

# ● PRAYAS

Initiatives in Health, Energy,  
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Amrita Clinic, Athawale Corner, Karve Road Corner, Deccan Gymkhana, Pune 411 004; INDIA

Tel.: (020) 65205726: Fax: (020) 2542 0337. E-mail: [energy@prayaspune.org](mailto:energy@prayaspune.org) Web-site: [www.prayaspune.org](http://www.prayaspune.org)

27 April 2012

To,  
The Chairman  
MERC, Mumbai

**Subject:** Blatant violation of the load shedding protocol by MSEDCL

**Ref:** MSEDCL circular no 44, dated 23 April 2012 regarding modification in Load Shedding protocol

Dear Sir,

This letter is with reference to the load shedding [Circular No 44](#) issued by MSEDCL on 23 April 2012 regarding modification in Load Shedding protocol. The Commission has determined the Load Shedding Protocol for the license area of MSEDCL vide its order dated November 28, 2008 in case Nos. 77 and 78 of 2008 and the same is still in force. Also, as per the Supreme Court order dated 13th May, 2005 MSEDCL is required to decide Load Shedding Protocol in consultation with the Commission. However, through the said circular MSEDCL has unilaterally defined a new protocol for load shedding. Such action is clearly in violation of the commission's order as well as the Supreme Court judgment.

Further, MSEDCL had filed an appeal before the Appellate Tribunal for Electricity (ATE) challenging MERC's jurisdiction regarding issuing such a protocol. The ATE through its judgment dated July 31, 2009 in Appeal No. 173 of 2008 had upheld the Commission's jurisdiction and also stated: "... *there cannot be a blanket freedom to the appellant to operate its network without observing desired transparency in its operations. Hence, we are not inclined to grant any relief to the appellant in this regard.*" Further the ATE has clearly said that: "*Further, we need to keep in mind various provisions of the Act, which try to make a balance between the interests of various stakeholders. Protection of interests of the consumers has been given prominence in the overall scheme of the Act...Directions by the State Commission to adhere to the load shedding protocol can also be treated as in the nature of standard with respect to continuity and reliability of service by the appellant.*" Thus the ATE has also acknowledged the commission's role in protecting consumer interest through ensuring accountability and transparency in load shedding.

Based on this ATE judgment, the commission vide its order dated October 9, 2009 had formed the Committee comprising of representatives from the Commission, MSEDCL, MSLDC and consumer representatives to deliberate upon certain implementation and other issues related to the load shedding protocol. One of the important tasks entrusted to the Committee was to identify data requirement to be considered while undertaking / considering any change / adjustment in the load shedding protocol in future thereby making it clear that protocol cannot be changed in an adhoc manner. In spite of such clear rulings in this matter, MSEDCL has resorted to moves which can be considered to be in violation of the set protocol. For example, the Commission in its order dated 30<sup>th</sup> May 2011 in case no 23 of 2011 has noted: "*In the past, MSEDCL had increased the staggering load shedding from 16 to 32 hours (from 18.09.2008 – 30.11.2008). Therefore, the Commission observes that MSEDCL's approach had been discriminatory and biased and the Commission is deeply concerned about this.*"

Based on the above facts, it becomes clear that without undertaking commission's approval and submitting the necessary data, MSEDCL cannot unilaterally change the load shedding protocol. Evolving a rational and transparent mechanism for load shedding in the form of this protocol has been a hallmark of the positive changes that regulatory process can bring about through improved transparency and accountability in utility operations. As highlighted by the ATE, the Commission's role is not only limited to ensuring procedural compliance with its orders and regulations but also to ensure that consumer interest is protected in the process. By issuing a circular contrary to the protocol on its website, MSEDCL has indulged in willful violation of a statutorily binding order. Such an act certainly does not bode well for regulatory process and the consumer interest. Therefore, the commission should take very serious note of this violation and issue suo motu enquiry into this matter.

We sincerely hope and believe that the commission appreciates the gravity of such an act and its long term ill-effects on consumer interest and hence will take the necessary action.

We request the commission to place this letter on record and to do the needful.

Thanking you.

Sincerely

Ashwini Chitnis & Shantanu Dixit  
Prayas Energy Group  
Athawale Corner,  
Karve Road, Deccan Gymkhana  
Pune, 411004 India  
Tel. 91-20-25420720, 65205726  
[www.prayaspune.org/peg](http://www.prayaspune.org/peg)