

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 97 of 2021

Petition of M/s Kukreja Enterprises under Section 86 (1) (f) of the Electricity Act, 2003 seeking direction from the Commission for release of principal and LPS from Respondent

M/s Kukreja Enterprises (KE) Petitioner
Maharashtra State Electricity Distribution Co. Ltd. Respondent

Case No. 98 of 2021

Petition of M/s L. B. Kunjir under Section 86 (1) (f) of the Electricity Act, 2003 seeking direction from the Commission for release of principal and LPS from Respondent

M/s L. B. Kunjir (LBK) Petitioner
Maharashtra State Electricity Distribution Co. Ltd. Respondent

Case No. 99 of 2021

Petition of M/s Kukreja Development Corporation under Section 86 (1) (f) of the Electricity Act, 2003 seeking direction from the Commission for release of principal and LPS from Respondent

M/s Kukreja Development Corporation (KDC) Petitioner
Maharashtra State Electricity Distribution Co. Ltd. Respondent

Case No. 125 of 2021

Petition of M/s O. P. Enterprises under Section 86 (1) (f) of the Electricity Act, 2003 seeking direction from the Commission for release of principal and LPS from Respondent

M/s O. P. Enterprises (OPE)

..... Petitioner

Maharashtra State Electricity Distribution Co. Ltd.

..... Respondent

Coram

Sanjay Kumar, Chairperson

I.M. Bohari, Member

Mukesh Khullar, Member

Appearance in all the Cases:

For the Petitioner

: Shri. V.N.Bohra (Adv)

For the Respondent

: Shri. Ravi Prakash (Adv)

COMMON ORDER

Date: 27 October 2021

1. M/s Kukreja Enterprises (KE), a wind generator has filed Case No.97 of 2021 on 16 July 2021 against Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL). Subsequently, on 17 July 2021 wind Generators M/s L. B. Kunjir (LBK), M/s Kukreja Development Corporation (KDC) and M/s O. P. Enterprises (OPE) filed Case No.98 of 2021, Case No.99 of 2021 and Case No.125 of 2021, respectively against MSEDCL. All these Cases have been preferred seeking an Order for immediate payment of overdue principal amount and LPS thereon for supply of Wind Energy under the EPA/PPA with MSEDCL.
2. As all these Cases are similar in nature, the Commission is deciding these four cases through this Common Order.
3. **Prayers of Petitioners are as follows:**

Case No.97 of 2021

- (i) *Direct the respondents to release seeking Order /Directing THE RESPONDENTS TO PAY Principal & LPS Principal Rs. 1,35,43,430/- (Rs One crore thirty five lac forty three thousands four hundred thirty only) & LPS (Late Payment surcharge) of Rs 43,77,134/00(Rs Forty three lac seventy seven thousand one hundred thirty four only) Total Rs.1,79,20,564/00 (Rs one Crores seventy nine lac twenty thousand five hundred*

sixty four only) in favour of the petitioner, on account of LPS on delay period as agreed rate of the PPA/s.

Case No.98 of 2021

Direct the respondents to release Principal Rs. 3,33,26,741/00 (Rs Three crore thirty three lac twenty six thousand seven hundred forty one only)

LPS Rs 19,97,537/00 (Rs Nineteen lakh ninety seven thousand five hundred thirty seven only)

Total Rs 3,53,24,278/00 (Rs Three crore fifty three lac twenty four thousand two hundred seventy eight only) in favour of the petitioner, on account of Principal and LPS on delay period as agreed rate of the PPA/s.

1. Direct the Respondents to remit the amounts due and payable on time in terms of the PPA;

Case No.99 of 2021

DIRECT the respondents to release Principal & LPS Principal Rs. 1,55,39,762/00 (Rs One crore fifty five lac thirty nine thousand seven hundred sixty two only) & LPS (Late Payment surcharge) for Rs 43,96,879/00 (Rs forty three lac ninty six thousand eight hundred seventy nine only) Total Rs 1,99,36,641/00 (Rs one Crore ninty nine lac thirty six thousand six hundred forty one only) in favour of the petitioner, on account of LPS on delay period as agreed rate of the PPA/s.

