

MAHARASHTRA STATE POWER GENERATION CO. LTD.

PH: 26474211, 26472131

FAX: 91-22-26580643

Email: rcgen@mahagenco.in

Regulatory & Commercial Dept.

Prakashgad, 3rd Floor,

Bandra (E) Mumbai 400 051

RCD18/71B/LT0408/

No 073 1.11

Date: 18/06/2018

18 JUN 2018

To

The Secretary,

Maharashtra Electricity Regulatory Commission,

13th Floor, Centre 1, World Trade Centre,

Cuffe Parade, Mumbai 400 005.

Sub: Reply to Data Gap Set II in the matter of Application filed by MSPGCL for grant of Intra-state Trading Licence.

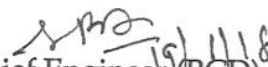
Ref : Data gaps received from MERC by e mail dated 07.06.2018.

Respected sir,

With reference to above subject and the data gaps received by MSPGCL vide e-mail dated 07-06-2018, MSPGCL submitting the replies to data gaps raised by Hon'ble Commission.

Please find attached herewith the reply to data gaps. MSPGCL requests Hon'ble Commission to accept the same.

Thanking you,


Chief Engineer (RCD)

MSPGCL

Encl: As above

Data gap set II in the matter of Application filed by MSPGCL for grant of Intra-state Trading Licence

Date:- 07 June, 2018

Data Gap No. 1:

MSPGCL replied that it is not intending to form a new subsidiary for trading business, hence no equity is mentioned in petition. MERC is of the view that though net worth requirement for trading business is fulfilled by MSPGCL from its own Balance sheet, however there may be requirement of equity to operate the business. The equity shown in its balance sheet is already deployed in Capital Expenditure. In unforeseen circumstances and in case of loss incurred in trading business or due to recovery issues, the loss would directly get booked under its own balance sheet and no set-off would be available from its generation business. Therefore MSPGCL to indicate % of proposed equity infusion and debt proportion for the trading business. Also MSPGCL to submit the arrangement for debt portion required for the trading business.

MSPGCL's Reply:

MSPGCL acknowledges the concerns raised by Hon'ble Commission while raising the issues regarding equity infusion . However , following are MSPGCL's comments on the issue.

- i. As mandated by Government of Maharashtra , vide GR dated 14.06.2017 (with modifications through G.R dated 17.03.2018) , the expected sale of power through the trading licence applied is mainly out of the proposed PPA/ PSA arrangement under "Mukhyamantri Solar Agri Feeder Scheme".
- ii. As per the PPP model proposed for "Mukhyamantri Solar Agri Feeder Scheme" , MSPGCL is going to purchase power from Solar Power Developers (SPD) through long term Power Purchase Agreement and subsequently sell it to MSEDCL through Power Sale Agreement (PSA).
- iii. Thus the role of MSPGCL is of "intermediary" implementing agency similar to the role of SECI as implementing agency under National Solar Mission.
- iv. The investment for the solar power project will be done by the Solar Power Developer (the successful bidder in the competitive bidding process).
- v. So as such there is no significant financial investment burden on MSPGCL and therefore no need of major equity or debt financing.
- vi. Moreover, the PPA and PSA also do not provide for commitment of specific quantum of power and thus there are no penalty clauses for non supply of such specific quantum of power. (as generally observed in other PPAs).
- vii. Thus the chances of MSPGCL incurring loss on account of failure to supply or on account of any commitment charges are negligible.
- viii. It is understood that in case of any such eventuality, MSPGCL will have to bear the losses from its internal accruals and cannot be claimed from regulatory business.
- ix. If such loss is on account of the SPD , MSPGCL will try to recover it from the SPD , to the extent possible within the terms & conditions of the PPA.
- x. If the loss is unrecoverable from SPD, considering it as uncontrollable loss, MSPGCL will approach the committee formed ,as per the Government of Maharashtra G.R. dated 14.06.2017 , under chairmanship of Principle Secretary

(Energy) and compromising members from MSPGCL, MSEDCL & MEDA for effective implementation of the scheme and resolving the issues arising while implementation of the scheme.

Data Gap No. 2:

As clarified in the reply of data gap set-I (3) by MSPGCL, it is seeking trading license for trading of electricity which includes Solar Agriculture power. As per section 10(2) of Electricity Act, Generation Company can supply electricity to any consumer, relevant section reproduced as under:

(2) A generating company may supply electricity to any licensee in accordance with this Act and the rules and regulations made thereunder and may, subject to the regulations made under sub-section (2) of section 42, supply electricity to any consumer.

According to above mentioned section, MSPGCL is not required trading license to sell its own generated power.

