

**NOTE ON MULTI-YEAR TARIFF ORDER DATED  
MARCH 30, 2020 OF HON'BLE MAHARASHTRA  
ELECTRICITY REGULATORY COMMISSION FOR  
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION  
COMPANY LIMITED**



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**BRIEF ANALYSIS OF ORDER OF HON'BLE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION DATED MARCH 30, 2020 IN MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED'S PETITION 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 4<sup>TH</sup> MULTI YEAR TARIFF CONTROL PERIOD FY 2020-21 TO FY 2024-25 (CASE NO. 322 OF 2019)**

**A. ABBREVIATIONS**

Sr. No.	Abbreviation	Particulars
1.	<b>APTEL</b>	Appellate Tribunal for Electricity
2.	<b>ASC</b>	Additional Surcharge
3.	<b>Commission/ MERC</b>	Maharashtra Electricity Regulatory Commission
4.	<b>CSS</b>	Cross Subsidy Surcharge
5.	<b>OA</b>	Open Access
6.	<b>MSEDCL</b>	Maharashtra State Electricity Distribution Company Limited
7.	<b>MYT Order, 2020</b>	Hon'ble Commission's Order dated March 30, 2020 in Case No. 322 of 2019
8.	<b>MTR Order, 2018</b>	Hon'ble Commission's Order dated September 12, 2018 in Case No. 195 of 2017

**B. OUR BRIEF ANALYSIS**

**1. Moratorium on payment of fixed charges by the Industrial and Commercial consumers – Page No. 654 of the MYT Order, 2020**

In view of global pandemic of COVID-19, Hon'ble Commission has provided a moratorium on payment of fixed charges of the electricity bill by consumers under Industrial and Commercial category for next three (3) billing cycles beginning from the lockdown date of March 25, 2020.

***EL Comments***

*In our view, it seems that the entire payment of fixed charges for the three (3) months shall be payable in the fourth (4<sup>th</sup>) month. However, if there is any difficulty in paying*



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the same, it would be advisable to seek clarification from MERC on the same or a request can be made to make such payment in three installments from the fourth (4<sup>th</sup>) month.

## 2. Increase in Demand/Fixed Charges and reduction of Energy Charges- Page Nos. 40, 469 and 685 of MYT Order, 2020

A comparison of the charges as fixed by the Hon'ble Commission vide MYT Order, 2020 and MTR Order, 2018 is given below:

### Demand/ Fixed Charges

Industry HT- 1 Category	MTR Order, 2018 (Rs/kVA/month)	MYT Order, 2020 (Rs/kVA/month)
FY 2018-19	350	--
FY 2019-20	391	--
FY 2020-21	--	411
FY 2021-22	--	432
FY 2022-23	--	454
FY 2023-24	--	463
FY 2024-25	--	472

### Energy Charges

Industry HT- 1 Category	MTR Order, 2018 (Rs/Kwh)	MYT Order, 2020 (Rs/kVAh)
FY 2018-19	7.10	--
FY 2019-20	7.07	--
FY 2020-21	--	7.02
FY 2021-22	--	6.96
FY 2022-23	--	6.89
FY 2023-24	--	6.85
FY 2024-25	--	6.73

- In case of HT-industrial consumers operating in single shift subject to conditions as outlined under MSEDCL proposal, only 60% of Demand Charges shall be levied.



- The term “meat” is included along with Seafood in HT-I category.
- Further the condition of levy under HT-II till receipt of permanent registration Certificate for IT/ITES as included in MTR Order 2018 is deleted.

### **EL Comments**

*The Hon’ble Commission in paragraph No. 8.7.17 of the MYT Order, 2020 has approved an increase in Fixed / Demand Charges over the 4<sup>th</sup> Control Period to keep the revenue recovery from Fixed Charges at around 16% to 18% of the total revenue of MSEDCL. The Energy Charges has however been reduced by the Hon’ble Commission.*

### **3. Demand Charge shall be applicable at 75% of the above rates for Steel Plants operating with electric arc furnaces- Page Nos. 40 and 688 of MYT Order, 2020**

Some other provisions pertaining to demand charges in case of power plant and steel industries with electric arc furnaces:

- HT-I consumers having captive generation facility synchronised with the grid may opt for Standby Capacity at rate of 25% of applicable Demand Charges.
- In addition, demand charge shall be applicable at 25% of the above rates on the start-up demand contracted by the Power Plant with MSEDCL.
- Demand Charge shall be applicable at 75% of the above rates for Steel Plant operating with electric arc furnaces.

