

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 26 of 2007 and Case No. 65 of 2006**

**IN THE MATTER OF**  
**Determination of Annual Revenue Requirement (ARR) of Maharashtra State**  
**Electricity Distribution Company Ltd. (MSEDCL) for the Control Period from FY**  
**2007-08 to**  
**FY 2009-10 and Tariff for FY 2007-08**

**Dr. Pramod Deo, Chairman**  
**Shri A. Velayutham, Member**  
**Shri S. B. Kulkarni, Member**

**CLARIFICATORY ORDER**

**Dated: August 24, 2007.**

The Maharashtra Electricity Regulatory Commission (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, and after taking into consideration all the submissions made by MSEDCL, all the objections, responses of the MSEDCL, issues raised during the Public Hearing, and all other material, issued the detailed Tariff Order dated May 18, 2007 in Case 65 of 2006 determining the Annual Revenue Requirement (hereinafter referred to as ARR) for the Control Period from FY 2007-08 to FY 2009-10, and tariff for wheeling of electricity and retail sale of electricity for MSEDCL for FY 2007-08 .

Subsequently, on July 5, 2007, MSEDCL filed a Petition (the petition having been numbered as Case No. 26 of 2007), seeking clarifications with regard to certain calculations and typographical errors in the said Order dated May 18, 2007, as well as other issues related to billing of energy charges and Additional Supply Charges (ASC).

The Commission held a hearing on the said Petition on July 24, 2007 in the presence of consumer representatives. During the hearing, MSEDCL made a presentation on the issues on which it was seeking the clarifications from the Commission. Shri. Pratap Hogade made a few submissions in matters related to levy of ASC. Shri. Hogade also raised some issues related to correct

implementation of the Commission's Tariff Order dated May 18, 2007, which are not covered in the said Order, since it is of clarificatory nature.

In addition, the Commission has also received representations from consumer representatives and several consumers in the context of levy of ASC and the benchmark (reference) consumption for the same, apart from other issues such as refund of RLC, inclusion of ASC while computing Load Factor incentive, etc.

The Commission's clarification on each of these issues is given in this Clarificatory Order, issued under Regulation 95 of the MERC (Conduct of Business) Regulations, 2004. **The Commission hereby directs MSEDCL to ensure that the clarifications given in this Clarificatory Order are incorporated with retrospective effect from May 1, 2007 and the consumers' bills are revised accordingly.** This will ensure that the Commission's Order is implemented as desired from the date of enforcement of the said Order dated May 18, 2007, and the consumers are not unnecessarily burdened on account of lack of clarity on certain aspects related to implementation of the Order dated May 18, 2007. Further, the revenue impact of these retrospective changes for MSEDCL, will be addressed at the time of computation of variation in ASC on a bi-monthly basis as stipulated in the Order, as well as during the truing up for FY 2007-08 for MSEDCL, on the basis of audited annual results.

## **1. Calculation and typographical errors**

### **MSEDCL Submission**

MSEDCL stated that the Tariff Order issued by the Commission has certain calculation and typographical errors as given below:

#### (a) Calculation of Employee Expenses

The net employee expenses approved by the Commission have been indicated as Rs 1572.41 Crore for FY 2007-08 on page 138 of the Order, but while determining the ARR on Page 160 of the Order, the approved employee expenses have been mentioned as Rs 1522 Crore, resulting in an **under-statement of the ARR by around Rs. 50 crore.**

#### (b) Calculation of A&G Expenses

The net A&G expenses approved by the Commission have been indicated as Rs 116 Crore for FY 2007-08 on page 139 of the Order, but while determining the ARR on Page 160 of the Order, the approved A&G expenses have been mentioned as Rs 113 Crore, resulting in an **under-statement of the ARR by around Rs. 3 crore.**

(c) Calculation of revenue from revised tariff for LT Agriculture category (LT IV)

The revenue from revised tariff for LT IV Agricultural category has been incorrectly summed up as Rs. 1911 crore on page 204 of the Order, as against the actual projected revenue of Rs. 1757 crore, resulting in an **over-statement of the revenue by around Rs. 154 crore**.

(d) Calculation of revenue from revised tariff for LT Industrial category (LT V)

The revenue from levy of fixed charges under revised tariff for LT V Industrial category consumers with consumption above 1000 units per month has been incorrectly estimated as Rs. 277 crore on page 203 of the Order. However, if the power factor is assumed as 0.8 and Billing demand is assumed as 40% of Contract Demand, then the projected revenue from levy of fixed charges under revised tariff for LT V Industrial category consumers with consumption above 1000 units per month works out to Rs. 102 crore. This has resulted in **over-statement of the revenue by around Rs. 175 crore**.

MSEDCL has summed up the impact of the above stated calculation and typographical errors as Rs. 382.35 crore, and sought recovery of the same, as there is an impact on its cash flow.

**Commission's Clarification and Ruling**

As regards points (a) and (b) above, the **Commission clarifies that the employee expenses and A&G expenses have been inadvertently understated to the extent indicated by MSEDCL in its Clarificatory Petition**. In addition, the provisioning for bad debts approved by the Commission has also been incorrectly indicated in the Order at different places in the Order, resulting in under-statement of the ARR by Rs. 16 crore in FY 2007-08.

The approved levels of employee expenditure, A&G expenditure, and bad debts, for each year of the Control Period should read as follows:

Particulars	FY 2007-08			FY 2008-09			FY 2009-10		
	MSEDCL	Commission		MSEDCL	Commission		MSEDCL	Commission	
		Tariff Order	Clarificatory Order		Tariff Order	Clarificatory Order		Tariff Order	Clarificatory Order
Employee expenditure	1880	1522	1572	2002	1604	1657	2133	1690	1745
A&G expenditure	176	113	116	187	119	122	199	126	128
Provisioning for Bad Debts	228	251	267	251	267	276	251	283	283
TOTAL	2284	1886	1955	2440	1990	2054	2583	2099	2157
Under-statement of ARR			69			64			58

As regards point (c) above, the **Commission clarifies that the revenue from revised tariffs for LT IV Agricultural category has been inadvertently over-stated to the extent indicated by MSEDCL (Rs. 153.95 crore) in its Clarificatory Petition. The corrected projected revenue from revised tariffs from this category is Rs. 1756.86 crore.**

Point (d) above relates to the revenue from revised tariffs through levy of fixed charges for the sub-category above 20 kW sanctioned load (and not above 1000 units consumption per month as stated by MSEDCL). In this regard, the Tariff Order states,

***“LT Industrial (LT V) tariffs***

*Through its Order in Case Nos. 50, 55 and 56 of 2006, dated March 3, 2007, on the Review Petitions filed on MSEDCL’s Tariff Order for FY 2006-07, the Commission had ruled that the tariffs in existence for LT V category (erstwhile LTP-G category) would continue to be in force with effect from October 1, 2006 to March 31, 2007, as MSEDCL had not installed the requisite MD meters. In its earlier submissions in this regard, MSEDCL had committed to install all the MD meters for LT-V category, latest by March 31, 2007.*

*MSEDCL is directed to submit the status of installation of MD meters for LT V category, in the following Table, within two weeks of issue of this Order:*

