply contract with a distribution licensee but is connected to InSTS shall also be liable to pay CSS and additional surcharges as may be applicable. This clearly specifies that to apply OA transmission charges the consumer should be connected to transmission network.
- d) The Regulation 15.2 related to InSTS OA specifies that the scheduling and other operating charges approved by the Commission shall be levied for TSU availing STOA. But such charges are not being levied because transmission system is not being used by the Petitioner.

5.8 Provisions in MERC Multi Year Tariff Regulations 2019:

- a) The part F Regulation 56.1 specifies about applicability of these Regulations and provides as follows:

“ The Regulations contained in this part shall apply to the determination of Tariff for access and use of the intra-State transmission system pursuant to a Bulk Power transmission agreement or other arrangement entered into with a Transmission System User:

- b) The Regulation 57.2 specifies that *“Any person who is eligible to apply for access to the intrastate transmission system shall be entitled to obtain such access in accordance with the Regulations of the commission governing transmission open access and shall be liable to pay the charges for obtaining such access as specified in this Regulations”*.

5.9 The above applicable Rules & Regulations clearly specifies that for applicability of transmission charges the consumer should have got connectivity and sanction of OA in transmission network and should enter into agreement with transmission licensee. However, the Petitioner is not connected to transmission network, nor he is a user of transmission network, nor he has entered into agreement with transmission licensee hence applying transmission charges to OA power is illegal.

6. At the e-hearing through video conferencing held on 1 February 2022, following submissions were made by the parties:

6.1 The representative of the Petitioner reiterated the submissions as made out in the Petition and rejoinder. He also stated that MSEDCL has wrongly levied transmission charges though InSTS network is not used by the Petitioner. Also, there is no provision in the EA and MYT Regulations to levy the transmission charges to the consumers connected to the distribution network.

6.2 The representative of the Petitioner also stated that MSEDCL’s contention that the power Generator and the consumers are located at different locations and hence InSTS transmission network is used for wheeling of the power is not true. If that is the case then every individual

consumer needs to pay the transmission charges as the Generator and the consumers are located at different locations.

- 6.3 The advocate of MSEDCL reiterated the submission as made out in the reply. He further stated that Generator of the Petitioner is located at Ranjangaon Dhule and the consumer is located at Nimji, Tehsil Kalmeshwar District Nagpur. The distance between Dhule and Nagpur is @ 500 km. Hence, InSTS network is utilised for transmission of power. Hence, MSEDCL has rightly levied the transmission charges as per the Regulations. MSEDCL is giving similar treatment to other OA consumers.

Commission's Analysis and Ruling

7. The Petitioner is a 1.25 MW wind generator located at Ranjangaon, Dist-Dhule and wheeling power to its industrial plant at Nimji District Nagpur, through the Short-Term Open Access (STOA) arrangement. The approximate distance between the location of the Generator and Consumer (i.e injection and drawal point) is @ 500 km. The Petitioner is availing STOA as per the provisions of the DOA Regulations, 2016 as amended in 2019.
8. The main contentions of the Petitioner are that:
- (i) Petitioner's Generator injection point as well as the consumer drawl point is connected to distribution network of MSEDCL, and no InSTS is used for wheeling of power under OA transactions and hence no transmission charges are applicable for its open access transactions.
 - (ii) As per the first amendment to the DOA Regulations, 2016 transmission charges are applicable when the InSTS is used. Hence, only wheeling charges and wheeling losses are applicable to the Petitioner and no transmission charges are applicable.
 - (iii) MSEDCL has wrongly interpreted the Commission's Order in Case No. 33 of 2007 and levied transmission charges as well as wheeling charges.
 - (iv) As per the TOA Regulations and MYT Regulations for applicability of transmission charges for TSU, the consumer must have connectivity and obtained OA permission to InSTS. Further, the consumer needs to enter into an agreement with the transmission licensee. However, it has not fulfilled these conditions.
 - (v) Aggrieved by the action of MSEDCL, the Petitioner has filed the Petition seeking refund of OA transmission charges and asking for non levy of transmission charges for wheeling of electricity in future.
9. Per contra, argument of MSEDCL is that:
- (i) The Petitioner's Generator and consumer are located at distance @500 km.
 - (ii) Power is wheeled from a 33 kV injection point at Dhule to 11 kV consumption end at Nagpur through InSTS network.
 - (iii) The Petitioner is using InSTS as well as distribution network for utilisation of its power under STOA.

