

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 4 of 2003

In the matter of
Additional Outlets for drawal of Power by REL from TPC

Dr Pramod Deo, Chairman
Shri A. Velayutham, Member

Dated: 9th December, 2005.

ORDER

1. BSES Limited (which has subsequently been renamed as Reliance Energy Limited in February, 2004 and referred to as REL), filed this Petition on 28th February 2003 under Section 22(2)(e) and 22(2)(n) of the Electricity Regulatory Commissions Act, 1998 (ERC Act) in the matter of disputes between BSES Ltd. and The Tata Power Company Limited (TPC).
2. The prayers in the Petition are, inter alia:
 - a) Direct TPC to afford to REL such additional outlets at such locations as may be specified by REL from time to time within 30 days and without insistence upon any precondition and/or agreement as is being demanded by TPC
 - b) TPC be directed to pay to REL a sum of Rs 55,47,844 as per particulars of Claim together with further interest thereon at such rate and from such date as the Hon'ble Commission deems fit and proper
 - c) Pending the hearing and final disposal of this Petition, TPC be directed to forthwith afford additional outlets to REL at the locations already requisitioned in the Petitioner's correspondence as set out in Schedule annexed with the Petition
 - d) Ad interim relief in terms of prayers (c)
 - e) Cost of the Petition be provided for
 - f) Such further and other reliefs as the nature and circumstances of the case may require and as to the Hon'ble Commission deems fit and proper



3. REL submitted that it holds a distribution licence, under which it is required to generate and/or purchase electricity from the bulk licensee (in the instant case, TPC) for enabling it to distribute the same in the suburbs of Mumbai. TPC holds a licence authorizing it to supply energy to other licensees such as REL. REL has cited the provisions of Clause 5(1), 13 and 15 of the Licence issued to TPC and submitted that the provisions of licence do not merely confer a right upon TPC to supply energy to other licensees, including REL, but also cast upon the TPC an obligation to supply to REL such energy as may be demanded by them, subject to limitation prescribed in the Licence, viz., that TPC shall not be under any obligation to effect supply of energy to REL to enable REL in turn to effect such supply to any consumer having a demand in excess of 1000 kVA.
4. REL buys power from TPC at 8 points of supply and at each of the points there are multiple outlets, i.e., switchgears, which are connected to the busbar. The need for multiple outlets is that any fault, either in the switchgear or cable, should result in isolation of only of the affected portion and not the healthy sections. Considering the current carrying capacity of the cables used for distribution, the accepted practice between TPC and REL was that for every 10 or 15 MVA increase in load, there is a need for a new outlet and accordingly TPC had invariably provided such outlets. REL submitted that this arrangement continued without any interruption till 1996. In 1996, REL became a generator, resulting in a lower power requirement from TPC, to the extent of power so generated by it. Consequently, after 1996, whenever REL requested TPC to provide additional outlets in view of increased off-take of energy in a particular locality serviced by the nearest point of supply in the receiving station of TPC, TPC declined to do so unless the REL agreed to comply with the previous preconditions.
5. REL submitted that there are several pending disputes between REL and TPC relating to several issues, most of which are before the Commission. REL further submitted that these disputes have nothing whatsoever to do with the obligations of TPC to effect supply of energy to REL under the provisions of its licence.
6. REL submitted that TPC began insisting upon various illegal, extortionate, unjustified and unreasonable conditions precedent, for providing additional outlets to REL after 1996. REL has submitted the copies of correspondence exchanged between TPC and REL on the matter. REL further submitted that TPC demand for an agreement to be entered into between the parties, containing clauses which are ex-facie detrimental to the rights and interests of REL, without any legal justification, was clearly mischievous, malafide and improper. REL rightly disputed the obligation to enter into such agreements with the result that TPC have failed to provide any further outlets to REL for such supply as is required to be done in accordance with the obligations cast upon the TPC under their respective licence as was invariably done till 1996.



