

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL**

Sub: In the matter of Petition under Clause 17 read with Clause 7(A) 6 of MPERC (Grid Interactive Renewable Energy System and Related Matters) Regulations, 2022 and under Clause 6.40 of Madhya Pradesh Electricity Supply Code, 2021 for seeking levy of grid support charges on all categories of consumers with grid connected rooftop RE system under net-metering & under Category III (Base Load Reduction during day) along with Introduction of net billing or net Feed-in Arrangement.

ORDER**(Hearing through video conferencing)****(Date of Order: 13th Dec 2023)**

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| <p>(1) Managing Director, Madhya Pradesh Power Management Co. Ltd., Shakti Bhawan, Rampur, Jabalpur, (MP)</p> <p>(2) Managing Director, Madhya Pradesh Poorv Kshetra Vidyut Vitaran Co. Ltd., Shakti Bhawan, Rampur, Jabalpur, (MP)</p> <p>(3) Managing Director, Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd., GPH, Polo Ground, Indore (MP)</p> <p>(4) Managing Director, Madhya Pradesh Madhya Kshetra Vidyut Vitaran Co. Ltd., Nishtha Parisar, Bijlee Nagar, Govindpura, Bhopal (MP)</p> | } | - Petitioner |
| Vs. | | |
| <p>(1) Principal Secretary, Government of MP, New & Renewable Energy Department, Vallabh Bhawan, Bhopal</p> <p>(2) Managing Director, Urja Vikas Nigam Limited, Urja Bhawan, Bhopal</p> | } | - Respondents |
| <p>(1) Pick Renew Energy Pvt. Ltd., Office No. A- 102, 161-162-C, Basant Vihar, Indore (MP)</p> <p>(2) Oswal Woolen Mills Ltd., Plot No. 87, Industrial Area, Pillukhedi, Raigarh, MP, (465667)</p> <p>(3) Vardhaman Textile Ltd; Mandideep, District Raisen, MP</p> | } | - Intervener(s) |

Shri Manoj Dubey, Advocate, Shri Lokesh Malviya, DGM appeared on behalf of the petitioner.

Shri Rakesh Khobde, Shri Avaneesh Shukla, EE, appeared on behalf of the Respondent no. 1

Shri Shrikant Deshmukh, SE, appeared on behalf of Respondent no. 2

Shri Raunak Choukse, Advocate appeared on behalf of Intervener no. 1 & 2

Shri Mahendra Khante, appeared on behalf of Intervener no. 3

The subject petition is filed by Madhya Pradesh Power Management Co. Ltd., Jabalpur, Madhya Pradesh Poorv Kshetra Vidyut Vitaran Co. Ltd., Jabalpur, Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore, & Madhya Pradesh Madhya Kshetra Vidyut Vitaran Co. Ltd., Bhopal under clause 17 read with clause 7(A) 6 of MPERC (Grid Interactive Renewable Energy System and Related Matters) Regulations, 2022 and under clause 6.40 of Madhya Pradesh Electricity Supply Code, 2021.

2. By affidavits dated 06th June', 07th June', 12th June', & 13th June', 2023, Petitioners broadly submitted the following:

- i. *The Hon'ble Commission vide its notification dated 14th July, 2022 has issued Madhya Pradesh Electricity Regulatory Commission (Grid Interactive Renewable Energy System and Related Matters) Regulations, 2022 which governs the Regulatory framework for Grid Interactive Rooftops Renewable Energy (RE) system under Net Metering.*
- ii. *The said Regulations offer certain benefits and exemptions to grid connected RE system, which are resulting in unjust enrichment of them at the cost of other consumers who do not have the space or capital to invest in Rooftop RE plants. To correct such anomaly, it is proposed to introduce Network Support Charges (NSC) or Grid Support Charges (GSC) which are the incidental charges incurred by the Licensee for providing Net-Metering Facility and Grid Support Facility.*
- iii. *The present Petition is being filed seeking levy of GSC charges applicable only on those consumers (Rooftops RE generators/consumers) who are using grid support under Net-Metering/Net Billing arrangement and also under Base Load Reduction mode (Category III). The Petitioners have also proposed to restrict the Net Metering Arrangement up to a load of 100 kW only with the intention to avoid financial loss to Discoms. Further, learning from other States and taking cognizance of Electricity (Rights of Consumers) Amendment Rules 2021, it has also been proposed to introduce the facility of Net Billing or Net Feed-in for consumers having contract demand/sanctioned load up to 500 KW.*
- iv. *While filing the present Petition under the prevailing Regulations, Petitioners endeavored to comply with the various legal and regulatory directions and stipulations applicable,*

including the directions given by the Hon'ble Commission in the Business Rules of the Commission.

- v. *Based on the information available, the Petitioner has made sincere efforts to comply with the Regulations of the Madhya Pradesh Electricity Regulatory Commission and discharge its obligations to the best of its ability and resources at its command.*

3. With the aforesaid submissions the Petitioners mainly prayed the following:

- i. *To allow levy of grid support charges on all categories of consumers with grid connected rooftop RE systems under net metering/ net billing arrangement;*
- ii. *To restrict the facility of net metering for the categories of consumers up to a sanction load/ contracted demand of 100 kW;*
- iii. *To allow levy of grid support charges on all categories of consumers with grid connected rooftop RE systems under base load reduction (Category III) arrangement;*
- iv. *To introduce the facility of net billing or net feed-in arrangement for consumers having contract demand/ sanctioned load up to 500 kW in the state;*

4. At the motion hearing held on 18th July 2023, Commission observed that the prayers made in the petition would affect the large number of consumers and also involve some Government Policies. It was therefore decided to first hear the State Government and MP Urja Vikas Nigam Limited on the issues raised in Petition before taking a view on the admissibility of the Petition. Petitioner was directed to make New and Renewable Energy Department, Government of Madhya Pradesh through Principal Secretary and MP Urja Vikas Nigam Limited through Managing Director, Respondents and serve copy of petition to them and the respondents were directed to file their response within 15 days of receipt of Petition.

5. Respondent No. 1, New and Renewable Energy Department, GoMP (MPNRED) by letter dated 04th September 2023 submitted the following in its response:

- a) *It is submitted that benefits to consumers in one form or the other is a matter of State's policy and/ or regulations, where particular categories of consumers enjoy the benefit, By virtue of these provisions of policy and/ or regulations, some consumers enrich through subsidies and some through other benefits. Hon'ble Commission may direct the Petitioner to furnish the consumption-slab-wise enrichment being availed by consumers in the form of subsidy and/or regulatory waivers. Therefore, given long term implications of proposed measures on overall ecosystem of rooftop solar projects in the State, it is requested to direct the Petitioners to share detailed facts and analysis on kind of economic differentiation being delivered out of State's policy and regulations, benefitting different consumer categories' and consumption slabs*

- b) *Petitioners have clubbed too many aspects through this Petition which would have wider import and implications for existing consumers as well as consumers decision about rooftop solar in future. Any decision in the matter without giving opportunity of being heard to affected people would not be aligned to principles of natural justice and imports of Article 14 of the Constitution of India. Therefore, it is submitted that the Hon'ble Commission may conduct detailed public hearing in all relevant matters before taking a considered view & in concerned matters or associated regulations. Subject to above and save for future submission by Respondent in the matter.*
- c) *Petitioners propose to impose grid support-charges (GSC) on all rooftop consumers. existing as well as future ones. It would create a position of negative economic discrimination retrospectively for those rooftop systems which have already been installed based on decisions taken as per prevailing regulatory provisions. Also. it would amount to change in law and a kind of penal action on them without violation of relevant laws in action. It is also submitted that MPERC (grid connected net metering) Regulations, 2015, as amended did not provide for such retrospective implications on consumers installing solar rooftop for the validity of its life. Further, it is to note that only few of the states have agreed to impose the GSC and these states have achieved significant solar rooftop capacity like Karnataka, Maharashtra and Kerala has achieved 1562 MW, 1667 MW and 497 MW respectively as compared to Madhya Pradesh who has achieved only 285 MW as on 31.07.2023.*
- d) *Petitioners have requested for restrictions on rooftop solar capacities and other matters. However, the Commission may direct the Petitioner to share detailed facts and analyses pertaining to following aspects for any considered opinion by the Respondent and a prudent decision in the matter by the Hon'ble Commission :*
- i. ***Solar is variable but reasonably predictable:*** *Solar power is variable in nature but its generation planning reasonably predictable with acceptable degree of deviation now. Given small quantum of aggregated rooftop solar capacity (275 MW) in the overall power portfolio of the Petitioner, the impact of variability may not be significant enough to create deep dents in allowable limits of deviations as per regulations. This aspect may be analysed by the Petitioner and outcome of analysis may be shared with the Hon'ble Commission for decision on way forward in this petition. Here, it is important to highlight that the Commission of Maharashtra (MERC) has mentioned that GSC on Net Metering consumers shall not be levied till the cumulative capacity of rooftop solar PV capacity reaches the 2000 KW.*
 - ii. ***MoD improvement :*** *Had there been no rooftop solar capacity in State (now, about 275 MW, as per MNRE's report dated 30 Jun 2023). Petitioners would have procured power from higher MoD (merit order dispatch) plants to meet*

the demand. It is quite possible that this power would have cost to the Petitioner with higher energy charges. With availability of solar generation capacity, the Petitioner may avoid procurement from higher MoD plants and benefit from solar generation. Hon'ble Commission may direct the Petitioner to present facts and analysis from this perspective also as well as factor its positive implications while computing proposed GSC.

- iii. **DSM penalties:** *Petitioner has worked out DSM penalties attributable to solar rooftop following some methodology. However, this needs to be assessed from the different point of views and then rationally apply such charges attributable to solar rooftop that makes reasoned commercial sense like Rooftop proliferation in State is a very recent phenomenon, say, last 5 years. So, the Petitioner may be advised by the Hon'ble Commission to submit facts and analysis to identify incremental DSM attributable to solar rooftop as compared to DSM implications attributable to power procurement portfolio of the Petitioner for over 5 years. Hon'ble Commission may examine the approach of the Petitioner in the matter and may decide the way forward in the petition.*

MPNRED Prayers to the Hon'ble Commission :

- i. *It is requested to deny the admission of the Petition, instead Hon'ble Commission may direct the Petitioner to present the data and detailed analysis for assessing the actual impact of the rooftop solar PV system on the Grid and the tariff to the end consumers. As calculation of GSC is subject matter of the Hon'ble Commission, it is requested to conduct the detailed analysis to ascertain the impact of rooftop solar PV system on the Grid and the tariff to the end consumer, if any.*
- ii. *State Government may be directed to formalize the plan for rooftop capacity addition in the state to support state in achieving National Target of 500 GW of RE by 2030 and accordingly the Hon'ble Commission may set the capacity target or timeline by which GSC shall not be levied on the consumers. It is important to highlight that the five states whose cases are presented in the petition are among top 7 states with highest rooftop capacity installation.*

| Rank | State | Capacity (MW) |
|-------------|--------------|----------------------|
| 1 | Gujarat | 2,842.23 |
| 2 | Maharashtra | 1,667.10 |
| 3 | Karnataka | 1,562.11 |
| 4 | Rajasthan | 996.17 |
| 5 | Kerala | 497.08 |
| 6 | Punjab | 471.30 |
| 7 | Tamil Nadu | 449.22 |

| | | |
|----|----------------|--------|
| 8 | Telangana | 333.50 |
| 9 | Madhya Pradesh | 285.60 |
| 10 | Punjab | 282.85 |

- iii. *Based on above, the Hon'ble Commission may propose the necessary amendment in the prevailing Regulation 2022 on suo-moto basis and propose a public consultation for the same to get the views of the individual/ commercial/ industrial establishments on the draft amendment.*
- iv. *It is important to note that, all the states except Tamil Nadu has not imposed the restriction on the capacity limitation on the rooftop solar-system under Net-Metering, therefore, if the petition would have been accepted by the Hon'ble Commission, it is requested that the Hon'ble Commission may kindly not impose the restriction on installation of rooftop solar system as per prevailing Regulation.*
- v. *Further, it may also be proposed to include the Virtual and/or Group Net Metering to allow more capacity to be tapped under the prevailing Regulation and other new features to improve the rooftop solar PV capacity addition in the state.*

6. Respondent No. 2, MPUVNL by letter dated 04th October 2023 submitted the following in its response:

- a) *Effects of global warming and associated climate changes are regularly manifested in vagaries related to weather everywhere in India. Fossil fuel based electricity generation and associated value chain has severe implications on factors driving climate change. As one of climate resilient measures, decentralized solar based electricity generation has been among policy priorities of Central and State governments since 2015. This is explicitly underscored in the fact that Govt. of India targeted 40 GW solar based electricity generation capacity in country by 2022 and State government targeted, 2200 MW rooftop solar capacity by 2022 aligned to GoI targets. Against the above target, total rooftop capacity installed in Madhya Pradesh stood at 296 MW as of August 2023, which is less than 5% of total renewable based capacity in the State. This is very low compared to Kerala, Haryana, Uttarakhand, Punjab, Gujarat and Maharashtra which all have share of solar rooftop capacity in range of 13-43% of total renewable based installed capacity as per MNRE's report for August 2023.*
- b) *In absolute terms, Gujarat, Maharashtra, Karnataka and Rajasthan have solar rooftop capacities in range of 1000-2900 MW. In a situation when even States with relatively poor solar radiation have significantly better performance in terms of solar rooftop, it implies that solar rooftop ecosystem in Madhya Pradesh urgently needs significant policy and regulatory push to keep up pace with at least other solar rich State, if not surpass those States. Therefore, it is suggested that no GSC should be imposed till total installed capacity in State reaches 1100 MW, which is 50% of capacity as envisaged in State policy for decentralized RE systems, 2016. Thereafter, a detailed analysis may be conducted by Petitioner and*

approach Hon'ble Commission for a considered view in the matter.

