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Maharashtra Electricity Regulatory Commission (Fees and Charges) Regulations, 2017

STATEMENT OF REASONS

Dated: 3 April, 2017

Introduction

In exercise of its powers under Section 86(1)(g) read with Section 181 of the Electricity Act, 2003, the Commission had notified the Maharashtra Electricity Regulatory Commission (Fees and Charges) Regulations, 2004 ('Previous Regulations'). These Regulations specified the Fees and Charges payable to the Commission for different types of Applications made and Licences sought from or granted by the Commission under the provisions of the Electricity Act, 2003 ('the Act') and the relevant Rules and Regulations.

Since thirteen years have passed since the Previous Regulations were notified, the Commission decided to review and rationalise the Fees and Charges considering the evolution of the power sector and the nature of the work involved on the part of the Commission and its funding requirements, and also to provide greater clarity and ease of implementation. The Commission appointed M/s PricewaterhouseCoopers Pvt. Ltd., India to assist it.

As the outcome of this review, the Commission uploaded a draft of the new Fees and Charges Regulations, 2017 ('Draft Regulations') on its websites, along with an Explanatory Memorandum, and published a Public Notice on 27.2.2017 on its websites and in leading Marathi and English language newspapers with wide circulation inviting comments from stakeholders and the general public. The last date for receipt of comments was 22.3.2017. The 7 responses which were received have been considered, and the final Maharashtra Electricity Regulatory Commission (Fees and Charges) Regulations, 2017 ('2017 Regulations') have been notified on 3rd April, 2017 in the Official Gazette.

Statement Of Reasons for MERC (Fees and Charges) Regulations, 2017

The comments received during the public consultation process, the views of the Commission and the revisions made in the Draft Regulations are set out below, along with some important differences as compared to the Previous Regulations.

1. Applicability of Regulations

Previous Regulations

“1.3 It shall apply to all matters within the jurisdiction of the Commission, including all Applications pending before the Commission at the date of publication and all Applications disposed of by the Commission prior to publication and against which a provisional fee or charge was paid or to be paid by the applicant.”

Proposed in Draft Regulations

“1.2 These Regulations shall come into force from the date of their publication in the Official Gazette.”

Comments received

No comments have been received.

Analysis and Commission’s Decision

The 2017 Regulations apply prospectively since, unlike in 2004, the earlier Fees and Charges were not being levied on a provisional basis but in accordance with the Previous Regulations. Suitable provisos have been added to extend the date by which the Annual Licence Fees for the financial year (FY) 2017-18 are to be paid considering the date of publication of the 2017 Regulations.

2. Definition of Small Distribution Licensee

Previous Regulations

No separate category of ‘Small Distribution Licensee’ is defined.

Proposed in Draft Regulations

“2.1(d) “Small Distribution Licensee” means a Distribution Licensee which has an estimated Annual Revenue Requirement for sale of upto 500 Million Units of electricity for the first year of its Application for Tariff determination.”

Comments received

According to The Tata Power Company Ltd. (TPC), this definition does not specify when a Licensee will cease to be a “Small Distribution Licensee”. When a new Distribution Licence area is under development, the sale in the first year may be less than 500 MUs, but this may rise significantly in subsequent years. Therefore, TPC has suggested deletion of the phrase "for the first year of its Application for Tariff determination" from the definition of Small Distribution Licensee, and that the defining upper limit of sales (in MUs) may be suitably revised.

Analysis and Commission’s Decision

With the emergence of Distribution Licensees for much smaller areas and/or a limited number and range of consumers (such as Special Economic Zone Developers, who are deemed Distribution Licensees, and other types of Licensees that may emerge in future), a new sub-category of “Small Distribution Licensees” was proposed to be introduced for the purpose of levy of Fees and Charges.

As regards the concern, raised by TPC, that the definition proposed implies that a Small Distribution Licensee would be treated as such in perpetuity, the definition now finalised in the 2017 Regulations makes it clear that the reference to the first year of Application for Tariff determination is with regard only to a particular MYT Control Period:

“2.1(d) “Small Distribution Licensee” means a Distribution Licensee which has an estimated Annual Revenue Requirement for sale of upto 500 Million Units of electricity for the first year of its Application for Tariff determination during a Multi-Year Tariff Control Period.”

The criterion of upto 500 MUs would have to be met again in order for a Licensee to be categorised as a Small Distribution Licensee, failing which the provisions relating to other Distribution Licensees would apply.

3. Delayed Payment Charge

Previous Regulations

No Delayed Payment Charge (DPC) or late payment surcharge was specified for delay in the payment of Fees and Charges beyond the stipulated date.

Proposed in Draft Regulations

“Schedule of Fees and Charges

3... Provided that:

...(b) in case of delay in the payment of the Licence Fee, the Licensee shall be liable to pay interest on the outstanding amount at a simple interest rate of 1.25 per cent per month;”

Comments received

In order to ensure timely payments by Distribution Licensees to Generators under Power Purchase Agreements (PPAs), Shri S.K. Gupta of Kamal Engineering Corporation (KEC) has sought that the DPC provision be made binding on the Licensees.

Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) sought clarity in the DPC rate. While the rate of 1.5% is specified in the MERC (General Conditions of Distribution Licence) Regulations, 2006, the Draft Regulations specify 1.25%. MSEDCL has also proposed an enabling provision for waiver of DPC at the request of a Licensee.

