

**Before the Appellate Tribunal for Electricity  
Appellate Jurisdiction**

**Appeal No. 22 of 2007**

**Dated : 14<sup>th</sup> May, 2007**

**Present: Hon'ble Mr. A. A. Khan, Technical Member  
Hon'ble Mrs. Justice Manju Goel, Judicial Member**

**Under Section 111 (2) of Electricity Act, 2003**

**In the matter of:**

**Maharashtra State Electricity Distribution  
Company Ltd.  
Prakashgad,  
Bandra (East)  
Mumbai**

**...Appellant**

**Versus**

**The Maharashtra Electricity Regulatory Commission  
Centre 1, 13<sup>th</sup> Floor, World Trade Centre  
Cuffe Parade, Kolaba  
Mumbai – 400005**

**...Respondent**

**For the Appellant : Mr. Ajit Bhasme, Adv.  
Mr. Varun Thakur, Adv.**

**For the Respondent: Mr. Jayant Bhushan, Sr. Adv. with  
Mr. Buddy A. Raqganadhan, Adv.  
Mr. Arijit Maitra, Adv.  
Mr. Sanjay Kumar Dubey, Adv.**

## JUDGEMENT

### **Per Hon'ble Mr. A. A. Khan, Technical Member**

This appeal filed by the Maharashtra State Electricity Distribution Company Ltd. (for short 'MSEDCL') is directed against the order passed on 08.09.2006 by the respondent, The Maharashtra Electricity Regulatory Commission (hereinafter called as 'the Commission' or 'MERC') whereby the 'Commission' did not approve the proposed "Schedule of Charges" including 'Service Line Charges' submitted to the Commission in compliance to Regulation No. 18 of MERC (Electricity Supply Code and other Conditions of Supply) Regulations, 2005 (hereinafter to be called as 'Regulations 2005'). The aforesaid Service Line Charges (for brevity to be called as 'SLC') as claimed by the appellant is on the basis of normative expenditure to be incurred on the infrastructure which are required to be created for bringing the distribution network closer to the consumer premises.

### **FACTS OF THE CASE.**

2. Under the provisions of the Regulations no. 18 of the Regulations 2005, the Commission is mandated to determine the 'Schedule of Charges'

leviable by MSEDCL on its consumers for various services provided to them. Accordingly, MSEDCL had submitted a proposal of 'schedule of charges' which included the schedule for 'Service Line Charges' for approval by the Commission on 02.04.2005 and for approval of terms and conditions of supply on 15.06.2005.

3. Regulations No. 18 of the Regulations, 2005 governing the 'schedule of charges' is reproduced as under:

**“SCHEDULE OF CHARGES**

*18.1. Every Distribution Licensee shall, within one month from the date of notification of these Regulations or within one month from the grant of license, whichever is later, file with the Commission for approval, a schedule of charges for matters contained in these Regulations and for such other matters required by the Distribution Licensee to fulfill its obligation to supply electricity to consumers under the Act and these Regulations:*

*Provided that the Distribution Licensee shall file the schedule of charges along with every application for determination of tariff under Section 64 of the Act together with such particulars as the Commission may require.*

*18.2 The Commission shall after examining the schedule of charges filed before it by a Distribution Licensee under Regulation 18.1:*

*a) Issue an order granting its approval thereon, with such modifications or such conditions as may be specified in that order; or*

*b) reject the schedule of charges filed before it for reasons to be recorded in writing if it is not in accordance with the provisions of the Act and / or these Regulations:*

*Provided that the Commission shall reasonably consider the views of all interested parties before the schedule of charges of*

*a Distribution Licensee is approved, modified or rejected by the Commission under this Regulation 18.2:*

*Provided further that the Commission may approve the schedule of charges for each Distribution Licensee or may fix a schedule of charges applicable to a class of Distribution Licenses or to all Distribution Licensees in the State:*

*Provided also that the schedule of charges approved by the Commission shall, unless otherwise amended or revoked, continue to be in force for such period as may be specified in the order of the Commission granting such approval.*

*18.3 Any deviation from the approved schedule of charges shall be only with the prior approval of the Commission.*

*18.4 The existing schedule of charges of the Distribution Licensee shall continue to be in force until such time as the schedule of charges submitted by the Distribution Licensee under Regulation 18.1 is approved by the Commission.”*

4. MSEDCL's proposal has categorized the charges in three broad categories namely (a) Service Connection Charges (b) Service Line Charges and (c) Miscellaneous and other charges.