- c) *Hon'ble Commission is requested to issue guidelines or orders to enable for virtual net metering (VNM) and group net metering (GNM) regime in Madhya Pradesh. This is expected to be one of game changer regulatory interventions and trigger strong wave of solar rooftop capacity addition in State, particularly, by institutional categories of consumers. Hon'ble Commission has powers to suo-motu issue such guidelines or order under Reg. 14 (power to give directions) read with Reg. 16 (power to amend) of MPERC (grid interactive renewable energy systems related matters) Regulations, 2022. In this context, it is relevant and pertinent to mention that Hon'ble Delhi Electricity Regulatory Commission(DERC) had issued guidelines in 2019 enabling regulatory environment for promotion of GNM & VNM in Delhi utilizing similar enabling provisions under DERC (Net Metering for Renewable Energy) Regulations, 2014. In doing so, Hon'ble Commission may issue draft guidelines or orders for public opinion and decide in the matter after detailed public hearing and stakeholders' consultations.*
- d) *Respondent as State Agency under Reg. 14 of MPERC (cogeneration and generation of electricity from renewable sources of energy) Regulations, 2022, as amended (hereinafter, MPERC Co-gen Regulations), finds it very relevant to submit and bring to kind attention of Hon'ble Commission that the Petitioner has been consistently failing to meet its RPO obligations for last 4 financial years and it has failed in 9 out of last 12 financial years to meet RPO obligation by significant margins every year of non-compliances. This further underscores that discouragement of solar rooftop would not be in the interest of Petitioner's own regulatory compliances as these systems help meet Petitioner's RPO.*
- e) *Incremental to above, therefore, imposition of any charges, duties or taxes in the garb of innovation in the name of financial health of Discoms is not only strongly opposed by Respondent prima facie on above grounds but also specifically on grounds well explained and delineated in subsequent pointwise response to main petition as provided below:*
- i. *Petitioner's submission is citation of well-considered regulations notified by Hon'ble Commission to facilitate development of grid interactive renewables in the State under gross and net metering regime. The Commission has powers to review and amend these regulations appropriately. The Respondent does not have any submission in the matter. However, Respondent would like to bring to notice of Hon'ble Commission that rooftop capacity addition in State has been very slow.*
 - ii. *It is submitted that benefits' distribution to consumers in one form or the other is a matter of State's policy and/ or regulations, where particular categories of consumers enjoy the benefit as per policy. By virtue of these provisions of policy and/ or regulations, some consumers enrich through subsidies and some through other benefits. Petitioners may be directed to furnish consumption-slab-wise enrichment being enjoyed by consumers in the form of subsidy and regulatory waivers to take a*

considered view on claims of the Petitioner.

- iii. Domestic consumers constitute about almost three quarters of total recorded consumer base of Discoms, consumer about a quarter of total electricity sold and benefit from State's subsidy over INR 5000 crore, which about a quarter of total electricity subsidy being paid off by State government. A factual analysis may be conducted to see trade off between encouragement to and furtherance of rooftop systems vis-a-vis regular subsidy being offered by State to domestic consumers. Other categories of consumers, except agricultural consumers, are not much (relevant in the context as State subsidy towards electricity consumption to these consumers is minuscule compared to overall subsidy. Therefore, views are not submitted in respect of those consumers here. However, Hon'ble Commission may like to give option to the Petitioner to present factual views in respect of those consumers as well, if it deems necessary.*
- iv. Within domestic consumer category, about one third consumers are billed at an average of less than 100 units per month and enjoy significant subsidy under Atal Grih Jyoti Yojana, which empowers them electricity at INR 1 per unit. In all likelihood, these consumers would not migrate to rooftop system that would entail them upfront capex investment equivalent to 20-25 years of their electricity bills at current rate electricity bill payment. This is positive differentiation by State to enrich consumers who may not have space or capital to invest in solar rooftop. Hence, there seems gap in submission of the Petitioner vis-a-vis high level implicit facts, which may be ascertained and validated through detailed analysis of consumer category as well as consumption-slab wise relevant data by the Petitioner. Further, it is understood from the instant petition that Petitioner does not anticipate or target recovery of GSC from these consumers, therefore, leaving about a third of domestic consumers from ambit of the instant petition.*
- v. Within domestic consumer category, exclusive category of SC/ST BPL consumers constitute about a quarter of consumers and positively enrich significant subsidy from State exchequer. In all likelihood, these may be the consumers who may not have space or capital to invest in solar rooftop but they benefit significantly benefit from State's positive measures. This aspect again suggests gap in submission of the Petitioner vis-a-vis high level implicit facts, which may be ascertained and validated by Petitioner through detailed analysis of consumer category as well as consumption-slab wise relevant data. Further, it is understood from the instant petition that Petitioner does not anticipate or target recovery of GSC from these consumers, therefore, leaving about a quarter of domestic consumers from ambit of the instant petition.*
- vi. Assuming about 55-60%, of domestic consumers in above two categories would not come under purview of GSC for reasons explained above, Discom would be left with about 40-45%, domestic consumers who may be potential target under instant petition. However, it is estimated that a large majority of these remaining consumers would be*

falling under non-subsidized consumer category and paying full tariff, which goes to the tune of INR 7.5-8.5 per kWh in a majority cases. It will discourage these consumers to install solar rooftop through imposition of GSC. Also, Petitioner wants to retain these consumers with Discoms and pay high tariff, supposedly subsidizing other consumers within domestic category. This perspective brings a dichotomy in logical sequencing of Petitioner utilized to move forward the instant petition. Also, this does not go in right spirit of commercialization and consumer welfare as envisioned in the Electricity Act, 2003.

- vii. *Therefore, given long term implications of proposed measures on overall ecosystem of rooftop solar projects in the State, it is requested that Petitioner need to submit detailed facts and analyses on kind of economic differentiation being delivered out of State's policy and regulations, enriching different consumer categories and consumption-slabs. Basis above, a factual analysis may be conducted by Hon'ble Commission to see trade off, from commercial as well as technical point of view, between encouragement to and furtherance of rooftop systems vis-a-vis overall regular subsidy being offered by State to domestic sector consumers. The same may be followed in case of other consumer categories as well.*
- f) *Petitioner has clubbed too many aspects through this point of the Petition which would have wider import and implications for existing consumers as well as consumers' decision about rooftop solar in future. Any decision in the matter without giving opportunity of being heard to affected people would be not be aligned to principles of natural justice and imports of Article 14 of the Constitution of India. Therefore, it is submitted that Hon'ble Commission should conduct detailed public hearing in all relevant matters before taking a considered view in concerned matters or associated regulations. Subsequently, detailed facts and, analyses may be present by the Petitioner to Hon'ble Commission for a judicious view in all those matters.*
- g) **Retrospective imposition is unjust and legally not tenable:** *As suggested by language of instant Petition, the Petitioner proposes to impose grid support charges (GSC) on all rooftop consumers- existing as well as future ones. This is patently unlawful as well as ill-conceived. It would create a position of negative economic discrimination retrospectively for those rooftop systems which have already been installed based on decisions taken by respective consumers as per prevailing regulatory provisions. Also, it would amount to change in law and a kind of penal action on them without violation of relevant laws in action. It is also submitted that MPERC (grid connected net metering) Regulations, 2015, as amended did not provide for such retrospective implications on consumers installing solar rooftop under validity of its life. Further, MPERC (grid interactive renewable energy systems related matters) Regulations, 2022, as amended, does not provide for overruling or superseding provisions that enable imposition of proposed charges (GSC) on systems installed during currency of MPERC (grid connected net metering) Regulations, 2015, as amended. Therefore, it is submitted that a lawful position of imposition of GSC on systems installed*

during currency of MPERC (grid connected net metering) Regulations, 2015, as amended may be examined by Hon'ble Commission so that a situation of double jeopardy [encouraged by policy and regulations to take an economic decision but decision going haywires and penalized due to a (potential) regressive law] is not created within meaning and import of Article 20 of the Constitution of India for consumers and system already installed under MPERC (grid connected net metering) Regulations, 2015, as amended.

- h) **Load reduction not allowed:** As a continuation of submissions above, prevalent billing practices of Discoms do not allow reduction in sanctioned load/ contracted demand equivalent to solar rooftop capacity. This is adequately reinforced by the billing methodology and approach prescribed under Annexure-I of MPERC (grid interactive renewable energy systems related matters) Regulations, 2022, as amended. Therefore, imposition of GSC would be amount to double jeopardy for consumers who have not been allowed to adequately reduce sanctioned load/ contract demand equivalent to capacity of net metered system. Therefore, imposition of GSC on consumers, whose contracted demand/ sanctioned load has not been reduced, is opposed on this very logical and lawful ground.
- i) The Petitioner has requested for restrictions on rooftop solar capacities and other matters. However, it is requested that Petitioner should share detailed facts as well as analyses and make presentation before Hon'ble Commission and Respondent pertaining to following aspects for any considered opinion by the Respondent and a prudent decision in the matter by Hon'ble Commission:
- a. **Solar is variable but reasonably predictable:** Solar power is variable in nature but its generation planning is reasonably predictable with acceptable degree of deviation now. Given small quantum of aggregated rooftop solar capacity (296 MW) in overall power portfolio of the Petitioner consisting of over 22-23 thousand MW from conventional generation only, the impact of even 20% variability on a normal scheduling day may not be significant enough to create deep dents in allowable limits of deviations as per regulations. This aspect may be analyzed by the Petitioner and share facts and outcome of analyses with Hon'ble Commission for decision on way forward in this petition.
- b. **MoD improvement:** Had there been no rooftop solar capacity in State (now, about 296 MW, as per MNRE's report dated August 2023), the Petitioner would have procured power from higher MoD (merit order dispatch) plants to meet the demand during months/ seasons when these solar based generation is available. It is quite possible that this power would have come cost the Petitioner at higher energy charges. With availability of solar generation capacity, the Petitioner may avoid procurement from higher MoD plants and benefit from solar generation. Here, it is pertinent to note that lean demand seasons of Petitioner, when MoDs are lower, generation from solar is also lower. Thus, solar based generation seems naturally offering MoD optimization opportunity throughout year in

general and during peaking season in particular (October to March). Therefore, the Petitioner is requested to consider and analyze from this perspective also, as well as factor its positive implications while computing proposed GSC.

- c. **Opportunity benefit to Petitioner;** The surplus power from rooftop, if any, injected into grid would fetch the Petitioner money at the rate of average cost of supply (ACoS) or more. This would be another aspects that would need analyses by Petitioner and present facts before Hon'ble Commission to assess positive techno-commercial impacts of rooftop solar on its business and decide way forward in present petition. A high level analysis on impact of solar rooftop replacing regular portfolio implies that it is may not be a loss making business for Petitioner per se in a conducive business scenario. This alternate perspective is also presented for consideration of Hon'ble Commission and State government and utilization as appropriate in future regulatory or policy directions.
- d. **Double accounting of network charges:** in terms of methodology of billing described by Hon'ble Commission at Annexure-1 of MPERC (grid interactive renewable energy systems and related matters) Regulations, 2022, (GIRES Regulations), the Petitioner gets necessary fixed cost at prescribed rate on full electricity accounted to have been supplied by the Petitioner. This charge comes to the tune of INR 1.73 per kWh to INR 1.80 per kWh in situations of net injection or net drawl respectively. This ensures recovery of charges more than Discom's network and O&M charges as approved by Hon'ble Commission in its RTO for FY24. Hence, provisioning and re-building network charges in GSC or arriving at the GSC following the methodology prescribed in the instant petition seems oblivious of this major aspect of regulations and tends to double accounting and amounting to double jeopardy to consumers. Hon'ble Commission may look into rationale and position of justice in respect of the same while deciding way forward in the petition.
- e. **Prudence check on impact of transmission charges:** As per contractual provisions, CTU and STU charges attributable to transmission service agreements have to be borne even if power is not scheduled. As per retail tariff order (RTO) for FY24, cumulative CTU and STU charges is INR 7364.92 crore and total sales is 72136.47 MUs as approved by Hon'ble Commission. This translates to INR 2.27 per kWh as average of transmission charges. Now, supposing 296 MW rooftop equivalent conventional power is backed down, the fixed cost would become INR 2.29 per kWh. This means, surrender or backdown of conventional sources of generation attributable to rooftop would not impact recovery of FA against PPA significantly.
- f. **DSM penalties:** Petitioner has worked out DSM penalties attributable to solar rooftop following some methodology. However, this needs to be assessed from

following point of views and then rationally apply such charges attributable to solar rooftop that makes reasoned commercial sense:

- *As per records of Ministry of New and Renewable Energy (MNRE) dated August 2023, Madhya Pradesh has cumulatively 296 MW rooftop solar capacity installed. This capacity may be ordinarily assumed to be available for generation in line with availability forecasts by large scale projects in State. However, a deviation of 20^o attributable to this capacity would hardly translate to 60 MW solar capacity and equivalent generation profile for concerned time slot/ day/ month etc. That would have almost insignificant incremental impact either on the grid or on the DSM charges.*
- *Rooftop proliferation in State is a very recent phenomenon, say, last 5 years. So, the Petitioner may be advised by Hon'ble Commission to submit facts and conduct analyses to identify incremental/ pro-rata DSM attributable to solar rooftop as compared to legacy DSM implications attributable to power procurement portfolio of the Petitioner for over 10 years.*
- *DSM implications are not only attributable to rooftop solar in particular and renewable energy in general. Historical facts and data on DSM implications (both penalties and incentives) for last 10 years may be analyzed to get impression of actual implications attributable to renewables in general and pro-rata for rooftop projects in particular.*
- *Solar projects generate during daytime. So, overall Implication of DSM penalties and benefits may be worked out for day and night hours separately. Accordingly, net/ pro rata daytime DMS penalty should be worked out that may be attributable to solar rooftop, if any. In view of the above perspectives, Hon'ble Commission is requested to advise the Petitioner to present data and analyses on incremental implications of DSM attributable to rooftop solar only to avoid disproportionate socialization of DSM charges on account of solar rooftop systems. Accordingly, the Commission may examine the approach of the Petitioner in the matter and decide way forward in the petition for lawful position of justice to rooftop solar consumers.*

7. With the aforesaid submissions Respondent No. 2 Pointwise prayed the following:

- i. *The Respondent has elaborated its concerns and wider implications of the subject petition. Therefore, Petitioner is requested to present finer elements of facts and analyses around but not limited to the concerns raised by Respondent before Hon'ble Commission*

for it to take techno-commercially appreciable decisions in the matter. Further, Respondent submits following request for considered decision of Hon'ble Commission:

- ii. Hon'ble Commission is requested to appropriately consider above facts and submissions of Respondent while taking any decision in the matter.*
- iii. Requirement of grid support charges is not called for. However, if it becomes expeditious in the wisdom of Hon'ble Commission, it may be considered only after cumulative rooftop solar capacity in the State surpasses 1100 MW to help promote the ecosystem in near future. Even after that, it is submitted that a thoroughly assessed position/ charges may be determined by Hon'ble Commission in light of all above situations and logical sequencing submitted by Respondent.*
- iv. In cases where sanctioned load/ contract demand reduction is not allowed to consumers, GSC should not be allowed.*
- v. As the subject matter of instant petition involves matters under MPERC (grid interactive renewable energy systems related matters) Regulations, 2022, as amended, it is requested that the Commission should suo-motu initiate proceedings for assessment of VNM and GNM regime and issue orders/ guidelines as appropriate This would help in looking at potential ecosystem on larger canvas and come out with a better position in matters involving imposition of GSC as proposed by Petitioner. Hence, it is requested to look both matters in sync and unison for better clarity to stakeholders on regulatory regime for rooftop segment.*
- vi. Net billing or any other kind of commercial arrangement may not be helpful for solar rooftop ecosystems. In other States also net billing regime has not been welcome by concerned stakeholder. Therefore, it is submitted not to be considered.*
- vii. Restriction of upper capacity for net metered systems from current 500 kW to 100 kW is also not a welcome step and requested from Hon'ble Commission to retain current regulatory provisions.*
- viii. It is underscored that imposition of GSC would have wide spread connotation among public and would be tested against litmus of techno-commercial prudence as well as lawful position of it. Therefore, the Commission is requested to take 360 degree views in matter involving 2-3 public hearings and stakeholder consultations each to decide way forward in the petition. In the end, following provision of the Constitution of India is relevant for consideration of Hon'ble Commission:*

“The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void [CI. 2 of Article 13 of the Constitution of India]”

8. On the direction of Commission, Petitioner MPPMCL vide letter dt. 09.10.2023 submitted voltage wise list of net metering connections served so far in the State indicating capacity added. The summary of Net-Metered connections served so far is as under: -

| Sr. No. | Voltage Level | Discoms | No. of Connections | Capacity (kW) |
|----------------|----------------------|----------------|---------------------------|----------------------|
| 1 | LT | East | 4539 | 34685.04 |
| | | Central | 9495 | 57741.09 |
| | | West | 8613 | 65386.53 |
| | | Total | 22647 | 157812.66 |
| 2 | 11 kV | East | 98 | 6977.62 |
| | | Central | 111 | 14238.00 |
| | | West | 141 | 10100.60 |
| | | Total | 350 | 31316.22 |
| 3 | 33 kV | East | 90 | 22120.30 |
| | | Central | 206 | 74449.80 |
| | | West | 250 | 45771.98 |
| | | Total | 546 | 142342.08 |
| 4 | 132 kV | East | 0 | 0.00 |
| | | Central | 0 | 0.00 |
| | | West | 1 | 975.00 |
| | | Total | 1 | 975.00 |

9. At the hearing held on 10.10.2023, Respondent No. 1 was allowed to submit response on merit within 3 days. Petitioner No. 1 was allowed to make rejoinder within 7 days thereafter. Case was fixed for hearing on 31.10.2023
10. Respondent No. 1, MPNRED by Letter dated 12th October 2023 submitted pointwise response on merit. Commission has noted that no additional submission was made in letter dated 12.10.23 other than what was already submitted in letter dated 04.09.23 covered under Para 6 above.
11. By affidavits dt. 27.10.2023 & 30.10.2023, 3 interveners namely Oswal Woollen Mills Ltd, Pickrenew Energy Pvt. Ltd. and Vardhaman Textile Ltd, Mandideep filed Interlocutory Applications no. 06, 07 & 08 and sought permission for intervention and impleadment in the present Petition and broadly submitted the following:
- i. *For the purpose of meeting its power requirements the applicant's companies, in pursuance of various agreements entered into with the petitioner(s) herein has set UP solar energy-based Rooftop RE power plant. The applicant is filing the present application seeking permission of this Hon'ble Madhya Pradesh Electricity Regulatory Commission ("Hon'ble Commission") to intervene and be impleaded as a respondent in the Petition no. 31 of 2023 titled as Petition under Clause 17 read with Clause 7(A) 6 of MPERC (Grid Interactive*

Renewable Energy System and Related Matters) Regulations, 2022 and under Clause 6.40 of Madhya Pradesh Electricity Supply Code, 2021 for seeking levy of grid support charges on all categories of consumers with grid connected rooftop RE system under net metering & under Category III (Base Load Reduction during day) along with Introduction of net billing or net Feed-in Arrangement. “Captioned Petition”) which is pending adjudication before this Hon’ble Commission. Captioned Petition is listed for hearing on 31.10.2023.

- ii. The present Petition has been filed by the Petitioner(s) under Clause 17 read with Clause 7(A) 6 of MPERC (Grid Interactive Renewable Energy System and Related Matters) Regulations, 2022 and under Clause 6.40 of Madhya Pradesh Electricity Supply Code, 2021, for seeking levy of grid support charges on all categories of consumers with grid connected rooftop RE system under net-metering & under Category III (Base Load Reduction during day) along with Introduction of net billing or net Feed-in Arrangement.*
- iii. It is submitted that the Applicant came to know about the filing of the present Petition from the website of this Hon’ble Commission and the Applicant is a necessary party to this petition as from the title of the petition mentioned in the orders of the Hon’ble Commission, it is evident that the petitioner has filed the present petition seeking levy of 'Grid Support Charges' on all categories of consumers and therefore the outcome of the captioned petition will have a direct impact on the applicant company as the applicant company is generating and consuming power under the said Rooftop RE system only and the petitioner intends to levy the said charge on consumers like the applicant company. The Hon’ble Commission in its order dated 18.07.2023 in the said petition only has rightly observed as under:-*

“At the motion hearing held on 18.07.2023, Shri Manoj Dubey, Advocate appearing on behalf of the Petitioners reiterated the prayers made in Petition. After hearing the prayer, Commission observed that the prayer made in the Petition would affect the large number of consumers and also involve some Government Polices.”

Therefore, the applicant humbly submits that in the present petition, it is imperative and essential that a public hearing should take place and all the parties who shall be affected by the outcome of the petition be allowed to present their objections/views on the captioned petition before this Hon’ble Commission passes any order in the said petition.

- iv. The present Application is being filed to get the Applicant impleaded in the captioned Petition, as the Applicant is a necessary party and the decision of this Hon’ble Commission shall have a direct implication on the Applicant and other similarly situated developers.*

- v. *It is humbly submitted that the Applicant will also assist this Hon'ble Commission in the adjudication of the present petition.*
- vi. *In light of the above facts and circumstances, it is in the interest of justice, fair play, and equity that the Applicant is impleaded as a party in the captioned Petition as the legal issues pending in the said Petition, and the outcome of the same, will have a direct and significant impact on the legal rights of the Applicant company.*
- vii. *In view of the above, it is humbly submitted that the Applicant is a necessary and proper party to the captioned Petition and hence ought to be allowed to be implemented in the present proceedings. The Hon'ble Supreme Court in the matter of Ramesh Hirachand Kundanlal Municipal Corporation of Greater Bombay (1992) 2 SCC 524 held as follows:*

“ 6.... The question of impleadment of a party has to be decided on the touch stone of Order 1 Rule 10 of the Code of Civil Procedure, 1908, which provides that only a necessary or a proper party may be added. In the light of the clear language of the Rule, it cannot be said that a person cannot be added as defendant even in a case where his presence is necessary to enable the Court to decide the matter effectively. A necessary party is one without whom no order can be made effectively. A proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved the proceeding. The addition of parties is generally not a question of initial jurisdiction of the Court but of a judicial discretion which has to be exercised in view of all the facts and circumstances of a particular case. The Court is empowered to join a person whose presence is necessary for the prescribed purpose and cannot under the Rule direct the addition of a person whose presence is not necessary for that purpose.”

- viii. *It is submitted that applying the aforesaid finding of the Hon'ble Supreme Court, it is clear that the Applicant is a necessary party whose presence is required to enable this Hon'ble Commission to completely, effectively and adequately adjudicate upon the subject matter captioned Petition. The applicant humbly submits that the Hon'ble Commission being a statutory authority is bound to act in a fair manner and ensure transparency in their actions. The applicant further submits that Section 86(3) of the Electricity Act' 2003 also imposes the obligation on the State Commission to ensure transparency in its working.*

- ix. *It is humbly submitted that considering the situation, if the Applicant is precluded from participating in the said proceedings, it shall gravely prejudice the rights of the Applicant herein.*
- x. *In addition to and without prejudice to the above, it is respectfully submitted that the impleadment of the Applicant will not delay the proceedings before this Hon'ble Communication as the matter is at a very initial stage.*
- xi. *It is submitted that no harm or prejudice would be caused to any of the parties, in case the Applicant is impleaded as a party in the captioned Petition whereas in case the present application is not allowed and the applicant is not permitted to intervene then the Applicant is likely to suffer grave prejudice and irreparable loss in as much as it would not be able to take effective steps to advance legal arguments and protect its interest.*
- xii. *That in view of the above, the present Application is filed bonafide and in the interest of justice.*

12. With the aforesaid submissions the Interveners prayed the following:

- i. *Allow the present application for Intervention & Impleadment and implead the Application as party Respondent;*
- ii. *Direct the Petitioner(s) to provide a copy of the petition filed along with the annexures therein before the Hon'ble Commission for approval along with comments if any from other stakeholders as the said petition is not available on the website of the Hon'ble Commission;*
- iii. *Provide a time of minimum 14-21 days to the petitioner to prepare and file their submissions/ objections to the present petition.*
- iv. *Allow the present Applicant to file detailed submissions in the present matter.*

13. Last hearing in the subject matter was held on 31 October' 2023. At the hearing held on 31.10.2023, Interveners stated that the issues involved in the instant petition may affect their interest, as such they want to submit their objections/ comments in the matter. Interlocutory Applications filed by 3 interveners were accepted and the Interveners were allowed to submit their objections/ comments in 10 days with a copy to petitioners. Petitioners were also allowed to file comprehensive rejoinder on the responses of MP Urja Vikas Nigam Limited and New & Renewable Energy Department, Government of MP as well as on the responses of Interveners within 1 week from the date of receipt of responses from Interveners. With the above observations, IA No. 06, 07 & 08/2023 were disposed of.

