

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai - 400 005
Tel. No. 022 22163964/65/69 – Fax 022 22163976
E-mail mercindia@mercindia.org.in
Website: www.mercindia.org.in

Case Nos. 53, 54, 58, 61 and 62 of 2006

In the matter of
**Review Petitions filed by Associated Capsules Pvt. Ltd., Pudumjee Pulp & Paper Mills Ltd.,
Tata Motors Ltd., Ispat Industries Ltd. and Solapur Oil Mill Owners Association.**

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

ORDER

Dated: 2nd March , 2007

In exercise of powers vested in it under Section 61 and Section 62 of the Electricity Act, 2003 (“EA 2003”) and all other powers enabling it in this behalf, and upon detailed scrutiny of various responses, objections, suggestions, comments made by consumers, Maharashtra State Electricity Distribution Company Ltd., (MSEDCL) and other key stakeholders as part of their written submissions as well as during the public hearing, the Commission passed an Order dated October 20, 2006 determining the Annual Revenue Requirement and tariff for wheeling of electricity and retail sale of electricity for MSEDCL (ARR for FY 2004-05, FY 2005-06, FY 2006-07 and Tariff for FY 2006-07). Considering the mandate under the National Tariff Policy notified under Section 3 of the EA 2003 the aforesaid order enshrines the principle that electricity supply should be available to those consumers who wish to benefit from reduced load shedding by paying additional costs. Thus, given the prevalent supply situation, an additional supply charge (ASC) has been stipulated by the Commission for levy by MSEDCL in order to effect reduction in load shedding hours through supply of costlier power. In other words, consumers benefiting from the reduced load shedding hours vis-à-vis the uniform load shedding hours should pay for the costly power procured by MSEDCL through Additional Supply Charge in addition to the base retail tariffs. Appropriate incentives have also been stipulated for consumers to be given a signal for efficient use of electricity and to respond to the ASC, eventually leading to reduction in power procurement by MSEDCL from costly sources and resultant reduction of tariff impact in the bills of consumers. For quite some time the Commission has been seized of the issues faced by MSEDCL in view of the shortage of electricity in the State of Maharashtra and has issued Orders dated January 10, 2006, January 13, 2006 and February 21, 2006 in Case No. 35 of 2005.

2. Essentially, being aggrieved by the direction pertaining to the levy of ASC in the Order dated October 20, 2006, Associated Capsules Pvt. Ltd., Pudumjee Pulp & Paper Mills Ltd., Tata Motors Ltd., Ispat Industries Ltd., and Solapur Oil Mill Owners Association, have preferred separate Review Petitions before the Commission. These petitions have been numbered as Case No. 53 of 2006, Case No. 54 of 2006, Case No. 58 of 2006, Case No. 61 of 2006 and Case No. 62 of 2006, respectively. As the common grievance raised in these petitions pertains to the levy of ASC, apart from certain other contentions, a combined admissibility hearing was held



on January 9, 2007. Shri. S.V. Deshpande, Counsel appeared for Associated Capsules Pvt. Limited. Shri. Ved P. Leekha, Director appeared for Pudumjee Pulp & Paper Mills Limited. Shri M.B. Kulkarni, General Manager (Construction, C.P.E.D. & Environment) appeared on behalf of Tata Motors Limited. Shri Dipen Merchant, Counsel appeared for Ispat Industries Limited. Shri. S.C. Karandhikar, Counsel appeared for Solapur Oil Mill Owners Association. Smt. Deepa Chawan, Counsel appeared for MSEDCL. Shri. Nikit Abhyankar appeared on behalf of Prayas (Energy Group) and Shri S.L. Patil appeared on behalf of Thane Belapur Industries Association, two of the consumer representative organisations authorised on a standing basis under Section 94(3) of the Electricity Act, 2003 (“EA 2003”) to represent the interest of the consumers in the proceedings before the Commission.