Case No.125 of 2021

1. DIRECT the respondents to release SEEKING ORDER / DIRECTING THE RESPONDENTS TO PAY Principal & LPS Principal Rs. 12,451,398 (Rs One crore twenty four lac fifty one thousand three hundred ninety eight only) & LPS (Late Payment surcharge) for Rs 2,937,291 (Rs Twenty nine lac thirty seven thousand two hundred ninety one only) Total Rs 15,388,689 (Rs one Crore fifty three lac eighty eight thousand six hundred eighty nine only) in favour of the petitioner, on account of LPS on delay period as agreed rate of the PPA/s.

2. Direct the Respondents to remit the amounts due and payable on time in terms of the PPA;

Common Prayers:

- *Direct the Respondent to pay the costs of the present petition;*
- *Pass such other further order(s) as the Hon'ble Commission may deem just in the facts of the present case."*

4. Petitioners in their individual Petitions have stated as follows:

4.1. Apart from their regular business, they are engaged in the business of developing and operating wind energy generation projects. Details of their Wind Generating installed capacities and their respective PPAs with MSEDCL are tabulated below:

Petitioner	Location	Installed Capacity	Date of PPA
M/s Kukreja Enterprises (KE)	Village- Bhone, Taluka & Dist: Nandurbar	1.25 MW	18.12.2006
			30.07.2020 (Short Term PPA)
	Village- Valsang, Taluka: Jath Dist: Sangli	2.1 MW	22.01.2013
M/s L. B. Kunjir (LBK)	Village: Gude Chanran, Taluka: Shirala, Dist: Sangli	2x1.5 MW	10.12.2012
	Village: Adwadi, Tal: Sinnar, Dist: Nashik		23.06.2009
M/s Kukreja Development Corporation (KDC)	Village: Dhondewadi, Taluka: Tasgaon, Dist: Sangli	1.25 MW	31.10.2006
			30.07.2020 (Short Term PPA)
	Village: Adwadi, Taluka: Sinnar, Dist: Nashik	1.50 MW	05.12.2009
M/s O. P. Enterprises (OPE)	Village: Adwadi, Taluka: Sinnar, Dist: Nashik	1.50 MW	05.12.2009

Above-mentioned capacities have been developed/created under the Government of Maharashtra (GoM) Policy for promoting generation of electricity through non-conventional energy sources.

4.2. As above mentioned PPAs have been signed at different points of time, these have two different provisions related to LPS are stipulated in different PPAs. These provisions are as follows:

- In first case, due date for payment is 45 days from receipt of the seller's monthly energy bill. And in case of delay in payment beyond the due date, the seller is entitled to claim LPS at the rate of 2% per annum above SBI short term lending rates.
- In second case, due date for payment is 60 days and LPS is allowed at the rate of 1.25% per month.

Petitioners have claimed that they have computed and claimed LPS liability in the Petitions as per applicable provisions of LPS in their respective PPAs.

4.3. Following table depicts the Principal and LPS liabilities, as claimed by the Petitioners:

Petitioner	Principal	LPS	Grand Total
M/s Kukreja Enterprises (KE)	Rs.1,35,43,430/-	Rs.43,77,134/-	Rs.1,79,20,564/-
M/s L. B. Kunjir (LBK)	Rs.3,33,26,741/-	Rs.19,97,537/-	Rs.3,53,24,278/-
M/s Kukreja Development Corporation (KDC)	Rs.1,55,39,762/-	Rs.43,96,879/-	Rs.1,99,36,641/-
M/s O. P. Enterprises (OPE)	Rs.1,24,51,398/-	Rs.29,37,291/-	Rs.1,53,88,689/-