14. On 09.11.2023 the intervener Oswal Woolen Ltd., broadly submitted the following in their response:

- i. *I say that the Electricity Act, 2003 was enacted to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto. The relevant provisions of Electricity Act, 2003 provides as under:*

Section 2. (Definitions) : — *in this Act, unless the context otherwise requires,-*

(15) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law, for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

"distribution licensee" means a licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;

Section 61. (Tariff regulations): *The Appropriate Commission shall subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-*

(d) safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;

(h) the promotion of co-generation and generation of electricity from renewable sources of energy;

Section 62. (Determination of tariff): — *(1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for—*

(a) supply of electricity by a generating company to a distribution licensee; Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity;

(b) transmission of electricity;

(c) wheeling of electricity;

(d) retail sale of electricity;

Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission may, for promoting competition among distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity.

(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.

Section 64 (Procedure for tariff order):-

(1) An application for determination of tariff under section 62 shall be made by a generating company or licensee in such manner and accompanied by such fee, as may be determined by regulations.

(2) Every applicant shall publish the application in such abridged form and manner, as may be specified by the Appropriate Commission.

(3) The Appropriate Commission shall, within one hundred and twenty days from receipt of an application under sub-section (1) and after considering all suggestions and objections received from the public,-

(a) issue a tariff order accepting the application with such modifications or such conditions as may be specified in that order;

(b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of this Act and the rules and regulations made thereunder or the provisions of any other law for the time being in force:

Provided that an applicant shall be given a reasonable opportunity of being heard before rejecting his application.

(4) The Appropriate Commission shall, within seven days of making the order, send a copy of the order to the Appropriate Government, the Authority, and the concerned licensees and to the person concerned.

Section 86. (Functions of State Commission) :-

(1) The State Commission shall discharge the following functions, namely.

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State.

(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(k) discharge such other functions as may be assigned to it under this Act.

(3) The State Commission shall ensure transparency while exercising its powers and discharging its functions

Section 176 (Power of Central Government to make rules):- (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(z) any other matter which is required to be, or may be, prescribed.

Section 181 (Power of State Commission to make regulations):-- (1) The State commissions may, by notification, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.

(2) in particular and without prejudice to the generality of the power contained in subsection (1), such regulations may provide for all or any of the following matters namely.

(zd) the terms and conditions for the determination of tariff under section 61:

(zi) the manner by which development of market in power including trading specified under section 66;

(3) All regulations made by the State Commission under this Act shall be subject to the condition of previous publication

ii. I say that, on 04.10.2016, Madhya Pradesh Policy for Decentralized Renewable Energy Systems, 2016 was notified by the Government of Madhya Pradesh. The aforesaid Policy inter-alia, provided as under:

PREAMBLE

1.1 To harness the abundantly available Renewable Energy (RE) potential in the state , the Government of Madhya Pradesh wishes to encourage the development of decentralized RE projects and applications through this policy document . With recent technological advances in the sector and achievements in the space of large scale RE based power generation, green energy has emerged as a viable and sustainable alternative to electricity produced from fossil fuel.

1.2 Amongst RE sources of generation, solar energy has by far the most suitable technology in the market today for decentralized and distributed energy generation. A distributed solar energy application offers a number of options for a wide variety of stakeholders to harness RE generation and, hence, is expected to become the most

popular option for harnessing RE amongst consumers and small independent power producers.

1.3 The State of Madhya Pradesh is endowed with more than 300 clear sunny days with average solar irradiation of $-5.5 \text{ kWh/m}^2/\text{day}$. The state now, intends to take forward the ambitious and forward looking vision adopted by it under the "Madhya Pradesh Solar Policy, 2012", which has provided a major thrust to the installation of grid-connected solar projects in the state, by providing a similar thrust through this policy document.

1.9 The Government of Madhya Pradesh in its endeavour to promote decentralized RE Systems would encourage them to operate in the following ways.

a. Grid Connected RE Systems

i. Category I: On Net Metered basis

ii. Category II: Gross Metering with wheeling & banking

iii. Category III: For consumption within Premises with no export of power (Reduction in Base load during day)

b. Off Grid RE Systems

1.10 With the view of promoting development and deployment of decentralized and distributed RE systems in the state of Madhya Pradesh, especially solar PV rooftop systems and other RE Systems, the Department of New and Renewable Energy, Government of Madhya Pradesh hereby notifies the "Madhya Pradesh Policy for decentralized Renewable Energy Systems, 2016".

.....
1.12 While this policy aims to promote all decentralized and distributed RE technologies and is technology neutral, for the purposes of discussion and application. the focus would be mostly on decentralized and distributed solar PV rooftop systems, since amongst all technologies, solar PV rooftop has the largest potential for mass replication amongst consumers and small independent power producers for the following reasons - 1) solar PV rooftop systems are already meeting grid parity for commercial and industrial applications, and will also meet grid parity with residential consumer tariffs over the next few years; 2) solar PV rooftop technology is robust and modular in nature with an established supply chain; 3) banks and financial institutions are familiar with solar technology; 4) solar technology has no fuel requirement, and is a plug and play technology with no substantial operation and maintenance requirements; and 5) solar technology is easily replicable and scalable.

iii. I say that, on 31.12.2020, Central Government, in exercise of powers conferred by sub-section (1) read with clause (z) of sub-section (2) of section 176 of the Electricity Act 2003, notified Electricity (Rights of Consumers) Rules, 2020, inter-alia, providing as under:

2. **Definitions.** - (1) in these rules, unless the context otherwise requires,

(m) "prosumer" means a person who consumes electricity from the grid and can also inject electricity into the grid for distribution licensee, using same point of supply.

11. Consumers as prosumer.-(1) While the prosumers will maintain consumer status and the same rights as the general consumer, they will also have right to set up Renewable Energy (RE) generation unit including roof top solar photovoltaic (PV) systems – either by himself or through a service provider.

(3) The Commission shall lay down regulations on Grid Interactive Roof top Solar PV system and its related matters with timelines of not exceeding six months from the date of notification of these rules, in case the same has not been notified.

iv. I say that, on 28.06.2021, Central Government, in exercise of powers conferred by sub-section (1) read with clause (z) of sub-section (2) of section 176 of the Electricity Act 2003, notified Electricity (Right of Consumers) Amendment Rules, 2021 to amend the Electricity (Rights of Consumers) Rules, 2020. The Electricity (Right of Consumers) Amendment Rules 2021, inter-alia, provide as under:

2. In the Electricity (Rights of Consumers) Rules, 2020 (hereinafter referred to as the said rule), in rule 2, in sub-rule (1),-

(a) after clause (i), the following clause shall be inserted, namely:-

(jb) “**net-metering**” means a mechanism whereby solar energy exported to the Grid from Grid Interactive rooftop Solar Photovoltaic system of a Prosumer is deducted from energy imported from the Grid in units (kWh) to arrive at the net imported or exported energy and the net energy import or export is billed or credited or carried-over by the distribution licensee on the basis of the applicable retail tariff by using a single bidirectional energy meter for net-metering at the point of supply; ’

3. In the said rules, in rule 11, -

(a) for sub-rule (4), the following sub-rule shall be substituted, namely :-

"(4) The arrangements for net-metering, gross-metering, net-billing or net feed-in shall be in accordance with the regulations made by the State Commission, from time to time:

(b) for sub-rule (13), the following sub-rule shall be substituted namely:-

(13) The solar energy generated by prosumer shall be adjusted against energy consumed and bill amount as per regulations made by the Commission for Grid Interactive rooftop Solar Photovoltaic system.

v. I say that in terms of Electricity (Right of Consumers) Amendment Rules 2021, the arrangement for net-metering shall be in accordance with the regulations notified by the State Commission.

vi. I say that, on 14.07.2022, this Hon'ble Commission. in exercise of powers conferred under Section 61 (h) and Section 86 (1) (e) read with clause (zd) and (zi) of sub-section (2) of Section 181 of the Electricity Act 2003, notified Madhya Pradesh Electricity Regulatory Commission (Grid Interactive Renewable Energy Systems and related matters) Regulations 2022 [hereinafter 'MPERC Grid Interactive Renewable Energy Systems Regulations 2022'], inter-alia, providing as under:

2. Definitions:-

(1) in these Regulations, unless the context otherwise requires.-

q) "Net Metering" means an arrangement under which a Renewable Energy Generating System with Net Meter installed at a prosumer's premises, delivers surplus electricity, if any, to the distribution Licensee after setting off the quantum of electricity supplied by such Licensee during the applicable Billing Period.

v) "Renewable Energy Generating System" means the Renewable Energy power system that uses Renewable Energy for conversion into electricity with or without energy storage and which is owned and/or operated by such prosumer and which is installed on premises owned by prosumer,

3. Scope and Application:-

1. These Regulations would apply to:

(a) Net Metering Arrangements

(b) Gross Metering Arrangements

2. These Regulations shall be applicable to all Grid Interactive Renewable Energy Generating Systems.

Provided that, existing prosumers who are already availing the facility of Net Metering and have installed capacity above 500 kW shall continue to get the benefit of net metering facility under these Regulations.

7. Energy Accounting and Settlement

7 A. Net Metering Arrangement:-

1. The Distribution Licensee shall undertake meter reading of the bi-directional meter, for all prosumers, according to the regular billing cycle.

2. For each Billing Period, the Distribution Licensee shall make the following information available on its bill to the prosumer.

a. Quantum of electricity injected by RE system in the grid in the billing period, showing opening and closing balance;

b. Quantum of electricity supplied by the Distribution Licensee in the billing period, showing opening and closing balance;

c. Quantum of Net billed electricity;

d. Excess electricity carried forward from the last billing period;

e. Excess electricity carried forward to the next billing period: and

f. Units used by the Distribution Licensee for RPO compliance;

3. The energy exported by the Renewable Energy Generating System shall be offset against the energy consumption of the prosumer from the Distribution Licensee in the following manner.

a. If the quantum of electricity units exported exceeds the quantum imported during the Billing Period, the excess quantum of electricity units shall be carried forward to the next Billing Period as credited units of electricity.

b. If the quantum of electricity units imported by the prosumer during any Billing Period exceeds the quantum of electricity units exported, the Distribution Licensee shall raise its invoice for the electricity consumption after adjusting the credited units; and

c. In such case where the prosumer is under the ambit of time-of-day tariff, the electricity consumption in any time block (e.g., peak hours, off-peak hours, etc.) shall be first compensated with the electricity generation in the same time block. Any cumulative excess generation over and above the consumption in any other time block in a billing cycle shall be accounted as if the excess generation occurred during the off-peak time block.

Provided that the imported units under Regulation 7(A) clause 3(a), 3(b) and 3(c) shall satisfy the minimum energy charges criteria or Minimum Charges based on Consumption, as the case may be, of the Retail Supply Tariff order for the respective category of consumer, else charges determined for minimum energy charges criteria or Minimum Charges based on Consumption, as the case may be, in Retail Supply Tariff Order shall be applicable.

5. In cases where the fixed Charges are computed based on consumed units as per Retail Supply Tariff Order, the Fixed Charges shall be computed based on electricity units imported from the Grid.

The Distribution Licensee in addition to consumer tariff shall be eligible to raise invoice for any other charges as allowed by the Commission and any tax/duty/cess imposed by the Government on the net billed units.

8. Renewable Purchase Obligation: - *The quantum of energy injected by the prosumer from the Renewable Energy System under Net Metering or Gross Metering Arrangement shall qualify towards compliance of Renewable Purchase Obligation (RPO) for the Distribution Licensee*

9. Applicability of other charges: *The Renewable Energy system under Net Metering or Gross Metering Arrangement, as the case may be, whether self-owned or third party owned installed on prosumer premises, shall be exempted from banking charge, wheeling charges, cross subsidy surcharge and additional surcharge.*

[Emphasis Supplied]

- vii. *I say that bare reading of the Petition filed by the Petitioner reflect that the Petitioner is admitting that as on date there is no regulatory provision enabling imposition of Grid Support Charges. In this regard, the relevant extract of the Petition reads as under:*

1.6 Petitioners submit that there are some incidental expenses which are being incurred by the Distribution Licensee while facilitating Net Metering arrangement and or extending facility of the Petitioner's distribution network. Such expenses are not only recognized by other States in India but in other countries as well. However, the present Regulations do not address recovery of any such incidental expenses.

2.9 The Petitioners wish to submit that at present the existing Regulations do not address any such concern being faced by the Distribution Licensees. Rather the present Regulations exempt various charges such as banking charge, wheeling charges, cross subsidy surcharge and additional surcharge for rooftops consumers with Net Metering. The Petitioners understand that initially there was a need to provide exemptions/ relaxations for RE system as part of promotional activities. However, with the increasing penetration of such intermitted source of power, there is a need to introduce balancing charges as well to facilitate recovery of the fixed cost of Utility.