Analysis and Commission’s Decision

A DPC provision has been introduced, with a simple interest rate of 1.25% per month on any payment not made within the stipulated time. Delayed payment has financial consequences, and the levy of DPC is also well-established as a measure to encourage timely payment. The rate of 1.25% per month is the same as specified in the current Maharashtra Electricity Regulatory Commission (Multi-Year Tariff (MYT)) Regulations (‘MYT Regulations’), 2015.

The DPC proposed in the Draft Regulations and now finalized pertains to the Annual Licence Fees payable to the Commission, and not to delayed payments of dues under the PPAs between Generators and Licensees referred to by KEC.

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The DPC rate of 1.25% per month is consistent with the rate specified in the MYT Regulations, 2015. The Commission's Renewable Energy (RE) Tariff Regulations, 2015 also provide for levy of DPC at the rate specified in the MYT Regulations. As regards the apparent conflict, pointed out by MSEDCL, with the rate of 1.5% specified in the Commission's General Conditions of Distribution Licence Regulations, 2006, that is the default rate which applies unless stipulated otherwise by the Commission. Regulation 8.9.2(a) of those Regulations provides that

“the Distribution Licensee shall be liable to pay interest on the outstanding amount for the overdue period at such rate as the Commission may direct from time to time and unless so directed at a simple interest rate of 1.5 per cent per month;...”

As such, there is no conflict between these various regulatory provisions regarding DPC.

MSEDCL's suggestion for an enabling provision for waiver of DPC has not been accepted by the Commission considering the purpose of levy of DPC. Moreover, a lower benchmark has been fixed for determining the quantum of Annual Licence Fees payable by Distribution Licensees like MSEDCL as compared to the Previous Regulations.

4. Fees for fresh Applications in matters disposed of by the Commission with liberty to re-apply:

Previous Regulations

Application Fees were payable even in such cases.

Proposed in Draft Regulations

“3.6 No Fee will be payable for fresh Applications in matters which the Commission had earlier disposed of with liberty to the Applicant to approach the Commission after the decision of the concerned higher Court or Tribunal.”

Comments received

No comments have been received.

Analysis and Commission's Decision

Since Fees were duly paid at the time of the original Application, which was disposed of with liberty to re-apply after the decision of the higher court or tribunal, no Fee shall be applicable for a fresh Application in the same matter.

5. Adjudication of Disputes

Clauses in Schedule of Previous Regulations

“1. Adjudication of dispute regarding availability of transmission facility under the second provision to sub-section (2) of Section 9 under the Act, to be paid by the person who has referred such dispute to Commission: Rs. 10,000 for the first 1 MW of transmission capacity sought and Rs. 1,250 per MW thereafter, subject to a maximum of Rs. 1,00,000

8. Adjudication of dispute regarding extent of surplus capacity under the proviso to Section 35 of the Act: Rs. 5,00,000 plus Rs 50,000 per outstation hearing

10. Adjudication of disputes regarding provision of non-discriminatory open access under sub-section (47) of Section 2 read with Section 40 of the Act and Regulations specified thereunder, not covered above:

(i) referred by a Licensee or by a Generating Company: Rs 5,00,000 plus Rs 50,000 per outstation hearing

(ii) referred by Person who has constructed and maintains and operates a Captive Generating Plant: Rs 25,000

(iii) referred by consumer/ Consumer Representative: Rs 5,000.

11. Adjudication of disputes regarding provision of non-discriminatory open access under sub-section (47) of Section 2 read with sub-section (2), (3) and (4) of Section 42 of the Act and regulations specified thereunder:

(i) referred by a Licensee or by a Generating Company, other than a Generating Company referred to in (ii) below: Rs 5,00,000 plus Rs 50,000 per outstation hearing

(ii) referred by a Generating Company directly connected to the distribution system of a Distribution Licensee or by Person who has constructed, maintains and operates a Captive Generating Plant: Rs 25,000

(iii) referred by consumer/ Consumer Representative: Rs 5,000

21. Adjudication under clause (f) of sub-section (1) of section 86 of disputes between licensees and generating companies and between licensees themselves, not covered elsewhere in these Regulations: Rs 5,00,000 plus Rs 50,000 per outstation hearing.”

Proposed in Draft Regulations

“1. Application for adjudication of disputes under the provisions of the Act:

(i) made by a Licensee or by a Generating Company, other than a Generating Company referred to in (ii) below: Conventional fuel based (coal, gas, oil, etc.) Generation Plant, Hydro Power Plant (above 25 MW), and a Licensee: Rs. 3,00,000 and Non-conventional or Renewable Energy Plant, including Co-Generation Plant: Rs. 50,000

(ii) made by a person owning a Captive Generating Plant: Rs. 25,000

(iii) made by a Consumer or a Consumer Representative: Rs. 5,000.”

Comments received

KEC has suggested a reduction in the proposed Fee for Applications for adjudication of disputes by Non-Conventional or RE Generators (including Co-generation) to Rs. 5,000 per MW or Rs. 50,000, whichever is lower, since such Generating Plants are generally of much smaller capacities than others.

MSEDCL has contended that specifying Fees for dispute adjudication applied for by RE Generators which are different and lower than for others, even though the nature of dispute may be the same, is discriminatory. The Fees for adjudication of disputes should be the same for Licensees as well as RE Generators.