Sl.	Particulars of LT-V Category	Sanctioned Load				
		<10 kW	>10 KW & <= 20 kW	>20 kW & <=50 KW	>50 kW	Total
1	Total number of consumers					
2	Number of consumers who have opted for LTMD tariff before issue of Tariff Order dt. Sep 29, 2006					
3	Number of consumers who have registered their Contract Demand after issue of Tariff Order dt. Sep 29, 2006					
4	Total Contract Demand registered with MSEDCL					
5	Number of MD meters installed					
5.1	Before issue of Tariff Order dt. Sep 29, 2006					
5.2	After issue of Tariff Order dt. Sep 29, 2006					
5.3	Total MD meters installed					
6	Balance MD meters to be installed					
7	Expected date of completion of MD metering					

*The Commission has created two sub-categories within LT-V (LT industrial) category, viz., consumers with sanctioned load of up to and including 20 kW, and consumers with sanctioned load above 20 kW. Demand charges have been specified in Rs/kVA for consumers with sanctioned load above 20 kW, whereas fixed charges in Rs/connection/month have been specified for consumers with sanctioned load of up to and including 20 kW, to ensure parity with other distribution licensees in the State.*

*For the consumers with sanctioned load above 20 kW, the Commission has considered that the MD meters have been installed and computed the revenue accordingly. However, given the earlier experience narrated in above referred review Order, MSEDCL will not be permitted to charge the demand charges specified in this Order, till such time MD meters are installed and the demand has been contracted for all the consumers' premises for whom MD based tariff is applicable. Till the MD meters are installed, MSEDCL will be allowed to charge only the earlier HP based tariffs for the consumers whose sanctioned load is above 20 KW, though the revenue has been assessed based on MD based tariffs. Also, the ToD tariffs will be applicable for the consumers with sanctioned load above 20 kW, only after the MD meters are in place. The Commission is of the opinion that this is sufficient incentive for MSEDCL to ensure that the MD meters are installed at all the eligible consumers' premises in its own interest.*

*The Commission clarifies that the consumers in LT V category with sanctioned load below 20 kW, who had opted for MD based tariff in the past and have MD meters installed, will not be charged MD based demand charges, and will be charged fixed charges only, as per the Commission's Tariff Order."*

From the above reproduction of the Tariff Order, it is clear that the relevant sub-category is for LT industrial consumers having sanctioned load above 20 kW and where MD meters have been installed. In the absence of data regarding this sub-category, the Commission has used available data and certain assumptions to project the revenue. While there could be errors in the revenue estimation on this account, the issue is that till date, MSEDCL has neither submitted the desired data sought by the Commission in the format provided for this purpose, nor has it confirmed that complete MD metering has been done for all the relevant consumers as directed by the Commission. Further, the Order also clearly mentions that unless MSEDCL completes 100% metering for this category (as per MSEDCL's own commitment and extended time line, the MD metering was to have been completed by March 31, 2007), it will not be allowed to charge the MD based tariffs, and will continue to levy the earlier existing fixed charges on the basis of the sanctioned load, though revenue will be assessed on the basis of MD metering. Hence, the actual revenue loss if any, which would need to be compensated to MSEDCL in this case, can be

assessed only when the MD metering is completed by MSEDCL and the relevant Contract Demand and Billing Demand data are provided to the Commission, and there is no ground for considering any under-recovery of revenue on this count at this stage.

The impact of the above clarifications issued in the Clarificatory Order is that the revenue gap of MSEDCL is projected to increase by Rs. 223 crore (Rs. 69 crore + Rs. 154 crore), which has to be recovered additionally by MSEDCL.

After the completion of the financial year, the Commission undertakes the truing up of all expenses and revenue heads on the basis of actual expenses reported in the audited accounts subject to prudence, and the actual revenue reported in the audited accounts. The impact of the above errors can also be addressed at the time of the truing up of expenses and revenue for FY 2007-08. However, in this case, since the estimation has been incorrectly done, the Commission clarifies that the shortfall of Rs. 223 crore in revenue for FY 2007-08 on account of the above calculation and typographical errors, will be adjusted at the time of the Annual Performance Review (APR) for FY 2007-08, rather than at the time of truing up of expenses and revenue of FY 2007-08. Further, the interest on this under-recovery will also be allowed at normative levels, at the time of the above adjustment during the APR.

## **2. Illustrations for understanding the billing impact with existing and revised tariff**

### **MSEDCL Submission**

In Appendix 4 of the Tariff Order, the Commission has given the Billing Impact (in Rs/month) with existing and revised tariffs.

MSEDCL requested for details of the above computations undertaken by the Commission for LT IX category (multiplexes and malls) and for LT V category (below 20 kW and greater than 20 kW), for facilitating correct interpretation of the Commission's revised tariffs.

### **Commission's Clarification and Ruling**

The Commission has provided the detailed computations of monthly bill from existing and revised tariffs for the above categories, for the reference of MSEDCL and the consumers, as given in the **Annexure 1**.

## **3. Categorization of consumers under LT IX (Multiplexes & Malls)**

The tariff schedule approved by the Commission for LT category consumers of MSEDCL, as a part of the Order states that the tariff stipulated for LT IX category is

*“Applicable for electricity supply at LT for Multiplexes & Shopping Malls (above 20 kW). This tariff will be applicable also in the event of extending supply to shopping malls and multiplexes at HT voltage”*

### **MSEDCL Submission**

MSEDCL submitted that going by the spirit of the Commission’s Tariff Order, i.e., of putting a high cost on unwarranted commercial consumption, and considering the acute shortage scenario, MSEDCL is requesting the Commission to confirm that irrespective of any other consideration for categorization of consumers to be classified under ‘Multiplexes and Shopping Malls’ (LT – IX), ‘Single–Shop’ or ‘Departmental Store’ or any other consumer coming under LT-II Commercial category and having primary activity of shopping/sales, etc., having load above 20 kW, can be billed under the newly introduced LT IX (Multiplexes & Shopping Malls) tariff rate. These will include large food joints, large single shops, automobile showrooms, multi activity centres, hotels, etc. However, the offices, hospitals, consultancies, etc., which are presently under LT-II category will continue to be in the same category.

### **Commission’s Clarification and Ruling**

MSEDCL has sought a major change in the categorization of consumers under LT IX in its Clarificatory Petition, which effectively proposes that most LT II commercial consumers having sanctioned load above 20 kW would be classified under LT IX category. The Commission is of the opinion that such a change is beyond the scope of this Clarificatory Order, especially since the impact of such a change cannot be determined. MSEDCL has neither submitted any details of the number of consumers who are likely to be affected by such a change, nor details of the additional revenue that MSEDCL is likely to earn by this change. If MSEDCL desires such a change in tariffs, it may propose the same in its next Tariff Petition, along with the requisite data, to enable the Commission to estimate the revenue impact of such a tariff revision, and to take a considered view on the matter. Moreover, revenue through levy of higher tariffs under LT IX vis-à-vis LT II tariffs, has not been considered by the Commission while projecting revenue from revised tariffs, and will contribute additional revenue.

