

RECORD OF PROCEEDINGS

DATE OF HEARING : June 27, 2007 at 11.10 hrs
CASE No. : **11 of 2007**
PETITIONERS : Maharashtra State Electricity Distribution Company Limited (“MSEDCL”)
RESPONDENTS : 1. Tata Power Company Limited (“TPC”)
2. Reliance Energy Limited (“REL”)
3. Brihan Mumbai Electric Supply and Transport Undertaking (“BEST”)
MATTER : Petition filed by MSEDCL seeking review of the Order dated May 15, 2007 passed in Case No. 76 of 2006 (in the matter of Petition filed by TPC seeking Clarification of Order dated September 29, 2006 in Case No 31 of 2006).

[The Order dated September 29, 2006 in Case No 31 of 2006 was passed in the matter of determination of transmission tariff for FY 2006-07 for Intra-State Transmission System].

MSEDCL filed a Petition on May 30, 2007 seeking review of the Order dated May 15, 2007 passed in Case No. 76 of 2006 (in the matter of Petition filed by TPC seeking clarification of Order dated September 29, 2006 in Case No 31 of 2006). The Commission scheduled the hearing of the matter for June 27, 2007 in the presence of consumer representatives authorized on a standing basis under the Electricity Act, 2003 (“EA 2003”). Notices were issued accordingly.

2. At the hearing held in the matter on June 27, 2007, Smt. Deepa Chawan furnished certain data before the Commission with regard to the impact on MSEDCL due to the monthly net export of power to TPC, and graphs denoting half-hourly energy purchase by TPC from MSEDCL, vis-à-vis energy sale to other distribution licensees. Counsel submitted that such data of TPC *qua* MSEDCL were not on record before the Commission in the proceedings under Case No. 76 of 2006, culminating into the impugned Order dated May 15, 2007. Considering the said data, the Commission may thereby be pleased to review the said impugned Order dated May 15, 2007 in Case No. 76 of 2006 and grant the prayers made under the Review Petition. In terms of the data furnished as aforesaid, Counsel submitted that the practice of charging tariff on a half-hourly basis initiates more accuracy of calculating energy sold to TPC, as compared to charging on a monthly basis, which the impugned Order has mandated. The Commission observed that no substantial new fact in terms of Regulation 85(a) of the MERC (Conduct of Business) Regulations, 2004, has been brought to the notice of the Commission in the present proceedings. The Commission further observed that the data furnished as aforesaid reflects certain minor difficulties in the billing mechanism employed by MSEDCL on implementation of the Order dated May 15, 2007. These minor difficulties may be settled through inter-party common dialogue. Review of the principles of settlement of energy exchange amongst utilities, as such, is not necessitated. Counsel further submitted that since the impugned Order dated May 15, 2007 provides that monthly billing should be operationalized retrospectively from October 2006, MSEDCL would be facing severe difficulty and loss while charging on the sale of energy to TPC

from October 2006 on a monthly basis, as the same has already been recorded on a half-hourly basis. The Commission invited the opinion of one of its consultants, Shri. Ajit Pandit, to justify whether the technical data submitted by MSEDCL substantiates a review of the Order dated May 15, 2007.

3. Shri. Ajit Pandit submitted that primarily the Order dated May 15, 2007 does not deviate from Commission's earlier stand to undertake settlement of inter-utility energy exchange on a monthly basis until elaborate metering arrangement is put in place. The said Order is in consonance with the earlier orders passed by the Commission on similar issues. Shri. Pandit submitted that the said Order dated May 15, 2007 provides that with effect from October 1, 2006, inter-utility energy exchange shall not be treated as 'bulk' energy supply by MSEDCL to TPC. The inter-Utility energy exchange (over-drawal/ under-drawal by each licensee) should be ascertained as against their respective contractual entitlements. A centralized pooling arrangement was required to be prepared by SLDC in terms of month-wise data of inter-utility energy exchange that takes place in Maharashtra. SLDC has submitted the relevant data and statements only yesterday i.e. June 26, 2007 which is under Commission's consideration. Shri. Ajit Pandit submitted that the grievance of MSEDCL relates to the manner of billing of energy exchange. Manner of billing of energy exchange is directly related to the manner of recording of energy exchange. At the present juncture, the data and statements submitted by SLDC needs to be critically examined to resolve issues relating to the manner of recording of energy exchange, and thereafter, the issues relating to the manner of billing of energy exchange shall be resolved. Review of the Order dated May 15, 2007 shall not serve any purpose.

