



Date: 01/06/2016

To,
The Principal Secretary,
Maharashtra Electricity Regulatory Commission,
World Trade Center, Center No. 1, 13th Floor,
Cuffe Parade, Colaba, Mumbai 400 005.

Subject: - Affidavit for placing on record additional information

Reference: -

- 1) Application under Sections 14, 15, 86(1)(d) and 86(k) of the Electricity Act, 2003 read with MERC (Trading License Conditions), Regulations, 2004 seeking grant of intra state trading license in State of Maharashtra. (Case No.132 of 2015).
- 2) Your e-mail dated 13/4/2016

Dear Sir,

This is with reference to the aforesaid subject. Please find enclosed herewith our submissions (1+6 copies) on Affidavit alongwith the necessary Annexures.

Thanking You,

(Abhijit Dhamdhare)

Paul
1-6-16
OFFICE OF THE
MAHARASHTRA ELECTRICITY
REGULATORY COMMISSION
COLABA, MUMBAI - 400 005
www.globalenergy.co.in



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CIN : U40101GA1994PTC001663

(1)

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 II,
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 additional information, which were identified by this Hon'ble Commission in the email dated April 13, 2016, ("**Correspondence**") addressed to the Petitioner. A copy of the Correspondence is annexed herewith and marked as **Annexure – A**.
3. That the Hon'ble Commission in the Correspondence has mentioned that the following details are yet to be submitted by the Petitioner:



- (i) "An undertaking in accordance with the Amendment in MERC (Trading Licence Conditions) Regulations, 2004, inter alia, for disclosure of pending legal proceedings, if any. (Pre-TVS data gap)"
- (ii) "Details of present agreements entered into by GEPL where buyer and seller both are within the State of Maharashtra. (Pre-TVS data gap)"
- (iii) "Clarification on whether GEPL has submitted the information as required in Annexure 3 and Annexure 4 of the MERC (Trading Licence Conditions) Regulations, 2004, for the earlier Intra-State Licence granted by the Commission. If not submitted, said data may be submitted year-wise. (Pre-TVS data gap)"
- (iv) "The volume of electricity traded under various Intra-State Licenses and also under the Inter-State Licence. (TVS directions).
....."

4. That the Hon'ble Commission in addition to the details set out in paragraph 3 above have also observed in the Correspondence the following:

- (i) "The details pertaining to the volume of electricity traded by M/s. Global between September, 2007 to September, 2012, under earlier Intra-State Trading Licence



granted by the Commission has been submitted by M/s. Global Energy. However, the volume of electricity traded under other State Licences and also under the inter-State Licence have not been submitted as sought during TVS."

- (ii) "In 2014, M/s. Global had filed a Petition in Case No. 22 of 2014 for rectification of Commission's Order in Case No. 28 of 2006. During the proceeding, M/s. Global had submitted volume of trading transactions undertaken by it under earlier Intra-State Licence. In present Petition, M/s. Global has submitted the information pertaining to these trading transactions. However, discrepancy has been observed in both these submissions which is shown below:-

Sr. No.	FY	Quantum in MU as submitted in Case No. 22 of 2014	Quantum in MU as submitted in present proceedings
1	2007-08	0.00	0.0
2	2008-09	12.96	12.96
3	2009-10	74.263	77.348
4	2010-11	92.728	95.911
5	2011-12	116.182	124.06
6	2012-13	81.406	105.838
7	2013-14	4.132	No submission
		381.671	416.117

This discrepancy needs to be clarified by M/s. Global."

- (iii) "On 28 September, 2007, M/s. Global was granted Licence for trading of electricity in



the state of Maharashtra upto 100 MU per annum. Further, as per Licence Conditions, M/s. Global was required to increase his net worth if the volume of trade moves from a lower category to a higher category and M/s. Global was required to inform the Commission of his moving from one category to the other and subsequent changes in the net worth. M/s. Global needs to clarify whether it has complied with the same.

