

**BEFORE THE HON'BLE MAHARASHTRA
ELECTRICITY REGULATORY COMMISSION, MUMBAI
FILING NO. _____**

CASE NO. 132 OF 2015

M/s. Global Energy Private LimitedPetitioner/Applicant

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**BEFORE THE HON'BLE MAHARASHTRA
ELECTRICITY REGULATORY
COMMISSION, MUMBAI**

FILING NO: _____

CASE NO. 132 OF 2015

IN THE MATTER OF

**Application under Sections 14, 15, 86(1)(d) and
86(k) of the Electricity Act, 2003, read with
the Maharashtra Electricity Regulatory
Commission (Trading Licence Conditions)
Regulation, 2004, seeking grant of Intra-State
Trading Licence in the State of Maharashtra**

AND IN THE MATTER OF

M/s. Global Energy Private Limited

having its registered office at:

207, Gera Imperium I,
Patto Plaza, Panjim,
North Goa,
Goa - 403 001

And also at:

104, 10th Floor, Makers Chambers VI,



Nariman Point,
Mumbai – 400 021

.....PETITIONER/APPLICANT

**AFFIDAVIT FOR PLACING ON RECORD
ADDITIONAL INFORMATION ON BEHALF OF
THE PETITIONER AS SOUGHT BY THE
HON'BLE COMMISSION**

I, Abhijit Dhamdhere, S/o, Anant Dhamdhere, aged about 45 years, presently working as Senior Manager with the Petitioner, do solemnly affirm and say as follows:

1. I am the authorised representative of M/s. Global Energy Private Limited, the Petitioner in the present matter. I am fully aware of the facts and circumstances of the present matter, and such I am fully competent to swear this affidavit.
2. That the Petitioner is filing the present affidavit in order to place before this Hon'ble Commission certain submissions and additional clarifications, which were specified by this Hon'ble Commission in Minutes of Technical Validation Session (second TVS) in Case No. 132 of 2015, dated 6th September 2016 ("**Minutes**"). A copy of the Minutes is annexed herewith and marked as **Annexure – A**.



3. With regards to paragraphs 1 and 2 of the Minutes the Petitioner humbly states that the Writ Petition No 2033 of 2016 being *M/s Global Energy vs Maharashtra Electricity Regulatory Commission and Ors.*, filed before the Hon'ble High Court of Judicature at Bombay was admitted on 17th November 2016 and no interim relief was granted. In consideration of this, the Petitioner is of the view that there is no need to file any additional written submissions with regards to the said matter before the Hon'ble High Court of Judicature at Bombay, as this Hon'ble Commission is already in receipt of the requisite pleadings connected with this matter and as this Hon'ble Commission was represented in said the matter during the proceedings before the Hon'ble High Court of Judicature at Bombay. Further with regards to the direction of this Hon'ble Commission permitting the Petitioner to make its written submissions in connection with its request to keep the said Technical Validation Session in abeyance, the Petitioner states that it is in agreement with findings of this Hon'ble Commission that:



“the purpose of TVS is to assess the adequacy and correctness of details submitted with the Licence Application before placing it in public domain for inviting

comments. Accordingly, the TVS need not be postponed."

The Petitioner wishes to further state and humbly point out that at the beginning of the said Technical Validation Session, acceded to the view of this Hon'ble Commission that on account of the said writ petition being filed, the proceedings relating to the Technical Validation Session need not be postponed and accordingly proceeded to assist the Hon'ble Commission with the queries and clarifications. In view of this the Petitioner urges this Hon'ble Commission to proceed further with the license application of the Petitioner.

4. With regard to paragraph 3 of the Minutes, the Petitioner humbly points out, without prejudice to any submission made by the Petitioner in any of the affidavits filed before this Hon'ble Commission in the instant matter, that upon being asked by this Hon'ble Commission whether it had provided the details sought by this Hon'ble Commission vide its dated 27th January 2016, the Petitioner had merely clarified that it was in substantial compliance of its obligation to furnish information as required under Schedule 3 and 4 of the Maharashtra Electricity Regulatory Commission (Trading License



Conditions) Regulations, 2004, with regard to its earlier licence to trade in electricity in the State of Maharashtra, and has already submitted the same before this Hon'ble Commission, and if this Hon'ble Commission so requires, the Petitioner would again submit the said information. Accordingly, the Hon'ble Commission may please find annexed herewith, the details pertaining to the volume of electricity traded by the Petitioner herein between months of September, 2007, to September, 2012, under the MERC Trading License No.1 issued to the Petitioner by this Hon'ble Commission on September 28, 2007, and marked **Annexure**

- B.