4. Smt. Chawan enquired of Shri. Ajit Pandit for any suitable guideline/billing mechanism to tide over the interregnum, considering that resolving the issues relating to manner of recording of energy exchange will take some time. Shri. Ajit Pandit submitted that the principles of settlement of energy exchange in the interim as well as on final basis as and when metering arrangement is put in place, have already been elaborated under intra-State ABT Order. The said intra-State ABT Order envisages establishment of MSPC which can address the concerns/differences related to billing disputes. Counsel further submitted that MSEDCL should not be foreclosed from charging delayed payment charges/penalty on TPC since SLDC has not taken expeditious steps in the development of a uniform billing mechanism for inter-utility energy exchange.

5. Shri. J.D. Kulkarni, TPC submitted that each distribution licensee needs to be independent so far as billing on energy exchange is concerned. Further, the Commission should consider that SLDC has earlier submitted data and statements on several occasions, and the additional data and statements submitted on June 26, 2007 may not lead to any new finding. Furthermore, monthly netting of energy exchange is not a new concept and was earlier employed by MSEDCL on TPC. So far as the contentions of MSEDCL are concerned relating to delayed payment charges/ penalty, Shri J.D. Kulkarni submitted that delayed payment charges/penalty is applicable on bills that have been raised. TPC need not be liable to bear delayed payment charges/penalty when no bills are being raised by MSEDCL. The Commission should further consider that if MSEDCL bills on TPC on a monthly basis, in terms of the Order dated May 15, 2007, the same would be favourable for MSEDCL as energy sale to TPC would be charged on a monthly marginal price basis.

6. Shri. N.L. Patil, Chief Engineer, SLDC, submitted that the Commission should consider the data and statements submitted on June 26, 2007.

7. The Commission observed that issues raised under the present proceedings should be resolved through harmonious inter-utility dialogue in the presence of SLDC. While SLDC has not taken expeditious steps, the data and statements submitted on June 26, 2007 shall be scrutinized expeditiously. So far as the difficulties, which MSEDCL is facing in the interregnum, the said may be mitigated through a truing-up exercise. MSEDCL was directed to submit data for energy exchange with TPC (Oct-06 to Mar-07) as claimed by them to SLDC (with copy to Commission) for SLDC to review and compare their submissions of June 26, 2007. The rationale in the Order dated May 15, 2007 need not be reviewed at the present juncture. The said order closes all doors for the treatment of energy exchange from TPC to REL and BEST as 'bulk' supply. Further, utilities and the SLDC need to sit together and resolve various issues concerning intra-utility energy exchange. In view thereof, the present proceedings may be adjourned to consider the data and statements submitted by SLDC on June 26, 2007.

The hearing in the matter was adjourned thereafter.

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List of Persons present at the hearing on June 27, 2007

1. Smt. Deepa Chawan, Counsel for MSEDCL.
2. Smt. Alpana Dhake, Advocate for MSEDCL.
3. Smt. Ankita Bhasin, Little & Co.
4. Shri. Harjot Singh, Little & Co.
5. Shri. Ajit Pandit, ABPS Infrastructure Advisory
6. Shri. P.S. Pandya, Consultant, REL.
7. Shri. Kapil Sharma, Head-Regulatory, REL.
8. Shri. G.S. Trimukhe, CE (PP), MSEDCL.
9. Shri. D.S. Dumbre, EE (LM), MSEDCL.
10. Smt. Rima Nair, Dy EE (PP), MSEDCL.
11. Shri. Rajiv Mistry, JE (PP), MSEDCL.
12. Shri. Sandeep Mane, AGM, Feedback Ventures.
13. Shri. N.J. Patil, CE, SLDC.
14. Shri. P.B. More, SE, SLDC.
15. Shri. B.H. Gujara, EE, SLDC.
16. Shri.S.A. Vyavahare, EE, MSETCL.
17. Shri. V.T. Phirke, EE, MSETCL.
18. Shri. K.N. Rajgopal, Dy CE, BEST.
19. Shri. S.S. Jadhav, BEST.
20. Shri. S.B. Dhake, BEST.
21. Shri. R.D. Parom, BEST.
22. Shri. J.D. Kulkarni, DGM, TPC.
23. Shri. V.H. Wagle, Mgr, TPC.
24. Smt. S.R. Mehendale, Asst Mgr, TPC.
25. Shri. Prashant K. Anvekar, Sr EE, TPC.
26. Shri. V.B. Semletty, Dy Mgr, REL.
27. Dr. S.L. Patil, Secretary, TBIA.