

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 2 OF 2025

In the matter of wheeling charges in billing & refund thereof

Mrinmayee Mandar Bhat Appellant
(Cons. No. 000010885809)

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Thane-2 (MSEDCL)..... Respondent

Appearances:

Appellant : Mandar Bhat

Respondent : Nitin Niwrittirao Thite, Executive Engineer

Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 7th February 2025

Date of Order : 21st February 2025

ORDER

This Representation was filed on 24th January 2025 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 16th December 2024 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup Zone (the Forum). The Forum by its order dismissed the grievance application in Case No. 52 of 2024-25.

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2. Aggrieved by the Forum's order, the Appellant has filed this representation. An e- hearing was held on 7th February 2025 through video conference where the parties were heard at length. The Appellant's submissions and arguments are stated as below: - *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]*

- (i) The Appellant is a residential consumer. The details of consumer number, address, date of connection etc. are tabulated as below:

Table 1:

Name	Consumer No.	Address	Sanct. Load	Date of Supply
Mrinmayee Mandar Bhat	000010885809	D-2, Flat No 401/02, Highland Gardens, Dhokali, Thane (West)	1 KW	03/04/2013

- (ii) The definition of Open Access & Wheeling in the Electricity Act, 2003 (the Act) is
“(47) **“open access”** means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Appropriate Commission; ”
“(76) **“wheeling”** means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62;”

- (iii) Sub-Section 2 of Section 42 of the Act stands as below:

“The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining

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the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:”

- (iv) According to sub-section 2, electricity consumers have the right to procure power from the supplier of their choice **other than the distribution company as per the terms & conditions specified by the Commission**. They can use the existing transmission and distribution infrastructure after paying appropriate charges determined by their respective State Electricity Regulatory Commissions (SERCs). For using these networks, the consumer has to pay transmission, wheeling and other Open Access charges to the respective Licensee. Minimum volume of power should be 1 MW i.e. any consumer having connected load of 1 MW and above can avail open access. Thus, industrial and commercial consumers like office complexes, hotels, hospitals, shopping malls and other large establishments can avail Open Access.
- (v) However, the Respondent MSEDCL is applying wheeling charges to Low Tension (LT) Consumers from Nov. 2016 **even though LT Consumers do not utilize open access to receive electricity from sources other than their designated distribution licensee**.
- (vi) The Appellant referred to the Tariff Order dated 03.11.2016 of Maharashtra Electricity Regulatory Commission (the Commission) in Case No.48 of 2016 with effect from Nov. 2016. As per this Tariff Order, the Commission has approved wheeling charges for Open Access Consumer. The Appellant also referred to Commercial Circular No. 275 in Revision in Electricity Tariff – Implementation thereof (Reference: MERC Tariff Order dated 03/11/2016 in the Case No. 48 of 2016). The Circular itself expresses that
- “20) Open access consumers: Hon’ble Commission has approved Wheeling charge, Cross subsidy surcharge, Additional surcharge for the open access consumers.”*
- (vii) In the said Order of the Commission (Case 48 dated 03.11.2016), it approved budgeted collection to Rs.5 Crores per year for the 3rd Control period for wheeling charges.



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However, MSEDCL has collected about 600 Crores per month and around 7200 Crores per year under the head of wheeling charges to all consumers from Nov.2016. They have collected around 28000 to 30000 Crores in the last 4 years under wheeling charges. This is nothing but a big scam by the Respondent. The Appellant also referred the Tariff Order dated 30.03.2020 of the Commission in Case of 322 of 2019 wherein they have approved wheeling charges collection of around Rs.1.79 Crores per year for 3rd control period. This proves that MSEDCL as well as the Commission are involved in this scam.

