

Before the  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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Case No. 39 to 45 of 2003

In the matter of  
**Application of The Tata Power Company Limited [TPC] for grant of distribution licenses  
using own distribution system (Total 7 applications)**  
[(1) Bhandup circle, (2) Vashi circle, (3) Kalyan, Dombivali, Ulhasnagar & Shahad,  
(4) Khopoli, (5) Lonavala, (6) Nasik 1 & 2 (U) divisions, (7) Pune (U) zone]

**Dr Pramod Deo, Chairman**  
**Shri A. Velayutham, Member**  
**Shri S. B. Kulkarni, Member**

**ORDER**

**Dated: 14<sup>th</sup> December, 2006**

The Tata Power Company Limited [TPC] filed Applications on 4<sup>th</sup> November, 2003 before the Maharashtra Electricity Regulatory Commission (Commission) for grant of seven Distribution Licenses using own distribution network for the areas comprising (1) Bhandup circle, (2) Vashi circle, (3) Kalyan, Dombivali, Ulhasnagar & Shahad, (4) Khopoli, (5) Lonavala, (6) Nasik 1 & 2 (Urban) divisions, (7) Pune (Urban) zone, under the provisions of the Electricity Act, 2003, supported by affidavits submitting the Company profile mentioning brief history of TPC, total generation capacity, details of TPC's power business, viz., Generation, Transmission and Distribution, Organizational Structure, Financial Capabilities, Capital Adequacy, Credit Worthiness and list of major power projects in India and abroad. Geographical maps of the areas where the Company sought the parallel distribution license were also enclosed along with the affidavit.

2. TPC submitted that Section 14 of the Electricity Act, 2003 (EA 2003) *allows the grant of license to two or more persons for distribution of electricity through their own distribution system within the same area subject to the applicant complying with certain eligibility requirements as prescribed by the Central Government*. TPC further submitted that Section 86(d) of the EA 2003 empowers the State Commission to *"Issue licenses to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State"*. Accordingly, TPC has submitted the following applications under Section 14 (sixth proviso) read with Section 15 of the EA 2003 for grant of distribution license using own distribution system:

1)	Bhandup Circle	Case 39 of 2003
2)	Vashi Circle	Case 40 of 2003
3)	Kalyan, Dombivali, Ulhasnagar and Shahad	Case 41 of 2003
4)	Khopoli	Case 42 of 2003
5)	Lonavala	Case 43 of 2003
6)	Nasik 1& 2 (Urban) Divisions	Case 44 of 2003
7)	Pune (Urban) Zone	Case 45 of 2003



3. The EA, 2003 having been notified recently, the process of formulating Regulations governing the grant of such licenses, including those concerning Section 15(2) which requires, inter alia, that the Applicant “shall, within seven days after making such application, publish a notice of its application with such particulars and in such manner as may be specified”, was yet to be completed. At the same time, it was not desirable or appropriate to postpone the preliminary steps required for consideration of TPC’s Applications on this ground alone. The Commission, therefore, vide interim Order dated November 17, 2003, directed TPC to publish separate notices of each of their Applications with the following particulars on or before November 24, 2003:

- a) Name of the Petitioner Company and brief subject matter of the Application (in bold as title), with their registered office address.
- b) The fact that an Application has been filed for grant of a Distribution License under Section 15 of the Electricity Act, 2003, along with brief details and salient features of the Application, including the area for which it is sought.
- c) The legal status of the Applicant, its share-holding pattern, management profile, summary of activities and past experience in similar activities.
- d) A statement that the Application and other documents filed before the Commission would be made available to any person applying for inspecting or obtaining them.
- e) The name, address and other necessary details of the person(s) under the control of the Applicant at the respective district headquarters with whom the Application and other documents can be inspected or from whom they can be purchased in person or by post at reasonable charges (not exceeding Rs.100/- per set), and stating that these can also be downloaded free of cost from the Applicant’s website. As far as practicable, a copy of the Application may also be made available in Marathi, failing which a summary in Marathi should be made available.
- f) The objections to the Application, if any, be filed (in six copies) before the Secretary, Maharashtra Electricity Regulatory Commission, 13<sup>th</sup> Floor, Centre No.1, World Trade Centre, Cuffe Parade, Mumbai 400 005, with a copy to the Applicant, within thirty days of the issue of Public Notice, in English or Marathi.

