

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 110 of 2009

In the matter of
Maharashtra State Electricity Distribution Company Ltd. (MSEDCL)'s Petition for
determination of Reliability Charge for withdrawal of Load Shedding in the
District Headquarters of MSEDCL Licence area

Shri. V. P. Raja, Chairman
Shri. S. B. Kulkarni, Member
Shri. V.L. Sonavane, Member

ORDER

Dated: May 24, 2010

The Maharashtra State Electricity Distribution Company Limited (MSEDCL) submitted a Petition dated February 18, 2010 under Sections 62(3), 62(4), 86(1)(b) and 94(2) of the Electricity Act, 2003 (EA 2003), for withdrawal of Load Shedding in the District Headquarters of MSEDCL Licence Area falling under DCL Group A, B, C and D as per Principles & Protocols of Load Shedding (PPLS) and determination of Reliability Charge to be recovered thereof for withdrawal of Load Shedding.

2. MSEDCL, in its Petition, prayed as under:

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- a. *The Hon'ble Commission may be pleased to permit MSEDCL to implement withdrawal of load shedding in the District headquarters in Group A, B, C and D;*

- b. *The Hon'ble Commission may be pleased to permit MSEDCL to implement withdrawal of Load Shedding in Nashik Revenue Head Quarter on the same principles as proposed in Case No. 31 of 2009 with the same Reliability Charge (of 37 paisa per unit) as was proposed in the said petition.*
- c. *The Hon'ble Commission may be further pleased to approve the determination of Reliability Charge for the above areas as proposed by MSEDCL based on the allocation of costliest power;*
- d. *The Hon'ble Commission may determine a ceiling rate for procurement of power purchase on a yearly basis, beyond which the power is not to be allocated for the beneficiary area;*
- e. *The Hon'ble Commission may be pleased to allow exemption for the consumers situated in the district of Gadchiroli from payment of Reliability Charge and may also permit to pass on the burden of Reliability Charge of Gadchiroli District on the beneficiary consumers situated in other District Head Quarters in respect of the group they belong to having DCL rating as "B", "C" and "D" or alternatively such burden may be allowed as a pass through in ARR;*
- f. *The Hon'ble Commission may approve implementation of such model for the period one year from the date of issue of the order and thereafter;*
- g. *The Hon'ble Commission may permit a detailed reconciliation of all costs and recovery of any shortfall on a quarterly basis whereby the reconciliation will have to factor in full recovery of power purchase cost irrespective of the additional consumption against additionally procured power for ZLS or otherwise;*
- h. *The Hon'ble Commission may consider the above proposal for a favourable dispensation;*
- i. *The Hon'ble Commission may allow to implement normal Load Shedding as per existing PPLS to all Agricultural and Rural feeder in areas wherever zero load shedding is not proposed;*
- j. *The Hon'ble Commission may condone errors/omission, if any, and may please give an opportunity to rectify the same and to file additional data, information as may be required."*

3. MSEDCL submitted as under in its Petition:

I. Background of Zero Load Shedding

- a. MSEDCL had filed a Petition (Case No.31 of 2009) before the Commission proposing to revise the scope of the then followed “Zero Load Shedding (ZLS)” models by introducing “Zero Load Shedding” in the area covered by the Head Quarters of the Revenue Divisions of MSEDCL, i.e., Amravati, Nagpur, Aurangabad, Nasik, Pune, Thane and Vashi.
- b. MSEDCL has submitted in the said Petition that the Petition should be treated as first step towards reducing/eliminating load shedding in a phase-wise manner, and had also submitted the roadmap for the same as under:
 - (i) Headquarters of Revenue Division areas;
 - (ii) District Headquarters;
 - (iii)Municipal Corporation areas;
 - (iv)Other areas having national and regional significance like tourist areas, etc.
 - (v) Taluka Headquarters.
- c. The Commission, vide its Order dated November 30, 2009 in Case No. 31 of 2009, approved the Reliability Charge for withdrawal of load shedding from December 1, 2009 to November 30, 2010 in the Headquarters of Revenue Divisions in MSEDCL licence area, except Nasik.
- d. MSEDCL has implemented ZLS in the Head Quarters of the Revenue Divisions in phased manner (from December 6, 2009 to December 10, 2009) after making appropriate arrangement of procurement of additional power, initially on day ahead basis and subsequently, MSEDCL has entered into contracts with Traders for procurement of power.
- e. MSEDCL further submitted that the Commission by the said Order dated November 30, 2009 has permitted MSEDCL to procure power on 12 hour basis, however, the cost of procurement of power on 12 hours basis being high, MSEDCL again approached the Commission to permit procurement of power on “Round the Clock” (RTC) basis, vide Petition in Case No. 82 of 2009.

II. Present Proposal:

- a. MSEDCL submitted that as envisaged in the “roadmap for reduction of load shedding” and as a next step towards the phase-wise reduction/elimination of load shedding in the State, MSEDCL now proposes to withdraw load shedding of District Headquarters against recovery of “Reliability Charge” from the beneficiary consumers.

- b. Considering the implementation on group-wise basis, initially MSEDCL proposed to restrict the scheme of withdrawal of load shedding to such District Head Quarters having DCL group upto “D” only (i.e., Group A, B, C and D), along with Head Quarters of Revenue Division at Nasik as was proposed in Case No. 31 of 2009.
- c. MSEDCL submitted that for implementation of ZLS scheme in District Head Quarters, the Commission may, instead of directing MSEDCL to independently procure power as may be required for withdrawal of load shedding from the District Head Quarters, permit MSEDCL to continue power procurement process in normal manner and to allocate the costly power according to Merit Order Despatch (MOD) for withdrawal of load shedding from the District Head Quarters.
- d. In line with the Petition filed by MSEDCL in Case No. 82 of 2009, for the purpose of mitigating load shedding from the District Head Quarters, MSEDCL may please be permitted to procure power on RTC basis.
- e. MSEDCL further submitted that it proposes to procure additional power through the regular power purchase activity, based on the PPLS existing at a given point of time, availability of power, seasonal variations, etc. MSEDCL will allocate the costly power from its Merit Order Despatch to the District Headquarters, such that the consumers of those regions will have to bear the additional cost only to the extent required for mitigation of load shedding on these areas.
- f. MSEDCL would undertake the following steps:
 - Estimate minimum requirement of power for maintaining PPLS;
 - Estimate the power purchase requirement of the areas considered for withdrawal of load shedding;
 - Allocate costliest power from the power available through normal power procurement process, however, without disturbing the prevailing PPLS as may be applicable to consumers situated in other areas;
 - Or in the alternative, procure additional power to mitigate load shedding in the District Head Quarters;
 - After every quarter, reconciliation to be carried out to ensure complete recovery of the cost of power allocated/procured for implementation of the ZLS exclusively from the beneficiary consumers, so that MSEDCL is revenue neutral in the entire process.

- g. MSEDCL further submitted that MSEDCL may approach the Commission to further extend the scope so as to include Municipal Corporation Areas, Taluka Head Quarters, etc. MSEDCL submitted that it would therefore, not be appropriate to have region-specific Reliability Charge, which would obviously be different for different regions, and therefore, for the purpose of determination of Reliability Charge, all the District Head Quarters have been clubbed as per DCL rating into four Groups, viz., A, B, C and D, and a uniform Reliability Charge for respective Group has been estimated. Therefore, the calculation of Reliability Charges has been estimated based on the identified District headquarters in Group A, B, C and D.
- h. The National Electricity Policy and Tariff Policy empowers the Commission to ensure increased access to electricity to marginal and poor consumers by prescribing reasonable tariffs. The paying capacity has a bearing on the reasonableness of the rates. MSEDCL further submitted that although the region of Gadchiroli District has been included in the present proposal, however, considering the consumer mix, the paying capacity of the consumers, and the fact that Gadchiroli is a badly affected Naxalite area, the additional cost incurred for withdrawal of load shedding is not proposed to be charged to the consumers of Gadchiroli District in the form of Reliability Charge. However, the impact of the additional cost of power allocated to Gadchiroli District would be passed on to the other respective beneficiary consumers of DCL group "B, "C" and "D", since the Divisions situated in Gadchiroli District belong to either "B, "C" or "D" group.
- i. District Head Quarters presently under DCL Groups E and F have not been considered in the present proposal and will be considered after the DCL level improves up to or above D.
- j. MSEDCL had approached the Commission for approval for withdrawal of load shedding in Nashik Division under Case No.31 of 2009, however, in view of the objections and the rejection by the consumers, the Commission had not approved MSEDCL's proposal for Nashik region. Considering the request of the consumers subsequent to the issue of the Commission's Order in Case No. 31 of 2009, MSEDCL requested the Commission to reconsider Nashik Region for withdrawal of load shedding and approve the Reliability Charge as was proposed in the said petition at 37 paise per unit.
- k. All Agricultural and Rural feeders in the areas where ZLS is proposed will be subjected to normal load shedding as per the existing PPLS.