However as per section 2(71) of Electricity Act trading is defined as under:

(71) "trading" means purchase of electricity for resale thereof and the expression "trade" shall be construed accordingly;

Hence MSPGCL to clarify if it intends to procure and sale from any source of power to consumers other than transactions under Chief Minister Agriculture feeder scheme, which falls under ambit of above mentioned definition of 'trading'. Sale of surplus power or untied up power by generating company to any consumer will not construed trading.

MSPGCL's Reply:

- i. MSPGCL's primary motive to apply for the trading license is for trading of electricity under Solar Agri Feeder scheme, Solar Park and any other RE generation.
- ii. As correctly pointed out in the data gap, for sell of surplus power from regular generation business, MSPGCL has other options available.

Data Gap No. 3:

In Board Resolution for authorization to start Intra-State trading business, it is resolved that

*"To treat the **technical**, financial and commodity (Electricity) Transactions under the Chief Minister Solar Agriculture Feeder Scheme" should be treated as Trading Business"*

MSPGCL to provide nature of technical transactions to be undertaken in Chief Minister Solar Agriculture Feeder Scheme, which is resolved to be treated as trading business. Since above trading is mainly of Solar Power, in case of failure of generation of solar power, what is the plan to meet the consumer requirement of power under trading business?

MSPGCL's Reply:

- i. The term "technical transactions" is used for the general electricity transactions like metering and
- ii. There are no provisions for specific commitment of power and related penalties. Except for major long term failure of solar power generator, on day to day basis the power transaction will be as per actual availability of power.

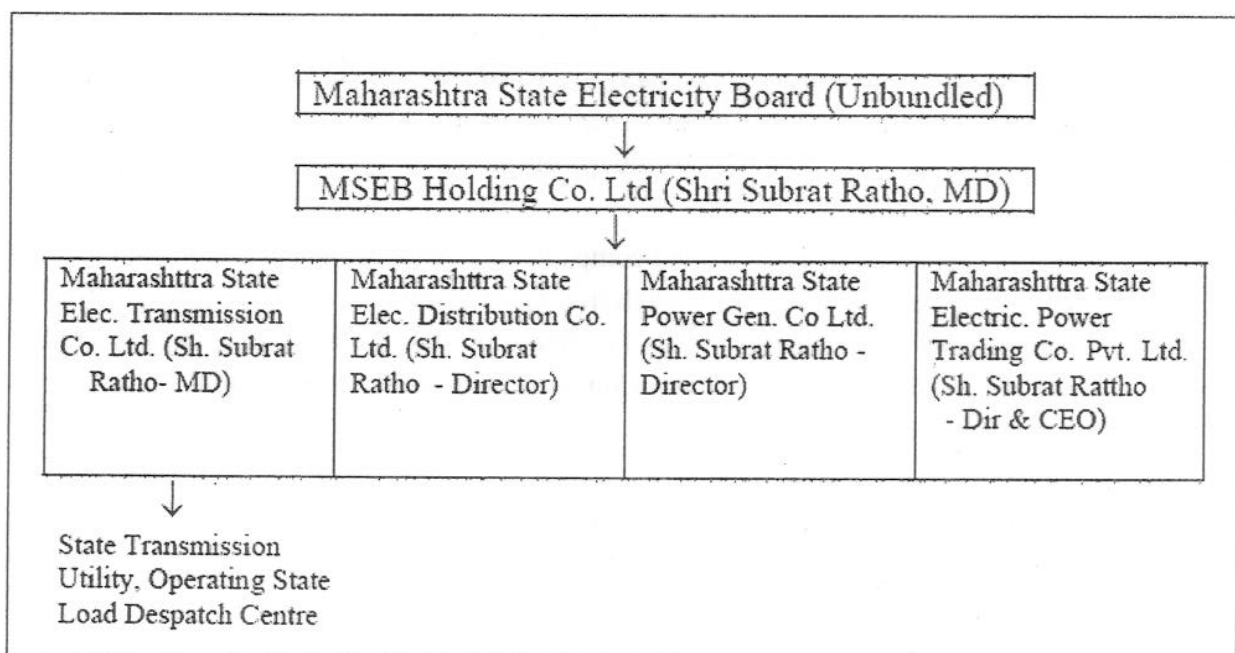
Data Gap No. 4:

There is precedence of controlling interest between related entities which may affect the trading transaction and is highlighted in Appeal No.182 of 2008 of APTEL and CERC order dated 17th June 2018 against petition no.8/2008. Considering controlling interest, application of trading license were rejected by the CERC and same stand taken by APTEL as well. Similarly in present case it is witnessed that common controlling interest between related entities due to which trading transactions may be influenced.