3. The contentions raised by Associated Capsules Pvt. Ltd., are summarized as under:

- (i) Introduction of ASC was not a subject matter under proposal in the Tariff Petition filed by MSEDCL in Case No. 54 of 2005. This aspect was discovered by the Petitioner after the passage of the impugned Order and therefore amounts to discovery of a new and important matter that qualifies the maintainability of the present petition in terms of Regulation 85(a) of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004. Since, the introduction of ASC was not under proposal as aforesaid, industrial consumers could not make submissions during the public hearing conducted in Case No. 54 of 2005 to oppose the introduction of ASC. Therefore, sufficient reasons exist for the Commission to review the impugned Order dated October 20, 2006;
- (ii) Cost implication of the additional supply at Rs.5.15 per unit for continuous process industries on express feeders, is prohibitively high and will result in additional burden on these industries. 42% of costly power consumption that has been allocated to continuous process industries on express feeders after adjustment for distribution losses, is not reasonable and correct as the rate of Rs. 5.15 per unit is on the basis of units sold. Petitioners have submitted that MSEDCL’s tariff proposal (page No. 47 of MSEDCL’s proposal dated 20.07.06) clearly indicates that losses on those limited number of express feeders are only 0.448%. Thus, the total units charged on costly power should be 30% for offsetting the load shedding plus 0.448% towards losses equaling to 30.448% rounded off to 31%.
- (iii) The Petitioners have received an energy bill dated 24.11.2006 from MSEDCL. The Petitioners have made payment “under protest” in order to avoid untoward action of disconnection. Petitioners have contended that they have been charged additional Rs. 3 per unit for 42% consumption. This clearly indicates that MSEDCL has taken the “cost of power purchase” per unit sold in the normal tariff as Rs. 2.15 per unit, which has been prescribed as variable charge in the tariff for HTP-1 category. The rate of costly power is Rs. 5.15 per unit. MSEDCL has thus billed Rs. 3 per unit extra for 42% consumption. The variable charge in the normal category of HTP-1 consumers is not in consonance with the directions given by the Commission in regard to the “cost of power purchased” by MSEDCL. The cost of power purchase approved is Rs. 11,363 Crores. The units sold under normal tariff are 43283 MU. Hence the cost of power purchased under normal tariff per unit sold comes to Rs. 2.62. By this formula, when costly rate per unit sold is Rs. 5.15 per unit the additional charge for 31% units in the case of the Petitioner, comes to Rs. 2.53 per unit and not Rs. 3 per unit. In view of the above explanation/example, MSEDCL should have taken this rate of Rs. 2.53 per unit for all categories covered for the levy of “Additional Supply Charge”. If the variable charge in the tariff for all



categories is taken as “cost of power purchase” in normal tariff, then it would lead to confusion.

- (iv) FOCA (Fuel and other cost adjustment / Fuel Cost Adjustment) should not be charged on 100% units consumed but it should be charged on 69%.
- (v) It is further submitted that the prayer of the Petitioner regarding Rs. 2.53 as Variable Charge instead of Rs.3 and charging FOCA only on 69% of units billed, will not be possible in the opinion of the Petitioner to be taken up with the consumer grievance redressal forum as the Orders of the Commission may not be interpreted uniformly by all different forums in the State in the absence of specific directions to the effect as prayed for by the Petitioner.

4. The contentions raised by Pudumjee Pulp & Paper Mills Ltd., Tata Motors Ltd., Ispat Industries Ltd., and Solapur Oil Mill Owners Association (apart from the ones that are identical to the contentions raised by Associated Capsules Pvt. Ltd.) are summarized as under:

- (i) It has been submitted on behalf of Pudumjee Pulp & Paper Mills Limited, that the element of cross subsidy has not been reduced under the impugned Order dated October 20, 2006 as against the express stipulation of reduction of cross-subsidy under the National Tariff Policy. The burden of cross subsidy on industrial consumers vis-à-vis the concept of “costly power” is unjustified. Pudumjee Pulp & Paper Mills Ltd., also submitted that continuous process industries on express feeders situated in Pune and who are already paying 42 paise per unit for avoiding the prescribed 2.5 hours of load shedding should not be charged for costly power procurement on account of reduction of load shedding of 7.25 hours. The aforesaid 2.5 hours should be deducted from 7.25 hours of aforesaid load shedding for allocation of costly power. A prayer has been made for the issuance of an interim Order to levy ASC on 2/3rd of 30% power consumption instead of 42%. Next, it has been pointed out that MSEDCL has been issuing bills covering FCA on the total consumption. However, FCA should be on the power consumption that has been billed on normal tariff. Next, it has been pointed out that the loss levels (13.53%) considered by the Commission, as submitted by MSEDCL, for estimating the sales from the costly sources of power, is erroneous as continuous process industries on express feeders should not be mixed up with the general distribution network of MSEDCL as the feeders emanate from EHV Sub-stations. Also, the loss levels (13.53%) considered by the Commission, is not accurate as the losses for express feeders are as follows: (a) transmission losses as approved by the Commission at 4.85% for FY 2006-07 (page 3 of Order dated 28.6.06-Case No. 49 of 2005); (b) express feeder losses at 0.447% as shown by MSEDCL (page 47 of MSEDCL’s tariff proposal for FY 2006-07); (c) total of the above mentioned losses come to 5.29%.
- (ii) Tata Motors Ltd. submitted as under:
 - (a) ASC would not be applicable to Pune Urban Circle where reliability charge is already being paid on the entire consumption for mitigating the load shedding in Pune Urban Circle.
 - (b) Incentives should not only be provided to those industries that have reduced their present energy consumption vis-à-vis their average monthly consumption of the previous year, i.e., January 2005 to December 2005. Considering the energy conservation activities undertaken at the plant level, and maximum use of



non-conventional energy in the automobile industrial sector, industries such as Tata Motors Ltd., who have achieved 40% energy reduction and who have proactively installed wind farms, which generate units to the extent of 25% of their annual consumption, should be exempted from ASC.

- (c) 42% of costly power consumption that has been allocated to continuous process industries, is not reasonable and correct as approximately 70% consumption takes place during non-peak period and balance 30% consumption takes place during peak duration.
 - (d) The impugned Order does not clarify the formula for working out the Incremental Additional Supply Charge for industrial category. Further, there are no clear-cut directives directing MSEDCL to show the Incremental ASC in the consumers' bills such as the directives for showing the ASC. In the absence of the above, MSEDCL has applied and recovered FCA charges for costly as well as non-costly power (entire monthly consumption) on the basis of the old formula.
- (iii) Ispat Industries Ltd. submitted that though, load shedding is implemented only during 0600 hours upto 2200 hours, the Commission has specified the levy of ASC on the basis of 24 hours consumption. Also, the large industrial consumers would be cross-subsidizing the domestic, non-domestic and small industrial consumers as percentage of ASC that is payable by these consumers have been estimated on lower side. Next, it has been contended that in the impugned Order the Commission has not indicated the estimated energy consumption that would be liable for the levy of ASC. It has been contended that the determination of ASC is also flawed on the basis that the Commission has assumed that the industries which presently receive power supply through an express feeder are "continuous process industries" and other industries are "non-continuous process industries" which may not be the case with every industry. Moreover, the impugned Order should have specified a cap towards variation of power purchase cost on account of costly power. Costly power should be procured by MSEDCL only after seeking approval from the Commission. Next, it has been contended that demand charges should not be levied during the period when supply is not given, as the same would not only be unjust but also illegal. Consequently, disruption in supply or supply of low quality (frequency voltage fluctuations etc.) power should entitle the consumer for compensation in terms of no demand charges to be paid during the interruption / fault period. Also, ASC includes demand and supply charges. In order to avoid the levy of double demand charges, it ought to be considered that the demand charges at the present rate of Rs. 350/- per kVA should be charged only to the extent of consumption of non-costly power.
- (iv) Next, it has been submitted by Ispat Industries Ltd., that as per the last tariff Order, RLC was to be refunded to consumers. However, the Commission has opined that repayment of RLC should be linked to the loss reduction trajectory over the years and hence provided in the MYT regime. There ought to be a fixed time period for refund of earlier collected RLC without linking it to the loss reduction trajectory. While calculating the ARR the Commission has not deducted the revenue earned from RLC collected by MSEDCL for six months from 1st April to 31st September 2006 amounting to Rs. 634 Crores. Hence, net ARR ought to be revised accordingly. As regards incentives/discounts applicable to consumers, it has been contended that the incentive structure proposed by the Commission for power factor, load factor and bulk discount / prompt payment requires to be reviewed considering similar structures existing in few other states in India



