

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
**World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai – 400 005**  
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**Case No. 30 of 2010**

**In the matter of**  
**Petition filed by the Central Railway, Mumbai seeking review of Orders dated May 16, 2006 in Case No. 1 of 2006, Order dated June 20, 2008 in Case No. 5 of 2008 and Order dated March 23, 2009 in Case No. 10 of 2008 and direction upon MSEDCL to stop the levy of Reliability Charges on Railway traction**

**Shri V. P. Raja, Chairman**  
**Shri Vijay L. Sonavane, Member**

Central Railway, Mumbai ..... Petitioner  
V/s  
Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) .....Respondent

**ORDER**

**Dated: October 28, 2010**

The Union of India through Chief Electrical Distribution Engineer, Central Railway, Mumbai submitted a Petition on July 14, 2010 under Regulation 85(a) of MERC (Conduct of Business) Regulations, 2004 seeking review of Orders dated May 16, 2006 in Case No. 1 of 2006, Order dated June 20, 2008 in Case No. 5 of 2008 and Order dated March 23, 2009 in Case No. 10 of 2008, and seeking consequent direction upon MSEDCL to stop the levy of Reliability Charges on Railway traction bill and to refund the Reliability Charges which have been accumulated to the tune of Rs.6,20,41,050/- (approximately Rs. 6.2 Crore) with interest earlier.



2. The Petitioner has prayed as under:

“

*MERC is requested to instruct MSEDCL to stop levy of reliability charges from Railway traction bills and refund the reliability charges which have been accumulated to the tune of Rs.62041048+ interest at the earliest.”*

3. The Petitioner in its Petition, submitted as under:

A. The Indian Railways is one of the important consumers of MSEDCL and drawing uninterrupted electrical energy for traction purposes at 46 locations spread all over Maharashtra State. The list of Traction Substation is as follows:

**Table 1: List of Traction Substation**

Sr. No.	Traction Substation	Grid Substation	Year of Commission	Supply Voltage (kV)
1	Igatpuri	Igatpuri	1969	132
2	Nashik	Nashik	1969	132
3	Manmad	Manmad	1969	132
4	Chalisgaon	Chalisgaon	1969	132
5	Pachora	Pachora	1969	132
6	Bhusaval	Deepnagar	1969	132
7	Lasalgaon	Lasalgaon	1994	132
8	Pimparkhed	Pimparkhed	1994	132
9	Bhadli	Khadka	2001	220
10	Malakapur	Malakapur	1989	132
11	Jalamb	Khamgaon	1990	132
12	Akola	Paras	1990	132
13	Murtijapur	Paras	1991	132
14	Badnera	Badnera	1991	220
15	Dhamangaon	Wardha	1989	220
16	Wardha	Wardha	1989	220
17	Hinganghat	Wardha	1992	220
18	Warora	Wardha	1989	220
19	Vivekanand	Chandra Nagar	1989	220



Sr. No.	Traction Substation	Grid Substation	Year of Commission	Supply Voltage (kV)
	Nagar			
20	Kalmeshwar	Kalmeshwar	1991	220
21	Butibori	Butibori	1990	220
22	Katol	Katol	1991	132
23	Thana	Bhandup	1988	22
24	Kalyan	Kalyan	1988	22
25	Kharbao (AC)	Kharbao	2002	22
26	GIT (Pune)	GIT	1982	22
27	Igatpuri	Igatpuri	1991	132
28	Turbhe	Vashi	1989	22
29	Airoli	Airoli	1997	22
30	Panvel	Panvel	2003	33
31	Panvel (AC)	Panvel	1999	33
32	Seawood	Seawood	1993	33
33	Ambarnath	Ambarnath	1974	22
34	Vasai road (DC)	Vasai road	1974	22
35	Virar	Vasai road	1975	22
36	Palghar	Bhoisar	1976	132
37	Gholvad	Bhoisar	2003	132
38	Nandurbar	Dhule	2003	132
39	Nardsna	Dhule	2003	132
40	Dharangaon	Dhule	2004	132
41	Vasai road (AC)	Vasai road	1990-92	100
42	Bhandara Road	Bhandara Road	1990-92	220
43	Amgaon	Madgi	1990-92	132
44	Kachewani	Kuluwada	1990-92	132
45	Kanchan	Kanchan	1990-92	132
46	Wirur	Gadchendur		220



