

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 84 of 2006

In the matter of
Joint Petition filed by the Maharashtra Industrial Development Corporation and others seeking amendment in the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005.

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

ORDER

Dated: May 18, 2007

The Maharashtra Industrial Development Corporation (“MIDC”), M/s. Infosys Technologies Limited, M/s. Patni Computer System Limited and M/s. Wipro Technologies Limited (“the Petitioner-IT Industries”) filed a joint petition on March 9, 2007 seeking amendment in the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 (“the SOP Regulations”) for supply of ≥ 10 MVA power at 22 kV to IT industries located in the Rajiv Gandhi Infotech Park, Hinjewadi, Pune, Airoli TTC Area (“RGIP area”), and provision for preferential treatment to IT industrial consumers located at other parts of Maharashtra. The MSEDCL Holding Company, Maharashtra State Electricity Transmission Company Limited (“MSETCL”) and Maharashtra State Electricity Distribution Company Limited (“MSEDCL”) have been impleaded as proforma Respondents.

2. It is averred in the Petition that the Petitioner-IT Industries are HT industrial consumers of MSEDCL with individual contract demand of 5 MVA. The Petitioners have submitted that under the SOP Regulations, supply of HT power over and above 5 MVA can be supplied only at EHV. However, no transmission corridor is available for carrying 220 kV EHV transmission line from the existing 220 / 22 kV Sub-Station of MSETCL to the units of the Petitioner-IT Industries. Structures have already been erected on the three sides of each unit and the fourth side consists of forest land. Moreover, there are several IT parks located in the same area which curtails the chances of laying separate 220 kV towers for the Petitioner-IT Industries. It has been further submitted that prior to the notification of the SOP Regulations, officials of MIDC and representatives of M/s. Infosys Technologies Limited had held a meeting with the MSEDCL on April 17, 2004 to



discuss issues connected with power supply arrangement to the extent of 25 MVA to M/s. Infosys Technologies Limited at the RGIP area. In the said meeting MSEB had agreed in principle that a new 220 / 22 kV Sub-Station of 50 MVA capacity shall be installed for M/s. Infosys Technologies Limited at the RGIP Phase II area at Hinjewadi. The costs/expenditure towards establishing the said Sub-Station that shall be borne by M/s. Infosys Technologies Limited was estimated at Rs. 10 to 15 Crores. It was further agreed that the proposed MSEB' Sub-Station will cater to the load of M/s. Infosys Technologies Limited as well as other units in the entire RGIP Phase II area at Hinjewadi and that the 220 kV double circuit line shall be provided with LILO arrangement from 220 kV Pirangut Sub-Station upto the proposed 22 kV Sub-Station. Pursuant thereto, the proposed 220 / 22 kV Sub-Station of 50 MVA capacity is currently under construction, which is well within the knowledge of all the respondents. Referring to a copy of the minutes of meeting attached to the letter of M/s. Infosys Technologies Limited dated June 8, 2006, it has been contended that the Respondent No. 1 have agreed to upgrade the existing 220 kV grid in the RGIP Phase I area from 2 x 25 MVA to 3 x 50 MVA in three stages, viz. 1 x 50 MVA and 1 x 25 MVA in the first stage and 3 x 50 MVA in the third stage. It has been contended that whilst the said proposed Sub-Station is under construction, the Petitioner-IT Industries require supply of ≥ 10 MVA HT power as soon as possible.

3. It is averred in the Petition that on an application made by M/s. Infosys Technologies Limited before the respondents for supply of HT power over and above 5 MVA at 22 kV or more, MSEDCL have apprised that a HT connection over and above 5 MVA through a 22 kV line would require amendment in the SOP Regulations.

