

RInfra/MERC/Committee Report(Case No. 182 of 2014)/01
23 April 2016

To,

The Principal Secretary
Maharashtra Electricity Regulatory Commission
World Trade Centre, Centre No 1, 13th Floor
Cuffe Parade, Mumbai – 400 005

Sub: Comments/Suggestions of Reliance Infrastructure Limited (RInfra-D) on the Report of the Committee in Case No 182 of 2014

Ref: Letter of the Hon'ble Commission dated 07-04-2016


Sir,

With reference to the above, we are enclosing herewith Comments/Suggestions on the Report of the Committee constituted under the notification dated 03-12-2015 in Case No 182 of 2014.

The present submissions are filed by RInfra-D without prejudice to appeals filed by RInfra-D being Appeal No 201 of 2014 and Appeal No 296 of 2015.

Thanking You,

For Reliance Infrastructure Limited



Vivek Mishra

Asst. Vice President,
Regulatory Affairs

Encl: Appendix

APPENDIX

The following paragraphs contain the comments and suggestions of RInfra on the Report of the Committee constituted under Notification dated 3 December, 2015 in Case No. 182 of 2014. The comments are prepared issue / subject-wise, with appropriate reference to the Report, wherever necessary.

- 1.1 **Section 4.3:** Meaning of location/ward/area/locality where 'neither licensee is present'.

RInfra Comments: It is submitted that only salt pans and areas having mangroves qualify under Scenario 53 (c). The Hon'ble Commission should freeze the list of such areas. Without prejudice to the aforesaid, list of areas under Scenario 53 (c) should be based on the DP Plan of MCGM/MBMC, so as to clearly demarcate and list out the same in order to avoid any ambiguity and chances of dispute in future. In order to avoid ambiguity, DP markings / identification nos. as the case may be should be frozen and specified in the final Order to be issued by the Hon'ble Commission.

It is further submitted that because of the long existence of RInfra in Mumbai suburbs, there could be certain areas as per the DP, identified as no-development zones, but where there might be certain consumers connected and supplied by RInfra. In view of this, the Hon'ble Commission is requested that the final Order may provide for considering such areas as "completely covered" by either licensee and consider it under Scenario 53 (a), instead of Scenario 53 (c).

Further, it is categorically submitted that Aarey area should be excluded from the said list as RInfra already has substantial network presence in Aarey and is supplying power to all the consumers, without exception, there. RInfra has sufficient network readiness in Aarey area for it to be able to serve any new

consumer within timelines of Standards of Performance Regulations. Thus, Aarey, being completely covered by RInfra, may kindly be classified under Scenario 53 (a).

1.2 **Section 4.4.5.1:** Definition of New Consumer – Temporary to Permanent supply.

RInfra Comments: RInfra submits that new projects are developed in Mumbai on the basis of Layouts (PROFORMA ‘A’) which represent ownership of land by a single developer or multiple developers within a single 7/12 extract. Within a given Layout, there could be single residential building or multiple residential buildings or it could be mixed use – residential and commercial buildings. Depending upon the load requirement as estimated, the distribution licensee, whom the developer approaches for Temporary (construction) supply, informs the developer about the need for a CSS or DSS, as may be required.

In Layouts, which require CSS or DSS, generally the developer, for the sake of getting temporary supply, commits to providing space, but thereafter attempts to wriggle out of his commitment, at the time of release of permanent supply. The Licensee, in fact, issues a No-Objection Certificate (NOC) to the developer for setting up the CSS or DSS in the layout, for onward submission of the same to the concerned Authority for obtaining a Commencement Certificate. Even, the Development Control Regulations (DCR) of the local authority (Regulation No. 26 in MCGM’s prevailing D.C. Regulations) acknowledge this requirement of space for electric substation within new developments based on the plot area of the applicant’s layout.

Based on the assurance of permanent supply provided by the developer, RInfra, or any other licensee for that matter, plans its network development in the vicinity, considering the proposed load of the concerned layout and the CSS or DSS, required for the layout. This is because the CSS or DSS installed in the

Layout is planned not only to meet the load of the buildings in the said layout, but also for improving reliability in the vicinity and / or for serving future load in the area. Additional capacity is sometimes deliberately created so as to relieve load, if existing, on nearby CSS or DSS or 11kV feeders as a part of ongoing network planning process.

