

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 82 of 2009

In the matter of
Maharashtra State Electricity Distribution Company Ltd. (MSEDCL)'s
Petition seeking clarification on implementation of Commission's Order dated
30th November 2009 in Case No. 31 of 2009, for procurement of power on RTC
basis for withdrawal of load shedding in the headquarters of Revenue Divisions

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

ORDER

Dated: June 01, 2010

The Maharashtra State Electricity Distribution Company Limited (MSEDCL) submitted a Petition dated December 14, 2009, seeking clarification on implementation of the Commission's Order dated November 30, 2009 in Case No. 31 of 2009, for procurement of power on Round the Clock (RTC) basis for withdrawal of load shedding in the headquarters of Revenue Divisions, under Section 86(1)(b) and 94(2) of the Electricity Act, 2003 (EA 2003).

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

“

- (a) *Approve the proposal of procuring additional power on RTC basis.*
- (b) *Approve the compensation to the extent of excess power that would be available to the grid at the highest rate of long term power purchase of MSEDCL through ARR.*

- (c) *Allow the recovery of the additional amount at the time of reconciliation.*
- (d) *Permit adjustment for any under/(over) recovery which will be carried out in every quarter and recovery which will be carried out in every quarter and recovery to be effected in subsequent quarter.*
- (e) *To consider the holding of public hearing again in Nasik to determine the willingness of consumers for withdrawal of load shedding in Nasik on similar lines as per Order of Commission in Case 31 of 2009.*
- (f) *Consider the above proposal for a favourable dispensation.”*
3. MSEDCL, in its Petition, submitted as under:
- (a) MSEDCL filed its revised Petition in Case No. 31 of 2009 on July 27, 2009, based on the Record of Proceedings (RoP) of the TVS session. After considering the submission of MSEDCL and the comments and suggestions received during the Public Hearings, the Commission issued the Order on November 30, 2009 approving the withdrawal of load shedding in Headquarters of Revenue Divisions, viz., Amravati, Nagpur, Aurangabad, Pune, Navi Mumbai, and Thane (including Mulund and Bhandup). In view of the objections and the rejection of MSEDCL’s proposal by the majority of the consumers in Nasik, the Commission did not approve MSEDCL’s proposal for withdrawal of load shedding for Nasik region.
- (b) While the Commission allowed MSEDCL to make day ahead purchases, the Commission stated that MSEDCL should try and adopt competitive bidding mechanism for medium term contracts for the additional power required. The Commission directed MSEDCL to immediately enter into power procurement contracts for the proposed requirement for the period of operation of the Scheme. The relevant extracts of the Order dated November 30, 2009 in Case No. 31 of 2009 are as under:
- “13 (b) (v) The power purchase rate for the purpose of computation of Reliability Charges has been considered at Rs. 6.75 per unit based on the average price of traded power purchased by MSEDCL in FY 2008-09, as proposed by MSEDCL. The Scheme would be viable for both, MSEDCL as well as the consumers, only if the power purchase rates remain near-about the assumed rate. The Commission, therefore, directs MSEDCL to immediately get its power procurement contracts for the proposed requirement for the period of operation of the Scheme. In the interim, MSEDCL may procure power on daily or any other*

basis, and in case of any variation in the power purchase prices, MSEDCL will be able to pass through the difference (positive or negative) through the quarterly truing up mechanism, based on audited numbers. The Commission has not imposed any cap on the power procurement rates.”

- (c) Based on the directives of the Commission, MSEDCL published Tender No. CE(PP)T-6/2009-10 dated December 1, 2009 for power purchase, and the Parties were asked to submit their bids by December 7, 2009, considering the urgency of the situation.
- (d) An analysis of the bids received revealed that the bids were much higher than the market rates, though the prices were expected to be on the lower side, given the fact that the bids were called for a longer period of one year. Even the price quoted for the monsoon period was above the average traded price. One of the reasons for the higher price was also the fact that the prices were for power supply on a 12 hour basis as against Round the Clock (RTC) basis, which could have the effect of lowering the prices.

MSEDCL submitted that since, the prices in the tender were not commensurate with the market rates, it was felt that the consumers of MSEDCL licenced area availing of zero load shedding through this model would unnecessarily be burdened with additional cost, which they would have to pay in the form of Reliability Charges.