### **EL Comments:**

*The 25% demand charges seems higher than Rs. 20/kVA/month only on the extent of standby contract demand for HT-I consumers having captive generating plant which was levied under MTR Order, 2018. Further MTR Order, 2018 provided that the stand by charges shall be levied only if the consumer’s demand exceeded contract demand which is not provided in MYT Order 2020.*

*The Hon’ble Commission has after due consideration from the industry players regarding the power intensive nature of Electric Arc Furnace based steel industries and various requests to create a new category, has continued the relief by way of reduction of payment of demand charges.*

*MYT Order, 2020 provides for Demand Charge as stated in Point No.2 to be applicable at 75% of the above rates for Steel Plants operating with electric arc furnaces.*



#### 4. Increase in Wheeling Charges – Page Nos. 42, 566 of MYT Order, 2020

A comparison of the wheeling charges as fixed by the Hon'ble Commission vide MYT Order, 2020 and MTR Order, 2018 is given below:

FY	MTR Order, 2018 (Rs/kWh for HT- 33 kV category)	MYT Order, 2020 (Rs/kVAh for HT category)
2018-19	0.15	
2019-20	0.15	
2020-21		0.57
2021-22		0.56
2022-23		0.55
2023-24		0.54
2024-25		0.53

#### **EL Comments**

*In line with the Regulation 73.2 of the MYT Regulations, 2019, the wheeling charges has been determined by the Commission for LT, HT and EHV voltage levels only instead of voltage wise estimation of wheeling charges for 33 kV, 22 kV, 11 kV and LT level consumers as done under MTR Order, 2018.*

*It may be noted that the MYT Order 2020 further provides that in cases where there is non availability of EHV or requisite voltage level, the wheeling charges to the consumer shall be applicable as per the Billing Demand recorded provided MSEDCL certifies the non-availability of the requisite voltage level and the billing demand shall be as per the requisite voltage level is met by the consumer for at least 9 months in a financial year.*

*In addition, MYT Order, 2020 provides for wheeling loss is provided at 7.5% for HT category.*

#### 5. kVAh billing for HT category consumers – Page Nos. 53, 486 of the MYT Order, 2020

The Commission has approved the adoption of kVAh billing for HT consumers from April 01, 2020.



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It is provided that the utility shall always maintain sale in kWh only for Energy Balance. Tax on Sale of Electricity and Electricity duty shall be converted from kVAh to kWh. All the OA transactions will be maintained in kWh sale only, kVAh based sales shall be converted in kWh based on the Power Factor for the month provided in the Energy Bills.

**EL Comments**

*For smooth transition to new billing system and to keep consumer aware of the actual PF for the month, the State Commission has directed MSEDCL to display PF (computed by considering leading and lagging RkVAh) recorded during the month in the bill of all the consumer categories till further directions.*

**6. Revision of Billing Demand- Page Nos. 112, 473 and 717 of the MYT Order, 2020**

A comparison of the definition of Billing Demand for HT consumers as provided under MTR Order, 2018 and MYT Order, 2020 is given below:

FY	MTR Order, 2018	MYT Order, 2020
	Maximum of	
2018-19	Actual maximum demand recorded in the month during 06 to 22 Hrs <b>OR</b> 75% of the highest Billing Demand recorded during the preceding eleven months, subject to the limit of Contract Demand <b>OR</b> 50% of the Contract Demand	
2019-20		
		Maximum of
2020-21		Actual maximum demand recorded in the month during 06 to 22 Hrs <b>OR</b> 75% of the highest Billing Demand recorded during the preceding eleven months, subject to the limit of Contract Demand <b>OR</b>



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		<b><u>55%</u></b> of the Contract Demand
2021-22		Actual maximum demand recorded in the month during 06 to 22 Hrs <b>OR</b> 75% of the highest Billing Demand recorded during the preceding eleven months, subject to the limit of Contract Demand <b>OR</b> <b><u>60%</u></b> of the Contract Demand
2022-23		Actual maximum demand recorded in the month during 06 to 22 Hrs <b>OR</b> 75% of the highest Billing Demand recorded during the preceding eleven months, subject to the limit of Contract Demand <b>OR</b> <b><u>65%</u></b> of the Contract Demand
2023-24		Actual maximum demand recorded in the month during 06 to 22 Hrs <b>OR</b> 75% of the highest Billing Demand recorded during the preceding eleven months, subject to the limit of Contract Demand <b>OR</b> <b><u>70%</u></b> of the Contract Demand
2024-25		Actual maximum demand recorded in the month during 06 to 22 Hrs <b>OR</b> 75% of the highest Billing Demand recorded during the preceding eleven months, subject to the limit of Contract Demand <b>OR</b> <b><u>75%</u></b> of the Contract Demand

