

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 17 of 2015 & MA No.4, 6, 7 & 8 of 2016

Dated: 31 May, 2016

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

**In the matter of
Petition of MSEDCL under Sections 42 (2) & 86 (1) of the Electricity Act, 2003 &
Regulation 13 of MERC (Distribution Open Access) Regulations, 2005 for seeking re-
determination of Cross Subsidy Surcharge,**

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**Interim Application of Sterlite Technologies Limited in Petition of MSEDCL
(M.A. No. 4 of 2015 in Case No. 17 of 2015),**

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**Interim Application of U.P.Twiga Fibreglass Limited in Petition of MSEDCL
(M.A. No. 6 of 2015 in Case No. 17 of 2015),**

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**Interim Application of M/s Sudarshan Chemical Industries Ltd, Roha in Petition of
MSEDCL
(M.A. No. 7 of 2015 in Case No. 17 of 2015),**

&

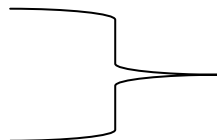
**Interim Application of M/s Sudarshan Chemical Industries Ltd, Mahad in Petition of
MSEDCL
(M.A. No. 8 of 2015 in Case No. 17 of 2015)**

Maharashtra State Electricity Distribution Co. Ltd (MSEDCL)Petitioner

Advocate for Petitioner:

Shri Samir Malik (Adv.)

Intervener Applicant No. 1
Intervener Applicant No. 2
Intervener Applicant No. 3
Intervener Applicant No. 4



Shri T.N.Agrawal (Rep.)

Daily Order

Heard the Advocate of the Petitioner and Representative of Interveners.

Advocate of MSEDCL submitted that present Petition has been filed as a consequence of APTEL Judgment dated 11 September, 2014 which set-aside the Commission's Order dated 29 October 2013 and remanded the matter to this Commission for re-determination. Cross Subsidy Surcharge (CSS) determined in the Order dated 29 October, 2013 was based on the Commission's Order in Case No. 95 of 2013 which has now been confirmed by this Commission through Order dated 26 June, 2015 after conducting public consultation process. Therefore, Advocate of MSEDCL prayed for re-determination of CSS by undertaking public consultation process. Such public consultation process may be under taken along with Public Hearings on MSEDCL's MYT Petition.

Advocate of MSEDCL further submitted that APTEL in its Judgment dated 11 September, 2014 allowed the consumers to approach MSEDCL for refund of CSS recovered under Order dated 29 October, 2013. Accordingly, 23 applications have been received by MSEDCL for refunds which are being processed. However, instead of refunding such amount at this stage and collecting it again from the same consumers after Commission's final Order in the present Case, he suggested that such refund may be deferred till issuance of final Order in the present matter.

On behalf of Interveners, it is submitted that the Order dated 29 October, 2013 has been set aside by the APTEL and hence MSEDCL needs to refund the CSS recovered under that Order. It is submitted that the process of refunding and recovering any amount to/from consumers is not tedious process and can be easily undertaken through billing system. Interveners also opposed MSEDCL's request for re-determination of CSS for the period of September, 2013 to February, 2014.

The Commission observed that APTEL in its Judgment dated 11 September, 2014 has ruled as follows:

"It is noticed that the Order passed on 05.09.2013 has already been set aside in Appeal No. 295 of 2013, and the matter has been remanded for re-determination. Consequently, the impugned Order dated 29.10.2013 challenged in this Appeal has also to be set aside and remanded for re-determination. Accordingly, Ordered.

In view of the above Order, it is open to the Appellants to approach the Distribution Company for refund of the amount, which has been collected earlier."

APTEL has set aside the Order dated 29 October, 2013 and remanded the matter for re-determination to this Commission. Pursuant to this Judgment, MSEDCL has filed the present Petition requesting determination of CSS for period of September, 2013 to February, 2014. As determination of CSS requires public consultation, the Commission has decided to

conduct a public consultation process and Public Hearing(s) on the present Petition. Secretariat of the Commission will communicate the further process to be adopted in this regard to MSEDCL.

Regarding the Interveners' request for refund of the CSS recovered under Order dated 29 October, 2013, APTEL in its Judgment dated 11 September, 2014 has set aside that Order and allowed Consumers to approach MSEDCL for refund. As a consequence, the Order dated 29 October, 2013 has lost its legal sanctity and hence any amount recovered pursuant to that Order also loses the validity in law. Under such circumstances, there is no other alternative but to refund the amount recovered. Hence, the Commission directs MSEDCL to refund the CSS recovered in the light of the APTEL Judgment. Regarding other issues raised by the Interveners relating to the present Petition, they are at liberty to raise them during the public consultation process in the present matter. The Intervention Applications filed in MA No. 4, 6, 7 and 8 of 2016 are disposed of accordingly.

sd/-
(Deepak Lad)
Member

sd/-
(Azeez M. Khan)
Member