

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 52 of 2010

In the matter of
Petition filed by M/s. R.L.Steels Ltd. seeking clarification about the Commission's
directions in its Order dated March 5, 2010 in Case No. 71 of 2009, regarding levy
of Voltage Surcharge and its interpretation and implementation by MSEDCL

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

M/s. R.L .Steels Ltd
Aurangabad

.....Petitioner

V/s

Maharashtra State Electricity Distribution Co. Limited
5th Floor, Prakashgad,
Bandra (East), Mumbai – 400 051

.....Respondent

CLARIFICATORY ORDER

Dated: November 9, 2010

M/s. R.L .Steels Ltd. submitted a petition under affidavit on 15.09.2010, under Section 142, 146 and 62 (6) of the Electricity Act, 2003 (“EA 2003”) read with Regulations 92 and 94 of MERC (Conduct of Business) Regulations, 2004, seeking clarifications of the Commission’s Order dated March 5, 2010 in Case No.71 of 2009



regarding levy of Voltage Surcharge and its implementation by Maharashtra State Electricity Distribution Company Limited (MSEDCL).

2. The prayers of the Petitioner are as follows:

- “
- a) *It may be kindly be clarified as to whether the interpretation of the Order dated 05.03.2010 in Case No. 71 of 2009 regarding the levy of voltage surcharge on express/dedicated feeder consumers by the respondent and implementation of Circular No. 112 is correct and valid?*
 - b) *It may be clarified as to whether the Act of the Respondent in recovering voltage surcharge as per Circular No. 112 instead of interim relief prayer inspite of the Order dated 05.03.2010 of this Hon'ble Commission is valid?*
 - c) *If not suitable directions be given to the respondent to rectify the wrongs along with appropriate compensation to the petitioner and all other sufferers along with the interest as per Section 62(6) of Electricity Act, 2003.*
 - d) *It may kindly be clarified as to whether the Act of the Respondent in recovering Voltage Surcharge from 1st Aug. , 2009 as per its letter dt. 26.06.2009 is correct and valid?*
 - e) *If not suitable directions be given to the Respondent to rectify the wrongs along with appropriate compensation to all sufferers in the State, alongwith the interest as per Section 62(6) of Electricity Act, 2003.*
 - f) *All other just and equitable reliefs be granted for the effective adjudication of the subject matter involved in this petition and for its implementation.”*

3. M/s. R.L. Steel Ltd., in its Petition, submitted as under:

- a) The Petitioner is a Steel manufacturing industry situated at Aurangabad, and is a High Tension Industrial consumer on the express/dedicated feeder of MSEDCL having contract demand of 19,934 kVA. The Petitioner had also applied for enhancement in load to the extent of 24,900 kVA on 132 kV level in the year 2008 requesting to permit all the work including installation of Power Line Carrier Communication (PLCC) and Supervisory Control and Data Acquisition (SCADA) for which subsequent permission was obtained from MSEDCL in its letter dated September 16, 2009. Thereafter, the



Petitioner started the execution of 132 kV sub-station, and at present 90% of substation work is completed and the charging is expected within a month.

- b) In the meantime, the Petitioner has received first bill with 2% additional units as Voltage Surcharge in April 2010. The petitioner cannot stop its production activities, and hence was constrained to pay the bills. Since April 2010, the Petitioner is paying regularly the bills inclusive of 2% additional units as Voltage Surcharge.
- c) The Petitioner is aggrieved by the wrong interpretation and implementation of the directions of the Commission in its Order dated March 5, 2010 in Case No. 71 of 2009 regarding levy of Voltage Surcharge by MSEDCL.
- d) The petitioner submitted that the Commission had framed MERC (Standards of Performance of Distribution licensees, Period of giving supply and determination of Compensation) Regulations, 2005 (hereafter referred as SoP Regulations) with effect from January 20, 2005. The various voltage levels and corresponding Contract Demand are specified in the Regulation 5.3 of SoP Regulations, and there was no provision for levy of Voltage Surcharge in the SoP Regulations. The Petitioner further submitted that any such surcharge was not approved or ordered by the Commission before March 5, 2010 Order through "Schedule of Charges" or in the Commission's Tariff Order dated August 17, 2009 in Case No.116 of 2008.
- e) The Petitioner submitted that all of a sudden MSEDCL has issued a letter bearing No. 21960 dated June 26, 2009, and started levy of Voltage Surcharge to many consumers since August 1, 2009. The levy of Voltage Surcharge was without the approval of the Commission and hence it was void and unenforceable. Thereafter, MSEDCL submitted a Petition on November 13, 2009 under Regulations 14 and 15 of SoP Regulations, seeking approval for levy of Voltage Surcharge to consumers who are supplied power at voltage lower than that prescribed in SoP Regulations.
- f) The Petitioner also brings to the Commission's notice that MSEDCL has levied the Voltage Surcharge in many districts from August 1, 2009 even before the approval of levy of surcharge by Commission's in its Order dated March 5, 2010 and hence the additional charges recovered during the above mentioned period should be refunded.



