

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 5 of 2008

In the matter of
Maharashtra State Electricity Distribution Company Ltd. (MSEDCL)'s Petition
seeking approval for appointment of Interim Franchisee and approval of Reliability
Charges to be recovered from Pune Consumers

Shri. A. Velayutham, Member

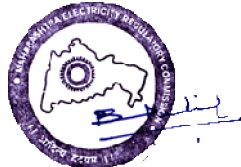
Shri. S. B. Kulkarni, Member

ORDER

Dated: June 20, 2008

The Maharashtra State Electricity Distribution Company Limited (MSEDCL) submitted a Petition under affidavit, to the Commission on April 17, 2008, which has thereafter been submitted in revised form on May 21, 2008 seeking approval and regularization of additional power purchase from TPC tied-up for the period from April 4, 2008 up to June 30, 2008, and for additional power purchased planned for the period from October 2008 to May 2009, for mitigating load shedding in Pune Urban Circles. The Petition also sought to obtain approval of Reliability Charges to be recovered from consumers in Pune Urban Circles and also sought to obtain an *in principle approval* for appointment of The Tata Power Company Limited (TPC) as Interim Franchisee.

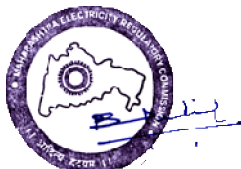
2. MSEDCL submitted that the Petition was being filed in accordance with the Commission's directions issued under its Order dated March 13, 2008 in Case No. 51 of 2007 and 90 of 2007 and Order dated March 31, 2008 in Case No. 101 of 2007, and stated as under:



- a) Actual and anticipated load requirement of Pune Urban Circles, viz., Ganeshkhind and Rasta Peth for the specific period from April 4, 2008 to June 30, 2008:

Requirement per day to mitigate load shedding (MSETCL bus)	1.844 MU
Anticipated consumption during FY 2008-09	5306.40 MU
Anticipated consumption of domestic consumers having monthly consumption of 0-300 units	1082.40 MU
Anticipated consumption of consumers excluding domestic consumers of consumption 0-300 units	4224 MU

- b) In view of the fact that the appointment of a Distributed Generation based Distribution Franchisee (DGBDF) through a competitive bidding process would require time, MSEDCL explored the possibilities of power purchase for a short period till June 30, 2008 to mitigate the load shedding in Pune Urban Circles, viz., Ganeshkhind and Rasta Peth, keeping in view the fact that there would be no additional power requirement during the ensuing monsoon season.
- c) MSEDCL is separately undertaking the process of appointment of franchisee through competitive bidding process.
- d) On April 4, 2008, MSEDCL entered into a tri-partite agreement with TPC (Additional Supply Agency) and M/s. Tata Power Trading Co. Ltd. (Trader) for supply of 100 MW Round The Clock (RTC) power from Andhra Pradesh Power Co-ordination Committee (APPCC) for the period from April 4, 2008 to April 15, 2008, and accordingly, MSEDCL has issued order to TPC vide its letter ref. no. MSEDCL/PP/TPCL/11208 dated April 4, 2008. This power is available at MSETCL boundary. The purchase price of the power at delivery point (AP periphery, i.e., interconnection point between AP STU and CTU in Southern Region) is Rs. 8.54 per kWh, which translates to Rs. 9.44 per kWh at MSETCL boundary.
- e) On April 11, 2008, MSEDCL has placed the Order on TPC (Additional Supply Agency) and M/s. Tata Power Trading Co. Ltd. (Trader) for supply of 100 MW RTC power from Jindal Power Ltd. for the period from April 16, 2008 to May 31, 2008 and 50 MW power for the period from June 1, 2008 to June 30, 2008, vide its letter ref. no. MSEDCL/PP/TPCL/17033 dated April 11, 2008. This power would be available at MSETCL boundary. The purchase price of the power at

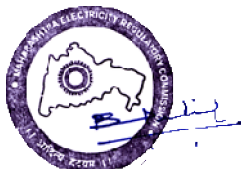


delivery point (400 kV PGCIL Sub Station at Kumhari near Raipur, Chhattisgarh) is Rs. 7.62 per kWh, which translates to Rs. 8.05 per kWh at MSETCL boundary.

- f) The Reliability Charge proposed to be recovered from the consumers of Pune Urban Circles, viz., Ganeshkhind and Rasta Peth, excluding the domestic consumers having consumption up to 300 Units/month, for the period from April 4, 2008 to June 30, 2008 has been computed so as to keep MSEDCL revenue neutral.

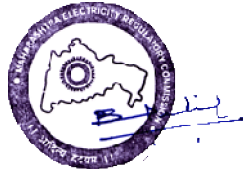
Assumptions for determination of the Reliability Charge

1. On April 11, 2008, TPC informed MSEDCL that it is in the process of arranging additional 50 MW power for the month of June 2008, and therefore, MSEDCL has presumed that 100 MW power would be made available by TPC in June 2008.
2. The Reliability Charge proposed by MSEDCL, after considering the impact of sale of excess power to MSEDCL's other consumers for the period from April 4, 2008 to June 30, 2008 is as under,
 - a) April 4, 2008 to April 15, 2008 : Rs. 1.18 per kWh
 - b) April 16, 2008 to April 30, 2008 : Rs. 0.89 per kWh
 - c) May 1, 2008 to May 31, 2008 : Rs. 0.85 per kWh, and
 - d) June 1, 2008 to June 30, 2008 : Rs. 0.77 per kWh
3. MSEDCL receives power at an average rate of Rs 2.00 per kWh at MSETCL bus. The energy requirement for mitigating the load shedding in Pune Circles, viz., Ganeshkhind and Rastapeth is 1.55 MU per day, which after considering 12% distribution losses and 4.5% transmission losses works to 1.844 MU per day at MSETCL bus.
4. As per agreement dated April 2008, additional power is available from M/s. Tata Power Trading Co. Ltd, throughout the period under consideration. The cost of this additional power, after deducting the average power purchase cost of Rs 2.00 per kWh, is proposed to be considered for computation of Reliability Charge.
5. Excess power, if any, would be required to be diverted to other parts of the State. The distribution loss for other parts of the State has been considered as 22%.
6. The power sold to mitigate load shedding in Pune Urban Circles would earn revenue at the rate of Rs. 4.19 per kWh; however, the excess power provided to other parts of the State would earn revenue at the rate of Rs. 3.50 per kWh.



7. Anticipated consumption of domestic consumers having monthly consumption of 0-300 units during FY 2008-09 is 1082.40 MU and anticipated consumption of other consumers is 4224 MU. The consumption for the period under consideration, i.e., April 4, 2008 to June 30, 2008 has been considered in the same proportion.
 8. Effective days of load shedding for the period from April 2008 to June 2008 have been considered the same as that experienced during the period from April 2007 to June 2007. Even if the actual load shedding days are lower during the period under consideration, i.e., April 2008 to June 2008, Pune consumers would have to bear the cost of additional power being procured through the Additional Supply Agency, since the additional power is being exclusively purchased in advance for Pune consumers and it would not be fair to load the impact of costly power purchase on the remaining consumers in the State of Maharashtra.
 9. 10 % increase in consumption is anticipated in FY 2008-09 as compared to consumption in FY 2007-08.
3. MSEDCL, in its Petition, prayed as under:
- “ *The Commission may accord*
1. *Approval of appointment of the Tata Power Co. Ltd. as Additional Supply Agency;*
 2. *Approval and regularisation of power purchase from them for a period from 4th April 2008 upto 30th June 2008 and;*
 3. *Approval of Reliability Charge to be recovered from consumers of Pune Circles of Ganeshkhind and Rasta Peth, for mitigating load shedding in Pune Circles.*”

4. Due to the exigency of the situation, and considering the urgency of the matter and in public interest, a Public Hearing was held on April 25, 2008, at 10.00 hours, at Meeting Hall, Office of the Divisional Commissioner, Pune. Comments, suggestions and objections were sought from the public on the petition filed by MSEDCL so that the same could be taken into account in order to facilitate continuous supply/zero load shedding in Pune Urban Circles at the earliest during peak summer months. MSEDCL was directed to publish a Public Notice in English and Marathi in all leading newspapers with wide circulation in Pune for inviting objections, comments and suggestions on its

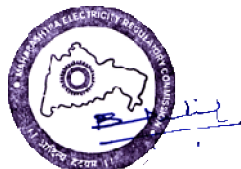


proposal seeking approval of appointment of TPC as Additional Supply Agency, approval and regularisation of power purchase from them for the period from April 4, 2008 upto June 30, 2008, and approval of Reliability Charges to be recovered from Pune consumers.