III. Assumptions for Calculation of Reliability Charges

a. Period of model:

The proposal envisages allocation of costliest power available under normal power procurement process vis-à-vis implementation of ZLS model for a period of one year from the date of issue of the Order.

b. Load shedding protocol:

The existing PPLS effective from December 31, 2009 (Circular No.29) is in line with Scenario IV as specified in the Order dated November 28, 2008 in Case No.77 and 78 of 2008 and as outlined below:

Table: Load Shedding Protocol – Scenario IV

Region	Other regions	Agricultural dominated regions
Groups	Hours	Hours
A	2.45	10.00
B	3.30	10.30
C	4.15	11.00
D	5.00	11.30
E	5.45	12.00
F	6.30	12.00

c. Power Requirement:

Based on this existing PPLS, % DCL, MW and MU requirement at the transmission periphery for District Headquarters including Urban and Staggering feeder works out to 127.11 MW on 24 hr basis and 3.07 MU as shown in the below table:

Sr.	City	Division	Group	% DCL	MW	MU
1	Revenue Division	Nashik U-I	A	16.00	11.50	0.28
2	Head Quarter	Nashik U-II	C	27.00	11.77	0.28
	Nashik				23.27	0.56

Sr.No.	City	Division	Group	% DCL	MW	MU
1	Kolhapur	Kolhapur (U)	A	13	4.85	0.12
2	Sangli	Sangli Urban	A	14	6.37	0.15
	Sub-Group-A		A		11.22	0.27
3	Solapur	Solapur (U)	B	22	10.59	0.25
4	Ratnagiri	Ratnagiri	B	24	1.53	0.04
5	Sindhudurg	Kudal	B	25	2.40	0.06
6	Chandrapur	Chandrapur	B	26	9.09	0.22
7	Wardha	Wardha	B	24	2.42	0.06
8	Gadhchiroli District	Brahmapuri	B	28	2.84	0.07
	Sub-Group-B		B		28.87	0.69
9	Ahmednagar	Ahmednagar (UCR)	C	26	10.19	0.24
10	Bhandara	Bhandara	C	30	1.55	0.04
11	Satara	Satara	C	30	3.45	0.08
12	Buldhana	Buldhana	C	33	1.38	0.03
13	Gadhchiroli District	Gadhchiroli	C	37	5.71	0.14
	Sub-Group-C		C		22.28	0.53
14	Latur	Latur	D	40	6.09	0.15
15	Akola	Akola (U)	D	38	11.51	0.28
16	Washim	Washim	D	40	1.62	0.04

17	Nanded	Nanded (U)	D	42	15.35	0.37
18	Yavatmal	Yavatmal	D	43	3.73	0.09
19	Gadchiroli District	Allapali	D	38	3.17	0.08
	Sub-Group-D				41.47	1.01
TOTAL					103.84	2.50

d. Power Procurement cost:

MSEDCL will allocate costliest power to mitigate load shedding in these areas. As per the present trend, the power purchased from Ratnagiri Gas & Power Private Limited (RGPPL) is the costliest power with a rate of Rs. 4.42 per unit and therefore, for estimation of Reliability Charges payable by the beneficiary consumers, power purchase rate has been considered as Rs. 4.42 per unit, which will be subject to change depending on the actual cost of power purchase and also considering that reconciliation will have to factor in full recovery of power purchase cost irrespective of the additional consumption against additionally procured power for ZLS or otherwise.

e. Distribution Loss and ABR:

MSEDCL submitted that though the average distribution loss of the respective District Headquarters selected for implementing the withdrawal of load shedding, is different, it is submitted that power though allocated for the specified areas, will be transmitted through the MSEDCL distribution network and therefore, it would be more appropriate to consider the average distribution loss of the State as a whole for calculation of the power requirement at the consumer end.

MSEDCL also submitted that though Average Billing Rate (ABR) for the respective District Headquarters is different, MSEDCL is considering the ABR of the State for estimation of Reliability Charges, as this will ensure lower variation during the reconciliation process. MSEDCL submitted that in any case, MSEDCL shall remain revenue neutral and the additional cost will be refunded or recovered from the beneficiary consumers based on the reconciliation statement.

Table 6: Load shedding protocol – Scenario IV

Average Distribution Loss	20.98%
Average Billing Rate	Rs.4.32 per Unit-As per Tariff Order dated August 17, 2009 OR
Average Billing Rate for LT	Rs.3.52 per Unit-As per Tariff Order dated August 17, 2009

Table : Summary of Assumptions

Particulars	Assumptions
Sales	Sales Considered on Yearly Basis ;
	No seasonal variation considered;
Load Shedding Protocol	Scenario IV- Circular No. 29 dated 31.12.09
Effective days of load shedding	80% - For assessing MWh requirement;
Power Purchase Rate	Allocation Basis- Rs.4.42/kWh (RGPPL Rate);
Category Exempted	BPL Consumers;
	Agricultural Consumers;
	Express: Railway Traction, Industry ,PWW;
Growth Rate	5.23% - Tariff Order dated August 17, 2009
Transmission Losses	4.85% - Tariff Order dated May 28, 2009
Distribution Losses	20.98%
Average Billing Rate	Rs.4.32/kWh-Tariff Order dated August 17, 2009* (*- Subject to Reconciliation to ensure recovery of power purchase from beneficiaries consumers only)

f. Reliability Charge:

Based on the above assumptions, Reliability Charge has been estimated for respective Groups as given in the Table below, subject to reconciliation after every quarter such that MSEDCL is completely revenue neutral in the process, i.e., reconciliation will have to factor in full recovery of power purchase cost irrespective of the additional consumption against additionally procured power for ZLS or otherwise.

Table: Reliability Charges for each Group

GROUP	Reliability Charge (paise per unit)
A	22
B	37
C	40
D	47
Nashik	37

g. Other Issues:

The present arrangement is based on the prevailing PPLS and any revision in PPLS during the period of proposal will have an impact on such arrangement. If the load shedding hours are increased, and there is a constraint on the availability of additional power; proportionate load shedding will have to be carried out by MSEDCL. Alternatively, if there is a reduction in the PPLS, the consumers will get benefit of the reduced Load shedding hours and MSEDCL will procure power to the extent required to mitigate load shedding for these areas.

h. MSEDCL further submitted that the implementation of ZLS in District Head Quarters or any other place is a voluntary scheme and is always subject to acceptance by the beneficiary consumers, who are willing to pay the Reliability Charge as estimated and are also willing to share the burden after appropriate reconciliation of the cost of the power procured and Reliability Charges recovered, since MSEDCL has to be revenue neutral in the entire process.

4. MSEDCL, in its Addendum Petition dated February 25, 2010, for determination of Reliability Charges for withdrawal of load shedding in the District Head Quarters submitted the Division-wise requirement of power and detailed calculation of Group - wise Reliability Charges.

5. The Commission conducted a Technical Validation Session (TVS) on the Petition filed by MSEDCL on March 3, 2010, in the presence of Consumer Representatives authorised on a standing basis under Section 94 of the Electricity Act, 2003 (EA 2003). During the TVS, MSEDCL was asked to submit certain data.

6. In accordance with the Commission's above directions during the TVS, MSEDCL submitted its replies on March 5, 2010, with the following additional prayers:

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- k. *The Hon'ble Commission may pass an interim order for implementation of ZLS in District Head Quarters with effect from 1st April 2010 and also allow the Reliability Charges as follows, including Reliability Charges at the rate of 51 paise/ unit for Revenue headquarter of Nashik.*

GROUP	Reliability Charge (paise per unit)
A	22
B	37
C	40
D	47

The Reliability Charge as above to be charged in the interim period and subject to modification based on the final decision..."