and with respect of other licensees in the State of Maharashtra. The Commission has allowed bulk discount rebate @1% on the energy charges which is presently given to the consumer whose monthly consumption is above one million units of electricity, subject to the maximum of 5% of energy bill. A consumer is eligible for this rebate only when the bill is paid within seven days from the date of the bill or within 5 days from the receipt of the bill, whichever is later. The Commission ought to consider- (i) that bulk discount should not be linked to early payment discount and these two different heads ought to be separately dealt with; (ii) in case de-linking from the time of payment is not possible, time graded bulk discount may be implemented i.e., lower discount for payment after due date; (iii) higher bulk discount percent ought to be considered by the Commission for consumers such as Ispat Industries Ltd., whose consumption figures are more than 100 times than that of minimum eligibility limit of one million units. As regards the penalties specified for not meeting the contract demand, it has been contended that there have been instances where industrial consumers are being denied of their required contract demand due to inadequate transmission infrastructure. It has been submitted that the Commission ought to review such situations and suggest suitable remedies in terms of discount in the presently met power demand till the entire contract demand is met with. Referring to the HT tariff specified for Tata Power Company Limited, it has been submitted that there is a rebate scheme for customers connected at 100 kV and 220 kV. It has been submitted that such rebate is for lower contribution towards transmission losses. The Commission ought to review the impugned Order providing similar benefits to consumers of MSEDCL. Similarly, exemption of continuous process HT industries from peak time usage penalty, should be considered. The time of the day tariff structure has been revised in the Tariff revision, whereby the night time usage rebate has been reduced and the peak hour usage penalty has been increased. The net effect has been a reduction of Rs. 0.05/- per unit. With the high cost power basically catering to the peak demand, the additional penalty for peak time usage should be withdrawn, considering the continuous nature of loads in HT continuous process industries.

- (v) Solapur Oil Mill Owners Association contended that they are aggrieved with the hike in the fixed charges/ demand charges due to several reasons, which are as follows: (a) oil mill owners consume far less when compared with the sanctioned / connected load; (b) as oil mill owners face acute power shortage it is hardly true that MSEDCL incurs fixed expenditure. Next, it has been contended sub-categories should be created for oil mill owners considering their peculiar nature. Since, oil mill owners produce edible oils, such as groundnut oils and sunflower, they render valuable social service. Oil mill owners need proper encouragement through reduced electricity tariff. Also, as the total number of oil mills in the State of Maharashtra is less than 5000 and the share in the use of electricity as well as revenue is negligible as compared to the total outlay, in case tariff rates are revised by creating a separate tariff category for Oil Mill Owners, practically no impact would be caused on the revenue of MSEDCL. Even MSEDCL's efficient working (say reduction of losses by 1%) will be more than sufficient to take care of the revised rates. The tariff rates in adjoining States, especially in Karnataka and Andhra Pradesh applicable to Oil Mill Owners are relatively less. Such low tariffs in other states will make the oil mill owners of Maharashtra uncompetitive. Next, it has been pointed out that as against the direction of the Commission to reduce losses by 5% every year, MSEDCL has reduced losses by 2.48%. The Commission ought to initiate penal action against MSEDCL on this account. It has also been pointed out that MSEDCL has failed to achieve 100% metering. This, and such other factors, should have considerably reduced the revenue gap or need for tariff revision.