g) The Commission in Para No. 17 of the Order dated March 5, 2010 in Case No.71 of 2009 issued directions as under:

“At the same time, it cannot be denied that the distribution losses, including transformation losses, will increase on account of supply to consumers at voltages lower than that specified in the SoP Regulations. Accordingly, till such time as the detailed technical study is undertaken and the Commission approves the levy of Voltage Surcharge based on detailed deliberations in this regard, the Commission approves MSEDCL's request for interim relief seeking permission to levy Voltage Surcharge of 2% additional units to be billed, for supply to the consumers at voltages lower than that specified in the SoP Regulations. It is clarified that this Voltage Surcharge shall apply from the date of issue of this Order, till such time as the Commission issues further orders.”

h) The Petitioner submitted that the main prayers of the MSEDCL in Case No. 71 of 2009 were as under:

1. *“It is proposed to levy surcharge of additional 15% on the energy charges on all such consumers (existing as well as prospective) availing supply at a lower voltage level than stipulated.*
2. *Permit MSEDCL to enhance the load for the existing consumers upto 10 MVA at lower voltage level. The same will be decided on case to case basis strictly on the basis of technical feasibility and other constraints.*
3. *Permit MSEDCL to release load of prospective consumers upto 10 MVA at voltage level lower than specified subject to technical feasibility and other constraints.*
4. *It was further prayed that the Hon'ble Commission may be pleased to grant by way of Interim Relief, to continue levy of 2% of monthly consumption of energy consumed by the consumer in terms of extra units to the consumers whom the energy is supplied at lower voltage than prescribed voltage till the approval of 15% voltage surcharge.*



The above referred Interim Relief may be continued for the consumers connected on Non Express Feeders. (More than one connection on the said feeder)

It is further prayed by way of Interim Relief to allow to continue to charge on the basis of consumption recorded by the meters installed at the source of supply (EHV Level) and at the consumer's end (Premises) which ever is higher, in case only one connection is on the said dedicated feeder."

- i) The Petitioner submitted that MSEDCL issued a Commercial Circular No: 112 dated April 15, 2010 to its field office for recovery of Voltage Surcharge, which is reproduced as under:

"The Commission has accorded approval to levy of Voltage Surcharge as under:

- i. 2% additional units are to be billed on the recorded consumption of the meter installed at the consumer end to all the existing and prospective consumers who are supplied power at voltages lower than that specified in the Sop regulation.*
- ii. This voltage surcharge shall apply to all consumers from 05.03.2010 i.e. date of issue of MERC order till such time the commission issues further orders.*
- iii. The release of loads at lower voltage than that specified in SoP will be considered in exceptional circumstances and will be decided at H.O only.*

All the field officers are requested to take immediately necessary action accordingly."

- j) The Petitioner further submitted that from the prayers of MSEDCL in Case No. 71 of 2009 and the Order of the Commission, it is very clear that in case of express feeder or dedicated feeder having one connection, the meter reading at the source of supply (EHV Level) is to be taken, and the billing will be on the basis of consumptions, whichever is higher. In case of Express Feeder, the meter readings taken at the source of supply (EHV level) then the distribution and transformation losses are accounted in the meter reading.



Hence, in such cases, levy of Voltage Surcharge will result in double levy of Surcharge, which is illegal and against the Order of the Commission.

