

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 73 of 2010

In the matter of
Application under Regulation 85 of the MERC (Conduct of Business) Regulations, 2004, by
Maharashtra State Electricity Transmission Co. Ltd. ("MSETCL") seeking review of the
Order dated 10th September, 2010 in Case No. 103 of 2009 in respect of MSETCL's Annual
Performance Review (APR) for FY 2009-10, True up for FY 2008-09 and Tariff
Determination for FY 2010-11

Shri V.P. Raja, Chairman
Shri Vijay L. Sonavane, Member

ORDER

Dated: November 30, 2010

Maharashtra State Electricity Transmission Co. Ltd. 8th Floor, 'Prakashganga',
Plot no. C-19, E-Block,
Bandra Kurla Complex, Bandra (E), Mumbai – 400051

..... Applicant

The Commission in exercise of the powers vested in it under Section 61 and
Section 62 of the Electricity Act, 2003 (EA 2003) and all other powers enabling it in this behalf,
MERC, Mumbai

1 of 11



had issued an order on 2nd April, 2007 for determination of Annual Revenue Requirement (ARR) of the present Applicant for the Control Period FY 2007-08 to FY 2009-10 under the MYT framework.

- 1.1 On 10th September, 2010 the Commission issued an order in Case No. 103 of 2009 for the Truing-up of Aggregate Revenue Requirement for FY 2008-09, approval of Annual Performance Review for FY 2009-10 and Aggregate Revenue Requirement for FY 2010-11 under the MYT framework. (“APR Order for FY 2009-10”).
- 1.2 The Applicant has filed the present petition on 22nd October, 2010 seeking review of the APR Order dated 10th September, 2010 with the following prayers:

- “
- 1) *The Hon’ble Commission has not provided depreciation to the additional capitalisation of Rs 268.68 Cr, which may humbly be approved at the average rate of 3.6% as submitted in APR Petition for FY 09-10, amounting to Rs. 9.67 Cr*
 - 2) *The matter may please be treated as ‘error apparent’*
 - 3) *Any errors/omissions may please be condoned, and opportunity be given to rectify the same.”*

- 1.3 The Applicant states that certain error apparent on the face of the record has crept in the impugned order i.e., the APR Order for FY 2009-10 within the meaning of Regulation 85 of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 which provides as follows –

“85. (a) Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Commission.”



- 1.4 The Applicant states that it has not filed any appeal against the impugned order on account of such error.
- 1.5 In accordance with Section 85 (e) of the MERC (Conduct of Business) Regulations, 2004, the Commission issued a notice upon the Applicant and four Consumer Representatives authorised under Section 94(3) of the Electricity Act 2003 (EA 03) for hearing the presser matter. The Commission scheduled the hearing in the matter on November 15, 2010 and directed the Applicant to serve copies of the Petition upon the said authorised Consumer Representatives. During the hearing, the Applicant reiterated and the issues raised in the review petition.
- 1.6 Having heard MSETCL and after considering the materials placed on record, the findings of the Commission are in the following sections.

Depreciation on the additional capitalisation of Rs 268.68 Cr for FY 2007-08

Applicant's Submission

- 1.7 The Applicant has submitted that the Commission in its APR order of FY 2009-10 has approved additional capitalisation for Rs.268.68 Cr for FY 2007-08 as shown below:

Table 1: Applicant's Submission

Particulars	Amount (in Rs. Cr)
Capitalisation approved in APR Order for FY 08-09 dated. May 28, 2008	245.05
Revised capitalisation approved for FY 07-08 in APR order for FY 2009-10	513.88
Net additional Capitalisation approved for FY 2007-08 in APR Order for FY 2009-10	268.83

- 1.8 The Applicant has submitted that with the approval of additional capitalisation for FY 2007-08, the Applicant is eligible to claim benefits of Interest on long term loans, Depreciation and Return on Equity. It has further submitted that while the Commission has accordingly recomputed and allowed additional interest on long term loans and return on equity on this additional capitalisation for the FY 2007-08 it has not allowed



depreciation benefits related to additional capitalisation of Rs. 268.68 Cr that the Applicant is eligible for.