- 4.4. By virtue of the agreement executed with Petitioners, MSEDCL has a contractual obligation to pay the outstanding bill amount, within stipulated days from the date of receipt of monthly energy bills.
- 4.5. The cause of action for getting sum due (principal and interest both) which is accruing day by day and every month on regular intervals cannot be time barred. In spite of several requests, reminders and personal visit of the Petitioner's staff members, MSEDCL overlooked the regular time bound payment and the agreed terms of the PPA.
- 4.6. Petitioners relied on written correspondence with MSEDCL to release the due amount. Petitioners alleged that neither the payment had been made nor the communications were replied positively, or any satisfactory assurance was ever given.
- 4.7. The delay in making such payment cannot be described as situation beyond control of MSEDCL or bad financial condition. MSEDCL is getting the regular payment from the consumers it serves. But on the contrary, it has intentionally defaulted in releasing the payments of Petitioners. The Petitioners mentioned that they are facing extreme financial hardship due to failure of MSEDCL to make timely payment as has been agreed under the PPA. It is also affecting smooth running and operation of its installed capacity.

- 4.8. For supporting its claim of payment of interest on delayed payment, Petitioners referred to the Judgment passed by Hon'ble APTEL in Appeal No. 11 of 2012 dated 17 April 2012 in the matter of *Chairman, TNEB & Anr. vs. Indian Wind Power Association and Ors* and Judgement of Hon'ble Supreme Court in the matter of *[2014] 3 Supreme 141 / [2014] 2 JLR(SC) 248 T.N. Generation & Distbn. Corpn. Ltd. Vs. PPN power Gen. Co. Pvt. Ltd.*
- 4.9. Further, the Commission, in the matter of M/s. Hindustan Zinc Limited (HZL) v/s MSEDCL, in Case No. 150 of 2015 has fairly settled this issue and directed MSEDCL to pay the late payment surcharge due to HZL as per Section 11.04 of the EPA within 30 days. Thereafter, interest will be payable to HZL at 1.25% per month on any surcharge amount remaining to be paid.
- 4.10. Amount is still due from MSEDCL and it is liable to pay to the Petitioners the entire overdue interest on account of LPS on the bills already raised for sale of electricity and to pay the interest on delay period @ 1.25% per month on daily basis.

5. Respondent MSEDCL in its reply dated 6 October 2021 submitted as below:

- 5.1. The Petitioners are misleading the Commission and wrongly projecting MSEDCL as an entity which defaults on payment. MSEDCL has made following payments to the Petitioners:

Petitioner	Principal	Period up to
M/s Kukreja Enterprises (KE)	Rs.5.42 Crores	December-2019
M/s L. B. Kunjir (LBK)	Rs.1.69 Crores	June-2020
M/s Kukreja Development Corporation (KDC)	Rs.5.71 Crores	December-2019
M/s O. P. Enterprises (OPE)	Rs.3.36 Crores	December-2019

- 5.2. The Commission is requested to consider all previous submissions/affidavits made by MSEDCL in other similar Petitions in respect of payment of outstanding amount and LPS. The Commission's dispensation in Case No. 124 of 2020 & Ors is squarely applicable in the present case.
- 5.3. Despite financial crisis, MSEDCL has committed to release outstanding amount for generation month upto Dec 2020 within next 3 months in the following manner:

Generation month	Rs.in Crores	Committed Payment Dates
M/s Kukreja Enterprises (KE)		
Jan 2020 to March 2020	0.12	31.10.2021
April 20 to July 2020	0.46	30.11.2021
August 20 to Dec 2020	0.54	31.12.2021
Total	1.12	

Generation month	Rs.in Crores	Committed Payment Dates
M/s L. B. Kunjir (LBK)		
July 2020 to Sept 2020	1.23	30.11.2021
August 20 to Dec 2020	0.57	31.12.2021
Total	1.80	
M/s Kukreja Development Corporation (KDC)		
Jan 2020 to March 2020	0.17	31.10.2021
April 20 to July 2020	0.66	30.11.2021
August 20 to Dec 2020	0.54	31.12.2021
Total	1.37	
M/s O. P. Enterprises (OPE)		
Jan 2020 to March 2020	0.26	31.10.2021
April 20 to July 2020	0.44	30.11.2021
August 20 to Dec 2020	0.43	31.12.2021
Total	1.13	