Analysis and Commission’s Decision

The Act provides for certain disputes to be referred to the Commission. As a measure of rationalization and simplification, the types of disputes to be adjudicated have been brought together for the purpose of the Application Fees required. As regards MSEDCL’s objection, considering the differences in the nature and disputed amounts usually involved in the Applications received, the Commission has made a distinction between the Fees payable by Licensees and Conventional Generators, and by Non-Conventional and Renewable Generators. The Commission notes that the Previous Regulations also made a distinction between these different types of Generators (in the Application Fees payable for tariff determination).

The provision for additional Fees for out-station hearings has been removed.

As regards KEC's suggestion to reduce the Fees payable by RE Generators for dispute adjudication further, the Commission considers the Fees now specified to be appropriate in view of the nature and scale of disputes and need not be lowered further. Moreover, they are substantially lower than payable under the Previous Regulations and also as compared to those specified for Conventional Generators and Licensees.

6. Initial Licence Fee

Clause in Schedule of Previous Regulations

"2. Initial licence fee upon grant of licence under Section 15 of the Act: Rs 5,00,000"

Proposed in Draft Regulations

No Initial Licence Fee is payable.

Comments received

No comments have been received.

Analysis and Commission's Decision

The Previous Regulations required Licensees to pay Fees upon application as prescribed by Government of Maharashtra, Fees upon grant of Licence as well as Annual Licence Fees. Considering the multiplicity of Fees that are to be paid and their nature, and in order to simplify the administrative process, the Commission considers that no initial Licence Fee upon grant of Licence needs to be levied. The Licensee would pay the Application Fee for the Licence and the Annual Licence Fees.

7. Annual Licence Fee for Transmission Licensees

Clause in Schedule of Previous Regulations

"3(i) Annual Licence Fees: Transmission Licence: Rs 1,000 per MW of transmission capacity contracts in force during the year or part thereof, subject to a minimum of Rs 1,00,000 and maximum of Rs 20,00,000;"

Proposed in Draft Regulations

“3. Annual Licence Fee

(i) Transmission Licence Fee: As computed based on voltage-wise network of the Licensee and Rs. per circuit kilometer corresponding to the voltage level (rounded off to the nearest one hundred rupees), as set out in the Table below, subject to a minimum of Rs.2,00,000 and a maximum of Rs. 20,00,000:

<i>Sr. No.</i>	<i>Particulars</i>	<i>Fees (per circuit kilometer)</i>
<i>a.</i>	<i>HVDC</i>	<i>Rs.12,000</i>
<i>b.</i>	<i>765 kV</i>	<i>Rs.7,000</i>
<i>c.</i>	<i>400 kV and below</i>	<i>Rs.3,000</i>

...Provided that

...(c) in the case of a Transmission Licensee, the annual Licence Fee shall be calculated based on circuit kilometers of the Transmission Lines existing at the end of the financial year prior to the last financial year, as certified by the State Transmission Utility;...”

Comments received

Adani Transmission (India) Ltd. (ATIL) stated that the State Transmission Utility (STU) need not certify the circuit kilometers for every financial year for Transmission Licensees such as ATIL, Maharashtra Eastern Grid Power Transmission Co. Ltd., Jaigad Power Transco Ltd., etc. which have been granted Asset-Specific Licences. The length of transmission lines for each voltage level remains same for such Asset-Specific Licensees, and may change only after amendment to their Licences. The condition of STU certification may lead to unnecessary anomalies in case of any minor mismatch.

TPC suggested that the Commission direct the STU to develop a common procedure and format for certifying the circuit kilometers of Transmission Licensees.

Analysis and Commission’s Decision

Transmission Licence Fees based on contracted capacity as in the Previous Regulations may not appropriately represent the business of the Licensee. As a result, even a relatively small Licensee with a higher contracted capacity would have to pay a large sum as Annual Licence

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Fee. Hence, the voltage-wise circuit kilometer transmission network has been applied as the basis for the Annual Transmission Licence Fees, which would be more representative of the business size.

The circuit kilometers of different voltage levels have been allocated weightages based on the benchmark kilometer-wise cost of construction.

The voltage-wise circuit kilometer transmission network of the Licensee as at the end of the financial year prior to the last financial year, as certified by the STU, will be considered for calculation of the Licence Fee. For example, the Annual Licence Fee for FY 2017-18 would be based on the voltage wise circuit kilometer transmission network of the Licensee existing as on 31st March, 2016.

As regards the comments of ATIL, the Commission notes that the STU is the nodal agency responsible for planning and co-ordinated development of the transmission network in the State. As such, STU certification would be appropriate for ascertaining the length of the transmission line. In case no addition to line length has been commissioned in that year, the STU may certify the length accordingly and no further verification would be required. This will also facilitate ease of calculation of Annual Licence Fees as the data will come from a single authoritative source, i.e. the STU.

Considering the suggestion of TPC, the 2017 Regulations now require the STU to certify the total length of the Transmission Lines (measured in circuit kilometers) as on 31st March of the relevant financial year, in consultation with the concerned Transmission Licensee, within six months, i.e. by 30th September of the following financial year.

Considering that the 2017 Regulations have been notified only in April, 2017, the STU would require some time for certifying the length of the transmission lines as on 31st March, 2016 for computation of Annual Transmission Licence Fees for FY 2017-18. Hence, for FY 2017-18, the STU may provide the required certification to the Transmission Licensees by 30.5.2017, and the Transmission Licensees shall pay the applicable Annual Licence Fee to the Commission by 10.6.2017. Thus, no DPC shall be payable on this count for the period from 10.4.2017 to 10.6.2017.