7. The point-wise replies submitted by MSEDCL to the data-gaps identified during the TVS on March 5, 2010, are as under:

a. Data on Monthly Demand-Supply gap in MW over the following time-periods:

MSEDCL submitted the data on demand-supply gap or the following time periods:

- (i) January 2009 to December 2009,
- (ii) January 2010 to December 2010 (Actual & Projected)
- (iii) January 2011 to June 2011 (Projected)

MSEDCL further submitted that about 500 MW of Chandrapur Power Plant has not been considered in April 2010 and May 2010 as the same will be under outage due to water scarcity. Also, a worst case scenario has been considered whereby, it is assumed that the rainfall will be available in Maharashtra only in the first week of July 2010 and therefore, due to possible water scarcity, the Chandrapur plants (installed capacity 2340 MW) will be out of operation and would not be available for generation.

b. The % DCL (weighted average Distribution Loss and Collection Efficiency level) for all the District Headquarters for last one year (4 quarters):

MSEDCL submitted the %DCL (weighted average Distribution Loss and Collection Efficiency level) for all the District Headquarters for last one year (4 quarters).

c. The number of consumers proposed to be covered under ZLS schemes in a phased manner:

MSEDCL submitted that given the constraints of availability of power, MSEDCL proposed to withdraw the load shedding in a phased manner for the benefits of the consumers. MSEDCL has taken the initiative and explored the options for giving power supply on a continuous basis to the growth centres, economic driving engines in the State of Maharashtra and other beneficiary consumers. MSEDCL also submitted that the withdrawal of load shedding has already been initiated from the December 2009 for Revenue Headquarters and the present petition has been filed for the areas to be covered under District Headquarters whereby the consumers specified in the given area will be benefitted by way of withdrawal of load shedding. These ZLS schemes are in addition to the overall reduction of load shedding throughout the State as the requisite quantum of power becomes available to MSEDCL. Thus, overall

reduction in load shedding in the State will also commence during FY 2010-11, after stabilisation of the generating stations, which are in the phase of declaration of Commercial Operation Date. MSEDCL submitted that coverage of the consumers under ZLS schemes in respect of Municipal Corporation area, Taluka Headquarters, etc., is not readily available and MSEDCL shall ensure that whenever MSEDCL approaches the Commission for further extending the scope of ZLS Scheme, the desired information will be submitted in the same petition.

d. Extent of Overlap, if any, between the various groups listed above

The present proposal is restricted to the implementation of ZLS Scheme up to District Headquarters. Further, the Revenue Division Headquarters, i.e., Amravati, Nagpur, Aurangabad, Pune, Navi Mumbai/Thane and also Nashik are District Headquarters also. So, in case of Revenue Division Headquarters, there will be 100% overlapping with District Headquarters. Whenever MSEDCL approaches the Commission for extending the scope of ZLS, overlapping between the other areas will be identified and submitted to the Commission.

e. Documentary evidence that the consumers of Nashik are seeking introduction of the proposed model to mitigate load shedding

MSEDCL submitted the documentary evidence to the effect that the consumers of Nashik are seeking introduction of the proposed model to mitigate load shedding.

f. Calculation of Reliability Charges for Nashik based on the present scenario of PPLS

As per Scenario IV of the PPLS, the load requirement for Nashik Divisional HQ area works out to 47 MW and 0.56 MU, and Reliability Charges works out to 51 paise per unit, as compared to the 37 paise indicated earlier.

g. Effective days of load shedding

MSEDCL submitted that due to oversight, the effective days of load shedding was indicated as 80% in the Petition, though the effective days of load shedding considered for determination of Reliability Charges is 100%. MSEDCL added that the effective days of load shedding was considered as 80% for assessing the MWh requirement during the calculation of Reliability

Charge for Revenue Division Headquarters, as the power was to be procured from other sources. However, in the present Petition, MSEDCL intends to procure power as it normally does and then allocate the same. Therefore, 100% of the power needs to be considered for assessing the MWh requirement for withdrawal of load shedding. Hence, MSEDCL request the Commission to consider 100% effective days of load shedding for assessing the MWh requirement.

h. Rationale for considering the distribution losses as 20.98%

MSEDCL submitted that though the Commission has determined the tariff for FY 2009-10 on the basis of the Distribution Loss levels of 18.2%, MSEDCL has considered the estimated Distribution Loss of 20.98% for calculation of the Reliability Charges. MSEDCL submitted that the entire scheme of ZLS relies on MSEDCL to be Revenue Neutral. In case the distribution loss as approved by the Commission is considered, MSEDCL would suffer revenue loss or whenever the reconciliation process is undertaken on the basis of actual Distribution Loss, the consumers would be burdened on account of difference in loss levels. In the proposals already being implemented, revenue estimation is based on the estimated loss levels and subsequently at the time of reconciliation, the actual loss level is considered for determining the actual Reliability Charges to be recovered from the beneficiary consumers.

MSEDCL submitted that if the Reliability Charges are based on distribution loss of 18.20%, the beneficiary consumers may be required to pay considerable additional Reliability Charges after reconciliation, and the beneficiary consumers may agitate against the levy of additional Reliability Charges, which were not projected in the present proposal. Also, the loss level of 20.98% is more realistic.

Hence, MSEDCL requested the Commission to consider the estimated distribution loss to ensure accurate reflection of the Reliability Charges payable by the beneficiary consumers.

i. The method of mitigating load shedding in District Headquarters without affecting the prevailing load shedding to the consumers situated in other areas in case of increase in demand-supply gap

MSEDCL submitted that it has estimated the future power requirement and has accordingly tied-up with different sources of power to maintain the demand-supply gap. However, in case of any abnormal and unexpected variation in either demand or supply, MSEDCL will first ensure that the prevailing PPLS is maintained, and may procure additional short-term power for maintaining Zero Load Shedding of District Headquarters.

j. The rationale for consideration of the ABR of the entire State instead of ABR of respective area

As regards the Commission's suggestion that MSEDCL should consider the distribution loss and Average Billing Rate of the specific region for calculation of Reliability Charges, MSEDCL submitted that regions and cities within the same Group may have different distribution losses and ABR. MSEDCL added that the proposal for withdrawal of load shedding in District Headquarters is a first step towards uniform approach whereby the consumers under similar Group will be paying uniform Reliability Charges, and MSEDCL has proposed to use State specific distribution losses and ABR, which will be similar for every consumer under District Headquarters, irrespective of the Group they fall in, to avoid complexity in the calculation of losses and ABR. The Reliability Charges will differ for the consumers based on the Group they belong to. This will nullify any discrimination among the various categories of consumers within the different Groups. Therefore, MSEDCL submitted that rather than considering the region specific losses and ABR, the Commission may consider the State wise average distribution losses and ABR for calculation of Reliability Charges, which would be more appropriate since it will avoid discrimination in levy of Reliability Charges to the large extent.

k. Impact of introduction of ZLS for Gadchiroli region on other regions/Groups

The Commission has suggested that the impact of the additional cost of power allocated to Gadchiroli District, which is included in estimation of Reliability Charges applicable to the other beneficiary consumers of DCL Groups “B, “C” and “D”, should be shown separately. MSEDCL submitted that

Gadchiroli District has been considered for withdrawal of load shedding since, it is a badly affected naxalite area. Also, the Central Government is considering taking immediate steps to curb naxalism in the affected area and develop such area for the benefit of the people over there. MSEDCL submitted that in line with the same principle, Gadchiroli needs to be considered for withdrawal of load shedding and the Reliability Charges need not be collected from the consumers in the given district but may be passed on to the other beneficiary consumers of DCL group “B”, “C” and “D”.

l. Additional Scenario by considering the standard methodology approved by the Commission for implementation of ZLS schemes in the State

MSEDCL submitted that based on the road map for ZLS implementation, MSEDCL proposed District Head Quarters in A, B, C & D Groups only. Further, to compute the Reliability Charges, the cities in the particular DCL Group have been clubbed to insulate the consumers from factors beyond the control of MSEDCL and the consumers. These factors are city specific ABR [which mainly depends on the consumer mix] and the city-specific distribution losses. MSEDCL submitted that the Commission may not insist for computation of Reliability Charges based on area-wise ABR and area-wise Distribution Losses.

m. Uniform Approach

MSEDCL submitted that there should be uniform Reliability Charge for all areas benefiting from ZLS but the same can be implemented only when such concepts get matured and are sustainable. Presently, ZLS scheme is at an initial stage and as MSEDCL progresses on its roadmap, all regions can be clubbed to have a uniform approach.

n. Inclusion of Pen Area

MSEDCL submitted that in the Petition dated February 18, 2010, MSEDCL had not considered the Headquarters of District Raigad, i.e., City of Alibaug, since the said District Headquarter is presently enjoying ZLS under the Commission Order dated 15th June 2009 in Case No. 143 of 2008. However, the said Order will be operative only upto March 31, 2010, and hence, MSEDCL included the City of Alibaug in the present proposal and accordingly re-estimated the Reliability Charges payable by beneficiary consumers of DCL Group “A”, since the City of Alibaug is categorised under

DCL Group “A”. MSEDCL submitted that even after including Alibaug into DCL Group “A” for calculation of Reliability Charges, due to low load requirement of 4 MW, there is no change in the estimated Reliability Charges payable by Group “A” beneficiary consumers.