5. The Petitioner, however, humbly clarifies and reiterates that the information sought by this Hon'ble Commission, with regards the performance of the Petitioner in other States, has no reasonable nexus with the regulatory scheme and intent outlined under Section 52 of the Electricity Act, 2003, and along with it being ultra vires of the powers conferred upon this Hon'ble Commission under the scheme of the Electricity Act, 2003, it is also patently arbitrary and unreasonable, and as such contrary to the scheme laid down under Article 14 of the Constitution of India.



6. With regard to paragraph 4 of the Minutes, the Petitioner humbly submits that point 13 of the Format – STI, contained in Annexure – II (Format for STOA Application) of the Maharashtra Electricity Regulatory Commission (Transmission Open Access Regulations) Regulations, 2016, requires the applicant, if it is a trading licensee, to provide details with regards to its trading license at the time of submitting the application for grant of open access before the Maharashtra State Load Despatch Centre. Therefore, the procedure for granting of open access as implemented by the Maharashtra State Load Despatch Centre under the aegis of the aforementioned regulations, at the stage of submitting the application for grant of open access, permits the Petitioner to specify the trading license number of the relevant trading license and accordingly distinguish between an intra-State and an inter-State transaction. This in our humble submission fully addresses the concern of this Hon'ble Commission. The Hon'ble Commission may please find annexed herewith Format – STI contained in Annexure – II (Format for STOA Application) of the Maharashtra Electricity Regulatory Commission (Transmission Open Access Regulations) Regulations, 2016, and marked as **Annexure – C**. To further elucidate, at the



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time of submitting the application for grant of short term open access before the Maharashtra State Load Despatch Centre the Petitioner would specify the trading license number of the relevant trading license and link it to a particular open access transaction, thereby distinguishing between an intra-State and an inter-State transaction.

7. Paragraph 5 & 6 of the Minutes requires no reply.

8. The Petitioner states that the present affidavit is bonafide and in the interest of justice, and therefore, the same may be taken on record. The Petitioner further craves leave to file any other affidavit / pleadings in the interest of justice.



DEPONENT

VERIFICATION

30 DEC 2016

Solemnly affirmed at Mumbai on this 30th day of December, 2016, that the contents of the above affidavit are true to my knowledge (as derived from records), based on information believed to

be true and no part of it is false and nothing material has been concealed therefrom.

M

M Vardekar

DEPONENT

*I know deponent
Deponent*

30 DEC 2016

BEFORE ME

30/12/2016

D. R. SAVANT

ADVOCATE HIGH COURT
MUMBAI
NOTARY SOVT. OF INDIA
REG. NO. 4557/16
OPP. GANGA JAMUNA CINEMA
TARPOO MUMBAI 400007

Atk No. 80



This document is noted &
Sr. No. 4557/16 in the
Notarial Register

Sr no. 4557/16

30 DEC 2016



ANNEXURE - A

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Minutes of Meeting – TVS for Trading Licence Petition of GEPL

Minutes of TVS (second TVS) for the Petition of M/s. Global Energy Pvt. Ltd. for grant of Trading Licence

Subject : **Petition of M/s. Global Energy Pvt. Ltd. for grant of Trading Licence for Intra-State Trading within the State of Maharashtra**

Case No. : **132 of 2015**

Date of Technical Validation Session : **6 September, 2016, 11.30 Hrs**

Minutes of Technical Validation Session

1. Advocate for M/s. Global Energy Pvt. Ltd. (GEPL) stated that it has filed a Writ Petition before Bombay High Court challenging the Commission's earlier Order dated 28 September, 2007 in Case No. 28 of 2006 (in which Trading Licence had been granted only for 5 years) and stated that the outcome of above Writ Petition may have a bearing on the present proceedings. Accordingly, the TVS may be postponed and the matter may be kept in abeyance. As agreed by GEPL, the Commission directed it to make its written submissions on the Bombay High Court WP and GEPL's request to keep the present matter in abeyance.

2. The Commission observed that the purpose of TVS is to assess the adequacy and correctness of details submitted with the Licence Application before placing it in public domain for inviting comments. Accordingly, the TVS need not be postponed. A view can be taken, if required, on the further process subsequently considering further developments.