4. The Public Notice in respect of each of the Applications was to be inserted by the Applicant in at least two leading English daily newspapers and three Marathi daily newspapers (in Marathi) with wide circulation particularly in the areas for which Distribution Licenses were sought. Individual notices were to be given to all the establishments/organizations referred to in Section 15(2)(ii) of the EA, 2003 and/or the concerned Ministries in Government of India and their consent was to be submitted before the Commission. Copies of the Public Notice published in each newspaper were to be filed before the Commission on an affidavit within seven days of their publication. Details of the persons who had inspected the documents and to whom they had otherwise been made available, as also objections, if any, filed with the Applicant, were also to be furnished to the Commission within a week after the expiry of the period of thirty days allowed for filing objections.

5. TPC, vide letter dated December 1, 2003, referred to the Commission’s interim Order dated November 17, 2003, wherein TPC was directed to publish in newspapers a Public Notice in respect of the Applications for distribution licenses and submitted that the Notices were published within the stipulated period and also clarified that the Notices were combined for contiguous areas which were served by the same publication, viz., Bhandup and Vashi; Kalyan-Dombivali-Shahad-Ulhasnagar and Khopoli; and Pune and Lonavala, however, in each of the Notices, the areas were clearly mentioned in the heading as also separate local address and contact person for inspection or purchase of documents was provided. The copies of Notices published in newspapers were also submitted along with the affidavit.



6. Tata Motors Limited submitted its views vide letter dated December 16, 2003, in respect of the parallel distribution licence application by TPC, considering the proposed improvement in power distribution. Prayas filed its comments and objections vide an affidavit dated December 22, 2003 before the Commission in response to the Public Notices published by TPC in Pune daily newspapers. Prayas submitted that TPC's application for parallel distribution licence was premature and unwarranted as the Regulations governing tariff guidelines and National Electricity Policy were yet to be finalized and also sought detailed investment and financing plan as well as business plan from TPC. Prayas further submitted that the network roll out plan should be in a phased manner instead of three years and requested the Commission to reject TPC's application on above grounds.

7. TPC vide letter dated December 31, 2003 submitted the compliance of the Commission's interim Order dated November 17, 2003 and submitted that copies of TPC's Applications were made available for inspection and sale from November 23, 2003 to December 23, 2003. The name and address of the person with whom the relevant documents were made available for each proposed license area, list of the persons who inspected the documents and details of objections received by TPC were also submitted along with the letter.

8. In the light of the National Electricity Policy and Central Government Rules referred to in the 6th proviso to Section 14 of EA 2003, a Notice dated August 12, 2005 was forwarded to TPC, Maharashtra State Electricity Distribution Company Limited – MSEDCL (successor Company of erstwhile MSEB engaged in distribution of electricity) and all Consumer Representatives informing the date and venue of preliminary hearing in the matter. The Commission referred to the two developments that had taken place since the Applications were filed, viz., (i) Notification of the Ministry of Power, Government of India, in March 2005 for additional requirements under Section 14 of EA 2003, and (ii) Notification of National Electricity Policy in February 2005.

9. Preliminary hearing in the matter was held on August 30, 2005. The preliminary hearing was combined for below referred Applications due to the common issues addressed in all of them:

- Case Nos. 22 to 26 of 2003 : M/s Reliance Energy Limited (REL) (erstwhile BSES Limited) application for grant of distribution licenses using own distribution system (Total 5 applications) in MSEDCL license area
- Case Nos. 39 to 45 of 2003 : M/s Tata Power Company (TPC) application for grant of distribution licenses using own distribution system (Total 7 applications) in MSEDCL license area
- Case No. 38 of 2003 : M/s Reliance Energy Limited (REL) (erstwhile BSES Limited) application for grant of distribution license using own distribution system in BEST license area
- Case No. 61 of 2003 : MSEDCL (erstwhile MSEB) application for grant of license for distribution of electricity in the area of supply comprising of Wards P, S and L of Bombay Municipal Area

10. Shri. Amit Kapur, Counsel for REL, submitted that REL's Petition was filed in September 2003. He submitted that in the light of above referred developments, REL needed to revise their Applications complying with the above requirements, even though the Commission had already directed preliminary publication as required under EA, 2003 shortly after the



Applications were filed. He requested the Commission to allow REL to revise their filings in conformity with these developments. Shri. Kapur submitted that REL needed some basic data from the incumbent Licensees with regard to the area profile to enable an informed submission regarding the rollout plan and investment required so as to take the process forward in a time bound manner. REL needed the data with details of (i) the consumer category wise, area wise load profile and historical load for the areas; (ii) the distribution network and the plan for expansion and iii) the consumer category wise, area wise billing and collection details. The details were required in respect of the Municipal areas applied for.