- (viii) **To hide this fraud, MSEDCL has stopped showing wheeling collection in their P&L accounts since the financial year 2016-17.**
- (ix) The Appellant wrote various emails to the Commission on this issue, but there was no response from the Commission. The Appellant also registered a complaint on the Website named "Aple Sarkar" of Maharashtra State, however, nobody had taken any positive decision in this matter.
- (x) The Appellant filed a grievance application in the Forum on 11.07.2024. The Forum by its order dated 31.12.2024 dismissed the grievance application. The Forum failed to understand the basic issue that **the Licensee has illegally collected Wheeling Charges from LT Consumers.**
- (xi) The Appellant raised the issue of non-providing information of wheeling charges under RTI Act 2005. *[Note: During the hearing, the Respondent was advised to provide the required information as per the RTI Act.]*
- (xii) In view of the above, the Appellant prays that the Respondent be directed to stop collecting Wheeling Charges, and to refund the amount to the Appellant collected illegally from Nov. 2016 onwards till date.

3. The Respondent filed its reply on 29th Jan.2025. Its submissions and arguments are stated as below: -

- (i) The Appellant is a single-phase residential consumer (No. 000010885809) as charted in Table 1. The Appellant has filed this representation for the wheeling charges collected from LT consumers and has requested to abolish the wheeling charges from



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their electricity bills and to refund the amount collected against the wheeling charges from Nov-2016.

- (ii) Wheeling charges are the cost of transporting energy from the generation to the consumption point. The Respondent highlighted the logic behind Wheeling Charges for LT Consumers which are based on the following factors.
- (a) **Cost of Distribution Infrastructure:** Wheeling charges recover the cost incurred by the Distribution Licensee (like MSEDCL, TPC-D, AEML-D Etc.) for maintaining and operating the distribution network (lines, transformers, substations, etc.).
 - (b) **Voltage-Level Segmentation:** Different wheeling charges apply to LT and HT (High Tension) consumers since LT consumers use more localized distribution infrastructure (like LT lines and distribution transformers), leading to higher losses and costs.
 - (c) **Regulatory Approval by MERC:** MERC determines the wheeling charges based on petitions filed by distribution licensees, considering factors like past expenditures, future investment needs, and operational efficiency.
 - (d) **Network Usage & Energy Losses:** LT consumers experience higher losses in the network due to the lower voltage level. **Hence, the wheeling charges for LT consumers are generally higher than for HT consumers to compensate the licensee for these technical losses.**
 - (e) **Tariff Periodic Review:** Wheeling charges are revised periodically (typically every Multi-Year Tariff [MYT] control period) to reflect changes in costs and efficiency improvements.
 - (f) **Separate Charges for Different Licensees:** Different licensees (e.g., MSEDCL, TPC-D, AEML-D, BEST Undertaking) may have different wheeling charges based on their network costs, investments, and loss levels.
 - (g) **Cross-Subsidization Impact:** LT consumers, especially residential and small commercial users, often receive some level of cross-subsidization, affecting how wheeling charges are structured.



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- (iii) The Respondent put on record the copy of Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2015 (MYT Regulations 2015), where there was already a provision of wheeling charges at LT Level, considering wire business at LT level. (At present Tata Power & AEML (D) are using wire business at LT Level and consumers have facility of opting for Licensee at supply level).
- (iv) In relation to the Maharashtra State Load Despatch (MSLDC), the Distribution Licensees and Open Access consumers utilise the Intra-State Transmission system for transmission of electricity and / or utilise the distribution system of a Licensee in the State for wheeling of electricity and / or avail the services of the MSLDC (relating to scheduling and real-time grid operations, State energy accounting, operation of pool account, etc.) Wheeling charges at LT Level & wheeling of electricity and / or availing the services of the MSLDC for open Access Consumers are two different identities. However, the Appellant is totally confused and is insisting on wheeling charges for only open Access Consumers due to inadequate knowledge of Regulatory framework established by the Electricity Act, 2003 (the Act).
- (v) **The Commission by its Tariff Order dated 03.11.2016 in Case of 48 of 2016 had unbundled Total Energy Charges into Wheeling Charges and Energy Charges effectively from 01.11.2016.** The Tariff Schedule for LT Consumers after unbundling is kept on record. The Respondent also submitted the statement of Wheeling Charges in their submissions which are as below:

