

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
**World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005**  
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**Case No. 43 of 2015**

**Dated: 14 January, 2016**

**CORAM: Shri Azeez M. Khan, Member  
Shri Deepak Lad, Member**

**In the matter of**  
**Petition of Tata Power (Distribution Business) for allowing it to continue power supply  
to six consumers who are outside its Area of supply**

The Tata Power Company Ltd.-Distribution Business (TPC-D) .....Petitioner

V/s.

Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) .....Respondent

Impleaded Parties

1. Ordnance Factory, Ambarnath
2. Central Railway (Chola)
3. Experimental Watershed Study Unit
4. Khopoli Resort
5. Bhandup Complex of MCGM
6. Central Railway - 100 kV (Thane)

**Appearance**

For the Petitioner : Smt. Deepa Chawan (Adv.)

For the Respondent : Shri Harinder Toor (Adv.)

For Bhandup Complex of MCGM : Shri Ramdeo Sharma (Rep.)

**Daily Order**

Heard the representatives of the Petitioner, Respondent and Bhandup Complex of MCGM. Advocate for TPC submitted that the present Petition has been filed as per direction of the Commission in Order dated 14 August, 2014 in Case No. 90 of 2014 to seek a mandate pertaining to six consumers to which TPC has been historically supplying power under its old Licences and who are now in MSEDCL's area of supply recognized under the new Licence granted on 14 August 2014.

TPC cited Section 185 of the Electricity Act, 2003 (EA 2003) which deals with repeals and savings since it protects certain notifications of the State Government under the Indian Electricity Act, 1910 regarding supply by TPC to some consumers, and allows TPC to continue to supply to the six consumers who are now in jurisdiction of MSEDCL. TPC refuted MSEDCL's claim regarding applicability of cross subsidy surcharge stating that these consumers are being supplied by TPC on its own network. TPC further submitted that it is also not required to pay any cross subsidy in view of the Removal of Difficulties (Second) Order 2005 issued by the Central Government. Moreover, these six consumers are contributing towards TPC's current level of cross subsidy.

Advocate for MSEDCL questioned the legality of such supply by TPC contending that TPC has failed to show documentary proofs showing its authorization granted under the repealed laws to supply power to these consumers. Even if such authorizations were given, subsequent to enactment of EA, 2003, they cease to exist. Accordingly, the supply by TPC to these consumers is not in accordance with EA, 2003 and TPC is taking undue advantage by supplying to these consumers. MSEDCL submitted that the Removal of Difficulty Order cited by TPC is not applicable in the present Case, and MSEDCL is entitled to cross subsidy surcharge from the date of commencement of the EA 2003. To a query raised by the Commission, MSEDCL submitted that TPC may be allowed to supply to these consumers on payment of cross subsidy surcharge to it.

Advocate for TPC submitted that it has annexed documents along with the Petition which demonstrate its authority to supply power to all six consumers. TPC highlighted that, inspite of being aware of the fact that such arrangement exists since a long time, neither during the proceedings of grant of Distribution Licence to TPC nor prior to that had MSEDCL raised any such objection. Also, questions regarding authorizations under repealed laws have not been included in the Reply filed by MSEDCL on 7 November, 2015.

Representative of Bhandup Complex of MCGM submitted that they are satisfied with the quality of services of TPC, but are ready to choose MSEDCL as a Distribution Licensee due to its lower Tariff for Public Water Works category, provided that MSEDCL supplies reliable power.

The Commission asked MSEDCL to submit as to whether such situation exists elsewhere in area of MSEDCL, i.e. MSEDCL supplying consumers outside its area of supply or other Distribution Licensees supplying in MSEDCL's area of supply (including inter-State), within 7 days.

**Case is reserved for Order.**

**Sd/-  
(Deepak Lad)  
Member**

**Sd/-  
(Azeez M. Khan)  
Member**