In order to release Temporary Supply to the said layout, RInfra would load its existing network temporarily, knowing that the installation of CSS or DSS in the layout would relieve such loading conditions of the existing network in near future. However, at the time of permanent supply, the developer often wants to wriggle out of its assurance of CSS or DSS and approaches the other distribution licensee. This is mostly seen in layouts with multiple buildings. A few live examples of such cases are Ackruti Developers project at Saiwadi Layout in Andheri West and Oberoi Developers project in Dindoshi area. In both these cases, the developers agreed to provide space for DSS to RInfra during the initial stages. The NOC as required for obtaining CC for both the projects were given by RInfra to the respective developers based on their above commitments. Partial supply to some of the buildings within their layout was also released by RInfra from its existing 11kV network by commissioning CSS in the layouts. This was done considering that the developers would hand over the agreed space within their layout for commissioning of DSS, as their layout development progresses. However, later the developers denied space for the DSS to RInfra citing various reasons and opted to avail supply from TPC. In the process, the developer managed to divide its load between the two licensees and avoided giving space for DSS to either. However, in the process, the network planning of both Licensees goes haywire and the existing network of both licensees ends up getting sub-optimally loaded, since DSS to relieve load could not be constructed, even though it was earlier assured by the developer and network was planned by licensee accordingly.

While the situation described above (which is usual and prevalent) provides choice of temporary / permanent supply to the consumer, it does not augur well for efficient network planning and consequently reflects on the performance of network in terms of worsening voltage profile, increasing losses, poorer reliability, etc. Improvement in network performance, in turn, requires additional augmentative capex at existing sites, which is additional capex requirement and could possibly be much more than what the installation of CSS or DSS would have resulted into.

These situations are a consequence of competition in distribution network development. Competition, which offers choice to the consumer / developer to choose its licensee at the time of converting temporary connection to permanent, is resulting in inefficient network planning and construction and ultimately result either in higher capital expenditure for the consumers at large, because of augmentations required at existing sites. Both of these should be avoided and this is precisely the fundamental on which the Committee Report is based.

Hence, in order to achieve the same, **RInfra proposes that the application of Temporary supply and Permanent Supply could be made at the same time and for the entire Layout as a whole, rather than on a piecemeal basis for each building in the said Layout.** It is important from network planning point of view that, in case of Layouts which require installation of a CSS or DSS, the entire load of the Layout is served by one Licensee. Preventing division of load within a single layout between licensees will also allow the licensee to take advantage of economies of scale. This will ensure that whichever licensee develops the network is able to more holistically plan its network development, so as to achieve efficient, coordinated and economical distribution system as required under section 42(1) of the Electricity Act 2003.

1.3 **Section 4.4.5.2:** Definition of New Consumer – Redevelopment cases

RInfra Comments: It is submitted that Committee Report at Pg 76, Sr. No. 11 has held that if CSS exists in the premise of the residential building then existing licensee will give supply. The Hon’ble Commission may consider carving out such exception for any layout as defined by MCGM as well, if there is/are existing CSS/DSS in such layout. For e.g.: if a slum area goes for redevelopment and a distribution licensee has existing CSS/DSS in the said layout, then such existing licensee only should give supply to the redeveloped premises in the said Layout. This is because the licensee whose CSS/DSS exists within the layout will be in a position to most economically develop incremental network to serve the existing and new consumers within the said layout. This will prevent the existing assets of the licensee from becoming redundant and also avoid network duplication.

1.4 **Section 4.5.5:** Consumer’s choice of supply and network – Dedicated Distribution Facility.

RInfra Comments: The relevant provisions of MERC Supply Code Regulations, 2005 in respect of DDF are reproduced herein below:

(g) “Dedicated distribution facilities” means such facilities, not including a service-line, forming part of the distribution system of the Distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises;

3.3.3 Where the provision of supply to an applicant entails works of installation of Dedicated distribution facilities, the Distribution Licensee shall be authorized to recover all expenses reasonably incurred on such works from the applicant, based on the schedule of charges approved by the Commission under Regulation 18.

From the combined bare reading of the above, it is evident that DDF is not by choice of licensee or a consumer. This is only an enabling feature so that in case release of supply to a consumer, based on application received, if dedicated distribution facilities are required to be installed, expenses for the same are recovered from the concerned consumer only. The intent of having the said provision of DDF is to avoid the burden on other consumers as the said resources are not shared and are only dedicated to that consumer. DDF should only be treated as a mechanism to compensate the Licensee for cost of network in case particulars of the new connection are such that Dedicated Distribution Facility is the only way to release supply. It cannot be a choice freely available to consumers, but should be treated only as an exception, available to the Licensee.