**EL Comments**

*The Hon'ble Commission has allowed the revision of Billing Demand definition and attributed it to the necessity of having Contract Demand as close as possible to the demand intended to be used to facilitate the Distribution Utilities to accurately plan, source and schedule power.*



## 7. Revision in Load Factor Formula – Page Nos. 57, 505 and 713 of the MYT Order, 2020

The Hon'ble Commission vide MYT Order, 2020 has continued with incentives for consumers having Load Factor ("LF") above 75% based on their Contract Demand as provided under the MTR Order, 2018:

- a. LF over 75% upto 85%: Rebate of 0.75% for every 1% rise;
- b. LF over 85%: rebate of 1% for every 1% rise subject to ceiling of 15%.

MYT Order, 2020 also provides that LF Incentive should not be applicable for the month if the consumer exceeds its Contract Demand (including during non-peak hours, i.e. 22:00 hrs to 06:00 hrs) in any particular month.

However, the Hon'ble Commission has modified the LF formula and has included the actual interruption hours recorded in the meter instead of provision for sixty (60) hours. Further, in case of faulty meter where interruption hours are not recorded in the meter, the interruption hours recorded on feeder meter shall be considered for the calculation of LF Incentive for the individual consumer. The new definition of Load Factor is as follows:

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

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

### **EL Comments**





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The Hon'ble Commission has modified the LF formula since with AMR/ MRI enabled meters being installed to all HT consumers, actual hours of interruptions are recorded in meter and are readily available at the time of processing of monthly bill. The reasoning stated by the Hon'ble Commission for such modification is that using actual hours of interruptions will provide the correct estimation of LF.

#### 8. Penalty for contract demand violations: Page Nos. 60, 475 and 714 of MYT Order

The Hon'ble Commission has not made any changes to the penal conditions for violation of contract demand except in case of contract demand upto 20 kW.

##### EL comments:

It may be noted that the demand of consumer in Case No. 60 of 2018 was 289 kVA, wherein the Hon'ble Commission vide its Order dated January 1, 2019 permitted MSEDCL to enhance contract demand. The reference of the aforesaid Order in the MYT Order 2020 creates some confusion and therefore, one may consider seeking clarification of the applicability of enhancement of contract demand for consumers having contract demand above 20 kW.

#### 9. Additional Surcharge – Page Nos.83 and 595 of the MYT Order, 2020

A comparison of the Additional Surcharge (“ASC”) as fixed by this Hon'ble Commission vide MTR Order, 2018 and vide MYT Order, 2020 is given below:

MTR Order, 2018		MYT Order, 2020	
FY	Applicable ASC (Rs.)	FY	Applicable ASC (Rs.)
2018-19	1.25/kWh		
2019-20	1.25/kWh		
		2020-21	1.28 /kVAh
		2021-22	1.26/kVAh
		2022-23	1.24/kVAh
		2023-24	1.20/kVAh
		2024-25	1.18/kVAh

##### EL Comments



Though the imposition of ASC on Group Captive Power Plants (“GCPP”) vide MTR Order, 2018 was set aside by the Hon’ble Appellate Tribunal for Electricity vide Order dated March 27, 2019 in Appeal No.311 of 2018, the Hon’ble Commission has on account of the stay granted by the Hon’ble Supreme Court vide Order dated July 1, 2019 in Civil appeal Nos. 5074-5075/2019 on the operation and implementation of the judgment in Appeal No. 311 of 2018 continued levy of ASC on captive users of GCPP, in addition to Open Access (“OA”) consumers. Paragraph 8.31.31 of the MYT Order, 2020 once again makes a distinction between the a) Original Captive Users (who were never consumers of Distribution Licensee) and (b) Converted Captive Users (who subsequently switchover to GCPP mode), wherein the ASC would be applicable only on the latter category of captive power users i.e. captive users of GCPP.