- (iv) The Commission's Orders in Case No. 33 of 2007 and 156 of 2018 provides the applicability of transmission charges depending on the utilisation network when the power injection and drawal points are different.
- (v) Hence, MSEDCL has levied transmission charges correctly to the Petitioner in accordance with DOA Regulations.
- (vi) Either wheeling or transmission charges will be applicable only in case of dedicated (single) transmission line from generating station upto the destination of use i.e., consumer end, only one system either distribution or transmission depending upon the voltage level is used. In all other cases, transmission as well as wheeling charges & losses are applicable if distribution system is used either for injection or drawal.

From the documents submitted by the Consumer, the Commission notes that the Petitioner is partial OA consumer of MSEDCL having contract demand of 1400 kVA and OA contract demand of 1250 kVA. The Petitioner's Generator is directly connected to 33 kV feeder No. 2 at MSETCL's 220/33 kV Valve EHV substation, Dhule which is part of InSTS. Further, the consumer end of the Petitioner is connected to 11 kV industrial feeder from MSEDCL's 33/11 kV Gondkhari substation at Nagpur.

10. Based on these grounds/contentions and having heard the Parties and after taking on record the various submissions filed by the Parties, the Commission has analysed them with reference to relevant provisions of the EA 2003, Regulations and the Commission's Orders and their applicability in the present matter for addressing the prayers raised in the Petition.

11. Provisions of the EA,2003:

11.1 The EA 2003 provides following definitions which are relevant in the present matter:

2(19) distribution system" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers.

2(36) " inter-State transmission system" includes –

(i) any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State;

(ii) the conveyance of electricity across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of electricity;

(iii) the transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by Central Transmission Utility.

2(37) "intra -State transmission system" means any system for transmission of electricity other than an inter-State transmission system.

.....

(72) “ transmission lines” means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switchgear and other works;

.....

(74) transmit" means conveyance of electricity by means of transmission lines and the expression "transmission" shall be construed accordingly;---

(76) "wheeling" means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62---” ;

(84) “Transmission System” means a line or a group of lines with or without associated sub-Station, and includes equipment associated with transmission lines and sub-stations; -----”

11.2 The Section 39 of the EA defines STU’s functions as follows:

“ 39(2) The functions of the State Transmission Utility shall be -

(a) to undertake transmission of electricity through intra-State transmission system;---

(c) to ensure development of an efficient, co-ordinated and economical system of intra-State transmission lines for smooth flow of electricity from a generating station to the load centres;

(d) to provide non-discriminatory open access to its transmission

system

(i) any licensee or generating company on payment of the transmission charges--- ----

[Emphasis added]

11.3 The aforesaid provisions of the EA make it clear that the distribution system is system of wires and associated facilities between:

- a) The delivery points on the transmission lines and the consumer
- or
- b) The generating station connection and the point of connection to the installation of the consumers.

It is worthwhile to note that in the present case, Generator and the consumer are connected through 500 km InSTS network of different voltage level including InSTS. Hence, as envisaged in the aforesaid definition of the Distribution System, there is no direct connectivity between Generator and point of connection of the consumer in the present case.

11.4 The transmission system includes the line as well as the substation equipments. Further the wheeling includes the utilisation of distribution system as well as associated transmission system on payment of charges. STU has to ensure an efficient, co-ordinated and economical InSTS for smooth flow of electricity from a generating station to the load centres and to provide non-discriminatory OA. For transfer of power over longer distance from injection to drawal points, InSTS is required to be used. Hence, whole purpose of the InSTS is to transmit the power from Generator Station /injection point to the load centre /consumer end.

