

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 95 of 2013**

**IN THE MATTER OF**  
**Suo-motu determination of supplemental charges of MSEDCL to give effect of other Orders**

**Shri Vijay L. Sonavane, Member**  
**Smt. Chandra Iyengar, Member**

**Dated: 5 September, 2013**

Maharashtra State Electricity Distribution Company Limited (MSEDCL) is a Company formed under the Government Resolution No. ELA-1003/P.K.8588/Bhag-2/Urja-5 dated 24 January, 2005, of the Government of Maharashtra, with effect from 6 June, 2005 according to the provisions envisaged in Part XIII of the Electricity Act, 2003. A provisional Transfer Scheme was notified under Section 131(5)(g) of the Electricity Act, 2003 on 6 June, 2005, which resulted in the creation MSEDCL along with other successor companies from the erstwhile Maharashtra State Electricity Board.

2. MSEDCL is a distribution licensee within the meaning of Section 14 of the Electricity Act, 2003 ("EA 2003" or "the Act" henceforth). According to the provisions of Section 86 (a) and (b) of the Act, the Maharashtra Electricity Regulatory Commission ("MERC" or "this Commission" or "the Commission" henceforth) determines the tariff for supply of electricity by MSEDCL and also regulates purchase of electricity by MSEDCL for supply to its consumers.
3. This Commission had determined the tariff for supply of electricity by MSEDCL through its Order dated 16 August, 2012, in Case No. 19 of 2012, which came into effect from 1 August, 2012. The rate schedule approved in the Order is still in vogue, as the Commission has not revised the tariff since then.
4. Since the issuance of last tariff order for MSEDCL, the following Orders have also been passed by the Commission in relation to the matters of tariff of Maharashtra State Power Generation Company Limited (MSPGCL) and intra-state transmission system in Maharashtra.
  - a) Order on 8 February, 2013, in Case No. 77 of 2012, on a Petition filed by Maharashtra State Power Generation Company Limited (MSPGCL) seeking review of Order dated 21 June, 2012 in Case No. 6 of 2012 for final True up of FY 2010-11, approval of Aggregate Revenue Requirement and Tariff for FY 2011-12 and FY 2012-13. Accepting review of certain costs, the Commission had determined and allowed the amount of recovery entitled to MSPGCL in addition to the amount determined in Case No. 6 of 2012.

- b) MSPGCL sells all its generation to MSEDCL, MSEDCL is the only beneficiary of MSPGCL. Therefore, MSPGCL's cost has to be entirely recovered from MSEDCL. However, these additional amounts approved in Case 77 of 2012 could not be factored into MSEDCL's tariff approved through the Order in Case No. 19 of 2012 mentioned above, which was issued earlier than the Order in Case 6 of 2012. In view of this MSEDCL had submitted a petition, in Case No. 32 of 2013, before this Commission on 1 March, 2013 seeking a mechanism for recovery of this additional amount from its customers, which became payable to MSPGCL. However, this Commission rejected MSEDCL's application through an Order dated 30 April, 2013, observing that procedural requirement envisaged under Section 64 of the Act had to be satisfied before a revision in MSEDCL's tariff can be allowed.
- c) MSEDCL was directed to include the impact of the Order in Case No. 77 of 2012 in its petition for tariff for the second control period.
- d) On 13 May, 2013 the Commission passed the Order in Case No. 56 of 2013, approving the transmission tariff for InSTS for the second control period in Maharashtra. Amongst others, the Commission approved in this Order the multiyear transmission tariff payable by MSEDCL for each of the financial years FY 2013-14 through FY 2015-16. This Order came into effect from 1 April, 2013. There was an increase in monthly transmission tariff payable by MSEDCL from the month of April 2013. Obviously, the impact of this increase could not be factored in to MSEDCL's tariff approved through the Order in Case No. 19 of 2012 mentioned above, which was issued earlier than the Order in Case 56 of 2013.
5. The Commission observes that the financial impact of the above mentioned Orders are substantial.
6. The Order in Case 77 of 2012 had allowed MSPGCL to recover the following amounts:

Item	Amount (Rs. Crore)	Remarks
Impact of revised truing up of MSPGCL's power stations for FY 2010-11	143.12	Lump sum amount. MSPGCL was ordered to recover the amount in 3 equal monthly instalments starting from the month of February 2013.
Review of provisional fixed cost of MSPGCL's Unit No. 5 of Khaperkheda power station	547.68	Yearly fixed cost for FY 2012-13
Review of provisional fixed cost of MSPGCL's Unit No. 4 of Bhusawal power station	514.30	Yearly fixed cost for FY 2012-13
Review of provisional fixed cost of MSPGCL's Unit No. 5 of Bhusawal power station	501.42	Yearly fixed cost for FY 2012-13