- viii. *I say that if it is admitted fact that there is no regulation governing relief sought by the petitioners, then provisions of Section 181 of the Electricity Act, 2003 is required to be followed mandatorily. Section 181 mandatorily requires public hearing. Section 9 of MPERC Grid Interactive RE Regulations, 2022 which exempts rooftop from any other charges is required to be amended following the procedure as per Electricity Act and only when this Hon'ble Commission determines that the target set up by state of Madhya Pradesh for rooftop solar has been achieved. The Hon'ble Supreme Court in catena of judgments has upheld that renewable energy plants are required to be promoted. The reliance of Petitioners on Regulation 17 of MPERC Grid Interactive Renewable Energy Systems Regulations 2022 is also misplaced. Regulation 17 empowers this Hon'ble Commission to deviate from regulation in procedural matter. If we assume that this Hon'ble Commission can deviate from substantive provisions of regulation, then Section 181 of the Electricity Act, 2003 will be redundant which can never be the intention of any subordinate legislation.*

- ix. *I say that as per MPERC Grid Interactive Renewable Energy Systems Regulations 2022, the Renewable Energy system (including grid connected rooftop RE System) under Net Metering, whether self-owned or third party owned installed on prosumer premises shall be exempted from banking charge, wheeling charges, cross subsidy surcharge and additional surcharge. The above regulations do not provide for levy of Grid Supply Charges. This Hon'ble commission in specific terms excluded applicability of any charges on net metering arrangement vide Regulation 9 of MPERC Grid Interactive Renewable Energy Systems Regulations 2022.*

- x. *I say that the Petitioners, knowing very well that they cannot impose any charges, known in law, on rooftop plants are proceeding to propose a charge which is unknown in law. It is a settled principle that what you cannot do directly, you are not allowed to do that indirectly as well ("**Quando aliquid prohibetur ex directo, prohibetur et per obliquum**").*

- xi. *I say that reading of the petition reflect that the Petitioners are trying to take away such benefits, through a judicial order, which have been provided by this Hon'ble Commission*

exercising its legislative function. Bare reading of following para 1.7 of the Petition reflects the true intention of the Petitioner;

“1.7 The said Regulations offer certain benefits and exemptions to grid connected RE system, which are resulting in unjust enrichment of them at the cost of other consumers who do not have the space or capital to invest in Rooftop RE plants. To correct such anomaly, it is proposed to introduce a Network Support Charges (NSC) or Grid support Charges (GSC) which are the incidental charges incurred by the Licensee for providing Net-Metering Facility and Grid Support Facility.”

xii. *I say that neither the Electricity Act 2003 nor the regulations framed thereunder provide for levy of Grid Support Charges on the consumers with Grid Connected rooftop Renewable energy systems under Net Metering arrangement/Base Load reduction (Category III) arrangement. It is submitted that charges/ fees etc. can be levied only by authority of law. In this regard, following decision of the Hon’ble Supreme Court are relevant:*

a) *Kandivali Coop. Industrial Estate -v- Municipal Corpn. of Greater Mumbai. (2015) 11 SCC 161 : 2015 SCC OnLine SC 98*

24. However, it would be appropriate to refer to the principles laid down by this Court in Commr., Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt [Commr., Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, AIR 1954 SC 282 : 1954 SCR 1005] . which according to us will be the complete answer to the points raised by Mr Divan and Mr Singh, learned Senior Counsel appearing for the appellants. In para 44, this Court observed: (AIR p. 295)

“44. Coming now to fees, a ‘fee’ is generally defined to be a charge for a special service rendered to individuals by some governmental agency. The amount of fee levied is supposed to be based on the expenses incurred by the Government in rendering the service, though in many cases the costs are arbitrarily assessed. Ordinarily, the fees are uniform and no account is taken of the varying abilities of different recipients to pay vide Lutz on ‘Public Finance’, p. 215. These are undoubtedly some of the general characteristics, but as there may be various kinds of fees, it is not possible to formulate a definition that would be applicable to all cases.

25. A fee undoubtedly, is a payment primarily in public interest, but for some special services, rendered or some special work done for the benefit of those from whom payments are demanded. In other words fees must be levied in consideration of certain services which the individual accepts willingly or unwillingly. It is also necessary that fees or charges so demanded must be appropriated for that purpose and must not be used for other general public purposes. Further, indisputably, the legislature can delegate its power to statutory authority to levy taxes or fees and fix the rate in regard thereto.

26. Elaborating the distinction between a tax and a fee, this Court in a number of decisions held that the element of compulsion or coercion is present in all impositions, though in different degrees and that it is not totally absent in fees. The compulsion lies

in the fact that payment is enforceable by law against a man in spite of his unwillingness or want of consent and this element is present in taxes as well as in fees.

- b) *Ahmedabad Urban Development Authority -v- Sharad kumar Jayanti kumar Pasawalla, (1992) 3 SCC 285*

7. After giving our anxious consideration to the contentions raised by Mr Goswami, it appears to us that in a fiscal matter it will not be proper to hold that even in the absence of express provision, a delegated authority can impose tax or fee. In our view, such power of imposition of tax and/or fee by delegated authority must be very specific and there is no scope of implied authority for imposition of such tax or fee. It appears to us that the delegated authority must act strictly within the parameters of the authority delegated to it under the Act and it will not be proper to bring the theory of implied intent or the concept of incidental and ancillary power in the matter of exercise of fiscal power. The facts and circumstances in the case of District Council of Jowai are entirely different. The exercise of powers by the Autonomous Jaintia Hills Districts are controlled by the constitutional provisions and in the special facts of the case, this Court has indicated that the realization of just fee for a specific purpose by the autonomous District was justified and such power was implied. The said decision cannot be made applicable in the facts of this case or the same should not be held to have laid down any legal proposition that in matters of imposition of tax or fees, the question of necessary intendment may be looked into when there is no express provision for imposition of fee or tax. The other decision in Khargram Panchayat Samiti case [(1987) 3 SCC 82] also deals within the exercise of incidental and consequential power in the field of administrative law and the same does not deal with the power of imposing tax and fee.

8. The High Court has referred to the decisions of this Court in Hingir case IAIR 1961 SC 459 : (1961) 2 SCR537] and Jagannath Ramanuj case IAIR 1954 SC 400 . 1954 SCR 1046] and Delhi Municipal Corporation case [(1983) 3 SCC 229 : 1983 SCC (Tax) 154 : AIR 1983 SC 617] . It has been consistently held by this Court that whenever there is compulsory exaction of any money, there should be specific provision for the same and there is no room for intendment. Nothing is to be read and nothing is to be implied and one should look fairly to the language used. We are, therefore, unable to accept the contention of Mr Goswami. Accordingly, there is no occasion to interfere with the impugned decision of the High Court. The appeal, therefore, fails and is dismissed with no order as to costs.

- c) *National Mineral Development Corpn. Ltd. -v- State of M.P., (2004) '6 SCC 28 1 : 2004 SCC OnLine SC 622*

23. Section 9 is not the beginning and end of the levy of royalty. The royalty has to be quantified for purpose of levy and that cannot be done unless the provisions of the Second Schedule are taken into consideration. For the purpose of levying any charge, not only has the charge to be authorized by law, it has also to be computed. The charging provision and the computation provision may be found at one place or at two different places depending on the draftsman's art of drafting and methodology employed. In the latter case, the charging provision and the computation provision, though placed in two parts of the enactment, shall have to be read together as constituting one integrated provision. The charging provision and the computation

provision do differ qualitatively. In case of conflict, the computation provision shall give way to the charging provision. In case of doubt or ambiguity the computing provision shall be so interpreted as to act in aid of charging provision. If the two can be read together homogeneously then both shall be given effect to, more so, when it is clear from the computation provision that it is meant to supplement the charging provision and is, on its own, a substantive provision in the sense that but for the computation provision the charging provision alone would not work. The computing provision cannot be treated as mere surplusage or of no significance; what necessarily flows therefrom shall also have to be given effect to.

xiii. I say that even assuming without admitting that the Petitioner is attempting to pray this Hon'ble Commission to pass a tariff order, it is submitted that it is a settled fact that tariff order cannot be passed mid-year and without the procedure mandated in the Electricity Act including but not limited to public hearing. Section 61 of the Electricity Act 2003 lays down the guiding principles to be followed by appropriate commissions, including safeguarding consumer interest, promotion of generation of electricity from renewable sources of energy. while specifying their respective terms and conditions for determination of tariff. Section 62 states that the tariff shall be determined by the appropriate commission in accordance with the provisions of the Act. As per Section 62 (4) of the Act No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified. Section 64 of the Act specifically mentions that while determining the tariff, there must be publication of application for determination of tariff, inviting comments from the public, so that public will be given an opportunity to make their suggestions and objections to the Appropriate Commission. As per 64(3) and 86(3) of the Electricity Act 2003. Electricity Regulatory Commission must comply with the mandatory requirements of transparency, predictability and due process while exercising its power and discharging its functions.

xiv. I say that it is a settled principle of law that where statute provides for something to be done in a particular manner it can be done in that manner alone and all other modes of performance are necessarily forbidden. Dipak Babaria and Another –v- State of Gujarat and Others, (2014) CSS 502, the Hon'ble Supreme Court observed as follows:

61. It is well settled that where the statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. This proposition of law laid down in Taylor v. Taylor [(1875) LR 1 Ch D 426 at p. 431.] was first adopted by the Judicial Committee in Nazir Ahmad v. King Emperor [(1935-36) 63 IA 372 : (1936) 44 LW 583 : AIR 1936 PC 253] and then followed by a Bench of three Judges of this Court in Rao Shiv Bahadur Singh v. State of Vindhya Pradesh [AIR 1954 SC 322 : 1954 Cri LJ 910] . This proposition was further explained in para 8 of State of U.P. v. Singhara Singh [AIR 1964 SC 358 : (1964) 1 Cri LJ 263 (2)] by a Bench of three Judges in the following words : (AIR p. 361)

8. The rule adopted in Taylor v. Taylor [(1875) LR 1 Ch D 426 at p. 431.] is well recognized and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted.”

This proposition has been later on reiterated in Chandra Kishore Jha v. Mahavir Prasad [(1999) 8 SCC 266], Dhanajaya Reddy v. State of Karnataka [(2001) 4 SCC 9: 2001 SCC (Cri) 652] and Gujarat Urja Vikas Nigam Ltd. v. Essar Power Ltd. [(2008) 4 SCC 755]

xv. *I say that the principles of transparency and natural justice requires that the State Electricity Regulatory Commissions grant opportunity of making suggestions/comments to the consumers before passing any order detrimental to the said consumers. In this regard, Hon'ble Appellate Tribunal's decision dated 16.12.2021 I passed in Appeal No.82 of 2011 in the matter of Essar Power Limited -v- Uttar Pradesh Electricity Regulatory Commission and Another 201 1 SCC OnLine APTEL 1 85: [201 1] APTEL 186*

“203. The State Commission is mandated to ensure transparency while exercising its power and discharging its functions under Section 86 (3) of the Act. The concept of transparency and principle of natural justice mandates that the State Commission should grant opportunity of hearing to other party before passing any Order detrimental to the said party. In would be pertinent to mention that Regulation 42 of the State Commission's Conduct of Business Regulations provide for opportunity of being heard to all interested parties. Regulation 42 of Conduct of Business Regulations is reproduced below.

xvi. *I say that Section 45 of the Electricity Act enables distribution licensee to charge tariff for the electricity supplied. Section 45 (2) and (5) specifically casts an obligation upon this Hon'ble Commission to fix tariff in terms of provisions of the Electricity Act. It also stipulates in clear terms to give wide publicity for fixing tariff.*

xvii. *I say that the Hon'ble Commission can consider the aspect of levy of Grid Support Charges on the consumers with Grid Connected rooftop Renewable energy systems under Net Metering arrangement/ Base Load reduction (Category III) arrangement after following due public consultation process.*

xviii. *I say that rooftop solar power plants installed within the premises of the consumer under net metering are installed and developed for a maximum AC capacity upto the contract demand/ sanctioned load of the consumer for which the consumer is paying the fixed demand charges. Installation, generation, and consumption of power from the rooftop solar PV Power Plant does not enable an embedded consumer to reduce his fixed demand and its charges.*

xix. *I say that the embedded consumer availing rooftop solar power plant under net metering has a contract demand with the state utilities up to its load. The solar power since being infirm in nature is never the prime source of energy to cater the load of the consumer. The load of the consumer is always on the grid to the extent of the Contract Demand of the consumer with the state utilities and the part of the same load within the contracted demand is catered by the solar power generation from the rooftop solar power plant under net metering. Even in case of generation from the rooftop solar PV power plant or in case of its outage due to no sunlight available or shutdown the demand of the consumer is not supposed to go beyond the available contract demand of the consumer from the state utilities for which he already pays the fixed contract demand charges. Further, the embedded consumer availing power from rooftop solar is still subjected to make payment for minimum number of units (KWh) per KW to fulfill the standby arrangements the discom*

need to maintain for the consumer due to their demand variation. In view of minimum energy charges paid by the consumer over and above the payment of demand/fixed charges up to his contract demand, further imposition of the grid support charges is unjustified.