5. The Commission received written objections and comments from a total of 44 objectors. The list of individuals/organizations who participated in the public process, either through written submissions or during the Public Hearing, is provided at **Annexure 2**. The suggestions and objections received from the stakeholders in writing or during the Public Hearing are summarized in the following paragraphs.

6. Vidarbha Industries Association (VIA) referred to paragraph 33 (i) of the Commission's Order dated March 13, 2008 and submitted that MSEDCL has intentionally violated the said Order of the Commission by providing grid support to mitigate load shedding in Pune Circles and proposed that MSEDCL should be punished under Section 142 of EA 2003 for non-compliance of the Commission's Order. VIA stated that MSEDCL is showing undue preference to a particular section of consumers, thereby violating Section 62(3) of EA 2003. VIA further pointed out that many consumers in other parts of the State are also willing to pay additional charges for getting uninterrupted power supply, and opined that the Commission cannot grant the benefit of zero load shedding to consumers of a particular city only and it cannot focus only on particular cities since the cost of administrative expenses of MSEDCL has been loaded on all the consumers in the State equally.

7. VIA referred to paragraph 33 (ii) of the Commission's Order dated March 13, 2008 and submitted that the Franchisee is not authorized to procure power from any source or to generate and supply power in its area. Under the EA 2003, a Franchise is defined as a person authorized by distribution licensee to distribute electricity on its behalf in a particular area within his area of supply. VIA referred to Section 14 of the EA 2003 and submitted that if the distribution licensee proposes to undertake distribution of electricity for a specified area within his area of supply through another person, that person shall not be required to obtain any separate license from the concerned State Commission and such distribution licensee shall be responsible for distribution of electricity in his area of supply. These provisions of the EA 2003 clearly specify that the

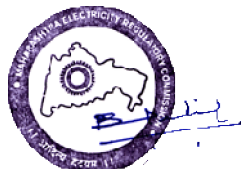


Franchisee can only distribute electricity in his specified area but cannot purchase nor can generate and supply electricity in its area. Section 14 of EA 2003 further specifies that the licence shall not be required for a person to generate and distribute electricity in a rural area to be notified by the State Government, and Pune Urban Circles do not come under “Rural area” notified by the State Government.

8. VIA submitted that Section 86(1)(b) of the EA 2003 does not empower the Commission to regulate electricity purchase for a particular section of consumers and the Commission has to regulate distribution and supply within the whole State. Hence, electricity proposed to be purchased from costly sources cannot be reserved for consumers of a particular area but should be made available to all the consumers in the State. VIA pointed out that the EA 2003 does not support the concept of Distributed Generation based Distribution Franchisee (DGBDF) for any ‘Urban area’ but this concept is only supported in case of notified ‘Rural area’.

9. VIA referred to the prayers made by MSEDCL under its Petition and submitted that MSEDCL has requested the Commission to approve the appointment of TPC as Additional Supply Agency and not as a Franchisee for Pune Urban Circles. There is no such provision permitting appointment of Additional Supply Agency for supplying power to a particular section of consumers, either in EA 2003 or any Order issued by the Commission. Further, the Petition does not elaborate about any terms and conditions entered into with TPC for supply and distribution of electricity in Pune Urban Circles. As specified in Section 14 of EA 2003, TPC would require a license to supply power in Pune Urban Circles or it would have to enter into agreement with MSEDCL to distribute power in Pune Urban Circles as a Franchisee. VIA suggested that MSEDCL’s prayer should be rejected since the provisions of EA 2003 do not support it.

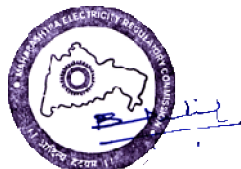
10. VIA further submitted that MSEDCL’s second prayer for approval and regularization of power purchase from TPC for the period from April 4, 2008 upto June 30, 2008 cannot be granted by the Commission since the power procurement process has to be regulated under Regulation 21(d) of the MERC (Terms and Conditions of Tariff) Regulations, 2005 read with Section 86(1)(b) of the EA 2003, and a proper application is necessary for scrutiny and approval of the Commission. VIA suggested that MSEDCL’s prayer should be rejected since it has not followed any provisions specified under EA 2003 and the MERC Tariff Regulations.



11. VIA referred to the power requirement anticipated by MSEDCL for mitigating load shedding in Pune Circles, and submitted that as per the statement enclosed along with Petition, total sheddable load for industrial and Urban feeders is 573 MW. VIA submitted that the support required to mitigate load shedding should be in both, MW and MU terms, otherwise during the load shedding hours, additional grid support would be required, leading to additional load shedding in other areas of the State. MSEDCL has entered into agreement with TPC for purchase of 100 MW power from April 4, 2008 to April 15, 2008 and April 16, 2008 to May 31, 2008, and 50 MW power from June 1, 2008 to June 30, 2008, which implies that MSEDCL would have to provide grid support of 473 MW (573 MW – 100 MW) during the period from April 4, 2008 to May 31, 2008 and grid support of 523 MW (573 MW – 50 MW) from June 1, 2008 to June 30, 2008.

12. VIA stated that MSEDCL has considered incorrect assumptions for calculation of Reliability Charge. Further, MSEDCL has not specified the source and rate of procurement of additional 50 MW power. VIA objected to the proposed Reliability Charge since projected rate of purchase of power is based on assumptions. VIA submitted that the realization from additional sales considered by MSEDCL includes fixed cost, which should not be considered since fixed charges are being recovered from all the consumers being fixed expenses of MSEDCL and are applicable even during load shedding hours, which are being loaded to all the consumers. VIA suggested that net additional revenue due to reduction in load shedding should be computed based on variable charges only.

13. VIA submitted that MSEDCL has entered into an agreement projecting the power supplier, viz., TPC as a Franchisee, which is against the definition of Franchisee provided under EA 2003. TPC cannot be termed as Franchisee or interim Franchisee as MSEDCL has not authorized TPC to distribute electricity on its behalf. VIA further submitted that the power purchase rate specified under the agreement is higher than power purchase rate provided in MSEDCL's Petition and requested the Commission to ensure authenticity of MSEDCL's proposal. Further, MSEDCL has enclosed a letter from M/s. Jindal Power Ltd. addressed to Tata Power Trading Co. which states that the power supplied to Tata Power Trading Co. shall be 100 MW firm and 70 MW infirm from April 14, 2008 to May 2008 and 50 MW firm in the month of June 2008. MSEDCL has placed order for



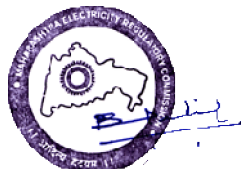
purchase of power from Tata Power Co. Ltd. with a condition that the interim Franchisee /additional supply agency/Trader shall not be responsible for any unscheduled interchange (UI) liability. This means that during infirm power supply, MSEDCL will have to import power above the schedule and will have to make payment for unscheduled interchange. MSEDCL has not taken into consideration these payments which shall be loaded the other consumers in the State.

14. Prayas submitted that MSEDCL, in its proposal, has computed Reliability Charges based on the assumption that it would not have to resort to any load shedding in monsoon season due to reduced demand, however, in actual scenario, many a times MSEDCL has to carry out load shedding in monsoon season, as load shedding is highly dependent on rain. Prayas further submitted that additional 40 MW of CPP power (Tata Motors) is expected in June 2008, which should be utilized by MSEDCL instead of RTC power of TPC. Prayas requested the Commission to continue present arrangement of zero load shedding for Pune Urban Circles till September 2008.

15. Prayas suggested that MSEDCL should adjust surplus revenue collected through levy of Reliability Charges till March 2008 while calculating Reliability Charges for FY 2008-09. Prayas submitted that domestic consumers having consumption of upto 300 units per month should continue to be exempted from levy of the Reliability Charge. Prayas opined that proposed Reliability Charge should not be higher than Rs. 0.42 per unit as applicable in the present scenario. Prayas further suggested that MSEDCL should allow TPC to sell night-time power to others, since MSEDCL was not in a position to utilise it, and was loading the additional cost on Pune Urban Circles' consumers.