However, the Commission recognises that there is a need to issue a clarification with respect to the applicability of the LT IX tariff to Shopping Malls, which are multiple ownership establishments by design, vis-à-vis the tariff applicable for single ownership large shopping/departmental stores, such as Shoppers’ Stop, Big Bazaar, Shop Rite, etc. For all practical purposes, such establishments are shopping malls, with the only difference being that they are single ownership establishments. Hence, **the Commission clarifies that such large**

**shopping/departmental stores like Shoppers' Stop, Big Bazaar, Shop Rite, Spencers, etc., with sanctioned load above 20 kW will be classified under LT IX category.**

#### **4. Tariff for HT Temporary consumers**

The tariff schedule approved by the Commission for temporary consumers of MSEDCL getting LT supply (LT VII Category), as a part of the Order, states that the tariff stipulated for LT VII category is applicable for temporary supply only, as follows:

<b>Consumer Category</b>	<b>Fixed Charges (Rs/ connection/month)</b>	<b>Energy Charges (paise/kWh)</b>
<b>LT VII - Temporary</b>		
Temporary Connections – Other Purpose	Rs 250 per connection per occasion of supply	1050
Temporary Connections - Religious	Rs 200 per connection per occasion of supply	200

#### **MSEDCL Submission**

MSEDCL submitted that the Commission should confirm the tariff applicable for HT temporary consumers. MSEDCL proposed that in order to avoid discrimination, HT temporary Consumers can be billed as per LT temporary Tariff rate for energy charges, and as per HT I Category for demand charges, since the purpose/activity of a HT consumer is same as his LT counterpart.

In this context, during the hearing, Shri. Hogade submitted that the tariff for temporary agricultural consumers should be equated to that applicable for permanent agricultural consumers, as energy charges of Rs. 10.50 per kWh are not sustainable for the agricultural category.

#### **Commission's Clarification and Ruling**

As regards MSEDCL's request, the Commission has given a similar dispensation in case of LT IX - Multiplexes and Shopping Malls, wherein the same tariff has been made applicable for consumers availing supply at HT voltages also.

However, the Commission does not find merit in MSEDCL's proposal that the energy charges of LT temporary category should be made applicable, while the demand charges of HT I category should be made applicable. The Commission is of the opinion that the same tariff can be made applicable for both LT and HT consumers, in case of temporary category consumers, in toto.

Hence, the Commission clarifies that the tariff applicable for LT VII category will be applicable also in the event of extending supply to consumers availing temporary supply at HT voltages also.

The Commission also clarifies that the tariff applicable for temporary agricultural consumers will be the same as that applicable for permanent agricultural consumers, viz.,

Consumer Category	Fixed Charges (Rs/KW/month)	Energy Charges (Paise/kWh)
Metered Tariff (including Poultry Farms)	Rs 20 per kW per month (Rs 15 per HP per month)	110

It is also clarified that **only metered supply will be given for such temporary agricultural consumers**. Further, MSEDCL should submit all the details such as number of consumers, consumption, and revenue, separately for all sub-categories under temporary connections, such as LT religious, LT agriculture, LT Others, and HT sub-categories.

#### **5. Consumers supplied through mixed feeders in HT VI category**

In the context of supply to consumers in HT VI category, the Commission's Tariff Order states,

*"Tariff for Group Housing Societies*

*The Commission reiterates that that HT-VI Residential would be applicable only to the Group Housing Societies. In the earlier Tariff Order, MSEDCL had been directed to ensure metering arrangements so that consumers currently classified under HT-V Commercial Category, and requiring a single point supply, will have to either operate through a franchise route or take individual connections under relevant category. MSEDCL is directed to ensure compliance with this directive immediately."*

#### **MSEDCL Submission**

MSEDCL submitted that in the Tariff Order, no treatment has been given to the mixed feeders supplying power to townships like Sahara City and Dheeraj Dream Projects, etc. MSEDCL added that such townships can be spread over more than 100 acres of area and could have more than 3000 to 4000 consumers. Further, this segment of consumers is witnessing a tremendous growth in the recent past and will continue to grow. MSEDCL stated that the mixed feeders are supplying power to both commercial and domestic consumers, but billing is being done at a single point. MSEDCL added that pending further directives and clarity on treatment of mixed feeders, MSEDCL is going ahead with survey of consumers in such townships. MSEDCL proposed that

based on the consumer mix (as evident from the survey), MSEDCL would apply the tariff in proportion to either the units consumed or the number of consumers as the case may be, to arrive at the total amount to be recovered from single point HT consumer.

### **Commission’s Clarification and Ruling**

The Commission’s Order is clear on the matter, and it is reiterated that bulk supply through mixed feeders at single point is not allowed under the provisions of the EA 2003, the MoP’s subsequent clarifications, and the directives given in the Commission’s Tariff Orders. **It is clarified that proportionate billing proposed by MSEDCL in this regard is not acceptable, and MSEDCL has to ensure that individual meters are installed for the consumers, unless the single point consumer is willing to take up the responsibility as a Billing Franchisee and the MSEDCL finds it acceptable to appoint that single point consumer as a Franchisee.**

### **6. Reference consumption to be considered for levy of ASC**

In the context of levy of Additional Supply Charges, the Commission’s Tariff Order states,

*“The Commission has simplified the method of levy of ASC, by allocating the costly power only to industries connected at EHV levels or express feeders, Railways, and industries facing one day load shedding, in accordance with the quantum of costly power considered for the purpose of ASC determination. ASC will now be levied on 24% of the consumption for continuous industries and Railways, as compared to 42% earlier, and on 11% of the consumption for industries facing one day staggering, as compared to 28% earlier, irrespective of the location in the State, since the load shedding for these categories is the same, irrespective of their location. The revised ASC matrix giving the share of costly power consumption is given below:*

<b>Sl.</b>	<b>Consumer Category</b>	<b>Percentage of costly power consumed</b>
1	HT-I Industry	
1.1	Continuous Industry (on express feeder)	24%
1.2	Non-continuous Industry (not on express feeder)	11%
2	HT-III Railways	24%
3	HT-IV Water Works	
3.1	Express feeder	24%
3.2	Non - express feeder	11%
4	LT-V Industry (MIDC area)	11%

*Note: ASC will not be applicable for non-continuous industry and water works, facing two or more days of load shedding*

*The Commission clarifies that ASC will not be levied on industries and water works facing two or more days of load shedding, as well as on other categories like domestic, commercial, etc., irrespective of their location.*

*The Commission has continued with the approach of incentivising consumers to respond to the levy of Additional Supply Charge, by reducing their consumption with respect to the consumption in the previous period. Similarly, a disincentive has to also be built in so that the consumers are encouraged to at least restrict their consumption to the benchmark levels.*

*The reference period for comparison of the consumption is elaborated below, to enable MSEDCL to pass on the incentive/disincentive appropriately by following a common methodology across its billing units. The Commission is also of the opinion that it will not be fair to consider the benchmark average consumption levels of the previous year, January 2006 to December 2006, for this purpose, as the consumers cannot be expected to continuously year-on-year reduce their consumption. Hence, the Commission has retained the provision of benchmarking the current consumption levels against the monthly average of consumption during January 2005 to December 2005, while billing Additional Supply Charge to the consumers.*

- (a) The period for reference for comparison of consumption will be the twelve-month billing period from January to December 2005.*
- (b) In case of new consumers, who were not MSEDCL's consumers during the above reference period, the reference period for comparison of consumption may be taken as the last bill period.*
- (c) In case of seasonal industries, the reference period for comparison of consumption may be taken as the last bill period during the declared season in the twelve-month billing period from January to December 2005.*
- (d) Where the consumer's establishment was under formal strike or lock-out during the above reference period, and for which documentary evidence is available, then the reference period for comparison of consumption would be the last bill period.*
- (e) In case of temporary connections in the corresponding period of 2005 which were made permanent thereafter, or if the nature of the connection had otherwise changed as compared to that period, then the reference period may be taken as the last bill period (as in the case of new consumers). This would include cases of consumers whose sanctioned load/ contract demand had been duly increased after the billing month of*

