

**Before the  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
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**Case No. 111 of 2017**

**Dated: 5 October, 2017**

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

**In the matter of**

**Petition of Maharashtra State Distribution Company Limited to regulate purchase and procurement process of Distribution Licences, including the price at which electricity shall be procured from the Generating companies or from other sources through agreements for purchase of power for distribution and supply within the State**

Maharashtra State Distribution Company Limited (MSEDCL)	....Petitioner
Representative of the Petitioner	....Shri Paresh Bhagwat
Authorized Consumer Representative	.... Shri Ashok Pendse, TBIA

**Daily Order**

The Commission informed the parties that it has resolved that the matter will be heard and decided by a two Member Bench.

Heard the representative of the Petitioner and Consumer Representative

1. MSEDCL set out the background of the Petition and stated that Generating Companies are declaring lower Availability during peak period months and higher Availability during low peak period months. Regulation 48.3 of the MERC MYT Regulations, 2015 provides for recovery of Annual Fixed Cost (AFC) at Target Availability on monthly basis in proportion to Contracted Capacity and based on the cumulative Availability achieved with respect to the Target Availability, till the respective month in the Year, subject to adjustment at the end of the year. Therefore, due to monthly cumulative adjustment, the Generating Companies are able to get benefits by declaring higher availability during low peak demand months.
2. Due to this cumulative adjustment there is a financial impact on MSEDCL, which is ultimately passed on to the consumers. MSEDCL suggested that, instead of cumulative

annual adjustment, the Availability may be considered on monthly basis instead of annual cumulative adjustment.

3. As per MERC (Standard of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014, MSEDCL has to pay compensation to consumers for failure of supply due to various reasons. Besides, MSEDCL is also paying penalties under the UI mechanism for lower Availability of Thermal Generating Stations for no fault of MSEDCL. Under the present settlement mechanism, Generating Companies are not covered since they are not State Pool Participants (SPP). The entire burden is passed on to consumers. It is, therefore, necessary to evolve a mechanism which will include Generating Companies as SPPs.
4. The Commission observed that, MSEDCL does not participate and does not make any comments or suggestions during adjudication of various Petitions filed by Generating Companies and Transmission Licensees. MSEDCL stated that it is in the process of filing its views and suggestions on the Petition filed by MSPGCL for Capital Cost for Koradi Units 8, 9 and 10 and Chandrapur Units 8, 9 and Parli Unit 8 in Case No. 59 of 2017.
5. To a query of the Commission, MSEDCL replied that it has filed the present Petition for amendment to the Regulations and hence not impleaded other contracted Generating Companies as parties.
6. To the query of the Commission on Availability of IPPs contracted under Section 63 and provision of recovery of AFC in the PPAs, MSEDCL stated that these IPPs are also not declaring 100% Availability in the peak demand period and the PPAs have a similar provision for recovery of AFC, i.e. cumulative adjustment of Availability at the end of the year. MSEDCL further stated that the Commission has powers under the EA, 2003 to regulate or to amend such PPAs even in the absence of any specific provision in the PPAs.
7. MSEDCL has taken up the issue of lower Availability with the Generating Companies and it is continuously following up with them. However, the Generating Companies have cited low availability of coal from Coal India Ltd and its subsidiaries.
8. Dr. Ashok Pendse, on behalf of Thane Belapur Industries Association (TBIA), an authorized Consumer Representative, stated that in one instance, due to high cost of the NTPC Jajjar Plant, the Beneficiaries did not want power from it. The matter was referred to MoP, which directed the sale of the power to other States. Exploring such other possibilities, the power was sold for two consecutive years to Punjab and Haryana. Similarly, MSEDCL may consider the option of selling power to other Licensees in case it doesn't require it during the low demand period. Further, MSEDCL may suggest a proposal on paying of AFC linked with Availability.

9. The Commission informed that it may take appropriate steps, including review of its ABT Order, with regard to Generating Companies to be treated as SPPs in the Settlement Mechanism.
10. The Commission directs MSEDCL to implead all contracted Generating Companies and Distribution Licensees in the present Petition and serve copies of the Petition to them within a week. The Parties may file their submissions in 3 weeks thereafter.

Next date of hearing shall be communicated by the Secretariat of the Commission.

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

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