Accordingly, the 2017 Regulations specify as follows with regard to Annual Transmission Licence Fees:

“3. Annual Licence Fee

(i) Transmission Licence Fee: As computed based on the voltage-wise network of the Licensee and Rs. per circuit kilometer corresponding to the voltage level (rounded off

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to the nearest one hundred rupees), as set out in the Table below, subject to a minimum of Rs. 2,00,000 and a maximum of Rs. 20,00,000:

Sr. No.	Particulars	Fees (per circuit kilometer)
a.	HVDC	Rs. 12,000
b.	765 kV	Rs. 7,000
c.	400 kV and below	Rs. 3,000

...Provided that...

c) the annual Licence Fee payable by a Transmission Licensee shall be computed based on the circuit kilometers of the Transmission Lines existing at the end of the financial year prior to the last financial year, as certified by the State Transmission Utility (STU);

Such certification shall be provided by the STU to the concerned Licensee and the Commission, in consultation with the Licensee, within six months of the close of the relevant financial year;

Except that, with regard to the Annual Licence Fee for FY 2017-18, the STU shall provide such certification for FY 2015-16 by 15th May, 2017;...

8. Annual Licence Fee for Distribution Licensees

Clause in Schedule of Previous Regulations

“3(ii) Annual Licence Fees: Distribution Licence: 0.05 per cent of revenues (excluding taxes and duties) from the sale of electricity.”

Proposed in Draft Regulations

“3(ii) Distribution Licence Fee: 0.02 per cent of revenues, excluding taxes and duties, from the wheeling and sale of electricity (rounded off to the nearest one hundred rupees), subject to a minimum of Rs.2,00,000:

...Provided that

...(d) in the case of a Distribution Licensee, the annual Licence Fee shall be calculated based on the revenue from wheeling and sale of electricity as shown in the audited accounts of the financial year prior to the last financial year;...”

Comments received

MSEDCL has suggested that wheeling charges should not be considered for computation of Annual Licence Fee for Distribution Licensees, which should take into account only the revenue from retail sale of electricity. MSEDCL has also suggested that a ceiling should be specified for the Annual Licence Fee.

TPC has suggested that the basis for computation of the Annual Licence Fee should be the trued-up revenue rather than the Audited Accounts of the relevant year.

Analysis and Commission's Decision

The revenues of the Distribution Licensees have been increasing over the years. The quantum of Annual Licence Fees has also increased correspondingly. Receipts which are surplus to the Commission's immediate requirements are invested in Bank Fixed Deposits at an interest rate lower than the rate at which Distribution Licensees borrow from financial institutions. The Licence Fee payments are ultimately passed on to consumers by inclusion in the Licensees' Aggregate Revenue Requirements. Considering these factors and the funding requirements, the Commission has reduced Annual Licence Fee payable by a Distribution Licensee to 0.02% of revenues, instead of 0.05% in the Previous Regulations.

Further, instead of projected estimates which may differ from actuals, and to provide clarity for computation, the Annual Licence Fees will now be based on revenues from the wheeling and retail sale of electricity as stated in the audited Accounts of the financial year prior to the last financial year (subject to a minimum of Rs. 2 lakh). For example, the Licence Fees for FY 2017-18 will be based on the revenues in the Audited Accounts for FY 2015-16.

As regards the suggestion of MSEDCL, the Commission notes that a Distribution Licensee carries out functions of wheeling as well as retail supply and earns revenue from both. In their Applications for Tariff determination, the revenue from wheeling of electricity is also considered. Hence, the computation of Annual Licence Fees applicable to Distribution Licensees should also take into account the revenue from wheeling of electricity.

As regards specifying a ceiling on the amount of Annual Licence Fee payable by Distribution Licensees, the Commission has substantially reduced the Annual Licence Fee as a proportion of revenue from the earlier level of 0.05% to 0.02% in the 2017 Regulations. Accordingly, the Commission is of the view that there is no need to also introduce a ceiling on the Fee, and notes that the Previous Regulations did not specify a ceiling either.

On the suggestion made by TPC, the Commission notes that the Audited Accounts of a particular year are not liable to change consequent to subsequent change in the truing-up or other Orders. However, the variations, if any, are approved after prudence check and permitted to be recovered in subsequent years. They may accordingly be reflected in the Audited Accounts of those years. Therefore, the Commission has considered the Audited Accounts for the purpose of computation of the Annual Licence Fee.

9. Annual Licence Fee for Trading Licensees

Clause in Schedule of Previous Regulations

“3(iii). 0.05 per cent of revenues (excluding taxes, and duties) from the sale of electricity.”

Proposed in Draft Regulations

“3(iii). Trading Licence Fee: 0.02 per cent of revenues, excluding taxes and duties, from the sale of electricity (rounded off to the nearest one hundred rupees), subject to a minimum of Rs.2,00,000 and a maximum of Rs.5,00,000:

...Provided that

...(e)in the case of a Trading Licensee, the annual Licence Fee shall be calculated based on the revenue from the sale of electricity as shown in the audited accounts of the financial year prior to the last financial year; ...”

Comments received

No comments have been received.