4. It is also averred in the Petition that M/s. Infosys Technologies Limited have identified the area adjoining to the RGIP area for developing a special economic zone, on which final approval from the Union Ministry of Commerce has already been obtained. In this regard, M/s. Infosys Technologies Limited have planned for establishing a separate 22 kV Sub-Station at their end for 5 MVA capacity. The capacity in the said Sub-Station would be expected to increase for the ensuing three years at the rate of 5 MVA per year, which would ultimately require supply of 30 MVA HT power. It has been submitted that the Petitioner-IT Industries will, at various stages, also require ≥ 10 MVA HT power at 22 kV potential. Referring to the aforesaid space constraints in the laying of a 220 kV EHV transmission line from the existing 220 / 22 kV Sub-Station of MSETCL and/or separate 220 kV towers at the premises of the Petitioner-IT Industries, it has been prayed that the Commission may permit M/s. Infosys Technologies Limited to establish a dedicated 220 / 22 kV transformer with 30 MVA capacity with 3 x 22 kV bay for laying a 22 kV line from MSETCL's Sub-Station that is under construction, under the supervision scheme of MSETCL. Further, the Commission may permit the Petitioner-IT Industries to lay three 22 kV feeders for transmitting 10 MVA HT power by making a dedicated 22 kV bay by installing one incoming and three outgoing VCB's with metering on 22 kV side.

5. The IT & ITES Policy, 2003 notified by the Government of Maharashtra on July 12, 2003 under Government Resolution No. ITP-2003/CR-3311/IND-7 have been referred in the Petition. It is contended that this Policy may be considered as a direction



upon the Commission by the State Government under Section 108 of the Electricity Act, 2003. The provisions of the IT & ITES Policy, 2003 as highlighted by the Petitioners, reads thus:

“4. *Extra ordinary features of the Policy:*

For achieving the objects of the Policy, the State Government commits itself to the following : -

Unique Info Infrastructure :

-
- (g) *Ensuring reliable and quality power supply round the clock in IT parks by permitting unlimited back up power, Captive Power Generation and status as Independent Power Producers.*
 - (h) *Levying of power charges on IT and ITES*
 - (i) *units at industrial rates and notifying IT and ITES units as a separate category of consumers through MERC.*
 - (j) *Exemption of IT and ITES units from statutory power cuts in power supply.”*

It has been further contended that even while the Petitioner-IT Industries are being erroneously subjected to tariff applicable to HT-1 (non-continuous industry), the Petitioner-IT Industries are agreeable to bear an additional 1.5% of normal tariff towards transformation losses with regard to supply of ≥ 10 MVA HT power at 22 kV potential.

6. The reliefs sought for in the present petition are as follows:

- “ 1) *Release connections up to 10 MVA at 22 kV to Co-petitioners and all IT Companies. However 1.5% transformation losses may be levied over and above the normal tariff for releasing connection above 5 MVA at 22 kV.*
- 2) *The respondent may be directed to upgrade its existing 220 kV substation in phase 1 at Hinjwadi, Pune at the earliest so that Co-petitioners 2 & 4 may be served power connection up to 10 MVA at 22 kV for their existing IT parks and 5 MVA connection to the new Sez of the Co-petitioner 1. However subsequently when phase 2, 220 kV grid is ready, the Sez feeder may be shifted to the dedicated 30 MVA transformer.*
- 3) *The respondent may also be directed to complete the laying of 220 kV tower line for phase 2, 220 kV substations at the earliest along with installation of 30 MVA dedicated transformer and 3 x 22 kV bay for arranging supply of power up to 30 MVA through dedicated transformer of 30 MVA for co-petitioner 1. The respondent may also be directed to allow installation of dedicated MVA, 220 / 22 kV dedicated transformer at*



3 nos dedicated 22 kV Bay within the respondent's grid, at the cost of Co-petitioner – 1 and also allow Co- Petitioner 1 to lay multiple 22 kV feeder viz by 3 x 10 MVA each feeder in future (in phases) with metering at 22 kV side of the 30 MVA transformer.”

7. At the hearing held on April 24, 2007, Shri. Ajay Porwal, Consultant, appeared on behalf of MIDC and the Petitioner-IT Industries. Shri. Gaurav Joshi, Counsel, appeared on behalf of MSEDCL. Shri. B.K. Pawar, appeared on behalf of MSETCL. Petitioners submitted that supply of ≥ 10 MVA HT power at 22 kV and 33 kV may be provided to the Petitioner-IT Industries in line with similar facilities enjoyed by IT and ITES industries in various States, especially in the State of Madhya Pradesh. Shri Porwal further submitted that installation of a dedicated transformer, solely for the IT industries in Maharashtra, would ensure a check on the transmission losses. Shri. Gaurav Joshi, Counsel for MSEDCL, submitted that MSEDCL would have no objection if IT consumers located in MIDC areas construct their own EHV Sub-Station and connect to the MSETCL Sub-Stations with an adequate EHV (greater than 33 kV) tower line for supply of power ≥ 5 MVA. Further, the establishment of a dedicated transformer may be accommodated. MIDC has sufficient area where EHV Sub-Stations may be constructed. So far as way leave problems that may arise, the same may be avoided by laying underground cables. However, supply of power ≥ 5 MVA at 22 kV tower line may lead to grid insecurity. It is stressed by Counsel that the case of the Petitioner-IT Industries does not qualify for any amendment to the SOP Regulations as prayed for and any exceptional preferential treatment may not be given to the Petitioner-IT Industries.