- B. MSEDCL is levying Reliability Charges on Central Railways at 35 to 48 Paise/ kWh with effect from July 2008 for the traction sub-station located at Pune, Thane and Navi Mumbai area.
- C. In the Ghorpuri Traction Substation in Pune Division the Reliability Charges are levied from July 2006. The details of Reliability Charges paid so far are given below:

**Table 2: Reliability Charges paid by Central Railways in MSEDCL License area**

<b>Sr. No.</b>	<b>Name of the Location</b>	<b>Consumer No.</b>	<b>Amount recovered till date (Rs.)</b>
1	Ghorpuri (Pune)	170019004727.00	3842618
2	Thane	000019010422	24958548
3	Panvel (AC)	028519026990	9716910
4	Panvel (DC)	028519021457	4365728
5	Turbhe	000079017728	3119277
6	Sea Wood	000339024250	6421639
7	Parsik	000189027730	4664338
8	Airoli	000119011850	4951992
<b>Total</b>			<b>62041050</b>

- D. In the tariff, a special category is formed for Electrical Traction purpose, i.e. HT-III Railway, where there is no provision for Reliability Charges.
- E. The issue of levy of Reliability Charges was raised with the CE (Commercial), MSEDCL by Central Railways vide its Letter No. LRE.233.P.8.MERC dated January 15, 2009; October 9, 2009 and March 24, 2010. Moreover, during the Annual Performance Review (APR) Petition, Central Railway has taken up the issue of Reliability Charges during the presentation made by Railways.
- F. Railway traction power supply is not subject to Load Shedding. Hence, Reliability Charges are not applicable to the same. This can be clearly understood from the below mentioned paragraph of Order dated June 20, 2008 in Case No. 72 of 2007,



where the Commission has observed that costly power is required to mitigate Load Shedding.

*“Recently, the Franchisee/Interim Franchisee model has been approved for places like Baramati and Thane, Mulund, Bhandup and Navi Mumbai, wherein additional costly power required to mitigate load shedding in that region is procured by MSEDCL and there is a tri-partite Agreement between MSEDCL, the power supplier and the Interim Franchisee, with the additional Reliability Charges payable by the consumers of the respective region being approved by the Commission through a separate process, on the basis of Petition to be filed by MSEDCL, as the distribution licensee.”*

- G. This issue was well put in to notice of the Managing Director, MSEDCL on April 6, 2010, in which MSEDCL advised Railways to take up the issue with the Commission for correct direction/guidance.
4. The Petitioner has also submitted that the Railways has challenged the following Orders on levy of Reliability Charges which are as under:
- i) Case No. 1 of 2006 in the matter of MSEDCL’s proposal for approval of recovery of additional cost as Reliability Charge for mitigating load shedding in Pune Circle dated May 16, 2006,
  - ii) Case No. 5 of 2008 in the matter of MSEDCL’s Petition seeking approval for appointment of Interim Franchisee and approval of Reliability Charges to be recovered from Pune Consumers dated June 20, 2008 and
  - iii) 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 dated March 23, 2009.
- Each of the three cases are related to mitigation of Load Shedding or approval/recovery of Reliability Charges. However, Railway traction power supply is not subject to Load Shedding region. Hence, Reliability Charges are not applicable to Railway.
5. The Petitioner has also tried to justify its present petition on grounds of delay wherein the submissions made are as under:
- a) Railways has challenged the levy of Reliability Charges related to the above said three Orders. The present Petition is filed against the said Orders to invoke the



jurisdiction in exercise of powers vested in the Commission under Section 61 of the Electricity Act, 2003 (“EA 2003”).