- (e) MSEDCL submitted that there have also been offers from Captive Power Plant (CPP) Producers who have expressed willingness to give power on 24 hour basis.
- (f) MSEDCL added that Clause 6.3 of Tariff Policy notified by the Ministry of Power also addresses the need for harnessing Captive Power.
- (g) The rates quoted by the CPP's (covering a period upto one year) are much lower than the rates quoted by parties who had participated in the bidding process, making it attractive for consideration for purchase for withdrawal of load shedding in the Headquarters of Revenue Divisions in MSEDCL licence area. Further, the CPPs are in the vicinity of the load centres, i.e., areas considered for withdrawal of load shedding, which will minimize the distribution losses and benefit the consumers.

- (h) The nature of CPP is that they are normally used by industries like steel, cement, fertilizer, etc., which require continuous power and hence, required to be run on RTC basis. Thus, purchases from such CPP's requires to be done on RTC basis. Considering the price advantage to the consumer, MSEDCL is considering contracting this CPP power for withdrawal of load shedding in Headquarters of Revenue Divisions.
- (i) To reduce the burden on the consumer, MSEDCL proposed an option of procuring RTC power for half the requirement, since, the shortage of MSEDCL in variable quantum almost exists for 24 hours and the balance power can be absorbed in MSEDCL licence area. In view of the above, MSEDCL proposed that the Commission should allow MSEDCL to contract power on RTC basis, under the following framework:
- i. MSEDCL proposed to procure power to the extent of 250 MW to 300 MW power on RTC basis, by which, MSEDCL would be able to fulfil the MU requirement of the areas covered for withdrawal of load shedding.
 - ii. The power on RTC basis is relatively cheaper than 12 hour power and it is estimated that the power may be available at Rs.6 per kWh at MSETCL periphery. While the Commission has considered the rate of Rs.6.75 per kWh for the purpose of determination of Reliability Charge, the difference in power purchase rate would benefit the consumer, which would get captured in the quarterly reconciliation.
 - iii. While MSEDCL would try to buy the required quantum on RTC basis, the quantum of power required could change depending on the prevailing system conditions. MSEDCL assumed that this excess power would be absorbed within MSEDCL licence area at the marginal cost of power purchase from other sources, viz., MSPGCL, CGS and RGPPL plants. For the purpose of calculation, it is estimated that the said marginal cost will be ~ Rs. 4.40 per kWh.
 - iv. MSEDCL submitted that the cost of such power should be considered by the Commission in the Aggregate Revenue Requirement (ARR).
 - v. Further, the balance burden (difference between the power purchase cost and marginal cost considered in ARR) of the excess power available to the grid will be additionally recovered from the consumers of the beneficiary areas itself, at the time of reconciliation, in proportion to their consumption.

- vi. Based on the above, MSEDCL worked out the power requirement for the different scenarios of PPLS and impact of RTC power purchase on consumers.
- vii. At the time of filing the Petition, MSEDCL was implementing Scenario IV of the Principles and Protocols of Load shedding. In Scenarios V and VI, the purchase of ~250 MW will not meet the entire requirement to meet the MU required to withdraw load shedding. In such cases, additional power can be procured on a day ahead basis or through bidding process. The impact of such additional cost will be passed on to the beneficiary consumers accordingly. MSEDCL further submitted the details of MW and MU requirement under various scenarios.

(j) Taking into account the implementation of withdrawal of Load shedding in Head quarters of other Revenue Divisions, there have been requests from consumers in Nasik area to include them in the present scheme of withdrawal of load shedding of Head quarters of Revenue Divisions. MSEDCL requested the Commission to consider holding the public hearing once again in Nasik to determine the willingness of consumers to the proposal for withdrawal of load shedding in Nasik.

(k) The present petition is filed under Section 86 (1)(b) and 94(2) of the Electricity Act, 2003 (EA 2003).

4. The Commission, vide its Notice dated December 29, 2009, scheduled a hearing in the matter on January 7, 2010, and directed MSEDCL to serve a copy of its Petition along with its accompaniments to the four authorised Consumer Representatives.

5. At the hearing held in the matter on January 7, 2010, Shri. Abhijit Deshpande, C.E. (Commercial), MSEDCL appeared on behalf of MSEDCL and Shri. N. Ponrathnam appeared as an Intervener. During the hearing, Shri. Deshpande reiterated the submissions made in the Petition.

6. Prayas (Energy Group), one of the authorised Consumer Representatives, in its written submission dated January 6, 2010 submitted that the present Petition does not clearly bring out the likely impact on consumers in terms of change in Reliability Charge, as the same has been linked to actual cost of RTC power and the marginal cost of MSEDCL power purchase during night time. Prayas added that it is not clear from the Petition as to how MSEDCL would meet the MU as well as MW requirement. This

created significant uncertainty about Reliability Charge, and increase in the Reliability Charge may not be acceptable to consumers at large. Prayas also submitted that as far as procurement of additional power on RTC basis is concerned, Prayas has consistently demanded for a cap on the Reliability Charge and power purchase cost, and the Reliability Charges currently levied should be treated as Ceiling Charge.