8. Per Contra, Shri. Porwal argued that the suggestions made by MSEDCL are not viable as each IT consumer establishing an individual EHV Sub-Station may lead to the establishment of multiple EHV (220 kV) Sub-Stations within the MIDC area in close proximity. Moreover, there is no cost-estimate prepared at this juncture with regard to the construction of the required infrastructure. It is submitted by Petitioners that the Commission ought to consider that MIDC is representing a host of IT enterprises, apart from the Petitioner-IT Industries. Further, there are currently issues relating to space constraints, as submitted in the petition. Shri. Porwal prayed for the Commission to pass an interim order requiring MSETCL to accommodate a 30 MVA dedicated transformer and 3x22 kV bay at their 220 kV Sub-Station at RGIP Area. These infrastructures would ensure supply of power of 30 MVA to M/s. Infosys Technologies Limited and M/s. Wipro Technologies Limited. MIDC is at present bearing all costs towards construction of this Sub-Station which is in the Phase 2 stage. Shri. Porwal also submitted that though MSETCL is agreeable to install such a dedicated transformer, MSEDCL is not granting in-principle sanction for supply of > 5 MVA from the same. It is submitted that unless the consent of the distribution company on the volume of energy supply is obtained, any viable technical arrangement made by the Petitioner-IT Industries with the transmission company would be infructuous. Shri. Porwal also submitted that MIDC has held discussions on the said aspect with MSEDCL and MSETCL. No viable solution has yet resulted owing to the statutory bar in the volume of supply under the SOP Regulations.



9. On behalf of MSETCL, Shri. B.K. Pawar submitted that there is bound to be voltage fluctuations with regard to the 2x50 MVA Sub-Station being established at RGIP area as the quality of supply through the said Sub-Station would be on the lower-voltage side. Shri. Porwal submitted that whether a dedicated transformer is on 22 kV or 220 kV makes no technical difference. Voltage has to be transformed for utilisation whether the transformation is at MSETCL's end or at the Petitioners' end. Shri. Porwal further submitted that since MSEDCL have agreed to the installation of a dedicated transformer, the Petitioners should be allowed to install multiple 22 kV feeders. MSEDCL should be directed to install adequate meters and the said process is in compliance with SOP Regulations. Shri. Pawar submitted that considering grid stability and quality of supply, supply of power ≥ 5 MVA should be allowed through the EHV end. Shri. Pawar submitted that the accommodation of a dedicated transformer is not the most viable solution as 22 kV is the lowest load flow/ voltage level for the load of 5 MVA. Any load flow below 22 kV results to an increase in the load current and consequent transmission losses which have adverse effect on the quality of supply.

10. The power to amend the SOP Regulations is provided in Regulation 14 as under:

“14. Power to Amend

The Commission may, at any time, add to, vary, alter, modify or amend any provisions of these Regulations.”