- xx. *I say that as per MPERC Grid Interactive Renewable Energy Systems Regulations 2022, over and above the fixed charges {on imported units from grid}, the consumer as required to pay a minimum charge towards the consumption of power. This means if the consumer has a contract demand of 100 KW and consumes zero units in a particular month even then the consumer of power from rooftop solar power plant has to pay not only the first demand charges but also has to pay for minimum energy charge. Thus, the purpose for when the Petitioners are proposing the grid support charges, the same has already been provisioned by the Distribution Companies in their current billing regime.*
- xxi. *I say that further, the total power generated from the rooftop Solar PV power plant is considered for RPO compliance of the state power utilities.*
- xxii. *I say that India plans to install 500 GW of renewable in country till 2030 out of which total solar target of country is 280 GW out of which 40% is rooftop target which is 112 GW by 2030. The development of renewable energy (Solar) through rooftop mechanism will be impeded by levy of Grid Support Charges.*
- xxiii. *I say that with regard to reliance placed by the Petitioners on Order dated 30.03.2020 passed by Maharashtra Electricity Regulatory Commission (hereinafter 'Maharashtra Commission') in Case No.322 of 2019 filed MSEDCL for Truing-up of Aggregate Revenue Requirement (ARR) of FY 2017- 18 and FY 2018- 19, Provisional Truing-up of ARR of FY 2019-20 and Projections of ARR and determination for the 4th Multi Year Tariff Control Period FY 2020-21 to FY 2024-25, it is submitted that said Order distinguishable on facts since Maharashtra Electricity Regulatory Commission (Grid Interactive Rooftop Renewable Energy Generating Systems) Regulations, 2019 dealt with Grid Support Charges. Further in the above Order, Maharashtra Commission has decided not to impose any Grid Support Charge on Rooftop PV Systems under net-metering arrangement till cumulative installed capacity of Rooftop PV Systems in the State reaches 2000 MW to incentivize installation of Rooftop PV Systems. In this regard, the relevant extract of Order dated 30.03.2020 passed by Maharashtra Commission reads as under:*

Commission's Analysis & Rulings

Legal Tenability

8.20.221 in this context, the Commission would like to highlight that determination of Support Charges is in pursuance of the provisions for such determination as specified under its Net metering Regulations, which is statutory in nature. Thus, the levy of such charges is legally tenable in accordance with the provisions of the said Regulations formulated and in exercise of the powers conferred to Commission under 86(1) (e) and 181 of the Electricity Act, 2003 upon following due regulatory process for notification of the same.

Formulation of Grid support Charges

8.20.23 Net metering Regulations, 2019 define the principle based on which Grid support charges have to be determined.

8.20.28As per statistics presented by MSEDCL more than 460 MIV of RTPV systems (245 MW at HF level and 215 MVP at LT level) have been deployed within MSEDCL area as on January 2020. The Commission notes that said installation is way behind the policy target set by the Government of Maharashtra. The commercial impact on MSEDCL is commensurately not significant. Thus, to incentivize installation of RTPV the Commission has decided not to impose any Grid Support Charge on RTPV under net-metering arrangement till cumulative installed capacity of RTPV in the State reaches 2C)00 MW. Subsequent to that Commission will reconsider option of imposing Grid Support Charge as provided under the Regulations.

It is a matter of the record that as on date, total installed capacity of rooftop solar is 296 MW in the State of Madhya Pradesh. Therefore, if the Petitioners are attempting to rely on the above order passed by Maharashtra Commission, then they are required to comply with direction passed by Maharashtra Commission in the aforesaid order dated 30.03.2020 in totality i.e. firstly framing a specific legislation governing grid support charges and secondly whether the state has achieved the target set up for the State of Madhya Pradesh. In this regard, the total installed capacity of rooftop solar in the State of Madhya Pradesh as on 30.09.2023 is 296 MW only.

xxiv. I say that reliance placed by the Petitioners on the Discussion paper on "Determination of tariff and norms in respect of Solar Power Projects (including Solar Rooftops Photovoltaic Projects) for FY 24" notified by Karnataka Electricity Regulatory Commission (hereinafter '**Karnataka Commission**') on 07.02.2023 is misplaced. Subsequently, in the Tariff Order dated 12.05.2023 passed in the Application of Bangalore Electricity Supply Company Limited (BESCOM) in respect of the Annual Performance Review for FY 22. Approval of Revised Annual Revenue Requirement for FY 24 and Revision of Retail Supply Tariff for FY 24 under Multi Year Tariff framework, Karnataka Commission has decided as in regard to the aspect of Grid Support Charges:

The Commission notes that during the public hearing, the consumer organizations/generators have vehemently opposed imposing the Parallel operation/grid Support charge. In this regard, the Commission had issued the discussion paper on introduction of grid interactive support / grid support charge to all the Solar Rooftop consumer under net metering and any captive plant which is connected to the grid. The Commission, by considering the objections raised by the stake holders during the public hearing on the tariff application filed by ESCOMs, is of the opinion that a study needs to be conducted before taking any decision in the matter.

xxv. I say that Petitioners have attempted to justify imposition of grid support charges on fictional calculation basis placing reliance of such costs which it recovers from various sources including Fixed Charges paid by every consumers. Electricity Act specifically deals with various charges to be paid by consumers and this Hon'ble Commission in its wisdom proceeded to exempt rooftop consumers from the applicability of these charges.

xxvi. I say that it is also relevant to note that Ministry of Power has recently introduced a separate category of generating plants an eligible source of power plants for fulfillment of RPO i.e. distributed renewable energy plant. Present petition is an attempt to discourage consumers from consuming power from distributed renewable energy plant. Government of Madhya Pradesh has recognized advantage of distributed renewable energy way back in 2016 and the petitioner is attempting to take away all benefits provided by the Government of Madhya Pradesh and this Hon'ble Commission to distributed renewable

energy plants.

xxvii. I say that in the facts and circumstances the Grid Support Charges shall not be levied on consumer availing power from grid connected rooftop solar Power Plant under Net Metering arrangement/ Base Load reduction (Category III) arrangement.

15. By affidavit dt. 09.11.2023, intervener Pickrenew Energy Pvt. Ltd., submitted the following:

- i. *The intervener I M/s. Pickrenew Energy Private Limited is a leading Distributed Generation developer, integrator and a sustainability partner to various state and central government, private, social, commercial, and industrial consumers in the state of Madhya Pradesh.*
- ii. *The intervener enables the various consumers who can afford or cannot afford to avail rooftop solar Power harnessed from their vacant and un-utilized spaces either under CAPEX or RESCO Mode to enable them to contribute towards the management of the green gases.*
- iii. *The petitioners in the said petition has made the following prayers and in response to the same the intervener would like to make its details submission: (b) Allow levy of Grid Support Charges on all categories of consumers with Grid Connected rooftop RE systems **under Net Metering/ Net Billing arrangement.***
 - (c) *To restrict the facility of Net Metering for the categories of consumers up to a sanction load contracted demand of 100 kW.*
 - (d) *Allow' levy of Grid Support Charges on all categories of consumers with Grid Connected rooftop RE systems under Base Load Reduction (Category III) arrangement.*
 - (e) *To introduce the facility of Net Billing or Net Feed-in for consumers having contract demand/sanctioned load up to 500 KW in the State.*
- iv. *Before the undersigned makes point wise replies to the reliefs sought by the petitioners in the petition, the interveners would like to make the following opening facts, figures and submissions:*

| | | | |
|----|-------------------------------------------------------------|---|-------------------------|
| 1. | <i>Total Solar Rooftop Target of the State till 2021-22</i> | : | <i>2200 MW</i> |
| 2. | <i>Total Solar Rooftop Achievement as on 30.09.2023</i> | : | <i>296.02 MW</i> |
| 3. | <i>Total % age of Achievement (of Target upto 2022)</i> | : | <i>13.45 %</i> |
| 4. | <i>Total Expected generation @ 15% CUF</i> | : | <i>388.97 MU/ Annum</i> |
| 5. | <i>Total Energy Consumption of the state</i> | : | <i>97889 MU/ Annum</i> |
| 6. | <i>Total % of Rooftop Consumption</i> | : | <i>0.40%</i> |
- v. *It is pertinent to refer here that the government including the petitioners who are state within the meaning of Article 12 of the Constitution of India are also concerned with the higher adoption of rooftop solar power in the state which was around 230 MW as against the target of 2200 MW the State wishes to achieve under the Madhya Pradesh Policy for Decentralized Renewable Energy Systems, 2016 and such arbitrary charges will deter the growth of the same in the state rather than scaling up.*

- vi. *Statements of some of the eminent personalities, scientists and world leaders and environmentalists on the aspects of climate change and its impact which, by use of renewable energy, can help in reversing the process of global warming which has started having a serious adverse impact on the world at large:*

"Solar Energy is 'Sure', 'Pure' and 'Secure'." "India plans to produce 450 GWS of power through solar energy and other renewable energy sources by 2030"

-Hon'ble Prime Minister of India Shri Narendra Modi

"I'd put my money on the sun and solar energy. What a source of power! I hope we don't have to wait until oil and coal run out before we tackle that."

- Thomas Edison, 1931

"And no challenge poses a Greater threat to future generations than climate change." "no challenge - no challenge - poses a greater threat to future generations than climate change."

- President Barack Obama

*"The time is past when humankind thought it could selfishly draw on exhaustible resources. We know now the world is not a commodity. It is not a source of revenue: it's a common good, it's our heritage. And the consequences of climate change are fully known now we're not talking about **theories anymore; we're talking about certainties.**"*

- Francois Houtart, at the World Economic Forum's 2015 meeting in Davos

- vii. *About State of Madhya Pradesh:*

Cultivable Land is the most precious commodity of the state of Madhya Pradesh. The installation and deployment of ground mounted solar power plants happens mostly in same type of flat land which can alternatively be used for agriculture only. Thus, we can say increase of ground mounted solar power plants restricts the cultivation in the state. We need to see the agriculture profile of the state.

Madhya Pradesh, famous as the Soybean State, has earned the highest award "Krishi Karman" given by the Government of India in the field of agriculture for six consecutive years.

Our State ranks 1st in country in the production of Soybean, Gram, Urad, Tur, Masoor, Linseed: 71 in the production of Maize, Sesame, Raddi, Moong and 3rd in the production of Wheat, Sorghum, Barley. In rabi season, wheat, gram, peas, lentils, mustard, sugarcane and linseed are sown in abundance.

Madhya Pradesh is the 2nd largest state in the country in area. Its geographical area is 307.56 lakh hectares, which is 9.38 per cent of the total area of the country. Out of the total geographical area 307.56 lakh hectares of the state, only about 151.91 lakh hectares are arable. Out of this, at present, in about 145 lakh hectares area, Kharif crops and in about 119 lakh hectares area, rabi crops are being taken up. The crop density of the state is 165.70 percent. The total irrigated area in the State is about 10.97 lakh hectares from government and private sources.

Agriculture and agriculture occupations in Madhya Pradesh are mainly the backbone of

the state's economy. Agriculture of Madhya Pradesh is dominant economic activity. 70% of the state's population engaged in agriculture and allied activities in Madhya Pradesh. Agriculture contributes 23.36% to the state's GDP in the year 2019-20.

To Summarize:

Madhya Pradesh is decently blessed with the potential to generate renewable energy from Solar. However, being an agriculture rich state growing wheat, rice, soya, millets, gram, pulses, fruits, plantations, vegetables etc. also being the food bowl of the country is limited in the land resources.

- ✓ *Thus, it is very important that the precious land resource be preserved in the state for agricultural usage and renewable energy regulations and incentives be designed in such a way that it promotes the generation of renewable energy from vacant premises / rooftops of the establishment.*
- ✓ *It will not only save the precious land but also lead to generation of RE within the state else the state would be either wasting its precious fertile land for solar or will be bound to source the same from other states.*
- viii. *It is thus important to note the merits of Rooftop Solar over Ground Mounted Solar Power Plants:*
 - i. *Generation of Renewable Energy without disturbing the flora and fauna.*
 - ii. *Utilization of un-used waste roof space and saving of precious agricultural land resource.*
 - iii. *Helps reduce the infrastructure development / upgradation cost of the distribution system to cater **new additional demand of the distribution licensee area.***
 - iv. *Reduction of drop in potential difference in the grid thus reducing distribution losses.*
 - v. *Complementary RPO Compliance of the State Utilities*
- ix. *Now it is further important to note the merits of Rooftop Solar Power Plant under category – III i.e. “ For Consumption within premises with no export of power (Reduction in Base Load during day Over and above any other rooftop projects the captive rooftop projects have additional merits and **benefits to the utilities.***
 - i. *Since the entire power is contained and consumed in the consumer's premises thus there is no question of unscheduled power injected into the grid to pollute the grid.*
 - ii. *No export of power to the state grid thus no commercial benefit is to be provided by the state utilities like that of Banking, Tariff for exported surplus power etc.*
 - iii. *Complementary RPO Compliance of the State Utilities.*
- x. *It is submitted that rooftop solar power plants installed within the premises of the embedded consumer of the state utilities either under net metering or behind the meter mechanism are installed and developed for a maximum AC capacity **upto the contract***

demand / sanctioned load of the consumer for which the consumer is already paying the fixed demand charges.

Installation, generation and consumption of power from the rooftop solar PV Power Plant doesn't enable an embedded consumer to reduce his fixed demand and its charges.