7. REL submitted that under its licence, it is under an obligation to effect supply after demand, within 30 days to any consumer issuing a requisition for the same and to enable REL to discharge such statutory obligations, it is necessary for REL to receive a regular supply of electricity. REL submitted that in the absence of adequate outlets being afforded to REL by TPC, the electricity supplied by REL to its consumers would prove erratic, unreliable and would have a poor voltage profile and lead to failure of supply affecting large number of consumers, which can lead to widespread public discontent and could create a law and order problem.
8. REL submitted that it is pertinent to note that it is necessary that the installed capacity of power transformers bear a ratio of 1.5:1 to the demand, for acceptable reliability. However, at various receiving stations, paucity of outlets afforded vis-à-vis increase in demand for supply of energy has resulted in a situation where the ratio has reduced as compared to industry benchmark as given in following table and in case of Chembur and Malad, the refusal on part of TPC to provide additional outlets has resulted in unviable situation where the demand is almost equal to the installed capacity.

TPC Supply Point	Installed Capacity (MVA)	Established Maximum Demand (MVA)	Ratio of Installed Cap to MD	Established Maximum Demand (MVA)	Ratio of Installed Cap to MD
		Year 2002		Year 2003	
Dharavi	195	141	1.38	147	1.33
Saki	120	92	1.30	96	1.25
Borivali	170	120	1.42	125	1.36
Chembur	70	69	1.01	72	0.98
Vikroli	80	64	1.25	67	1.20
Versova	72	51	1.18	64	1.13
Malad	60	55	1.09	57	1.05
Total	767	602	1.27	627	1.22

9. REL submitted that as TPC has not provided sufficient outlets, a situation has arisen whereby REL is constrained to draw supply at the 220 kV interconnection and also from other locations, which results in poor voltage profile, and higher distribution losses, which clearly affects the overall quality, reliability and economics of supply, which in turn is detrimental to consumers' interest. REL further submitted that taking advantage of the situation, TPC accused REL of breaching its obligations by effecting drawal at the 220 kV interconnection and has filed a Petition before the Commission seeking to restrain REL from drawing active power at the 220 kV interconnection under normal conditions. REL submitted that TPC must ensure availability of adequate outlets at 22 kV to facilitate the supply to REL. REL further submitted that as per the conditions of TPC's Licence, REL is required to source its power requirement from TPC only.



10. REL further submitted that by drawing power at 220 kV interconnection due to non availability of adequate outlets at 22 kV, it has to incur futher costs of stepping down the electricity sourced at 220kV to 22/33 kV. REL submitted the details of additional costs of Rs 55,47,844 incurred on this account and mentioned that REL is entitled to recover this amount from TPC with interest at such rate as the Commission may direct, from the date of filing of the present Petition till payment or realization.

11. REL further submitted that in view of the wrongful and illegal conduct on the part of TPC in failing to provide additional outlets, REL is suffering and its consumers have been put to inconvenience. REL submitted that pending the hearing and disposal of this Petition, TPC be directed to forthwith afford additional outlets to REL at the locations already requisitioned. REL submitted that details of additional outlets as follows:

Location of REL Receiving Station	No. of Outlets requested from TPC	Remarks
Chunabhatti	1 No. 33 kV, 20 MVA point from TPC Dharavi	1 No. 22 kV to be upgraded to 33 kV
Chakala	1 No. 22/11kV, 10 MVA point to be fed from TPC Saki	Not granted
Kurla	1 No. 22/11kV, 10 MVA point to be fed from TPC Saki	Not granted
Shivaji Nagar	2 Nos. of 22/11kV, 10 MVA point to be fed from TPC Vikhroli	Not granted
Oshiwara	2 Nos. of 22/11kV, 10 MVA point to be fed from TPC Versova	Not granted
Malad	2 Nos. of 22/11kV, 10 MVA point to be fed from TPC Malad	Not granted
Chedda Nagar	2 Nos. of 22/11kV, 10 MVA point to be fed from TPC Chembur	Not granted

12. TPC, vide its submission dated 31st May 2003, responded to the Petition filed by REL and objected to the admission of the Petition. TPC submitted that the Petition filed by REL is wholly misconceived and untenable and the same has been filed merely to counter the Petition filed by TPC in Case No. 3 of 2003. TPC submitted that in its Petition No. 3 of 2003, TPC has brought to the Commission's notice that REL is drawing active and reactive energy at the 220 kV interconnection, contrary to the agreement between the parties.