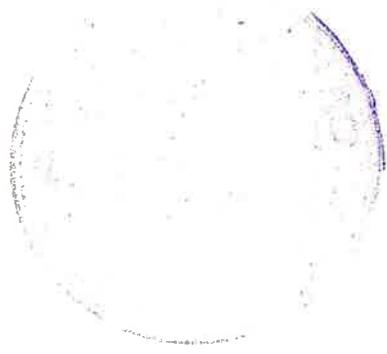
3. The Commission observed that GEPL has not provided the details as sought vide its data gaps dated 27 January, 2016, and GEPL has contended that these are beyond the technical requirement, capital adequacy and credit worthiness parameters laid down in Section 52 of the Electricity Act, 2003. The Commission stated that, while issuing a fresh Licence, the past performance of GEPL under the earlier Intra-State Trading Licence, its performance in other States etc. would help in assessing or validating GEPL's claim for grant of Licence. GEPL agreed to provide the above details.

4. The Commission also stated that GEPL needs to clarify how it would differentiate between Intra-State Trading transactions and Inter-State Trading transactions. GEPL submitted that it would file a reply explaining the above.

Minutes of Meeting – TVS for Trading Licence Petition of GEPL

5. The Commission noted GEPL's say on the requirement of an undertaking in accordance with the Amendment to MERC (Trading Licence Conditions) Regulations, 2004, inter alia, for disclosure of pending legal proceedings, if any, and stated that it would take a view separately concerning the Supreme Court's Judgment in Civil Appeal No. 3457-3458 of 2009 and other circumstances.
6. After receipt of submissions of GEPL addressing the above issues, the Commission will decide the way forward in the matter.

List of persons present at the TVS is enclosed as Annexure-1.



Minutes of Meeting – TVS for Trading Licence Petition of GEPL

Annexure-1

List of persons who attended the TVS held on 16 February, 2016 at 11.30 AM

Sr. No.	Name	Company / Institution
1	Amol Bavare	GEPL
2	Nikhil Ved Prakash	GEPL
3	Sumanta Ghosh	GEPL
4	Kiran Kumar	GEPL
5	Aparajita Sharma	GEPL
6	Dr. Ashok Pendse	Thane Belapur Industries Association



ANNEXURE - B

Volume of electricity traded by the Petitioner herein between months of September, 2007, to September, 2012, under the MERC Trading License No.1 issued to the Petitioner on September 28, 2007

Sr. No	Financial Yea:-	Yearly Quantum (In MUs)
1.	2007 - 08	0
2.	2008 - 09	12.960
3.	2009 - 10	77.348
4.	2010 - 11	95.911
5.	2011 - 12	124.06
6.	2012 - 13	105.838



	Voltage Level:	
	Name of the concerned Distribution Licensee:	
	Details (path to the nearest sub-station):	
	Meter No.:	
12	Name of the trading licensee, if any:	
13	Trading license number, if applicable:	
14	Details of application fee payment:	

(Note: If Captive usage, provide Chartered Accountant Certificate, exhibiting capital structure and compliance with regard to requirements under the Electricity Act, 2003 read with the Electricity Rules, 2005)

Place:

Signature:

Date:

Name and Designation:

Enclosure:

- (i) Nonrefundable application fee in the form of _____
- (ii) Self-certified copy of PPA / MoU entered between parties (buyer and seller) of transaction stating contracted power, period of transaction, drawal pattern, point of injection and drawal etc.

For use of MSLDC (with Reference to Enrolment of application)	
MSLDC Reference ID No.:	Date:
MSLDC Approval / Refusal no.	
Remarks (Reasons for Refusal to be provided)	

(MSLDC may also enclose supporting documents for the reasons of refusal duly signed on each page)

FORMATS for Short-TermACKNOWLEDGEMENT*(for office use only)***APPLICATION FOR GRANT OF SHORT-TERM OPEN ACCESS****(A) < to be filled by the Applicant >**

1	Applicant Application No.		Date
2	Date of Open Access Transaction	From	To
3	Nature of Applicant	<i>(dd/mm/yyyy) To (dd/mm/yyyy)</i>	
	< seller /buyer /captive user /trading licensee>		

4	Applicant Name	
5	Registration Code*	Valid up to

< *Registration code shall be as provided by MSLDC >

(B) < to be filled by MSLDC >

Date and Time of Receipt of Application	
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Place**Signature (with stamp)****Date****Name & Designation****N.B.: A counterfoil of this shall be issued to the Applicant.**