



महाराष्ट्र विद्युत नियामक आयोग

Maharashtra Electricity Regulatory Commission

Ref. No. MERC/FAC/2023-24/0311

Date: 28 June, 2023

To,
Mindspace Business Parks Private Limited,
Plot No- C-30, Block 'G',
Opposite SIDBI,
Bandra Kurla Complex,
Bandra (E), Mumbai – 400 051

Subject: Post Facto approval of Fuel Adjustment Charges (FAC) submissions of MBPPL for the months of October 2021, November 2021 and December 2021.

Reference: 1. MBPPL's FAC submission for the months of October 2021, November 2021 and December 2021 vide email dated 1 March, 2022.

Sir,

Upon vetting the FAC calculations for the months of October to December, 2021 as mentioned in the above reference, the Commission has accorded approval for charging FAC to its consumers as shown in the table below:

Month	October 2021	November 2021	December 2021
Z _{FAC} allowed for recovery (Rs. Crore)	0.34	0.33	-

The Commission allows the carry forward FAC of Rs. 0.13 Crore for the month of October 2021 and Rs. 0.11 Crore for the month of November 2021. The Commission allows the accumulation of FAC amount of Rs. (0.19) Crore as there is negative FAC in the month of December 2021 which shall form part of FAC Fund and shall be carried forward to next FAC billing cycle with holding cost. Further, as directed in the said Order, MBPPL shall maintain the monthly account of FAC Fund and upload it on its website to maintain transparency of FAC Fund and also for information of all the stakeholders.

Yours faithfully,

(Dr. Rajendra G. Ambekar)
Executive Director, MERC

Encl: Annexure A: Detailed Vetting Report for the period of October to December, 2021.

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**POST FACTO APPROVAL FOR FAC CHARGES FOR THE MONTHS OF OCTOBER
2021, NOVEMBER 2021 AND DECEMBER 2021.**

Subject: Post facto approval of Fuel Adjustment Charges (FAC) submissions of MBPPL for the months of October 2021, November 2021 and December 2021

Reference: 1. MBPPL's FAC submission for the months of October 2021, November 2021 and December 2021 vide email dated 1 March 2022.

1. FAC submission by MBPPL Undertaking:

1.1. MBPPL has made FAC submissions for the months of October 2021, November 2021 and December 2021 as referred above. Upon vetting the FAC calculations, taking cognizance of all the submissions furnished by MBPPL, the Commission has accorded post facto approval for the FAC amount to be charged in the billing months of December 2021, January 2022 and February 2022.

2. Background

- 2.1. On 30 March, 2020 the Commission has issued Tariff Order in respect of MBPPL, (Case No. 328 of 2019) for approval of Aggregate Revenue Requirement and Multi Year Tariff for the Control Period from FY 2020-21 to FY 2024-25. Revised Tariff has been made applicable from 1 April, 2020
- 2.2. Vide its letter dated 20 April, 2020, the Commission communicated the excel formats and guiding principles for filing of FAC submissions to all Distribution Licensees including SEZs. The Commission also directed all Distribution Licensees to submit FAC computations, including details pertaining to variation in fuel cost of generators for the approval of the Commission.
- 2.3. Vide FAC Vetting Report dated 31 May, 2020 the Commission accorded prior approval to the FAC for the month of April, 2020. Further, vide FAC Vetting Report dated 9 October, 2020 the Commission accorded Post-facto approval to the FAC for the month of May and June, 2020. Vide FAC vetting Report dated 8 December, 2020 the Commission accorded Post-facto approval to the FAC for the months of July 2020, August 2020 and September 2020. Vide FAC vetting Report dated 25 March, 2021 the Commission accorded Post-facto



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approval to the FAC for the months of October 2020, November 2020 and December 2020. Further, vide FAC Vetting Report dated 10 June, 2021 the Commission accorded Post-facto approval to the FAC for the month of January to March, 2021. Further, vide FAC Vetting Report dated 11 October, 2021 the Commission accorded Post-facto approval to the FAC for the month of April 2021, May 2021 and June 2021. Further, vide FAC Vetting Report dated 5 January, 2022 the Commission accorded Post-facto approval to the FAC for the month of July to September, 2021.

- 2.4. As per provisions of MYT Regulations, 2019 a Distribution Licensee (SEZ) is required to obtain post-facto approval of the Commission on a quarterly basis for FAC charges within 60 days of close of each quarter. Accordingly, vide its letter dated 1 March, 2022 MBPPL has filed FAC submissions for the months of October 2021, November 2021 and December 2021 for post-facto approval. The Commission has scrutinized the submissions provided by MBPPL and has also verified the fuel and power purchase bills provided along with its submissions.

3. Energy Sales of the Licence

- 3.1. In the MYT Order passed by the Commission in Case No. 328 of 2019, the Commission has approved revised Tariffs to maintain zero cross subsidy across tariff categories.
- 3.2. The net energy sales within Licence area as submitted by MBPPL in the FAC submission and as approved by the Commission are as shown in the Table 1 below:

Table 1: Energy Sales approved and Actual in MUs

Consumer Category	Approved by the Commission (MU)	Monthly Approved (MU)	Actual Sales (MU)		
			Oct-21	Nov-21	Dec-21
	(I)	(II=I/12)	(III)	(IV)	(V)
HT Category					
HT- I Industrial	74.04	6.17	3.08	3.07	2.96
HT-II Commercial	-	-	-	-	-
LT Category					
LT-II(A) Commercial (0-20 kW)	0.78	0.07	0.01	0.01	0.01
LT-II (B) Commercial (above 20 kW)	0.37	0.03	0.02	0.05	0.02
LT-III (A) Industrial (0-20 kW)	0.01	0.00	0.04	0.04	0.04
LT-III (B) Industrial (above 20 kW)	7.86	0.66	0.47	0.41	0.44
Total	83.06	6.92	3.62	3.58	3.46



- 3.3. It can be observed from the above Table 1 that the actual sales during the months of October, November and December 2021 are 3.62 MUs, 3.58 MUs and 3.46 MUs respectively, which is **47.72%**, **48.28%** and **50.01%** less than the monthly approved energy sales of 6.92 MUs by the Commission for the FY 2021-22. The major variation was which is primarily observed in all categories except LT III A – Industry (0 - 20 kW). However, the major variation was observed in the HT-I Industrial, LT-II (A) and LT-III (B) Industrial categories, which is due to the continuation of impact of Covid-19.

4. Power Purchase Details

- 4.1. MBPPL is a deemed Distribution Licensee notified by the Commission for IT& ITES SEZ located at Airoli, Thane. MBPPL does not own or operate any generating stations. Accordingly, MBPPL is required to procure power from outside sources in order to fulfil the demand of its consumers.
- 4.2. **Power procurement from Kreate Energy (I) Pvt. Ltd.:** The Medium-Term Power Purchase Agreement of MBPPL with Jindal Power Limited (JPL) and GMR Energy Trading Limited (GMRETL) has expired on 30 June, 2021. Post that, the Commission in its Order dated 30 June 2021 in Case No. 69 of 2021 has provided the approval of Power Purchase Agreement and Adoption of Tariff determined through transparent bidding process for a Short-Term procurement of power up to 14 MW (RTC) for KRC discoms for one year starting from 1 July, 2021 to 30 June, 2022 through combined power procurement. In the said order, the quantum estimated for MBPPL is upto 6.5 MW (Upto 5 MW RTC and upto 1.5 MW between 0800 and 2300 hours). The relevant extract is as given below:
- “Accordingly, the Commission approves PPA dated 27 May 2021 entered between KRC DISCOMs (MindSpace Business Parks Private Limited; Gigaplex Estate Private Limited; KRC Infrastructure and Projects Private Limited) and Kreate Energy (I) Pvt. Ltd. – Power Department of Sikkim.”*
- 4.3. MBPPL has purchased power from Kreate Energy (I) Pvt. Ltd. at the rate of Rs. 3.18/kWh as approved by the Commission at Maharashtra State Periphery which is lower than the Power procurement cost of Rs. 3.92/kWh as approved by the Commission in Tariff Order in Case No. 328 of 2019 from the medium-term source and Rs. 4.40/Unit from the Short-Term sources.
- 4.4. MBPPL has submitted that on 8 October, 2021, M/S Kreate Energy (I) Pvt. Ltd. (KEIPL) has informed MBPPL that, due to constraints in coal availability in the market the generator was unable to run its power plant and consequently unable to schedule the power from 11 October, 2021 to 31 October, 2021. Therefore, to meet the shortfall due to unavailability of



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power generation from contracted source, MBPPL initiated procurement of power from exchange-based contracts to ensure that the rate at which the power has been procured is discovered through transparent and neutral price discovery mechanism.