o. Interim Relief

MSEDCL requested the Commission to give a favourable dispensation before the onset of summer, since, an early decision will alleviate the hardship of consumers in the District Head Quarters covered under this proposal and will also send strong economic signals, which will be beneficial for development of the State. MSEDCL requested the Commission to exercise its power under Section 94 (2) of the Electricity Act, 2003 to pass an Interim Order in case the Commission is not inclined to pass Final Order, due to such a short span of time. The direction/decision of the Commission under the Interim Order will be subject to modification based on the final dispensation/Order of the petition. The said Interim Order may please consider implementing ZLS in the District Head Quarters proposed to be covered, with effect from April 1, 2010. MSEDCL requested the Commission to approve the following Reliability Charges for the period till the Interim Order is in force:

GROUP	Reliability Charge (paise per unit)
ABR	Rs.4.32 per Unit
A	22
B	37
C	40
D	47
Nashik	51

8. The Commission admitted MSEDCL’s Petition on March 8, 2010, and directed MSEDCL to publish the Public Notice in the matter, and make available the copies of MSEDCL’s Petition to the stakeholders at the respective Divisional offices and respective District Headquarters as well as on MSEDCL’s website, and directed MSEDCL to serve copies on the authorised Consumer Representatives.

9. The comments and suggestions received during the Public Hearings have been summarised below, location-wise:

Consumer Representatives

Prayas (Energy Group), Pune, submitted that 50% of MSEDCL's consumers will be covered under the ZLS Scheme, with the extension of ZLS to District Headquarters. Prayas submitted that allocation of power purchased from RGPPL for the ZLS Scheme is not appropriate, as there will be no additional power in the Maharashtra system. Prayas added that the Distribution Losses and Average Billing Rate (ABR) of the respective area needs to be considered while computing the Reliability Charges. Prayas further added that it needs to be verified from the beneficiary consumers of District Headquarters regarding whether they are ready to pay the Reliability Charge for ZLS schemes.

Shri S. L. Patil, Thane Belapur Industries Association (TBIA), submitted that while considering MSEDCL's proposal for introducing ZLS for the District Headquarters, the Commission should take into account the projected non-availability of power from Chandrapur generating Station to the tune of 2400 MW in the months of May and June 2010.

Shri. N. Ponrathnam submitted that a long-term Power Procurement Plan with the road map for giving uninterrupted power supply in its licence area should be submitted by MSEDCL, and opposed the proposal to levy Reliability Charges. He added that the scheme of opting for costly power purchase instead of long-term power procurement plan is a trend started by RInfra and supported by MSEDCL.

Shri. Ponrathnam further stated that Load Shedding is not mentioned in the EA 2003 or any Regulations notified by the Commission. It is the duty of MSEDCL to provide continuous electricity supply and any interruption or variation in the standard of performance should be compensated as per Section 57(2) of the EA 2003. MSEDCL should not discriminate between the consumers based on the collection efficiency, distribution losses, Express Feeder and Non- Express Feeder, etc.. There is no provision in the EA 2003 for Load Shedding or Preferential Load Shedding, which violates Article 14 of the Constitution of India.

Further, the ATE has also ruled that the Reliability Charge collected by MSEDCL has to be refunded to the consumers. MSEDCL has obtained an ex-parte Interim Stay from the Hon'ble Supreme Court against the ATE Order, and the matter is sub-judice as the Supreme Court's verdict is awaited.

Shri. Rakshpal Abrol, Bharatiya Udhami Avam Upbhokta Sangh, submitted that there is no provision under the EA 2003 allowing the distribution licensee to impose any Reliability Charge for supply of electricity in addition to the tariff approved by the Commission. Shri. Abrol requested the Commission to dismiss the Petition filed by MSEDCL for imposing Reliability Charges, as it is mandatory for the distribution licensee to provide uninterrupted supply of electricity to consumers located in its licenced area.

Prof. Dr. G. H. Barhate, Grahak Panchayat, submitted that the rural consumers should not be subjected to additional load shedding in the event of shortage of additional power procured for ZLS. He added that MSEDCL should submit an Approach Paper to the Commission for removing load shedding in the entire State in a phased manner instead of seeking approval for ZLS in District Headquarters only.

Headquarters of Revenue Division – Nasik

Shri. Sunil Adake, Bharatiya Janata Party, submitted that Nasik is a developing city, hence, the Reliability Charges applicable to Nasik should be lower than that applicable in Pune.

Shri. Devale submitted that private Utilities are giving electricity supply for 24 hours without charging any Reliability Charge. In the State of Gujarat, there is no Reliability Charge levied on the consumers and the tariffs of industrial consumers are in the range of Rs.3 to 4 per kWh, whereas the tariffs are higher in Maharashtra. He requested the Commission to take action against the corrupt officials of MSEDCL, and direct MSEDCL to maintain transparency, recover the arrears from consumers and bring down the distribution losses to 8%.

Veej Grahak Samiti (VGS) submitted that the present proposal is against the principle of res-judicata, hence, the proposal for introducing ZLS in Nasik should not be entertained and admitted as it violates the law. They submitted that in the earlier Petition in Case No.31 of 2009, the Reliability Charge for Nasik Divisional HQ was projected as 37 paise/kWh after detailed study for FY 2010-11, whereas in the present Petition,

Reliability Charges are proposed to be 51 paise/kWh, however, the reasons for sharp increase in the Reliability Charges have not been explained in the Petition. Therefore, this proposal should be rejected, as it is only means excessive increase in tariff without proper justification. VGS further added that it is the duty of MSEDCL to provide continuous supply of electricity, however, it has been observed that MSEDCL has got involved in corruption, scandal and tenders. Similarly, providing continuous supply to Gadchiroli region and levying the additional Reliability Charges on the consumers of other regions is against the law. For all the above reasons, VGS opposed the present proposal and suggested that the Reliability Charges should be borne by MSEDCL or the Government or the employees of MSEDCL. VGS further submitted that MSEDCL has laid down the road map for ZLS scheme by imposing the Reliability Charge, which suggests that 65% of Maharashtra would be covered under this scheme leading to hidden hike of electricity tariff. In the present Petition, the distribution losses are shown to be 16 % and 27% for Nasik Urban Circle 1 and 2, respectively, whereas, in the previous Petition in Case No.31 of 2009, the distribution losses were shown as 17 and 22%, respectively. This confirms that within a few months, the distribution losses and theft has increased instead of reducing. This is the responsibility of MSEDCL and hence, the Commission should reject the Petition.

Nashik Industries & Manufacturers' Association (NIMA) submitted that the tariff has been fixed by the Commission for FY 2009-10, therefore, under EA 2003, the process of tariff revision cannot be undertaken more than once in a year. Therefore, this Petition is illegal and cannot be admitted and NIMA strongly objected to the proposal for levy of additional Reliability Charges. NIMA added that any further increase in tariff will have adverse effect on industrial consumers and they will not be competitive in the market, and thus, will be left with no option but to move to other States in the country. NIMA also submitted that it is the prime duty of MSEDCL to provide continuous supply of electricity to its consumers and if they cannot provide continuous supply then there should be open competition to supply power. NIMA further added that the Nasik is under Category A with losses of 16% and therefore, the Reliability charges applicable to them should also be as per the category A. Moreover, in case the ZLS scheme is to be implemented in Naxalite affected area, then the Reliability Charges for the same should be borne by the State Government by giving subsidy and MSEDCL should not subsidise them and thus, overload the consumers of other regions. NIMA further added that MSEDCL should concentrate on recovery of payments from the defaulters like Mula-Pravara to match the losses incurred in the ZLS Scheme. MSEDCL should also play proactive role to manage the losses and thefts, which can earn profits to bridge the gap of ZLS.

President, Ambad Industries and Manufacturers Association, represented on behalf of small scale industries that the proposal should be rejected because it does not give the assurance of ZLS, as day by day there is increase in water scarcity, which would result in lower power generation; therefore, it is very difficult to achieve the ZLS proposal. He further submitted that the ZLS Scheme will not be required at all, if the distribution losses in Nasik are reduced. M/s. V.K.Pump Industries Pvt. Ltd., Popular Switchgears Pvt. Ltd., Mechelee Controls and many other industrial consumers strongly opposed the ZLS scheme and levy of Reliability Charges.

Shiv Sena, Nasik, submitted that the proposal does not benefit the farmers, which is leading to their suicides, and hence, opposed the proposal. They added that the present proposal is one of the means for picking the pocket of the consumers, and that this proposal is only to help the private players since the generation capacity is to be added only by 2012.