Table 2:

Year	Approved Wheeling charges for LT consumer (Rs./Unit)
2015-2016	1.43
2016-2017	1.33
2017-2018	1.49
2018-2019	1.77
2019-2020	1.89
2020-2021	1.15
2021-2022	1.17
2022-2023	1.17
2023-2024	1.14
2024-2025	1.11

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[Note: There are minor variations in the figures of wheeling charges as per Tariff Orders in force]

The billing of the Appellant was /is done as per Tariff Orders of the Commission in force.

- (vi) The Appellant filed a grievance application in the Forum on 11.07.2024. The Forum by its order dated 31.12.2024 has dismissed the grievance application. The Forum observed that

"1. The issue of wheeling charges being billed on retail consumers who are not availing open access is not under the purview of the Forum.

2. The Forum hears consumer grievances filed redressal addressing issues pertaining to not following existing/defined rules, delays and negligence.

3. The Applicant has stated that she has approached various authorities and even the regulatory regarding this issue. This clearly shows that the Applicant is well aware that the Forum is not the body which to hear, decides and adjudicate on this matter.

The Forum has rightly rejected the grievance which is beyond scope of grievance mechanism and definition of grievance.

- (vii) In view of the above, the Respondent prays that the representation of the Appellant be rejected with cost.

Analysis and Ruling

4. Heard the parties and perused the documents on record. The Appellant is a LT residential consumer. His main contention is that MSEDCL is not entitled to collect wheeling charges from LT consumers.

5. The Appellant contended that the Respondent MSEDCL is applying wheeling charges to Low Tension (LT) Consumers from Nov. 2016 though LT Consumers not utilizing open access to receive electricity from sources other than their designated distribution licensee. The Appellant referred the Tariff Order dated 03.11.2016 of the Commission in Case No. 48 of



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2016. As per this Tariff Order, the Commission has approved wheeling charges only for Open Access Consumers. However, MSEDCL has collected about Rs.600 Crs. per month and around Rs.7200 Crs. yearly under the head of Wheeling Charges from all consumers from Nov.2016 onwards. They have collected around 28000 to 30000 Crs. in the last 4 years under the head of wheeling charges. This is nothing but a big scam. The Appellant also referred to the Tariff Order dated 30.03.2020 of the Commission in Case No.322 of 2019 wherein they have approved wheeling charges collection of only Rs. 1.79 Crs. per year for 3rd control period. To hide this fraud, MSEDCL has stopped showing wheeling collection in their P&L accounts since financial year 2016-17. The Appellant prays that the Respondent be directed to stop collecting Wheeling Charges, and to refund the amount collected from Nov. 2016 onwards.

6. On the other hand, the Respondent contended that the Appellant does not have sufficient knowledge of regulatory framework. The issue of wheeling charges to LT Consumers is raised on a wrong assumption and wrong interpretation of the definitions under the Electricity Act, 2003. A simple reading of the definition of "Wheeling" indicates that these charges are to be paid by "any other person", i.e. other than the distribution or transmission licensee, and includes all consumers. Wheeling Charges are the charges incurred for receiving electric power at the end user. In other words, it is a part and parcel of the Tariff Schedule approved by the Commission from Nov. 2016 onwards. The Appellant does not understand the concept of wire business and supply business of electricity and is wrongly interpreting that wheeling charges are not to be levied to LT consumers.