- 4.5. MBPPL further submitted that the prices of green energy and conventional power available from exchange-based contracts were at par in most of the cases, therefore, MBPPL took this opportunity to procure green power to fulfil its contingency requirement and meet the RPO obligation at the same time.
- 4.6. Further, MBPPL had filed a petition before the Hon'ble Commission (Case No.1/MP/2022) to:
- a) Approve the additional cost of power purchase incurred over the period from 11 October, 2021 to 31 October, 2021 for reasons beyond their control;
 - b) Approve the adjustment of the additional power purchase cost with the balances against the respective FAC Fund and levy of FAC for the balance amount, up to the limit of 20% of Variable Charges, in accordance with the MERC MYT Regulations, 2019 and the directions issued by the Commission from time to time regarding FAC Fund.
- 4.7. MBPPL has submitted that the matter is under sub judication, however, cumulative average power purchase cost of FY 2021-22 is Rs. 3.46/kWh which is less than approved average power purchase cost, even though the power purchase prices were higher side in the month of October 21.
- 4.8. The Commission sought clarifications from MBPPL with regards to obligations of the generator as per the provisions of the PPA in case of inability of supply of contracted power to the procurer. The Commission also sought details regarding the steps initiated by MBPPL in line with the provisions of the PPA.
- 4.9. MBPPL vide its letter dated 25 March 2022 communicated that as per the Clause 3.5 of the PPA, the Seller is allowed to source and supply the deficit power from any alternative source to meet its obligations under PPA. However, failure to arrange alternate source has not been considered as Force Majeure under clause 3.5 of the PPA. Further, Clause 9.3 of the PPA allows the recovery of Liquidated damages for failure to supply the instructed capacity for deviation more than 15% of the approved Open Access. The relevant clause from the PPA is reproduced below:

"9. PAYMENT FOR LIQUIDATED DAMAGES FOR FAILURE TO SUPPLY THE INSTRUCTED CAPACITY



9.3 In case deviation from Seller side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Seller shall pay compensation to Procurer at 20% of Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15% in the energy supplied and pay for the open access charges to the extent not availed by the Procurer.”

4.10. Accordingly, in line with the enabling clause as mentioned above regarding liquidated damages under the provision 9.3 of PPA, the KRC DISCOMs have recovered liquidated damages from the Seller. The details of the computation of Liquidated charges recovered from the generator are given below:

DISCOM	Schedule for the month	Implemented Schedule for 1st Oct – 10th Oct	Variation limit as per PPA	Deficit Supply	Variation above 15%	Tariff as per PPA	Penalty	Penalty
	Units	Units	Units	Units	Units	Rs./kWh	Rs./kWh	Rs.
1	2	3	4 = 2 x 15%	5 = 2 - 3	6 = 5 - 4	7	8 = 7 x 20%	9 = 6 x 8
MBPPL	33,77,530	10,77,880	5,06,630	22,99,650	17,93,021	3.18	0.636	11,40,361
GEPL	16,63,100	5,29,880	2,49,465	11,33,220	8,83,755	3.18	0.636	5,62,068
KRC	11,80,600	379500	1,77,090	8,01,100	6,24,010	3.18	0.636	3,96,870
Total	62,21,230	19,87,260	9,33,185	42,33,970	33,00,786	3.18	0.636	20,99,300

4.11. MBPPL has submitted that the above amount recovered as liquidated damages from the generator has been passed on to the consumers of the respective Discom in FAC computation for the month of November, 2021.

4.12. Considering the unavailability of the power from contracted source, MBPPL had to procure power from other sources at higher cost burdening the consumers. Accordingly, the Commission sought justification from MBPPL for passing on this higher cost to the consumers. Further, the Commission also sought details of the additional cost incurred for power procurement on account of non-availability of the power from M/s Kreate Energy during the period 11 October 2021 to 31 October 2021.

4.13. In response to the query, MBPPL has submitted that the KRC DISCOMs have entered into a Power Purchase Agreement (PPA) dated 27 May, 2021 for procurement of power from M/s Kreate Energy (I) Private Limited (KEIPL) through competitive bidding process on short term basis for the period from 1 July 2021 to 30 June 2022, this is being the only PPA entered by KRC DISCOMs.

4.14. Due to non-availability of power from the contracted source (i.e., KEIPL) during the period 11 October 2021 to 31 October 2021, KRC DISCOMs sourced their entire power requirement from the only available option of sourcing power i.e. from Power Exchanges, in



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order to meet its end consumer demand and the Universal Supply Obligation of the distribution licensee.

- 4.15. KRC DISCOMs have also filed a Miscellaneous Petition for obtaining the Commission's approval for additional power purchase cost incurred in the month of October 2021 on account of uncontrollable factors. Same is registered as Case No. 1/MP/2022 and a hearing in the said matter was held on 25 March 2022.
- 4.16. MBPPL also submitted that, though the deficit power is sourced from the power exchange, the energy cost on Power Exchanges is market linked and is guided by the market principle of demand and supply, and the prices discovered on Power Exchanges are a fair, transparent and neutral price discovery mechanism and same is also approved by the Commission in the past. Accordingly, MBPPL requested the Commission to approve the higher cost of power procurement on account of the above stated reasons.
- 4.17. MBPPL in its submission has also mentioned that the cumulative average power purchase price of Rs. 3.78/kWh is lower than the average power purchase cost approved by the Commission (Rs. 3.99/kWh). However, this average price considered by MBPPL is only against the purchase from Traders (Trader, medium term sources, exchange, etc.). However, if the power purchase from other generating stations and RE based generating stations (including REC) is also considered, the cumulative average power purchase cost will be Rs. 4.34/kWh (and Rs. 4.62/kWh if DSM/Imbalance pool and sale of surplus power is considered) which is higher than the cost approved by the Commission. Accordingly, the Commission directed MBPPL to clarify its statement and justify the increase in the power purchase cost.
- 4.18. MBPPL clarified that the average cumulative power purchase cost of Rs. 3.78/kWh mentioned in the FAC submission was considering the purchase of power from Traders only (excluding RE power, power from other generating stations, REC, surplus sale & DSM/Imbalance pool). After considering cumulative RE power purchase cost & purchase of power from all sources (excluding surplus sale & DSM/Imbalance pool), average power procurement cost worked out to be Rs. 4.34/kWh. Similarly, the average power procurement cost for GEPL and KRCIPPL after considering the RE power procurement till December 2021, is Rs.3.69/kWh and Rs. 3.92/kWh respectively.
- 4.19. The KRC DISCOMs further clarified that the approved average power purchase cost in MYT Order for FY 2021-22 for MBPPL, GEPL and KRCIPPL is Rs. 4.17/kWh, Rs.4.19/kWh, and Rs.4.10/kWh respectively. The cumulative average power purchase cost as mentioned in the earlier paragraph compared to approved average power purchase cost by the Commission is



higher in case of MBPPL and lower in case of GEPL and KRCIPPL after considering the power procured from power exchange and Renewable power / REC.

- 4.20. In this context, the KRC DISCOMs further submitted that the Commission in the respective MYT Orders allowed KRC DISCOMs to procure RECs to meet the RPO target for FY 2020-21 and FY 2021-22, and RE power from FY 2022-23 through MoU route. The Commission also encouraged KRC DISCOMs to try and maximize procurement of Solar RE power. In line with the directions of the Commission, MBPPL floated a Tender on DEEP Portal of Ministry of Power on behalf of KRC DISCOMs for purchase of Solar Power up to 6 MW (Maharashtra State Periphery) between 0800-1700 hours for the period from 01st October 2021 to 30th September 2022 (12 Months). However, MBPPL did not receive any bid from the market participants in response to the Tender. Same was informed to the Commission by MBPPL vide its letter dated 9 September 2021. Further, MBPPL in the said letter has also informed that KRC DISCOMs would continue to opt for procurement of green power through GTAM and other market instruments and RECs (once session are resumed) to meet the RPO requirements.
- 4.21. KRC DISCOMs further submitted that the REC Trading session on Exchanges was stayed by Hon'ble Appellate Tribunal for Electricity (APTEL) since June 2020. In order to meet the RPO requirement, considering the non-availability of RECs, the KRC DISCOMs have been procuring RE power through the GTAM. The Commission in its FAC Post-facto approval for Q1 of FY 2021-22 has approved purchase of Power from G-TAM on Exchange platform.
- 4.22. The Hon'ble APTEL has subsequently allowed resumption of REC session from the month of November 2021. Accordingly, MBPPL and GEPL have purchased Non-Solar RECs during the month of November 2021 towards outstanding RPO for the FY 2020-21 and FY 2021-22 and in case of KRCIPPL towards outstanding RPO of FY 2019-20, FY 2020-21 and FY 2021-22.
- 4.23. The KRC DISCOMs have also submitted that as per MERC (Renewable Purchase Obligations, its Compliance and Implementation of REC Framework) Regulations 2019 (RPO Regulations 2019), RPO shortfall for FY 2020-21 and FY 2021-22 can be carried forward to FY 2022-23 for meeting it on cumulative basis, however, in such case the Distribution Licensee will be subjected to penalty of Rs. 0.10/kWh for not achieving cumulative shortfall in each year. Therefore, to avoid such penalty in form of reduction in the Annual Revenue Requirement, as a distribution licensee, KRC DISCOMs are also trying to ensure RPO compliance by procuring the renewable power through G-TAM and REC.