16. Prayas and CII submitted that MSEDCL has not made any submission regarding the availability, requirement and rate of additional power for the period October 2008 to March 2009, and therefore, it is not possible to work out yearly impact and associated Reliability Charges. Prayas and CII requested the Commission to issue its Order/directions in the matter for limited period of April 2008 to September 2008 to reduce the uncertainty of levy of reliability charge for whole year. Prayas made the following additional suggestions to reduce the burden on Pune consumers:

- a) Allow TPC to sell excess power during night-time at rate above Rs. 6.00 per kWh

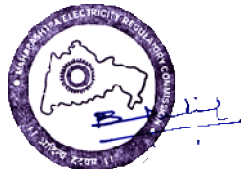


- b) Use of CPP support for June 2008 instead of purchase of additional 50 MW expensive power
- c) Use of CPP support during monsoon months to provide additional supply for mitigating load shedding

17. Maharashtra Chamber of Commerce, Industries and Agriculture (MCCIA) submitted that any upward adjustment in Reliability Charge from the present level of 42 paise/kWh should not be allowed by the Commission until audited accounts for 'Pune Model' are submitted by MSEDCL for the Commission's analysis and approval. MCCIA pointed out that data utilized for calculation of proposed Reliability Charges would undergo major change after declaration of new load shedding protocol by the Commission through its Order in Case No. 72 of 2007 in the matter of Petition for Annual Performance Review of MSEDCL for FY 2007-08 and determination of tariff for FY 2008-09.

18. MCCIA submitted that any unabsorbed/excess power purchased for Pune Circles through the proposed mechanism should be compensated at Unscheduled Interchange (UI) rate of Availability Based Tariff (ABT) of National Grid. MCCIA further submitted that DGBDF model visualizes addition of generation capacity for a specific region with provision of procurement of power from outside sources, and hence, any power purchase MSEDCL from any supply agency has to be meant for entire distribution area of MSEDCL. The word 'Additional Supply Agency' should not be used to avoid legal complications.

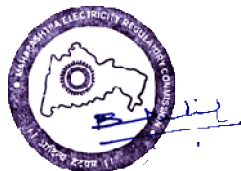
19. Confederation of Indian Industry (CII) submitted that MSEDCL has calculated the Reliability Charge for the period from October 2008 to June 2009; instead, Reliability Charges should be computed for twelve (12) months to average out different cycles of power purchase. CII submitted that MSEDCL has planned for 100 MW RTC power while always acknowledging that it would not need additional power during night hours, thereby unfairly loading related cost of excess power on Pune consumers. CII proposed that MSEDCL, in its tender floated for appointing Franchisee for supply of power to mitigate load shedding in Pune Circles, should seek power only for the required hours and it should be possible to get the same.



20. CII further submitted that selective use of CPP Power would help MSEDCL in the months like June where shortfall is only for 9 days for which CPP power can be utilized only for the required hours by MSEDCL. This will obviate the need for procuring RTC power for the full month, and will reduce the burden of Reliability Charges. MSEDCL should use CPP power in conjunction with the grid power. Tata Power is likely to set up nearly 40 MW of CPP in Pune, which can be used to supply power to Pune Circles. CII also added that from its very inception, the 'Pune Model' was all about giving uninterrupted power to citizens of Pune and not touching industry subjected to staggered holiday, and hence, MSEDCL should reflect the surplus in the calculations of Reliability Charges.

21. Akhil Bhartiya Grahak Panchayat (ABGP), Pune, supported the proposal of MSEDCL for appointment of TPC as an Additional Supply Agency, for mitigating load shedding in Pune Urban Circles and submitted that MSEDCL has already collected Reliability Charges from consumers in Pune for meeting the extra expense on account of power purchase. The surplus amount with MSEDCL, if any, may be taken as the opening balance before computing the Reliability Charges under the present proposal. ABGP suggested that MSEDCL should be directed to publish month-wise account of Reliability Charges collected from Pune's consumers and amount paid to industries that have operated CPPs for own-use under the leadership of CII Pune. ABGP added that additional power required, if any, for mitigating load shedding during monsoon season should not be purchased from TPC, instead, industries operating generator sets for own power requirement may be persuaded to come forward and act as in the past, with reasonable compensation. ABGP requested the Commission to impose restrictions on all HT consumers to limit their MD up to 80% of sanctioned MD or average of last year, whichever is less, and proposed to impose penalty through disconnection of electric supply instead of monetary penalty.

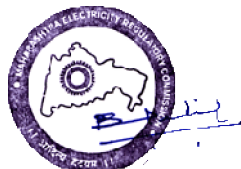
22. Shri Mahesh Tulpule submitted that MSEDCL should monitor the power usage at peak hours and may levy separate charges for consumption during peak hours. There are at least 2000 generator sets of varying capacity from 10 kV to 500 kV, which can generate power during peak hours. MSEDCL should explore every possible way of sourcing energy from these sources.



23. Shri Vivek Velankar submitted that MSEDCL should ask TPC to directly sell excess power during night off-peak hours in the open market and charge the differential amount to MSEDCL and in turn to Pune consumers, which would reduce the burden on Pune consumers. Shri Velankar submitted that there are too many dynamic elements in the present model and the exact working of Reliability Charge is very difficult and may lead to over or under recovery, and proposed that MSEDCL should continue charging Reliability Charge of 42 paise per unit for the period from April 2008 to June 2008. MSEDCL should reconcile the figures by June 2008 and any under-recovery/over-recovery should be recovered during July 2008. Shri Velankar added that MSEDCL should make available weekly interruption report on its website.

24. Shri Avinash Shethji submitted that appointment of Interim Franchisee is without any criterion. There are no terms and conditions properly notified and publicized to give fair opportunity to qualifying parties. EA 2003 clearly specifies that power purchase should be done through a competitive bidding process. Shri Shethji submitted that the real shortfall of Pune Urban Circles is not available in the Petition filed by MSEDCL. MSEDCL's assumption that non-sheddable load is constant is not true, instead, MSEDCL should have considered load variation in non-sheddable load. Shri Avinash Shethji opined that Reliability Charge computation is based on recorded peak demand, which might be misleading. Shri Shethji opined that there should be uniform policy for payment of Reliability Charges as every consumer is benefited by having no load shedding. Shri Shethji submitted that Reliability Charge of Rs. 0.84 per unit is not viable for industry, and would affect their ability to compete in the global market.

25. Pudumjee Pulp & Paper Mills Ltd. (PPPM) submitted that the Commission's objective in suggesting DGBDF was to create generation facilities locally near load centre, and not to appoint special purchase agency without any plans or suggestions to create any generation facility locally. Appointing TPC as additional supply agency would only increase the cost to the Pune consumers as such agency cannot be expected to work without profit. PPPM stated that any purchase by MSEDCL, even from special agency, has to be used for reducing load shedding for whole of the State. PPPM submitted that the proposed Reliability Charges are very high and energy intensive industries cannot afford such price increase in the face of stiff market competition.

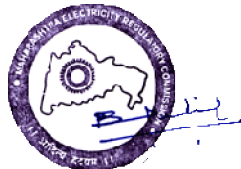


26. PPPM brought to the notice of the Commission that continuous process industries are already paying high tariff as compared to other industries, and hence, they should not be subjected to additional Reliability Charge. PPPM proposed that a part of the proposed Reliability Charge should also be borne by consumers consuming less than 300 units per month. PPPM enquired about the power supply scenario in Pune after June 2008, as MSEDCL is silent on this aspect in its proposal. PPPM suggested that CII should supply all available power and should procure the balance requirement from appropriate sources, which would ensure additional generation locally.

27. Pune Municipal Corporation and Shri Matkari submitted that essential services of Pune Municipal Corporation like water supply, streetlight, etc., should be exempted from proposed Reliability Charges. Shri Shankar Kalmani submitted that load-shedding hours are likely to be reduced under the new load shedding protocol to be determined by the Commission under its Order in Case 72 of 2007, which would reduce the deficit in power supply to Pune Circles, thereby reducing proposed Reliability Charges. Shri Kalmani suggested that proposed Reliability Charges should not be applicable to small scale industries and domestic consumers consuming less than 500 units per month. Shri Matkari suggested that luxurious use of electricity should be stopped immediately due to shortfall in power, and further, extra charge levied on the consumers using own generator sets should be abolished.

28. Smt Vandana Chavan submitted that MSEDCL should take up a massive awareness drive to make people realize the extent of shortage in power supply and should also monitor the use of electricity. MSEDCL should educate the people about energy conservation. Shri Anil Kelkar submitted that MSEDCL should formulate long-term solutions to mitigate load shedding instead of short term measures for every occurrence. Shri Shashi Ramdas proposed that Reliability Charge should be levied only on new consumers.