- 1.9 Thus, the Applicant in its review petition has prayed for the additional depreciation on Rs.268.68 Cr at an average rate of 3.60% p.a., as submitted in the APR Petition for FY 2009-10, amounting to Rs 9.67 Cr for FY 2007-08.

Consumer Representative's submission

- 1.10 During the course of hearing Shri. Raksh Pal Abrol, consumer representative, submitted that the submission made by the Applicant does not qualify as a matter of error apparent on face of the record within the meaning Regulation 85 of the MERC (Conduct of Business) Regulations, 2004 and that no subsequent review should be allowed against the earlier orders issued by the Commission.

Commission's View

- 1.11 The Commission in its Order dated 10th September, 2010 in Case No. 103 of 2009, allowed additional capitalisation of Rs. 268.83 Cr for FY 2007-08. Table 2 presents a summary of capitalisation claimed by MSETCL for FY 2007-08 in APR Petition for FY 2008-09, the capitalisation approved by the Commission in APR Order for FY 2008-09, and the additional capitalisation approved through the APR Order for FY 2009-10.

Table 2: Revised Capitalisation approved for FY 2007-08 by the Commission in its APR Order for FY 2009-10 (Rs Cr)

Particulars	DPR	Non-DPR	Total
Capitalisation claimed by MSETCL in APR petition for FY 2008-09	197.21	669.93	867.14
Capitalisation approved in APR Order dated May 28, 2008	179.16	65.89	245.05
Revised approval of capitalisation for FY 2007-08 in APR Order for FY 2009-10	179.16	334.72	513.88
Net Additional Capitalisation approved for FY 2007-08	-	268.83	268.83



- 1.12 The Commission has considered this additional capitalisation of Rs.268.83 Cr as part of capitalisation of assets in FY 2008-09. The relevant extract from the APR Order for FY 2009-10 is as follows:

“...The total capitalisation submitted by MSETCL and that approved by the Commission for FY 2008-09 is given in the Table below. Further, as discussed in the previous section, the impact of revised capitalisation of FY 2007-08 has also been considered along with capitalisation of FY 2008-09 to arrive at the net Capitalisation of FY 2008-09.”

Table 3: Capitalisation for FY 2008-09 (Rs. Cr)

Particulars	Capitalisation in FY 2008-09	
	MSETCL	Commission
DPR schemes (approved)	380.11	334.02
DPR Schemes (submitted for approval)	126.32	94.55
Schemes sanctioned in MSEB Period costing Rs 10 Cr & above	58.33	33.05
Non DPR Schemes	99.12	92.32
Total for FY 2008-09	663.88	553.94
Revised approved capitalisation for FY 2007-08	-	268.83
Net Capitalisation to be considered for FY 2008-09 including impact of revised approval for FY 2007-08	663.88	822.77

- 1.13 The opening GFA for FY 2008-09 as approved in the previous APR order was Rs.9209.18 Cr prior to adjustment of Rs.107.22 Cr on account of migration from ESAAR to ICAI standards. Thus the Commission has considered the revised opening GFA as Rs.9101.96 (9209.18 – 107.22) Cr for computation of depreciation in the APR Order for FY 2009-10.
- 1.14 Further, the Commission has considered the opening GFA of Rs.9101.96 Cr for FY 2008-09 and net capitalisation for FY2008-09 of Rs.822.77 Cr to arrive at a closing GFA of Rs.9924.73 Cr for FY 2008-09 as shown in Table 4.