- December 2005. However, in cases of reduction in Contract Demand, which is probably an effort to conserve, the above reference period of average consumption during January 2005 to December 2005 would continue to be applicable.*
- (f) *In case of temporary connections in the corresponding period of 2005 which were made permanent during the period January to December 2005, or if the nature of the connection had otherwise changed during this period, then the reference period may be taken as the billing period after the change in the nature of the connection. This would include cases of consumers whose sanctioned load/ contract demand has been duly increased during the billing period of January to December 2005. However, in cases of reduction in Contract Demand, the above reference period of average consumption during January 2005 to December 2005 would continue to be applicable.*
- (g) *In case of consumers whose sanctioned load/contract demand had been duly increased after the billing month of December 2005, the reference period may be taken as the billing period after six months of the increase in the sanctioned load/Contract Demand or the billing period of the month in which the consumer has utilised at least 75% of the increased sanctioned load/Contract Demand, whichever is earlier.*

*This incentive and disincentive mechanism is explained with the help of the illustration below:*

*The ASC will be levied on the share of costly power consumption specified in this Order, subject to the comparison of monthly consumption with the consumption in the reference period. For instance, consider a HT industrial consumer (continuous industry) [with ASC share of 24%], with average monthly consumption of 100,000 units during the reference period. If the consumption in June 2007 is 1,00,000 units, then the ASC rate will be applicable for 24,000 units, while the balance 76,000 units will be charged at base energy rate. However, if his consumption in June 2007 is 90,000 units, then the ASC will be applicable on 14,000 units, (24,000 – 10,000), and the balance 76,000 units will be charged at base energy rate. Thus, the reduction in consumption with respect to the benchmark consumption will be entirely deducted from the consumption to be charged at ASC rate. The incentive is limited to the maximum percentage indicated against the particular category, i.e., 24% in above example. Similarly, if his consumption in June 2007 is 1,10,000 units, then the ASC will be applicable on 34,000 units, (24,000 + 10,000), and the balance 76,000 units will be charged at base energy rate. Thus, the increase in consumption with respect to the benchmark consumption will be entirely added to the consumption to be charged at ASC rate.”*

### **MSEDCL Submission**

MSEDCL desired certain clarifications on the reference consumption for the purpose of levy of ASC, as follows:

(a) Cases of marginal increase in Contract Demand/Sanctioned Load

MSEDCL submitted that certain consumers may take undue benefit of the Commission's clarifications by marginally increasing the load.

(b) Cases of increase in Contract Demand/Sanctioned Load followed by subsequent reduction of Contract Demand/Sanctioned Load

MSEDCL submitted that it was facing genuine difficulties in determining the reference consumption in cases where a consumer increases the demand and subsequently reduces the same in subsequent months, as detailed in the following illustrations:

*Sample Case I*

Current Contract Demand is 9500 kVA.

Contract Demand for period Jan-05 to Dec-05 is 5000 kVA.

<b>Bill Month &amp; Year</b>	<b>Contract Demand</b>	<b>Billed Demand</b>	<b>Avg. Period?</b>
Jan-2006	10500	7400	
Feb-2006	10500	7300	
Mar-2006	10500	7200	
Apr-2006	9500	8750	
May-2006	9500	5000	

*Sample Case II*

Current Contract Demand is 10500 kVA.

Contract Demand for period Jan-05 to Dec-05 is 9000 kVA.

<b>Bill Month-Year</b>	<b>Contract Demand</b>	<b>Billed Demand</b>	<b>Avg. Period?</b>
Jan-2006	9000	7400	
Feb-2006	9000	7300	
Mar-2006	9000	7200	
Apr-2006	10500	8750	
May-2006	10500	5000	

Sample Case III

Current Contract Demand is 7000 kVA.

Contract Demand for period Jan-05 to Dec-05 is 10000 kVA.

Bill Month-Year	Contract Demand	Billed Demand	Avg. Period?
Jan-2006	10500	9000	
Feb-2006	10500	7300	
Mar-2006	9500	9500	
Apr-2006	9500	8750	
May-2006	7000	7000	

Sample Case IV

Current Contract Demand is 7000 kVA.

Contract Demand for period Jan-05 to Dec-05 is 10000 kVA.

Bill Month-Year	Contract Demand	Billed Demand	Avg. Period?
Jan-2006	10500	9000	
Feb-2006	10500	7300	
Mar-2006	9500	9500	
Apr-2006	9500	8750	
May-2006	9800	9000	

- (c) Cases where consumers are availing credit for captive generation at different location, through renewable sources or otherwise

MSEDCL submitted that in case of consumers who are availing credit facility in terms of units (NCE/ CPP, etc.), the ASC is being calculated in terms of net units billed (Depending on generation, the consumer will either get incentive or disincentive which will neutralise over the period of the year). MSEDCL requested the Commission to reconfirm the above approach for billing of ASC.

**Commission's Clarification and Ruling**

The Commission's clarification on each of the above issues is given below:

- (a) Cases of marginal increase in Contract Demand/Sanctioned Load

In the above quoted portion of the Tariff Order clause (g) was inserted in order to protect consumers who have sought increase in Contract demand/sanctioned load subsequent to the original reference period of January to December 2005, as increase in Demand would also result in increase in the consumption, and the consumers should not be subjected to levy of ASC on a high quantum of their consumption.

In this context, the Commission finds merit in MSEDCL's submission on this matter. Though there is nothing that prevents any consumer from seeking a marginal increase in the Contract Demand, the Commission is of the opinion that for the purpose of implementation of this clause, there should be a minimum increase in Contract Demand/Sanctioned Load, to discourage consumers from seeking undue benefit under this clause.

The Commission is further of the opinion that increase in Contract Demand will be sought only when there is a significant increase in scale of operations, and hence, clarifies that **clause (g) of the Order reproduced above, will be applicable only in cases, where the increase in Contract Demand is equivalent to 25% or more of the Contract Demand during the reference period from January 2005 to December 2005. In case of change in Contract Demand during the above reference period, then the Contract Demand during December 2005 will be considered as the reference Contract Demand, for operationalisation of this clarification. The Commission further clarifies that in case the Contract Demand is reduced subsequent to increase of Contract Demand, such that the revised Contract Demand is less than 25% higher than the original Contract Demand during the reference period, then this clause will not be operative for such consumers, and the reference consumption during January to December 2005 will be applicable. (eg: CD during January to December 2005 = 100 kVA; CD increased during May 2006 = 200 kVA; Current CD = 120 kVA; reference period is average monthly consumption during January to December 2005).**

(b) Cases of increase in Contract Demand/Sanctioned Load followed by subsequent reduction of Contract Demand/Sanctioned Load

The clarifications to the sample cases described by MSEDCL in this context have been given below, after giving due consideration to the Commission's clarification in 6(a) above, on the minimum increase in Contract Demand required to qualify under this clause.