5. The Commission considered the proposal from MSEDCL and processed the same in accordance with Regulations, 2005 and after taking into account all the objections / suggestions raised during the public hearing, totally rejected the proposal to recover 'Service Line Charges' from the prospective consumers except in cases of consumers requiring dedicated-distribution facilities. The Commission has further directed that the development of infrastructure being the responsibility of the licensee as per the Electricity Act, 2003 (for short 'EA-2003'), the cost towards infrastructure from delivery point of transmission system to distributing mains should be borne by MSEDCL and recurring expenditure related to capital investment on the infrastructure shall be considered during ARR determination.

## **DISCUSSION AND ANALYSIS**

6. We have heard the arguments and counter arguments advanced by the learned counsel of the Appellant and respondent Commission.

7. The appellant is aggrieved against the Commission not approving the 'Service Line Charges', except in cases of dedicated distribution facilities required by the Consumers, being one of the items in the proposal of 'Schedule of Charges' submitted by MSEDCL for approval. The appellant, submits that the Commission by the impugned order has sought to deny the 'Service Line Charges' which the utility has been recovering since 1991.

8. It is observed that the MSEDCL's proposal to the Commission contained recovery of two separate charges towards cost incurred in releasing new connections namely (i) Service Connection Charges (SCC) and (ii) Service Line Charges (SLC). While SCC is intended to cover cost of electric line connection with associated accessories between licensees' nearest 'distributing mains' to the point of supply at consumers' premises, the SLC primarily covers the cost of infrastructure that is required to be installed from the points of inter connections of the transmission lines and

the distribution network up to the distributing mains, which are the take-off points for giving connections to consumers in their premises.

9. In order to implement the provision of Section 46 of the EA-2003, the Regulation No. 3 of Regulations, 2005 specify the principles for recovering the expenses involved in releasing the supply connections to the consumers. The principles and the manner in which the distribution licensee is authorized to recover the expenses from the consumers for giving supply are specified in the Regulation 3.3 of Regulations, 2005 and are reproduced as under: -

***“3.3. Recovery of expenses for giving supply.***

*3.3.1 The Distribution Licensee shall recover the expenses referred to in Regulations 3.2(a) above, in accordance with the principles contained in this Regulations 3.3 and based on the rates contained in the schedule of charges approved by the Commission under Regulations 18:*

*Provided that the Distribution Licensee may, with the approval of the Commission, in case of any category of consumers,*



*recover such expenses on the basis of an average or normative rate for providing the electric line or electrical plant for the purpose of giving supply.*

*3.3.2 Where the provision of supply to an applicant entails works of laying of service-line from the distributing main to the applicant's premises, the Distribution Licensee shall be authorized to recover all expenses reasonably incurred on such works from the applicant based on the schedule of charges approved by the Commission under Regulations 18:*

*Provided that the Distribution Licensee shall be entitled to use such service-line to supply electricity to any other person, notwithstanding that all expenses reasonably incurred have been recovered in accordance with this Regulation 3.3.2, except if such supply is detrimental to the supply to the consumer already connected therewith.*

*3.3.3 Where the provision of supply to an applicant entails works of installation of Dedicated distribution facilities, the*

*Distribution Licensee shall be authorized to recover all expenses reasonably incurred on such works from the applicant, based on the schedule of charges approved by the Commission under Regulation 18:*

*3.3.4 Where the provision of supply to an applicant entails works, not being works referred to in Regulation 3.3.2 or Regulation 3.3.3 above, for augmentation of the distribution system, the Distribution Licensee shall be authorized to recover from the applicant such proportion of the expenses reasonably incurred on such works as the load applied for bears to the incremental capacity that will be created by augmentation of the distribution system:*

*Provided that where the load applied for does not exceed 25 per cent of the capacity that will be created by augmentation of the distribution system, the Distribution Licensee shall not be entitled to recover any expenses under this Regulation 3.3.4:*

*Provided further that any dispute with regard to the need for an extent of augmentation of the distribution system under this*

*Regulations 3.3.4 shall be determined in accordance with the procedure set out in the Consumer Grievance Redressal Regulations”*

10. It may be pointed out that as per Sub-section (1) of Section 42 of the EA-2003, a distribution licensee is responsible to develop and maintain an efficient coordinated and economical distribution system. The aforesaid section of the EA-2003 reads thus:

*“42. Duties of distribution licensees and open access:- (1) It shall be the duty of the distribution licensee to develop and maintain an efficient coordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.”*

11. Further as per Sections 43 of the EA-2003, as a part of ‘its’ universal obligations, a distribution licensee is duty-bound to supply electricity at consumer’s premises within one month after receipt of the application from the consumer, which in our opinion will be feasible only if a distribution main exists in the proximity of the consumer’s premises and has capacity to supply the required demand without undertaking any upgradations of the

existing infrastructure requiring extension of distribution mains or new substations. Where the upgradation of the infrastructure is envisaged, the supply to the consumer's premises is to be given immediately after the upgradation or within such period as may be specified by the Commission.