- k) The Petitioner submitted that it has obtained sanction of enhancement of Contract Demand from 9000 kVA to 19934 kVA from the Respondent in the year 2006. This sanction was issued by the Head Office of the MSEDCL after the SoP Regulations were notified. The Petitioner further submitted that MSEDCL has sanctioned as a special case considering the feasibility and the constraints, and did not urge and insist the Petitioner to allow the enhancement on 33 kV level.

4. The Commission, vide its Notice dated September 30, 2010, scheduled a hearing in the matter on October 14, 2010, and directed Petitioner to serve a copy of its Petition to MSEDCL and the four Consumer Representatives authorised on a standing basis under Section 94 of the EA 2003.

5. During the hearing on October 14, 2010, Shri Pratap Hogade appeared on behalf of the Petitioner, Shri Abhijit Deshpande, Executive Director (Commercial) appeared on behalf of MSEDCL and Shri R.B. Goenka, Vidarbha Industries Association (VIA) appeared as authorised Consumer Representative.

6. Shri Pratap Hogade submitted that following points need to be taken into account for MSEDCL's wrong interpretation of Commission's previous Order:

- a) Since, the distribution losses on Express/dedicated feeders never exceeded 1% in majority cases and already get accounted in the meter reading, additional units levy for express feeders is not justified.
- b) MSEDCL demand in interim relief prayer for 2 % additional levy was limited only to the consumers on non express feeder and not for consumers on express feeder.

7. Shri. Goenka, VIA submitted that issue of Voltage Surcharge has been pending for long time and matter should have come under Sections 61 and 62 of EA 2003 and not under SoP Regulations. Shri. Goenka further submitted that MSEDCL's action is a



sort of double recovery, since distribution losses already gets accounted in MSEDCL's ARR. Thus unsought demand by MSEDCL of levying additional 2 % Voltage Surcharge to express feeder consumers by wrong interpretation of the Commission's Order is therefore completely illegal and profit motivated.

8. Shri Abhijit Deshpande submitted that the submission made by the Petitioner and Consumer Representative has clarified that it's not a double recovery but a fact of allocation of amount. Shri Abhijit Deshpande further submitted that it has already granted permission for 24,900 kVA for 132 kV level against present 33 kV level to the petitioner in its letter dated September 26, 2008.

9. MSEDCL in its written submission dated October 14, 2010, submitted as under:

- a) As per SoP Regulations, all load beyond 5000 kVA should be released only on EHV Level. At times, it becomes practically impossible to release such loads from EHV which necessitates rejection of load sanction to the consumers.
- b) The petitioner continued to be on lower voltage and started execution work at its own discretion a year later from the date of approval. Therefore, MSEDCL has requested the Commission to dispose of the petition with cost and direct the petitioner to avail supply immediately at 132 kV level failing which MSEDCL will be compelled to disconnect the supply at 33 kV.

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

MSEDCL in its Petition in Case No. 71 of 2009 had prayed as under:

“..

4. *It was further prayed that the Hon'ble Commission may be pleased to grant by way of Interim Relief, to continue levy of 2% of monthly consumption of energy consumed by the consumer in terms of extra units to the consumers whom the energy is supplied at lower voltage than prescribed voltage till the approval of 15% voltage surcharge.*



The above referred Interim Relief may be continued for the consumers connected on Non Express Feeders. (More than one connection on the said feeder)

It is further prayed by way of Interim Relief to allow to continue to charge on the basis of consumption recorded by the meters installed at the source of supply (EHV Level) and at the consumer's end (Premises) whichever ever is higher, in case only one connection is on the said dedicated feeder.”