Akhil Bhartiya Grahak Panchayat (ABGP), Nasik, submitted that the Petition for approval of Reliability Charge for ZLS is not acceptable to the consumers since ZLS is not a benefit but it is the right of the consumers. They added that it is injustice to the consumers who has to not only pay the Reliability Charges but also pay for the distribution and transmission losses of 20.98% and 4.85%, respectively. ABGP further added that they opposed the Petition and will only agree to the ZLS proposal without any levy of Reliability Charges.

Shri. Vasant Gite, MLA, Maharashtra Navnirman Sena, Ms. Devyani Farande, Deputy Mayor, Nasik, Shri. Gajanand Shelar, Nationalist Congress Party, Shri. Datta Namdev Gaikwad, Member of Shivsena and others opposed the proposed ZLS scheme with levy of Reliability Charges for Nasik. Shri. Vasant Gite and Shri. Gajanand Shelar added that it is injustice to the people when their land and water are being used for power generation, but they are not being provided with uninterrupted electricity supply. Shri. Vasant Gite further submitted that the Commission has fixed the tariff for FY 2009-10 in August 2009, and under Section 62(4) of EA, 2003, tariffs cannot be revised more than once in a year. Shri. Vasant Gite added that other consumers should not be burdened due to implementation of ZLS Scheme at Gadchiroli District.

Shri. Laxman Vasudeo Saoji and several others submitted that the ZLS scheme should be approved with Reliability Charges of not over 20 - 22 paise/kWh.

The Institution of Engineers (India), Sakar Packs Pvt. Ltd. and others submitted that MSEDCL has implemented the revised tariffs w.e.f. August 1, 2009, and any further increase in tariff will have adverse effect on industrial consumers and they will not be competitive in the market. The cost of services or products of industries should not overshoot due to increase in electricity charges. The Institution of Engineers (India) requested the Commission not to accept the proposal of MSEDCL for ensuring ZLS by payment of Reliability Charges. They added that MSEDCL may be directed to provide ZLS to all its consumers, and suggested the below referred measures to meet the additional cost incurred for procurement of additional power:

- a) Demand Side Management, through installation of capacitors for reducing reactive component of power.
- b) Promotion of CFL and LED lamps.
- c) Use of Star rated appliances.
- d) Metering of all agricultural consumers and undertaking energy audit of rural areas.
- e) Acceleration of theft detection drives.
- f) Implementation of Time of Day (ToD) tariff for all LT industrial and commercial consumers to reduce peak demand.
- g) MSEDCL should upgrade its network and carry out periodical preventive maintenance to reduce the technical losses in the system.
- h) MSEDCL should recover old pending arrears from MPECS and other consumers to meet the additional cost for purchase of costly power.

The Institution of Engineers (India) submitted that if the Reliability Charge proposal is accepted by the Commission, then MSEDCL should ensure uninterrupted supply to the consumers without any load shedding. In case load shedding is done or there is a supply interruption, MSEDCL should refund the Reliability Charge to such consumers at double rate in that particular month.

Many commercial establishments and Associations supported the ZLS scheme provided the Reliability Charges are reasonable. Maharashtra Chamber of Commerce and Industries Association (MCCIA) supported the ZLS scheme and requested the Commission to reduce the Reliability Charges from 51 Paise/kWh.

Nasik Zilla Grahak Panchayat (NZGP), on behalf of residential and commercial consumers, submitted that the Commission should issue the Order to provide uninterrupted supply of electricity to all consumers without levying any Reliability

Charge. NZGP further submitted that uninterrupted power supply was provided by the first amalgamated licensee and later by MSEB without any additional charges; whereas, MSEDCL is providing 21 hours of supply instead of 24 hours. NZGP further added that uninterrupted power supply is being provided by Mumbai Distribution Licensees, viz., TPC-D, RInfra-D, BEST and also Distribution Licensees in Gujarat without any levy of Reliability Charges. NZGP also submitted that MSEDCL should compensate each consumer by paying Rs. 100/hour for interruption of power supply.

Many educational institutions supported the ZLS Schemes and expressed readiness to pay the Reliability Charges, whereas College of Engineering, Nasik opposed the levy of Reliability Charges for ZLS scheme.

District Headquarters

Akola

Shri. Chandrashekar B. Halabe submitted that Reliability Charge has been computed by considering domestic, industrial and commercial categories equally. However, the domestic consumers will pay the Reliability Charges whereas the commercial and industrial category consumers will increase the cost of their products and will recover it from the domestic consumers in order to pay the Reliability Charges, which is unjustified.

Shri. Ramesh Kothari, Vidarbha Chamber of Commerce, and Akola Industries Association supported the proposal of ZLS submitted by MSEDCL, and requested the Commission to exclude the MIDC area of Akola Urban Division, since, MIDC, Akola is located outside administrative limits of Akola Municipal Corporation and is located in the villages of Malkapur, Shivani, Shivapur, Kumbhari, etc., where the local Gram Panchayat has administrative jurisdiction, and the supply to MIDC area is not dependent on substations and feeders supplying to Akola District Head Quarter, and has independent substation and feeders.

Buldhana

Shri. Satish Chaudhari submitted that the determination of Reliability Charges for withdrawal of load shedding should be decided on merit. He added that the Petition of MSEDCL is illegal and unwanted, hence, the Petition should be rejected with cost.

Latur

Maharashtra Rajya Veej Peedit Grahak Sanghata proposed that the domestic category of consumers who use 0-100 Units per month should be exempted from levy of Reliability Charges. They added that the payment of Reliability Charges may not be passed on to the consumers of other Districts, which will prove to be a burden for those consumers. Further, the Reliability Charge of 20 Paise/kWh should be allowed in respect of ZLS scheme in various Districts.

Kolhapur

Prakash Fabricators, Kolhapur Udyam Co-op Society Ltd, Bhavani Iron Industries Pvt. Ltd, and other industrial consumers strongly opposed the ZLS proposal of MSEDCL. They stated that being industrial consumers, they should be dropped from the scheme because they neither want to pay extra charges nor extra electricity. They further submitted that they totally disagree with the concept of paying Reliability Charge since they are not having any benefit from this scheme. The industries have to give a weekly off to the workers as per the Labour Laws, therefore, the industry has to be kept closed, hence, the Reliability Charge is only a burden to industrial consumers. They also submitted the MSEDCL can implement this scheme for those consumers who are ready to pay the extra Reliability Charges.

Kolhapur Chambers of Commerce and Industries (KCCI) submitted that the Reliability Charge should be lower than 22 Paise/kWh as the other Districts in the proposal are having losses of 18% whereas Kolhapur is having losses of around 13%. KCCI further submitted that MSEDCL should not levy Reliability Charges during rainy season and winter season as the demand for electricity goes down and MSEDCL has excess power. KCCI also submitted that this scheme should be in force for a period of 3 months instead of 12 months and after 3 months, the consumers should have the option to continue the scheme.

Kolhapur Zilla Dalap Kandap Girni Malak Sangh submitted that it disagrees with the proposal in the present form with Reliability Charge. The distribution losses are lower in Kolhapur, coupled with lower arrears and better collection efficiency. The present ZLS scheme may lead to diverting power from rural areas to the District Headquarters leading to severe load shedding in rural areas. This proposal is just one of the ways of earning money, which is the hidden goal of MSEDCL against the background of electricity shortages, as the ZLS has been successful in Pune, Navi Mumbai, and Thane where urban people are ready to pay for the same. Further, in case ZLS scheme is to be implemented

in Gadchiroli, then the Reliability Charges for the same should be borne by the Government and should not be loaded on the consumers of other regions.

Other industrial consumers of Kolhapur submitted that they do not want ZLS scheme at the cost of additional Reliability Charges and strongly opposed the proposal of ZLS Scheme. They added that 16 hours of staggering load shedding for the industrial consumer is acceptable to them and they do not wish to pay extra Reliability Charges. The industries have to provide weekly off to the workers and hence, ZLS scheme does not benefit them in any way. Thus, by excluding the industrial consumers, this scheme can be implemented for those who are willing to pay the Reliability Charge.