The exercise of the above power is discretionary. The Commission is required to be satisfied for carrying out any amendment to the SOP Regulations. While the Commission observes that the SOP Regulations have been framed with the objective of reducing the distribution losses which is a major concern in the electricity sector, grave technical difficulties of a generic nature observed by the distribution licensees can be given due consideration for modification of the SOP Regulations, should a situation so arise. The issue as raised by the Petitioner-IT Industries relate to the obligation of the distribution licensee *qua* the Petitioners, who are their consumers. The reliefs that are sought by the Petitioners are *qua* MSEDCL. The Petitioner-IT Industries have sought directions on MSEDCL to (i) release of connections up to 10 MVA at 22 kV; (ii) upgrade its existing 220 kV substation in phase 1 at Hinjewadi, Pune power connection up to 10 MVA at 22 kV be given; (iii) complete the laying of 220 kV tower line for phase 2, 220 kV substations at the earliest along with installation of 30 MVA dedicated transformer and 3 x 22 kV bay for arranging supply of power up to 30 MVA through dedicated transformer of 30 MVA; (iv) allow installation of dedicated 30 MVA, 220 / 22 kV transformer at 3 nos dedicated 22 kV Bay within the respondent's grid; and (v) allow M/s. Infosys Technologies Limited Co- Petitioner 1 to lay multiple 22 kV feeder viz by 3 x 10 MVA each feeder in future (in phases) with metering at 22 kV side of the 30 MVA transformer. This necessarily should be sorted out between the consumer and the distribution licensee. In case of any difference the machinery for redressal would be in accordance with the MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2005 and not the Commission. The Commission has no jurisdiction to decide or adjudicate on any dispute between a consumer and a distribution licensee. In the event the distribution licensee is of the opinion that it is precluded from meeting its



obligations to the consumer in terms of any specific provision of the SOP Regulations, then in that event it would be for the distribution licensee to propose any suitable amendment to the said Regulations after making all stakeholders a party who necessarily were involved in prolonged discussions and were party to the making of the said Regulations. Amendment to the SOP Regulations cannot be granted at the instance of the Petitioners as the subject matter would affect other distribution licensees and other consumers. Regulation 5 of the SOP Regulations deals with the “Quality of Supply and System of Supply”. Regulation 5.1 enables seeking the written consent of the consumer. Regulations 5.2 and 5.3 enables previous approval by the Central Electricity Authority in case any deviations are required. In this regard, it is pertinent to note the provisions of Section 185(2)(c) of the Electricity Act, 2003, which provides that “Indian Electricity Rules, 1956 made under section 37 of the Indian Electricity Act, 1910 as it stood before such repeal shall continue to be in force till the regulations under section 53 of this Act are made”. Section 53, to the extent relevant reads as under:

“53. (1) The Authority may in consultation with the State Government, specify suitable measures for –

.....
(c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specification as may be specified;

.....
(g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing a risk of personal injury or damage to property or interference with its use;”

If there are issues relating to Section 185(2)(c) the same are outside the jurisdiction of the Commission. In case if there is a bar on the supply of power over 5 MVA at 22 kV line, under the SOP Regulations, then it would be for the distribution licensee to file appropriate proceedings before the Commission.

11. Having considered the submissions made by the parties and after considering the material placed on record, the Commission observes that whether the installation as proposed by the Petitioner is an optimum solution or not or there would be difficulties in operationalising or this would be a viable proposition, is for the Petitioners and MSEDCL to decide. Initiating proceedings before the Commission is not the appropriate course of action. Petitioners, who are consumers of MSEDCL, should hold discussions with MSEDCL and MSETCL at length, to work out technical alternatives, work out operational or commercial difficulty for accommodating the dedicated transformer at the MSETCL Sub-Station, as proposed, the technical possibilities of having supply > 5 MVA power without having to avail of the same from MSETCL’s existing 220 kV Sub-Station, et all. Petitioners may also consider to rely on any technical study paper on the subject, with detailed information on the exigency for the supply of 10 MVA HT connections at 22 kV level, criteria for corridor availability and proposed technical schemes via which



supply of 10 MVA HT connection may be provided to IT industrial connections without the same being drawn from 220 kV transmission line.

12. The SOP Regulations have been made after exhaustive deliberations held amongst all stakeholders, consideration being given to diverse technical propositions with future outlook, design standards, levels with regard to consumer demand, consumer mix situation, load / customer density in concentrated geographical area, i.e. in one State, which may differ widely from such levels prevailing in another State. The said levels cannot be modified to separately accommodate the interests of each and every consumer. The SOP Regulations have been framed to ensure grid / system security, quality, low loss and good practice and any modification of the same, without a substantial cause, would vitiate its sanctity.

With the aforesaid observations, the Commission dismisses the present petition filed by MIDC and the Petitioner IT Industries.

Sd/-
(S.B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr. Pramod Deo)
Chairman



(Smt. Malini Shankar)
Secretary, MERC