29. Shri K. Haridas submitted that differential treatment to a section of people by merely levying Reliability Charges, when the whole State of Maharashtra is reeling under severe power shortage, is against the principles of natural justice and also against the Consumer Protection Act. MSEDCL sometimes under draws from the Central grid to earn UI charges at the rate of Rs.10/kWh and on the other hand proposes to supply firm power to a particular region at the cost of other consumers. Shri K. Haridas suggested

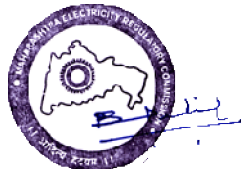


that MSEDCL should procure power from within the State and outside the State through long-term PPAs and supply to the power starved consumers of entire Maharashtra. The option of paying Reliability Charges by certain regions does not exist as the consumers in the rest of the State have contributed for installation of generators, batteries and their O&M cost.

30. MSEDCL, vide its additional Petition filed before the Commission on April 30, 2008, submitted as under:

- a) Power from TPC would be available up to June 30, 2008.
- b) No additional power procurement is envisaged from TPC for the period from July 1, 2008 to September 30, 2008.
- c) MSEDCL had advertised Tender for the procurement of power to mitigate load shedding in Pune Urban Circles for the period from October 1, 2008 to June 30, 2009, and is expected to be met through the Additional Supply Agency, which would be finalized under the competitive bidding process. The Tender was originally due for opening on April 25, 2008. However, due to poor response, the due date of opening of the said tender has been extended up to May 6, 2008.
- d) The rate of power purchase is expected to vary from Rs. 7.00 per kWh to Rs. 12.00 per kWh, and accordingly, proposed Reliability Charge for the period from October 2008 to June 2009, would be in the rage of Rs. 0.64 per Unit to Rs. 1.68 per kWh, as shown in the Table below:

Particulars	Unit Rate of power at MSETCL Bus					
	Rs. 7.00	Rs. 8.00	Rs. 9.00	Rs. 10.00	Rs. 11.00	Rs. 12.00
Reliability Charge per unit for utilization of required units in Pune Urban Circles	0.47	0.60	0.73	0.87	1.00	1.13
Reliability Charge per unit for units not required for Pune consumers and diverted to other parts of the State	0.18	0.25	0.32	0.40	0.47	0.54
Total Reliability Charge pre unit for Pune consumers	0.64	0.85	1.06	1.26	1.47	1.68



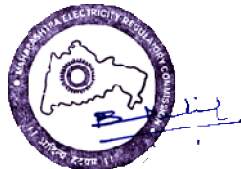
31. The Commission, vide queries dated May 8, 2008, sought below referred clarifications from MSEDCL:

- a) Quantum of power to be procured from CPPs in Pune on monthly basis from May 2008 onwards, and the rate for such power procurement
- b) Quantum of balance power to be procured from external sources during month of May 2008, as well as from October 2008 onwards, and the rate for such power procurement
- c) Details of the bids received and accepted from bidders (both in MW and MU and cost) for power supply to mitigate load shedding in Pune Urban circles, as per the Tender that was to be opened on May 6, 2008
- d) Simulations on the basis of using CPP power in June and the monsoon months, rather than purchase of costly power from traders, to minimize the impact of costly power on consumers, while at the same time achieving the desired objective of zero load shedding
- e) Status of settlement of past accounts (reliability charges recovered during the period from May 2006 to March 2008) and whether the same has been audited by a third-party auditor
- f) Revised computations of Reliability Charges after incorporating all the above aspects.

32. MSEDCL vide its additional submission ref: ED-II/Comm/Pune ZLS/21807 dated May 15, 2008, submitted its reply to the queries raised by the Commission, as under:

- a) Month wise average power purchase rates in Rs per kWh received in the above said tender are:

§ Oct 2008 :	Rs 8.94 per kWh
§ Nov 2008 :	Rs 8.94 per kWh
§ Dec 2008 :	Rs 9.07 per kWh
§ Jan 2009 :	Rs 9.10 per kWh
§ Feb 2009 :	Rs 9.10 per kWh
§ Mar 2009 :	Rs 9.10 per kWh

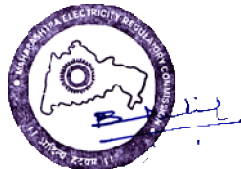


- b) The rates for April 2009 onwards have not been considered in the present proposal, since the present proposal is prepared up to the end of current financial year only.
- c) Quantum and cost of power proposed to be procured from CPPs in Pune:
Confederation of Indian Industry (CII) vide its letter dated April 11, 2008 informed that CII will continue to support to the extent of maximum 50 MW. However, CII has informed that the cost structure of CPPs has changed during the last two years primarily due to the increase in the fuel cost (both HSD and LDO), and submitted the unit rate for CPP units using LDO fuel as Rs 9.95 per kWh, and has given five different unit rates for HSD based units ranging from Rs 11.06 to Rs 11.26 per kWh.

From May 2008 onwards, CPP support of 50 MW for 12 hrs has been considered in the present calculation. The period of availability of CPP power is assumed to the extent of 25 days in a month. During July 2008 through September 2008 it is envisaged that only CPP power will be available. In the month of June 2008 the CPP power is considered for only nine days (effective load shedding days), since RTC power is already contracted for this month, [which shall be restricted to 50 MW as the Tata Power Trading Company Ltd (TPTCL) has not come forward to supply balance 50 MW assured by them, so far] .

The average rate of power purchase from CPPs has been considered at Rs 10.97 per kWh, by considering 85% HSD at Rs. 11.15 per kWh and 15% LDO at Rs. 9.95 per kWh, as proposed by CII. For CPP units, the average peak hour variable tariff has been considered as Rs 4.20 per kWh and average off-peak hour variable tariff has been considered as Rs 3.25 per kWh, based on the Commission's Tariff Order dated May 18, 2007 in Case No. 65 of 2006, for HT-I category, making the total average variable tariff as Rs 3.73 per kWh. By adding Rs 0.09 per kWh as FAC for the billing month of May 2008, the average applicable rate for CPP works out to Rs 3.82 per kWh.

- d) The requirement of power for Pune Urban Circles to mitigate the load shedding as per the load shedding protocol dated January 30, 2008, is around 150 MW. Accordingly, RTC power has been considered as 100 MW keeping in view availability of CPP power of 50 MW.

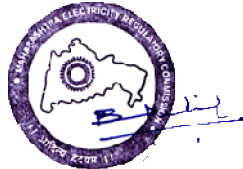


The quantum of excess RTC power will be utilized to alleviate load shedding in other parts of the State. The average unit rate for power purchase at MSETCL bus has been considered as Rs 2.25 per kWh instead of Rs 2 per kWh, considered in the earlier Petition.

- e) In the above mentioned tender opened in May 2008, the offers received are mostly on RTC basis and hence, the power procurement has been considered for 24 hrs.
- f) Settlement of past accounts of reliability charges recovered from Pune consumers during the period from May 2006 to March 2008 have been prepared and are being audited by third party auditor. However, as submitted in MSEDCL's Petition dt December 27, 2007, keeping in view the context of distress load shedding that MSEDCL had to resort to through EHV openings during this period, it is proposed to address this settlement of past account in the truing up process along with the ARR.

33. MSEDCL vide its additional submission ref: ED-II/Comm/Pune ZLS/22258 dated May 21, 2008, submitted its reply to the queries raised by the Commission dated May 18, 2008, as under:

- a) The average realization rate for Pune Urban Circles and the State as a whole has been considered on the basis of actual sale in MU and collection for the period from April 2007 to March 2008 from the data generated for Ganeshkhind and Rastapeth circles of Pune, which works out to Rs. 4.98 per kWh. The distribution losses have been considered on the basis of the actual circle-wise distribution losses for FY 2007-08 (up to February 2008).
- b) Since the above mentioned tender was advertised for RTC power, no offers have been received for 12 hr power in this tender. Thereafter, MSEDCL explored the possibility of getting 12 hr power, and one offer has been received from M/s JSW Power Trading Company Ltd for sale of power, with rate of Rs 11.08 per kWh at MSETCL bus. This offer has been considered while re-computing the reliability charge.
- c) The additional revenue on account of sale of surplus power during night time by TPC cannot be used to offset the impact during the months of May and June



2008, since only 12 hr power has been considered from October 2008 onwards and RTC power for April, May and June 2008 has already been contracted.

