

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
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Case No. 60 of 2010

**In the matter of
Petition filed by M/s. Ruby Mills Ltd. seeking review of Order dated 5th March, 2010
in Case 71 of 2009**

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

M/s. Ruby Mills Ltd.

..... Petitioner

V/s

Maharashtra State Electricity Distribution Co. Ltd.

.....Respondent

ORDER

13th December, 2010

M/s. Ruby Mills Ltd. submitted a Petition under affidavit before the Commission on 4th October, 2010 under Section 94 (1) (f) of the Electricity Act, 2003 (hereinafter referred to as "EA 2003") seeking review of the Commission's Order dated 5th March, 2010 in Case 71 of 2009, regarding levy of Voltage Surcharge and seeking consequent direction upon MSEDCL to discontinue the collection of such extra charges.

2. The prayers of the Petitioner are as follows:

"The Petitioners request your Honour to amend the Order to exempt from the levy of voltage surcharge in all such cases, where the Respondents had sanctioned supply on their own at 22 kV level because of non-availability of



power at 33 kV level & not to permit the respondents to collect such extra charges and to refund extra charges with reasonable interest, if collected earlier.”

3. The Petitioner in its Petition submitted as follows:

- a) The Petitioner, M/s. Ruby Mills Ltd., is a HT industrial consumer having a textile mill located at Village Dhamni, Khalapur and connected on 22kV feeder of MSEDCL. The Petitioner had applied for a new electricity connection for its said textile mill in the year 2005-06.
- b) Though the MERC (Standard of Performance of Distribution licensees, Period of giving supply and determination of compensation) Regulations 2005 (hereinafter referred to as “SOP Regulations”) was applicable at the time when the Petitioner had applied for a new electricity connection, MSEDCL released the connection on 22 kV feeder instead of 33 kV feeder. The connection on 22 kV feeder was released not as a choice or option or preference of the Petitioner but because of the inability of MSEDCL to make power available on 33 kV line.
- c) Due to inability of the MSEDCL to supply power on 33 kV, the Petitioner had to remain contended with 22 kV feeder and were thus forced to pay an amount of Rs.1.5 Cr on feeder, which was not in consonance with the SOP Regulations.
- d) Subsequent to the Commission’s ruling in its Order dated 5th March, 2010 in Case No. 71 of 2009, MSEDCL started levying voltage surcharge in monthly energy bill of the Petitioner. The relevant extract of the said Order is reproduced below:

“MSEDCL should ensure that supply is released in accordance with the voltages specified in the SoP Regulations for release of electricity supply connections. However, in certain circumstances as highlighted by MSEDCL and reproduced below, there could be a need to release the supply connection at lower voltages:

- (i) Space constraint for construction of EHV sub-station*
- (ii) Time required for construction of EHV sub-station*
- (iii) Right of way/Way Leave/clearance problems*
- (iv) Non-availability of prescribed voltage level infrastructure*



It is clarified that even in the above instances, the electricity supply may be released at lower voltages only under exceptional circumstances, and that too only as an interim solution, and the distribution licensee has to ensure that the supply is given at the specified voltage at the earliest.....”

- e) 22 kV feeder was permitted to them not because of their choice but because of the sheer inability of the MSEDCL to make power available on 33 kV level. Petitioner further submitted that, even today 33 kV level network does not exist in nearby area. Therefore, Petitioner requested to review the above said Order of the Commission as the Petitioner is required to pay 2% voltage surcharge only because of inability of MSEDCL.
4. The Commission, vide its Notice dated 14th October, 2010, scheduled a hearing in the matter on 4th November, 2010, and directed Petitioner to serve a copy of its Petition to MSEDCL and the four authorised Consumer Representatives. Hearing in the matter was rescheduled by the Commission on 26th November, 2010 vide its notice dated 9th November, 2010.
5. The hearing in the matter was held on 26th November, 2010. Shri U. G. Tamhane appeared on behalf of the Petitioner. Ms. Deepa Chawan, Counsel, and Shri R.G. Sonawane, Superintending Engineer, Commercial appeared on behalf of MSEDCL.
6. During the hearing, the Petitioner reiterated the above said matter and stated that if MSEDCL cannot provide power on proper voltage then they have no authority to charge extra 2% as a voltage surcharge.
7. MSEDCL has admitted that due to the lack of infrastructure, power supply to the Petitioner was released on 22 kV level even though as per SOP Regulations, 2005, the Petitioner was eligible for availing power supply on 33 kV level. MSEDCL further submitted that, now in case the Petitioner desires, MSEDCL can arrange for 33 kV supply from nearest EHV substation.
8. On MSEDCL's proposal of arranging for 33 kV power supply, the Petitioner submitted that, MSEDCL should provide cost estimation and time frame for providing 33 kV level power supply after which the Petitioner would be able to work out cost economics between availing 33 kV power supply and paying voltage surcharge.
9. Having heard the parties and considering all the documents available on record, the Commission is of view as under:



- a. MSEDCL had released power supply to the Petitioner on 22 kV level as 33 kV network was not available. Even at present, 33 kV network is not available in nearby area of the Petitioner.
- b. As power supply is provided on lower voltage due to non-availability of prescribed voltage level infrastructure, MSEDCL has been levying voltage surcharge as per following provisions of the Commission's Order dated 5th March, 2010:

“15. MSEDCL should ensure that supply is released in accordance with the voltages specified in the SoP Regulations for release of electricity supply connections. However, in certain circumstances as highlighted by MSEDCL and reproduced below, there could be a need to release the supply connection at lower voltages:

- (i) Space constraint for construction of EHV sub-station*
- (ii) Time required for construction of EHV sub-station*
- (iii) Right of way/Way Leave/clearance problems*
- (iv) Non-availability of prescribed voltage level infrastructure*

It is clarified that even in the above instances, the electricity supply may be released at lower voltages only under exceptional circumstances, and that too only as an interim solution, and the distribution licensee has to ensure that the supply is given at the specified voltage at the earliest.”

17. 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.....” (emphasis added)

- c. During the hearing, MSEDCL submitted that, it was agreeable to provide power supply to the Petitioner on 33 kV, i.e., at specified voltage by installing new transformer at nearest EHV substation for which huge capital expenditure have to be incurred and the same needs to be borne by the Petitioner



- d. During the hearing, the Petitioner submitted that, it will be required to study cost economics involved in availing power supply on 33 kV level. In view of this, MSEDCL is directed to provide the Petitioner, within a month, details of cost estimation and time frame for providing 33 kV level power supply. However at the same time, it needs to be clarified here that, option of availing supply on specified voltage based on cost economics involved is not provided in MERC (Standard of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 as clarified in the Commission's Order dated 5th March 2010. The relevant paragraph of the said order is reproduced below:

“15.

It is further clarified that the cost of EHV sub-station and the consumer's inability to afford the EHV sub-station cannot be a ground for releasing supply at lower voltages, as the SoP Regulations do not make any allowances in this regard, and more consumers may claim non-affordability as a ground for release of supply at lower voltages.”

In view of above observations and directives, the Commission does not find any reasons for review of its Order dated 5th March, 2010, and direct that, till such time, the supply is given at lower than specified voltage, the voltage surcharge can be levied. Accordingly, the Petition in Case No. 60 of 2010 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman



(K. N. Khawarey)
Secretary, MERC