

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL**

Sub: Filing of Petition under Regulation 51 of the MPERC (Terms & Condition for Determination of Tariff for Supply and Wheeling of Electricity and Methods and Principles for Fixation of Charges) Regulations, 2021 and its amendment thereof and Para 1.33 of the ‘GENERAL TERMS AND CONDITIONS OF HIGH-TENSION TARIFF’ of Retail Supply Tariff Order for FY 2023-24 dated 28th March 2023 for seeking alignment in existing ToD Structure with the relevant provision of the Electricity (Rights of Consumers) Amendment Rules, 2023 and to allow billing of discount/ surcharge during Solar/ Non-Solar Hours on the existing tariffs for E-Vehicles Charging Stations at LT /HT Supply.

ORDER

(Date of Order: 29th September’ 2023)

1. **Madhya Pradesh Power Management Company Ltd**
Shakti Bhawan, Rampur, Jabalpur (MP)
2. **Madhya Pradesh Poorv Kshetra Vidyut Vitaran Company Ltd.**
Shakti Bhawan, Rampur, Jabalpur (MP) - **Petitioners**
3. **Madhya Pradesh Paschim Kshetra Vidyut Vitaran Company Ltd.**
GPH, Polo Ground, Indore (MP)
4. **Madhya Pradesh Madhya Kshetra Vidyut Vitaran Company Ltd.**
Nishtha Parisar, Bijlee Nagar, Govindpura, Bhopal (MP)

- i. Shri Manoj Dubey appeared on behalf of Petitioners.
 - ii. Shri Ajasra Gupta, DGM appeared on behalf of MPPMCL.
 - iii. Shri K.C. Mishra, GM appeared on behalf of Central Discom.
 - iv. Shri Shailendra Jain, Deputy Director appeared on behalf of West Discom.
1. The subject Petition is filed by the Petitioners to align the existing Time of Day (ToD) structure in line with the provisions of Electricity (Rights of Consumers) Amendment Rules, 2023 notified on 14/06/2023 by the Ministry of Power (MoP), GoI. The petitioner has made following prayer:
- (a) *Take this Petition on record and treat it as complete;*
 - (b) *To define the Solar Hours for the purpose of ToD Rebate;*
 - (c) *To align the existing ToD Structure with the relevant provision of the Electricity (Rights of Consumers) Amendment Rules, 2023;*
 - (d) *To allow the petitioners to bill the determined tariff with a discount of 20% during the solar hours and a surcharge of 20% during all other periods in the day i.e. during non-solar hours.*
 - (e) *Condone delay if any in filing of this Petition;*
 - (f) *Condone any inadvertent omissions/ errors/ shortcomings and permit the Petitioner to add/ change/ modify/ alter portion(s) of this filing and make further*

submissions as may be required at a later stage; and

(g) *Pass such an order as the Commission deems fit and proper as per the facts and circumstances of the case.*

2. It is submitted by the petitioners that ToD structure as approved in the Retail Supply Tariff Order in vogue is not in conformity with the provisions of Electricity (Rights of Consumers) Amendment Rules, 2023. Further, the Ministry of Power, GoI amended the Revised Guidelines & Standards regarding Charging Infrastructure for Electric Vehicle (EV) on 27 April 2023 wherein it has provided stipulation for ascertaining the Tariff for Public Charging Station.
3. The petitioner stated that in order to understand the rationale behind MoP directions towards different pricing during solar and non-solar hours, they have carried out detailed analysis of 15 Min block wise actual power purchase profile during FY 2022-23. From above analysis, it was realized that the Discoms are incentivizing the eligible consumers during the unjustified hours resulting in higher power purchase cost. The negative impact of which is falling on the other consumers of Discoms, hence, resulting in unjust enrichment of some consumers who are getting ToD rebate at the cost of others. The existing ToD Rebate timing is therefore, defeating the very purpose of ToD tariff, i.e. optimization of power purchase cost. Further, it is encouraging higher consumption during Non-Solar Hours thus contributing to higher carbon emission. The existing ToD framework is also not in conformity with the provision of Electricity (Rights of Consumers) Amendment Rules, 2023. Hence, there is need to modify the same and align it with the provisions as specified by the Ministry of Power in the aforesaid Rules.
4. In view of above, Petitioners have made following proposal in petition:-
 - i. To align the existing ToD structure with the relevant provision of the Electricity (Rights of Consumers) Amendment Rules, 2023.
 - ii. To allow the Petitioners to bill, 20% discount during the proposed Solar Hours i.e. during 9:00 AM to 5:00 PM and 20% surcharge on all other hours of the day i.e. non-solar hours, on the existing tariffs for E-vehicle Charging stations at LT & HT Supply as determined by Commission vide order dated 28.03.2023, as mandated in recent communication of MoP, GoI in regard to accelerating the adoption of Electric vehicles in the country.
5. It was stated that the Petitioners have undertaken detailed analysis of block wise power purchase profile during the previous financial year, i.e., FY 2022-23. As per the analysis it was observed that:
 - I. The per unit actual power procurement cost during the Non-Solar Hours is higher i.e., mainly during which the ToD Rebate is being provided as per existing approved structure
 - II. The per unit actual power procurement cost during the Solar Hours is lower wherein normal energy charges are applicable.
6. The per unit power procurement cost as per IEX data also shows that cost is lower during Solar Hours. The impact of higher power purchase price on account of ToD Rebate being offered during night off peak hours is getting socialize on other consumers of Discoms (impact is falling on all LT consumer and other HT consumers for which ToD tariff is not applicable).Accordingly, it was