Sl.	Sample Case	Contract Demand in 2005	Current Contract Demand	Reference Period	Basis
		kVA	kVA	Month	
1	Case I	5000	9500	April 2006	75% of increased Contract Demand reached in April 2006  Contract Demand has not increased by at least 25% over 2005 levels
2	Case II	9000	10500	Average of 2005	
3	Case III	10000	7000	Average of 2005	
4	Case IV	10000	7000	Average of 2005	

**The Commission clarifies that in case the Contract Demand is increased during the period of first eighteen months after commencement of operations, then the increase in Contract Demand clause will not be applicable and the clarification given under Para 8 of this Clarificatory Order will prevail.**

(c) Cases where consumers are availing credit for captive generation at different location, through renewable sources or otherwise

Such consumers are billed by MSEDCL on net basis every month, after giving due credit for their captive generation which is pumped into the grid. The issue here is whether the reference billing considered for levy of ASC should be the gross amount billed or net amount billed by MSEDCL. Though the Commission's Tariff Order does not clarify the issue, MSEDCL is billing such consumers on 'net' basis, on the basis of a similar clarification issued by the Commission in the context of load regulation for industries, which has been reproduced below for reference:

(j) *“The load regulation target of 80% and 90% as applicable is to be applied only on the net consumption billed by the MSEDCL. This is relevant in cases where the HT industrial consumer has captive generation facilities and the MSEDCL bills the consumer only for the net consumption after giving due credit for the captive generation.”*

In theory, the method adopted by MSEDCL of comparison of net units billed during the reference period with the net units billed during the current month, will incentivise consumers to reduce their consumption from the grid, either by load regulation or purchase of power from other sources or through increase in captive generation. However, the adoption of 'net billing' for purposes of levy of ASC has resulted in several complications and high bills for several consumers, with ASC being levied on 80% to 90% of their monthly consumption against the normative levels of 11% and 24%, depending on whether the consumers are connected through non-express or express feeders, respectively. While the Commission had incorporated an in-built incentive/disincentive mechanism in the ASC formulation, the disincentive has to be proportionate to the violation, which is clearly not the case in such instances. Such an impact is clearly unintended, and the mismatch between the actual quantum of costly power purchase by MSEDCL and the units billed under ASC is further skewed. It is clear that the test of common sense has to be applied in such cases. Also, eventually, the excess amount collected under ASC will have to be refunded to consumers in proportion to the share of billing.

Some of the complications that have arisen and which have been brought to the notice of the Commission are given below:

- (d) Some wind generators have opted to sell to MSEDCL, rather than to third party, after 2005, resulting in the reference net consumption showing a lower value due to the netting off from wind generation, while the current net consumption is much higher, due to non-availability of set-off from wind generation.
- (e) Reduction in wind generation after 2005 in certain cases, due to site specific circumstances.
- (f) Monthly variation in generation, especially in case of wind, results in the percentage of ASC levy varying significantly every month. The fluctuations would be off-set to some extent on account of lower ASC levy during high wind generation months, which would be balanced by higher ASC levy during low wind generation months. However, the higher ASC levy and lower ASC levy may not necessarily be balanced, as the benefit of lower ASC levy is up to a maximum of 24% in case of express feeder consumers, whereas the higher ASC levy could go to any level, and has gone up to 80% to 90% in some cases.
- (g) In cases of increase in Contract Demand as well as net billing on account of captive generation credit, the reference month is either the month in which 75% of increased Contract Demand is reached or the billing period after six months of increase in Contract Demand, whichever is earlier. However, due to the seasonality of wind and bagasse based generation, the captive generation in that reference month could be high or low, resulting in the net billing during the reference month being shown as low or high, but which does not reflect the actual average consumption. As a result, the consumer may either benefit unduly (if the wind generation during the reference month is on the lower side, resulting in higher reference net billing and consequently lower effective levy of ASC) or be adversely affected unduly (if the wind generation during the reference month is on the higher side, resulting in lower reference net billing and consequently higher effective levy of ASC)
- (h) It has also been submitted that consideration of net billing for levy of ASC also differentiates between consumers who installed wind generation facilities at different points in time (2005, 2006, 2007, etc.), as the reference period is being considered as average net monthly billing during 2005. On the other hand, ASC billing on gross units will ensure equal treatment of all wind energy generators.

The following illustration will clarify the case:

SI	Particulars	Units (kWh)	% ASC levy	Loss in incentive
1	Gross annual consumption in 2005	1440000		
2	Annual credit units from captive generation in 2005	480000		
3	Annual net units billed by MSEDCL in 2005	960000		
4	Average gross monthly consumption in 2005	120000		
5	Monthly average credit units from captive generation in 2005	40000		
6	Average net monthly units billed by MSEDCL in 2005	80000		
7	Gross consumption during May 2007	120000		
8	Credit units during May 2007	20000		
9	Net consumption during May 2007	100000		
10	Proportion of consumption for levy of ASC - net billing basis	39200	39%	
11	Proportion of consumption for levy of ASC - gross billing basis	24000	24%	
12	Gross consumption during July 2007	120000		
13	Credit units during July 2007	60000		
14	Net consumption during July 2007	60000		
15	Proportion of consumption for levy of ASC - net billing basis	0	0%	-5600 kWh
16	Proportion of consumption for levy of ASC - gross billing basis	14400	24%	
17	Gross consumption during December 2007	120000		
18	Credit units during December 2007	0		
19	Net consumption during December 2007	120000		
20	Proportion of consumption for levy of ASC - net billing basis	68800	57%	
21	Proportion of consumption for levy of ASC - gross billing basis	28800	24%	
22	Gross consumption during December 2007	100000		
23	Credit units during December 2007	20000		
24	Net consumption during December 2007	80000		
25	Proportion of consumption for levy of ASC - net billing basis	19200	24%	
26	Proportion of consumption for levy of ASC - gross billing basis	0	0%	-800 kWh

**Note:** The above example has been given only for illustration purposes, with assumed values of consumption and credit units, in order to explain the concept and the above illustration is not to be used for billing purposes

The above illustration clearly shows that billing of increase/reduction in ASC units on 'net' basis results in wide swings in percentage of ASC levy, and that the relief during high generation

months is not balanced by the higher bills during low generation months. Further, billing of increase/reduction in ASC on 'gross' basis ensures that the ASC is levied on 24% of the consumption during the current month, as the illustration considers that the gross consumption has been maintained at the same level in the reference period as well as the current month.

Given the huge number of complications arising on account of comparison of 'net' billing during the reference period and current month for the purposes of ASC levy, which have already been brought to the notice of the Commission, it is felt that there may be other complications also. In such a scenario, the comparison of 'gross' billing during the reference period and current month for the purposes of ASC levy, appears to be a practical solution. Hence, **it is clarified that the billing of increase/reduction in ASC units will be done by comparing the reference consumption and current consumption on 'gross' basis, rather than 'net' basis.**

#### **7. Applicability of prompt payment discount**

In the context of prompt payment discount and load factor incentive, the Commission's Tariff Order states,

*"Prompt Payment Discount*

*A prompt payment discount of one percent on the monthly bill (excluding Taxes and Duties) shall be available to all the consumer categories, **if the bills are paid within a period of 7 working days from the date of issue of the bill.**" (emphasis added)*

*"Load Factor Incentive*

*The Commission has retained the Load factor incentive for consumers having Load Factor above 75% based on contract demand... Further, the load factor rebate will be available only if the consumer has no arrears with the MSEDCL, and **payment is made within seven days from the date of the bill or within 5 days of the receipt of the bill, whichever is later...**" (emphasis added)*

#### **MSEDCL Submission**

MSEDCL requested the Commission to keep the same logic for eligibility of incentive, in case of prompt payment incentive as well as load factor incentive, in order to avoid confusion in the mind of consumers regarding the date on which payments need to be made for availing all discounts.