- d) Settlement of past accounts have been completed for the period up to February 2008, however the power purchase data for March 2008 in respect of costly power is yet to be generated, which is expected shortly. From the data received till date, it prima-facie appears that an amount of Rs 6.78 Crore is required to be recovered additionally. It is proposed that cognizance of the deficit/surplus from the past accounts be considered while reconciling after the first quarter.

34. MSEDCL vide its additional submission ref: ED-II/Comm/Pune ZLS/23381 dated May 31, 2008, submitted as under:

- a) After submission of the Additional Petition dated May 21, 2008 to the Commission, MSEDCL has received offer No. TPTCL/MSEDCL/BP/FY08/3093 dated May 31, 2008 from M/s. Tata Power Trading Company Ltd., Mumbai whereby they have now offered to supply 150 MW for 12 hrs. a day from October 1, 2008 up to May 31, 2009, at the rate of Rs 8.54 per kWh at MSETCL periphery. Also M/s. Tata Power Company revised their offered rate for the month of June 2008 from Rs. 8.05 to Rs. 8.65 for 50 MW power for 12 hrs a day and accordingly order has been placed on TPC vide ref. MSEDCL/PP/TPCL/22775 dated May 27, 2008.
- b) Accordingly, the Reliability Charges have been re-computed after taking into consideration the revised rate of additional power procurement. The revised Reliability Charges as computed by MSEDCL in its latest submission, works out to 61.40 paise/kWh, payable for the 12-month period from April 2008 to March 2009.

35. Having heard the parties and after considering the material placed on record, the Commission is of the view as under:

- a) Before ruling on the issues involved, it is necessary to understand the background for this Petition filed by MSEDCL. The Commission issued two Orders in this context, the relevant extracts of which are given below:

Case No. 51 of 2007 and 90 of 2007 dated March 13, 2008:

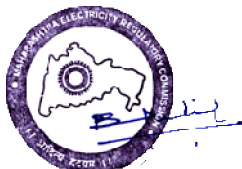


“33. Having heard the parties and after considering the material placed on record, the Commission is of the view as under:

(i) ...MSEDCL's practice of allocating additional grid power to make up the shortfall in CPP power generation in Pune Urban Circles is not in line with the load shedding protocol determined by the Commission, as it cannot discriminate between different regions, by allocating the available grid power to selected regions, at the cost of increasing the load shedding for other regions. MSEDCL's proposal for Pune Model in Case No. 1 of 2006 had clearly indicated that grid support through power procured from Kawas or other sources would be given only as a stand-by in case of emergency situation, and not a regular occurrence as being undertaken by MSEDCL presently. MSEDCL's practice of allocating additional grid power to make up the shortfall in CPP power generation in Pune Urban Circles should be stopped with immediate effect by MSEDCL, or at the end of the present billing cycle, to avoid billing complications, since Reliability Charges will be payable for the additional supply already given during the current billing month ...

(iv) The process of appointing a Franchisee through a competitive bidding process will take time. Moreover, after appointment of the Franchisee, further time will be required for setting up generation facilities near the load centre. The generation capacity should be set up to provide peaking support so that the Scheme offers MW support to MSEDCL during peak hours, in addition to MU support. However, in the meanwhile, the consumers in selected areas, who are willing to pay additional Reliability Charges for reduction/elimination of load shedding, as under the CII-Pune Model, should not be deprived of this facility. To overcome the problem of additional time required for appointing the franchisee after following due process, till such time as the Franchisee is identified and appointed, as suggested during the Public Hearing, MSEDCL may consider appointing any entity as an interim measure, which shall act as the Franchisee. MSEDCL may consider contracting these functions with entities such as MIDC or others, or any other agency, with the objective of facilitating the power purchase activity for identified regions that are desirous of reducing their load shedding.

...”

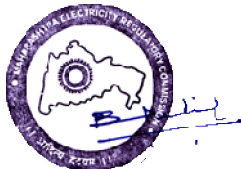


Case No. 101 of 2007 dated March 31, 2008:

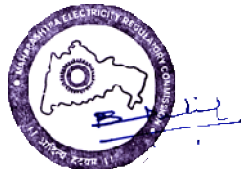
“8. Having heard the parties and after considering the material placed on record, the Commission is of the view as under:

...

- d) MSEDCL would have to appoint an Interim Franchisee, to undertake the necessary activities, till such time as the Franchisee is appointed. MSEDCL would have to make a realistic assessment of the timeframe required to appoint a Franchisee, so that the Interim Franchisee could be appointed to operate till such time as the Franchisee is appointed.*
 - e) It is entirely MSEDCL’s discretion to appoint a Franchisee/Interim Franchisee, and the Commission cannot issue any directions to MSEDCL in this regard...*
 - h) The Franchisee/Interim Franchisee would have to ensure additionality of power procurement from April 1, 2008, as grid power cannot be diverted to mitigate load shedding in selected areas.*
 - i) The reliability charges to be paid by the consumers who are benefiting from reduction in load shedding, and the willingness of the consumers to pay the reliability charges, can only be determined after a comprehensive proposal with facts and figures of actual availability of power, shortfall, its duration and seasonality and all the costs involved, etc., are submitted and due regulatory process including a Public Hearing, to be undertaken once MSEDCL submits a proper Petition.*
 - j) Till the completion of the regulatory process and the determination of the reliability charges through the Commission’s Order, the Interim Franchisee would have to bear the risk of consumers in Pune not being willing to bear the reliability charges.*
 - k) The cost of the additional power procurement would have to be spread over the entire tenure of the arrangement for computation of the reliability charges, rather than computing the same on a monthly basis...”*
- b) There is no requirement under law for MSEDCL to seek any approval from the Commission for appointment of the Franchisee, as clarified by the Commission in para 8 (d) of the Order in Case No. 101 of 2007, reproduced above.

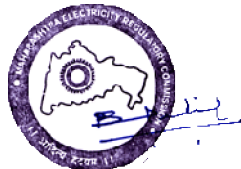


- c) Since most of the consumers who attended the hearing, supported MSEDCL's proposal to procure additional power from TPC to mitigate load shedding in Pune Urban Circles, the Commission accords its acceptance to MSEDCL's proposal for additional power purchase to mitigate load shedding in Pune Urban Circles, and has determined the Reliability Charges in this Order.
- d) Most of the objectors opined that the Reliability Charges should not be increased from the existing level of 42 paise/kWh, and that the exemption of residential consumers consuming upto 300 units per month should be continued. In this context, the consumers of Pune Urban Circles should appreciate that the Reliability Charges are dependent on the actual requirement of additional power and the rate for procurement of the same. The requirement of power has now increased vis-à-vis the requirement two years ago, and moreover, the earlier requirement was able to be supplied by the CPPs in and around Pune, whereas the quantum required now is such that it has to be sourced from outside the region, adding to the costs. The costs for procurement of short-term power from traders have also increased significantly over the last two years. Hence, while the Commission has made all efforts to ensure that only reasonable amount of Reliability Charges are recovered from the consumers, the Reliability Charges have worked out to be higher than the existing levy of 42 paise/kWh, which has to be paid by the consumers of Pune Urban Circles, in exchange for the facility of zero load shedding. Further, exempting other categories like Public Water Works, Streetlights, as well as industrial and residential consumers consuming below 500 units per month, is not feasible, since a significant proportion of the consumption would then be exempted from levy of the Reliability Charges, which would result in increase in the Reliability Charges payable by the remaining consumer categories, which would not be fair. Hence, the Commission has continued with the practice of exempting residential consumers consuming less than 300 units per month from the levy of Reliability Charges. All other consumer categories would have to pay the Reliability Charges determined in this Order.
- e) The additional power procurement undertaken by MSEDCL for the period from April 4, 2008 to June 30, 2008 has been regularised by the Commission through this Order. However, as the subsequent computations show, the Reliability Charges have worked out to be higher than they should ideally have been, because of MSEDCL's practice of contracting for Round the Clock (RTC) power



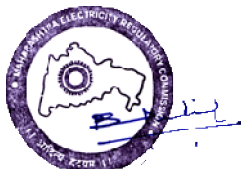
for the months of April and May 2008, even though the requirement of additional power is only for around 12 hours, to ensure that all the areas within the Scheme are covered. While the Commission has allowed this expense in this case, henceforth, MSEDCL should ensure that only the required amount of power is purchased under such Schemes, to ensure that the consumers covered under such Schemes are not burdened unnecessarily though the levy of Reliability Charges. MSEDCL's own efforts in this case have clearly demonstrated that additional power can be procured for a period of 12 hours or lower and that there is no compulsion to procure RTC power, as stated by MSEDCL in its initial proposal.