It is not clarified if the ASC shall be applicable to CPP consumers (such as self-use on account of such consumer being OA consumer) or only to GCPP. Further, the period proposed by MSEDCL for considering levy of ASC i.e. all consumers in CPP which came into existence after FY 2015-16 also seems to be not clarified in the MYT Order, 2020.

**Therefore, one may consider approaching Hon’ble APTEL for stay of the MYT Order, 2020 as each tariff order is separate and requires to be challenged separately. Further, one may also consider seeking clarification from Hon’ble MERC before approaching Hon’ble APTEL or simultaneously on applicability of ASC on self-use consumer who is OA consumer but not GCPP consumer. One of the ground of such challenge can be on account of recession in past year and now COVID-19 which has led to lockdown of various industries and ramifications on account of such force majeure event and therefore, the stranded capacity is not related OA from RE source.**

#### 10. Cross Subsidy Surcharge – Page Nos. 106 and 581 of the MYT Order, 2020

A comparison of the Cross Subsidy Surcharge (“CSS”) as fixed by this Hon’ble Commission vide MTR Order, 2018 and MYT Order, 2020 for HT –I Category (EHV - 66kV and above) is given below:

MTR Order, 2018		MYT Order, 2020	
FY	Applicable CSS (Rs.)	FY	Applicable CSS (Rs.)
2018-19	1.57/kWh		
2019-20	1.58/kWh		
		2020-21	1.67/kVAh



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		2021-22	1.67/kVAh
		2022-23	1.68/kVAh
		2023-24	1.60/kVAh
		2024-25	1.60/kVAh

**EL Comments-**

The Hon'ble Commission taking into consideration the National Tariff Policy, 2016 has inter alia provided for the CSS for HT-I industry category within ceiling of  $\pm 20\%$  of cost of supply.

No concession is provided to the RE sector in terms of discounted CSS levy. CSS is applicable on the energy actually consumed by the OA consumer, i.e., on the metered consumption. In view thereof, with forecasting and scheduling regulation already in place and no direct correlation of levy of CSS on account of RE power, one may consider challenging full levy of CSS on RE open access. The earlier Appeal pertaining to full levy of CSS i.e. Appeal No. 108 of 2017 is pending before Hon'ble APTEL.

**11. Standby Charges for Captive Power Plants (CPPs)- Page Nos.546 of the MYT Order, 2020**

A comparison of the Standby Charges applicable for CPPs as fixed by this Hon'ble Commission vide MTR Order, 2018 and vide MYT Order, 2020 is given below:

MTR Order, 2018	MYT Order, 2020
Rs. 20/kVA/month	<ul style="list-style-type: none"> <li>- 25% of applicable demand charges for months when standby capacity is not utilized;</li> <li>- Demand Charges at the rate of 100% of applicable demand charges for months when standby capacity is not used under planned or unplanned shutdown of CPP;</li> <li>- During planned or un-planned shutdown, additional demand charges at the rate of 150% of applicable demand charges (on monthly basis) shall be applicable on such excess demand only if recorded demand exceeds contract demand plus standby contracted capacity;</li> </ul>



	<ul style="list-style-type: none"><li>- In case of CPP users, who do not opt for standby power arrangement, in such cases of CPP users for their planned or un-planned outage, additional demand charges at the rate of 200% of applicable demand charges (on monthly basis) shall be levied on the quantum exceeding their contract demand only if recorded demand exceeds contract demand.</li></ul>
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**EL Comments-**

*The 25% demand charges seems higher than Rs. 20/kVA/month only on the extent of standby contract demand for HT-I consumers having captive generating plant which was levied under MTR Order, 2018. Further MTR Order, 2018 provided that the stand by charges shall be levied only if the consumer's demand exceeded contract demand which is not provided in MYT Order 2020.*

*The distinction between not utilizing for reasons other than planned and unplanned shutdown for levy of demand charges does not seem clear.*

**12. Harmonics Penalty- Page Nos. 65 and 599 of MYT Order, 2020**

MYT Order, 2020 provides for no Harmonics Penalty to be levied at this stage.

The Hon'ble Commission had instead directed the all Bulk Consumers with Contract Demand above 20 MVA shall install power quality meter by March 2021 and above 10 MVA by March 2022 and share monthly data with Distribution Licensee.

**EL Comments:**

*The Hon'ble Commission has directed MSEDCL to create awareness amongst the consumers about effects of Harmonics on power equipment and had delayed the introduction of such penalty till analysis of data is made available through power quality meters.*

**13. Rebate on incremental power consumption- Page Nos. 80 and 711 of MYT Order, 2020**

MYT Order, 2020 has allowed incremental consumption rebate to all consumers including partial OA consumers at the rate of Rs. 0.75/kVAh provided that the



consumer's total variable charges should not be less than Rs.4/kVAh after accounting for all applicable rebates.