#### **Commission's Clarification and Ruling**

The Commission has considered MSEDCL's request in this matter, and is of the opinion that there is merit in the suggestion. There could also be an issue as regards the definition of 'working

days', which could differ from one area to another, on account of staggering load shedding, or other reasons. Hence, the Commission clarifies that both, the load factor incentive and the prompt payment incentive will be applicable **if the bills are paid within seven days from the date of the bill or within 5 days of the receipt of the bill, whichever is later.**

#### **8. Benchmark consumption for levy of ASC in the case of new consumers**

The reference period in case of new consumers, who became consumers after the reference period of January to December 2005, is specified as follows:

*(b) "In case of new consumers, who were not MSEDCL's consumers during the above reference period, the reference period for comparison of consumption may be taken as the last bill period."*

There have been several representations from consumers wherein the levy of ASC in accordance with this clause is creating a huge problem for industries which have started recently. The bills have increased by almost two to three times, as the ASC is being levied on 80% to 90% of their consumption (as against 11% and 24% for non-continuous and continuous process industries), which has raised questions of their viability and continued existence.

Some consumers have also submitted that the bills issued by MSEDCL specify that the increase/decrease in ASC units has been levied on the basis of the reference period of 'Average of 2005', even though they have become consumers of MSEDCL in 2006 and 2007, which indicates that MSEDCL is billing in an erroneous manner.

#### **Commission's Clarification and Ruling**

The above stated impact on consumers, with consumers receiving bills with the share of ASC units as high as 80 to 90% of their total consumption, was clearly not the intention of the Commission while stipulating this clause.

Based on representations made by the new industries, it is observed that the share of ASC tends to be high, as these consumers typically take time of at least one year to stabilise their production and hence, electricity consumption, once the market for their product is established.

The Commission's objective in specifying the levy of increase/decrease in ASC units with respect to the reference consumption was to provide an in-built incentive/disincentive mechanism to the consumers, to ensure that they take all efforts to control their consumption at previous levels.

However, this objective has to be seen in the context of the basic premise that MSEDCL can bill ASC only to the extent of costly power purchase; and any excess billing has to be returned to the consumers. The difference between the actual power purchase quantum (which is dynamic) and ASC units billed, which are based on percentages prescribed in the ASC matrix (11% and 24%, as the case may be), would have to be refunded/collected from consumers in the same proportion as the levy of ASC. Moreover, MSEDCL cannot be allowed to recover ASC on additional units, on account of unintended consequences of application of the formula prescribed in the Order.

In order to alleviate the problem of such new consumers, the Commission hereby clarifies that a dispensation similar to the Development Period Concession will be followed, only for the purpose of comparison of current consumption with the reference consumption for levy of ASC, in the following manner:

- a) This dispensation will be applicable for all new consumers who have become MSEDCL's (erstwhile MSEB) consumers at any time after January 1, 2005
- b) For the first 18 months of operation, there will no benchmark/reference consumption, and ASC will be levied at the stipulated proportion of 11% and 24%, as the case may be. Thereafter, from the nineteenth month onwards, the reference consumption will be the average monthly consumption in the six month period after completion of Development Period of one year, i.e., average monthly consumption during the thirteenth (13<sup>th</sup>) to the eighteenth (18<sup>th</sup>) month.
- c) In case of seasonal consumers under HT category (HT II), clause (b) above requiring computation of average consumption during the 13<sup>th</sup> to 18<sup>th</sup> month above will stand modified to mean the average monthly consumption of the first declared season after completion of one year of operations. For the first year of operations till the first declared season (after one year) is over, ASC will be levied at the stipulated proportion of 11% and 24%, as the case may be.

Further, there is an issue of billing clarity. Some of the confusion has been created because of the terminology used by MSEDCL in the consumers' bills, with the reference period being named as 'Average of 2005', irrespective of whether the consumer came into existence in 2005, 2006 or 2007. **MSEDCL is directed to correctly state the 'benchmark/reference consumption' and 'reference billing period' considered for the purpose of billing increase/decrease in ASC units, in the consumers' bills.**

## 9. Specification of Methodology for refund of RLC

The relevant paragraph of the Tariff Order is reproduced below for reference:

*“The Commission, in line with its directions in March 10, 2004 Tariff Order (Case 2 of 2003), while keeping in mind the principles of ‘promissory estoppels’, directs MSEDCL to refund Rs. 500 crore of Regulatory Liability Charges (RLC) to the specified consumer categories in FY 2007-08, out of the total amount of around Rs. 3225 crore collected by MSEDCL through RLC, which were like a loan given by these subsidizing categories to help MSEDCL tide over the financial crisis due to its heavy distribution losses. Being a refund of charges recovered, the amount has not been considered while determining the ARR. This is only a token amount, amounting to around 16% of the RLC collected from the selected consumer categories. It is expected that with progressive improvement of MSEDCL’s operations in future years, the balance amount will be refunded in the near short-term.”*

Several representations have been received stating that MSEDCL has not refunded the RLC in the bills issued for the months of May and June 2007, though the Commission’s Tariff Order has directed refund of Rs. 500 crore of RLC in FY 2007-08, out of the total amount of Rs. 3225 crore of RLC collected by MSEDCL. The Tariff Order has not clarified the exact methodology to be followed by MSEDCL for refunding the RLC, including whether the refund is to be made on a monthly/quarterly basis, in which proportion to the respective categories, etc.

### **Commission’s Clarification and Ruling**

The total amount of RLC collected from the different consumer categories is given in the Table below:

(Rs. Crore)

Sl.	Category	Dec-03 to 31.03.04	01.04.04 to 31.03.05	01.04.05 to 05.06.05	06.06.05 to 31.03.06	01.04.06 to 30.09.06	Total
1	LT Commercial	23.93	91.52	18.03	80.91	54.95	269.34
2	Industrial L T	33.1	144.28	29.37	126.89	80.03	413.67
3	Industrial H T	378.85	680.39	160.76	685.81	494.41	2400.22
4	Railway Traction HT	11.75	52.05	10.57	43.15	26.72	144.24
	Total	447.63	968.24	218.73	936.76	656.11	3227.47

**MSEDCL will refund the RLC in the following manner, so that the consumers get the refund regularly:**

The refund is to be made to the category as a whole, and not to the respective consumer. Further, the refund has to be made in the same proportion as the contribution of RLC by the respective

consumer category. The Commission has specified below, the amount of RLC refund in paise/kWh for the respective consumer category, to ensure ample clarity on the matter. Further, since the refund in paise/kWh has been computed on the basis of the annual sales projected for FY 2007-08, the actual amount of category-wise refund will have to be trued up at the end of the year, depending on the actual sales to the respective consumer category. The computations are shown below:

(Rs. Crore)

Sl.	Category	Total	% Contribution	Share of refund (Annual)	Share of refund (monthly)	Monthly sales in MU (Tariff Order)	Monthly RLC Refund per unit billed (paise/kWh) [Sep 07 to March 08]
1	LT Commercial	269.34	8%	41.73	5.96	208.58	28.58
2	Industrial L T	413.67	13%	64.09	9.16	387.83	23.61
3	Industrial H T	2400.22	74%	371.84	53.12	1907.67	27.85
4	Railway Traction HT	144.24	4%	22.35	3.19	102.08	31.27
	Total	3227.47	100%	500.00	71.43	2606.17	27.41

**Notes:**

1. The refund has to be made in the balance seven month period from September 1, 2007 to March 31, 2008

Since MSEDCL has not refunded the RLC for the bills issued till date during the period May 2007 to August 2007, the Commission has determined the monthly RLC refund in such a manner that the entire refund of Rs. 500 crores occurs over the balance seven-months of the year, as computed above. This will also enable MSEDCL to overcome any liquidity constraints, which could occur if MSEDCL were directed to combine the refund of past three months with that due in August 2007, and give the balance refund thereafter.