Analysis and Commission’s Decision

The basis for determination of the Annual Licence Fee for Trading Licensees has been made consistent with that of Distribution Licensees, as explained above, but subject to a maximum of Rs. 5 lakh.

10. Common Provisos for Annual Licence Fees

Clause in Schedule of Previous Regulations

“a) the Licensee, including a Licensee referred to in the first, second, third, fourth and fifth provisos to Section 14 of the Act, shall pay the annual Licence Fee, in advance, by 10th April of each year; ...”

Proposed in Draft Regulations

“a) the Licensee, including a Licensee referred to in the first, second, third, fourth and fifth provisos to Section 14 of the Act, shall pay the annual Licence Fee, in advance, by 10th April of each year; ...

(f) a Licensee who has been granted a Licence under Section 14 of the Act for the first time for a new Licence area shall pay an annual Licence Fee of Rs.2,00,000 for the next two financial years following the grant of such Licence;

g) the proviso at (f) above shall apply only to a new Licensee and not to an existing Licensee applying for a Licence under Section 14 of the Act for the same Licence area.”

Comments received

TPC has suggested that the Regulations clarify that the Annual Licence Fee may be paid on the next working day if 10th April happens to be a holiday.

Analysis and Commission’s Decision

Since a new Licensee (not including those who were Licensees for the same area earlier) would not have audited Accounts of previous years for its operation as a Distribution Licensee, and in order to provide a stabilization period, a flat Licence Fee of Rs. 2 lakh has been specified for the two financial years following the grant of Licence. Thereafter, the Licence Fee applicable to other Distribution Licensees shall be payable. For example, if a Licence is granted in, say, July, 2017, to a new Licensee which is yet to start operations in the new Licence area, a Licence Fee of Rs. 2 lakh shall be payable for FY 2018-19 and FY 2019-20 by 10.4.2018 and 10.4.2019, respectively. From FY 2020-21 onwards, the Annual Licence Fee will be as applicable to other Distribution Licensees.

Regulation 5 of the Commission’s Conduct of Business Regulations, 2004 provides the clarification sought by TPC, and no separate provision is necessary.

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Considering that the 2017 Regulations have been notified on ----- and the transmission line circuit kilometers certification modalities which are now specified, the following has been added to Proviso (a) to give sufficient time for payment of the Annual Licence Fees for FY 2017-18:

“...Except that Distribution and Trading Licensees shall pay the Annual Licence Fee for FY 2017-18 by 30th April, 2017, and Transmission Licensees by 10th June, 2017;”

11. Application for prior approval under Section 17 of the Act

Clause in Schedule of Previous Regulations

“4. Application seeking prior approval under Section 17 of the Act: 0.01 per cent of the value of the transaction for which approval is sought, subject to a minimum of Rs 5,00,000 and maximum of Rs 20,00,000.”

Proposed in Draft Regulations

“4. Application for prior approval under Section 17 of the Act: 0.01 per cent of the value of the transaction for which approval is sought, subject to a minimum of Rs. 2,00,000 and a maximum of Rs. 5,00,000.”

Comments received

No comments have been received.

Analysis and Commission’s Decision

The minimum and maximum Application Fees have been reduced considering the experience of the Applications received so far, and their nature and requirements.

12. Application for revocation of Licence under Section 19 (2) of the Act

Clause in Schedule of Previous Regulations

“6. Application for revocation of licence under subsection (2) of Section 19 of the Act

(i) by Licensee: Rs 10,00,000

(ii) by any person other than a Licensee: Rs 1,00,000.”

Proposed in Draft Regulations

“6. (a) Application for revocation of Transmission or Distribution Licence under sub-Section (2) of Section 19 of the Act

- (i) by a Transmission or Distribution Licensee: Rs. 10,00,000*
- (ii) by a person other than a Transmission or Distribution Licensee: Rs. 1,00,000*

(b) Application for revocation of Trading Licence under sub-Section (2) of Section 19 of the Act

- (i) by a Trading Licensee: Rs. 25,000*
- (ii) by a person other than a Trading Licensee: Rs. 10,000”*

Comments received

No comments have been received.

Analysis and Commission’s Decision

Lower Fees are specified for Applications for revocation of Trading Licence considering the limited processing requirements that are likely to be involved.

13. Application under Section 35 of the Act for use of intervening transmission facilities

Clause in Schedule of Previous Regulations

“7. Application under Section 35 of the Act for seeking the use of intervening transmission facilities: Rs 50,000.”

Proposed in Draft Regulations

This provision has been removed.

Comments received

No comments have been received.

Analysis and Commission's Decision

The Commission is of the view that no separate provision is required for Applications under Section 35 of the Act for use of intervening transmission facilities. As a measure of rationalization, they may be treated as Miscellaneous Applications and charged accordingly.

14. Application for determination of rates, charges, and terms and conditions under the proviso to Section 36(1)

Clause in Schedule of Previous Regulations

“9. Application for determination of rates, charges, terms and conditions under proviso to sub-section (1) of Section 36: Rs 2,50,000 plus Rs 50,000 per outstation hearing.”

Proposed in Draft Regulations

This provision has been deleted.

Comments received

No comments have been received.

Analysis and Commission's Decision

The Commission is of the view that an Application for determination of the rates, charges and terms and conditions for use of intervening transmission facilities under the proviso to Section 36(1) may be treated as a Miscellaneous Application and charged accordingly.

