

**Before the  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
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**Case No. 9 of 2007**

**In the matter of  
Petition filed by Thane Belapur Industries Association seeking directions not to  
impose second staggering load shedding day, and with a proposal  
to supply power to industrial areas of Navi Mumbai.**

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

**ORDER**

**Dated: July 6, 2007**

Thane Belapur Industries Association (“TBIA”) filed a Petition before the Commission on April 20, 2007. It has been averred in their Petition that they are concerned for the consumers in the industrial areas of Navi Mumbai who are facing the possibility of a second staggering load shedding day to be undertaken by Maharashtra State Electricity Distribution Company Limited (“MSEDCL”). The Petitioners have referred to an Order of the Commission dated February 20, 2007 (Case No. 78 of 2006) whereunder the proposal of MSEDCL to increase the hours of load shedding by the implementation of one additional staggering day of load shedding for industrial and MIDC feeders and one hour additional load shedding for Akshay Prakash Yojna Regions, was considered by the Commission. It has been submitted that thereafter, once again MSEDCL has sought an increase in the load shedding and consequent revision in the load shedding protocol specified by the Commission under various orders. It has also been averred in the Petition that there is a lack of effort on the part of MSEDCL to control distribution losses, inefficient functioning, non-implementation of capacitor and metering programme, stopping Akshay Prakash Yojna coupled with non-evacuation of power from generating stations (MSPGCL) and Dabhol. It has been stressed that MSEDCL can, by way of proper and efficient functioning, reduce and mitigate the prevailing demand-supply gap. The Petitioners have essentially sought a direction on MSEDCL not to impose the second staggering load shedding day. It has been averred in the Petition that should the second staggering load shedding day be unavoidable, then in that event the same should not be made applicable to industrial areas of Navi Mumbai.

2. In the Petition, the Petitioners have included a proposal to the effect that they would undertake supply of power equivalent to the industrial sheddable load in the industrial areas of Navi Mumbai, through captive and other sources.

3. An admissibility hearing was held on June 12, 2007. Dr. S.L. Patil, Secretary General of TBIA, appeared for the Petitioners. Shri. Abhijit Deshpande, C.E. (Comm.),

appeared for MSEDCL. The Petitioners submitted that the proposal to supply power to the industrial areas of Navi Mumbai through captive and other sources has been devised in line with the captive power model implemented in Pune, where zero load shedding is enjoyed by industrial consumers. It has been submitted that there are industries that are willing to either supply the power or run their standby units, thus not drawing power from MSEDCL, which is considered as deemed export. Dr. Patil submitted that as per the MSEDCL Vashi Circle Load Data, the industrial sheddable load of Navi Mumbai is 173 MW. The consumers in that area are subjected to load shedding for 16 hours, four times a week (i.e. 692 MW on weekly basis). The proposal put forward by the Petitioners would ensure supply of 24.24 MW on round-the-clock continuous basis per day for the industrial consumers located at MIDC, Navi Mumbai. Referring to the supply schedule submitted under paragraph 4 to their Petition, it was submitted that the present proposal to export power would be feasible since it guarantees the supply of 16.41 MUs against the requirement of 11.07 MUs for the industrial consumers of MSEDCL located in the MIDC areas of Navi Mumbai. The total amount of energy that would be exported from entities like Reliance Industries Limited, Mukand Limited, SI Group Limited, BASF India Limited and Zydus Limited (“the suppliers”), would amount to 146 MUs per month. These entities are agreeable to supply power using different fuels such as Naptha, FO, Diesel and HSD. The cost for this exported supply is Rs. 0.47 per unit of consumption, which the targeted industrial consumers are willing to bear. Dr. Patil submitted that the only aspects of the proposal that are at variance with the captive generation model implemented in Pune is that, under the present proposal (i) the role of MSEDCL is that of a facilitator with respect to billing and recovery; (ii) MSEDCL has been requested to provide an unconditional Letter of Credit for an amount equivalent to 45 days of electrical energy supplied to MSEDCL; (iii) the suppliers are desirous that payments should be on a monthly basis and not as per actual realisation. Dr. Patil submitted that the proposal of TBIA has been devised in consultation with MSEDCL. The first phase of the proposal is expected to be implemented for the benefit of industrial consumers located in the MIDC areas of Navi Mumbai. Thereafter, the second phase may be implemented for residential and commercial consumers of Vashi, Nerul and Panvel Division. While the search for more independent power supply associations and international energy suppliers are on, one Dubai-based power supplier has already agreed to install on lease basis, mobile DG units that are capable of generating 30 MW.

4. From the arguments advanced by the Petitioners and after considering the materials placed on record, the Commission is of the view that the Petitioner, who has approached the Commission in the capacity of an organisation representing the interests of consumers in MIDC industrial areas served by MSEDCL in Navi Mumbai, has neither shown any sufficient cause of action nor shown that there is any *prima facie* loss or damage caused to it. The relief prayed for in the Petition is the subject matter of Orders that have already been passed by the Commission in earlier proceedings. Granting the prayer of the Petitioner to the effect that a direction may be issued to MSEDCL not to impose second staggering load shedding day, especially to industrial areas of Navi Mumbai, would virtually amount to undertaking a review of the Orders dated January 10, 2006 (Case No. 35 of 2005), February 20, 2007 (Case No. 78 of 2006) and April 23, 2007 (Case Nos. 81 of 2006 and 5 of 2007). In these Orders, the Commission has specifically directed and reiterated the need for the introduction of second staggering load shedding day for the industrial category if the stipulated load regulation targets are not

met. In fact, for the purposes of determining the load shedding protocol, the Commission has considered that the relief obtained by load regulation of industrial category will be equivalent to that obtained by introduction of the second staggering load shedding day. The philosophy that has been the guiding factor while passing these Orders has been that when the demand-supply gap in the State has reached crisis proportions, all categories and regions have to contribute their bit towards sharing the burden. However, further increase in the load shedding as proposed by MSEDCL was rejected by the Commission under its Order dated April 23, 2007 (Case Nos. 81 of 2006 and 5 of 2007) as the same was found to be inequitable. Be that as it may, the Commission is of the view that the Petitioner, in effect, seeks a review of the aforesaid Orders. However, the Petitioners have not made out any ground which would justify the grant of review in terms of Regulation 85(a) of the MERC (Conduct of Business) Regulations, 2004, in terms whereof —