The intent of the introduction of the Grid Support / Parallel Operation Charges was:

- i. When the embedded consumer had Higher demand / Load as compared to the Contract Demand taken from the state utilities and a major part of the load was being catered by the captive power plant especially from conventional sources of power and consumer maintains a very small contract demand with the state utilities to utilize the same for catering the requirement of the power for startup / ramp-up as well as during the break- down / outage of the captive power plant in case of maintenance or shutdown.*
- ii. In such condition CPP based on conventional sources is the prime source of power and in case of failure / shutdown or increase / shoot in demand the load shifts to the grid.*
- xi. However,*
 - i. **The embedded consumer availing rooftop solar power plant under net metering / Category III mode has a contract demand with the state utilities upto its load / demand.***
 - ii. The solar power since being inbfrm in nature is never the prime source of energy to cater the load of the consumer.*
 - iii. The load of the consumer is always on the grid to the extent of the Contract Demand of the consumer with the state utilities and the part of the same load within the contracted demand is catered by the solar power generation from the rooftop solar power plant either under net metering or under captive mode.*
 - iv. The solar power plant operates on the simple concept of sensing the voltage and frequency for reference of matching its frequency for synchronization of the solar power generation with the grid **power supply before coming to the load.***
 - v. Even in case of generation from the rooftop solar PV power plant or in case of its outage due to no **sunlight available or shutdown the demand of the consumer is not supposed to cross the available** contract demand of the consumer from the state utilities for which he already pays the fixed contract demand charges.*
 - vi. further, as per the provision of the regulations / orders the embedded consumer has to pay for minimum consumption charges over and above minimum contract demand charges.*
- xii. In the matter of reactive power it is submitted that:*

It is pertinent to mention that though there is a fluctuation of generation from the rooftop

solar pv power plant on account of availability of intensity of sunlight and other environmental factors however even in that case the rooftop solar power plant generates at the same voltage and frequency at which it is synchronized to operate else the same gets switched off or goes in islanding mode not causing harm to any of the equipment of the consumer or the grid. The rooftop solar pv power plant doesn't have any motor or any reactive power consumption unit. Furthermore, the solar power plant is designed to operate under strict maximum permissible levels of harmonics which is less than the harmonics of the grid power. Though solar is permissible to operate at an harmonics at less than 3% it has been **witnessed that the solar inverters generate harmonics much lesser than 1%.**

Point Wise Response

- xiii. *The country has 28 states and 8 Union territories in the country where 26 states and 8 union territories have preferred not to levy any such charges on the rooftop solar power plant whereas the petitioners have relied only on 2 states viz. Kerala and Tamil Nadu as one of the justifications for the levy of the Parallel Operation / Grid Support Charges where only Tamil Nadu has levied such charges of Rs. 1.27 per KWh where as Kerala has just proposed for 5%. Banking charges.*
- xiv. *The petitioners have relied on the state of Maharashtra however, but failed to bring to the notice of the Hon'ble Commission that the Maharashtra Electricity Regulatory Commission (MERC) \rjide its order dated 30.03.2020 in case 322 of 2019 has decided not to impose any grid support charges on rooftop solar installations until the state achieves solar rooftop capacity of 2,000 megawatts (MW). While deciding the same the Hon'ble Commission also stated that "The idea is to boost clean energy and overall solar installations, Once we achieve this target, the commission will take a call on what charges can be levied." it is pertinent to mention here that the State of Madhya Pradesh is also no where near of achieving its target of 2200 MW rooftop capacity as provided for in the 'Madhya Pradesh Policy for Decentralized Renewable Energy Systems , 2016' and the levy of grid support charges will make the achieving of the said target much more difficult.*
- xv. *The petitioners have relied on the proposal of the state utilities of Karnataka on the applicability of the Parallel operation charges or Grid Support charges on the rooftop solar Power Plant. In this regard it is brought to the notice of the Hon'ble Commission that the hon'ble KERC is not showing their interest in imposing the same at this moment, as in their order they stated that:*

"The Commission notes that during the public hearing, the consumer organizations, captive generators have vehemently opposed imposing the Parallel operation/ grid support charge. In this regard. the Commission had issued the discussion paper on introduction of grid interactive support / grid support charge to all the Solar Rooftop consumer under net metering and any captive plant which is connected to the grid. The Commission, by considering the objections raised by the stake holders during the public hearing on the tariff' application filed by ESCOMs, is of the opinion that, a study needs to be conducted before taking any decision in the matter "

- xvi. *It is further, pertinent to bring to the attention of the hon'ble commission that though the Telengana DISCC) Ms have proposed for the Parallel Operation / Grid Support Charges*

the state utilities have clarified that:

“ As per the proposed grid charges conditions, the grid support charges will not be levied on the entire capacity of CPP and it will be levied only on differential capacity between CPP capacity and CMD with distribution licensee.

if the captive plant capacity is less than or equal to contracted maximum demand with licensee, such captive power plant capacity will not attract grid support charges.

Hence the proposed grid support charges in the ARR for FY 2022-23 will not be applicable to solar rooftop services as its solar plant capacity is less than or equal to contracted maximum demand with the licensee

- xvii. *It is also pertinent to refer to the order of the Hon’ble MPERC in their Suo Motu Petition No. 73 of 2012 whereby Parallel Operation Charges (“POC”) @ Rs. 20/ KV A per month were levied on the capacity of the Captive Generating Plants (“CGPs”) connected to the grid, after deducting load pertaining to auxiliary consumption.*
- xviii. *Now, in the case of Rooftop solar PV Power plant the capacity of the plant under Net Metering or category III is below the contract demand taken by the consumer thus, if we deduct the load taken from the Grid it becomes nil (as it cannot be negative).*
- xix. *Further, on the matter of the burden of banking, DSM etc. on account of net metering it is submitted that after all these studies etc. the Ministry of Power Government of India has notified in the “Rules” that the Net Metering can be restricted upto minimum 500 KW ac and upto Contract Demand in case of other mechanism like net billing / feed-in etc.*
- xx. *Further, as shown in the start on the data that total rooftop solar power is just 1.94% as compared to the KW terms and 0.40 % of KWh terms which is too miniscule to cause such impacts.*
- xxi. *Comments on Calculation / proposal of Balancing charges / grid support charges by petitioners:*
 - i. *Fixed Cost of Thermal Generating Station which will act as standby or balancing support: The same is part of and recovered from the fixed charges paid by the consumers and over and above the same the consumers of the state also pay for a minimum consumption charges to take care of the variable loads. Either due to reduction of demand or self generation and consumption. Thus, the standby charges cannot be levied to recover fixed cost of thermal power plants as the petitioners are not reducing its demand charges.*
 - ii. *Net Work Charges: The Category III consumers do not avail services of the infrastructure of the state utilities for its operation and for the load of the consumer the consumer is also paying for the fixed demand charges as well as minimum consumption charges in the state.*
 - iii. *DSM related charges: upto the Contract demand the utility is under obligation to supply and absorb the variation in the consumption for which the fixed charges and minimum consumption charges are already paid to the utility by the consumer.*

- iv. *TMM Compensation Charge: the phenomenon mentioned here are also in the case of any of the non-conventional power plant either, remotely located using transmission and distribution network or on the rooftop connected to internal grid of the consumer. It is pertinent to mention that the increase or decrease of the demand within the consumers sanction load / contract demand can happen due to two reasons either reduction of their own load due to need or due to own rooftop solar power plant. For both the instances there is a fixed charge and minimum consumption charge paid by the consumer.*
- v. *Time of Day Power Purchase Variation charges: the same is applicable only in the case of net metering and not in the case of Category III consumption. Further for this reason only to regulate such mechanism of net metering a cap of 500 KW was proposed.*

| Nomenclature | Premise | Workings FY 23 | Remarks | Comments from Interveners |
|---------------------------------|------------------------------------------------------------------------------------------|-----------------------|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (A) Cost to the Licensee | | | | |
| Standby Cost (SC) | Fixed Cost of Thermal Generating Stations which will act as Standby or balancing support | 1.83 | As per parameters approved in RST FY 24 | Not applicable in the case where consumer is paying CD/fixed charges and also rooftop plants is less then contract demand for which consumer is paying charges |
| Network Cost (NC) | | | | |
| @33kV | Network Cost at 33 kV | 0.16 | Considered as per Table 81 of RSTO | Network Charges taken care in contract demand and minimum consumption charges. Further only for drawl of banked energy in case of net metering services of network is used. |
| @11kV | Network Cost at 11 kV | 0.64 | Considered as per Table 81 of RSTO | |
| @11kV | Network Cost at LT | 1.04 | Considered as per Table 81 of RSTO | |

xxii. *Lets look into the usage of renewable energy from another perspective:*

- i. *Today India is marching towards achieving the target of 5 trillion Dollar Economy and for this the country is continuously trying to move from the tag of the largest global consumer to the largest global manufacturer. The county and the industry are focusing to make India a global manufacturing hub and the world as a market for the producers of India. From a net importer we are striving*

to be a net exporter. The export today we do and international market access and demand we have helps the financial upliftment of the people of state.

- ii. *To attain such position, it is mandatory for the Indian manufacturers to meet the global standards specially in terms of their sustainability and ESG compliances which is achieved from decarbonization and increase in their quantum of renewable energy consumption.*
 - iii. *If the industry is supported to have a share of power consumed from the renewable energy sources it will directly lead to increase of their global market share which in-turn will enable to scale up their operations within the same state which in-turn will add to economy of the state and finally uplifting of the socio-economic condition of the people of the state of Madhya Pradesh and India.*
 - iv. *With Renewable Energy from Rooftop a C&I consumer can offset hardly around 10-25% of its power consumption by Renewable Energy however, enabling the industry to consume some part of its current demand from RE will enable the sector to expand its production and / or setup new facilities within the state only which will ultimately lead to increase in the demand of the state utilities only.*
 - v. *Thus, with scaling up of the production and adding of the new industries in the state which favours such compliances at viable terms will also increase power consumption of the industries from the state utilities.*
 - vi. *Further, if the industry in the state is not provided a favourable condition for the fulfillment of their sustainability compliance they will prefer to have their manufacturing setups outside the state where they can fulfill the same.*
- xxiii. *A lot of projects have been executed under RESCO mechanisms on government and private establishments. As the hon'ble commission is aware that these tariffs are most competitive ones as low as even Rs. 2 where subsidy was provided. These projects are both under net metering as well as category III.*

If the charges are levied without clarity that it is on the consumption of the power and not on the generation of the power there is a high chance the same will be levied by the consumers on the Generation of Power which will get loaded on the Generator. The RESCO generator supplies power at a fixed tariff for the useful life and with these charges, their revenue will go in negative.

Thus, to remove ambiguity the hon'ble commission may clarify that these parallel operation / grid support / stand by charges will be on the consumption of power and not on the generation / generator.

- xxiv. *The consumers, developers and investors lured by the policies and regulations have invested in the state on the rooftop solar power plant and if such charges are levied on the plants already commissioned the same will severely impact them financially with irreparable losses. Further, Any retrospective introduction of the superseding ' amendment of the regulations thus will contradict the Doctrine of Legitimate Expectations, Principles of Promissory Estoppel in the present case. Thus, if charges have to be levied it should be levied to the plants installed after*

16. With the aforesaid submissions, interveners prayed the following:

- i. *No Such Grid Support / Parallel operation charges be levied on the rooftop solar power consumption till such time the consumption from own sources is lesser than the contract demand of the consumer for which he is paying demand charges.*
- ii. *If some charges are proposed, they should not be levied for the useful life of the projects which have already been commissioned and projects which will be commissioned by 31 “ March 2024.*
- iii. *Further if the charges are levied, it may be cladged that the sane is on the consumption of power and not on the generation / Generator of power.*
- iv. *To pass any other order as the Hon’ble Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice.*
- v. *To condone any error / omission and to give opportunity to rectify the same;*
- vi. *To permit petitioner to make further submissions, addition and alteration to this petition as may be necessary from time to time.*

17. Commission noted that response from Intervener namely Vardhaman Textile, Madideep has not been received within the stipulated time period. Similarly, comprehensive rejoinder from petitioners has also not been received within stipulated time period. Commission has therefore closed the opportunity to file responses and rejoinders to Intervener Vardhaman Textile and Petitioners.

Commission’s observations and findings:

18. The Commission summarized the submissions made by Petitioners, Respondents, and Interveners as under:

(1) Submissions made by Petitioners’: -

- (i) That the Madhya Pradesh Electricity Regulatory Commission (Grid Interactive Renewable Energy System and Related Matters) Regulations, 2022 which governs the Regulatory framework for Grid Interactive Rooftops Renewable Energy (RE) system under Net Metering offer certain benefits and exemptions to grid connected RE system, which are resulting in unjust enrichment of them at the cost of other consumers who do not have the space or capital to invest in Rooftop RE plants.
- (ii) To correct such anomaly, petitioners have proposed to introduce Network Support Charges (NSC) or Grid Support Charges (GSC) which are the

incidental charges incurred by the Licensee for providing Net-Metering Facility and Grid Support Facility. The GSC is proposed to be levied only on those consumers (Rooftops RE generators/consumers) who are using grid support under Net-Metering / Net Billing arrangement and also under Base Load Reduction mode (Category III).

