

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
**World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005**  
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**Date: 23 February, 2017**

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

**Petition of M/s Sai Wardha Power Limited for directions and refund of excess Transmission Charges levied and collected by Maharashtra State Transmission Co. Ltd.**  
**(Case No. 54 of 2016)**

**Petition of Sai Wardha Power Limited under Section 42(2), 86(1)(c) and other applicable provisions of the Electricity Act, 2003 and Regulation 32 of the Open Access Regulations, 2016 for directions and refund of excess transmission charges levied and collected by Maharashtra State Transmission Co. Ltd.**  
**(Case No. 107 of 2016)**

**And**

**Interlocutory Application of M/s Sai Wardha Power Limited seeking direction to maintain status quo with regard to the invocation of Letter of Credit**  
**M.A. No. 10 of 2016 in Case No.107 of 2016**

M/s Sai Wardha Power Limited (SWPL) .....Petitioner

V/s

Maharashtra State Electricity Transmission Co Ltd. (MSETCL)

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

The Tata Power Company Ltd. (TPC-D)

M/s Mahindra & Mahindra Ltd. (MML) .... Respondents

**Present during the hearing**

For the Petitioner : Ms. Swapna Seshadri, (Adv)

For the Respondents : 1. Shri A. V. Shinde (Rep), MSETCL  
2. Shri S. S. Koltey (Rep), MSEDCL  
3. Ms. Swati Mehendale (Rep), TPC-D  
4. Shri S. D. Priolkar (Rep), M&M

**Daily Order**

Heard the Advocates /Representatives of the Petitioner, Respondents and Authorised Consumer Representative.

1. SWPL stated that:

- i) SWPL has a Generating Plant with a capacity of 540 MW (4 x 135 MW) at Warora, Dist. Chandrapur. Out of 540 MW, two Units of 135 MW each are for Captive generation for supplying power to shareholders of SWPL.
- ii) SWPL has entered into a Bulk Power Transmission Agreement (BPTA) on 28 February, 2012 for 25 years for Transmission Capacity Rights (TCR) of 135.15 MW with MSETCL. As per BPTA, Transmission Charges were billed and collected by MSETCL for the Open Access granted to the system of MSETCL.
- iii) M/s Mahindra & Mahindra Ltd. is one of the captive consumers of SWPL situated in the supply area of TPC-D. Regulation 15.2(v) of the DOA Regulations, 2014 provides that when a consumer avails partial Open Access (OA) from a Distribution Licensee, such consumer shall pay the Transmission Charges to the Distribution Licensee instead of to the Transmission Licensee for the use of the Transmission network. Accordingly, TPC-D is also billing and collecting Transmission Charges on a monthly basis.
- iv) Some of the captive consumers of SWPL situated in the supply area of MSEDCL are also partial Open Access Consumers. MSEDCL is also billing and collecting Transmission Charges on a monthly basis since April, 2016.
- v) Recovery of Transmission Charges under the BPTA and again by the Distribution Licensee in OA billing amounts to double recovery from the consumer.
- vi) At the last hearing, MSETCL was directed to reconcile the position and submit its report to the Commission.

2. MSETCL stated that:

- (i) A BPTA for Long Term Transmission Open Access was executed between MSETCL and SWPL. As per the BPTA, SWPL is liable and has agreed to pay the Transmission Charges for the allotted Transmission Capacity Rights (TCR) of 135.15 MW on monthly basis.
- (ii) The STU has come to know about the recovery of these charges by the Distribution Licensees after filing of the Petition in Case No. 54 of 2016.
- (iii) As directed in Daily Order dated 18 October, 2016, C.E. (STU) took a meeting with SWPL, MSEDCL and TPC-D on 17 November, 2016. Based on the deliberations and

discussions, a report with STU's observations and recommendations has been submitted to the Commission on 16 December, 2016.

(iv) Since the BPTA is existing prior to notification of DOA Regulations, 2014, STU suggests that the Transmission charges be recovered as per BPTA.

3. MSEDCL stated that :-

- i) It has started recovering the Transmission Charges from Partial Open Access Consumers only after the notification of DOA, Regulation 2016.
- ii) It has recovered the Charges as a Distribution Licensee.

4. TPC-D stated that,

- i) Partial Open Access Consumers are embedded in TPC-D's network. The demand of TPC-D includes the Partial Open Access Consumers demand while calculating the Transmission Charges.
- ii) TPC-D has recovered the Transmission Charges as per DOA Regulations, 2014 and 2016.

5. The Petitioner and TPC-D may file their submissions within two weeks with copy to the other parties.

**The Cases are reserved for Orders.**

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

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