7. MSPGCL's Khaperkheda Unit No. 5 was commissioned on 16 April, 2012 and Bhusawal Unit 4 was commissioned on 16 November, 2012. Bhusawal Unit 5 has not been commissioned yet by MSPGCL.
8. The approved provisional fixed cost for FY 2012-13 of Khaperkheda Unit 5 and Bhusawal Unit 4 together requires a payment of Rs. 88.50 Crore per month by MSEDCL to MSPGCL. Considering that these two units were in commercial operation for 11.5 months and 4.5 months respectively total required fixed cost payments to MSPGCL in FY 2012-13 was Rs. 717.72 Crore apart from the lumpsum payment of Rs. 143.12 Crore approved for recovery from MSEDCL.
9. Subsequently, MERC vide Order dated 3 September 2013 in Case No 44 of 2013 decided the Final Tariff of Khaperkheda Unit No.5 for FY 12-13. In the said Order the Commission directed as follows:

*“xvii) As FY 2012-13 is already completed, the Commission allows MSPGCL to recover the difference in revenue recoverable in accordance with the Tariff approved in this Order vis-a-vis the Provisional Tariff charged by MSPGCL in 6 equal monthly instalments from October 2013 onwards. The Commission shall carry out the truing up for FY 2012-13 in accordance with MERC Tariff Regulations, 2005.”*

*xviii)The Commission allows MSPGCL to recover fixed cost and energy charges as per the tariff approved in this Order from MSEDCL till tariff for FY 2013-14 is approved as a part of MSPGCL's Multi Year Tariff Petition for the second Control Period for FY 2013-14 to FY 2015-16.”*

10. Further in the above said Order dated 3 September 2013, the Commission allowed MSEDCL to recover the cost billed by MSPGCL to them as follows:

*“xix) As the variation in cost of generation is ultimately to be passed on to consumers, the Commission hereby allows MSEDCL to recover the variation in energy charge component of the amount billed by MSPGCL to MSEDCL as approved by the Commission from the consumers through the FAC mechanism. Similarly, the Commission allows MSEDCL to recover the variation in fixed charge component of the amount billed by MSPGCL to MSEDCL as approved by the Commission from the consumers in proportion to Average Billing Rate of respective consumer categories, under intimation to the Commission.”*

11. Through above said Order dated 3 September 2013, the Commission decided the final tariff for Khaperkheda Unit 5 and also allowed MSEDCL to recover the same through its Consumers under intimation to the Commission. Also, through same Order the Commission allowed difference in final and provisional tariff for FY 12-13 to be recovered from consumers in six equal instalments.
12. Though the Order in Case No. 77 of 2012 approved the provisional fixed cost for FY 2012-13, the same approved fixed cost continues to be MSPGCL's tariff for Bhusawal Unit 4 as no further revision in the tariff for this units have been determined by this Commission. Therefore, MSEDCL is required to pay the same Rs. 42.86 per month in FY 2013-14 also, i.e. in the current financial year.

13. Further the transmission tariff Order in Case No. 56 of 2013 required MSEDCL to pay Rs. 465.22 Crore per month towards intra-state transmission charges with effect from April 2013. This was an increase of Rs. 192.53 Crore per month from the transmission tariff it was paying till March 2013, which was Rs. 272.69 Crore.
14. Therefore, the combined impact of the Orders in Case No. 77 of 2012 and Case No. 56 of 2013 on MSEDCL is Rs. 235.39 Crore per month.
15. The impact of the above orders on MSEDCL till the month of August 2013 (i.e. the current month) can be consolidated as below.

Particular	Amount (Rs. Crore)
Lump sum additional amount approved after review of truing up of MSPGCL's generating stations for FY 2010-11	143.12
Impact of approved provisional fixed cost of Khaperkheda Unit 5 (up to March 13)*	524.86
Impact of approved provisional fixed cost of Bhusawal Unit 4	407.15
Impact of transmission tariff payable from April 2013 to August 2013	962.65
<b>Total</b>	<b>2037.78</b>

\*For FY 13-14 the Commission vide Order dated 3 September 2013 in Case No 44 of 2013 approved final tariff for Khparkheda Unit 5 and also allowed MSEDCL to recover the same from its consumers.