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- 4.24. Accordingly, the above stated reasons have contributed to the higher power purchase cost in case of MBPPL i.e. on the account of purchase of RECs towards outstanding RPO compliance of FY 2020-21 and FY 2021-22.
- 4.25. With regards to the query pertaining to the additional cost incurred by GEPL due to non-availability of power from M/S Kreate Energy, MBPPL has submitted that KRC DISCOMs in their Petition in Case No. 1/MP/2022 have submitted that, due to the non-availability of power from contracted source (i.e., KEIPL), KRC DISCOMs have collectively incurred additional cost of Rs. 2.17 Crore (Rs. 1.17 Crore – MBPPL; Rs. 0.57 Crore – GEPL; Rs. 0.43 Crore – KRCIPPL) with reference to the existing PPA rate of Rs. 3.18/kWh, on account of purchase of power from Power Exchanges during the period from 11 October 2021 to 31 October 2021. Further, KRC DISCOMs have also recovered the liquidated damages of Rs. 0.21 Crore from the generator as per provision of PPA to the extent of non-supply beyond allowed limits. Accordingly, the net additional power purchase cost incurred by the KRC DISCOMs is Rs. 1.96 Crore (Rs. 1.05 Crore – MBPPL; Rs. 0.51 Crore – GEPL; Rs. 0.39 Crore – KRCIPPL). This cost has been computed at the T\diamondD interface and is as per the submission of the KRC DISCOMs in the Case No. 1/MP/2022.
- 4.26. However, while the KRC DISCOMs have entered into the PPA with KEIPL wherein the Power Purchase cost is considered at STU Periphery, KRC DISCOMs in their Petition in Case No. 1/MP/2022 for the computation of additional power purchase cost during the period 11 October 2021 to 31 October 2021, have inadvertently considered the power purchase quantum (in MUs) at T\diamondD interface. Therefore, same has been corrected in the present submission by KRC DISCOMs by computing the power purchase quantum in MUs at State Periphery for computing additional power purchase cost incurred during the period 11 October 2021 to 31 October 2021 as given below:

Sr. No.	DISCOM	Quantum (kWh) (11.10.2021 to 31.10.2021)	Actual Cost (Rs. Cr.)	Avg. Rate (Rs/kWh)	PPA Rate (Rs./kWh)	PPA Cost (Rs. Cr.)	Addnl. Cost (Rs. Cr.)
		(a)	(b)	(c)	(d)	(e=a x d)	(f=b-e)
1	MBPPL	26,73,783	1.99	7.44	3.18	0.85	1.14
2	GEPL	12,82,176	0.96	7.50	3.18	0.41	0.56
3	KRCIPPL	8,89,097	0.70	7.93	3.18	0.28	0.42
	TOTAL	48,45,056	3.66	7.55	3.18	1.54	2.12

*Quantum in kWh is considered at STU periphery

- 4.27. As stated earlier, KRC DISCOMs have recovered the liquidated damages as per provision of PPA to the extent of non-supply beyond allowed limits. The net additional power purchase incurred by KRC DISCOMs due to power purchase from Power Exchanges is shown in the Table below:



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Sr. No..	DISCOM	Additional Power Purchase Cost (Rs. Cr.)	Liquidated Damages (Rs. Cr.)	Net Additional Power Purchase Cost (Rs. Cr.)
		(a)	(b)	(c=a-b)
1	MBPPL	1.14	0.11	1.03
2	GEPL	0.56	0.06	0.50
3	KRCIPPL	0.42	0.04	0.38
	TOTAL	2.12	0.21	1.91

- 4.28. Also, even though the power has been procured from power exchange due to failure of tied-up source i.e. M/s. Kreate Energy, MBPPL submitted that in MYT Order for FY 2021-22, the Commission has approved cost of Rs. 4.17/kWh, Rs.4.19/kWh and Rs. 4.10/kWh of MBPPL, GEPL and KRCIPPL respectively against which the cumulative cost incurred (considering power procured from all sources including renewable and DSM as well as surplus sale of power) is Rs. 4.62/kWh, Rs. 3.69/kWh and R. 3.89/kWh respectively. Therefore, it is submitted that the cost of power procurement of GEPL and KRCIPPL is well within the limit of the approved cost by the Hon'ble Commission and only higher in case of MBPPL for the reasons as mentioned in earlier response.
- 4.29. Further, it is submitted that power purchase rate from sources such as Power Exchange varies on month-to-month basis and it may be higher/lower in a given month than average approved energy rate. Due to non-availability of power from M/s. Kreate Energy and in order to meet demand-supply gap, MBPPL and other KRC DISCOMs have purchased short term power from power exchange with market discovered rate prevailing during the respective month.
- 4.30. The Commission has examined the submissions of MBPPL and notes that MBPPL has exercised the options available in the PPA with M/S Kreate Energy in the context of the non-supply of contracted power by the generator during the period from 11 October, 2021 to 31 October, 2021. The Liquidated damages in line with the provisions of the PPA have also been recovered in November 2021 and passed on to the consumers through the FAC filing.
- 4.31. The Commission also notes the submissions of MBPPL regarding purchase of power through the power exchanges and also from RE sources to meet the RPO obligations in place of REC in the month of October. While the Commission had allowed the KRC DISCOMs to procure RECs to meet the RPO obligations in the MYT order, in the Order in Case no. 231 of 2020 dated 23 January, 2021, the Commission has also permitted the KRC DISCOMs to procure RE power before FY 2022-23, so that the benefit of RE purchase can be passed on to the consumers. The power purchase has been through the power exchanges where the prices are market driven and competitively discovered.



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4.32. The Commission, after undertaking detailed deliberations in the matter of Case No. 1/MP/2022 filed by the KRC DISCOMs, has issued an order on 8 November, 2022 which stated the following:

“24.16 The Electricity Act, 2003 mandates the Commission to protect the interest of consumers at the same time allow recovery of cost of electricity in reasonable manner. In present case, by diverting contractual power to third party, LMEL/KEIPL have acted against the spirit of the contractual provisions and earned undue benefit at the cost of consumers of the Petitioners. Hence, by using its regulatory power, the Commission deems it fit to direct KEIPL to compensate the Petitioners for excess power purchase expenses of Rs. 1.96 Crore incurred because of diversion of its contracted power. KEIPL shall make such payment to the Petitioners within 15 days from date of this Order.”

“24.19 In view of above ruling, relief sought in the present petition i.e. allowing such additional expenses as pass through to consumer through FAC mechanism becomes infructuous. However, the Commission notes that FAC mechanism for SEZs allows levy of variation in power purchase cost on monthly basis subject to post facto vetting by the Commission. During pendency of this case, said additional expenses must have been levied to consumers through FAC. Therefore, instead of reversing all such FAC computation, the Commission directs that once KEIPL has paid the amount as directed above, same shall be adjusted as rebate in upcoming FAC computation.”

4.33. Considering the above submissions, and the directions issued to MBPPL vide its Order dated 8 November, 2022, the Commission has approved the higher cost of power purchase incurred by MBPPL for the period October 2021 to December 2021 to be recovered through the FAC mechanism and the amount receivable from KEIPL to be adjusted in upcoming FAC submissions, as and when received. However, KEIPL has challenged the Commission's Order in the Hon'ble Appellate Tribunal of Electricity (ATE) in IA No. 1951 of 2022 in Appeal No. 428 of 2022. The Hon'ble ATE has agreed to grant a stay on the Commission's Order subject to the following:

“43. For the reasons detailed herein above, we consider it appropriate to grant stay of the Order under appeal, subject to fulfilment of the following conditions: (1) the Appellant shall, within three weeks from today, pay Respondents 2 to 4 Rs.11.67 lakhs (ie the difference between Rs.32.66 lakhs received by them as liquidated damages from Respondent No.5 and Rs.20.99 lakhs which they had paid as liquidated damages to Respondents 2 to 4 earlier). This sum of Rs.11.67



lakhs shall be apportioned between Respondents 2 to 4 in the same proportion in which the liquidated damages of Rs. 20.99 Lakhs was paid to them earlier. (2) The Appellant shall in addition, within three weeks from today, furnish an unconditional bank guarantee from a Nationalised Bank, in favour of the Maharashtra Regulatory Commission, for Rs. 1,79,33,000/- (Rupees One Crore Seventy Nine Lakhs Thirty Three Thousand only) (representing the difference between Rs. 1.91 Crores which the Commission ought to have asked them to pay and Rs. 11.67 lakhs which we have now directed them to pay). The Bank Guarantee, so furnished, shall be kept alive and in force during the pendency of this Appeal. The Appellant shall file an affidavit of compliance, of the aforesaid directions, with the Registry within four weeks from today.