13. TPC submitted that there is no requirement for additional outlets on the basis of the load forecast given by REL for the year 2003. TPC submitted that its obligation is to provide such outlets whose capacity is commensurate with REL's load forecast and it is in the interest of consumers that the outlets provided by TPC are optimally utilized before any fresh outlets are requisitioned/provided. TPC submitted the analysis of outlets in Chembur area that has been shown by REL in its Petition as worst hit due to non-availability of additional outlets. TPC submitted that in Chembur area, it has presently provided seven outlets with a nominal capacity of 48 MVA each, totaling 336 MVA. Thus, the ratio of TPC's installed feeder circuit breaker capacity to REL's maximum demand of 72 MVA in 2003 is around 4.7, as against the safe norm of 1.5 proposed by REL. Similarly, in respect of transformer circuit breaker and transformer capacities, the ratios are 2.6 and 2.1, respectively. TPC submitted that therefore, it is evident that the limitation of overloading referred to by the Petitioner pertains to limitations due to loading of its own equipment (cables, transformers, breakers, etc.) on account of its sub-optimal distribution system arrangement and it is evident that TPC has provided outlets to REL which are more than adequate in capacity to meet the existing and forecast loads of the REL. TPC submitted that a similar situation prevails in other locations and submitted the details towards the same.
14. TPC further submitted that it has always been willing to consider providing additional outlets to REL as and when required, provided REL (a) enters into an appropriate agreement with TPC, (b) commits itself to continued off-take of power at these points, which is contractually binding, and (c) furnishes its point-wise expected off-take of demand and energy purchase for the next five years. TPC submitted that its emphasis on commitment for off-take by REL originates from its past experience when large capacities created by TPC for REL have remained grossly under-utilised.
15. TPC submitted that REL's game plan appears to be to draw heavy reactive power at the 220 kV interconnection, without compensating TPC in any manner. REL, on the one hand is not paying the agreed rate of Rs 2.09/kWh for energy drawn at the 220 kV interconnection, and is also avoiding the maximum demand charge that it would have to pay if the same quantum of energy is drawn at 22/33 kV points of supply. TPC submitted that there is no case for admission of the Petition and hence the Petition deserves to be dismissed. TPC requested the Commission to pass immediate prohibitive orders restraining REL from drawing reactive energy at the 220 kV interconnection.
16. The Commission heard the Petition for admission on 3rd June 2003. During the admission hearing, the counsel for REL reiterated the submissions made in the Petition and submitted that till 1996, TPC was providing adequate outlets and in 1996, REL became a generator, resulting in a lower power requirement from TPC to the extent of power so generated by it.



Consequently, TPC declined to accede to REL's request from time to time to provide additional outlets in view of increased off-take of energy in particular locality, unless REL agrees to comply with various pre-conditions wholly alien to the licence and mandated conditions.

17. The counsel for TPC submitted during the hearing that TPC has no objection to provide any number of outlets, provided REL enters into an agreement, which they refuse to do as the equipments and infrastructure cannot be provided and reserved for REL without any guarantee or assurance to take power, in the absence of which such investments will become idle.
18. The Commission enquired as to whether, prior to 1996, such agreements were entered into and, if not, why such terms and conditions are being insisted upon now, to which the counsel for TPC submitted that REL had taken less power than they have contracted for from 1998, and therefore, without an agreement guaranteeing the off-take of electricity, such investments in capital cost towards infrastructure is not judicious. The Commission enquired if the Government has directed the REL to provide power for the city of Mumbai, then who can be held responsible for assured off-take from TPC, to which TPC replied that the entire petition could be disposed off as long as REL enter into an agreement, as TPC has no reservation in providing any number of outlets that they want.
19. On a query from the Commission regarding the period for capitalisation of expenses towards creation of infrastructure, TPC's Counsel submitted that is normally seven years. The Commission further enquired as to why leasing of TPC facility cannot be done, or a mechanism of hiring charges could not be explored, to which TPC Counsel submitted that, in absence of any such proposal from REL, there has not been any scope or action to consider this suggestion.
20. Further hearings were held in the matter on various occasions, i.e., 17th September 2003, 9th December 2003, 7th January, 2004, and 6th February, 2004. Thereafter, both REL and TPC filed their written submissions.
21. Considering the technical issues involved in the case, the Commission vide its letter dated 30th June 2004 forwarded a note to the Central Electricity Authority (CEA) for obtaining its advice on specific issues under Section 73(a) of the Electricity Act (EA), 2003 and the relevant Regulations of the Commission. The Commission sought the advice of the CEA on the following issues:
 - a) *In case of higher load growth and consequent demand by REL in certain pockets of the city, is the present TPC system capable of catering to the same? If not, what are the steps that should be taken by TPC to meet such demand?*