Sangli

The Krishna Valley Chamber of Industries & Commerce (KVCIC), Sangli Miraj MIDC Manufacturers Association, Maharashtra Rajya Veej Grahak Sangathana, Maharashtra Rajya Irrigation Federation and Shri. Raju Shetti, Member of Parliament submitted that the proposed ZLS scheme includes the District headquarters of Bhramapuri, Gadchiroli and Aalapalli, with the Reliability Charges being recovered from B, C, D group of consumers of the remaining 15 District Headquarters, which is not justified and is also against the Tariff Policy. For implementation of such schemes, MSEDCL should take subsidy from Government of Maharashtra. They requested the Commission to consider the allocation of additional power from Kawas instead of RGPPL as per Merit Order Despatch. With reference to Clause 8.2.1 of the Tariff Policy, KVCIC submitted that consumers who are ready to pay a tariff that reflects efficient costs, have the right to get uninterrupted 24 hours supply. At present, industries are facing one day staggering, which consist of 16 hours of load shedding in a week which overlaps with the one-day weekly holiday to the industries. Thus, industries do not require ZLS as and should be excluded. Industrial consumers who accept the staggering day should not be compelled to have ZLS in their area. Receiving additional power supply, which cannot be utilised optimally, will be a burden to the consumers.

Janata Dal Maharashtra, Mumbai and Sangli Miraj MIDC Manufacturers Association submitted that implementation of ZLS in District Headquarters should not adversely affect rural Maharashtra. As per MSEDCL's proposal, MSEDCL will not be procuring additional power from other sources, and will be using the power that is available in Maharashtra. The Commission has formulated the Load Shedding Protocol for MSEDCL area under six scenarios, and if the power is diverted to the ZLS scheme, then rural Maharashtra will have to face extreme load shedding.

Satara

Shri. R.R. Tambe, Sahyadri Sahakari Sakhar Karkhana Ltd. submitted that the industries do not work in three shifts and there is one day staggering in a week for industries. Hence, industries will not be benefitted from ZLS. Further, if the urban consumers are enjoying ZLS, it should not affect the load shedding of the agricultural consumers.

Solapur

Solapur Zilla Yantramag Dharak Sangh (SZYDS) submitted that they are agreeable for the ZLS Scheme without Reliability Charges and requested the Commission to consider them in the A Group in PPLS.

Yuva Vyapari Vichar Manch, Solapur District Chemists and Druggists Association, The Solapur District Theatre Owner's Association, L.P.G. Distributors Welfare Association of Solapur, Solapur Retail Wine Merchant Association and others submitted that the Reliability Charges of around 22 to 37 Paise/kWh should be considered for ZLS proposal. President, Promoters and Builders Association of Solapur, S P Institute of Neurosciences, Solapur Electronics Dealers Association, Solapur Automobile Dealers Association and Solapur Wholesale Wine Traders Association, Solapur Electrical Engineers and Contractor Association and several other consumers supported the MSEDCL proposal for ZLS Scheme.

Solapur Chambers of Commerce, Industries and Agriculture (SCCIA) supported the MSEDCL proposal for ZLS and submitted that they should be included in DCL Group A instead of Group B of PPLS. SCCIA further submitted that MIDC of Akkalkot Road, Chincholi and Hotgi Road Industrial Estate are facing one day staggering and should be excluded from the ZLS scheme.

Solapur Shahar Machinery Dealers Association submitted that they agree with the ZLS Scheme with Reliability Charges provided that they get an assurance of uninterrupted power supply.

Other Regions

Shri. Vinayak V. Prabhune submitted that the Commission, while determining the Reliability Charges, should consider the Circle-wise Distribution Losses in the City. A consumer having lower distribution losses has to pay for the consumers having higher distribution Losses.

Dr. V Thanumoorthy and Shri. P.N. Sridharan stated that they fully endorse the views of Shri. Ponarathnam. Shri. Shridharan submitted that the Public Hearing process should be at more than one centre as people from all over Maharashtra have to travel all the way to attend the Public Hearing. He opposed MSEDCL's proposal for ZLS with levy of Reliability Charges.

10. MSEDCL submitted its reply on March 29, 2010 to the objections raised by the stakeholders during the Public Hearing, as summarised below:

a. Matter is sub-judice

The matter between M/s. Ispat Industries Ltd and MSEDCL as well as the Commission, is in respect of the issue whether the Reliability Charges can be recovered from M/s. Ispat Industries Ltd. (Appeal No. 135 of 2009). The Hon'ble Appellate Tribunal has decided the issue in favour of the consumer. Against the said Order, MSEDCL has filed appeal before the Hon'ble Supreme Court and the Supreme Court has granted a stay on the operation of the ATE Order. The primary issue before the Supreme Court is with regard to the levy of Reliability Charges to express feeder consumers who are already availing continuous (24x7) power supply without implementation of Zero Load Shedding. The issue in the present Petition does not directly or indirectly go against this issue, moreover, in the present Petition of Zero Load Shedding for District Head Quarters, express feeder consumers have been exempted from payment of Reliability Charges, in line with the ATE Order, without pre-judice to any of the rights and contentions of MSEDCL to agitate the matter before Supreme Court. Therefore, the issues involved in the present case cannot be considered as sub-judice before the Supreme Court or any other Court. It is therefore, respectfully submitted that the statement made in the Affidavit needs to be considered on the basis of real and substantial issues placed before the Commission. The fact that the matter is pending before the Supreme Court as stated above has already been disclosed while submitting the reply to the queries from the Consumer's/Consumer's Representatives, which establishes that MSEDCL has no intention to hide any fact. Under the circumstances, the statement in the paragraph no. IV of the affidavit, as reproduced below, may please be examined to bring out the natural meaning of the existing facts:

"I say that there are no proceedings pending in any Court of Law / Tribunal or Arbitrator or any other authority, wherein the Petitioners are the Party and where the issues arising and / or relief sought are identical or similar to the issues arising in the matter pending before the Commission".

Also, the Hon'ble Supreme Court, in the said stay Order has ruled as under:

“In the meantime, there will be stay of operation of the impugned order of the Appellate Tribunal for Electricity. It is made clear that payments that may have been required to be made in terms of the impugned order, will also be subject to the result of this appeal.”

In view of the above, MSEDCL requested the Commission to consider the petition submitted by MSEDCL and pass an appropriate Order.

b. Applicability of “Res-Judicata” whereby the petition for determination of Reliability Charges for Nashik cannot be reconsidered

MSEDCL submitted that the principle of “Res-Judicata” is applicable to the same Parties litigating under the same title. This principle applies to the competent Courts, and cannot be applied as an universal rule.

MSEDCL submitted that the Commission has a legal obligation to determine tariff from time to time. All the factors mentioned in Section 61 of the EA 2003 are guiding factors for determination of tariff. One of the principles laid down under Section 61(e) of the Electricity Act 2003 is:

“(e) the principles rewarding efficiency in performance”;

The efficiency includes continuous or optimum period for supply of electricity. This principle is well accepted by the Commission in many cases. In order to make maximum supply available, the Commission has allowed the Reliability Charges to be levied. The Commission has also taken into consideration the equity while including the Reliability Charges in the tariff. Section 62(4) of the EA 2003 stipulates that the tariff can be for a particular period and the Commission's powers to reconsider the same under certain circumstances have not been restricted by any law. The Commission also has powers to consider certain circumstances afresh, to add to the tariff which has already been determined. When this legal power to regulate tariff is available in law, the principle of “Res-judicata” would never be applied.

In respect of Nashik Division, the earlier proposal was not considered favourably because the consumers and their representatives were not in favour of the same. Now, there is a change in a situation, whereby, there have been representations from the consumers, showing willingness to adopt the ZLS system as has been provided to other Divisions. Therefore, this request of the consumers cannot be

rejected on the technical term of “Res-Judicata”. Moreover, the principle of “Res-Judicata” is applicable to the issue that is placed for the consideration of the Commission.

c. Impact of Allocation of Power on Load Shedding Protocol

MSEDCL submitted that in the proposed arrangement, the total available power shall first be exclusively utilised for maintaining the prevailing PPLS and only the surplus power (if any) shall be allocated for implementing zero load shedding in the 18 District Headquarters. MSEDCL further submitted that to ensure adequate availability of power, MSEDCL will continue its power procurement programme in the normal manner and whenever surplus power is not available for allocation to District Headquarters, MSEDCL will resort to short-term power purchase. MSEDCL further submitted that as per the practice in vogue and as well as the guidelines given by the Commission, the surplus power available after meeting the PPLS is presently utilised for temporarily withdrawing load shedding depending upon the system condition.

MSEDCL submitted that the requirement of power for implementation of zero load shedding in District Headquarters is very small (i.e., 100 MW as per Scenario IV of PPLS) as compared to total power requirement of MSEDCL. On most occasions, the benefit of such temporary withdrawal of load shedding is enjoyed by the consumers situated in Group A or Group B, whereas the cost of such power is shared by all the consumers as the cost of such power has been considered in ARR. MSEDCL further submitted that in the proposed arrangement where the surplus power after ensuring the prevailing PPLS will be allocated to District Headquarters, the cost of such power shall be recovered from the beneficiary consumers only. MSEDCL therefore, submitted that the entire scheme is based on the principles of maintenance of prevailing PPLS with the intention that the consumers situated in District Headquarters should not be benefited at the expense of other consumers. MSEDCL also submitted that since the cost of such power will be recovered from the beneficiary consumers, the same shall naturally be deducted from the ARR of MSEDCL for the said year, which will get reflected in reduction of overall tariff for the benefit of all consumers.

d. Anomaly in approach of calculation of Reliability Charges for Divisional and Revenue Headquarters.