44. The aforesaid directions shall be subject to the result of the Appeal. It is also made clear that failure on the part of the Appellant to comply with the aforesaid directions will result in automatic vacation of this Interim Order, and it would then be open to Respondents 2 to 4 to take such steps, as are available to them in law, to have the Order of the Commission enforced."

4.34. Accordingly, the stay on the Order has been granted subject to the appellants meeting the conditions prescribed by the Hon'ble ATE and the recovery of the amount from KEIPL will be subject to the outcome of the further judicial process to be taken up by KEIPL.

4.35. Summary of power purchase of MBPPL is as under:

Sr. No.	Particular	Compliance
1	Purchase from Approved Sources	Yes. MBPPL has procured power from Kreate Energy (I) Pvt. Ltd during October 2021, November 2021 and December 2021 at Rs. 3.18/kWh in line with the approval from the Commission and as specified in Case No. 69 of 2021. The agreement is valid for the period of 1 July 2021 to 30 June 2022.
2	Merit Order Dispatch	YES. MBPPL has only one source of power i.e. Kreate Energy (I) Pvt. Ltd., which has been contracted on short term basis. MBPPL has followed merit order for scheduling of power and preference was given to cheapest power
3	Fuel Utilization Plan	Not applicable. All the sources of power procurement fall under Section 63 of EA, 2003.
4	Pool Imbalance / DSM Pool	MBPPL injected 0.07 MU, 0.01 MU and 0.25 MU for the month of October 2021, November 2021 and December 2021 into DSM pool. MBPPL has procured 0.02 MU from imbalance pool for the month of October 2021.



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Sr. No.	Particular	Compliance																																						
5	Sale of Surplus Power	There was no sale of surplus power in the months of October to December 2021.																																						
6	Power Purchase	Actual Power Purchase is 3.81 MU, 3.72 MU and 3.60 MU in months of October 2021, November 2021 and December, 2021 respectively, as against approved monthly power purchase of 7.22 MU due to lower sales.																																						
7	Source wise Power Purchase	<table border="1"> <thead> <tr> <th>Source Name</th> <th>Approved (MU)</th> <th>Actual – October 2021 (MU)</th> <th>Proportion in actual Purchase (%)</th> </tr> </thead> <tbody> <tr> <td>RE Solar</td> <td rowspan="2">Commission had approved REC purchase for FY 2021-2022 #</td> <td>0.06</td> <td>1.68%</td> </tr> <tr> <td>RE Non-Solar</td> <td>0.76</td> <td>20.05%</td> </tr> <tr> <td>Base Load – Medium Term Sources /</td> <td>6.17</td> <td>-</td> <td>-</td> </tr> <tr> <td>Kreate Energy (I) Pvt. Ltd</td> <td>-</td> <td>1.08</td> <td>28.29%</td> </tr> <tr> <td>Exchange/ Other Peak Sources</td> <td>1.05</td> <td>1.96</td> <td>51.32%</td> </tr> <tr> <td>DSM Pool</td> <td></td> <td>(0.07)</td> <td>-1.92%</td> </tr> <tr> <td>Imbalance Pool</td> <td></td> <td>0.022</td> <td>0.59%</td> </tr> <tr> <td>Total</td> <td>7.22</td> <td>3.81</td> <td>100.00</td> </tr> </tbody> </table>	Source Name	Approved (MU)	Actual – October 2021 (MU)	Proportion in actual Purchase (%)	RE Solar	Commission had approved REC purchase for FY 2021-2022 #	0.06	1.68%	RE Non-Solar	0.76	20.05%	Base Load – Medium Term Sources /	6.17	-	-	Kreate Energy (I) Pvt. Ltd	-	1.08	28.29%	Exchange/ Other Peak Sources	1.05	1.96	51.32%	DSM Pool		(0.07)	-1.92%	Imbalance Pool		0.022	0.59%	Total	7.22	3.81	100.00			
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Sr. No.	Particular	Compliance			
		Source Name	Approved (MU)	Actual – September 2021 (MU)	Proportion in actual Purchase (%)
		Base Load – Medium Term Sources /	6.17	-	-
		Kreate Energy (I) Pvt. Ltd	-	3.84	106.84%
		Exchange/ Other Peak Sources	1.05	0.01	0.16%
		DSM Pool		(0.25)	-6.84%
		Total	7.22	3.60	100.00
		<p>In addition to the above, MBPPL has also purchased Non-Solar REC's in November 2021 equivalent to 5.55 MUs at a rate of Rs. 1.02/kWh. This is in line with the approval of the Commission in the MYT Order for procurement of RECs for meeting the RPO.</p> <p># While the Commission had allowed the KRC DISCOMs to procure RECs to meet the RPO obligations in the MYT order, in the Order in Case no. 231 of 2020 dated 23 January, 2021, the Commission has also permitted the KRC DISCOMs to procure RE power before FY 2022-23, so that the benefit of RE purchase can be passed on to the consumers.</p>			
8	Power Purchase under Section 63 of Electricity Act, 2003	<p>Monthly power purchase invoices and sale of invoices are submitted by MBPPL. Power Purchase rates are verified from the PPA signed by MBPPL with each source of power. Monthly power purchase quantum and rate are verified from the invoices, and it is ensured that same has been considered in the FAC calculation.</p>			

5. Power Purchase Cost:

- 5.1. The Commission has scrutinised the detailed bills/invoices submitted for power purchase during the month of October 2021, November 2021, and December 2021 in order to verify the claim of MBPPL regarding Average Power Purchase Cost (APPC). The Commission has verified the actual as well as approved Net Purchase (MUs), Variable Cost (Rs./kWh) and Power Purchase Cost considered in FAC computation from the invoices and applicable MYT Order respectively.



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- 5.2. The total Power Purchase Cost incurred in October 2021, November 2021 and December, 2021 is **Rs. 2.45 Crore, Rs. 1.87 Crore and Rs. 1.15 Crore**, respectively which is lower than the monthly approved Power Purchase cost of **Rs. 3.01 Crore** by the Commission. This is on account of lower procurement of power due to lower sales in MBPPL area.
- 5.3. **Kreate Energy (I) Pvt. Ltd:** The Commission notes that MBPPL has purchased **1.08MU, 3.65 MU and 3.84MU** for the month of October 2021, November 2021 and December 2021 respectively. The Medium Term Power Purchase Agreement of MBPPL with Jindal Power Limited (JPL) and GMR Energy Trading Limited (GMRETL) has expired on 30 June 2021. The Commission in its Order dated 30 June, 2021 in Case No 69 of 2021 has approved Power Purchase Agreement and Adoption of Tariff determined through transparent bidding process for a Short-Term procurement of power up to 14MW (RTC) for KRC discoms for one year starting from 1 July, 2021 to 30 June, 2022 through combined power procurement. In the said order, the quantum estimated for MBPPL is upto 6.5 MW (Upto 5 MW RTC and upto 1.5 MW between 0800 and 2300 hours). The relevant extract of the Commission Order in Case No 69 of 2021 is reproduced below:
- “Accordingly, the Commission approves PPA dated 27 May 2021 entered between KRC DISCOMs (MindSpace Business Parks Private Limited; Gigaplex Estate Private Limited; KRC Infrastructure and Projects Private Limited) and Kreate Energy (I) Pvt. Ltd. – Power Department of Sikkim.”*
- 5.4. MBPPL has to pay short-term open access charges to SLDC and hence effective rate for power purchase from Kreate is higher than approved rate. However, in the month of November 2021, MBPPL has raised a debit note for an amount of Rs. 11,40,361/- towards liquidated charges charged for the month of October 2021 towards inability to supply contracted power in line with the terms of the PPA. This has led to the effective power purchase rate of Rs. 2.89/kWh in November 2021.
- 5.5. The Commission has verified the bills from the power purchase bills for M/s Kreate Energy.
- 5.6. **Power procurement through Exchange and Other Peak Resource:** MBPPL has procured **1.96 MU, 0.08 MU and 0.01 MU** from IEX for the months of October 2021, November 2021 and December 2021, respectively, to meet the peak demand from DAM / RTM / TAM products available on IEX platform. The purchase in October 2021 was higher on account of unavailability of power from M/s Kreate Energy.
- 5.7. **Renewable Sources:** The Commission has also approved Rs. 0.13 Crore each in October 2021, November 2021 and December 2021 for purchase of REC to meet Renewable Purchase Obligation. MBPPL has purchased Non-Solar REC of Rs. 0.57 crore for the month of



November and has not purchased any REC in month for the month of October and December. Further, MBPPL has also purchased RE Solar and RE Non-Solar during the month of October 2021. The RE Solar purchase quantum was 0.06 MU at a power purchase rate of Rs. 9.63/kWh in October 2021. Similarly, the RE Non-Solar purchase quantum was 0.76 MU at a power purchase rate of Rs. 5.75/kWh in October 2021. The Commission in its MYT Order in Case no. 328 of 2019 had approved purchases of REC in place of actual RE power for FY 2020-21 and FY 2021-22. However, the Commission in its Order in Case No. 231 of 2020 dated 23 January, 2021 had stated the following:

"9.14. As approved in MYT Orders, KRC Discoms have proposed to procure Solar and Non-Solar RECs for FY 2020-21 and FY 2021-22. It is also mentioned that if KRC DISCOMs can procure RE power before that, then the same shall be resorted to, so that the benefit of RE purchase can be passed on to the consumers. As this proposal is in line with that approved in MYT orders, the Commission allows the same."