b) Considering the continuous load growth and consequent demand by REL, what should be the criteria or methodology for determining the additional outlets (no. and location) for supply to REL. Also specify responsibilities and obligations of TPC and REL in this regard.

22. The CEA submitted its comments/views on the issues referred by the Commission vide letter dated 30th December 2004. The Commission interacted with Member (Transmission & Distribution), Maharashtra State Electricity Board (MSEB) on 10th February 2005 to discuss the various issues related to intra-State Grid Operations, State Load Dispatch Centre (SLDC) operation and State Transmission System, including intra-State Availability Based Tariff (ABT) scheme, the State Grid Code and other functions as mandated under the Act.
23. The Commission forwarded the note sent to CEA for its advice on specific issues and the response received from CEA, to MSEB for submitting the State Transmission Utility's (STU) views on these issues. MSEB, vide its letters dated 7th April 2005 and 13th April 2005 submitted its point-wise reply as STU on the various issues
24. The Commission forwarded the copy of letter sent to CEA for advice, CEA's reply, copy of letter sent by Commission to MSEB referring the matter to State Transmission Utility (STU) for advice and STU's replies, to TPC and REL to obtain their comments and views. REL, vide its submission dated 19th May 2005, and TPC, vide its submission dated 17th June 2005, submitted their comments and views on advice given by CEA on specific issues and on the STU's views.
25. The comments/views of CEA on the issues referred by the Commission to CEA, MSEB's views as STU, REL's and TPC's comments on the views of CEA and STU, are summarized in the following paragraphs:
26. CEA opined that detailed system studies need to be carried out to assess the adequacy of the present TPC system and under section 39(2)(c) of EA 2003, the STU is to ensure development of an efficient, coordinated and economical system of intra-State transmission lines. STU may examine the adequacy of present TPC system and finalise the additional system requirements to cater to increasing demand of REL system and in case it is felt that the advice of CEA is required, the matter can be referred to CEA alongwith the relevant study results.



27. On the matter of additional outlets, CEA has opined that the criteria or methodology for determining the additional outlets for supply to REL may be studied by State Transmission Utility (STU) who may, inter alia, consider the load growth in various pockets, generation additions, etc. The responsibilities and obligations of TPC and REL shall be to comply with the Grid standards and the State Grid Code.
28. MSEB suggested that a Task Group comprising of representatives from the Utilities should be constituted to determine the adequacy of existing TPC network and future expansion requirements to cater to increased load demand. MSEB further submitted that on the basis of recommendations of the Task Group, the methodology for determining the additional outlets for supply to REL could be finalized.
29. REL agreed with CEA's views that STU may examine the adequacy of TPC system and finalise the additional transmission system required to cater to growing demand of REL. REL contended that under clause 5 of its licence, TPC is obliged to supply energy required by REL and under the provisions of EA 2003, TPC should ensure development of its transmission system for smooth flow of electricity from its generating system to REL load centre. REL further submitted that during the proceedings in Case No. 3 and 4 of 2003, TPC have admitted that the capacity of transformer/switchgears at TPC end is sufficient to cater to REL's load requirement. However, in the recent past it has been observed that TPC has resorted to discretionary load shedding only of REL feeders such that the retail consumers of TPC continued to get supply whereas feeders catering to REL receiving stations were switched off.
30. On the matter of additional outlets, REL contended that the issue of additional outlets is primarily an issue pertaining to the distribution system and the STU may not be the appropriate entity to deal with this issue. STU's role under section 39(2)(c) of the EA, 2003 is to ensure development of an efficient, coordinated and economical system of intra-State transmission lines for smooth flow of electricity and the STU does not have a statutory role in determining inter-se disputes and the EA 2003 have given such powers to the Commission. REL submitted that however, if the Commission decides to appoint a Task Group, considering the urgency in resolving the issue of additional outlets required by REL, the Task Group should examine merely the technical aspects and submit its findings to the Commission within one month from the date on which such an assignment is given to Task Group.
31. REL further submitted that due to TPC's continuous denial for providing additional outlets, REL was forced to draw such requirement from 220 kV interconnection and REL consumers have had to bear the burden on account of additional capital expenditure which REL incurred for network strengthening for such sourcing of power from 220 kV interconnection as well as