MSEDCL submitted that as per the Road-map submitted, the load shedding will be eliminated in a phased manner, as under:

- (i) Headquarters of Revenue Division areas;
- (ii) District Headquarters;
- (iii) Municipal Corporation areas;
- (iv) Other Areas having national and regional significance like tourist areas, etc.
- (v) Taluka Headquarters;

MSEDCL submitted that the approach considered while filing the petition for withdrawal of load shedding in the Revenue District Headquarters was to consider the total area specified in the Revenue District Headquarters as a single entity whereby no bifurcation was considered on the division-wise or circle-wise. Due to the given situation, though within the Revenue Headquarter, there can be different divisions or circles with different distribution loss, MSEDCL has considered an uniform approach while calculating the Reliability Charges considering Revenue Headquarters as a Single Entity. In the given approach, no cherry picking was allowed, as it might be possible that within the division or circle, the losses might vary on each and every feeder which again may result in anomaly whereby consumers on the feeder having low losses may have to share the Reliability Charges for the consumers on the feeder with heavy losses. MSEDCL submitted that such detailed calculation is not possible at this stage as the approved model by the Commission is based on the single entity and cannot be segregated. MSEDCL added that the Revenue Headquarters were identified based on the cities spread across the State of Maharashtra, which are pivotal to the growth of the State as a whole. These regional Headquarters are the Urban Centres attracting investment and driving engines of growth and it is pertinent to ensure that these regional Headquarters get uninterrupted supply of power. Accordingly, the whole Revenue Headquarters was considered as a single entity to mitigate the load shedding. Therefore, the comparison of the two approaches might not be feasible. Also, the method of calculation of Reliability Charges is different in both the approaches.

e. **Quarterly fluctuation in DCL (weighted average distribution loss and collection efficiency level) for Nashik U-II**

MSEDCL submitted that in the Order dated June 20, 2008 in Case No. 72 of 2007, the Commission has approved MSEDCL's proposal for modification to the load shedding protocol and revised the Groups and classifications on the basis of the distribution losses and collection efficiency as Group A, B, C, D, E and F.

MSEDCL submitted that the DCL is dynamic in nature and changes due to various factors. Therefore, within any quarter, due to change in distribution loss as well as collection efficiency, the DCL of the Nashik U-II areas has changed. Similar changes have been observed in other areas also, since DCL is worked out regularly. MSEDCL further submitted that the calculation of DCL is in accordance with the direction of the Commission vide Order dated June 20, 2008.

f. **Difference in Reliability Charges though the loss in Nashik and Pune are similar**

MSEDCL submitted that in the earlier Petition dated June 15, 2009, the power requirement at the transmission periphery for Nashik Headquarters considering Scenario II of the PPLS was 39 MW and 0.46 MU. Based on the direction of the Commission, the power requirement has been recalculated based on prevailing Scenario IV of the existing PPLS, which is estimated to be 47 MW and 0.56 MU. Therefore, only due to increase in the load requirement to withdraw the load shedding, the Reliability Charges for the Nashik Headquarters has increased

MSEDCL submitted that there is no apparent error in the calculation of Reliability Charges for Nashik Revenue Division Headquarters. The cost of power purchase considered while calculation of Reliability Charges are in line with the Commission's Order dated November 30, 2009, which was related to determination of Reliability Charges for Revenue Division Headquarters. Since, MSEDCL is proposing Nashik as a Revenue Headquarters, Rs. 6.75 per unit has been considered as power purchase rate for calculation purpose.

As regards the comparison of Pune's Reliability Charges with Nashik's Reliability Charges, the difference in the parameters considered for calculation of Reliability Charges are summarised below:

Parameters	Units	Pune	Nashik
Load Shedding Scenario considered		II	IV
Load Requirement at transmission periphery	MW	134.83	46.56
Distribution Loss	%	10.00%	11.21%
Annual Consumption in the area	MU	360.00	65.36

As evident from the above Table, the major difference due to which the Reliability Charges are different for both the areas is due to the change in Scenario and annual consumption pertaining to that area. Being an area with heavy demand, Pune has lower Reliability Charges, as the cost of the power procured for the Headquarters is apportioned over a larger consumption base.

g. Guarantee of Zero Load Shedding in the proposed Divisions

MSEDCL submitted that the ZLS scheme will be implemented or successful only in case the power required to mitigate load shedding is available. In case, there is any default by the generator or widening of the deficit situation, the load shedding may be implemented to the extent of the deficit in the system. However, MSEDCL will always make efforts to ensure smooth implementation of ZLS and in case of load shedding on account of unavoidable circumstances, the effect of the same will obviously be passed on to the consumer through reconciliation process.

h. Exemption of Industries from Load Shedding- Staggering Day

After implementation of ZLS against recovery of appropriate Reliability Charges, the industrial consumers having one-day staggering will also be exempted from load shedding. MSEDCL added that availability of 24x7 power supply shall be an additional benefit available to the industries provided such industries are willing to participate in the process and pay the Reliability Charge.

i. ZLS benefit to be provided to the consumers of Nashik without levy of Reliability Charges

MSEDCL submitted that it recognises the fact that due to the presence of the power plant in Nashik Area, people residing in the nearby vicinity may have health problems and the benefit of such power generation from the plant is not

available to the fullest to the Nashik consumers. MSEDCL added that this proposal for the consumers of Nashik will be examined separately.

j. RGGPL is not the costliest power compared to the power generated from Kawas and Gandhar Generating plant

MSEDCL submitted that it expects that the proposed ZLS model will be implemented for District Headquarters from April 2010 onwards and therefore, the parameters considered for determination of Reliability Charge reflect the values estimated for FY 2010-11. MSEDCL admitted that in the previous year, the power available from Kawas and Gandhar Generating Station was costliest, however, in FY 2010-11 it is estimated that power will be available from Kawas and Gandhar at a rate of 352 paise per unit and 390 paise per unit, respectively. In view of this, MSEDCL has considered power available from RGPPL (442 paise per unit) as costliest power and has worked out the Reliability Charge accordingly. MSEDCL submitted that though RGPPL power is considered as costliest power source, the actual cost of power will be considered while allocating the power, and in case power from any other source is costlier than RGPPL, then the same will be allocated for implementing Zero Load Shedding of District Head Quarters.

11. The Commission, vide its letter dated March 30, 2010, sought additional data from MSEDCL, viz., Distribution Loss, Average Billing Rate (ABR), Compounded Annual Growth Rate (CAGR), etc. of each District Headquarter of MSEDCL and Nasik Revenue Division, which will enable computation of area-wise Reliability Charges in accordance with the methodology approved by the Commission in earlier Orders.

12. MSEDCL, vide its letter dated April 13, 2010, submitted additional data consisting of Distribution Loss, Average Billing Rate, CAGR, etc., and stated that MSEDCL's prayers in this Petition were based on the possible availability of additional power and also to reduce Reliability Charges for the consumers.

13. MSEDCL further submitted that MSEDCL had always given priority for following the Principles and Protocols of Load Shedding (PPLS) in the State and at no stage ZLS for District Headquarters (DHQ) was intended to be implemented by increasing load shedding for rest of the State. However, in the intervening period, some adverse developments pertaining to non-availability of water for thermal power plant at Chandrapur has been reported. MSEDCL submitted that in view of this background, there is a possibility that MSEDCL may be required not only to procure additional power for

making good the shortfall in power generation from Chandrapur, but will have to independently procure partial power for DHQ areas for Zero Load Shedding. The revised total requirement of DHQ ZLS is only 100 MW and as such 100 MW is unlikely to be fully utilised by consumers since, the diversity reduces the consumption. Also, being an extremely small quantum, partial procurement would be sufficient for implementing Zero Load Shedding at District Head Quarters. MSEDCL stated that this submission is subject to review depending on the prevailing system conditions from time to time.

