

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 21 of 2009**

**In the matter of**  
**Petition of Vidarbha Industries Association seeking review of Commission's**  
**Order dated March 23, 2009 in Case No. 10 of 2008**

**Shri. V. P. Raja, Chairman**  
**Shri. S. B. Kulkarni, Member**

**ORDER**

**January 11, 2010**

The Vidarbha Industries Association (VIA) submitted a Petition under affidavit before the Commission on May 11, 2009, under Section 94(f) of the Electricity Act, 2003 and Regulation 85(a) of the MERC (Conduct of Business) Regulations, 2004, seeking review of the Commission's Order dated March 23, 2009 in Case No.10 of 2008, in the matter of Petition filed by MSEDCL seeking approval to procure additional power for mitigating load shedding in Vashi Circle-Navi Mumbai and Thane Urban Circle, levy of Reliability Charges and for appointment of Interim Franchisee.

2. The main prayers in the Petition filed by VIA are as follows:

“

- a) *To admit our review petition under section 94(f) of the Electricity Act 2003 and clause 95(a) of MERC Conduct of Business Regulation 2004.*
- b) *Review the final order considering the correct computation of MW support, distribution losses and ROR as detail in our petition.*
- c) *Withdraw the ZLS order in Thane Urban circle and Washi- Navi Mumbai circle till final corrected orders is issued and under recovery of reliability charges is recovered from the consumers of that area.”*

3. VIA, in its Petition, submitted as under:
- a. The Commission issued its Order in Case No.10 of 2008 on the Petition filed by MSEDCL seeking approval to procure additional power for mitigating load shedding in Vashi Circle-Navi Mumbai and Thane Urban Circle, levy of Reliability Charges and for appointment of Interim Franchisee dated March 23, 2009.
  - b. Prior to this Order, the Commission issued an Interim Order in the same matter on May 30, 2008 and fixed Reliability Charges to be paid by consumers, excluding consumers consuming 0-100 units per month, for mitigating load shedding for Thane Circle as Rs.0.43/kWh and for Vashi Circle as Rs.0.35/kWh.
  - c. The Final Order needs to be reviewed on the following grounds.
    - i. There is an error on the face of the record, as the Order has been issued without proper scrutiny of calculation of Reliability Charges. The Commission has issued the Final Order even though MSEDCL has not complied with the directives of the Commission given in the Interim Order dated May 30, 2008.
    - ii. In the Final Order, the Commission has stated, "*MSEDCL has increased the total requirement of power in MW and MU to mitigate load shedding in these areas vis-à-vis that considered for computation of Reliability Charges; the actual rate of power purchase has also varied significantly vis-à-vis that considered for computation of Reliability Charges; and the sales mix has also undergone a change due to the prevailing economic situation.*"

The Commission has further stated that "*In accordance with the Interim Order in this regard, the Commission has approved the Terms of Reference (TOR) for appointment of Chartered Accountant (CA) for auditing the reconciliation between actuals and the basis on which the Reliability Charges have been determined, on a quarterly basis. MSEDCL is yet to submit the reconciliation of the expenses and revenue under the ZLS Schemes in different areas, duly audited by the CA appointed for the purpose, to undertake the TOR approved by the Commission. MSEDCL is hereby directed to submit the quarterly reconciliation for the period from June 2008 to November 2008 within one month of this Order, and for the next quarter and thereafter, the quarterly reconciliation of the accounts should be submitted latest within 45 days of completion of the quarter*".

The Commission issued the Final Order stating *“In view of the above, the Commission is of the view that no revision of the Reliability Charges to be levied on the consumers in these areas is warranted at this stage, as the levy of additional Reliability Charges or refund of excess recovery, if any, would depend on the reconciliation between the actuals and values assumed at the time of issuing the Interim Order. Hence, the Commission rules that the Interim Order issued by the Commission on May 30, 2008 in this matter, be considered as the Final Order in this matter”*.