Table 4: Closing GFA for FY 2008-09 (Rs Cr)

Particulars	Approved by Commission in APR Order for FY2009-10
Opening GFA (as approved in APR Order for FY 2008-09)	9209.18
<i>Less: De-capitalisation</i>	107.22
Revised Opening GFA	9101.96
<i>Asset Capitalised FY 2008-09</i>	553.94
<i>Asset Capitalised FY 2007-08</i>	268.83
<i>Total Assets Capitalised</i>	822.77
Closing GFA	9924.73

- 1.15 As can be seen from Table 4 above, the Commission has added the additional capitalisation amount of Rs.268.83 Cr for FY 2007-08 in the capitalisation for FY 2008-09 resulting in closing GFA of Rs. 9924.73 Cr.
- 1.16 While computing the depreciation amount of Rs.279.88 Cr for FY 2008-09 in the APR Order for FY 2009-10, the Commission has considered the opening GFA and the rates of depreciation as per the MERC Tariff Regulations as shown in Table 5.

Table 5: Computation of depreciation for FY 2008-09

	Opening GFA	Adjustment for migration	Revised Opening GFA	Additions during the year*	Retirement of assets during the year	Closing GFA	Rate of Depr (%)	Depreciation during year (on opening GFA)
Land & Land Rights	107.18	0	107.18	10.15	0.74	116.59	0.56%	0.6
Buildings	256.08	1.48	257.56	13.97	1.55	269.98	1.80%	4.64
Hydraulic Works	20.82	-0.01	20.81	1.25	0.03	22.03	2.57%	0.53
Other Civil Works	269.97	-2.57	267.41	31.71	6.38	292.74	1.80%	4.81
Plant & Machinery	4878.89	-73.47	4805.42	765.15	166.12	5404.5	3.60%	173
Lines & Cable Networks	3645.45	-32.53	3612.92	247.68	73.72	3786.9	2.57%	92.85
Vehicles	13.37	-0.01	13.37	0.06	0.16	13.27	18.00%	2.41
Furniture & Fixtures	9.32	-0.02	9.3	0.47	0.02	9.75	6.00%	0.56
Office Equipment	8.09	-0.1	8	1.09	0.04	9.05	6.00%	0.48
Total	9209.18	-107.22	9101.96	1071.53	248.76	9924.7	2.94%	279.88

*includes impact of revision of capitalisation of FY 2007-08



- 1.17 Thus, the claim of Applicant that the depreciation has not been provided for in the additional capitalisation allowed for FY 2007-08 of Rs. 268.83 Cr which has been included in the capitalisation amount for FY 2008-09 is correct. There is a ground made out for grant of review under the provisions of Regulation 85 of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.
- 1.18 Based on the submission of the Applicant, the Commission is of the view that the additional depreciation should be allowed on the additional capitalisation amount. For doing so, the additional capitalisation for FY 2007-08 of Rs.268.83 Cr needs to be added to the opening GFA for FY 2008-09 instead of allowed as additional capitalisation during FY 2008-09. Thus the Commission has now recomputed opening GFA for FY 2008-09 as Rs.9370.79 Cr after considering the impact of additional capitalisation during 2007-08. Table 6 below shows the computation of revised opening GFA for FY 2008-09. Note that the opening GFA for FY 2007-08 remains unchanged.

Table 6: Revised computation of opening GFA for FY 2008-09

No.	Particulars	Revised GFA
1	Opening GFA for FY 2007-08 as allowed in APR Order 2008-09	8965.25
2	Add: Approved Capitalisation during FY 07-08	513.88
i)	DPR	179.16
ii)	Non-DPR (including additional capitalisation amount of Rs.268.83 Cr)	334.72
3	Less: Decapitalisation due to migration for FY 05-06, FY 06-07 and FY 07-08	107.22
4	Less: Assets written off	1.12
5	Opening GFA FY 2008-09 (after considering impact of additional capitalisation)	9370.79
6	Add: Approved Capitalisation during FY 08-09	553.94
i)	DPR	461.62
ii)	Non-DPR	92.32
7	Closing GFA FY 2008-09	9924.73

- 1.19 Since depreciation is calculated by applying the depreciation rates on opening GFA for the year, there shall be no impact of additional approved capitalisation of Rs 268.83 Cr on the approved depreciation of FY 2007-08.