*“Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review for such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Commission”.*

The Petition does not state the matter or evidence which, after the exercise of due diligence, was not within the knowledge of the Petitioner or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record, that would justify the grant of review of the aforesaid Orders. Besides, the Petition is time barred and no condonation of delay has been sought for. In the circumstances, the Petition is liable to be dismissed as not maintainable. The prayer of the Petitioner to the effect that a direction may be issued to MSEDCL not to impose second staggering load shedding day, especially to industrial areas of Navi Mumbai, is not maintainable, for the reasons as aforesaid, and is hence dismissed.

5. As regards the proposal of the Petitioners to the effect that they would undertake supply of power equivalent to the industrial sheddable load in the industrial areas of Navi Mumbai, through captive and other sources, at the hearing it was observed that the said proposal is fundamentally different from the model implemented in Pune. Industrial consumers in Pune are using locally available DG sets and the drawal of power from the grid is not taking place during peak hours. This proposal pre-supposes exporting power through the grid to the consumers in the area or importing power by consumers in the area. This may result in additional losses; while Pune model being a distributed generation model actually resulted in reduction in losses. Secondly, it is not certain whether recovery mechanisms should be framed as per the priority of MSEDCL or the suppliers. However, while the intent behind the proposal is laudable, the Petitioners will have to explore a different arrangement for this proposal to work. It may enter into an agreement for franchisee operations with MSEDCL, to make the proposal workable. This may result in manifold benefits for both the targeted consumers of MIDC, and also

MSEDCL. Initially, it could be only a limited 'franchisee' for billing and collection. For the Thane-Belapur model to work, it is crucial that any deficit in the collection, if at all, should not be spread over to other consumers of MSEDCL but must be borne by the targeted consumers only. It was further observed that the amount of imported supply should match with the peaking requirement of Vashi Circle of the MSEDCL – to the extent the same reflects any shortfall of power. In this regard, the Commission noted that while the proposal envisages providing necessary energy, MW support is not available to meet the entire shortage. Further, the second staggering day ruling is implemented in times of shortfall only. At the hearing it was also observed that, in order to aggregate the power supply from diverse entities and thereafter to supply directly to consumers, the Petitioners would be required to obtain distribution license which would also mean that they will be subjected to universal service obligation, open access requirements, etc. In the alternative, the Petitioners may have to function in the form of a distribution franchisee (so far as accounting, billing, metering and collection mechanisms are concerned). Since Petitioners as a franchisee would be responsible for these functions, it would also address several concerns revolving around the lack of efforts on the part of MSEDCL to control distribution losses, inefficient functioning, non-implementation of metering programmes, inability to source power, etc.

6. Shri. Abhijit Deshpande appeared on behalf of MSEDCL and submitted that MSEDCL would maintain a neutral stand as long as its revenue is protected. He also submitted that the proposal is a combination of the Pune captive generation model and power purchase arrangement *per se*. He submitted that the distribution losses as well as collection efficiency shall have to be considered while calculating the amounts to be paid to the suppliers, and the applicable reliability charge. Secondly, since the role of MSEDCL is that of a mere facilitator, unlike the model implemented in Pune, no supply-support guarantee shall be provided by MSEDCL should there be any default in the exported supply arrangements. He further clarified that the proposed model envisages making available energy which is being shed, however, the proposal does not envisage provision of real time MW support which is critical from load shedding perspective. The suppliers may ensure the supply of 24.24 MW on round the clock basis, against 173 MW required during peak hours. MSEDCL would have to adjust the load shedding protocol for the area under consideration by giving additional MW support to make up for the shortfall in MW support, such that both the MW and energy requirement are met. Over and above this, MSEDCL may still be required to undertake load shedding if system conditions so require. However, such a situation may be 'one off' event. It was observed by the Commission that the contention of MSEDCL would appear to be logical so far as it relates to emergency situations, as MSEDCL should not impose strict limitations on their obligation to provide balance supply of power. Further, MSEDCL should explore possibilities to provide more power to the targeted consumers than the balance as calculated (i.e. approximately amounting to 150 MW). Shri. Deshpande submitted that MSEDCL is willing to make suitable arrangements with various independent entities for generation of energy for 15 MW to 20 MW.

7. In relation to the proposal submitted by the Petitioners, it is relevant to take a note of the contents of paragraph 11 (xxi) of the aforesaid Order dated February 20, 2007, which reads as under:

*“(xxi) The Pune model for utilising the surplus captive generation capacity should be explored in other regions where industry has surplus captive capacity, in order to mitigate the situation. Alternative models such as distributed generation based distribution franchisee could also be considered, especially for urban and industrial agglomerations, which may not have surplus captive generation like Pune urban circle.”*

8. In regard to the proposal of the Petitioners to undertake supply of power to the industrial areas of Navi Mumbai, through captive and other sources, the Commission is of the view that all such steps may be taken by MSEDCL to crystallize a ‘limited franchisee’ model.

With the above observations, the Petition as filed is hereby disposed of.

Sd/-  
(A. Velayutham)  
Member

Sd/-  
(Dr Pramod Deo)  
Chairman

(P.B. Patil)  
Secretary, MERC