14. Having heard the Parties and after considering the material placed on record, the Commission is of the view as under:

- a. As regards the Hon'ble Appellate Tribunal's Judgment dated December 14, 2009 setting aside the Reliability Charges payable by Ispat Industries, the operation of the said Judgment dated December 14, 2009 having been stayed by the Hon'ble Supreme Court vide its Interim Order dated December 18, 2009 in Civil Appeal No. 8413 of 2009 in the case of *MSEDCL vs. Ispat Industries & Anr*, the present Order is however, being issued, subject to the final outcome of the said Civil Appeal No. 8413 of 2009.
- b. MSEDCL has proposed that instead of separately procuring additional quantum of power specifically for the proposed ZLS schemes for District HQ, MSEDCL should be permitted to continue the power procurement process in the normal manner and to allocate the costly power according to the Merit Order Despatch for withdrawal of load shedding in District HQ. However, most stakeholders have objected to this proposal and have submitted that MSEDCL should ensure that additional power is brought into the system by procuring additional power for withdrawing load shedding in the District HQ, rather than diverting grid power.

MSEDCL's proposal to allocate costliest power for withdrawing load shedding from the District HQ, will lead to diversion of grid power intended for other areas, resulting in increased load shedding for the remaining areas. The existing power supply is intended to maintain the existing load shedding protocol, and if there is any additional power available under the existing supply arrangements due to variation in the demand-supply gap, then the load shedding for all the areas must be reduced in the manner stipulated by the Commission, rather than being diverted for implementing ZLS schemes. Accordingly, the Commission holds that for all such ZLS schemes, additional procurement of power is the basic requirement, and

MSEDCL has to ensure that additional power is procured for the purpose of implementing ZLS schemes.

- c. MSEDCL has proposed to withdraw load shedding in the District HQ areas in Group A, B C, and D, and has sought the Commission's approval for levy of Reliability Charges to be levied on the beneficiary consumers. In its Proposal, MSEDCL has estimated the MW and MU requirement based on Scenario IV of the Load Shedding Protocol approved by the Commission in its Order dated November 28, 2008 in Case No. 77 and 78 of 2008, and the power purchased from RGPPL at a rate of Rs. 4.42 per kWh has been considered as the costliest power and used to compute the Reliability Charges.

However, in its subsequent submissions, MSEDCL has submitted that due to the water scarcity, thermal generation at the Chandrapur Generation Station of the Maharashtra State Power Generation Company Limited (MSPGCL) has been reduced significantly. Also, MSEDCL has considered a worst case scenario whereby, it is assumed that the rainfall will be available in Maharashtra only in the first week of July 2010 and therefore, due to possible water scarcity, the Chandrapur plants (installed capacity 2340 MW) would not be available for generation. MSEDCL has submitted that hence, there is a possibility that MSEDCL would have to procure additional power for making good the shortfall from Chandrapur as well as procure additional power for the proposed ZLS for District HQ.

The Commission finds that though MSEDCL had considered Scenario IV of the Load Shedding Protocol for estimating the MW and MU requirement to withdraw load shedding in District HQ areas, which considers the demand-supply gap in the range of 3500 MW, the present level of demand-supply is much higher, at over 6000 MW. As a result, the MW and MU requirement for withdrawal of load shedding in District HQ areas would be much higher than projected, and the consequent Reliability Charges would also be correspondingly higher.

The following Table shows the variation in prices prevailing on the Indian Energy Exchange over the period from February to May 2010:

(Rs/kWh)					
Sl.	Particulars	Feb 2010	Mar 2010	Apr 2010	May 2010
1	Max (in an hr)	5.72	9.00	13.90	12.50
2	Min (in an hr)	0.92	2.00	0.99	2.00

Source: Indian Energy Exchange

As seen from the Table above, the prices prevailing in the Power Exchange have increased significantly from the levels prevailing in February and March 2010, and are likely to remain volatile with an upward bias, due to (a) overall demand-supply gap, and (b) higher than normal temperatures being experienced, across the country.

It is clear that overall, there is a lot of uncertainty regarding the availability of power and the rate of power available in the open market. Since, as ruled earlier, MSEDCL will have to procure additional power in order to withdraw load shedding from District HQ areas, this is likely to further impact the uncertainty regarding the Reliability Charges to be levied on the beneficiary consumers.

Also, during the Public Hearing, several differing views were expressed, with some stakeholders welcoming the proposal, some others rejecting the proposal, some stakeholders welcoming the proposal but agreeable to pay reduced Reliability Charges, etc. Keeping in view all the above, and the differing views expressed during the public process, although MSEDCL's proposal to withdraw load shedding from District HQ areas and increase the coverage of the ZLS schemes is a welcome step, but due to factors mentioned above, it appears that MSEDCL is finding it difficult to maintain the existing Load Shedding Protocol itself.

Accordingly, in view of the increased demand-supply gap in the State and the prevailing uncertainty as regards the availability of additional power as well as the rate of the additional power requirement, the Commission feels that the present juncture is not the appropriate time to increase the coverage of the ZLS schemes. As and when the demand-supply situation improves and MSEDCL has sufficient clarity regarding the availability of additional power as well as the rate of the additional power requirement, MSEDCL is at liberty to approach the Commission for seeking its approval for implementation of ZLS in District HQ regions as well as other areas incorporating the other observations regarding additionality of power and uniformity of approach, etc.

- d. MSEDCL has also proposed to implement ZLS in Nashik Divisional HQ area, in response to fresh requests from the affected consumers in the region. In this context, some stakeholders have submitted that MSEDCL is barred from proposing ZLS for Nashik Divisional HQ area under the principle of res-judicata, since the Commission has rejected the proposed ZLS scheme for Nashik Divisional HQ area in its Order in Case No. 31 of 2009. Some other stakeholders supported the proposed ZLS, but suggested that the Reliability Charges should not exceed 20 paise/kWh. The industrial consumers connected to MIDC feeders submitted that though they welcomed the proposed ZLS for Nashik District HQ, the industries are willing to continue to be subjected to the one day of staggered load shedding, and they should not be levied the Reliability Charges.

The Commission had considered the issue of res-judicata at the time of admission of the Petition. The Commission is of the view that the issues of load shedding, tariff determination, ZLS and Reliability Charges are of constantly evolving nature. Based on the new and additional facts and circumstances of the case, the Reliability Charges proposed by MSEDCL for Nashik Divisional HQ in this Proposal are different from that proposed in its earlier Petition in Case No. 31 of 2009. Accordingly, the Commission holds that the principle of res-judicata is not applicable to this case.

However, as observed in (b) above, keeping in view of the increased demand-supply gap in the State and the prevailing uncertainty as regards the availability of additional power as well as the rate of the additional power requirement, the Commission holds that it is inappropriate to implement ZLS in Nashik District HQ for the present. Also, taking into account the fact that in the Public Hearing, while some consumers, especially those belonging to subsidising category and some others prayed for ZLS, but only at a cost not exceeding 20 paise/kWh charge (against the proposed 51 paise/kWh), one will have to wait till the demand-supply situation improves leading to rate of additional power coming down so that the Reliability Charges for ZLS would be near about the level acceptable to a large number of consumers. MSEDCL is at liberty to approach the Commission for seeking its approval for implementation of ZLS in Nashik Divisional HQ region at such appropriate time in future.

- e. As regards MSEDCL's proposal to exempt Gadchiroli region from the levy of Reliability Charges, and pass on the cost of costly power procured for Gadchiroli to other consumers in the rest of the State, the Commission holds that the beneficiary consumers of the respective area, for whom the costly additional power has been procured, have to pay the respective Reliability Charges and the cost cannot be socialised either to other consumers in the same Group or the entire State through the Aggregate Revenue Requirement (ARR) and tariffs. Such a proposal is against the basic concept of Reliability Charges as approved by the Commission. If the State Government is desirous of supporting ZLS in Gadchiroli or other similarly affected regions under State Government Policy, the State Government may provide the necessary subsidy to MSEDCL to recover the cost of costly additional power purchase.
- f. As and when MSEDCL decides to approach the Commission with a fresh proposal for withdrawal of load shedding in other areas within its licence area, including District HQ areas, MSEDCL should ensure that the specific area-wise Reliability Charge is clearly brought out in the Proposal, based on the following considerations, inter-alia, rather than grouping the areas under DCL Groups A, B, C, etc.:
- (i) Area-wise Distribution Losses
 - (ii) Area-wise Average Billing Rate
 - (iii) DCL losses of the previous year
 - (iv) Effective load shedding of 80% or any other level based on actual situation in the previous year
 - (v) Categories exempted from the ZLS scheme and who would not have to pay Reliability Charges

With the above, the Petition filed by MSEDCL in Case No. 110 of 2009 stands disposed of.

Sd/-
(V.L. Sonavane)
Member

Sd/-
(S.B. Kulkarni)
Member

Sd/-
(V.P.Raja)
Chairman

(K.N Khawarey)
Secretary, MERC