consequent higher distribution loss. REL also submitted that in the absence of desired outlets, reliability has been impacted severely in eastern and western suburbs where REL's receiving station fed from TPC are critically loaded and in view of non availability of outlets and the exigencies of the situation, REL resorted to load shedding in the area exclusively fed by TPC.

32. REL, in its submission, mentioned that the following criteria can be considered for determining additional outlets for supply to REL
- Ø Percentage loading of REL system fed from TPC, i.e., installed capacity to the Maximum Demand ratio
 - Ø Capacity of REL's incoming feeders, as the most economical size of the cable available at 22 kV is 300 Sq. mm, which can cater to maximum of 15 MVA load
 - Ø System loading details of REL and TPC system in normal and emergency operating conditions
 - Ø Load growth pattern in REL system

REL further submitted that REL and BEST are the two distribution licencees supplied by TPC and TPC should be non discriminatory and adopt identical criteria for providing additional outlets.

33. TPC submitted that post EA 2003, TPC is under no obligation to supply REL, save in accordance with the terms of a bilateral PPA and such PPA would cover the issues of distribution network planning. TPC welcomed the suggestion of formation of Task Group under STU for detailed transmission studies and submitted that the terms of reference of the Group should be formulated and finalized after due consultation/hearing with all the parties concerned. TPC further submitted that this matter of formation of Task Group for detailed transmission studies is completely independent of this case.

34. On the issue of additional outlets, TPC submitted that the release of additional outlets at 22/33 kV by TPC to REL, if at all found necessary, could face an issue of space constraints in the existing sub stations of TPC rather than a technical issue. Further, the number of outlets and methodology for determining additional outlets being elements of the distribution system are out of the ambit of the STU, and these issues should be addressed in the bilateral PPA.

35. TPC submitted that the issue is not shortage of outlets but sub-optimal design of REL wherein outlets capable of supplying 40/60 MVA are being used to feed transformers rated at only 10/15 MVA. TPC further submitted that REL has incurred additional expenditure and burdened the consumers with higher tariff as they wanted evacuation facilities established for their Dahanu Power station and not because TPC was unable to provide additional outlets.