- 5.4. The Commission in its Daily Order dated 30 June 2021 in Case No 124 of 2020 & Ors directed MSEDCL to consider other options of collaborative and supportive participation for early monetization of arrears amount. Accordingly, MSEDCL had arranged meeting on 09 July 2021 and 28 September 2021 and requested Wind Generators to support the MSEDCL by providing waiver in LPS.
- 5.5. Around 220 number of generators have opted and provided LPS waiver and accordingly MSEDCL cleared their outstanding principal dues amounting to Rs.496.68 Crore between 24 August 2021 to 26 August 2021.
- 5.6. MSEDCL requested the Commission to direct the Petitioner/Generator to provide LPS waiver undertaking to the MSEDCL in view of precarious financial position arising due to pandemic situation.
- 5.7. From Commission's Order dated 07 September 2021 it is evident that MSEDCL has released payments (principal+1.25% penal interest) in the following manner:

Name of Generator	Principal		1.25% penal interest	
	Amount (Generation Month up to Dec-2019)	Date	Amount	Date
M/s Kukreja Enterprises (KE)	Rs.5.42 Crores	27.11.20	Rs.0.13 Crores	07.07.21

Name of Generator	Principal		1.25% penal interest	
	Amount (Generation Month up to Dec-2019)	Date	Amount	Date
M/s Kukreja Development Corporation (KDC)	Rs.5.71 Crores	27.11.20	Rs.0.12 Crores	07.07.21
M/s O. P. Enterprises (OPE)	Rs.3.36 Crores	27.11.20	Rs.0.07 Crores	07.07.21

- 5.8. As per the payment plan dated 25 June 2021 submitted during proceedings in Case No.124 of 2020 & Ors, MSEDCL has resolved to make payment of outstanding amount up to December-2020 to the wind generator by December 2021. The said plan has been accepted by the Commission and the Commission's dispensation in the said matter is squarely applicable in the present matter. The Commission in paragraph 45.4 of the Order Case No.124 of 2020 & Ors has recorded the submissions of MSEDCL that the payment plan for the outstanding payment after December 2020 will be submitted later on as per the financial position of MSEDCL.
- 5.9. As per the payment plan submitted by MSEDCL dated 25 June 2021, MSEDCL will clear the principal outstanding. If the MSEDCL is liable to pay any other payment to the Generator/Petitioner, MSEDCL will pay the remaining amount to the Petitioners as per availability of funds.
- 5.10. MSEDCL's total loan and payables as on 31 March 2021 is Rs. 57,757 Crores which includes loans of about Rs 43,000 Crores and payables of around Rs.14,757 Crores. The arrears/receivables from consumers including DPC is around Rs.66,193 Crores. MSEDCL has crossed the normative level of working capital loan to reduce the burden of LPS.
- 5.11. Pertinently, in Financial Year 2020-21 i.e. the year when the novel COVID-19 hit the country, MSEDCL has sold an aggregate of 109546 MU and billed an amount of Rs.77,446 Crores. On the other hand, in Financial Year 2019-20 i.e. when there was no impact of COVID 19, MSEDCL has sold an aggregate of 107881 MU and billed an aggregate amount of Rs. 83,606 Crores. This was due to the change in consumer mix and a reduction in the sales of the high revenue yielding categories such as Industrial and Commercial consumers during Financial Year 2020-21 which has resulted in revenue loss to MSEDCL to the tune of Rs.7500 Crores (approx.).
- 5.12. This financial position is further worsened by the delay in recoveries of bills on account of the prevailing lockdown situation which has resulted in shortfall in cashflows creating a financial burden on MSEDCL.

- 5.13. Due to lockdown conditions, it becomes difficult for many consumers across all categories to make payment of their electricity bills on time. Further the moratorium on payment of fixed charges for three billing cycles for Industrial and Commercial category consumer coupled with estimated bill computed on average basis has further deteriorated the already depleted financial situation of MSEDCL. The cross-subsidy structure given by the Commission in the MYT Order has completely collapsed.
- 5.14. MSEDCL maintains that it will make payments to Petitioners as per the payment plan dated 25 June 2021 submitted before the Commission.
6. At the E-hearing held on 8 October 2021, Advocate appearing for MSEDCL categorically submitted that it has proposed payment scheduled for releasing payments to Wind Generators in the present matter in its Reply. Advocate of MSEDCL stated that such payment schedule includes LPS liability also.