- 5.8. Accordingly, MBPPL has sourced the RE Solar and RE Non-Solar Power from the exchange (GTAM/GDAM) citing the fact that the prices of green energy and conventional power available from exchange-based contracts were at par in most of the cases during that period and therefore, MBPPL took this opportunity to procure green power to fulfil its contingency requirement and meet the RPO obligation at the same time.
- 5.9. The Commission directed MBPPL to justify the afore-mentioned submission that the prices of green energy and conventional power available from exchange-based contracts were at par in most of the cases during that period with requisite data / information.
- 5.10. In response to the query raised by the Commission, MBPPL submitted that in order to meet the RPO requirement and to avoid any penalty for not achieving cumulative shortfall resulting in reduction in ARR, considering the non-availability of RECs, the KRC DISCOMs have been procuring RE power through the Green Term Ahead Market (G -TAM). Further from October 2021 onwards, KRC DISCOMs have been procuring RE power from Green Day Ahead Market (G-DAM) also on Exchange platforms.
- 5.11. KRC DISCOMs submitted that in the month of October 2021, due to non-availability of contracted source, they have procured power from Power Exchanges at prevailing market rate. KRC DISCOMs has taken this opportunity to fulfil its contingency requirement and to meet its RPO. Further, MBPPL has purchased RE power at an average rate of Rs. 6.05/kWh as against conventional power from Power Exchange at Rs. 8.32/kWh. Similarly, GEPL has purchased RE power at Rs. 6.13/kWh as against conventional power from Power Exchange at Rs. 8.01/kWh and KRCIPPL has purchased RE power at Rs. 6.24/kWh as against conventional power from Power Exchange at Rs. 8.75/kWh, as shown in the Table below:



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Licensees		MBPPL			GEPL			KRCIPPL		
Particulars		Net Purchase in MU	Power Purchase Cost in Rs. Cr.	Average Power Purchase Cost in Rs. /kWh	Net Purchase in MU	Power Purchase Cost in Rs. Cr.	Average Power Purchase Cost in Rs. /kWh	Net Purchase in MU	Power Purchase Cost in Rs. Cr.	Average Power Purchase Cost in Rs. /kWh
Power procurement through GTAM / GDAM from power exchange	Solar (A)	0.06	0.06	9.63	0.03	0.02	8.17	0.02	0.02	9.87
	Non-Solar (B)	0.76	0.44	5.75	0.23	0.13	5.85	0.23	0.13	5.85
Total of RE power	C=(A+B)	0.83	0.50	6.05	0.26	0.16	6.13	0.25	0.16	6.24
Power Procurement through DAM / RTM from Power Exchange	DAM / RTM	1.96	1.63	8.32	1.06	0.85	8.01	0.67	0.58	8.75

5.12. Supporting documents pertaining to power purchase from Power Exchange and landed cost sheet for all three KRC DISCOMs wherein product-wise Power Exchange trade details are captured on daily basis are shared in the quarterly FAC submission on dated 1 March 2022.

5.13. The Commission notes that while both, conventional power and RE power, was procured from exchange linked products, the average cost of power purchased through RE linked market products was lower than that for conventional power in the month of October 2021. Further, the price of power is competitively discovered for both the sources in the power exchange and hence the Commission approves inclusion of the power purchased from RE sources for recovery through the FAC mechanism.

5.14. **Imbalance Pool / DSM Pool :** It is observed that MBPPL has drawn 0.02 MUs from imbalance pool during the period of 1 October, 2021 to 10 October, 2021. Further, the DSM mechanism was implemented in Maharashtra from 11 October, 2021 onwards and MBPPL has incremented the DSM pool by 0.07 MUs, 0.01 MUs and 0.25 MUs in the month of October 2021 (12 October to 31 October, 2021), November 2021 and December 2021 respectively.

5.15. The Commission observes that MBPPL has purchased 0.02 MUs from the imbalance pool for the month of October 2021 and considered associated charges with regards to imbalance pool on provisional basis at the rate of Rs. 2.86/kWh as per the rate considered by the Commission in MYT Order.



- 5.16. The said drawl from the pool may be on account of either increase in demand of consumers than estimated by the Licensee or due to lower generation than scheduled by the generator. In both the scenarios, power has been drawn by the Licensee and supplied to its consumers. The said power supplied to the consumers is already billed as per Tariff approved by the Commission. The Energy Charge approved also includes the element of power purchase. It is therefore pertinent that such cost of such power drawn from the pool is considered while computing FAC.
- 5.17. Due to historical issues of delay in computing imbalance pool quantum and cost of power, for which appropriate orders are already passed by the Commission, the imbalance pool quantum and cost is required to be considered on provisional basis to avoid any adverse impact in future. If the said cost and quantum is not considered, it will not only result in recovering the cost from the consumers as billing has already been done, but also increase the overall power purchase cost for the particular month having positive impact on FAC and burdening the consumers. Also, as and when the final bills are issued by MSLDC, the power purchase cost of the imbalance pool quantum will be levied in future months, thereby burdening the consumers in future in that month when such cost will be levied. Accordingly, to balance the overall interest of consumers and licensee, the Commission has considered imbalance pool quantum as submitted by the MBPPL at provisional rate of Rs. 2.86/kWh as considered in the MYT Order. This provisional consideration of cost for FAC computation will get adjusted during truing-up of the respective year.
- 5.18. Similarly, the Commission has also considered the average price of the power in the DSM pool (Rs. 4.48/kWh, Rs. 3.32/kWh and Rs. 3.36/kWh) as submitted by the Licensee for FAC computation.
- 5.19. The Commission has noted that MBPPL has followed Merit Order Dispatch for scheduling of power and all sources are scheduled according to SLDC instructions.
- 5.20. **Approved Cost:** The Commission has noted that MBPPL procured lower quantum of power from its approved sources due to lower demand on account of continuation of impact of COVID-19 which has resulted in lower power purchase cost and decreased Average power purchase cost for the month of October 2021 to December 2021. **This decrease has also been on account of procurement of power from Kreate Energy (I) Pvt. Ltd for the month of October, November and December 2021 at Rs. 3.18/kWh which is lower than the Power procurement cost of Rs. 3.92/kWh as approved by the Commission in Tariff Order in Case No. 328 of 2019 from the medium-term source.** Therefore, actual APPC works out to be lower than the approved APPC in MYT order for the medium-term sources for the month of October 2021 to December 2021.



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5.21. However, the overall cost of power-purchase in October 2021 and November 2021 due to purchase of higher cost power, both conventional and RE, from power exchange to meet the shortfall in October 2021 due to non-availability of power from Kreate Energy and to meet the requirements in other months.

5.22. Further, as discussed earlier in para 4.33 of this Order, the Commission has approved the impact of higher cost of power purchase from power exchange incurred by MBPPL due to unavailability of power from its contracted source (M/s Kreate Energy) for the period 11 October 2021 to 31 October 2021.