5. Having heard the parties and after considering the material placed on record, as against the commons issue raised by the Petitioners that principles of natural justice were not followed before passing the impugned Order, particularly with respect to the levy of ASC, the Commission is of the view as under:

- (i) As against the issue as to whether the principles of natural justice were followed before passing the impugned Order, it is important to note that prior to the passage of the impugned Order, the Commission held a Preliminary Validation Session in the presence of authorized Consumer Representatives on 7th April 2006. Subsequently, the Commission held a Technical Validation Session on 22nd June 2006 wherein several discrepancies and data gaps were identified by the Commission and the Consumer Representatives. The Commission admitted the ARR and Tariff Petitions of MSEDCL on July 20, 2006 vide letter no. MERC / Case No 54 of 2005 / 1557. In accordance with Section 64 of the EA 2003, the Commission directed MSEDCL to publish its application in the prescribed abridged form and manner, to ensure public participation. The Commission also directed MSEDCL to reply expeditiously to all the suggestions and comments from stakeholders on the ARR and Tariff Petitions. MSEDCL responded to the objectors on individual basis. Based on the instructions from the Commission, a Public Notice was issued in Newspapers on July 21, 2006, giving a period of one month to the public to file their objections. The Commission received written objections expressing concern on high distribution losses, billing and metering complaints, non availability of power in the rural areas, tariff increase proposed by MSEDCL, and a host of other issues. The Commission received objections/comments from a total of 13,432 objectors. Those objectors who responded that they would like to be heard in person, were invited for the Public Hearing at locations notified by the Commission. The list of individuals, who have submitted the objections/comments is provided in the Annexure V of the impugned Order. Public hearings on the ARR and Tariff Petition of MSEDCL were held at Amravati, Nagpur, Aurangabad, Nashik, Pune and Mumbai. The Commission has ensured that due process, contemplated under law to ensure transparency and public participation has been followed at every stage meticulously and adequate opportunity was given to all the persons concerned to file their say in the matter.
- (ii) As regards the issue as to whether the principles of natural justice were required to be followed with respect to the levy of ASC, firstly, the Commission has estimated the costly power (Rs. 4/- per unit and above) at 5418 MU from traders and RGPPL as per the approved power purchase estimates for FY 2006-07 as per the Commission approved rates, the cost of this power has been determined as Rs. 2269 Crores. Considering the total cost towards purchase of costly power and the total anticipated sales in MU, the Commission has determined the rate for charging costly power at Rs. 4.84/- per unit. For reasons stated in the impugned Order, the Commission has determined an Additional Supply Charge of Rs 5.15 per unit (Rs 2254 Crores divided by 4375 MU) payable by consumers other than BPL category and domestic consumers. Secondly, it is well settled that fixation of tariff is more in the nature of a legislative measure. Its validity does not depend on the observance of any procedure to be complied with or particular types of evidence to be taken on any specified matters as conditions precedent to its validity. It is equally well settled that the principles of natural justice are not attracted in case of tariff fixation. However, the Commission has at length considered all aspects of submissions made during the public hearing by diverse parties and has undertaken a detailed examination of all the components of revenue requirement and tariff. In fact, during the public hearing held prior to the passage of the impugned Order MSEDCL had submitted that it would like to allocate cheap power equally to all categories of consumers. After allocation of cheap power, if any category of consumers needs additional power, they



would be supplied from the “Costly Power Basket”. The Commission has given due consideration to the suggestions made by the objectors and the response provided by MSEDCL in addressing the issue of load shedding and has considered costly power and non-costly power separately in the impugned Order. The Commission has also taken a holistic view of the measures required to mitigate load shedding and supply of electricity, while fixing the ASC in the tariff. In view of the above, the contention that the Commission was not empowered to direct the levy of ASC as determined by the Commission in the absence of (a) a proposal in that regard from MSEDCL, and (b) opportunity of hearing being granted to consumers, is hereby rejected. The contentions raised in relation thereto as a ground for review of the impugned Order, is also rejected.