RInfra submits that if the choice of DDF is given to the consumers, it will result in sub optimal network development. Consider an example - if 5 high end consumers (HT Consumers) in the same area opt for dedicated 11 kV feeder from the DSS by paying the cost of such feeder and associated equipment, it would result in laying of 5 cables from the DSS thereby resulting in duplicating the cable laying and also blocking 5 switches (breakers) in the DSS. If the same consumers were supplied as per network planning of the Distribution Licensee, same set of consumers could have been supplied by laying single cable with 5 CSS and the ring would have been completed by terminating the cable at the other switch in the DSS. This would result not only avoiding duplicate cable laying but also keeping 3 switches at DSS available for releasing supply to other consumers. It is also evident that if 5 switches were blocked for releasing supply under DDF, licensee will have to create additional infrastructure for releasing supply to other consumers in the vicinity, resulting in additional capex and burdening the other consumers. Even though the concerned consumers pay for the DDF in order to enable supply to them, the Licensee is forced to create more infrastructure and incur additional capex to enable supply to other consumers.

This is natural as DDF is a reservation of capacity and infrastructure. More capacity and infrastructure is reserved for exclusive use, more has to be created for the remaining shared use. In a City like Mumbai, where space is a significant constraint and optimal development of electrical infrastructure is critical, such a choice of DDF cannot be freely provided to consumers. **The Regulations / Order must list out the conditions under which DDF can be used by the Licensee to supply and all such cases must pass through the Institutional Mechanism to ensure that the use of DDF is controlled and not indiscriminate.**

The other reason often cited to justify DDF is increased “reliability of supply” to the consumer opting for DDF. However, Reliability of supply is never an issue in a Ring Main System, where load diversion between substations and feeders with ‘n-1’ redundancy ensures that un-interrupted supply is maintained to the consumers. In fact, the Reliability in the ring system in all likelihood shall be higher than radial fed DDF.

Further, it is obvious and natural that if choice of DDF is given to the consumer, it will only be high end consumers who would be in a position to pay for the entire cost of the dedicated distribution system. This would certainly be discriminatory for the low end consumers who may be unable to pay the cost upfront. This report almost allows use of DDF as a choice to consumers, rather than a compulsion of Licensee. Allowing such a choice will always bring in other commercial considerations and legacy issues such as consumer mix, network density, per capita consumption, etc. will sideline pure economics. Exercise of choice due to overall commercial considerations, enabled through DDF, will likely result in most such (high end) applications going to the Licensee have an already superior consumer mix, thereby leaving the other Licensee with even poorer consumer mix over time. This would also be contrary

to the directions of Hon'ble Tribunal in Appeal No 246 of 2012, regarding undue commercial advantage.

- 1.5 **Section 4.6.3:** Scenarios in which switchover is permitted - Committee's Recommendations (scenario 53(b)):

RInfra Comments: It is RInfra-D's case that TPC was restricted from laying network and switchover consumer by the judgment of the Hon'ble Tribunal in Appeal No 246 of 2012 until roll out plan is approved by the Hon'ble Commission. This Hon'ble Commission has also unequivocally held in its interim order dated 09-11-2015 in Case No 182 of 2014 that TPC has to use the network of RInfra for supplying to consumers till roll out plan is approved by this Hon'ble Commission. RInfra, therefore, submits that **the list of consumers allowed switchover should be frozen as on 28th Nov 2014 i.e. the date of judgment in Appeal No 246 of 2012.** Allowing TPC to expand the list of switchover eligible consumers to get included in scenario 53(b) would tantamount to regularizing the violation of ATE/MERC directions by TPC to the detriment of RInfra and its consumers.

- 1.6 **Section 4.6.4:** Scenario 53(c)

RInfra Comments:

1. The mention of scenario 53(b) has to be removed, because scenario 53(b) is limited to only premises where service cable of both Licensees have already reached and the report itself states that the list of these premises have to be frozen;
2. The mention of scenario 53 (a) is also to be removed as scenario 53(a) only refers to those premises which are connected by either Licensee and who are therefore not allowed to switch network. Therefore, once the area is opened for development and whichever premises are connected by either licensee, such

premises would, after connection, convert to 53(a), but the rest of potential consumers in the area would be under scenario 53(d);

3. It is suggested that any area can be classified under scenario 53(c) only till the time it is opened for development. Once opened, it is similar to any area with significant potential load growth and, being a part of the License area, would be considered as an area where either / both licensees are “present”. It is submitted that there is a possibility of Licensee A having a network in the adjoining area thereby laying network in most optimum manner (as compared to Licensee B) to any new consumer in the areas covered under 53(c).