- b) This issue was taken up with the CE (Commercial), MSEDCL vide its letters dated January 1, 2009, October 9, 2009 and March 24, 2010. Even during the Annual Performance Review (APR) Petition, the issue was taken up. This matter was brought to the notice of the Managing Director of MSEDCL on April 6, 2010, where MSEDCL advised them to take up the matter with this Commission for a correct direction.
- c) Further, Railways submitted that it has filed the Petition immediately upon having the knowledge of the practical difficulties and impossibilities in the above said matter.

6. The Commission vide its Notice dated July 27, 2010 scheduled an admissibility hearing for framing the issues in the matter on August 24, 2010 at 11.00 hrs. in the presence of Consumer Representatives authorised under Section 94(3) of the EA 2003. Railways were directed to implead MSEDCL as a party to the present Petition and to serve a copy of the Petition along with its accompaniments to MSEDCL and the authorised Consumer Representatives.

7. During the hearing, Shri. S. V. Bapat appeared on behalf of the Respondent/MSEDCL and Shri. Suresh Kumar, Advocate appeared on behalf of the Petitioner/Railways. The Commission enquired as to whether the present Petition was maintainable. On behalf of the Petitioner, it was submitted that the present petition has been filed under Regulation 85 (a) of MERC (Conduct of Business) Regulations, 2004 for review of the Order dated May 16, 2006 in Case No. 1 of 2006, Order dated June 20, 2008 in Case No. 5 of 2008 and Order dated March 23, 2009, in Case No. 10 of 2008 issued by the Commission. It was further submitted that MSEDCL has stopped the levy of Reliability Charges from December 2009 onwards as held in the Commission’s Order dated November 30, 2009 in Case No. 31 of 2009 where consumers on express feeders were exempted from the levy of Reliability Charges. Till December 2009, Railways were paying Reliability Charges to MSEDCL for which refund is sought.

8. After considering the materials placed on record, it is apparent that the grievance of the petitioner is with regard to the period prior to that of the exemption granted to Railway traction from the levy of Additional Supply Charge, vide the Commission’s Order dated November 30, 2009 in Case No. 31 of 2009 in the matter of MSEDCL’s



Petition for determination of Additional Supply Charge for withdrawal of Load Shedding in the Headquarters of Revenue Divisions in MSEDCL Licence Area. In fact in the hearing it was submitted that MSEDCL has stopped the levy of Reliability Charges from December 2009 onwards as held in the Commission's aforesaid Order dated November 30, 2009. However, since the Railways were paying Reliability Charges to MSEDCL till December 2009 i.e. till the Commission's Order dated November 30, 2009 was passed, the Railways want that the exemption be given to them for the period even prior to the passing of the said Order by reviewing the Orders dated May 16, 2006 in Case No. 1 of 2006, Order dated June 20, 2008 in Case No. 5 of 2008 and Order dated March 23, 2009 in Case No. 10 of 2008 and accordingly as a consequence of such a prayer refund of the Additional Supply Charge has been sought.

9. Having heard the parties, the Commission is of the view that the present petition has been filed under Regulation 85(a) of MERC (Conduct of Business) Regulations, 2004 seeking review of the Orders dated May 16, 2006 in Case No. 1 of 2006, Order dated June 20, 2008 in Case No. 5 of 2008 and Order dated March 23, 2009 in Case No. 10 of 2008, it would need to be tested as to whether the grounds of review have been fulfilled by the petitioner. In this regard Regulation 85(a) is extracted below:

*“Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Commission.”*



10. The Commission is of the view that the Petitioner has not been able to point out as to whether any new and important matter or evidence exists which after the exercise of due diligence was not within the knowledge of the Petitioner or could not be produced by the Petitioner at the time when the Orders dated May 16, 2006 in Case No. 1 of 2006, Order dated June 20, 2008 in Case No. 5 of 2008 and Order dated March 23, 2009 in Case No. 10 of 2008, were passed. The Petitioner has not been able to point out as to whether any mistake or error apparent from the face of the record exists in the aforesaid Orders. There is therefore no ground under which the present review petition could be allowed.

With the above, the present petition is hereby dismissed as not maintainable.

Sd/-  
(Vijay L. Sonavane)  
Member

Sd/-  
(V.P. Raja)  
Chairman



(K.N. Khawarey)  
Secretary, MERC