6. It has been submitted on behalf of Pudumjee Pulp & Paper Mills Limited, that the element of cross subsidy has not been reduced under the impugned Order dated October 20, 2006 as against the express stipulation of reduction of cross-subsidy under the National Tariff Policy. The burden of cross subsidy on industrial consumers vis-à-vis the concept of “costly power” is unjustified. The Commission is of the view that it is incorrect to raise the contention that cross-subsidy has not been reduced in the impugned Order. The relevant portion of the impugned Order reads thus:

7.3 Commission’s Ruling

In determining the category wise tariffs, the Commission is guided by the principle that consumer tariffs should reflect the cost of supply. The Commission while determining tariff for consumer categories has given due consideration to the mandate specified in the National Tariff Policy (NTP) that by 2010-2011, the tariffs should be within +/- 20% of the average Cost of Supply. The Commission has made attempts to maintain the cross-subsidy levels in line with the NTP requirements. While designing the tariffs for each category, the Commission has considered the average CoS by including only the non-costly sources of power. However, when the costly purchases incurred for reducing the load shedding hours of the subsidising categories is considered, the CoS for these subsidising categories increases significantly, thereby reducing the cross-subsidy levels further.

The reduction in load shedding viz-a-viz the average load shedding of 7.25 hours has to be compensated through the payment of ASC. Section 61(g) of the EA 2003 envisages a gradual transition from the tariff loaded with cross subsidies to a tariff reflective of cost of supply to various class and categories of consumers. As long as there is a roadmap for gradual reduction of cross subsidy in consonance with Section 61(g) of EA 2003 and the National Tariff Policy, the impugned Order cannot be flawed. In view of the above, the arguments advanced on behalf of Pudumjee Pulp & Paper Mills Limited that the Commission cannot resort to system of cross subsidy has no force, and the same is hereby rejected. Due to the above, the Commission also rejects the issues raised by Ispat Industries Ltd., that large industrial consumers would be cross-subsidizing the domestic, non-domestic and small industrial consumers as percentage of ASC that is payable by these consumers have been estimated on lower side. Further, as regards the contentions raised by Pudumjee Pulp & Paper Mills Limited at paragraph 4(i) above the Commission is of the view that, in case of Pune urban circles, both the ASC and Reliability Surcharge will co-exist, as the objective of both is different, as has been elaborated and clarified in the Commission’s Order dated 7th February 2007 in Case No. 59 of 2006. The operative part reads thus:



“7.

(i) Additional Supply Charge in Pune Urban Circle:

The Commission, further to its direction in the Tariff Order, would like to clarify that the ASC is meant to recover the expenses incurred in procuring costly power by MSEDCL to reduce the average load shedding hours from 7.25 hrs to 2.5 to 3 hrs in Pune Urban Circle. Further, the Reliability Charges would be applicable on the account of sourcing of power from captive units through reduction in grid consumption by industrial units having captive sets and thereby reducing the load shedding from 3 hrs to zero. Therefore, the Commission confirms that both ASC and the Reliability Charges would be applicable in Pune Urban Circle.”

7. On first principles, a review of any Order, direction or decision is permitted under the regulations governing the conduct of business of the Commission, only upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the applicant’s knowledge or could not be produced by the applicant 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. The scope of review does not permit rehearing of the matter and/or passing a fresh decision on the case. The maintainability of the Review Petitions filed by the Petitioners have to be tested against the requirements and criteria set out in Regulation 85 of the CBR. A Review Petition has a limited purpose and cannot be allowed to be “an appeal in disguise”. A perusal of the aforesaid Review Petition shows that the following issues as raised by the Petitioners cannot strictly speaking be said to fall within the ambit and scope of Regulation 85, and therefore are rejected for reasons as stated against each one of the issues:

- (i) There is no error apparent on the face of the record of the impugned Order on account of determination losses as the loss figures at appropriate level have been considered.
- (ii) The contentions raised by Associated Capsules Pvt. Ltd., and the calculation given by it at paragraph 3(iii) above are incorrect. The computation of ASC has been elaborated in the impugned Order.
- (iii) The contentions raised by Associated Capsules Pvt. Ltd., at paragraph 3(iv) above are incorrect as FAC is charged only on units sold through non-costly power. For the months of November 2006 to March 2007, FAC for previous months (July 2006 to September 2006) is being charged and hence is being charged on total units.
- (iv) The contentions raised by Tata Motors Ltd., at paragraph 4(ii)(b) above, neither fall within the ambit of review nor are practical as dispensation of such nature needs to be generic and cannot account for specific cases.
- (v) Ispat Industries Ltd., at paragraph 4(iii) above, have contended that large industrial consumers would be cross-subsidizing the domestic, non-domestic and small industrial consumers as percentage of ASC that is payable by these consumers have been estimated on lower side. The Commission is of the view that the fact that industries have lower load shedding as compared to the other categories as aforesaid, have not been considered while raising these contentions. The contentions as raised also cannot be allowed to be a ground for review. Further, it has been contended that the determination of ASC is flawed on the basis that the Commission has assumed that the industries which presently receive power supply through an express feeder are “continuous process industries” and other industries are “non-continuous process industries” which may not be the case with every industry. This aspect has been dealt with in the Commission’s Order dated 7th February 2007 in Case No. 59 of 2006 and need not be reiterated in this Order. Suffice it is to point out that in view thereof this aspect cannot be allowed to be ground for seeking review. As regards the contention that a cap should have been specified towards variation of power purchase cost on



account of costly power, such a suggestion is neither practical nor can be allowed to be a ground for seeking review. Next, whether demand charges should or should not be levied during the period when supply is not given, has been elaborated in several Order passed by the Commission and there is no need for the Commission to reiterate the same in this Order. Consequently, reliance may be placed by aggrieved parties to the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 for disruption in supply or supply of low quality (frequency voltage fluctuations etc.) power and entitlements thereunder for the consumer for compensation. It is further clarified that ASC includes energy charges only and not demand and supply charges. Next it has been contended that in order to avoid the levy of double demand charges, it ought to be considered that the demand charges at the present rate of Rs. 350/- per kVA should be charged only to the extent of consumption of non-costly power. The Commission is of the view that it is not possible to record kVA for non-costly power alone. The contentions raised by Ispat Industries Ltd., at paragraph 4(iv) above as also by Solapur Oil Mill Owners Association at paragraph 4(v) above, are substantial in nature and do not qualify for review. A Review Petition has a limited purpose and cannot be allowed to be “an appeal in disguise”.

8. The Commission rejects the aforesaid petitions filed Associated Capsules Pvt. Ltd., Pudumjee Pulp & Paper Mills Ltd., Tata Motors Ltd., Ispat Industries Ltd., and Solapur Oil Mill Owners Association, for the reasons stated in the foregoing paragraphs and particularly as no grounds permissible to grant review has been made out. These Review Petitions are not maintainable in terms of the requirements and criteria set out in Regulation 85 of the Commission’s Conduct of Business Regulations. As stated in the foregoing paragraphs, there have been contentions raised which can be classified into those purely seeking clarifications as the aspects thereunder have been decided or clarified, as the case may be, by the Commission in other orders, while some contentions on one hand are not within the realm of review and on the other, impractical to consider, even for sufficient reasons. There are other submissions raising substantial issues which cannot be allowed under review proceedings as a Review Petition has a limited purpose and cannot be allowed to be “an appeal in disguise”. However, wherever the Commission has deemed fit it has issued clarifications for the benefit of the understanding of the petitioners. With this Order and for the reasons stated above, the Commission dismisses the Review Petitions filed in Case No. 53 of 2006, Case No. 54 of 2006, Case No. 58 of 2006, Case No. 61 of 2006 and Case No. 62 of 2006.

Sd/-
(S.B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr. Pramod Deo)
Chairman



Secretary, MERC