The rebate is subject to certain conditions *interalia* as follows:

- The rebate shall be given to eligible consumers including open access consumers falling under above consumer categories to the extent of procurement from MSEDCL.
- The rebate shall be for a period of 3 years subject to reconsideration during the MTR.
- The rebate shall be allowed to eligible consumers who consume power above threshold limit.
- The 3-year average monthly consumption by consumer from FY 2017-18 to FY 2019-20 shall be considered as baseline consumption (or monthly threshold consumption) for determination of incremental consumption by such eligible consumers.

**EL Comments:**

*Hon'ble Commission with a view to increase the sale of surplus contracted energy within MSEDCL's distribution areas has approved the rebate wherein a three (3) year average monthly consumption by consumer from FY 2017-18 to FY 2019-20 shall be considered as baseline consumption or monthly threshold consumption for determination of incremental consumption by such eligible consumers. The rebate would be applicable for a period of three (3) years subject to reconsideration during the Mid Term Review (MTR).*

**14. Revision in ToD charges- Page No. 552 of MYT Order, 2020**

The Hon'ble Commission in the MYT Order, 2020 has ruled that the current structure of the ToD charges which is given herein below would be continued: -

Consumption Slab (kWh)	Zone	Existing ToD Charge (Rs./kWh)
2200 Hrs-0600 Hrs	A	-1.50
0600 Hrs-0900 Hrs & 1200 Hrs-1800 Hrs	B	0.00
0900 Hrs-1200 Hrs	C	0.80
1800 Hrs-2200 Hrs	D	1.10

**15. Grid support charges for Net Metering systems- Page Nos. 125 and 535 of MYT Order, 2020**



MYT Order, 2020 provides for no grid support charges for net metering charges till the cumulative solar roof-top installations account for 2000 MW in the state of Maharashtra. A banking charge of 7.5% for HT consumers installing rooftop PV plants is levied.

**EL Comments:**

*The Hon'ble Commission with a view to encourage the installation of Roof-Top PV solar energy power plants in the state of Maharashtra has not levied any grid support charges. However, to balance out certain costs incurred by MSEDCL in order to provide services to such under Roof-Top PV solar energy power plants under net-metering arrangement and with a view to balance out some of the wheeling loss which MSEDCL incurs in supplying back the banked units to consumers, a banked charge of 7.5% for HT consumers has been levied.*

**16. Additional Demand Charges for systems not opting for Net Metering/ Billing- Page Nos.128 and 539 of MYT Order, 2020**

MYT Order, 2020 has deferred the levy of additional demand charges in the present stage for rooftop PV systems behind the consumer's meter and not availing net metering or net billing arrangement.

**EL Comments:**

*The Hon'ble Commission considering the non-preparedness, registry and modalities for implementation has deferred the levy of Additional Demand Charges and thus this would at the present stage be advantageous to the interest of the solar roof-top PV plants in the state of Maharashtra.*

**17. Rebate for Bulk Consumption for HT Industrial Consumers- Page No. 513 of MYT Order, 2020**

MYT Order, 2020 has in view of many requests and representations introduced rebate for bulk consumption in a reverse telescopic manner for HT-Industrial consumers.

- a) For monthly consumption (> 1 Lakh units to 1 MU) per month: 2%
- b) For monthly consumption (> 1 MU to 5 MU) per month: 1.5%
- c) For monthly consumption (> 5 MU) per month: 1%



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Bulk consumption rebate shall be applicable on energy charges including FAC of the Bill excluding taxes and duty.

**EL Comments:**

*In view of increase in an array of charges including demand charges and Maharashtra charging one of the highest rate for electricity in India, such bulk discount for HT consumers will help lessen the burden on the HT consumers.*

**Eternity Legal**

**Date: April 2, 2020**

**Place: Mumbai**

*Note: This note is prepared only for private circulation and intended addressees only. Our views expressed herein are based on certain presumptions, and there is no assurance that a regulatory authority may not adopt a variant position. Changes in facts can result in different conclusions. In any event, no other person shall be entitled to rely upon the views expressed herein without our prior written consent, and any reliance upon the same shall be restricted to the situation specifically referred to above.*