The Commission in its Interim relief in the Order dated March 5, 2010 in Case No. 71 of 2009 held as under:

“

*At the same time, it cannot be denied that the distribution losses, including transformation losses, will increase on account of supply to consumers at voltages lower than that specified in the SoP Regulations. Accordingly, till such time as the detailed technical study is undertaken and the Commission approves the levy of Voltage Surcharge based on detailed deliberations in this regard, **the Commission approves MSEDCCL's request for interim relief seeking permission to levy Voltage Surcharge of 2% additional units to be billed, for supply to the consumers at voltages lower than that specified in the SoP Regulations. It is clarified that this Voltage Surcharge shall apply from the date of issue of this Order, till such time as the Commission issues further orders.***

*The above referred Interim Relief **may be continued for the consumers connected on Non Express Feeders. (More than one connection on the said feeder)**”(Emphasis added)*

In Case No. 71 of 2009, MSEDCCL had submitted as follows-

“3. i) ...To overcome this and also to meet the universal service obligation of providing supply to all, the following practice was in vogue.

A) If the power supply is connected on dedicated feeder (only one connection on the said feeder) The monthly energy billing is done based on the consumption, whichever is higher, between the meter installed at source of supply (at EHV level) and at the consumer end (premises) (After ensuring that the metering at both S/S end and the consumer end are of the same



rating and class of accuracy, and the cost involved is borne by the applicant)

B) If the consumer is connected on non-dedicated feeder (more than one connection on the said feeder) Levy of 2 % extra units on the monthly energy consumed by the applicant. In both the above methodologies, the power supply shall be released only after taking consent/acceptance from the applicant. The 2% criteria is as per the Commission's assessment of T&D losses for express feeders, i.e., -0.5% to 2% as mentioned in the Commission's Tariff Order in Case No.2 of 2003 dated March 10, 2004."

From the above, it is amply clear that the Commission has approved MSEDCL's request for levying Voltage Surcharge of 2% additional units to be billed, for supply to the consumers connected on Non Express Feeders (More than one connection on the said feeder) at voltages lower than that specified in the SoP Regulations, and also allowed MSEDCL to continue to charge on the basis of consumption recorded by the meters installed at the source of supply (EHV Level) and at the consumer's end (Premises) whichever ever higher, in case only one connection is on the said dedicated feeder without levy of Voltage Surcharge as an Interim relief.

The Commission in its Tariff Order dated September 12, 2010 in Case No. 111 of 2009 had further clarified in this regard. The relevant part on Page No. 172 of the said Tariff Order is reproduced below:

*"...Further, the Commission has accepted MSEDCL's request in the above-said Petition, and it is hereby clarified that the above Interim Relief is applicable for the consumers connected on Non Express Feeders (more than one connection on the said feeder), and **in case only one connection exists on the said dedicated feeder, the tariffs should be charged on the basis of consumption recorded by the meters installed at the source of supply (EHV Level) and at the consumer's end (Premises), whichever is higher, without any levy of voltage surcharge.**"(Emphasis added)*

11. In view of the above, the Commission clarifies that under its Order dated dated March 5, 2010 the levy of 2 % extra units cannot be made if the power supply is connected on dedicated feeder (only one connection on the said feeder). Levy of 2 %



extra units on the monthly energy consumed is applicable if the consumer is connected on non-dedicated feeder (more than one connection on the said feeder).

The Commission in its Interim relief in the Order dated March 5, 2010 in Case No. 71 of 2009 has clarified that the levy of 2% additional Voltage Surcharge to the consumers connected on Non Express Feeders (more than one connection on the said feeder) shall be applicable from the date of issue of Order, i.e. March 5, 2010. The relevant extract of the Operative part of Order is reproduced below:

“

It is clarified that this Voltage Surcharge shall apply from the date of issue of this Order, till such time as the Commission issues further orders.”

In this regard it may be noted that Maharashtra Rajya Veej Grahak Sanghatana had in the aforesaid Case No. 71 of 2009 had raised the following issue - *“The Commission has never approved any levy on retrospective basis. Accordingly, MSEDCL's prayers for retrospective application of Voltage Surcharge should not be considered.”* The Commission at para 17 of the aforesaid order held as follows-

“It is clarified that this Voltage Surcharge shall apply from the date of issue of this Order, till such time as the Commission issues further orders.”

In view of the above, the Commission clarifies that levy of additional 2 % Voltage Surcharge on consumers on Non Express feeder has not been permitted for any period prior to March 5, 2010 thus levy with retrospective effect is not permissible.



With the above clarifications the present petition stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman



(K.N Khawarey)
Secretary, MERC