Commission's Analysis and Rulings

8. The Commission notes that these Petitioners had earlier filed similar Petitions seeking direction to MSEDCL for payment of their Wind Energy dues pertaining to previous period. Some of these Petitioners have also filed non-compliance petitions pointing out non-payment of dues by MSEDCL even after direction of the Commission. In all these Petitions, the Commission has issued Orders, latest one being 7 September 2021 (Case No. 124 of 2020 & Others). MSEDCL in its reply has cited its submission in that matter of Case No. 124 of 2020 & others and has relied upon the ruling of the Commission in that Order. While addressing issues in the present matters, the Commission has appropriately addressed these submissions of MSEDCL.
9. Present Petitions have been filed for claiming outstanding principal amount for energy injected into the grid in terms of PPA with MSEDCL and associated LPS liability for non-payment of outstanding dues. Petitioners have claimed following:

Petitioner	Principal	LPS	Grand Total
M/s Kukreja Enterprises (KE)	Rs.1,35,43,430/- (Up to March-2021)	Rs.43,77,134/- (01.10.2018 to 31.03.2021)	Rs.1,79,20,564/-
M/s L. B. Kunjir (LBK)	Rs.3,33,26,741/- (Up to November-2020)	Rs.19,97,537/- (<i>Not explicitly specified</i>)	Rs.3,53,24,278/-

Petitioner	Principal	LPS	Grand Total
M/s Kukreja Development Corporation (KDC)	Rs.1,55,39,762/- (Up to March-2021)	Rs.43,96,879/- (01.10.2018 to 31.03.2021)	Rs.1,99,36,641/-
M/s O. P. Enterprises (OPE)	Rs.1,24,51,398/- (Up to March-2021)	Rs.29,37,291/- (01.10.2018 to 31.03.2021)	Rs.1,53,88,689/-

Petitioner have also claimed 1.25% interest for delayed payment of LPS.

10. MSEDCL in its reply in the present matter has relied upon its submission made in Case No. 124 of 2020 & others and stated that it has released principal amount for the generation month upto December 2019, LPS amount and interest on delayed payment of LPS to three Petitioners viz. M/s Kukreja Enterprises (KE), M/s Kukreja Development Corporation (KDC) and M/s O. P. Enterprises (OPE). Like its submission of payment plan in Case No. 124 of 2020 & others, in the present matters, MSEDCL has undertaken to release principal outstanding amount for the generation month up to December 2020 by December 2021 and further provided following specific timelines for payment of such principal outstanding dues in respect of Petitioners:

Generation month	Rs.in Crores	Committed Payment Dates
M/s Kukreja Enterprises (KE)		
Jan 2020 to March 2020	0.12	31.10.2021
April 20 to July 2020	0.46	30.11.2021
August 20 to Dec 2020	0.54	31.12.2021
Total	1.12	
M/s L. B. Kunjir (LBK)		
July 2020 to Sept 2020	1.23	30.11.2021
August 20 to Dec 2020	0.57	31.12.2021
Total	1.80	
M/s Kukreja Development Corporation (KDC)		
Jan 2020 to March 2020	0.17	31.10.2021
April 20 to July 2020	0.66	30.11.2021
August 20 to Dec 2020	0.54	31.12.2021
Total	1.37	
M/s O. P. Enterprises (OPE)		
Jan 2020 to March 2020	0.26	31.10.2021
April 20 to July 2020	0.44	30.11.2021
August 20 to Dec 2020	0.43	31.12.2021
Total	1.13	

For, outstanding amount post December 2020, MSEDCL has stated that it will pay such amount as per availability of fund.