- iii. The above statements of the Commission are contradictory, as the Commission has accepted that the requirement of power in MW and MU as well as actual rate of power purchase has varied significantly vis-a-vis that considered for computation of Reliability Charges. The Commission has also stated that *“the sales mix has also undergone a change due to the prevailing economic situation”*. On the other hand, the Commission has ruled that the Interim Order be considered as the Final Order in the matter.

This clearly amounts to an error on the face of the record, and the Order needs to be reviewed.

- iv. While issuing the Interim Order, the Commission has not gone into the details of the MW support required to mitigate load shedding. The requirement is not being fulfilled by the purchase of 67 MW for Thane Urban Circle and 96 MW for Vashi Circle.
- v. The quantum of power purchase in MW required to mitigating load shedding is not matching with the ground reality, and MW support is being provided by the grid to mitigate load shedding. VIA cited examples of load requirement of Wagle Estate in MIDC of Thane Urban Circle and Navi Mumbai- Vashi Circle, the actual MW support required to mitigate load shedding, and the MW support provided by the grid to mitigate load shedding.
- vi. The calculation of distribution losses in both the Circles is also incorrect, as the percentage distribution losses for Thane Circle has been considered as 20% and for Navi Mumbai - Vashi Circle, it has been considered as 10%. These losses are average losses including sheddable and non-sheddable load like continuous process industries. In the Petition, the quantum of non-sheddable load, which has been considered in the average

calculation of distribution losses, has not been indicated. The additional MWh requirement to meet the losses to mitigate load shedding depends on the losses of the feeders on which load shedding is being carried out. Hence, the distribution losses of these feeders should be considered to compute the additional MWh requirement to meet the losses during the period of mitigating load shedding.

- vii. The losses of these feeders have not been considered while computing the power purchase requirement. Similarly, on one day staggered feeders in MIDC area, the power shall be fed only for 16 hours in a week for calculation of MWh requirement to meet losses during the staggered day to mitigate load shedding, whereas in the Petition, this methodology has not been adopted, hence, the calculation of average distribution losses for computing power purchase is incorrect.
- viii. The Rate of Realisation (ROR) of electricity, which shall be sold during the load shedding period, has been calculated as Rs.4.66/kWh for Thane Urban Circle and Rs.4.85/kWh for Vashi Circle, based on the total sales in these Circles, which include sheddable and non-sheddable loads like continuous process industry and staggering day industries. The ROR should be calculated only for supply to those feeders where load shedding is being observed, and these areas are mostly urban areas, where the rate of electricity tariff is less compared to industrial Tariff. Hence, the actual ROR shall be much lower as compared to the ROR considered in the Petition.
- ix. The Commission has not considered all the above aspects at the time of issuing the Interim Order, wherein the Reliability Charges were approved, and after that converted the Interim Order into Final Order, which needs to be reviewed.

4. The Commission, vide its Notice dated June 15, 2009, scheduled a hearing in the matter on July 6, 2009, which was later re-scheduled to July 10, 2009 on the request of the Petitioner and directed VIA to serve a copy of its Petition along with its accompaniments to the Respondent, MSEDCL, and the four authorised Consumer Representatives.

5. MSEDCL, vide its letter dated July 3, 2009, submitted that there is no new matter in the Petition filed by VIA, and the issues have already been discussed by the Commission in its various Orders relating to the ZLS model.

6. MSEDCL further submitted that in the Interim Order of the Commission dated May 30, 2008, the Commission has directed that the Scope of Work for appointment of Chartered Accountant has to be submitted to the Commission within 15 days of the Orders. MSEDCL submitted a letter dated July 5, 2008 to the Commission, based on which, the Commission vide its letter No. MER/TRC/Case 5 of 2008/186 dated January 16, 2009, approved the Scope of Work for the Chartered Accountant. MSEDCL submitted that it has appointed a Chartered Accountant and is in the process of auditing the reconciliation and the same will be submitted to the Commission in due course.