- f) The CPP power procured during this period of 50 MW for 12 hours in May and June 2008, has been considered at the weighted average rate of Rs. 10.62 per kWh, as compared to MSEDCL's assumption of Rs. 10.97 per kWh. The Commission has considered this rate in accordance with the rate approved by the Commission in Case No. 29 of 2005 dated March 2, 2006, viz., Rs. 8.24 per kWh for LDO as fuel (15% of total output), and Rs. 11.04 per kWh for HSD as fuel (85% of total output). The Commission has not considered any variation in the rate for procurement from CPPs, since no specific Unit-wise data of heat rate, efficiency, fuel cost, etc., has been submitted by CII to enable the Commission to compute whether there is a need to modify the rate. In the past too, the Commission had asked CII to submit the Unit-wise data, to enable the computation of Fuel Adjustment Charge (FAC) applicable for power procurement from CPPs in Pune, as the FAC cannot be computed simplistically by linking it to the prevailing fuel price, in the absence of Unit-wise data. MSEDCL is directed to obtain the Unit-wise data for the CPPs in operation and who are supplying to MSEDCL, and to ensure that only the actual fuel cost incurred by the CPPs in Pune are being reimbursed through the CII-Pune model earlier, and currently, under the revised Model. The other costs towards maintenance, consumables, manpower cost, etc., have not been considered by the Commission while determining the rate payable to the CPPs in its Order in Case No. 29 of 2005 dated March 2, 2006, on the basis that CII had not sought recovery of such fixed costs in its proposal.
- g) The additional power procurement for the period from October 2008 to May 2009 as proposed by MSEDCL for mitigating load shedding in Pune Urban Circles, has been accepted, subject to the condition that MSEDCL should take all efforts to



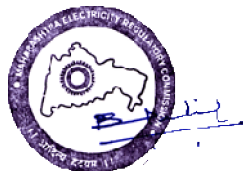
minimise the cost of additional power procurement through discussions with the Interim Franchisee/Trader (TPC, in this case), so that the burden of Reliability Charges is minimised.

- h) The revised Scheme has been considered to be in operation for the 14-month period from April 4, 2008 to May 31, 2009, in view of the fact that the months of April and May 2009 are high demand months, and additional power will be required during this period also. MSEDCL has been recovering Reliability Charges at the existing rate of 42 paise/kWh for the period from April to June 2008 as an interim measure, till such time the Reliability Charges are determined by the Commission. Hence, the Reliability Charges determined by the Commission in this Order will be applicable for the remaining period from July 2008 to May 2009. The under-recovery, due to the levy of lower Reliability Charges of 42 paise/kWh as compared to the actually computed Reliability Charges during the period from April to May 2008, has been added, while computing the Reliability Charges to be levied from July 2008 to May 2009. The Reliability Charges are a part of the tariff, and will be payable in addition to the regular tariff components such as energy charge, fixed/demand charge, FAC, etc., as applicable.
- i) As regards the objections on the legality of MSEDCL's proposal to appoint an Interim Franchisee and procure additional power to mitigate load shedding in Pune Urban Circles, the Commission has already addressed most of these issues in its earlier Order in Case Nos. 51 and 90 of 2007, as reproduced below [Paragraph 33(ii)]:
- “.....The proposal that a franchisee will identify and procure power from diverse sources is not prohibited under the EA 2003 as it is in the first place the distribution licensee's own function to identify and procure power to supply to its consumers.”*
- j) The aforesaid findings of the Commission in its Order dated March 13, 2008 in Case No.s 51 and 90 of 2007 cannot be objected to for representing in the present proceedings.
- k) Further, there is nothing in Section 86(1)(b) of the EA 2003 that suggests that the electricity purchase and procurement process of distribution licensees, cannot be regulated for effecting supply for a particular area. In any case, MSEDCL should



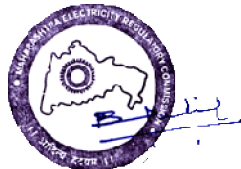
gradually take into account the demand of other areas and come up with solutions to procure power for supply within these other areas. The benefit of zero load shedding should be given by MSEDCL to all consumers but that does not mean that till the time that happens, the entire process should be stopped and if the power procurement so justifies such benefit of zero load shedding should not be given to a particular section of consumers. In any case, Section 62 entitles that the geographical position of any area may be taken into account as a factor for differentiating and for giving any kind of preference, for the purposes of tariff.

- l) The Commission does not sustain the contention that EA 2003 does not support the concept of distributed generation based electricity distribution Franchisee (DGBDF) for any Urban area but this concept is only supported in case of notified Rural area. Rural electrification and bulk purchase of power and management of local distribution in rural areas as stipulated under Section 5 of the EA 2003, does not mean that there cannot be bulk purchase of power and management of local distribution (through franchisees) in areas other than rural areas. There is no such requirement under the EA 2003 that for generating and supplying power in areas other than rural areas, a franchisee would need to obtain a distribution license. The provisions of the EA 2003 are to be given a purposive interpretation. In case the franchisee (besides undertaking distribution on behalf of the distribution licensee) also generates power to meet the load, it would not be precluded by any provision of the EA 2003. However, in such a case, the Franchisee would be subject to Part III of the EA 2003 and other provisions regulating generators.
- m) The EA 2003 would only exempt any entity from the requirement to obtain license if it is a franchisee appointed by the distribution licensee. *Prima facie*, there is no doubt that an entity, which is not a Franchisee but would distribute electricity, would certainly require to obtain a license authorising the said activity of distribution.
- n) Under this scheme, the Commission rules that in case of interruption in the power supply by the Interim Franchisee for a long time, such as annual maintenance shutdowns/outages, etc. of the generation source, load shedding will have to be undertaken, and grid support cannot be provided by MSEDCL at the expense of consumers in other regions. For temporary interruption during the specified hours



of supply due to breakdowns, etc., (not exceeding 4 hours) grid support could be provided by MSEDCL to Pune Urban Circles to mitigate the situation, and would be charged at Weighted Average System Marginal Price (WASMP) prevailing during the respective hours. MSEDCL would have to ensure that accurate records of such instances are maintained and correlated with the prevailing WASMP.

- o) Further, MSEDCL has been applying different methodologies while computing the Reliability Charges for different regions such as Pune Urban Circles and Thane, Bhandup, Mulund and Navi Mumbai regions (Case No. 10 of 2008). This is not appropriate, and standard methodology and assumptions should be adopted for computation of Reliability Charges across the licence area, irrespective of the region concerned. Since the methodology is still evolving, the Commission has standardized the methodology after studying MSEDCL's proposals in the present case (Case No. 5 of 2008) as well as in Case No. 10 of 2008. The application of this standardized methodology may have an impact on the computation of Reliability Charges for Thane, Bhandup, Mulund and Navi Mumbai regions (Case No. 10 of 2008), on which the Commission has passed an Interim Order approving the levy of Reliability Charges for the period from June 2008 to May 2009, subject to revision after the Commission's analysis of the submissions made by MSEDCL. The Commission will address these issues in the detailed Order to be issued shortly in Case No. 10 of 2008.
- p) The methodology adopted by the Commission for determination of Reliability Charges in this Order, should be considered as a standard methodology, and adopted by MSEDCL for all future proposals of this nature. However, certain aspects of the Pune Scheme, viz., regularization of actual additional costly power purchase during the period from April to June 2008, and inclusion of CPP power for certain periods, would have to be excluded while considering the feasibility of such a Scheme and the computation of Reliability Charges for other regions, unless there is availability of surplus CPP power in that region also.
- q) The Commission has not considered the impact of any surplus/deficit on account of the levy of Reliability Charges of 42 paise/kWh over the 22-month period from May 2006 to March 2008, since the same has to be audited by a third-party auditor to be appointed by MSEDCL, after getting the Scope of Work and the methodology for the same approved by the Commission. The impact of the truing



up of the surplus/deficit for the above period will be addressed along with the truing up at the end of the first quarter.