5.23. The details of the overall cost approved and actual for the month of October 2021, November 2021 and December 2021 as per MYT Order is as shown in the Table 2 **Error! Reference source not found.** below:

Table 2: Approved and Actual Power Purchase Cost for MBPPL

Source	Particulars	Power Procured (MU)	Fixed Cost (Rs. Crore)	Fixed Cost (Rs./kWh)	Variable Cost (Rs. Crore)	Variable Cost (Rs./kWh)	Total Cost (Rs. Crore)	APPC (Rs./kWh)
Medium Term PPA - Base Load – Bilateral	Approved	6.17	-	-	2.42	3.92	2.42	3.92
	Actual – October 2021	-	-	-	-	-	-	-
	Actual - November 2021	-	-	-	-	-	-	-
	Actual - December 2021	-	-	-	-	-	-	-
Kreate Energy (I) Pvt. Ltd.	Approved	-	-	-	-	-	-	-
	Actual – October 2021	1.08	-	-	0.35	3.20	0.35	3.20
	Actual - November 2021	3.65	-	-	1.05	2.89	1.05	2.89
	Actual - December 2021	3.84	-	-	1.23	3.20	1.23	3.20
Exchange /Other Peak Sources	Approved	-	-	-	-	-	-	-
	Actual – October 2021	1.96	-	-	1.63	8.32	1.63	8.32
	Actual - November 2021	0.08	-	-	0.03	4.21	0.03	4.21
	Actual - December 2021	0.01	-	-	0.004	7.09	0.004	7.09



Approval of FAC Charges for the months of October 2021, November 2021 and December 2021

Source	Particulars	Power Procured (MU)	Fixed Cost (Rs. Crore)	Fixed Cost (Rs./kWh)	Variable Cost (Rs. Crore)	Variable Cost (Rs./kWh)	Total Cost (Rs. Crore)	APPC (Rs./kWh)
Solar & Non-Solar RE/REC	Approved (REC)	-	-	-	0.04 (Solar REC) 0.08 (Non-Solar REC)	1.00 (Solar REC) 1.00 (Non-Solar REC)	0.04 (Solar REC) 0.08 (Non-Solar REC)	1.00 (Solar REC) 1.00 (Non-Solar REC)
	Actual – October 2021	0.06 MU Solar 0.76 MU Non Solar	-	-	0.06 Solar 0.44 Non Solar	9.63 Solar 5.75 Non Solar	0.06 Solar 0.44 Non Solar	9.63 Solar 5.75 Non Solar
	Actual - November 2021	5.55 MU REC Non Solar	-	-	0.57 REC Non Solar	1.02 REC Non Solar	0.57 REC Non Solar	1.02 REC Non Solar
	Actual - December 2021	-	-	-	-	-	-	-
Imbalance Pool / DSM Pool	Approved	-	-	-	-	-	-	-
	Actual – October 2021	(0.07) - DSM Pool 0.02 - Imbalance Pool	-	-	(0.03) - DSM Pool 0.01 - Imbalance Pool	4.48 - DSM Pool 2.86 - Imbalance Pool	(0.03) - DSM Pool 0.01 - Imbalance Pool	4.48 - DSM Pool 2.86 - Imbalance Pool
	Actual - November 2021	(0.01) - DSM Pool	-	-	(0.004) - DSM Pool	3.32 - DSM Pool	(0.004) - DSM Pool	3.32 - DSM Pool
	Actual - December 2021	(0.25) - DSM Pool	-	-	(0.08) - DSM Pool	3.36 - DSM Pool	(0.08) - DSM Pool	3.36 - DSM Pool
SLDC Fees	Approved	-	-	-	-	-	-	-
	Actual – October 2021	-	0.001	-	-	-	0.001	-
	Actual - November 2021	-	0.001	-	-	-	0.001	-
	Actual - December 2021	-	0.001	-	-	-	0.001	-
TOTAL	Approved (Incl. REC)	7.22	-	-	3.01	4.17	3.01	4.17
TOTAL	Actual - October 2021	3.81	0.001	0.002	2.45	6.42	2.45	6.42

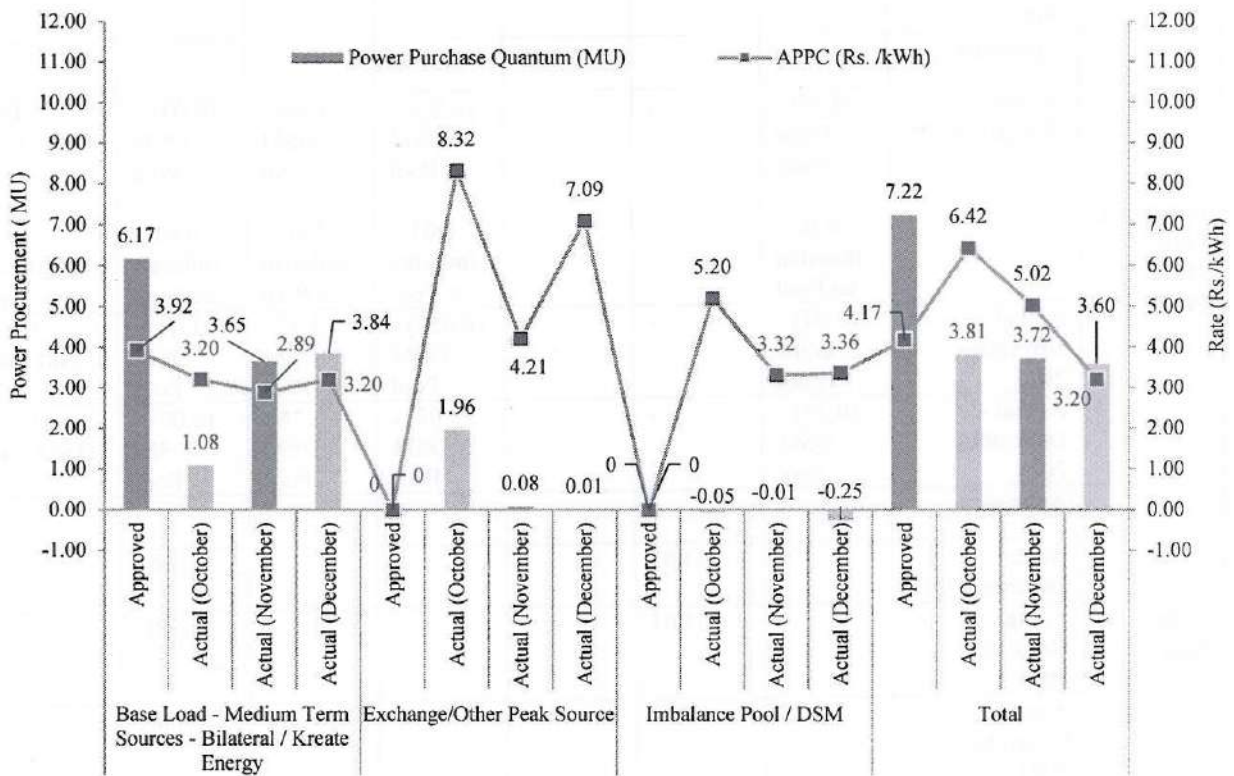


Approval of FAC Charges for the months of October 2021, November 2021 and December 2021

Source	Particulars	Power Procured (MU)	Fixed Cost (Rs. Crore)	Fixed Cost (Rs./kWh)	Variable Cost (Rs. Crore)	Variable Cost (Rs./kWh)	Total Cost (Rs. Crore)	APPC (Rs./kWh)
	Actual – November 2021	3.72	0.001	0.002	1.87	5.02	1.87	5.02
	Actual - December 2021	3.60	0.001	0.002	1.15	3.20	1.15	3.20

5.24. The variation in approved and actual quantum of power procured for some of the key sources and the APPC is shown the graph below:

Figure 1: Variation in Power Procurement Quantum and APPC



5.25. Reasons for the rate variation for various sources are as shown below:

Table 3: Reasons for Rate Variation for various Sources

Sr. No.	Source	Month	Approved Rate (Rs. /kWh)	Actual Rate (Rs. /kWh)	Reason for rate variation
1		October 2021		-	The Medium Term Power Purchase Agreement of
		November 2021		-	



Approval of FAC Charges for the months of October 2021, November 2021 and December 2021

Sr. No.	Source	Month	Approved Rate (Rs. /kWh)	Actual Rate (Rs. /kWh)	Reason for rate variation
	Medium Term PPA - Base Load - Bilateral -	December 2021		-	MBPPL with Jindal Power Limited (JPL) and GMR Energy Trading Limited (GMRETL) has expired on 30 June 2021.
2	Kreate Energy (I) Pvt. Ltd.	October 2021	-	3.20	MBPPL has purchased power from M/s Kreate Energy (I) Pvt. Ltd. at the rate of Rs. 3.18/kWh plus short-term open access charges as approved by the Commission at Maharashtra State Periphery which is lower than the approved Power procurement cost of Rs. 3.92/kWh. Liquidated charges have been recovered by MBPPL from Kreate in Nov 2021 for non-supply of power by Kreate for the period between 11 Oct 2021 to 31 Oct 2021.
		November 2021		2.89	
		December 2021		3.20	
3	Solar & Non-Solar RE/REC	October 2021	1.00 (REC – Solar & Non-Solar)	9.63 Solar 5.75 Non Solar	Market discovered rate; Purchase of RE power in Oct 2021 from Power Exchange (GTAM / GDAM) instead of REC procurement approved in the MYT Order. REC procured in November 2021.
		November 2021		1.02 REC Non Solar	
		December 2021		-	
4	Exchange/Other Peak Sources	October 2021	4.40 (Short Term PPA Rate)	8.32	Market discovered rate; Short term power purchase from Power Exchange and through day ahead exchange linked contracts.
		November 2021		4.21	
		December 2021		7.09	
5	DSM / Imbalance Pool	October 2021		2.86 (Imbalance Pool), 4.48 (DSM)	Power from Imbalance pool is considered at rate of Rs. 2.86 / kWh. DSM rates as



Approval of FAC Charges for the months of October 2021, November 2021 and December 2021

Sr. No.	Source	Month	Approved Rate (Rs. /kWh)	Actual Rate (Rs. /kWh)	Reason for rate variation
		November 2021		3.32 (DSM)	available in the documents provided by MBPPL.
		December 2021		3.36 (DSM)	
6	Total	October 2021	4.17	6.42	Due to above factors
		November 2021		5.02	
		December 2021		3.20	

5.26. Considering the above, the Commission allows the average power purchase cost of Rs. 6.42/kWh, Rs. 5.02/kWh and Rs. 3.20/kWh for the months of October, November and December, 2021 respectively as shown in Table 3 above. The reduction in power purchase cost from approved sources is lower due to tie-up of cheaper power with Kreate Energy (I) Pvt. Ltd. The variation in power purchase cost on the higher side in October and November 2021 is mainly on account of non-availability of power from contracted source (Kreate Energy) for part period in October 2021 and higher cost RE and conventional power purchase from exchange.

