

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 14 of 2006

In the matter of
**Petition filed by M/s. Reliance Energy Limited (“REL”) seeking directions upon
M/s Tata Power Company Limited (“TPC”) to make available previously
surrendered outlets to REL at certain specified Receiving Stations of TPC.**

**Dr. Pramod Deo, Chairman
Shri A. Velayutham, Member**

ORDER

Dated: 14th September, 2006

Reliance Energy Ltd. (REL) filed a Petition on 10th May 2006, and sought interim directions upon Tata Power Company Ltd. (TPC) to make available to REL outlets, which REL had surrendered to TPC. While referring to a Petition filed by REL on 17th April 2006 and numbered as Case No. 15 of 2006, it is REL’s contention that the growing demand of energy especially during the summer season, coupled with the improbability to source more supply from its Dahanu plant due to its functioning at maximum potential, necessitates TPC to supply to REL certain specific outlets which were surrendered by REL on commissioning of three 220/33 kV receiving stations pursuant to commissioning of its 500 MW plant at Dahanu. REL has submitted that, even pending the hearing and final disposal of the said Case No. 15 of 2006, TPC be directed by the Commission to make available to REL the outlets which REL had surrendered to TPC consequent to some feeders of REL, which were hitherto connected to TPC’s receiving stations, were disconnected there from and diverted to the said three 220/33 kV receiving stations of REL. In support of its contention, REL has submitted that, to its knowledge, the outlets which were thus surrendered by REL to TPC, have not been in operation since their surrender and are lying idle with TPC. REL has contended that, as was the practice before, REL should be allowed to reclaim these outlets, to help meet its immediate demand.

2. REL has further submitted that in view of the increased demand there is hardly any margin in the neighbouring transformer in a particular pocket to draw power in the event of a break down of any transformer in order to restore supply. In such an



eventuality, in case of failure of any single transformer, consumers connected to that particular transformer will remain without electricity supply till such transformer is either repaired or replaced. REL has submitted a list of outlets so surrendered by it to TPC which it requires TPC to restore to it, pending hearing and final disposal of the Case No. 15 of 2006 in which it has sought direction upon TPC to supply additional outlets.

3. TPC has opposed the Petition filed by REL by filing its Affidavit-in-reply on 4th July 2006. TPC's contentions are summarised as under:

- (i) Pursuant to commissioning of its 500 MW plant at Dahanu, REL has abruptly disconnected various outlets given by TPC and transferred the cables to its stations fed from Dahanu. In the circumstances, REL cannot stake a claim for release of these outlets without giving a commitment for efficient utilisation of the outlets in future.
- (ii) Countering REL's contention that the outlets which were surrendered by REL to TPC have not been in operation since their surrender and are lying idle with TPC, TPC has submitted that these outlets are not lying idle as they are being put to use by TPC.
- (iii) REL has surrendered these outlets since the existing outlets provided by TPC are more than enough for REL to meet its load requirement.

4. An admissibility hearing was held in the matter on 4th July 2006. On a query raised by the Commission as to whether the prayer for making available outlets previously surrendered has been made while also seeking a parallel review of the Order dated 9th December 2005. Counsel for REL clarified that Section 94 of the Electricity Act, 2003 ("EA, 2003") and Regulation 85 of the MERC (Conduct of Business) Regulations, 2004 were inadvertently mentioned in the cause title of the Petition and the Petition is not meant to be a Review Petition. It was further clarified on behalf of REL that vide the Petition, REL has prayed for directions under Section 23 of the EA, 2003 for the limited purpose of availing outlets already surrendered and that the reference to the statutory provisions seeking a review of Order dated 9th December 2005 have been made by mistake.

5. Shri. P.S. Pandya submitted on behalf of REL, that, since the process of REL entering into an agreement with TPC would take some time, the direction is sought from the Commission *pendente lite* for grant of such outlets which REL had previously surrendered, so that REL is able to tide over the present critical situation.

6. Shri. J.D. Kulkarni on behalf of TPC submitted that the outlets as made out to be surrendered by REL were not actually surrendered. REL had physically disconnected its cables from the said outlets without any prior approval / permission from TPC, and transferred the same to its newly commissioned 500 MW power plant at Dahanu to optimise Plant Load Factor ("PLF") therein. Shri. Kulkarni contended that, at present, it is possible that the said Dahanu power plant has reached its optimal level and no further



load can be borne, which has resulted in REL filing the present petition for grant of the outlets purportedly surrendered.

7. Having heard the parties and after considering the material placed on record, the Commission is of the view that it would be essential to consider certain statutory provisions as under:

(i) The functions that are required to be discharged by the Commission are provided in Section 86 of the EA 2003. Two of the functions therein are to:

- (a) facilitate intra-state transmission and wheeling of electricity as provided in clause (c) of sub-section (1) of Section 86; and
- (b) specify State Grid Code as provided in clause (h) of sub-section (1) of Section 86.