11. In this regard, the Commission notes that in its recent Order dated 7 September 2021, considering financial difficulties due to Covid-19 pandemic situations, the Commission has allowed MSEDCL's payment plan of releasing outstanding amount for generation month upto December 2020 by December 2021. Relevant part of that Order is reproduced below:

“60.1. The Commission in its respective Daily Order in these cases has directed MSEDCL to commit firm timeline by which outstanding amount shall be paid to the Petitioners. However, in reply MSEDCL has only submitted that outstanding dues till generation month of December 2020 will be paid within ensuing six months and timelines for payment of subsequent dues will be submitted latter based on availability of fund.

60.2. Such causal approach towards compliance of specific directives of the Commission in meeting its contractual obligations cannot be permitted. Although, considering financial issues highlighted by the MSEDCL in its reply, the Commission can allow payment of outstanding amount upto December 2020 by December 2021, MSEDCL needs to communicate specific date/s by which payment of outstanding principal amount, DPC will be paid to the Petitioners. If MSEDCL do not pay outstanding DPC amount within such communicated date, as ruled earlier in respect of these Petitioners, MSEDCL shall be liable to pay interest on outstanding DPC amount.”

Above ruling is squarely applicable to the present matter. However, it does not mean that MSEDCL is at liberty to not assure specific dates for payment of outstanding amount for generation month of January 2021 and onwards. The Commission notes that above referred payment plan in Case No. 124 of 2020 & others was submitted on 26 June 2021. Several months have lapsed post filing of such plan and also last date for payment under such plan i.e. December 2021 is fast approaching. Hence, now MSEDCL has to commit for specific dates of payment for outstanding amount beyond generation month of December 2020.

12. The Commission also notes that although Advocate of MSEDCL during the hearing stated that their payment plan includes payment of LPS outstanding, but MSEDCL's payment plan filed in present cases have committed specific dates for payment of only principal outstanding amount. Although, Petitioners in its reply have not commented on the same, in its prayer clause they have claimed outstanding amount including LPS. Hence, the Commission cannot allow such partial payment plan. Therefore, MSEDCL is directed to pay corresponding LPS amount along with outstanding principal amount as per specific date committed by MSEDCL for payment of principal amount. Any delay in payment as per the table at para 10 above alongwith LPS will attract interest at the rate of 1.25% per month from the respective dates.

13. MSEDCL in its submission has requested the Commission to direct the Petitioners to waive off LPS claim for supporting bad financial situation of MSEDCL. In this regard, the Commission is of the opinion that LPS is a contractual agreement between the parties and no court can direct to change such contractual agreement. It is upto contracting parties to mutually agree on the issue of waiving off any of its claim. Hence, the Commission cannot direct Petitioners to waive off their claims for LPS.
14. The Commission also notes that MSEDCL in its submission has highlighted financial difficulties due to low recovery from consumers during Covid-19 pandemic and change in consumer sales mix that has caused revenue loss of around Rs 7500 crore in FY 2020-21. In this regard, the Commission notes that in its MYT Order dated 30 March 2020, the Commission has already clarified that it will consider impact of increased working capital requirement due to Covid-19 circumstances during truing-up in Mid-Term Review process, same is to be initiated in November 2022. Further, regarding MSEDCL's claim of revenue loss of Rs. 7500 crore in FY 2020-21, the Commission notes that such claim seems to be ad hoc and premature as it has not considered the saving in ARR expenses such as reduced power purchase expenses, reduced R&M expenses and capex related expenses which would have accrued during lockdown period in Covid-19 pandemic. Therefore, reliance on such types of reasons without a detailed scrutiny cannot be addressed by the Commission and more over it cannot be a reason for non-payment of claims arising out of contractual obligations.
15. Further, the Commission notes that any delay in payment of principal amount under the PPA attracts LPS which is around 15% per annum. As per provisions of MYT Regulations, such LPS amount is not passthrough in ARR and hence needs to be borne by MSEDCL itself. Under such circumstance, as a corporate entity, to reduce its financial losses, it should be priority of MSEDCL to pay all such dues within stipulated time so as to avoid payment of LPS. Under current market situations, finances are available at relatively lower rate (almost half of rate of LPS) which can be explored by MSEDCL to fulfil its contractual obligation and thereby reducing its losses. In the opinion of the Commission, it is high time for MSEDCL as a corporate entity to set right its priorities in making payment of dues.
16. The Commission also notes MSEDCL's submission that it has crossed normative level of Working Capital requirement. In this regard, the Commission is of the opinion that while approving ARR and tariff, it has allowed all prudent expenses claimed by it including the full liquidation of its regulatory assets and claims of the generators arising as a result of court cases. Further, the Commission has adopted Multi Year Tariff approach wherein tariff for each year of the Control Period (4 or 5 years) is declared in advance and it comes into effect automatically with 1st April of respective financial Year. Once such prudent ARR and tariff has been approved, MSEDCL has to make all out efforts to recover the same from its consumers. MSEDCL has expressed difficulty about the recovery of energy bills. It may be