11. Counsel for BEST submitted that areas of South and Central Mumbai are congested and do not have space for laying of cables. He added that enough place is not available for BEST themselves to augment their own network in some areas, which should not be used as an excuse by somebody to say that BEST cannot supply to all the small consumers. REL Counsel pointed out that REL's Applications were not only for the BEST area. Besides, the issue of right of way and physical problems would be evaluated and dealt with at an appropriate stage.

12. Dr. Patil of TBIA submitted that since 1999, data is available as a part of several regulatory proceedings, ARR filings and Commission's Orders, and based on that data, REL and other Utilities could proceed with detailed plans. The Municipal Bodies would have data on population and other basic data, based on which REL and other utilities could make projections. Regarding data, REL Counsel submitted that the data available in the Tariff Orders and submissions was for the entire area of supply of MSEB/MSEDCL and not disaggregated for each Municipal area or even Circle-wise.

13. Counsel for BEST submitted that if the Applications were to be revised, such revision should obviously be made prior to the application for information from incumbent distribution licensee.

14. The Commission observed that REL could collect the required data of incumbent Licensee from their own sources, rather than seeking it through the Commission. However, subject to the statutory provisions, the Commission could consider it along with objections, if any. The Commission opined that REL could first come out with the information for their area, and also let other Applicants know the type of information required. The other Licensees should also put up similar information and exchange it with each other.

15. Dr Pendse submitted that the Commission should direct all four Applicant Licensees to re-submit or amend their Applications in the light of notification of National Electricity Policy and MoP notification in March 2005.

16. Shri. J D Kulkarni, Dy. GM, TPC raised some other general issues, such as minimum area of supply, Universal Service Obligation and tariffs and submitted that TPC would prefer a ceiling tariff dispensation in a given License area.

17. After considering the various submissions, the Commission directed that (a) all the Applicants should submit revised Applications indicating the revised area sought, (b) details of the data/information and format in which it is sought for the revised area applied for, from the incumbent licensee, within two weeks from the hearing. The Commission would decide on the genuine requirements and harmonize them. Thereafter, the information can be exchanged between the concerned incumbent licensees and Applicants, and detailed plans submitted for further consideration.





23. Subsequently, TPC was expected to submit the roll out plan in accordance with the MERC (Distribution License Conditions) Regulations, 2004, which clearly require the submission of indicative investment plan and network rollout plan for the next five years, detailing year-wise and area-wise rollout of the distribution system. However, TPC has not submitted the network rollout plan, in accordance with the MERC (Distribution License Conditions) Regulations, 2004.

24. The Commission is displeased with MSEDCL for not complying with previous directions to put up the desired data on its website. The Commission directs MSEDCL to put up the desired data within two weeks of issue of this Order, failing which, the Commission may be constrained to take action against concerned officials of MSEDCL, as provided under EA, 2003 and Commission's Regulations. On receipt of data from MSEDCL, TPC may prepare roll out plan and compile the necessary details.

25. However, the Commission disposes off all the Applications filed by TPC through Case Nos. 39 to 45 of 2003 with this Order, since these Applications have to be entirely revised with the relevant data and as per agreed guidelines.

Sd/-  
(S.B.Kulkarni)  
Member

Sd/-  
(A. Velayutham)  
Member

Sd/-  
(Dr Pramod Deo)  
Chairman



(Ms Malini Shankar)  
Secretary, MERC

**ANNEXURE A**

Format for sharing of data by incumbent licensees for each municipal corporation and/or revenue district in the license area

A. General Information

- Maximum demand in the areas (for last 5 years)
- Total annual energy consumption (for last five years)
- Demand growth (for last 5 years)
- Total number of consumers and category wise segregation

<b>Year</b>	<b>Maximum Demand</b>	<b>Energy Sold</b>

B. Consumers and Consumption

<b>Consumer category</b>	<b>Number of consumers</b>	<b>Energy Consumption (MU)</b>	<b>Connected load (MW)</b>

C. Collection details

<b>Consumer category</b>	<b>Collection efficiency (%)</b>	<b>Revenue Billed</b>	<b>Revenue collected</b>

D. Area of supply

- Brief description of the boundaries including geographic landmarks
- Sq Km