15. Tariff determination for Conventional Generating Plants

Clause in Schedule of Previous Regulations

“12. Determination of tariff under the provisions of clause (a) of sub-section (1) of Section 62, to be paid by the applicant

(a) Conventional fuel based (coal, oil etc) Plant: Rs 10,00,000 for capacity upto 100 MW. Rs 2,500 for each additional MW or part thereof capacity;”

Proposed in Draft Regulations

“7. Application for Multi-Year Tariff determination (including capital cost approval) for:

(a) Generation of electricity under clause (a) of sub-Section (1) of Section 62: Conventional fuel-based (coal, oil, gas, etc.) Generating Plant, Hydro Power Plant (above 25 MW): Rs. 10,00,000 for capacity upto 250 MW, and Rs. 1,00,000 for each additional 100 MW of capacity or part thereof (rounded off to the nearest one hundred rupees), subject to a maximum of Rs. 20,00,000;”

Comments received

No comments have been received.

Analysis and Commission’s Decision

The minimum Tariff determination Application Fee for Conventional Generating Plants is proposed to cover Plants with capacity up to and including 250 MW, since there are Plants with capacity in the range of 100 MW and 250 MW. The Commission has capped the Fee at Rs. 20 lakh (higher than for Licensees) considering the activities involved in capital investment approvals, the Regulations governing Generating Companies, and since they are not subject to Annual Licence Fees. The cap will ensure that the Fees payable are not open-ended as generation capacity increases. The slabs up to the maximum payable Fees have also been rationalized.

16. Tariff determination for Non-Conventional and Renewable Energy Generating Plants

Clause in Schedule of Previous Regulations

“12. Determination of tariff under the provisions of clause (a) of sub-section (1) of Section 62, to be paid by the applicant...

(b) Non-conventional & Renewable Sources of Energy, including co-generation: Rs 5,000 for the first 1 MW of capacity. Rs 1,250 for each additional MW or part thereof capacity

(c) Generic determination of tariff for a class of projects: Lowest of fees/charges payable as at (a) and (b) above, as may be applicable.”

Proposed in Draft Regulations

“11. Application for determination of Tariff under clause (a) of sub-Section (1) of Section 62 of the Act: Non-conventional and Renewable Energy Plant, including Co-generation Plant: Rs. 1,00,000 for capacity upto 5 MW; and Rs. 5,000 for each additional 5 MW of capacity or part thereof (rounded off to the nearest one hundred rupees), subject to a maximum of Rs. 5,00,000.”

Comments received

No comments have been received.

Analysis and Commission’s Decision

As in the Previous Regulations, a distinction has been made between Conventional Generating Plants and those based on Non-Conventional and Renewable Energy, but the Application Fee for Tariff determination has been rationalized to Rs. 1 lakh for capacity up to 5 MW with an additional amount of Rs. 5,000 per 5 MW capacity thereafter, and a ceiling of Rs. 5 lakh.

The provision of Fees for generic determination of Tariff for a class of projects has not been retained, having become redundant considering the practice of suo moto Tariff determination by the Commission for Plants based on such energy sources.

17. Tariff determination for Transmission Licensees

Clause in Schedule of Previous Regulations

“13. Annual / base year determination of tariff for transmission of electricity under the provisions of clause (b) of sub-section (1) of Section 62, to be paid by Licensee: Rs 15,00,000 plus Rs 1,00,000 per outstation hearing.”

Proposed in Draft Regulations

“7. Application for Multi-Year Tariff determination (including capital cost approval) for: ...

(b) Transmission of electricity under clause (b) of sub-Section (1) of Section 62: Rs.15,00,000.”

Comments received

No comments have been received.

Analysis and Commission's Decision

In the current MYT regime, the initial determination of Tariff for a Transmission Licensee is being done at the beginning of a Control Period as per the MYT Regulations. The Application Fee of Rs. 15 lakh is being retained for such Transmission MYT determination considering the associated activities and analysis of capital investment schemes to be undertaken and other requirements. However, no additional amount is now required to be paid for out-station hearings.

18. Tariff determination for Distribution Licensees

Clauses in Schedule of Previous Regulations

“14. Annual / base year determination of tariff for wheeling of electricity under the provisions of clause (c) of sub-section (1) of Section 62, to be paid by the Licensee: Rs 5,00,000 plus Rs 1,00,000 per outstation hearing ...

15. Annual / base year determination of tariff for retail sale of electricity under the provisions of clause (d) of sub-section (1) of Section 62, to be paid by the Licensee: Rs 5,00,000 plus Rs 500 per MVA of peak demand up to a maximum of Rs 20,00,000 plus Rs 1,00,000 per outstation hearing.”

Proposed in Draft Regulations

“7. Application for Multi-Year Tariff determination (including capital cost approval) for: ...

(c)

(i) Wheeling of electricity under clause (c) of sub-Section (1) of Section 62; and/or

(ii) Retail sale of electricity under clause (d) of sub-Section (1) of Section 62:

Rs.15,00,000 for a Distribution Licensee; and Rs.5,00,000 for a Small Distribution Licensee.”

Comments received

No comments have been received.

Analysis and Commission's Decision

Under the MYT regime, the initial determination of Tariff of a Distribution Licensee is being done at the beginning of a Control Period.