5.27. It is further reiterated that the Commission is separately adjudicating the petition filed by KRC DISCOMs in Case No. 1/MP/2022 and necessary revisions will be done to the present approval as deemed necessary in the future in line with the Commission's Order.

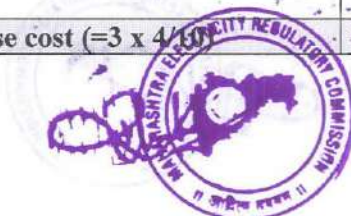
6. FAC on account of fuel and power purchase cost (F)

6.1. The Commission has worked out the average power purchase costs for the months of October 2021, November 2021 and December 2021 as shown in Table 2 above. The same has been compared with the average power purchase cost approved by the Commission in MYT Order dated 30 March, 2020 and arrived at differential per unit rate at which Z_{FAC} is to be passed on to the consumers.

6.2. Thus, the following Table 4 shows the rectified Z_{FAC} worked out by the Commission on account of difference in power purchase cost for the month of October 2021, November 2021 and December, 2021.

Table 4: FAC on account of Fuel and Power Purchase Cost

S. No.	Particulars	Units	Oct-21	Nov-21	Dec-21
1	Average power purchase cost approved by the Commission	Rs./kWh	4.17	4.17	4.17
2	Actual average power purchase cost	Rs./kWh	6.42	5.02	3.20
3	Change in average power purchase cost (=2 -1)	Rs./kWh	2.25	0.85	(0.97)
4	Net Power Purchase	MU	3.81	3.72	3.60
5	Change in power purchase cost (=3 x 4/100)	Rs. Crore	0.86	0.32	(0.35)



7. Adjustment for over recovery/under recovery (B)

7.1. The adjustment factor for over recovery / under recovery (B) is as shown in the Table 5 below:

Table 5 Adjustment for over recovery/under recovery

S. No.	Particulars	Units	Oct-21	Nov-21	Dec-21
1.1	Incremental cost allowed to be recovered in Month n-4	Rs. Crore	0.04	-	0.34
1.2	Incremental cost in Month n-4 actually recovered in month n-2	Rs. Crore	0.05	-	0.29
1.3	(over-recovery)/under-recovery (=1.2 - 1.1)	Rs. Crore	(0.00)	-	0.05
2.0	Carried forward adjustment for over-recovery/under-recovery attributable to application of ceiling limit for previous month	Rs. Crore	-	0.13	0.11
3.0	Adjustment factor for over-recovery/under-recovery (1.3+2.0)	Rs. Crore	(0.00)	0.13	0.16

8. Carrying Cost for over recovery/under recovery (C)

8.1. Carrying/Holding Cost for under recovery/over recovery has been granted at the approved interest rate for the eligible amount which works out to **Rs. (0.00) Crore, 0.001 Crore and Rs. 0.001 Crore** for the month of October 2021, November 2021 and December 2021.

8.2. Holding cost for the month of October to December, 2021 is calculated by considering MCLR + 150 basis points which turns out to be **8.50%**.

8.3. The Commission has computed the holding cost towards the amount over recovered in the month of October to December, 2021 which is as shown in the Table 6 below:

Table 6: Carrying/Holding Cost for over/under recovery

Particulars	Units	Oct-21	Nov-21	Dec-21
Adjustment factor for over-recovery/under-recovery	Rs. Crore	(0.001)	0.13	0.16
Interest rate	%	8.50%	8.50%	8.50%
Carrying cost for over-recovery/under-recovery	Rs. Crore	(0.00)	0.001	0.001

9. Holding Cost for FAC Fund



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- 9.1. The Commission in its FAC approval for the month of March 2021 has decided to accumulate the FAC fund arising out of negative monthly FAC up to March 2023 along with the holding cost. Accordingly, as per said principle laid down by the Commission, MBPPL has carried forward the negative FAC amount and accumulated the same in the FAC Fund along with holding cost.
- 9.2. On the similar principle, the commission has allowed MBPPL to carry forward the negative FAC amount in excess of FAC fund approved in the MYT order and accumulate in the FAC fund up to March 2023 along with holding cost.
- 9.3. The Commission has determined a positive FAC of Rs. 0.86 Crore and Rs. 0.45 Crore for the months of October 2021 and November 2021 respectively. The positive FAC in October 2021 is adjusted from the available FAC fund to avoid levy the same on the consumers. Accordingly, there is no FAC fund available in October 2021 (after adjustment of positive FAC for the month) and November 2021. The positive FAC (after adjustment of the FAC fund) is allowed recovery from consumers in October 2021 and in November 2021. For December 2021, the Commission has determined a negative FAC of Rs. 0.19 Crore which is contributed to the FAC Pool.
- 9.4. The Commission has considered SBI MCLR rate of the month plus 150 basis points which works out to 8.50% for October 2021, November 2021 and December 2021, respectively. Accordingly, the Commission has calculated holding cost of Rs. (0.003) Crore for October 2021. As the FAC fund is entirely utilised, no holding cost is calculated for November 2021 and December 2021 to be contributed to the FAC Pool.

10. Disallowance due to excess Distribution Loss

- 10.1. Regulation 10.8 of MYT Regulations, 2019 provides for FAC amount to be reduced in case the actual distribution loss for the month exceeds the approved distribution loss. The relevant extract is reproduced as follows.

“10.8 The total Z_{FAC} recoverable as per the formula specified above shall be recovered from the actual sales in terms of “Rupees per kilowatt-hour”:

Provided that, in case of unmetered consumers, the Z_{FAC} shall be recoverable based on estimated sales to such consumers, computed in accordance with such methodology as August be stipulated by the Commission:

Provided further that, where the actual annual sliding distribution losses of the Distribution Licensee exceed the level approved by the Commission, the amount of Z_{FAC} corresponding to the excess distribution losses (in kWh terms) shall be deducted from the total Z_{FAC} recoverable”



10.2. The following Table 7 provides the comparison of approved and actual distribution loss and disallowance due to excess distribution loss:

Table 7: Disallowance of FAC due to excess distribution loss

S. No.	Particulars	Units	Approved in Tariff Order	Oct-21	Nov-21	Dec-21
1	Net Energy input at Distribution Voltages	MU	6.99	3.69	3.65	3.53
2	Energy sales at Distribution voltages	MU	6.92	3.62	3.58	3.46
3	Distribution Loss (1 - 2)	MU	0.07	0.08	0.07	0.07
4	Distribution Loss as % (3/1)	%	0.97%	2.04%	1.91%	2.07%
5	Annual Sliding Distribution Loss	%		2.14%	2.13%	2.14%
6	Excess Distribution Loss = [Annual Sliding Distribution Loss (4) - Distribution loss approved] x Net Energy Input (1)	MU	-	0.04	0.03	0.04
7	Disallowance of FAC due to excess Distribution Loss	Rs. Crore	-	0.010	0.0005	-

10.3. As seen from the above Table 7, annual sliding distribution loss for the months of October to December, 2021 is higher than the MYT approved distribution loss of 0.97%. The annual distribution loss for the months of October to December, 2021 is also higher than the MYT approved distribution loss of 0.97%.

10.4. The Commission observed that MBPPL has worked out disallowance of FAC due to excess Distribution Loss based on the annual sliding Distribution Loss corresponding to the standalone energy input at distribution voltage for the month of October 2021, November 2021 and December 2021. MBPPL has considered NIL disallowance of FAC due to excess distribution loss for the month of December 2021 since the standalone FAC for the month of December 2021 is negative. The Commission considers the same for disallowance of FAC due to excess distribution loss.

11. Summary of Allowable Z_{FAC}

11.1. The summary of the FAC amount as approved by the Commission for the month of October 2021, November 2021 and December 2021 which is allowed to be recovered in the billing month December 2021, January 2022 and February 2022 is as shown in the Table 8 below.