The Subsection (1) of Section 43 of the EA-2003 is reproduced hereunder :

*“43. Duty to supply on request:- (1) Every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply;*

*Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.”*

12. The Section 46 of the EA-2003 empowers the distribution licensee to recover expenses reasonably incurred from the consumer in making the supply of electricity available to it in pursuance of Section 43. The aforesaid Section reads thus:

*“46 Power to recover expenditure.- The State Commission may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electric plant used for the purpose of giving that supply.”*

13. It will be appropriate to note the definition of “distributing main” as per Section 2(17) of the EA-2003 mentioned below:

*“2(17) ‘Distribution Licensee’ means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply.”*

Also according to Section 2(19) of the EA-2003, the

*“distribution system” means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers.*

14. In order to discharge its universal obligation to supply electricity on request to the consumers' premises as envisaged in section 43 of the EA-2003, the distribution licensee has a binding duty imposed by the Section 42(1) of the EA-2003 to develop and maintain an efficient coordinated and economical distribution system in his area of supply. The perimeter of the network of the 'distribution system' is determined by the numerous 'distributing mains' geographically dispersed and catering to various pockets of consumers in all directions within the area of supply and implemented in pursuance to the utility's plan, to meet the projected growth in load and demand to facilitate making prompt supply line connections to the consumers' premises from the nearest 'distributing mains' in an efficient and economical manner as envisaged in Section 42(1) and 43(1) of the EA-2003 and Regulation 3.3.2.

15. Where the demand of a supply connection is required on exclusive basis entailing works of installation of dedicated distribution facilities, the licensee is authorized to recover the reasonable expenses incurred on such works from the applicant based on the approved 'schedule of charges' in accordance with the Regulation No. 3.3.3, and provide supply connection immediately after such works are completed or within the time frame as approved by the Commission.

16. Also if the supply connection to an applicant entails works for augmentation of the distribution system (by way of extension of distributing mains or upgradation of sub-station capacity etc.), the distribution licensee is authorized to recover from the applicant a part of the reasonable expenses incurred on such works which is in proportion to the load applied for as a percentage of increased capacity created in distribution system. The aforesaid recovery from the applicant is admissible only if the applied load of the applicant exceeds 25 per cent of the increased capacity created. If the applicant's load applied for is less than 25 per cent of the increased capacity the licensee shall not be entitled to recover any expenses as specified in Regulation 3.3.4.

17. From the above scheme for recovery of expenses for providing supply connection to the consumers premises at their request in different situations emerge as under:

(a) In case of the situation described in para 14 above, the licensee has to develop schemes of projects after undertaking feasibility studies prior to making investment to carryout the required expansion to meet its universal obligations of providing supply connections to potential consumers in its area of supply in an economic and efficient manner. The investment is allowed to be recovered from the consumer through tariff. The cost of the supply connection from the nearest “Distribution Mains” to the premises of the consumers are to be recovered from the consumers as per approved “Schedule of Charges”.

(b) For meeting the demand of supply connection requiring the dedicated distribution facilities, as envisaged in para 15 above, the licensee is authorized to recover the reasonable expenses from the applicants based on ‘schedules of charges’ approved by the Commission.



(c) For providing supply connection to an applicant that requires augmentation of distribution system, as mentioned in para 16 above, the licensee is authorized to recover from the applicant the expenses based on approved 'Schedule of Charges' only when the load applied for by the applicant is more than 25 per cent of the increased capacity created.

18. In view of the above, it is clear that the "Service Line Charges" as proposed by the appellant are being allowed to be recovered through tariff. If the aforesaid proposal on "Service Line Charges" made by the appellant is accepted it will amount to doubling of the recovery of the expenses from the consumers. The appeal is accordingly dismissed.

19. With the above directions the appeal is disposed of but with no order as to costs.

(A.A. Khan)  
Technical Member

(Mrs. Justice Manju Goel)  
Judicial Member

Dated : 14<sup>th</sup> May, 2007