**10. Proportionate increase in reference consumption in case of consumers who have not been supplied electricity on the instructions of MSEDCL**

In case of some industrial consumers, MSEDCL has given intimation in writing or has agreed / accepted in writing, that supply will not be given/ may not be utilised by the industries on certain dates/specific days, due to some repair work at the sub-station or 33 kV/11 kV feeder or for any other valid reason. As a consequence, the consumption of such consumers in that particular month has been lower, due to no fault of theirs. The problem is compounded when such a month happens to be the reference month or falls during the reference period, as the ASC is then levied

on a higher proportion, even though in reality, this level of consumption is actually the average consumption of the consumer. This situation is explained with the help of the following illustration:

<b>Particulars</b>	<b>Units</b>	<b>Quantum</b>	<b>Effective ASC percentage</b>
Average monthly consumption	kWh	100000	
No. of days of supply – normal	days	30	
Actual days of supply during the reference month	days	25	
Actual consumption during reference month	kWh	85000	
Consumption during June 2007	kWh	100000	
Proportion of consumption for levy of ASC – normal	kWh	24000	24%
Proportion of consumption for levy of ASC – actual	kWh	35400	42%
Normalised consumption during reference month	kWh	102000	
Proportion of consumption for levy of ASC	kWh	22480	22%

In the above illustration, the consumer is being charged ASC on 42% of his monthly consumption, whereas he should actually be charged ASC only on 22% of his monthly consumption.

The Commission clarifies that in such cases where the reference consumption has been suppressed due to non-supply by MSEDCL with specific intimation/ acceptance to that effect, the reference consumption will be normalized on a proportionate basis, so that the reference consumption reflects the consumption that would have occurred had MSEDCL not reduced the supply due to no fault of the consumers. For consumers connected on express feeders, it is presumed that the supply is given continuously and hence, any such non-supply for production activities with prior written intimation or subsequent acceptance by MSEDCL will have to be considered. In case of consumers connected on non-express feeders, staggering load shedding of 16 hours is done every week. Any additional non-supply for such consumers, will qualify under this clarification, and the reference consumption will have to be proportionately restated.

It should be noted that this clarification will not apply for load shedding undertaken by MSEDCL on the basis of published load shedding schedules.

In order to get relief, such consumers will have to submit documentary evidence of non-supply during the reference month or reference period, under the instructions of MSEDCL or a written

acceptance from the concerned MSEDCL officer about such case. This directive will also apply to the consumers who were asked by MSEDCL to restrict their production loads without physically discontinuing their supply (applicable where supply was not physically discontinued).

#### 11. Levy of penalty for exceeding contract demand

The Tariff Schedule for MSEDCL approved by the Commission stipulates as follows:

***“Penalty for exceeding Contract Demand:***

- 1) *In case, a consumer exceeds his Contract Demand, he will be billed at the appropriate Demand charges for the Demand actually recorded and will be charged at the rate of 150% of the prevailing Demand Charges for the excess Demand over the Contract Demand.”*

The above stipulation, which is common for all distribution licensees, is intended to act as a stiff penalty for consumers who exceed their Contract Demand. Effectively, the Demand Charges are levied once up to the Contract Demand, and for the portion of demand that is in excess of Contract Demand, two-and-a-half times (2.5 times) the base demand charges are levied.

In this context, some consumers have complained that MSEDCL is charging excess penalty in case of exceeding Contract Demand.

Analysis of the billing method adopted by MSEDCL shows that MSEDCL is correctly applying the penalty for exceeding Contract Demand. For further clarity on the methodology for billing of excess demand, the Commission has given the following illustration:

Sl.	Particulars	Units	Quantum
1	Demand Charges	Rs/kVA/month	300
2	Contract Demand	kVA	500
3	Actual recorded demand in June 2007	kVA	550
4	Demand Charges applicable on recorded demand	Rs/kVA/month	300
5	Demand Charges applicable on recorded demand	Rs	165000
6	Penalty demand charges on excess demand portion	Rs/kVA/month	450
7	Penalty demand charges on excess demand portion	Rs	22500
8	Total demand charges	Rs	187500

## 12. Reference bill period for HT foundries in cases of increase in Contract demand

In cases of increase in Contract Demand after the reference period, the extant clarification states,

*(g) In case of consumers whose sanctioned load/contract demand had been duly increased after the billing month of December 2005, the reference period may be taken as the billing period after six months of the increase in the sanctioned load/Contract Demand or the billing period of the month in which the consumer has utilised at least 75% of the increased sanctioned load/Contract Demand, whichever is earlier.*

Some HT Foundries have submitted that after increase of the Contract Demand, they exceed 75% of their Contract Demand on their first trial run itself, though their monthly consumption is much lower. As the first month then becomes the reference period in such cases, such consumers are consequently subjected to higher ASC in the subsequent months. These consumers have requested the Commission to link the levy of ASC to the average consumption in the first six months after increase in Contract Demand, for HT foundries.

### **Commission's Clarification and Ruling**

Though this may be a genuine problem of some such HT Foundry consumers, the Commission is of the opinion that it may not be appropriate to give relief to any specific segment of industry, which may have peculiar characteristics. The Commission's Order and the clarifications have to be generic and applicable across all industries and consumers. Giving relief to any specific industrial segment may lead to a similar demand from other industries, which may have different problems.

However, the Commission is of the opinion that there could be cases where the Billing Demand exceeds 75% of the Contract Demand in the first month itself due to trial runs, etc. At the same time, there has to be some criteria related to Contract Demand to ensure that this provision is not being misused. Hence, the Commission clarifies that this provision will be modified to provide for the first three incidences of recorded demand exceeding 75% of Contract demand, as follows:

“In case of consumers whose sanctioned load/contract demand had been duly increased after the billing month of December 2005, the reference period may be taken as the billing period after six months of the increase in the sanctioned load/Contract Demand or the billing period of the month in which **the third occasion of the consumer utilising at least 75% of the increased sanctioned load/Contract Demand after increasing the Contract demand is recorded**, whichever is earlier.”

13. Reference bill period in cases of industries that have undergone closure during the reference period of January to December 2005

In the earlier Tariff Order in Case 54 of 2005 dated October 3, 2006, the Commission had stipulated for the levy of ASC that,

*“...in case of closure of any industrial unit for a period greater than one month during the period January 2005 to December 2005 for maintenance or other purposes, and documentary evidence of the same is provided to MSEDCL, then MSEDCL will exclude this period of closure, while computing the monthly average for the purposes of levy of Additional Supply Charges.”*

However, this clause was inadvertently missed out in the Commission’s Tariff Order in Case 65 of 2006 dated May 18, 2007. The Commission **clarifies that this clause is operative for this Order also.**

14. Reference period in cases of Units under lock-out and under Permanent Disconnection (PD) category during the entire reference period

In case of units that were under lock-out or were Permanently Disconnected (PD) consumers for more than eleven months of the period from January 1, 2005 to December 31, 2005, and who have commenced operations subsequently, the ASC will be levied at the stipulated proportion of 11% and 24%, as the case may be, for the first six months after re-commencement of operations. Thereafter, the average monthly consumption during the first six months after re-commencement of operations, will be considered as the reference, and the ASC on the increase/decrease in consumption vis-à-vis the reference consumption will be charged in accordance with the Commission’s orders in this regard.