identified that there is need to align the existing ToD structure in line with the provision of Electricity (Rights of Consumers) Amendment Rules, 2023.

7. At the motion hearing held on 22/08/23, the Commission heard the petitioners and admitted the petition. The matter was listed for hearing on 05.09.2023.
8. At the hearing held on 05/09/2023, the Commission heard the petitioners and reserved the case for order.

Commission’s Observations and Findings

9. The petitioners have filed the subject petition to align the existing ToD Structure, specified by the Commission in Retail supply Tariff order for FY 2023-24, in accordance with provisions of the Electricity (Rights of Consumers) Amendment Rules, 2023 and to allow billing of discount / surcharge during Solar/ Non-Solar Hours on the existing tariffs for E-Vehicles Charging Stations at LT/HT Supply.
10. The petitioners have invoked the provisions under Regulation 51(Power to remove difficulties) of MYT Regulations, 2021 which provides that “If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, direct the Licensees to do or undertake things, which in the opinion of the Commission is necessary or expedient for the purpose of removing the difficulties”.
11. Commission observed that the proposal of the Petitioner is not in line with the Rules in terms of the following:
 - (i) Petitioner has sought 20% surcharge on consumers during all non-solar hours, whereas the Electricity (Rights of Consumers) Amendments Rules 2023 provide that ‘**duration of peak hours shall not be more than solar hours**’ and that **for the purpose of this rule, the expression “solar hours” means the duration of eight hours in a day as specified by the State Commission.** Hence surcharge cannot be imposed for more than eight hours, whereas the Petitioner has proposed to impose surcharge for 16 hours.
 - (ii) Petitioner’s proposal does not indicate timelines in respect of imposition of ToD rebate and surcharge on such connections, where smart meters have already been installed.
12. The Commission has specified the terms and conditions for determination of tariff under said MYT tariff regulations in exercising the power conferred under section 61 of the Act 2003. Accordingly, the Commission determines the tariff under the provisions of Section 62 of Act which, inter-alia provides in Section 62(4) as under:

Section 62(4)

“No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified”.

13. Further, as regard to procedure of tariff order, the Act provides that appropriate Commission shall consider the suggestions and objections of public /stakeholders during public consultation process on application for determination of tariff filed by the Distribution Licensee in accordance with Section 64 (3) of the Act as reproduced below:

“the Appropriate Commission shall, within one hundred and twenty days from receipt of an application under sub-section (1) and after considering all suggestions and objections received from the public,-

- (a) issue a tariff order accepting the application with such modifications or such conditions as maybe specified in that order;
- (b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of this Act and the rules and regulations made there under or the provisions of any other law for the time being in force:

Provided that an applicant shall be given a reasonable opportunity of being heard before rejecting his application.”

14. It is pertinent to mention that the Electricity (Rights of Consumers) Amendment Rules, 2023, inter-alia, provides that “the Time of Day tariff for Commercial and Industrial consumers having maximum demand more than ten Kilowatt shall be made effective from a date not later than 1st April, 2024 and for other consumers except agricultural consumers, the Time of Day tariff shall be made effective not later than 1st April, 2025 and a Time of Day tariff shall be made effective immediately after installation of smart meters, for the consumers with smart meters”.

15. Apropos Regulation 7 of MYT Regulations, 2021, the Distribution Licensees shall be required to file their ARR petition and tariff proposal for FY 2024-25 by 30th November, 2023 for consideration of the Commission and seeking public consultation before issue of tariff order for ensuing year in accordance with procedures laid down in Section 64 of the Act.

16. In view of above, the Commission deems it appropriate to deliberate upon petitioner’s instant proposal under ARR & Retail supply tariff proposal for FY 2024-25 to be filed by them by 30th November 2023. Accordingly, petitioners are directed to suitably incorporate proposed ToD structure in line with MoP Rules in comprehensive manner in their tariff petition for FY 2024-25 and file the same within timeline specified in Regulations. With the above directions, the petition is disposed of.

(Prashant Chaturvedi)
Member

(Gopal Srivastava)
Member (Law)

(S.P.S. Parihar)
Chairman