16. All the above items are forming part of MSEDCL's power purchase cost. Since the Commission regulates the power procurement of MSEDCL including the price thereof, these costs need to be allowed to MSEDCL in the next exercise of tariff determination under Section 62, as these costs have been determined by this Commission vide Order dated 8 February 2013. The accumulated under recovered amount till August 2013 is therefore Rs. 2037.78 Crore. These costs have already been incurred as per the provisions of the Orders. MSEDCL consumers have already consumed the power supplied by MSPGCL from the identified units. Furthermore, MSEDCL will have to continue to pay an incremental amount of Rs. 235.39 Crore per month (Rs 42.86 Crore towards Bhusawal Unit No. 4 and Rs. 192.53 Crore towards Transmission Cost) even after August 2013 towards overall power purchase cost. For these entire items tariff for FY 2013-14 has not been approved so far for MSEDCL.
17. It is imperative that the Commission will allow MSEDCL to recover the costs identified in the foregoing paragraphs while determining its tariff. But, as it is evident now, the MYT tariff order of MSEDCL will take some time to get notified. It is almost one year now since the tariff for supply of electricity by MSEDCL was determined by the Commission. Already the accumulated under recovery has been quite high and it will continue to accumulate further at least at the rate of Rs. 235.39 Crore per month culminating into a huge amount of under recovery and financial problems for MSEDCL. Also huge amount of under recovery may accumulate a substantial amount of avoidable carrying cost by MSEDCL, as it may need to borrow higher working capital to tide over the under recovery. Continuity of such a situation may result into serious ramifications on the financial health of MSEDCL. It will also lead to abrupt and very high

increase in retail tariff in future and will create undesirable tariff shock to the consumers of MSEDCL which consumers may not be able to absorb.

18. In the considered opinion of the Commission the situation requires the Commission's suo-motu intervention and MSEDCL should be able to start recovering these amounts till the next tariff Order is issued by the Commission upon receipt of a petition from MSEDCL.
19. Section 61 (d) of the Act provides that the State Commission has to safeguard the interest of the consumers' and at the same time allow recovery of cost of electricity in a reasonable manner.
20. Further the Commission in its Order dated 3 September 2013 in Case No 28 of 2013 ruled on the matter of allowing supplemental / additional generation cost as pass-through on the consumers as follows:

*xi) As the variation in cost of generation is ultimately to be passed on to consumers, the Commission hereby rules that from this Order onwards MSEDCL will recover the variation in energy charge component of the amount billed by MSPGCL to MSEDCL as approved by the Commission from the consumers through the FAC mechanism. Similarly, the Commission allows MSEDCL to recover the variation in fixed charge component of the amount billed by MSPGCL to MSEDCL as approved by the Commission from the consumers in proportion to Average Billing Rate of respective consumer categories, under intimation to the Commission.*

21. The Commission has reiterated its above ruling in Order dated 3 September 2013 in Case No 44 of 2013.

### **Commission's Ruling**

22. **In view of the above, the Commission directs MSEDCL to recover two additional charges from its consumers, in the form of additional energy charge:**
  - a. **To recover the accumulated under-recovery of Rs. 2037.78 Crore accrued till the month of August 2013, which shall be levied by MSEDCL for a period of six (6) months with effect from the month of September 2013 till the month of February 2014. Category wise Additional Energy Charge (AEC-1) to be levied to all consumer categories in the proportion to the approved Average Billing Rate of respective consumer categories, under intimation to the Commission.**
  - b. **To recover monthly fixed expense of Rs. 235.39 Crore. This shall be levied by MSEDCL from the month of September 2013 to its consumers on a monthly basis till further determination of MSEDCL tariff by this Commission. Category wise Additional Energy Charge (AEC-2) to be levied to all consumer categories in the proportion to the approved Average Billing Rate of respective consumer categories, under intimation to the Commission.**
  - c. **Further, the Commission hereby rules that from this Order onwards MSEDCL will recover the variation in energy charge component of the amount billed by MSPGCL to MSEDCL as approved by the Commission from the consumers**

**through the FAC mechanism. Similarly, the Commission allows MSEDCL to recover the variation in fixed charge component of the amount billed by MSPGCL and amount billed by MSETCL to MSEDCL as approved by the Commission from the consumers in proportion to the approved Average Billing Rate of respective consumer categories, under intimation to the Commission.**

23. With the above the Commission disposes off this suo-motu Order.

sd/-  
(Chandra Iyengar)  
Member

sd/-  
(Vijay L. Sonavane)  
Member