pointed out that there are sufficient enabling statutory provisions to ensure timely recovery and most importantly, non recovery cannot be the reason for not meeting the contractual obligations.

17. In view of above observations, the Commission directs MSEDCL to pay principal amount dues along with corresponding LPS amount till the generation month of December 2020 to the Petitioners on the dates specified in para 10 above. Any delay in payment of LPS amount from such date will attract interest of 1.25% per month on outstanding LPS amount. Further, MSEDCL shall also communicate specific date/s for payment of outstanding amounts (including LPS) beyond December 2020 as claimed in the Petition within a month from date of this Order.
18. Further, considering the facts that Wind Generators are required to approach the Commission repeatedly for payment of their legitimate dues from MSEDCL, the Commission in its recent Order dated 7 September 2021 has ruled as follows:

“60.3. The Commission also notes contentions of Petitioners that they are required to repeatedly approach before the Commission of payment of their dues and then only MSEDCL is releasing partial amount. Such situation of generator approaching the Commission for directing Distribution Licensee to pay their legitimate dues under contractual agreement is not at all desirable. MSEDCL is citing financial difficulties for such situation. The Commission in its recent Order dated 5 August 2021 on similar issues has made following observations:

“

21. The Commission is aware of the financial difficulties of MSEDCL especially during the Pandemic period but it also notes that the payable amounts was much prior to the onset of Pandemic. The Commission would also like to advise MSEDCL about its contractual obligations and they being a state utility it is expected to lead by example, by working on options to sort out their Financial Difficulties. The least that is expected from them is timely reconciliation (if required) of amounts and payment plan which needs to be worked out transparently.”

In view of above observations, MSEDCL has to come out with timebound mechanism for reconciliation and payment of amount. If such mechanism and payment plan is made transparently available to all generators, then all future litigation will be avoided. Accordingly, MSEDCL is directed to act upon developing such transparent mechanism and upload the same on its website.”

MSEDCL is yet to submit compliance status of development of above transparent mechanism. MSEDCL is directed to complete the above exercise within one (1) months from

date of this Order and report the compliance, failing which the Commission will be compelled to initiate action against concerned officers of MSEDCL under Section 142 of the Electricity Act, 2003

19. Hence, the following Order.


ORDER


1. Case Nos. 97, 98, 99 and 125 of 2021 are allowed.
2. Maharashtra State Electricity Distribution Co. Ltd to pay principal amount dues along with corresponding LPS amount till the generation month of December 2020 to the Petitioners on the dates specified in para 10 above. Any delay in payment of LPS amount from such date will attract interest of 1.25% per month on outstanding LPS amount.
3. Maharashtra State Electricity Distribution Co. Ltd to communicate specific date/s for payment of outstanding amounts beyond December 2020 to Petitioners as claimed in the Petition within a month from date of this Order.
4. Maharashtra State Electricity Distribution Co. Ltd to develop transparent mechanism as directed in para 17 above within a month from date of this Order, failing which, the Commission will be compelled to initiate action under Section 142 of the Electricity Act, 2003.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member

Sd-
(Sanjay Kumar)
Chairperson


(Abhijit Deshpande)
Secretary


MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
॥ आर्द्रत्यं हृदयम् ॥