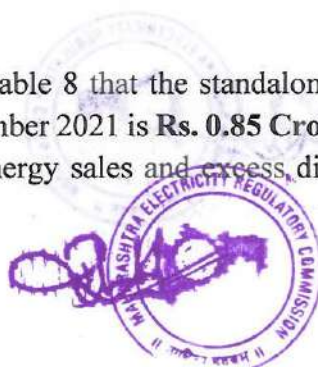


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Table 8: Summary of Allowable Z_{FAC}

Sr. No.	Particulars	Units	Oct-21	Nov-21	Dec-21
1	Calculation of Z_{FAC}				
1.1	Change in cost of generation and power purchase attributable to Sales within the License Area (F)	Rs. Crore	0.86	0.32	(0.35)
1.2	Carrying cost for over-recovery/under-recovery (C)	Rs. Crore	(0.00)	0.001	0.001
1.3	Adjustment factor for over-recovery/under-recovery (B)	Rs. Crore	(0.001)	0.13	0.16
1.4	Z_{FAC} = F+C+B	Rs. Crore	0.86	0.45	(0.19)
2	Calculation of FAC Charge				
2.1	Energy Sales within the License Area	MU	3.62	3.58	3.46
2.2	Excess Distribution Loss	MU	0.04	0.04	-
2.3	Z _{FAC} per kWh	Rs./kWh	2.34	1.24	(0.54)
3.0	Allowable FAC				
3.1	FAC disallowed corresponding to excess Distribution Loss [(2.2 x 2.3)/10]	Rs. Crore	0.01	0.01	-
3.2	FAC allowable [1.4-3.1]	Rs. Crore	0.85	0.44	(0.19)
4.0	Utilization of FAC Fund				
4.1	Opening Balance of FAC Fund	Rs. Crore	(0.38)	-	-
4.2	Holding Cost on FAC Fund	Rs. Crore	(0.003)	0.00	0.00
4.3	Z _{FAC} for the month (Sr. N. 3.2)	Rs. Crore	0.85	0.44	(0.19)
4.4	Closing Balance of FAC Fund	Rs. Crore	-	-	(0.19)
4.5	Z _{FAC} leviable/refundable to consumer	Rs. Crore	0.47	0.44	-
5.0	Total FAC based on category wise and slab wise allowed to be recovered in the billing month of December 2021 for October 2021, January 2022 for November 2021 and February 2022 for December 2021	Rs. Crore	0.34	0.33	-
6.0	Carried forward FAC for recovery during future period (4.4-5.0)	Rs. Crore	0.13	0.11	-

11.2. It can be seen from the above Table 8 that the standalone FAC for the month of October 2021, November 2021 and December 2021 is **Rs. 0.85 Crore, Rs. 0.45 Crore and Rs. (0.19) Crore** respectively. Based on energy sales and excess distribution loss, FAC per unit has



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been worked out as **Rs. 2.34 per kWh, Rs. 1.24 per kWh and Rs. (0.54) per kWh** for the months of October 2021, November 2021 and December 2021 respectively as shown above.

11.3. Further, the Regulation 10.9 of MYT Regulations, 2019 specifies as:

Provided that the monthly Z_{FAC} shall not exceed 20% of the variable component of Tariff or such other ceiling as August be stipulated by the Commission from time to time:

11.4. As the FAC per unit computed in the month of October 2021 and November 2021 as shown in Table 8 above is higher than the 20% cap specified in MYT Regulations, 2019, hence, there is restriction triggered with regards to such ceiling.

11.5. Accordingly, due to ceiling limit (Rs. 0.93/kWh), the FAC recoverable has been worked out as **Rs. 0.34 Crore, Rs. 0.33 Crore** for the month of October and November 2021 respectively. Thus, FAC equivalent Rs. 0.13 Crore (i.e., Rs. 0.47 Crore minus Rs. 0.34 Crore) for the month of October 2021 and Rs. 0.11 Crore (i.e., Rs. 0.44 Crore minus Rs. 0.33 Crore) for the month of November 2021 has remained unrecovered which is recovered as part of FAC for the month of December 2021.

11.6. The Commission has also approved a holding cost of **Rs. (0.003) Crore** on the opening value of the FAC Fund available during the month of October 2021. The FAC fund is exhausted in October 2021 after adjusting the positive FAC for the month of October 2021 and hence no FAC fund is available in the month of November 2021 for adjusting the positive FAC. Accordingly the positive FAC determined by the Commission for October 2021 (after adjusting the available FAC fund) and November 2021 is recoverable from the consumers. The FAC fund amount at the end of December 2021 is **Rs. (0.19) Crore** due to the negative FAC determined in December 2021. As the FAC is positive in the months of October 2021 and November 2021, the same will be allowed for recovery from the consumers and as the FAC is negative in December 2021, the said amount will be accumulated in FAC Fund for stabilisation of FAC in future and the benefit will not be passed to consumers.

12. Recovery from Consumers:

12.1. Regulation 10.9 of MERC MYT Regulations, 2019 provides for methodology of recovery of FAC charge from each category of consumers. The relevant extract is reproduced as below.
"10.9 The Z_{FAC} per kWh for a particular Tariff category/sub-category/consumption slab shall be computed as per the following formula: —

$$Z_{FAC} \text{ Cat (Rs/kWh)} = [Z_{FAC} / (\text{Metered sales} + \text{Unmetered consumption estimates} + \text{Excess distribution losses})] * k * 10,$$



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Where:

$Z_{FAC\ Cat}$ = Z_{FAC} component for a particular Tariff category/sub-category/consumption slab in 'Rupees per kWh' terms;

k = Average Billing Rate / ACOS;

Average Billing Rate = Average Billing Rate for a particular Tariff category/sub-category/consumption slab under consideration in 'Rupees per kWh' as approved by the Commission in the Tariff Order:

Provided that the Average Billing Rate for the unmetered consumers shall be based on the estimated sales to such consumers, computed in accordance with such methodology as August be stipulated by the Commission:

ACOS = Average Cost of Supply in 'Rupees per kWh' as approved for recovery by the Commission in the Tariff Order:

Provided that the monthly Z_{FAC} shall not exceed 20% of the variable component of Tariff or such other ceiling as August be stipulated by the Commission from time to time:

Provided further that any under-recovery in the Z_{FAC} on account of such ceiling shall be carried forward and shall be recovered by the Distribution Licensee over such future period as August be directed by the Commission.... ”

12.2. The Commission has worked out FAC per unit for each category of consumer based on the formula provided in the above Regulations.

12.3. The following Table 9Error! Reference source not found. shows per unit Z_{FAC} for the month of October 2021, November 2021 and December, 2021 to be levied on consumers of MBPPL in the billing month of December 2021, January 2022 and February 2022.

Table 9: Category wise FAC Revenue for billing month of December 2021, January 2022 and February 2022

Sr. No	Consumer Category	Slabs	Z_{FAC} computed for the month of October 2021 (Rs. Crore)	Z_{FAC} computed for the month of Nov 2021 (Rs. Crore)	Z_{FAC} computed for the month of Dec 2021 (Rs. Crore)
	HT Category				
1	HT- I Industrial	all units	0.280	0.279	-
2	HT-II Commercial	all units	-	-	-
	LT Category				



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Sr. No	Consumer Category	Slabs	Z _{FAC} computed for the month of October 2021 (Rs. Crore)	Z _{FAC} computed for the month of Nov 2021 (Rs. Crore)	Z _{FAC} computed for the month of Dec 2021 (Rs. Crore)
3	LT-II(A) Commercial (0-20 kW)	all units	0.001	0.001	-
4	LT-II (B) Commercial (above 20 kW)	all units	0.002	0.005	-
5	LT-III (A) Industrial (0-20 kW)	all units	0.004	0.004	-
6	LT-III (B) Industrial (above 20 kW)	all units	0.055	0.048	-
	Total		0.341	0.337	-

- 12.4. The Commission in its FAC approval for the month of March 2021 has decided to accumulate the FAC fund arising out of negative monthly FAC up to March 2023 along with the holding cost. The Commission will continuously monitor the situation as it unfolds along with its impact on power prices and pass appropriate directions in future regarding utilisation of FAC fund.
- 12.5. Accordingly, the Commission allows the FAC amount of Rs. (0.19) Crore to be accumulated as FAC Fund and shall be carried forward to the next billing cycle with holding cost.
- 12.6. Therefore, no FAC would be levied on consumers in the month of December, 2021.
- 12.7. Accordingly, per unit Z_{FAC} for the months of October 2021 and November 2021 to be levied on the consumers of MBPPL in the billing months of December 2021 and January 2022 is Rs. 0.93/kWh respectively. Similarly, the per unit Z_{FAC} for the month of December, 2021 to be levied on consumers of MBPPL in the billing month of February 2022 is Nil.