12. Provisions of the MYT Regulations 2019:

12.1 The Petitioner has argued that it is not using InSTS and still MSEDCL has levied transmission charges though there is no such regulatory provision. In this respect the Regulation 2.1 of the MYT Regulations defines the following terms:

87) “Transmission System User” for the purpose of these Regulations means the Distribution Licensees and long-term Open Access Users, but excludes partial Open Access Users;

.....

12.2 The Regulations 64 and 65 of the MYT Regulations,2019 which deals with the determination of InSTS Tariff and sharing of Total Transmission System Cost (TTSC) has the following provisions:

“ 64.1 The aggregate of the yearly revenue requirement for all Transmission Licensees shall form the “Total Transmission System Cost” (TTSC) of the Intra-State transmission system, to be recovered from the Transmission System Users (TSUs) for the respective year of the Control Period-----

“65.1 The long-term Transmission System Users shall share the TTSC of the intra-State transmission system in the proportion of Base Transmission Capacity Rights of each Transmission System User to the total Base Transmission Capacity Rights allotted in the intra-State transmission system.”

65.2

.....

Provided that the Allotted Capacity for long-term Open Access Users, excluding partial Open Access Users shall be considered in lieu of the average monthly CPD and NCPD for calculating the Base TCR for such Open Access Users:

.....

68.1 The State Transmission Utility (STU) shall raise monthly bill for Intra-State Transmission Charges on every Transmission System User (TSU) on the first working day of the month for the Transmission Charges of preceding month.”----

[Emphasis added]

- 12.3 As per the provisions of the MYT Regulations,2019, Distribution Licensees (MSEDCL in this case) and LTOA consumers excluding partial OA consumers are TSU. The Petitioner is a partial OA consumer and hence it is not a TSU. Further, Aggregate Revenue Requirement (ARR) of all Transmission Licensees shall form TTSC of InSTS, to be recovered from TSUs for the respective year based on their utilisation of InSTS. The utilisation of InSTS is in terms of Base Transmission Capacity Rights (**Base TCR**) which is average of CPD and Non-CPD for TSU.
- 12.4 Further, MYT Regulations, 2019 also made it clear that allotted Capacity for LTOA users, excluding partial OA users shall be considered in lieu of the average monthly CPD and NCPD for calculating the Base TCR for TSU. It means the demand of the partial OA consumer (Petitioner in this case) is part of the Base TCR of MSEDCL.

13. Provisions of the DOA Regulations 2016 First Amendment Regulations 2019 are as follows:

13.1 The Regulation 2.1(28) of the DOA Regulations, 2016 defines the OA agreement :

“(28) “Open Access Agreement” means an agreement for use of the Distribution System of a Distribution Licensee for Medium and Long Term Open Access”

13.2 The Petitioner is partial OA consumer. The Regulation 2.1(30) of the DOA Regulations, 2016 defines the partial OA consumer as follows:

“ 2.1 (30) "Partial Open Access Consumer" means an Open Access Consumer who maintains some demand with the Distribution Licensee in whose area of supply he is located in order to cater to his load requirement;--- “ [**Emphasis added**]

13.3 Further, the Regulation 6.1 of the DOA Regulations, 2016, in respect of an OA agreement provides as follows:

*“ 6.1. **An Open Access Agreement** shall be entered into upon grant of Medium or Long Term Open Access in the format provided in Annexure V. ---”* [**Emphasis added**]

The OA agreement is required for medium- or long-term OA only. However, the Petitioner is availing STOA.

13.4 The Regulation 14 of the DOA Regulations, 2016 regarding the billing and use of distribution system provides as follows:

“ 14.1. The bill for use of the Distribution System for wheeling of electricity in its network shall be raised by the Distribution Licensee on the entity to whom the Open Access is granted, and shall indicate the following:-----

.....