7. VIA, in its rejoinder dated July 6, 2009, submitted that MSEDCL has admitted in its reply that it has not followed the directions of the Interim Order, and did not submit the Scope of Work (SoW) for appointment of Chartered Accountant to the Commission within 15 days of the Interim Order issued on May 30, 2008. The MSEDCL has admitted that the auditing and reconciliation exercise has not been completed till date.

8. VIA added that MSEDCL has admitted that during the period of Interim Order, there has been change in load shedding protocol, consumption pattern, etc., which will be captured in reconciliation statement, which is not still completed. VIA submitted that the issues raised while approving the ZLS model for Pen Circle were not considered while issuing the Order for Navi Mumbai and Thane regions.

9. VIA submitted that instead of replying to the specific queries raised in the Review Petition, MSEDCL has submitted that it has adopted the methodology that has been approved in the earlier Orders of the Commission in this regard. VIA requested the Commission to direct MSEDCL to give the correct computation of the different parameters along with data that has been asked by the Petitioner in this particular case, to protect the interest of consumers and ensure justice to the consumers in other areas of the State.

10. VIA added that MSEDCL's contention that the Review Petition was submitted beyond the time limit of 45 days specified in Regulation 85 (a) of MERC (Conduct of Business) Regulations, 2004, is incorrect, as the Order was received by the Petitioner on March 26, 2009. The 45 days period was completed on May 10, 2009, which was a Sunday, and the Petition was physically filed in the Commission's Office on May 11, 2009.

11. Having heard the Parties and after considering the material placed on record, the Commission rules as under:

12. The Petitioner has raised certain issues in the context of the Commission's Order dated March 23, 2009 in Case No. 10 of 2008, in which the Commission ruled that the Interim Order dated May 30, 2008, wherein MSEDCL's proposal for Zero Load Shedding for Thane and Vashi circles, as well as the Reliability Charges to be levied to the consumers in these areas were approved for the period from June 1, 2008 to May 31, 2009, may be considered as the Final Order. The validity of the Commission's Order in Case No. 5 of 2008 was subsequently extended till the time the Commission decides on MSEDCL's Petition dated June 15, 2009 in Case No. 31 of 2009 for withdrawal of load shedding in the headquarters of Revenue Divisions of Thane, Vashi, Nasik, Aurangabad, Nagpur, Pune and Amravati in the MSEDCL licence area.

13. In the detailed Order in Case No. 5 of 2008, the Commission had ruled that *"In view of the above, the Commission is of the view that no revision of the Reliability Charges to be levied on the consumers in these areas is warranted at this stage, as the levy of additional Reliability Charges or refund of excess recovery, if any, would depend on the reconciliation between the actuals and values assumed at the time of issuing the Interim Order. Hence, the Commission rules that the Interim Order issued by the Commission on May 30, 2008 in this matter, be considered as the Final Order in this matter"*. Thus, the Commission's Order very clearly provides for necessary adjustments being made, to address the issues on account of reconciliation between the actual and values assumed at the time of the Interim Order. Moreover, the Order on which the Petitioner has raised these issues is no longer in force.

14. Furthermore, in the context of MSEDCL's Petition in Case No. 31 of 2009, the Commission has issued a separate detailed Order dated November 30, 2009, after due regulatory process, where all these issues were raised and addressed. The Petitioner was also a part of the above-said regulatory process in Case No. 31 of 2009, as an authorised Consumer Representative, from the Technical Validation Session (TVS) stage till the Public Hearing. During the public process, VIA has agreed on the methodology for determination of Additional Supply Charges for withdrawal of load shedding in the headquarters of Revenue Divisions in MSEDCL licence area, and has requested the Commission to approve the Charges. Hence, there is no need to go any further into the issues raised by the Petitioner at this point in time.

Accordingly, the Petition filed by VIA in Case No.21 of 2009 stands disposed of.

Sd/-  
(S. B. Kulkarni)  
Member

Sd/-  
(V. P. Raja)  
Chairman



(Sanjay Sethi)  
Secretary, MERC