r) Assumptions and computation of Reliability Charges

- i. The detailed month-wise and aggregated computation of Reliability Charges is given in **Annexure 1** to this Order.
- ii. For the period from April 4 to June 30, 2008, the Commission has accepted MSEDCL's power purchase quantum and cost, and regularizes the same. The quantum and cost of power purchase considered by the Commission from different sources for this period is given in the Table below:

Sl.	Period	Additional Power Purchase		
		Quantum (MW)	RTC or 12 hr	Rate at MSETCL Boundary (Rs/kWh)
1	April 4 – April 15, 2008	100	RTC	9.44
2	April 16 – April 30, 2008	100	RTC	8.05
A	Total – April 2008	100	RTC	8.64
3	May 1 - May 31, 2008			
4	CPP	50	12 hr	10.62
5	TPC	100	RTC	8.05
B	Total – May 2008	150	20 hr	9.65
6	June 1 – June 30, 2008			
7	CPP	50	12 hr	10.62
8	TPC	50	12 hr	8.65
C	Total – June 2008	100	12 hr	9.87

- iii. Since MSEDCL has continued to levy Reliability Charges of 42 paise/kWh during this period, only the differential impact is yet to be recovered. The difference between the actual power purchase cost incurred during this period and the estimated recovery through Reliability Charges has been loaded on to the remaining period from July billing onwards, along with the recovery of additional power purchase expenses over the period from October 2008 to May 2009.



iv. For the period from October 1, 2008 to May 31, 2009, the Commission has considered 150 MW of power purchase from TPC for 12 hours daily, as against MSEDCL's revised proposal of a combination of 50 MW from CPPs and 100 MW from TPC, since the economics works out better, as discussed below:

§ MSEDCL has placed a Letter of Intent (LOI) on TPC for purchase of 150 MW from the period October 2008 to May 2009.

§ The rate quoted by TPC for the additional power purchase is Rs. 8.54 per kWh, whereas the weighted average rate of CPP power is around Rs 10.62 per kWh; thus, the difference in power purchase rate is around Rs 1.65 per kWh (after considering intra-State transmission losses on the power procured from TPC)

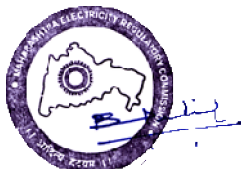
§ There is no additional sale under the CPP model, since the industrial consumers with CPPs withdraw their consumption from the grid and use the CPPs to generate their energy requirement during the peak hours, and the power thus made available to MSEDCL is diverted to other categories.

§ On the other hand, if TPC power is purchased as against power purchase from CPPs, then there is additional sales, as industries with CPPs will continue to consume from the grid, while the additional power that is purchased will be sold to other consumers and load shedding will be eliminated

§ Since the difference in the average billing rate of industrial consumers is not much higher than the average billing rate of other consumer categories in Pune Urban Circles put together, it cannot make up for the difference between the power purchase rates of CPPs and TPC as submitted by MSEDCL in the present context

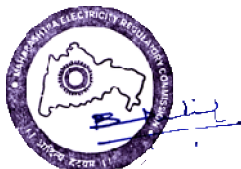
§ Hence, the Commission has not considered any power purchase from CPPs and has considered entire power purchase from TPC for the period from October 2008 to May 2009.

v. No additional procurement of costly power has been considered from TPC during the monsoon period, viz., July to September 2008. If actual power purchase is required to be undertaken during this period due to system conditions, then the same should be undertaken from the CPPs in Pune,

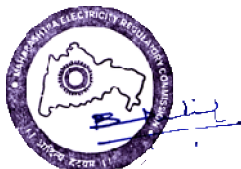


which has been committed by the CPPs in Pune. For determination of Reliability Charges, the Commission has not considered any power purchase from CPPs during this period, since it is difficult to project any specific quantum of power purchase, during this period of lower demand when usually; the demand-supply gap situation is under control. The same will have to be addressed under the truing up mechanism to be undertaken on a quarterly basis, as mentioned subsequently in this Order

- vi. The quantum of power required to mitigate load shedding in Pune Urban Circles has been considered as 150 MW for 12 hours daily, with an effective load shedding ratio of 72% (actual load shedding ratio undertaken during the comparable period from May 2006 to April 2007). The effective hours of additional power procurement thus works out to 8.64 hours. On this issue, it is clarified that though the average hours of requirement of additional power by MSEDCL over the year works out to 8.64 hours, it does not mean that MSEDCL should contract the required quantum of power for only 8.64 hours on a daily basis. The contract has to have sufficient margin, and should be able to meet the maximum hours of requirement on any particular day, since grid support cannot be provided for such days when the actual requirement of additional power is greater than the average period of 8.64 hours.
- vii. As a consequence of the above, the contract for procurement of additional power for Pune Urban Circles for 12 hours daily, results in surplus power availability for the period on an average, viz., the difference between MWh considering 12 hours daily and the MWh considering 8.64 hours daily
- viii. The MWh required per day to mitigate load shedding in Pune Urban Circles over the period from October 2008 to May 2009 works out to 1296 MWh, which is equivalent to 1.30 MU daily. The daily requirement has been multiplied with the number of days in each month during this period, to determine the monthly requirement of additional energy in MU, at the distribution interface.

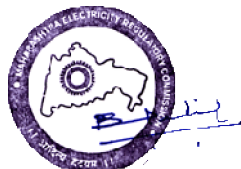


- ix. The computation of energy requirement, power purchase expenses, additional sales, and Reliability Charges have been done for each month separately, and aggregated over the period under consideration.
- x. In order to determine the energy requirement at the State boundary, the intra-State transmission losses have been considered as 4.85% in accordance with the Commission's previous Orders in this regard, as compared to 4.5% considered by MSEDCL.
- xi. The distribution losses in Pune Urban Circles have been considered as 12.13%, in accordance with the data submitted by MSEDCL in this regard.
- xii. Based on the above assumption, the total additional power procurement required to be undertaken by MSEDCL to mitigate load shedding in Pune Urban Circles works out to 424.96 MU.
- xiii. The unit rate for procurement of power from TPC has been considered as Rs. 8.54 per kWh at the State boundary, as submitted by MSEDCL and TPC.
- xiv. The total expenditure on additional power procurement over the period from October 2008 to May 2009, if only the required power to the extent of average 8.64 hours per day is considered, works out to Rs. 371.46 crore.
- xv. The Reliability Charges are being made applicable for all consumers of Pune Urban Circles excluding residential consumers consuming below 300 units per month, as explained earlier. MSEDCL has projected the effective sales, after deducting sales to consumers consuming below 300 units per month, as 4224 MU, and has stated that it has considered a 10% increase in sales to arrive at this figure.
- xvi. The actual increase in sales to Pune Urban Circles has been around 20% in FY 2007-08 over FY 2006-07 levels. Moreover, as explained earlier, since the additional power is being procured from TPC rather than the CPPs, there will be additional sales, and hence, the Commission is of the view that the sales projected by MSEDCL would address only this shift in sales from the earlier Pune Model, wherein there was no additional sales due to reduction in load shedding. Hence, the Commission has considered a 20%

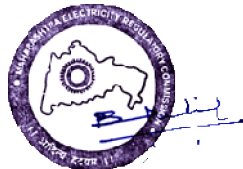


increase in sales over the sales projected by MSEDCL, to arrive at the figure of sales on which the Reliability Charges can be levied. The additional sale works out to 355.30 MU, after considering distribution losses of 12.13%.

- xvii. By considering the additional sales as stated above, the effective sales to Pune Urban Circles excluding residential consumers consuming below 300 units per month works out to 6268.90 MU, after adding the sales in the three month period from July to September 2008.
- xviii. The additional revenue due to additional sales has been computed by multiplying the additional sale of 355.3 MU with the average realization rate of Rs. 4.98 per kWh, which works out to Rs. 149.82 crore
- xix. The net additional expenditure on power purchase thus, works out to Rs. 221.64 crore (Rs. 371.46 crore – Rs. 149.82 crore).
- xx. The Reliability Charges to be levied on all consumers of Pune Urban Circle for their entire consumption, excluding residential consumers consuming less than 300 units per month, thus, works out to 35.40 paise per kWh, as compared to 54 paise per kWh projected by MSEDCL in the revised submission. However, this computation by the Commission only considers purchase of additional power for 8.64 hours daily, while MSEDCL's computation is only for the period upto March 2009, as compared to the Commission's computation upto May 2009.
- xxi. In the second stage of the computation of Reliability Charges, the surplus power purchase to the extent of 3.36 hours daily (12 hours – 8.64 hours) since the contract is for 12 hours daily, has been assumed to be sold to other consumers in MSEDCL licence area at the average realization rate of Rs. 3.94 per kWh, as submitted by MSEDCL. Further, the burden of costly power purchase has been computed as the difference between the rate of Rs. 8.54 per kWh for the period from October 2008 to May 2009 (Rs. 8.64, Rs. 9.65, and Rs. 9.87 per kWh for the months of April, May and June 2008, respectively) and the average power purchase rate of Rs. 2.38 per kWh at MSETCL boundary, as determined by the Commission in the Tariff Order for MSEDCL for FY 2008-09 in Case 72 of 2007, dated June 20, 2008.