- (iii) The Petitioners have also proposed to restrict the Net Metering Arrangement up to a load of 100 kW only with the intention to avoid financial loss to Discoms.
- (iv) Petitioners have also proposed introducing the facility of Net Billing or Net Feed-in for consumers having contract demand/sanctioned load up to 500 KW in line with some other States Regulations. Petitioners have mentioned that Electricity (Rights of Consumers) Amendment Rules 2021 have introduced the category of Net Feed-in mechanism for rooftop solar plants.
- (v) Petitioners have considered following formula for computing grid support charges:

Grid Support Charges = $BC + CB + WC - (RREB + ADL)$ where

BC (Balancing cost) = Fixed cost of thermal generating stations which will act as balancing support

(CB) Cost of banking = Difference in ToD charges during day peak when generation from solar occurs and banking takes place and ToD charges of the evening peak when utilisation of banked energy takes place.

WC (Wheeling charges) = As determined by Commission for LT&HT

RREB (Rooftop RE benefits) = Equivalent to RPO non-compliance charge as specified in regulation 12.3 of the MPERC Co-gen Regulations 2019

ADL (Avoided distribution loss) = Avoided distribution loss on marginal variable cost over the 4th control period. (For LT&HT)

- (vi) Petitioners have submitted that Maharashtra Electricity Regulatory Commission (MERC) while deferring the grid support charges till the roof top PV capacity in the State reaches 2000 MW, has decided to levy banking charges to recover cost of banking. Similarly, Karnataka Electricity Regulatory Commission has also levied grid interactive support charges on net metered consumers/ RE Captive consumers in the State.

- (vii) Petitioners have requested to allow levy of grid support charges on all categories of consumers with grid connected rooftop RE systems under net metering/ net billing arrangement; restrict the facility of net metering for the categories of consumers up to a sanctioned load/ contracted demand of 100 kW; allow levy of grid support charges on all categories of consumers with grid connected rooftop RE systems under base load reduction (Category III) arrangement and to introduce the facility of net billing or net feed-in for consumers having contract demand/ sanctioned load up to 500 kW in the state;

(2) Submission made by New & Renewable Energy Department (NRED), GoMP and MP Urja Vikas Nigam Limited (MPUVNL) (Respondents no. 1& 2 respectively)

Commission noted that both NRED and MPUVNL have made more or less similar submissions as under: -

- (i) No such grid support charges should be admitted without public hearing in the matter.
- (ii) Any such charges would adversely affect the existing net metered connections which have installed RE plants for validity of life considering the regulatory provisions then in force.
- (iii) That total installed net metering capacity in the State as per MNRE report dated 30.06.23 is only 275 MW which is insignificant to create any dents in allowable deviation limits of Discoms.
- (iv) Solar Roof top have in fact reduced the costly power purchase of Discoms by locally meeting the demand.
- (v) Government of India had targeted 40 GW solar based generation capacity by 2022 in the country and Government of MP had also targeted 2.20 GW rooftop capacity in the State.
- (vi) MPNRED has requested to deny the admission of the petition considering that installed capacity of net metered connections in the State is only 285.60 MW. State is ranked ninth position from top in the list of roof top capacity installation.
- (vii) MPUVNL has submitted that as of Aug 2023, total rooftop capacity installed in the State was only 296 MW which accounts for only 5% of total RE based

capacities in the State which is quite low in comparison to 13-43% share in other States like Kerala, Haryana, Gujrat, Maharashtra etc.

- (viii) State Policy on decentralized RE Systems 2016 envisages capacity addition of 2.2 GW in the State, as such to promote decentralized RE generation in the State, GSC may not be imposed till at least 50% capacity i.e. 1.1 GW reaches in the State.
- (ix) Petitioners are consistently failing to meet its RPO since last 4 years and they have failed in 9 out of last 12 financial years by significant margins which underscores that discouragement of solar roof top would not be in the interest of petitioners themselves.
- (x) Discoms are already getting network and O&M charges through ARR. Additional wheeling / transmission charges over and above already allowed through ARR are not permissible.
- (xi) Impact of solar rooftop on DSM penalties has not been substantiated by the petitioners with proper linking and data.

(3) Submission made by Interveners M/s Oswal Woolen Mills Limited and M/s Pickrenew Energy Pvt. Ltd (Interveners no. 1& 2)

- (i) That MPERC Grid Interactive RE Regulations, 2022 has exempted net metered connections from banking charges, wheeling charges, cross subsidy surcharge and additional surcharge.
- (ii) That proposed grid support charges involve imposition of banking charges and wheeling charges among other which can only be done after making suitable amendments in MPERC Grid Interactive RE Regulations, 2022 under section 181 of the Electricity Act 2003 after hearing stakeholders through a public hearing.
- (iii) Proposed charges are nothing, but sort of tariff and tariff can not be passed mid-year and cannot be revised without following the procedure mandated for tariff revisions in the Act under section 62.
- (iv) That under the provisions of MPERC Grid Interactive RE Regulations, 2022, a net metered consumer is required to maintain his contract demand without considering the solar generation offset and required to make full payment of

fixed charges and minimum charges as such no additional grid support charges should be imposed as it would amount to double recovery of same charges.

- (v) That out of total target of 500 GW of renewable installation by 2030, solar target is fixed at 280 GW out of which 40% capacity i.e. 112 GW is targeted through rooftop. Imposition of grid support charges would impede the development of solar rooftops.
- (vi) That even MERC in its order dated 30.03.2020 has decided not to impose grid support charges till solar rooftop capacity reaches 2 GW.

19. From the submissions of petitioners, respondents and interveners, Commission has noted that petitioners are trying to make a case that the Distribution Licensees are incurring losses on account of various factors such as increase in deviation charges, wheeling charges, banking charges etc. attributable to rooftop solar generation and proposes to recover these losses through grid support charges (GSC). On the other hand, respondents have opposed the levy of GSC on the grounds that installed capacity of rooftop plants in the State is not significant to make any visible impact on deviation of Discoms. Respondents also submitted that; the charges related to wheeling have already been allowed in ARR of the petitioners. They have further stated that before determination of such charges, stakeholders' comments need to be obtained and a public hearing should be held. Respondents stated that MP Discoms have not been able to achieve RPO as specified by the Commission in most of the past 12 years and proposed charges would slow down the progress of installation of rooftop capacities thus further reduce the capability of Discoms to fulfill RPO. Respondents have submitted that looking to the low level of installed capacities of rooftop solar plants in the State, levy of such charges can be considered only after installed capacity of rooftop solar in the State reaches a level of about 1 GW. Commission noted that Interveners viz M/s Oswal Woolen Mills Limited and M/s Pickrenew Energy Pvt. Ltd have also opposed the levy of GSC on similar grounds like double recovery of fixed charges, wheeling charges etc. Interveners also submitted that for determination of any such charges like GSC, MPERC Grid Interactive RE Regulations, 2022 needs to be amended and that such charges should be determined only after seeking public comments in transparent manner. They have further submitted that even MERC has deferred levy of grid support charges till rooftop capacity reaches the level of 2 GW in Maharashtra. The interveners have also submitted that levy of grid support charges would impede the progress of installation of rooftop solar plants in the State due to which it may not be possible to achieve target of installation of distributed energy sources plants in the State. Commission observed that the petitioners have failed to submit comprehensive rejoinder on the issues raised by the respondents and interveners despite being given time to do so.

20. Commission also noted that the Ministry of Power, Government of India through a recent notification dated 20.10.2023 has specified minimum share of consumption of renewable energy for different type of renewable sources which inter alia includes energy consumption

from distributed renewable energy also for designated consumers. Distribution Licensees being designated consumers under the provisions of Energy Conservation Act 2001 are also required to ensure compliance of notification dated 20.10.2023. The percentage energy to be consumed by designated consumers from distributed renewable energy sources as specified in notification dated 20.10.2023 is as under: -

| | | | | | | |
|------------|---------|---------|---------|---------|---------|---------|
| Year | 2024-25 | 2025-26 | 2026-27 | 2027-28 | 2028-29 | 2029-30 |
| Percentage | 1.50 | 2.10 | 2.70 | 3.30 | 3.90 | 4.50 |

21. Commission has already approved energy requirement of MP Discoms till 2026-27 in its multiyear ARR and Tariff order dated 31.03.2022. Commission has computed the required quantum of distributed energy capacity to match the target of consumption from distributed energy sources as under: -

| Energy Requirement as per MYT Order | | | |
|----------------------------------------------------------|-------------------|-------------------|-------------------|
| Particulars | FY 2024-25 | FY 2025-26 | FY 2026-27 |
| Energy Requirement (MU) | 97,663.42 | 104,035.97 | 111,862.75 |
| Distributed Renewable Energy (%) | 1.50% | 2.10% | 2.70% |
| DRE to be Purchased (MU) | 1,464.95 | 2,184.76 | 3,020.29 |
| Capacity Requirement (MW) (assuming CUF -16%) | 1,045.20 | 1,558.76 | 2,154.89 |

22. Commission noted that the petitioner has submitted details of installed capacity of rooftop solar installation vide letter dated 09.10.2023 according to which total installed capacity of the net metered connections is 332 MW only, which clearly indicates that Discoms are running far behind the specified target of consumption from distributed energy sources. Installation of distributed energy sources capacities in the State cannot be discouraged at this juncture. Commission also noted that under section 86 (1) (e) of the Electricity Act, 2003, State Commissions are required to promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee. While Commission is taking all the measures to discharge its duties cast upon it under the Act, Distribution Licensees cannot be allowed to take steps, which may lead to slow down the progress of distributed RE capacity addition in the State.
23. Commission also noted that Central as well as State Government have taken various measures / provides incentives and issued specific policies to promote distributed energy sources. Government of MP has notified “Madhya Pradesh Policy for Decentralized Renewable Energy Systems, 2016” indicating among other things that MP had been given a target of 2.2 GW by Central Government till 2021-22. As against target of 2.2 GW, MP Discoms could reach capacity of only 332 MW as on date which is only 15% of targeted capacity till 2021-22. Even against revised target specified by Ministry of Power, GoI as computed in Para 20, achievement is only 32%.

24. Commission examined the prayer made by petitioners to restrict net metering arrangement up to contract demand/ sanctioned load of 100 kW and noted that even with the current allowable limit of 1 MW for net metering connections, the progress of net metering connections in the State during past 5 years remained dismal. Commission is of the view that any reduction in limit of net metering connections would hamper the progress of rooftop solar capacities in the State which will not be in the interest of the Petitioners also as they are now required to fulfil minimum share of consumption of renewable energy from distributed renewable energy sources also as prescribed in notification dated 20.10.2023 of Ministry of Power, Government of India.
25. Commission noted that Petitioners have prayed to introduce net billing or net feed-in for consumers having contract demand/ sanctioned load up to 500 kW in the State. Commission had already examined the net billing or net feed in arrangement for prosumers of the State at the time of framing MPERC (Grid Interactive Renewable Energy System and Related Matters) Regulations, 2022 and found the same not feasible.
26. Commission noted that Petitioners have also proposed to levy GSC on the Grid Connected RE Systems installed under Base Load Reduction (Category-III) of Madhya Pradesh Policy for Decentralized Renewable Energy Systems, 2016. Commission is of the view that levy of GSC on Grid Connected RE Systems installed under Base Load Reduction (Category-III) of Madhya Pradesh Policy for Decentralized Renewable Energy Systems, 2016 would have negative impact on progress of capacity addition of Distributed RE in the State. Currently, looking to the target notified by Ministry of Power vide notification dated 20.10.2023 and disappointing record of petitioners to achieve the RPO targets in previous years, Commission is not inclined to consider levy of such charges on Grid Connected RE Systems installed under Base Load Reduction (Category-III) at this stage.

Conclusion

27. Distribution Licensees being designated consumers under the provisions of Energy Conservation Act 2001 are required to ensure compliance of notification dated 20.10.2023 and ensure targeted minimum consumption of renewable energy from distributed renewable energy sources. Commission noted that even after notifying Net Metering Regulations in 2015, growth of distributed energy sources capacities in the State remains insignificant and only 332 MW capacity could be added from 2015 till now. Currently, there is huge gap between required capacity and installed capacity of distributed energy sources in the State as indicated in Para 21 above. Therefore, Commission is of the view that there is a need to further encourage capacity enhancement of distributed energy sources in the State.
28. Considering the submissions made by petitioners, respondents and interveners and also considering that the Ministry of Power, Government of India through notification dated 20.10.2023 has specified minimum share of consumption of renewable energy from distributed

renewable energy sources for designated consumers, Commission is not inclined to consider the request of petitioner for levy of grid support charges and would not delve into the computations furnished by petitioners at this stage. Commission is also not inclined to consider the request of the Petitioners to reduce the limit of 1 MW fixed for net metering connections to 100 KW and to introduce net billing or net-feed-in arrangement for contract demand/sanctioned load up to 500 KW. Commission would review the matter regarding levy of Grid Support Charges as and when necessary.

29. With the above observations, petition stands disposed of as dismissed.

(Prashant Chaturvedi)

Member

(Gopal Srivastava)

Member(Law)

(S.P.S. Parihar)

Chairman