(v)Transmission Charges :

Provided that a Partial Open Access Consumer, Generating Station or Licensee, as the case may be, shall pay the Transmission Charges to the Distribution Licensee instead of the Transmission Licensee for using a transmission network;

.....
14.5. The Distribution Licensee shall pay the Transmission Licensee, MSLDC and any other entity all the charges collected on their behalf from the Open Access Consumer, Generating Station or Licensee within seven days:-----

[Emphasis added]

13.5 Provisions of DOA First Amendment Regulations 2019:

9. Amendment in Regulation 14 of the Principal Regulations :

A. The existing proviso of Regulation 14.1 (v) shall be amended and new provisions are added below the same as under :

“14.1 (v) Transmission Charges : Provided that a Partial Open Access Consumer, Generating Station or Licensee, as the case may be, shall pay the Transmission Charges to the Distribution Licensee instead of the Transmission Licensee for using a transmission network which shall be passed on to the STU within the stipulated time period as specified under Regulations 14.5 ;

.....
Provided further that the Transmission charges for STOA transactions by Distribution Licensee shall be governed by the provisions in the Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2015 and amendments thereof.

.....
Provided further that a Partial Open Access Consumer availing STOA are liable to pay the Transmission Charges irrespective of whether or not the Generator from whom they source power has a BPTA with the STU.----

B. The existing Regulation 14.6 (b) shall be modified as under :

“14.6 Wheeling Charge :

...

b. “Wheeling Charges shall not be applicable in case a Consumer or Generating Station is connected to the Transmission System directly or using dedicated lines owned by the Consumer or Generating Station only if such dedicated lines are used for point to point transmission or wheeling of power from Generating station to load centre without any interconnection with distribution system.”

C. A new clause 14.6 (A) shall be inserted as follows :

“14.6 (A) **Applicability of Transmission Charges and Wheeling Charges and Transmission Loss and Wheeling Losses for various combination of Open Access Transactions shall be as shown in the following table.**

Applicable Wheeling Charges for Intra-State Open Access Wheeling Transaction :*

Table for Wheeling Charges		Rs/kWh	InSTS	$M_{(wc)33}$	$M_{(wc)22}$	$M_{(wc)11}$	$T_{(wc)HT}$	$A_{(wc)HT}$
		Injection	$I_{(1)}$	$I_{(2)}$	$I_{(3)}$	$I_{(4)}$	$I_{(5)}$	$I_{(6)}$
Rs/kWh	Drawl		InSTS_Above 33 kV	MSEDCL_33 kV	MSEDCL_22 kV	MSEDCL_11 kV	TPC_HT	AEL_HT
InSTS	$D_{(1)}$	InSTS_Above 33 kV	No WC	$M_{(wc)33}$	$M_{(wc)22}$	$M_{(wc)11}$	$T_{(wc)HT}$	$A_{(wc)HT}$
$M_{(wc)33}$	$D_{(2)}$	MSEDCL_33 kV	$M_{(wc)33}$	$M_{(wc)33}$	$M_{(wc)22}$	$M_{(wc)11}$	$T_{(wc)HT}$ +	$A_{(wc)HT}$ +
$M_{(wc)22}$	$D_{(3)}$	MSEDCL_22 kV	$M_{(wc)22}$	$M_{(wc)22}$	$M_{(wc)22}$	$M_{(wc)11}$	$T_{(wc)HT}$ +	$A_{(wc)HT}$ +
$M_{(wc)11}$	$D_{(4)}$	MSEDCL_11 kV	$M_{(wc)11}$	$M_{(wc)11}$	$M_{(wc)11}$	$M_{(wc)11}$	$T_{(wc)HT}$ +	$A_{(wc)HT}$ +
$T_{(wc)HT}$	$D_{(5)}$	TPC_HT	$T_{(wc)HT}$	$M_{(wc)33}+$ $T_{(wc)HT}$	$M_{(wc)22}+$ $T_{(wc)HT}$	$M_{(wc)11}+$ $T_{(wc)HT}$	$T_{(wc)HT}$	$A_{(wc)HT}$ +
$A_{(wc)HT}$	$D_{(6)}$	AEL_HT	$A_{(wc)HT}$	$M_{(wc)33}+$ $A_{(wc)HT}$	$M_{(wc)22}+$ $A_{(wc)HT}$	$M_{(wc)11}+$ $A_{(wc)HT}$	$T_{(wc)HT}$ +	$A_{(wc)HT}$

