

Before the  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
World Trade Centre, Centre No.1, 13<sup>th</sup> floor, Cuffe Parade, Mumbai 400 005.

**CASE Nos. 14 of 2002**

**In the matter of  
application dated July 23, 2002 filed  
by M/s BSES Limited in respect of  
flagrant violation of law and non-observation of the terms of license  
by Tata Power Company Limited**

**Shri P. Subrahmanyam, Chairman  
Dr Pramod Deo, Member**

**ORDER**

**Dated: October 10, 2002**

M/s BSES Limited, through its Solicitors (Mulla & Mulla & Craigie Blunt & Caroe), has submitted a Petition vide letter DNK/18584 dated 23<sup>rd</sup> July 2002 under Section 22(2)(e) and 22(2)(n) of the ERC Act, 1998 r/w Regulations 24 and 68 of the MERC (Conduct of Business) Regulations, 1999. The Applicant sought reliefs from this Hon'ble Commission under the provisions of Section 22 of the Electricity Regulatory Commissions Act, 1998:

- (a) To take corrective actions to stop the flagrant violation of law and non observation of the terms of their license by 1<sup>st</sup> Respondent; and
- (b) To prevent flagrant violations and breaches by 1<sup>st</sup> Respondent in observing and acting in accordance with Electricity Laws and the terms of licenses granted to them by the 2<sup>nd</sup> Respondent.

2. The Commission held an admissibility hearing on 12<sup>th</sup> September 2002. During the hearing, the Counsel representing the BSES Limited submitted that the Tata Power Company Limited (TPC) is taking away their highly remunerative consumers in violation of license conditions and he is, therefore, seeking an interim order from the Honourable Commission restraining the respondent from doing so till the present petition is heard and disposed. The first Respondent is licensed to supply electricity only in bulk quantity. According to the license conditions, they have no right to supply electricity to retail consumers falling in the BSES area of operation, whereas BSES is mandated to do so. Poaching of remunerative consumers by TPC is affecting the business of the BSES and thereby threatening its commercial viability.

3. The counsel of the TPC Limited submitted that the BSES petition dated 23.7.2002, is wholly misconceived as is evident if read with para 35 to 37 of their application in Case No. 13 of 2002. Therefore, it is bad in law, not maintainable and be rejected outrightly. The license provisions should be read with schedule of the IE (S) 48 Act. There is no provision prohibiting it from supplying to the consumers in the BSES area of operation. In fact, they are supplying to some large consumers of the BEST area too. He mentioned that if the consumers get benefited, why should it be restricted from obligation to supply.

4. The Prayas, consumer representative u/s 26 of the ERC Act, 1998, submitted that since both parties want such contentious issues to be resolved by the MERC, and since this is also one of the demands in their cases before the Honourable High Court, the petition should be admitted.

5. Shri R.B. Budhiraja, Principal Secretary (Energy) stated that the matter should be admitted for hearing and the conditions of both licenses be adjudicated by the Commission.

Shri Abrol of Bombay Small Scale Industries Association, an intervener in this case, expressed that as a consumer he looks forward to get quality supply at a cheaper rate. Hence the Commission must encourage competition.

6. On hearing and after perusal of the documents submitted by both the Applicant and the Respondent, and particularly in the light of the submission made by the Principal Secretary of the Government of Maharashtra, the ultimate license issuing authority, the Commission hereby decides to admit the application filed by the BSES Limited under Section 22(2)(e) of the ERC Act, 1998 for further hearing.

Sd/-  
(Dr Pramod Deo)  
Member

Sd/  
(P. Subrahmanyam)  
Chairman, MERC

Sd/-  
(Sanjay Kumar)  
Secretary, MERC