36. TPC submitted that the criteria specified by REL for determining the additional outlets is not acceptable to TPC. TPC is not in a position to give any commitment or assurance to REL in absence of a long term PPA in this regard as the investment and blocking of TPC assets necessary for additional supply points, if feasible, would be based on the number of years of utilization of this asset.
37. After obtaining the views of all the parties, i.e., CEA, STU, TPC and REL, the Commission again heard the matter on 22nd June 2005. On the hearing held on 22nd June 2005 the Commission observed that this matter has been proceeding for some time, and the opinion of the Central Electricity Authority (CEA) on some of the related issues has been sought by the Commission. The Commission further observed that the matter was initiated under the Electricity Regulatory Commission Act, 1998 and the new Act, i.e. Electricity Act, 2003 came into force in June 2003. The Commission mentioned that it had also referred the issues alongwith the CEA response to MSEB in its capacity as State Transmission Utility (STU).
38. Referring to CEA's advice on the issues, Mr. D.J. Khambata, Counsel for TPC submitted that CEA also recognized that demand must be met by TPC and if TPC have to meet additional demand, TPC would have to incur huge capital expenditure. He submitted that the final ground of reference is, what is the capability of the TPC system to cater to REL's increasing demand. The CEA had opined that a detailed study has to be carried out and a Task Group should be set up to assess the adequacy of the TPC system. He pointed out that the PoA of 1998 contemplated that a detailed Power Purchase Agreement (PPA) would be entered into, which has not been entered into due to obstacles placed by REL. Without a PPA and assurance of a certain minimum regular demand from REL, TPC cannot have surety and invest large resources to meet commitments. He submitted that REL on one hand demand more outlets from TPC without any commitment, and on the other hand approach the Commission for permitting purchase of power from other Sources located outside the State. He emphasized that first REL must enter into a PPA in which REL should committed specified off-take for a number of years and then the Commission can consider as to whether there is any reason to increase the TPC capacity to meet the increasing demand of REL.
39. Mr. Khambata further submitted that MSEB as STU has also given certain comments on the CEA report. One of the recommendations of the CEA was that for determining the additional outlets for supply to REL, it may be studied by the STU, i.e., MSEB, and MSEB may give their recommendation as to whether these outlets are required or not. He submitted that the question of whether or not the additional outlets should be provided, as per REL's application, is a matter of bilateral agreement. He submitted that the figures given by TPC have not been contested by REL, which show that in the past REL have not drawn upon power, which TPC has offered, which is a reserve even in the existing outlets. He submitted that TPC have pointed out that



making available additional outlets, apart from the capital expenditure, requires space and re-organization in each of their sub-stations. He submitted that if REL wanted additional power from TPC, TPC would provide REL with additional feeder lines to the existing outlets.

40. Mr. Khambata further submitted that in their affidavit, TPC have stated that if REL wants additional outlets and are willing to pay for the same, REL should enter into a PPA giving TPC a commitment for a fixed number of years.
41. Mr. J.J. Bhatt, Counsel for REL, submitted that as regards REL's request for additional outlets, TPC cannot say that REL's request is not justified, but can suggest that REL could meet the demand in another manner, i.e., by way of additional feeder lines. He submitted that he was not aware about the space constraints mentioned by TPC. If TPC gives REL an additional feeder line, what is likely to happen is that if the power goes off at one outlet, the entire power supply to all the feeder lines from that outlet would stop. He pointed out that if on the other hand, TPC gives REL one outlet at their cost and expenses, and if the power supply at one particular outlet, for some reason connected with the outlet, is stopped, the other outlet will still remain open. He submitted that it is a matter of arriving at a technical solution to the issue.
42. He submitted that having admitted REL's requirement for additional power, the method of working out the modality of supply of that power is entirely within the expertise of the Commission. He submitted that the Commission may either adopt appropriate measures by appointing a Committee or a Task Force or independently undertake evaluation of the same. He submitted that it is the discretion of the Commission to pass an appropriate order, if the Commission feels that additional feeder lines is a better method notwithstanding REL's submission or it is possible in some areas to provide outlets, outlets can be provided in these areas and in other areas additional lines can be provided. He submitted that as far as REL's outlet application was concerned, it was physically possible to give additional outlets. He pointed out that the statement that TPC can supply additional feeder line, clearly indicated that there is a larger requirement of power.
43. Mr. Khambata submitted that TPC have given facts and figures to show that REL have never drawn upon the so-called demand. There has always been a lot of slack and there has been always a reserve on the existing outlets. He submitted that the contention is that REL does not need the additional outlets, but if they insist their requirement can be met by providing additional feeders.
44. The issues in this case before the Commission are as follows:
 - i) Whether there is any contractual arrangement between TPC and REL for interconnection and establishment of outlets