Where,

Nomenclature	Approved Wheeling Charge (wc)
MSEDCL_33kV	$M_{(wc)33}$
MSEDCL_22kV	$M_{(wc)22}$
MSEDCL_11kV	$M_{(wc)11}$
TPC_HT	$T_{(wc)HT}$
AEL_HT	$A_{(wc)HT}$

Note: In addition, to above wheeling charges, Transmission Charges shall be applicable on OA Wheeling transaction if intra-state transmission system is used for the purpose of wheeling of power. -----” -----

[Emphasis added]

13.6 The aforesaid provisions of the DOA Regulations, 2016 and its First Amendment Regulations, 2019 provides that transmission charges are applicable to the partial OA consumer (the Petitioner) when they are using InSTS and same needs to be paid to MSEDCL. Further, MSEDCL is required to remit collected transmission charges to STU. Transmission charges applicable for STOA transactions needs to be levied as per the provisions of the MYT Regulations as amended from time to time. Also, Partial OA Consumer availing STOA are liable to pay the Transmission Charges irrespective of

whether or not the Generator from whom they source power has a Bulk Power Transmission Agreement (BPTA) with STU. Further, OA agreement is required for medium- term and long-term OA only and not for STOA.

- 13.7 The DOA First Amendment Regulations specially provides that wheeling Charges shall not be applicable in case a Consumer or Generating Station is connected to the Transmission System directly or using dedicated lines.
- 13.8 The matrix reproduced above is for levy and applicability of wheeling charges at different voltage level, and not for the transmission charges. Further, the Regulation 9 of the DOA first amendment Regulations, 2019 provides the applicability of transmission charges as well as wheeling charges to the OA consumers. Also, the foot note to the Regulation 9 (C) of DOA Amendment Regulations 2019 provides that in addition to wheeling charges and wheeling losses, transmission charges and transmission losses shall be applicable on OA consumers if InSTS used for the purpose of wheeling of power.
- 13.9 The Commission notes that the Petitioner has also referred to the provisions of the Regulation 4, 14.1 , 14.6 , 15.5 etc(at Para No. 5.7 above) of the TOA Regulations, 2016 elaborating that TSU has to enter into an agreement with the transmission licensee, transmission charges bills needs to be raised by STU, scheduling and other operating charges approved by the Commission shall be levied for TSU availing STOA etc. However, these conditions are not fulfilled and hence no transmission charges are applicable to it. In this context, it is worthwhile to note that the Petitioner is a partial OA consumer and availing STOA as per the provisions of the DOA Regulations,2016. The approval of STOA to the Petitioner is subject to provisions of the DOA Regulations, 2016. Further, the Petitioner is not a TSU. Accordingly, the issues in the present Petition needs to be dealt as per the provisions of the prevalent DOA Regulations 2016. Further, as per the Regulation 15 of the TOA Regulations,2016, Scheduling and System Operation Charges shall be payable to the TSU and not on partial OA consumer. Hence, the provisions of the TOA Regulations,2016 on which the Petitioner is relying is not applicable in the present case. Hence, the argument of the Petitioner that for applicability of the transmission charge, InSTS connectivity is required, TSU has to enter into an agreement with transmission licensee, consumer needs to be connected to InSTS, levy of scheduling and other operating charges etc., does not hold any ground. In any case as per the DOA Regulations, 2016, OA agreement is required for LTOA and MTOA only and not for STOA.
- 13.10 The demand of the Petitioner (partial OA consumer) is part of Base TCR of MSEDCL in terms of the MYT Regulations. Further, as per the InSTS tariff Order, MSEDCL is required to pay the transmission charges in proportion to use of InSTS. It means MSEDCL is paying the transmission charges of the Petitioner as its demand is subsumed in the demand of MSEDCL. Also, the DOA Regulations, 2016 provides the applicability of transmission charges to the Petitioner. Further, the Commission vide its Order dated 30.3.2020 in Case No.327 of 2019(InSTS Tariff Order) has directed, Distribution Licensees to remit the transmission charges collected from partial OA consumers to STU in the immediate next billing cycle. Hence, it is clear that as per the DOA Regulations,2016 and the Commission's InSTS Order, MSEDCL is required to collect the transmission charges from the Petitioner and remit it to STU. Hence the argument of the Petitioner that it is not required to pay the