The Clauses for wheeling of electricity and retail sale of electricity have been clubbed since distribution is a combined business and consolidated Applications are made for Tariff determination. The basis of 'per MVA of peak demand' for the Fees has also been done away with, and a simpler flat rate of Rs. 15 lakh has been specified considering the nature of the exercise required, with lower Fees of Rs. 5 lakh for the new category of Small Distribution Licensees. With this all-inclusive Fee, which also introduces a cap on the Fees payable, no separate amount for out-station hearings is stipulated.

19. Application for Mid-Term Review

Clause in Schedule of Previous Regulations

"16. Annual review of tariffs and performance of the Licensee during the control period under a multiyear tariff framework, to be paid by the Licensee: Rs 5,00,000 plus Rs 1,00,000 per outstation hearing."

Proposed in Draft Regulations

"8. Application for Mid-Term Review during the Control Period under the Multi-Year Tariff framework by a Generating Company for Conventional fuel-based (coal, oil, gas, etc.) Generating Plant, Hydro Power Plant (above 25 MW), or by a Licensee: 50 per cent of the Fee specified in these Regulations for the original Application (rounded off to the nearest one hundred rupees):

Provided that the Fee shall be payable by the Generating Company or Licensee irrespective of whether such Review is undertaken upon its Application or suo moto by the Commission;

Provided further that, for any Tariff Application other than for Multi-Year Tariff determination or Mid-Term Review, the Fee payable shall be 50 per cent of the Fee specified in these Regulations for the original Application"

Comments received

No comments have been received.

Analysis and Commission's Decision

The current MYT regime envisages a Mid-Term Review (MTR) during the Control Period. In case of MTR Applications (and also Applications for Tariff determination other than for MYT and MTR), a Fee of 50% of that payable under these Regulations for the initial MYT determination is envisaged (for Conventional Generation Plants, Hydro Power Plants exceeding 25 MW capacity, and Licensees).

As in other cases, no additional amount is payable for out-station hearings.

20. Application for Review of Orders

Clauses in Schedule of Previous Regulations

“17. Application for review of Tariff Order or power purchase agreement or power procurement rate by Licensee: 10 per cent of the Fees paid at the time of the original Application for determination of Tariff plus Rs 50,000 per outstation hearing.

18. Application by a consumer or a Consumer Representative for review of Tariff Order or power purchase agreement or power procurement rate: Rs 25,000.

19. Application by a person other than the Licensee or a consumer/ Consumer Representative for review of Tariff Order or power purchase agreement or power: Rs 1,00,000 plus Rs 50,000 per outstation hearing ...

22. Application for review of Order passed under clause (f) of sub-section (1) of Section 86 of the Act: 10 per cent of the Fee paid for the original order plus Rs 50,000 per outstation hearing.”

Proposed in Draft Regulations

“13.

(a) Application for review of Tariff Order or power purchase agreement or power procurement rate

(i) by Licensee or Generating Company: 10 per cent of the Fee specified in these Regulations for the original Application(rounded off to the nearest one hundred rupees)

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(ii) by a consumer or a Consumer Representative: Rs. 25,000

(iii) by a person other than the Licensee, Generating Company, a consumer or Consumer Representative: Rs. 1,00,000

(b) Application for review of Order on adjudication of disputes under the provisions of the Act: 10 per cent of the Fees specified in these Regulations for the original Application (rounded off to the nearest one hundred rupees).”

Comments received

No comments have been received.

Analysis and Commission’s Decision

As a measure of simplification, the Commission has clubbed the provisions in respect of Applications for review of Orders relating to determination of Tariff, power purchase agreement, procurement rate and adjudication of disputes under Section 86(1)(f) of the Act. As in other cases, the additional amount for out-station hearings has been deleted.

21. Application for approval of Schedule of Charges

Clause in Schedule of Previous Regulations

“20. Application for approval of the schedule of charges of a Distribution Licensee under Section 45 and Section 46 of the Act: Rs 1,00,000 plus Rs 50,000 per outstation hearing.”

Proposed in Draft Regulations

“14. Application for approval of the schedule of charges of a Distribution Licensee under Sections 45 and 46 of the Act: Rs. 5,00,000 for Distribution Licensee and Rs. 2,00,000 for Small Distribution Licensee:

Provided that, if the Licensee applies for approval of its schedule of charges as a part of its Tariff Application, no such separate Fee shall be payable.”

Comments received

No comments have been received.

Analysis and Commission's Decision

The Commission has stipulated a flat Fee of Rs. 5 lakh and Rs. 2 lakh as Fee for Applications for approval of the Schedule of Charges for a Distribution Licensee and for a Small Distribution Licensee, respectively, under Sections 45 and 46 of the Act considering the exercise that may be required. However, no separate Fee would be payable in case the Licensee seeks approval of the Schedule of Charges as a part of its Application for Tariff determination.

As in other cases, no additional amount is envisaged for out-station hearings.

22. Application for inspection of Orders/ supply of Documents

Clause in Schedule of Previous Regulations

“23. Application for inspection of Orders/ Records of the Commission: Rs 100 per day or part thereof.”

Proposed in Draft Regulations

“15. Application for inspection of Orders/Records of the Commission: As stipulated in the Right to Information (Regulation of Fee and Cost) Rules, 2005 as amended from time to time.”

Comments received

No comments have been received.

Analysis and Commission's Decision

The revision reflects the fact that the Rules under the Right to Information Act now stipulate such charges.