7. Vidarbha Industries Association (VIA), another authorised Consumer Representative, in its written submission dated January 7, 2010 submitted that MSEDCL should have invited bids on RTC basis only rather than on 12 hours basis. In case of power purchase for 12 hours, the quoted rates are generally double the market rates because the balance power has to be sold at average rate of less than Rs. 1 per kWh during night hours. VIA further submitted that in Scenario IV of the Load Shedding Protocol, the power shortage is in the range of 4200 MW to 4600 MW, however, MSEDCL has not revised its Load Shedding Protocol, though the demand-supply gap has changed. While considering the Reliability Charges, the requirement of power should be calculated on the basis of the annual average demand-supply gap. Shri. Goenka submitted that MSEDCL has considered a rate of Rs. 6 per kWh for purchase of power on RTC basis, which is very high. The average annual rates for calculation of Reliability Charges should not be more than Rs. 5 per kWh on RTC basis.

8. Shri. N. Ponrathnam, an Intervener, submitted that the Appellate Tribunal for Electricity (ATE) has passed an Order in Appeal No. 135 of 2009 filed by Ispat Industries Ltd. against the imposition of Reliability Charges approved by the Commission in Case No. 143 of 2008, wherein the ATE has ruled that Reliability Charges cannot be levied. Shri. Ponrathnam further submitted that there is no provision in the EA 2003 to differentiate between the consumers on the basis of willingness to pay. Hence, conducting further public hearing will amount to contempt of the ATE Order dated December 14, 2009 in Appeal No. 135 of 2009. Shri. Ponrathnam added that MSEDCL should supply continuous power.

9. During the hearing, the Commission directed MSEDCL to submit the following:
- (a) Justification for admissibility of Clarificatory Petition in view of the significant changes sought by MSEDCL in the basic premise of the zero load shedding model as stated below:
 - i. Proposal to procure power on RTC basis at the rate of Rs.6.00 per unit as compared to the assumption of power purchase for 12 hours at the rate of Rs.6.75 per unit, which has been approved by the Commission in the Order in Case No.31 of 2009;

- ii. MSEDCL has now contended that as long as the MU requirement is met, the scheme can work. However, in the earlier proposal, MSEDCL had clearly stated that both MW and MU support is required if the zero load shedding scheme has to work.
- (b) MSEDCL should also submit:
- i. Data to justify the contention that the rates discovered through competitive bidding are much higher than the market rates;
 - ii. Data to support the contention that CPPs have offered power at lower rates on RTC basis;
 - iii. The impact of the changes proposed by MSEDCL on the Reliability Charges to be levied on the consumers in Headquarters of Revenue Divisions for various Load Shedding scenarios;
 - iv. Comparison of the power purchase rates offered to MSEDCL with the rates prevailing in the Power Exchanges, given the recent reduction in prices at the Power Exchange;
 - v. The rate and sources of power procured for Zero Load Shedding (ZLS) for the last four months, date-wise.
- (c) As regards MSEDCL's proposal to introduce ZLS in Nasik, MSEDCL should submit a separate proposal in this regard.

Till date, MSEDCL has not submitted any data sought by the Commission during the hearing on January 7, 2010.

10. Having heard the Parties and after considering the material placed on record, the Commission is of the view that as regards Prayers (a) to (d), the Clarificatory Petition filed by MSEDCL is not maintainable, as MSEDCL has not sought any clarifications, and has on the other hand, sought approval for significant changes in the basic premise of the ZLS scheme approved by the Commission for the Revenue Division Headquarters in its Order dated November 30, 2009 in Case No. 31 of 2009. These are dismissed for non-prosecution.

11. As regards Prayer (e) seeking introduction of ZLS scheme in Nashik after holding a Public Hearing, MSEDCL submitted a separate Petition under Case No. 110 of 2009, wherein the request to extend ZLS scheme to Nashik Divisional Headquarter area has also been addressed. The Commission has already issued its Order dated May 24, 2010, on MSEDCL's Petition in Case No. 110 of 2009 after holding a Public Hearing in the matter, and hence, this Prayer of MSEDCL is rendered infructuous.

12. MSEDCL is at liberty to take up the issue of procurement of RTC power for ZLS schemes under a fresh Petition, wherein all the queries raised by the Commission and the authorised Consumer Representatives are addressed.

With the above observations and rulings, the Petition filed by MSEDCL in Case No.82 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