- xxii. The excess energy available for sale at MSETCL bus has been assessed as 191.27 MU for the 14-month period from April 2008 to May 2009, and the additional power purchase expenditure on this accounts works out to Rs. 127.86 crore (after deducting the average rate of Rs. 2.38 per kWh). The energy actually available for sale after deducting intra-State transmission losses and average State distribution loss of 22.2% for FY 2008-09 (as determined by the Commission for FY 2008-09, in the Tariff Order for MSEDCL for FY 2008-09 in Case 72 of 2007, dated June 20, 2008), works out to 146.03 MU.
- xxiii. The revenue earned through sale of additional units to the rest of the State has been assessed at Rs. 57.54 crore, by considering the sale at the average realization rate of Rs. 3.94 per kWh.
- xxiv. Thus, the net additional expenditure under the second stage of the computation, works out to Rs. 70.33 crore (Rs. 146.03 crore – Rs. 57.54 crore), and the additional Reliability Charges on this count works out to 11.20 paise per kWh.
- xxv. The total Reliability Charges to be levied over the 14-month period from April 2008 to May 2009, thus, works out to **46.6 paise/kWh**, as compared to MSEDCL's computation of 61.4 paise/kWh for the 12 month period from April 2008 to March 2009.
- xxvi. However, since MSEDCL has already recovered Reliability Charges of 42 paise/kWh over the period from April to June 2008, the difference between the actual cost to be recovered through Reliability Charges for these three months and 42 paise/kWh has to be recovered through the Reliability Charges to be levied over the 11-month period from July 2008 to May 2009.
- xxvii. The under-recovery on account of above works out to Rs. 56.52 crore.
- xxviii. **Thus, the effective Reliability Charges payable by consumers in Pune Urban Circle for the period from July 2008 to May 2009 is 47.80 paise/kWh.**
- xxix. The summary of the Reliability Charges as arrived at after Stages I and II of the computation is given in the Table below:



Sl.	Particulars	Reliability Charges (paise/kWh)	
		If levied over 14 months – April 2008 to May 2009	Since levied over 11 months – July 2008 to May 2009
1	Stage I	35.4	39.3
2	Stage I	11.2	8.5
	TOTAL	46.6	47.8

Note:

1. Stage I covers the energy requirement equivalent to 8.64 hours of load shedding
 2. Stage II covers the balance energy available, which is the difference between 12 hours of contracted power and 8.64 hours
- s) MSEDCL should undertake reconciliation between actuals and the basis on which the above Reliability Charges have been determined, on a quarterly basis, and ensure that the recovery of Reliability Charges on actual basis matches the expenditure on additional power procurement. Truing up would be necessitated on account of the following changes in the ground realities, inter-alia:
- a. The Commission has revised the load shedding protocol in the Tariff Order for MSEDCL for FY 2008-09 in Case 72 of 2007, dated June 20, 2008, which will have an impact on the load shedding requirement for Pune Urban Circles, and hence, the additional power purchase requirement. Further, the actual load shedding would depend on the system conditions, and the impact of additional power purchase from CPPs, etc., would have to be addressed at the time of truing up.
 - b. The category-wise tariffs have been revised in the above-referred Tariff Order with effect from June 1, 2008, and the ratio of recovery through fixed charges and energy charges has also been modified, hence, the additional revenue would undergo a change, which would have to be trued up
 - c. The actual power purchase cost, actual category-wise sales and hence, actual recovery through Reliability Charges would be different from that estimated in this Order, and hence, would have to be trued up.

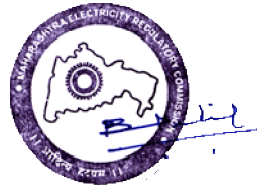


- t) The above reconciliation should be got audited by a Certified third-party Chartered Accountant (certified by Institute of Chartered Accountants of India - ICAI) from outside the local area to be appointed by MSEDCL. The Scope of Work (SOW) for appointment of the Chartered Accountant should be comprehensive and submitted by MSEDCL for the Commission's approval within 15 days of issue of this Order, after which, the auditor should be appointed by MSEDCL. The difference between the cost and recovery under this Scheme should be passed through to the consumers of Pune Urban Circles excluding residential consumers consuming below 300 units per month, after the above reconciliation and third-party audit, on a quarterly basis, as Variation in Reliability Charges. The audit Report submitted by the third-party auditor should be submitted on a quarterly basis, along with the details of the variation in Reliability Charges passed through to consumers, on a post-facto basis. It is clarified that the variation can be positive or negative, and should be passed through to consumers on a quarterly basis, irrespective of whether it is positive or negative.

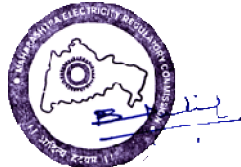
With the above, the Petition filed by MSEDCL in Case No. 5 of 2008 stands disposed of.

Sd/-
(S.B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member



(P.B. Patil)
Secretary, MERC



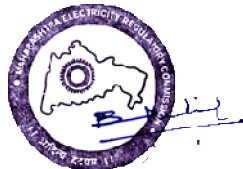
Annexure 1: Computation of Reliability Charges for Pune Urban Circles



Annexure-2

List of persons who participated during the public process including Public Hearing on 25.04.2007 at 10:00 hours at Pune

Sr. No.	Name	Institution/Organisation
01	Shri S. K. Dabhade	MSEDCL
02	Shri S. P. Nagtilak	MSEDCL
03	Shri R. B. Gautam	MSEDCL
04	Shri R. M. Gole	MSEDCL
05	Shri S. R. Patil	MSEDCL
06	Shri A. N. Gujar	MSEDCL
07	Shri A. B. Papadkar	MSEDCL
08	Shri S. S. Awachat	MSEDCL
09	Shri D. R. Babar	MSEDCL
10	Shri C. A. Gurav	MSEDCL
11	Shri K. P. Burgul	MSEDCL
12	Shri M. J. Prayag	MSEDCL
13	Smt N. D. Joshi	MSEDCL
14	Shri R. L. Rai	MSEDCL
15	Shri R. R. Bhalekar	MSEDCL
16	Shri Telharkar	MSEDCL
17	Smt Mrudula Shivade	MSEDCL
18	Shri A. D. Rode	MSEDCL
19	Shri P. E. Chinchkar	MSEDCL
20	Shri G. G. Chavan	MSEDCL
21	Shri S. R. Pawade	MSEDCL
22	Shri A. P. Barate	MSEDCL
23	Shri D. S. Behere	MSEDCL



Sr. No.	Name	Institution/Organisation
24	Shri U. B. Shendey	MSEDCL
25	Shri B. M. Kamble	MSEDCL
26	Shri Pradeep Bhargava	CII
27	Shri Shantanu Dixit	Prayas
28	Shri Ponrathnam	Vel Induction Hardenings
29	Shri Amulya Charan	TPC
30	Shri A. V. Sardeshmukh	MCCIA
31	Shri S. M. Gadgil	MCCIA
32	Shri Shankar Kalmani	Pune City Congress Committee
33	Shri B. R. Khedkar	Akhil Bhartiya Grahak Panchayat
34	Shri Anil Kelkar	Institution of Engineers
35	Shri Vivek Velankar	Sajag Nagrik Manch
36	Shri L. K. Dwivedi	Pudumjee Pulp & Paper Mills Ltd.
37	Shri Mahesh Tulpule	Individual
38	Shri S.S. Ramdass	Individual
39	Shri Avinash Shethji	Individual
40	Shri Jayant Agwekar	Individual
41	Shri V. M. Matkari	Individual
42	Shri Sandeep Khardekar	Individual
43	Smt Vandana Chavan	Individual
44	Smt A. A. Dharme	Individual