7. It is necessary to study the regulatory framework and various tariff orders of the Commission. The State Commission frames the regulations in exercise of the powers conferred by clause (h), (i), (j), (l), (m), (o), (y), (zd), (ze), (zf), (zg), (zh) and (zp) of sub-section (2) of Section 181 read with the proviso to sub-section (1) of Section 36, sub-clause (ii) of clause (d) of sub-section (2) of Section 39, second proviso to sub-clause (ii) of clause (d) of sub-section (2) of Section 39, sub-clause (ii) of clause (c) of Section 40, second proviso to sub-clause (ii) of clause (c) of Section 40, first proviso to Section 41, first proviso to Section 51, Section 61,



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sub-sections (2) and (5) of Section 62, sub-sections (1) and (3) of Section 64, Section 65 and clause (b) of sub-section (1) of Section 86 of the Electricity Act, 2003 (36 of 2003). Similarly, the State Commission has framed the Multi Year Tariff Regulations, 2015 dated 8th December 2015 which determines the tariff of different categories of power supply. These Regulations supersede the Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2011. The important contents of these Regulations are reproduced below: -

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1. Short title, extent, applicability and commencement—

2. Definitions—

2.1 In these Regulations, unless the context otherwise requires—

(1) to (29)

(30) “Distribution Wires Business” means the Business of operating and maintaining a distribution system for wheeling of electricity in the area of supply of a Distribution Licensee.

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PART G : DISTRIBUTION WIRES BUSINESS

68. Separation of Accounts of Distribution Licensee— Every Distribution Licensee shall maintain separate accounting records for the Distribution Wires Business and Retail Supply Business and shall prepare an Allocation Statement to enable the Commission to determine the Tariff separately for :— (a) Distribution Wires Business ; (b) Retail Supply of electricity : Provided that in case complete accounting segregation has not been done between the Distribution Wires Business and Retail Supply Business of the Distribution Licensee, the Aggregate Revenue Requirement of the Distribution Licensee shall be apportioned between the Distribution Wires Business and Retail Supply Business in accordance with the following Allocation Matrix :

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70.2 The Wheeling Charges of the Distribution Licensee shall be determined by the Commission on the basis of a Petition for determination of Tariff filed by the Distribution



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Licensee in accordance with Part B of these Regulations : Provided that the Wheeling Charges may be denominated in terms of Rupees/kWh or Rupees/kW/month, for the purpose of recovery from the Distribution System User, or any such denomination, as may be stipulated by the Commission : Provided further that in case of a Deemed Distribution Licensee whose tariff is yet to be determined by the Commission till the date of coming into of these Regulations, the Commission may determine the ceiling Wheeling Charges that may be charged by such Deemed Distribution Licensee till such time as considered appropriate by the Commission.

70.3 The Wheeling Charges shall continue to be billed at the Tariff approved by the Commission and applicable as on March 31, 2016 for the period starting from April 1, 2016 till approval of Wheeling Charges by the Commission in accordance with these Regulations.

8. Similarly, the contents in Tariff Order of the Commission dated 03.11.2016 in Case of 48 of 2016 (with effect from Nov. 2016.) are as below:

8.6 Key Considerations for Tariff Design

*However, in pursuance of the methodology for tariff design specified in the MYT Regulations, 2015, the Commission has un-bundled the Energy Charge (now termed as Variable Charge) into a "Wheeling Charge" component and an "Energy (Supply) Charge" component. This segregation of Wheeling Charges from the Energy Charges would result in tariff differentiation for HT consumers connected at EHV (66 kV and above), 33 kV and 22kV and 11 kV. **The tariffs of HT consumers connected at EHV and at 33 kV levels, constituting approx. 46% of the total HT energy sales, have been reduced significantly due to this segregation of Wheeling Charges. In effect, HT consumers have been further classified based on voltage levels, i.e. EHV, 33 kV and 22 kV and 11 kV. To that extent, the Commission has in effect operationalised ATE"s direction for creating a separate consumer category for EHV consumers.***

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In this Order, the Commission has also determined the Wires and Supply components of the tariff separately for each consumer category. Accordingly, the Wheeling Charge component and Energy Charge component have been shown separately while computing the category-wise tariffs, with the exception of the Residential BPL category. In case of the BPL category, no Wheeling Charges are apportioned considering the consumer profile of this category.