(ii) In exercise of powers conferred by the said clause (h) of sub-section (1) of Section 86 read with the powers under Section 181, the Commission has notified Regulations specifying the State Grid Code which has come into force with effect from 1st April 2006. As per the State Grid Code, REL is a User connected to the Intra-State Transmission System. Intra-State Transmission System (“InSTS”) means any system for conveyance of electricity by transmission lines within the area of the State and includes all transmission lines, sub-stations and associated equipment of transmission licensees in the State. As per the State Grid Code, the State Transmission Utility (“STU”) is required to prepare the transmission plan for the InSTS. Primary responsibility is cast on distribution licensees to develop long-term load forecast for their respective licence areas. The STU is also required to carry out planning studies for reactive power compensation of the InSTS.

(iii) In terms of the State Grid Code, REL being a User of the InSTS, is required to submit application to the STU for connection to the InSTS in the manner provided therein. The STU is required to notify its acceptance of such application after taking it up with TPC (being the transmission licensee under the first proviso to Section 14 of the EA 2003) in whose system the connection is being sought and with the State Load Despatch Centre (“SLDC”). On acceptance, the applicant, i.e., REL and TPC (in whose system the connection is being sought) would be required to finalise a Connection Agreement setting out the terms relating to connection to and/or use of the intra-State transmission system, with copies being forwarded to the STU and SLDC. Upon completion of the aforesaid process, the STU is required to notify the User, i.e., REL regarding its connection to TPC’s transmission system where the connection is being sought.

(iv) The Commission has, by way of its Order dated 27 June, 2006 in Case No. 58 of 2005 determined the ‘Transmission Pricing Framework within Maharashtra’ which is applicable for all Transmission System Users including distribution licensees and open access users and for all transactions involving use of ‘Intra-State Transmission System’. Besides envisaging clear demarcation of boundary (or interface points) between various



transmission licensees and transmission licensee to distribution licensees, as per paragraph 4.2.12 of the 'Transmission Pricing Framework', the said Order further requires that each distribution licensee and transmission open access user (TSU) having connection with the "intra-State Transmission system" is required to enter into Bulk Power Transmission Agreement (Intra-State) (BPTA-IS) with the concerned transmission licensee.

8. During the admissibility hearing held in the matter, REL admitted that the present Petition has been filed by mistake under the provisions of Section 94 of EA, 2003 read with Regulation 85 of the MERC (Conduct of Business) Regulations, 2004 and it is not their intention to seek a review of the Order dated 9th December, 2005. Therefore, no prayers in terms of the Review Petition are granted herein since no grounds for review of the said Order dated 9th December, 2005 has been made out by REL. However, in the Petition, REL had sought for directions upon TPC, under the provisions of Section 23 of the EA 2003, to restore outlets previously surrendered by REL. As REL have been able to meet the demand of its consumers in the summer season gone by, it would appear to the Commission that the ground brought out by REL while filing the present Petition, does not exist. The Commission is of the view that it would not, therefore, be appropriate to pass an Order under Section 23 of the EA, 2003 directing TPC to provide REL certain specific outlets reportedly surrendered by them. On the other hand, to pass such an order under Section 23 and granting relief to REL in terms of its Petition dehors the aforesaid requirements of the State Grid Code being fulfilled, would be to circumvent the regulatory processes specified therein.

9. The EA, 2003 has recognized 'transmission' as a distinct 'licensed business' activity to be undertaken by 'transmission licensee' in accordance with its license conditions and regulations to be formulated by the Commission in this regard. In Maharashtra, there already exist few private licensees, who own and operate 'transmission assets' within the State. TPC is one such 'deemed licensee'. In order to connect to TPC's transmission system, REL being a distribution licensee and a User of the InSTS would be required to:

- (a) develop long-term load forecast for its respective licence area for furnishing requisite information to the STU, as provided in Regulation 8.5 of the State Grid Code;
- (b) submit application to the STU for connection to TPC in whose system the connection is being sought, as provided in Regulation 13 of the State Grid Code;
- (c) execute a Connection Agreement with TPC setting out the terms relating to connection to and/or use of the intra-State transmission system, as provided in Regulation 13.8 of the State Grid Code;
- (d) enter into Bulk Power Transmission Agreement (Intra-State) (BPTA-IS) with TPC, as provided in the Order dated 27th June 2006;



- (e) pay transmission tariff in accordance with the Transmission Pricing Framework determined by the Commission in its Order dated 27th June 2006 in Case No. 58 of 2005 for use of TPC's transmission system.

10. In view of the foregoing, unless the aforesaid provisions of the State Grid Code are fulfilled, there would be no justification for the Commission to issue any directions under Section 23 of the EA, 2003 and accordingly, no directions as prayed for by REL is issued herein.

With the aforesaid observations the Commission disposes of this Petition.

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr Pramod Deo)
Chairman



(Ms. Malini Shankar)
Secretary, MERC