Clause in Schedule of Previous Regulations

“24. Supply of copies of documents / order of the Commission: Rs 2 per page.”

Proposed in Draft Regulations

“16. Supply of printed copies or digital copies of Documents / Orders/ Regulations of the Commission: As stipulated in the Right to Information (Regulation of Fee and Cost) Rules, 2005 as amended from time to time”

Comments received

No comments have been received.

Analysis and Commission’s Decision

The revision reflects the fact that the Rules under the Right to Information Act now stipulate such charges.

23. Applications by State Government

Clause in Schedule of Previous Regulations

“27. Applications by State Government not constituting Miscellaneous Applications: Rs 5,000.”

Proposed in Draft Regulations

“19. Applications by Government of Maharashtra not constituting Miscellaneous Applications: Rs. 1,000.”

Comments received

No comments have been received.

Analysis and Commission’s Decision

A Fee of Rs. 1,000 is specified for Applications by the State Government not constituting Miscellaneous Applications, which is in line with the Fees payable for Miscellaneous Applications by entities other than individuals.

24. New Clauses in Schedule

(a) Application for grant of Licence

Proposed in Draft Regulations

“2. Application for grant of Licence under Section 15 of the Act: Rs. 5,00,000 as per Government of Maharashtra Notification dated 23rd March, 2009, or as amended from time to time.”

Comments received

No comments have been received.

Analysis and Commission’s Decision

This Clause incorporates the Fee prescribed by Government of Maharashtra for Application for grant of Licence under Section 15 of the Act, which is presently Rs. 5 lakh vide its Notification dated 23rd March, 2009.

(b) Fees and Charges for Maharashtra State Load Despatch Centre

Proposed in Draft Regulations

“9. Application for determination of Fees and Charges of the Maharashtra State Load Despatch Centre: Rs. 5,00,000;

Provided that the Fee shall be payable by the Maharashtra State Load Despatch Centre irrespective of whether such determination is undertaken upon its Application or suo moto by the Commission.”

Comments received

No comments have been received.

Analysis and Commission’s Decision

The MYT Regulations, 2015 provide for the determination of Fees and Charges of the Maharashtra State Load Despatch Centre. The Commission has introduced an express provision for Fees of Rs. 5 lakh for such determination considering the nature of the exercise involved.

(c) Mid-Term Review of Maharashtra State Load Despatch Centre

Proposed in Draft Regulations

“10. Application for Mid-Term Review of the Maharashtra State Load Despatch Centre during the Control Period under the Multi-Year framework: 50 per cent of the Fees specified in these Regulations for the original Application (rounded off to the nearest one hundred rupees);

Provided that the Fee shall be payable by the Maharashtra State Load Despatch Centre irrespective of whether such Review is undertaken upon its Application or suo moto by the Commission.”

Comments received

No comments have been received.

Analysis and Commission’s Decision

A provision for payment of Application Fee for the MTR to the extent of 50% of that payable for the original Application has also been introduced in the 2017 Regulations.

(d) Approval of PPA and/or Adoption of Tariff:

Proposed in Draft Regulations

“12. Application for approval of Power Purchase Agreement under clause (b) of sub-Section (1) of Section 86 and/or adoption of Tariff under Section 63 of the Act:

(a) Conventional fuel-based (coal, gas, oil, etc.) Generating Plant, Hydro Power Plant (above 25 MW): Rs. 3,00,000

(b) Non-conventional and Renewable Energy Plant, including Co-generation Plant: Rs. 50,000.”

Comments received

No comments have been received.

Analysis and Commission’s Decision

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The Commission has stipulated an Application Fee of Rs. 3 lakh for PPA approval and/or adoption of Tariff under Section 63 for Conventional Generating Plants, and a lower Fee of Rs. 50,000 for Non-conventional and RE Plants as in the past.

25. Other Comments received

Brihanmumbai Electric Supply & Transport Undertaking and the STU have opined that the proposed Regulations are generally in order, and stated that they have no comments to offer.

Shri Ulhas Choudhary (Paryavarniya Grahak Chalwal) has suggested the following:

- Provision for filing Applications for redressal free of cost or at a nominal Fee of Rs.100;
- Provision of services of advocates and experts to Petitioners free of cost;
- Recovery of the Commission's expenses from consumers through Licensees;
- Penalizing Licensees for inefficiency;
- Direction to Licensees to provide an account of all the penalties recovered from consumers;
- Segregation and separately billing at a higher rate of all consumption towards use of air conditioners.

Analysis and Commission's Decision

Section 86(1)(g) of the Electricity Act, 2003 provides that the Commission may levy fees for carrying out its duties under the Act. Various Application Fees have been specified accordingly in the 2017 Regulations as well as the earlier Regulations of 2004. Moreover, the Fees for Applications by individual consumers are nominal compared to those required from Licensees and Generating Companies.

The Commission notes that Regulation 34 of its Conduct of Business Regulations, 2004 provides that

“While issuing the notice of inquiry or at any time thereafter, the Commission may, at its discretion designate an advocate or Officer of the Commission or any other person whom the Commission considers appropriate to –

(a) present the case of a party which cannot afford to engage its representative,...”

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The other suggestions made by Shri Choudhary primarily concern tariff determination, and he may take them up in those proceedings.

**Sd/-
(Deepak Lad)
Member**

**Sd/-
(Azeez M Khan)
Member**