transmission charges is contrary to the provisions of the MYT Regulations, 2019, DOA Regulations, 2016 and the Commission's InSTS Order.

14. The Commission's Rulings in the past relevant Orders in respect of levy of transmission charges to OA consumers:

14.1 The Commission vide its Order dated 27 June 2006 in Case No. 58 of 2005 (Development of Transmission Pricing Framework for the State of Maharashtra and other related matters) has provided the philosophy for levy of Transmission charges. The relevant provisions of the Commission's Order are as follows:

“ 2.1.11

.....In case, 'composite transmission charge' is adopted, the transmission costs of each transmission licensee shall be spread across all distribution licensees and the transmission system users (TSUs) will have to pay transmission charges depending on extent of their usage of 'intra-State transmission system' irrespective of whether they are connected to a particular transmission licensee's network or otherwise. However, the Commission opines that in order to promote transmission open access across the State and to enable competition, transmission pricing should be based on composite transmission charges and linked to utilization of transmission capacity for intra-State transmission system (InSTS).

2.9.2.

..... The Commission notes that the transmission users comprise distribution licenses, generating companies including captive generators, trading licensees and open access users. The Section 39(2) (d) of EA 2003 provides for payment of transmission charges by all of above for use of transmission network.”.

14.2 Further, the Commission vide its Order dated 24 October 2018 in Case No. 156 of 2018 (a case of Pudumjee Paper Products Ltd. seeking directions to MSEDCL for refund of wrongly levied Transmission and Wheeling charges) has upheld the applicability of the transmission charges to the OA consumer. The relevant rulings of the Commission in the aforesaid Order are as follows:

*“8.4 In view of the foregoing and as the Commission has already ruled on this issue in the above mentioned Order, therefore, the Commission does not find any infirmity in the methodology followed by the MSEDCL for levy of Wheeling and Transmission Charges.-
-”*

14.3 The Commission in aforesaid Orders has made it clear that the Distribution Licensees, Transmission System User and Open Access consumers are required to pay transmission charges depending on extent of their usage of InSTS.

15. In addition to the foregoing provisions of the EA, MYT Regulations, OA Regulations and the past Orders, one of the important issues that needs to be addressed is that whether the Petitioner is using the InSTS for its OA transactions and is liable to pay the transmission charges. To address the issue, the Commission's observation and analysis of the issue is as follows:

- a) The power system includes activities of Generation, Transmission, Distribution and Supply of electricity. Grid is a high voltage backbone system of inter-connected transmission lines, sub-stations and generating plants. Hence, to interconnect Generating Stations and Distribution along with the consumer, transmission system grid (InSTS) is a vital link. Further, it is a proven fact that for security of the grid and supply stability in economical manner, power system needs to be operated in integrated manner and not on standalone basis. Accordingly, the power system in Maharashtra is being operated as integrated grid operation.
- b) On perusal of the documents enclosed with the Petition and as elaborated above, it is a fact that the Petitioner is partial OA consumer and its Generator is directly connected to 33 kV feeder No. 2 at MSETCL's 220/33 kV Valve EHV substation, Dhule which is part of InSTS. Further, the Petitioner is connected to 11 kV industrial feeder from MSEDCL's 33/11 kV Gondkhari substation Nagpur.
- c) It is a fundamental principle that power is generated at lower voltage i.e., 11 kV or 22 kV, step up at EHV level such as 132 kV, 220 kV, 400 kV, 765 kV, etc. for transmission over the longer distance. The power at higher voltage cannot be used by the consumers (except EHV consumers) and hence voltage needs to step down at 33 kV, 11 kV level for use of end consumers through distribution system. Hence, the whole purpose of transmission system is to transfer power from one place to other efficiently to serve the consumers catered by the Distribution Licensee. In the present case the Petitioner is using OA power at Nimji, Tehsil Kalmeshwar District Nagpur at 11 kV as injected from Ranjangaon, District Dhule at 33 kV level. The distance between Dhule and Nagpur is @ 500 km.
- d) The contention of the Petitioner is that it is not using InSTS network and hence transmission charges are not applicable to it. The said contention of the Petitioner can be true in case of the following conditions are fulfilled:
- i. The Petitioner Generator's power evacuation should be through dedicated network without intervening InSTS.
 - or
 - ii. The Petitioner's generator injection is directly connected through a dedicated line and drawl points are connected in same substation of MSEDCL without intervening InSTS.
- e) However, on perusal of the Petitioner's Generation evacuation at Dhule and consumption at Nagpur it is amply clear that the aforesaid conditions are not fulfilled. Neither Consumer nor its Generating Station is connected to its own Transmission System directly or using dedicated lines for point-to-point transmission or wheeling of power from Generating station to load centre. Hence, submission of the Petitioner that he is not using InSTS does not hold any ground .
- f) Further, as per the definition, transmission system includes transmission lines and substation equipment. Further, distribution system means the delivery points on the transmission lines and the consumer, or the generating station and the consumers are directly connected

through distribution network. Hence, to conclude that the Petitioner is not using InSTS, then it shall not be connected to InSTS in any manner as discussed at above Para 15(d) of this Order. However, factually injection point of Petitioner's wind generator is directly connected to 220/33 kV EHV substation at 33 kV level which is part of InSTS. Hence, Petitioner's Generator is connected to InSTS, and utilising InSTS for power evacuation for its OA consumer. The Petitioner in its submission also stated that if either the Generator or the consumer is connected to InSTS then the transmission charges as well as wheeling charges shall be applicable. Hence, the Commission finds merit in the submission of MSEDCL that the Petitioner has used InSTS and hence is liable to pay the transmission as well as wheeling charges. Accordingly, MSEDCL has rightly levied the transmission charges to the Petitioner as per the provisions of DOA Regulations.

g) The Petitioner further argued that it cannot be proved that the Petitioner's power is being transmitted through InSTS as the said power may be used by the other consumers of MSEDCL at injected substation. In this respect, the Commission notes that nature of the power system is dynamic and for all the time it cannot be true that the generation and demand matches at a particular injection point. It may be possible that generation is available at particular time, but demand is absent and vice versa. In such a case the power generated by the Petitioner's Generator gets injected in the transmission grid network as and when generation is available. Further, it may be possible that the generation capacity at injection point may higher than the demand at injection point. Even if the Petitioner's Generation is not available then its consumer continues the use of electricity from InSTS and take benefit from the grid. Therefore, to complete STOA transaction of the Petitioner, transmission system is put to use.

16. In view of the foregoing facts and discussions, an argument of the Petitioner that it is not connected to InSTS and is hence not liable to pay the transmission charges is devoid of merits. Further, the Commission does not find the merit in the submission of the Petitioner that InSTS network is not used during the OA transactions of the Petitioner especially because, the generation is directly connected to the 220/33 kV Sub Station which is a component of InSTS. Hence, the Commission is not inclined to grant the prayers of the Petitioner to (i)refund transmission charges levied by MSEDCL and (ii) not to levy transmission charges in future.

17. Hence, the prayer of the Petitioner to penalise MSEDCL under section 142 of the EA 2003 becomes infructuous as MSEDCL has not violated the provisions of the DOA Regulations and EA 2003.

18. **Hence the following Order.**

ORDER

The Case No. 147 of 2021 is dismissed.

**Sd/-
(Mukesh Khullar)
Member**

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

**Sd/-
(Sanjay Kumar)
Chairperson**

