

capacity not scheduled by the Procurer, will receive the Capacity Charges from the Procurer for such un-availed Capacity and can sell such Capacity to third parties. MSEDCL has earlier not allowed RIPL to sell such power to third parties.

- b. Consequently, on 25.05.2017, RIPL wrote to MSEDCL and offered a discount of Rs. 0.20/kWh on the Change in Law reimbursement with effect from 1 July, 2017 to 31 March, 2018. The discount would be applied to Change in Law reimbursement of Rs. 0.49/kWh calculated on normative basis, which is presently being considered by MSEDCL while calculating the Merit Order Dispatch.
 - c. Even with zero scheduling, MSEDCL is paying Capacity Charges. RIPL's business is not viable with the Capacity Charge only. This may render the project to be declared as non performing asset due to MSEDCL's restrictions on third party sale and not accepting the proposal of discount. RIPL has various liabilities to the lenders for the Project.
 - d. If power is scheduled from RIPL's Project with the proposed discount, it will be beneficial to MSEDCL and consumers in the State.
 - e. MSEDCL neither replied to RIPL's letter dated 25 May, 2017, nor has it filed its Reply to the present Petition in which the Commission issued notice on 30 June, 2017. He requested the Commission not to allow MSEDCL any extension of time for filing its Reply considering the sufficient time it has at disposal.
3. MSEDCL stated that
- a. Being a unique case, such proposal by any Generator to other discount in the Change in Law reimbursement to attain priority in Merit Order Stack needs to be legally checked and approval from its board of Directors needs to be obtained.
 - b. There may be practical difficulties in the operations to SLDC if one Generator is moved up in the Merit Order stack. Other Generators which are just below in the Merit Order Stack may object to SLDC scheduling RIPL.
 - c. The Commission may allow four weeks to file Reply to the Petition as the competent authority is engaged in the ongoing Monsoon Session of Maharashtra Legislative Assembly.
4. Shri. Ashok Pendse of TBIA stated that
- a. Under Section 63 of the Electricity Act, 2003, the Commission shall adopt the tariff discovered through the competitive process, and there is provision in the PPA to alter the already adopted Tariff by the Commission.
 - b. If the discount is accepted by MSEDCL, RIPL would get its power scheduled, but other Generating Units, mostly of MSPGCL or NTPC, will go out of the MOD stack, which may make them unviable.

- c. In Uttar Pradesh, a few Solar Generators have approached the State Government (not the Regulator) to negotiate the Tariff discovered through competitive bidding process under Section 63 of the Electricity Act, 2003.
5. The Commission directed MSEDCL to file its Reply to the Petition within 2 weeks, and RIPL may file its Rejoinder within 1 week thereafter.
6. The Commission stated that it has received a request from Maharashtra State Power Generation Company Limited (MSPGCL) to intervene in the matter. MSEDCL is procuring power from several Generators, including Central Sector Generators. The Commission directs MSEDCL to implead all the Generating Companies from whom it is procuring the power.
7. The newly impleaded generators are also supposed to file their say within 2 weeks.

The Secretariat of the Commission will communicate the next date of hearing

Sd/-
(Deepak Lad)
Member

Sd/-
(Azeez M. Khan)
Member

Sd/-
(Anand B. Kulkarni)
Chairperson