- 1.20 For FY 2008-09, the depreciation (including Advance Against Depreciation of Rs 44.44 Cr) was estimated as Rs.323.13 Cr in the APR Order for 2009-10. The revised depreciation (including AAD) for FY 2008-09, due to change in opening GFA for FY 2008-09, has been summarised below. The net impact on total depreciation approved for FY 2008-09 due to additional capitalisation of Rs.268.83 Cr allowed during FY 2007-08 is nil.

Table 7: Computation of revised depreciation for FY 2008-09 (Rs Cr)

Particulars	Approved by Commission in APR Order 09-10	Now Approved by Commission
Revised Opening GFA for FY 08-09	9101.96	9370.79
Depreciation allowed as per APR Order 09-10	279.88	279.88
<i>Additional Depreciation allowed on additional capitalisation allowed during FY 07-08 of Rs.268.83 Cr @ 3.60%</i>	-	9.68
Revised depreciation	279.88	289.55
Loan Repayments	323.13	323.13
AAD	43.44	33.58
Depreciation including AAD	323.13	323.13
Net Impact on depreciation		0.00

Return on Equity

- 1.21 The funding of the additional capitalisation allowed (Rs.268.83 Cr) for FY 2007-08 shall be through debt: equity in the ratio 80:20 amounting to Rs 215.06 Cr as debt and Rs 53.76 Cr as equity.
- 1.22 In case of return on equity, the net impact in FY 2008-09 due to additional capitalisation of Rs.268.83 Cr allowed during FY 2007-08 would be Rs.7.53 Cr as summarised in Table 8 and Table 9.



Table 8: Computation of revised equity for FY 2008-09 (Rs Cr)

No.	Particulars	Approved in APR Order 2008-09	Approved in APR Order 2009-10	Revised as per Present Order
1	Regulatory Equity at beginning of FY 07-08	2742.22	2742.22	2742.22
2	Net Capitalisation during the year (a-b-c)	113.82	113.82	382.65
a)	Capitalisation during the year	245.05	245.05	513.88
b)	Less: Consumer Contribution	51.23	51.23	51.23
c)	Less: Grants	80.00	80.00	80.00
3	Equity portion of net capitalisation during year (2 * 20%)	22.76	22.76	76.53
4	Regulatory equity at end of FY 2007-08	2764.98	2764.98	2818.75
5	Less: Equity portion of De-capitalisation due to migration for FY 05-06, FY 06-07 and FY 07-08	0.00	21.44	21.44
6	Revised Equity at beginning of FY 2008-09	2764.98	2743.54	2797.31
7	Net Capitalisation during the year (d+e-f-g)	491.23	719.68	450.85
d)	Capitalisation during FY 2008-09	491.23	553.94	553.94
e)	Additional capitalisation for FY 2007-08	0.00	268.83	0.00
f)	Less: Consumer contribution	0.00	75.85	75.85
g)	Less: grants	0.00	27.24	27.24
8	Equity portion of net capitalisation during year (7 * 20%)	98.25	143.94	90.17
9	Regulatory equity at end of FY 2008-09	2863.23	2887.48	2887.48

Table 9: Computation of revised return on equity for FY 2008-09 (Rs Cr)

No.	Particulars	Approved in APR Order 2008-09	Approved in APR Order 2009-10	Revised as per Present Order
1	Return on Regulatory Equity at the beginning of the year	387.10	384.10	391.62
2	Return on 50% amount of Equity portion of capital expenditure during the year	6.88	10.08	6.31
3	Total Revised ROE for FY 2008-09	393.97	394.17	397.93
4	Add: Impact on RoE for FY 2007-08 due to additional capitalisation (Rs 53.76 Cr* 50%*14%)	0.00	0.00	3.76



5	Net ROE expenses for FY 08-09 (4+5)	393.97	394.17	401.70
6	Net Impact on ROE			7.53

Interest on Loan

1.23 In case of interest on loan capital, the net impact due to additional capitalisation of Rs.268.83 Cr allowed during FY 2007-08 would be Rs. 52.30 Cr as summarised in Table 10.