15. Inclusion of ASC while computing Load factor incentive

The Commission’s Tariff Order states, on page 21, 22 and 186 of the Order,

*“Load Factor Incentive*

*The Commission has retained the Load factor incentive for consumers having Load Factor above 75% based on contract demand. Consumers having load factor over 75% up to 85% will be entitled to a rebate of 0.75% on the energy charges for every percentage point increase in load factor from 75% to 85%. Consumers having a load factor over 85 % will be entitled to rebate of 1% on the energy charges for every*

*percentage point increase in load factor from 85%. The total rebate under this head will be subject to a ceiling of 15% of the energy charges for that consumer. ...”*

The Commission’s Tariff Order states, on page 217, 220 and 229 of the Order,

*“c) Additional Supply Charges shall be considered for computing “Electricity Duty” as well the Rebates/Incentives/Penalties/DPC/Additional Security Deposit. Similarly, the “Additional Supply Charge” shall also be considered for determination of assessment under Section 126 and Section 135 of the Electricity Act, 2003.”*

### **Commission’s Clarification and Ruling**

As seen above, the Commission’s Order on Load Factor Incentive does not explicitly state that the ASC should be included while computing the same, though the dispensation on treatment of ASC states that ASC should be considered for computing all incentives and disincentives.

The Commission clarifies that ASC will have to be considered for computing Load Factor Incentive, as follows:

#### “Load Factor Incentive

The Commission has retained the Load factor incentive for consumers having Load Factor above 75% based on contract demand. Consumers having load factor over 75% up to 85% will be entitled to a rebate of 0.75% on the energy charges **including ASC charges** for every percentage point increase in load factor from 75% to 85%. Consumers having a load factor over 85 % will be entitled to rebate of 1% on the energy charges **including ASC charges** for every percentage point increase in load factor from 85%. The total rebate under this head will be subject to a ceiling of 15% of the energy charges **including ASC charges** for that consumer. ...”

The Commission also clarifies that due to the load regulation measures, the load Factor incentive may effectively be capped at lower levels, but this cannot be helped in the context of the shortage scenario prevailing in the State.

#### 16. Tariff applicable for religious places of worship supplied at HT voltages

The tariff schedule for LT category approved by the Commission as a part of the Tariff Order, on page 208 of the Order, specifies the applicability of LT I tariff as follows:

*“Power supply used for appliances like Light, fans, refrigerator, Air-Conditioners, heaters, small cookers, radios, T.V. sets, battery charger equipments, X-ray machines, small motors up to 1 HP attached to appliances and water pump in following places:*

- a) Residential places,*
- b) Religious places like temples, churches, mosques,*
- c) ...”*

In this context, a clarification has been sought regarding the applicability of the above tariff for consumers connected on HT voltages.

### **Commission’s Clarification and Ruling**

The Commission clarifies that the tariff applicable for religious places of worship supplied at HT voltages will be the same as that applicable for such consumers who are supplied at LT voltages.

The Commission also observes that similar problems exist for other categories like hospitals, educational institutions, etc., supplied on HT voltages, but which are currently being charged industrial tariffs, due to the absence of any categorisation for such consumers. **MSEDCL is directed to collect the data of all such consumer sub-categories that are supplied at HT voltages, and are currently being charged industrial tariffs, though they should not be strictly classified under industrial category. The segregated data on such consumer sub-categories such as number of consumers and consumption should be submitted at the time of submission of Annual Performance Review.**

### **17. Customer classification under LT VIII – Advertisements and Hoardings**

The tariff schedule for LT category approved by the Commission as a part of the Tariff Order, specifies that the tariff under LT VIII category is applicable for the following consumers:

*“Applicable for electricity supply at LT for Advertisement & Hoardings, which includes electricity used for the purpose of advertisements, hoardings and other conspicuous consumption such as external flood light, displays, neon signs at departmental stores, commercial establishments, malls, multiplexes, theatres, clubs, hotels, and other such entertainment/leisure establishments, as well as electricity used for external illumination of monuments, and historical/heritage buildings approved by MTDC.”*

In this context, a clarification is required to be given whether the lighting used to display the name of the commercial establishment is included under LT VIII.

**Commission's Clarification and Ruling**

**The Commission clarifies that the LT VIII tariff is not applicable for lighting used to display the name and other required details of the shops or commercial establishment;** as such lighting cannot be classified under advertisements and hoardings. Such lighting will continue to be charged at LT II Non-domestic tariffs.

18. Proportionate bulk discount and prompt payment discount for the billing period prior to May 1, 2007

The revised tariffs determined in the Tariff Order for FY 2007-08 came into effect from May 1, 2007, and the earlier tariffs were effective till April 30, 2007. In the MYT Tariff Order, the Commission discontinued the concept of bulk discount, and increased the rate of prompt payment incentive, and also extended the same to all consumers including LT category consumers.

**Commission's Clarification and Ruling**

**For bills issued in May 2007 and covering some days in April 2007 and some days in May 2007, the Commission clarifies that bulk discount and prompt payment incentive for the consumption in April 2007, has to be given proportionately, in accordance with the Commission's previous Tariff Order in Case 54 of 2005 dated October 20, 2006.**

With this Order the Commission disposes of MSEDCL's Petition in Case No. 26 of 2007.

Sd/-  
(S.B. Kulkarni)  
Member

Sd/-  
(A. Velayutham)  
Member

Sd/-  
(Dr. Pramod Deo)  
Chairman

Sd/-  
(P.B. Patil)  
Secretary, MERC

## Annexure 1

Sl.	Consumer Category	Monthly Consumption (units)	Sanctioned Load or Billing Demand	Existing Tariff			Revised Tariff			Monthly Bill (Rs)								
				Fixed/ Demand Charge	Energy Charges, including FAC of 20 p/kWh	Additional Supply Charge (ASC) (ps/unit)	Fixed/ Demand Charge	Energy Charges (ps/unit)	Additional Supply Charge (ASC) (ps/kWh)	Existing Tariff				Revised Tariff (incl ASC)				
										Fixed/Demand Charges	Energy Charges	ASC	Total	Fixed/Demand Charges	Energy Charges	ASC	Total	
<b>1</b>	<b>LT-V (Industrial)</b>		HP	Rs/HP/month			Rs/month											
	<=20 kW (upto 27 HP)	4500	15	60	320	515	150	300	0	450	10368	6489	17307	150	13500	0	13,650	
	> 20 kW (above 27 HP)	15000	50	60	420	515	100	400	0	1500	45360	21630	68490	1865	60000	0	61,865	
			kVA	Rs/month			Rs/kVA/month											
<b>2</b>	<b>LT IX - Multiplexes &amp; Malls</b>	48000	100	100	510	515	300	850	0	1000	198288	46968	246256	30,000	408000	0	438,000	

**Notes:** the above illustrations have been formulated on the basis of the following assumption:

- § It has been considered that multiplexes and malls were being billed under LT II (commercial) category earlier.
- § It has been assumed that the LT V category consumers and Multiplexes and malls are located in industrial and urban agglomerations, for the purpose of levy of ASC
- § MD metering is complete for all LT V category consumers and the MD tariff is applicable