- ii) Criteria for determination of requirement of additional outlets for flow of energy from TPC to REL
 - iii) REL's claim towards cost incurred for stepping down power from 220 kV to 22/33 kV due to unavailability of adequate outlets
45. The Commission has gone through all the written submissions and oral arguments put forth by the Parties as well as the various documents submitted by them. The Commission has also noted the CEA's advice and the STU's views on the issues referred to CEA for its advice.
46. There is no specific detailed agreement between the parties for purchase of power by REL from TPC. REL has mentioned that considering the current carrying capacity of the cables used for distribution, the accepted practice between TPC and REL was that for every 10 or 15 MVA increase in load the need for a new outlet was recognized and accordingly TPC had invariably provided such outlets till 1996. However, REL has not submitted any agreement or supporting document which states that the additional new outlet has to be provided for every 10 or 15 MVA increase in load.
47. In the matter of criteria for determination of requirement of additional outlets by REL for drawal of energy from TPC, the latter has claimed that the outlets provided by it are adequate and there is no requirement for additional outlets on the basis of load forecast given by REL and limitation of loading referred to by REL pertains to limitations on loading of its own equipment (cables, transformers, breakers, etc.) due to its sub-optimal distribution system arrangement. TPC has analysed the outlets provided in Chembur area and submitted that the TPC has provided the outlets with a nominal capacity of 48 MVA. REL submitted that the capacity of REL's incoming feeders is limited to 15 MVA, as the most economical size of the cable available at 22 kV is 300 Sq. mm, which can cater to maximum of 15 MVA load.
48. The Commission has also noted the CEA opinion that the criteria or methodology for determining the additional outlets for supply to REL may be studied by State Transmission Utility (STU) who may, interalia, consider the load growth in various pockets, generation additions, etc. MSEB as STU has opined that a Task Group comprising of representatives from the Utilities should be constituted to determine the adequacy of existing TPC network and future expansion requirement to cater to increased load. The Commission will, therefore, engage a suitable consultant to evolve a methodology / criteria for determining the basis of providing additional outlets. The cost of this study will be shared equally by TPC and REL.
49. The Commission further observed that the views of REL and TPC with regard to supply of power by TPC to REL are contrary. As per REL, TPC is bound to supply power to REL in accordance with its Licence conditions, on the other hand, TPC has opined that pursuant to



50. Electricity Act 2003, it is under no obligation to supply REL, save in accordance with the terms of a bilateral PPA and such PPA would cover the issues of distribution network planning.

51. The Commission notes that prior to implementation of the Electricity Act 2003, open access to transmission network was neither available to distribution licensees nor to consumers. Therefore, it was incumbent on the distribution licensee, in this case REL, to procure power from the bulk licensee, i.e., TPC. However, now licensees are permitted to procure power from any source subject to availability of transmission capacity. The EA 2003 provides flexibility to REL to procure from any other source, as well as to TPC to sell power to any consumer or licensee other than REL.

52. Commission while addressing this issue in its Order on General Conditions and Special Conditions applicable to Distribution Licensee, has mentioned the following special conditions for REL with respect to Power Purchase

- a. Licensee shall purchase the electricity in accordance with the provisions of EA 2003 and on the terms and conditions as approved by the Commission
- b. Licensee is authorised to purchase supply from generating companies, other licensees and/or from any other source as may be approved by the Commission
- c. Licensee shall continue to purchase electricity from such suppliers as the Licensee has been purchasing as on the date of issue of these conditions

Though the Commission has addressed this issue in its Order on licences, this situation is bound to create uncertainty about availability of power to Mumbai consumers. Therefore, the Commission hereby directs both the parties to enter into an agreement within three months of this Order to ensure long-term availability of power to Mumbai consumers.

53. As regards to REL's claim towards cost incurred for stepping down power from 220 kV to 22/33 kV due to unavailability of additional outlets, the additional costs incurred by REL, if any, are not as result of violation of any agreement by TPC. As mentioned earlier, there is no detailed agreement between TPC and REL for supply of power from TPC to REL detailing the provisions with respect to number of outlets, etc., the claim is therefore not admitted.

With this Order, the Commission disposes the Application (Case 4 of 2003) of Reliance Energy Limited.

**Sd/-
(A. Velayutham)
Member**

**Sd/-
(Dr. Pramod Deo)
Chairman, MERC**



Kundu
**(M K Kundu)
Secretary, MERC**