Table 10: Computation of revised Interest on loan for FY 2008-09 (Rs Cr)

No.	Particulars	Approved in APR Order 2008-09	Approved in APR Order 2009-10	Revised as per Present Order
1	Opening Balance of Loan for FY 2007-08	1941.18	1941.18	1941.18
2	Add: Additions during the year	91.05	91.05	91.05
3	Less: Repayment during the year	337.68	337.68	337.68
4	Closing Balance of Loan for FY 2007-08 (1+2-3)	1694.55	1694.55	1694.55
5	Less: Debt portion of Decapitalisation due to migration for FY 05-06, FY 06-07 and FY 07-08	0.00	85.78	85.78
6	Add: Debt portion of additional capitalisation allowed during the year	0.00	0.00	215.06
7	Revised Balance of Loan at beginning of FY 2008-09 (4-5+6)	1694.55	1608.77	1823.84
8	Add: Additions during the year	392.98	575.75	360.68
9	Less: Repayment during the year	350.42	323.13	323.13
10	Closing Balance of loan for FY 2008-09 (7+8-9)	1737.11	1861.39	1861.39
11	Gross Interest expenses on Opening Balance for FY 2008-09	212.41	190.78	202.69
12	Less: SLDC apportionment	0.95	0.56	0.56
13	Less: IDC	41.63	74.19	45.11
14	Less: Effect of migration of accounts	0.00	-1.74	-1.74
15	Revised Interest expenses for FY 08-09 (11-12-13-14)	169.83	117.77	158.76
16	Add: Impact on interest on loan for FY 2007-08 due to additional capitalisation (Rs 215.06 Cr *50%*10.52%)	0.00	0.00	11.31
17	Net Interest expenses for FY 08-09 (15+16)	169.83	117.77	170.07
18	Net Impact on Interest Expenses			52.30



Revised ARR for FY 2008-09

1.24 Accordingly the net impact on ARR of revising the opening GFA of FY 2008-09 to Rs.9370.79 Cr is Rs.59.83 (7.53 + 52.30) Cr as summarised in Table 11.

Table 11: Revised ARR for FY 2008-09

No.	Particulars	Approved in APR Order 2008-09	Approved in APR Order 2009-10	Revised as per Present Order
1	Operation & Maintenance Expenses	546.18	875.11	875.11
1.1	Employee Expenses	318.32	543.91	543.91
1.2	Administration & General Expenses	53.92	74.15	74.15
1.3	Repair & Maintenance Expenses	173.93	257.05	257.05
2	Depreciation, including advance against depreciation	350.42	323.13	323.13
3	Interest on Long-term Loan Capital	169.83	117.77	170.07
4	Interest on Working Capital and on consumer security deposits	50.20	40.55	40.55
5	Other Interest and Finance charges	26.72	18.54	18.54
6	Other Expenses	0.73	(0.73)	(0.73)
7	Income Tax	154.47	118.81	118.81
8	Contribution to contingency reserves	23.02	22.75	22.75
9	Total Revenue Expenditure	1,321.57	1,515.94	1,568.24
10	Return on Equity Capital	393.97	394.17	401.70
11	Aggregate Revenue Requirement	1,715.54	1,910.11	1,969.94
12	Less: Non Tariff Income	93.58	92.96	92.96
13	Less: Income from Other Business	0.00	0.00	0.00
14	Less: Income from Goa Transmission Charges	8.90	8.90	8.90
15	Aggregate Revenue Requirement from Transmission Tariff	1,613.07	1,808.26	1,868.08
16	Net Impact on ARR			59.83



- 1.25 The amount of Rs.59.83 Cr should be carried forward and adjusted in gap for FY 2009-10 during the true up exercise of the next tariff petition of MSETCL.
- 1.26 With this order, the Commission disposes of MSETCL's petition in the matter of Case No. 73 of 2010.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman



Sd/-
(K. N. Khawarey)
Secretary, MERC