Data Gap No. 5:

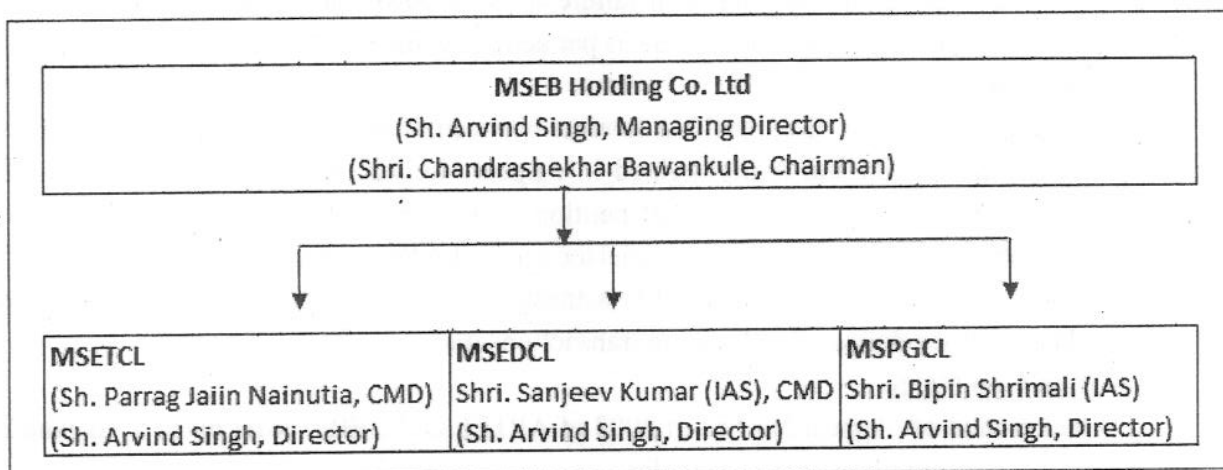
Background of Appeal No.182 of 2008 of APTEL and CERC order dated 17th June 2018 against petition no.8/2008 is as under:-

- a. APTEL Judgment in the matter of Appeal No.182 of 2008 dated 29th January 2009, in which Maharashtra State Electric. Power Trading Co. Pvt. Ltd (Maha Trading Co.) has challenged the impugned order dated 17.06.2008 issued by CERC. In impugned order CERC rejected the application of Maha Trading Co. on the ground that, Shri. Ratho is the Managing Director of both the Companies (MSEB Holding and MahaTransco) and Director and CEO of the Maha Trading Co. from which pervasive presence of Shri. Subrat Ratho are evident. This scenario depicts that MSEB holding co.is bound to have an interest in ensuring that the business of Maha Trading Co. increases. This perception itself obviously vitiates the mandatory non-discriminatory open access that STU/ SLDC is required to provide under the Act. Following depicts the common directorship of Shri. Ratho at that point of time:-



Data Gap No. 6:

In present case, existence of common director in related entities is depicted as under. Considering controlling interest of Director in two related entities (sister concern), MSPGCL to provide action plan or way forward to avoid such situation whereby the trading transaction will be affected by controlling interest.



MSPGCL's Reply for D.G. 4, 5 & 6:

- i. In the case referred under CERC Petition No. 8/2008 & APTEL Appeal no. 182 /2008, the trading company was registered as Maha trading Co. private Limited and was subsidiary of MSEB Holding Company with some of the directors were common on the Boards of Maha Trading as well as MSEB holding company and other subsidiaries.
- ii. In the present case, MSPGCL , which is a Public Company and not a Private Company , is applying for trading licence . The trading transactions by MSPGCL are mainly under the Mukhyamantri Solar Agri feeder Scheme and are not with an intension of profit making.
- iii. As regarding the presence of common director (Shri. Arvind Singh) , MSPGCL would like to bring it to the notice of Hon'ble Commission , that all the Companies under the umbrella of MSEB Holding Company are wholly owned by Government of Maharashtra. So it is obvious that being Govt. representative there are some directors which are common on the Boards of the subsidiary companies.
- iv. Even in case of other State owned companies, there exist such common directors and still the trading licenses are given to such trading companies. E.g. in case of Madhya Pradesh, Principal Secretary (Energy) is on the Board of M.P. holding and Trading Company as well as on the M.P. generation Company and M.P. transmission Company. Similar observations are for Gujarat.
- v. Also in earlier case the common director (Shri. Ratho) was also CEO, MahaTransco and hence there was objection regarding possible impact on open access to be provided by STU/SLDC.
- vi. In the present case, no such conflict of interest are expected.