The Hon’ble Commission would appreciate that if rules of economics are not applied from first application onwards in such area, then it is likely that one of the two licensees would obtain the first mover advantage by virtue of receiving consumer application. This is because the Licensee first entering the area will set up the required distribution system not only for handling the load of the first applicant but with an eye on future applications as well (anyway setting up of distribution system is not done on one to one basis w.r.t. applications). Thus, the first entrant will always be in an advantageous position and will most likely be able to offer more economical proposals for future applications as well.

Therefore, RInfra-D submits that these areas, once opened for development, should be treated under scenario 53(d) and network development from the first application itself should be done based on the principles of economics.

1.7 Section 5.1: Protocol for Migration under Scenario 53(b)

RInfra Comments: The Hon’ble Commission may kindly include that Applications for Switchover would not be processed for consumers who have pending dispute / legal / court cases with existing distribution licensee. It is submitted that similar provision exists in the Changeover Protocol already approved by this Hon’ble Commission in Case No 50 of 2009. This condition is

even more necessary in case of Switchover as consumer having opted for Switchover ceases to have any relationship with the existing licensee either for supply or network thereby making it impossible for the existing licensee to pursue the dispute with the consumer and it is also observed that consumers does not cooperate after having switched over. Further, in case of network switchover, the existing licensee ceases to have the power to disconnect under section 56 as well.

Alternatively, the arrears of Existing Distribution Licensee, if any, could be included in the electricity bill of the Other Distribution Licensee for recovery from the concerned consumer. The Other Distribution Licensee will bill and recover the said amount and pass on the same to the Existing Distribution Licensee.

1.8 Section 5.1: Processing of Application, point no. 13

RInfra Comments: It is submitted that the time period of 3 days provided imay kindly be relaxed to 7 days. This is required as the process includes site verification activity as well. Since this is a change of network, Existing Distribution Licensee needs to ensure that there is no dispute post Switchover as the consumer may not be accessible to the Existing Distribution Licensee once the network has changed.

Hence, it is submitted that 7 days time should be provided to the Existing Distribution Licensee to give feedback to the Other Distribution Licensee.

1.9 Section 5.1: Process of Switchover, point no. 19

RInfra Comments: It is submitted that for the sake of avoiding ambiguity, the Hon'ble Commission may specify that 30 days' time should be considered only after payment of Security Deposit and applicable charges by the consumer along with necessary documents.

1.10 **Section 5.2:** Processing of Application by Licensees, point no. 9

RInfra Comments:

Based on our comments on the issue of DDF above, it is suggested that the mention of DDF should be removed from point no. 9, as DDF should only be treated as a mechanism to compensate the Licensee for cost of network in case particulars of the new connection are such that Dedicated Distribution Facility is the only way to release supply. DDF should be treated as an exception available to Licensee, and not as a choice freely available to consumers.

1.11 **Section 5.2:** Processing of Application by Licensees, point no. 10

RInfra Comments: Service Line Connection Charges for LT connection (5kW to 10kW) approved by the Hon'ble Commission are different for the licensees within the same area of supply. In view of the same, RInfra suggests that if Applicant has submitted the application to Licensee A and Licensee B is laying network as per protocol mentioned in Section 5.2 and Applicant continues with Licensee A, then Licensee A shall raise the demand note for Service Connection Charges as per Licensee B's approved Schedule of Charges

1.12 **Section 5.2:** Processing of Application by the Committee for Level 3, Level 4 and Level 5 only, point no. 19

RInfra Comments: Since the capex involved in Level-3, Level-4 and Level-5 is very high, even 10% difference would be running in lacs. RInfra suggests that there should not be any band for such flexibility. However, without prejudice to its aforesaid contention, if Hon'ble Commission intends to provide such band for allowing flexibility in the planning criteria, such variation shouldn't be wide enough to allow inefficiency of network planning to get passed on to the consumers. Considering the aforesaid objective and for minimizing additional burden on consumers, RInfra suggests that the band should not be more than 5%.