8.27 Revised Tariffs with effect from 1 November, 2016

Table 8-23: Summary of LT Tariffs for FY 2016-17, effective from 1 November, 2016

ANNEXURE - V

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD. APPROVED TARIFF SCHEDULE (With effect from 1 November, 2016)

LT I (B): LT – Residential

Applicability:

This tariff category is applicable for electricity used at Low/Medium Voltage for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/leisure, water pumping in the following premises:

- a) Private residential premises, Government/semi-Government residential quarters;*

Consumption Slab (kWh)	Fixed/Demand Charge (Rs. per month)	Wheeling Charge (Rs/kWh)	Energy Charge (Rs./kWh)
0-100 units	Single Phase : Rs.55 per month Three Phase - Rs. 160 per month	1.18	2.98
101 – 300 units		1.18	6.73
301 – 500 units		1.18	9.69
501-1000 units		1.18	11.17
Above 1000 units		1.18	12.45



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[Note: The above provision clearly indicates that the Commission has allowed wheeling charges even for LT residential consumers.]


9. As per the latest Tariff Orders of the various distribution licensees in the state of Maharashtra, the Commission have approved the wheeling charges in the following table:

Table 3:

Sr. No.	Dist.Licensees	Tariff Order of the Commission (Case No.)	Approved wheeling charges	Financial Year
1	AEML	231 of 2022	2.21	01.04.23 to 31.03.24
			2.6	01.04.24 to 31.03.25
2	BEST Undertaking	212 of 2022	1.74	01.04.23 to 31.03.24
			1.97	01.04.24 to 31.03.25
3	Tata Power Co. Ltd.	225 of 2022	1.68	01.04.23 to 31.03.24
			2.03	01.04.24 to 31.03.25
4	MSEDCL	226 of 2022	1.17	01.04.23 to 31.03.24
			1.17	01.04.24 to 31.03.25

We find that the Appellant's contention is based on a false understanding of wheeling charges and "open access". Wheeling charges are actually payable by all consumers, including LT consumers, irrespective of whether the consumer switches from one supplier to another or not. In layman terms, wheeling charges are simply charges payable for distribution of electricity.

During the hearing the Appellant raised an issue that the Respondent is not providing the details of revenue collected through wheeling charges. However, we find that this data is easily available in the tariff order in Case No. 48 of 2016 dated 03.11.2016, which is available on the Commission's website. For example, Annexure II, III,& IV of the same indicates that the estimated revenue through wheeling charges is as follows:-


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Revenue from revised Tariffs (Rs. Crore)						
With effective from	Fixed / Demand Charges	Energy Charges	Wheeling Charges	Total Revenue	Source: T.O. 48 of 2016 dt.03.11.2016	% of Wheeling Charges wrt Total Revenue
01.04.2017	8615	43964	8551	61130	Annexure II	14%
01.04.2018	10168	50318	9572	70058	Annexure III	14%
01.04.2019	11008	54432	9470	74910	Annexure IV	13%

10. The order of the Forum is a reasoned one. Hence, it is not necessary to interfere in the order of the Forum. The grievance raised by the Appellant does not fall under the definition of grievance as per CGRF & EO Regulations 2020. The definition of grievance is reproduced as below:

“2.1 (e) “Grievance” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance, which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to Standards of Performance of Distribution Licensees as specified by the Commission and includes inter alia Grievances in respect of non-compliance of any Order of the Commission or any action to be taken in pursuance thereof, which are within the jurisdiction of the Forum or Electricity Ombudsman, as the case may be;

In view of the definition above, there is no fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance by the Distribution Licensee. The Respondent has billed the Appellant as per the Tariff Orders of the Commission in force. Wheeling charges is considered as one of the components of energy charges which are unbundled and shown separately in the consumers' bills from November 2016.

11. Therefore, the instant Representation is dismissed accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)

(Dilip Dumbre)
Secretary

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