5. That with regards to the information sought by this Hon'ble Commission, as set out in paragraphs 3(i) to 3(ii) above, the Petitioner seeks the leave of this Hon'ble Commission to refer to the submissions made by it in paragraphs 5 to 19 of its affidavit dated February 15, 2016, filed before this Hon'ble Commission in the instant matter. In light of the submissions made by the Petitioner thereunder, it is humbly submitted by the Petitioner that in seeking the information, as set out in paragraphs 3(i) to 3(iii) above, this Hon'ble Commission has proceeded to seek information from Petitioner which 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 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. In addition to the above it is respectfully submitted that the details sought by the Hon'ble Commission pertaining to agreements entered into by the Petitioner, where the buyer and the seller of electricity are both within the State of Maharashtra, have nothing to do with the credit worthiness or financial integrity of the Petitioner, and as such is of no relevance to the current proceedings before this Hon'ble Commission, and is to that extent unreasonable. It is reiterated that the details sought by the Hon'ble Commission have no reasonable nexus with the regulatory scheme and intent outlined under Section 52 of the Electricity Act, 2003, which is patently arbitrary and unreasonable, and as such is contrary to the scheme laid down under Article 14 of the Constitution of India.

7. Also, the details sought by the Hon'ble Commission pertaining to the agreements entered into by the Petitioner, where both the buyer and the seller of electricity are within the State of Maharashtra, are essentially in the nature of trade secrets of the Petitioner and if published will cause irreparable harm to the Petitioner, who is a trader engaged in trading in electricity, which would be contrary to the true purport and intent of the Electricity Act, 2003.

8. That with regards to the information sought by this Hon'ble Commission, as set out in paragraph 3(iii) above, the Petitioner humbly submits that



the Petitioner is already 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.

9. Furthermore, it is pertinent to point out here that the aforementioned information sought by the Hon'ble Commission pertains to a grant of a fresh licence to trade in electricity in the State of Maharashtra and the Hon'ble Commission is deliberating afresh on such an application filed by the Petitioner. Therefore, the requirement to submit any information under Schedule 3 and 4 of the Maharashtra Electricity Regulatory Commission (Trading License Conditions) Regulations, 2004, with regard to an earlier licence of the Petitioner to trade in electricity is devoid of any merit under the current proceedings, and as such is unjust and arbitrary since information under Schedule 3 and 4 is required to be submitted by a person holding a trading license.



10. That with regards to the information sought by this Hon'ble Commission, as set out paragraph 3(iv) and 4(i) above, the Petitioner humbly submits that the said information, as sought by the Hon'ble Commission, has no reasonable nexus with the regulatory scheme and intent outlined under Section 52 of the Electricity Act,

2003, which is patently arbitrary and unreasonable, and as such contrary to the scheme laid down under Article 14 of the Constitution of India.

11. It is respectfully submitted that under the scheme of Section 52 of the Electricity Act, 2003, the criteria for grant of licence to trade in electricity is fixed and is limited to technical requirement, capital adequacy and credit worthiness. Therefore, this Hon'ble Commission's jurisdiction with regards to grant of licence to trade in electricity must be exercised in conformity therewith.

12. It is also submitted in this regard that the such information as sought by the Hon'ble Commission is extraneous, as the Maharashtra Electricity Regulatory Commission (Trading License Conditions) Regulations, 2004, nowhere specifies that assessment of trading volumes of the applicant carried out under trading licenses issued by other State Electricity Regulatory Commissions or the Hon'ble Central Electricity Regulatory Commission shall be a reasonable criteria for grant of license to trade in electricity within the State of Maharashtra or that any information to that extent could be sought by the Hon'ble Commission whilst examining the application for license to trade in electricity.

13. In view of the above it is humbly submitted that the action of this Hon'ble Commission in



seeking the details of volume of electricity traded under various intra-State licences and under the inter-State license are extraneous the scheme for grant of license to trade in electricity envisaged under the Electricity Act, 2003.

14. Further, it is also submitted that the powers of the Hon'ble Commission has to be has to be exercised in a fair and reasonable manner and not in a manner which is prejudicial to the interests Petitioner herein in contravention to the provisions of the Electricity Act, 2003.

15. That with regards to the clarification sought by this Hon'ble Commission, as set out in paragraph 4(ii) above, it is respectfully submitted by the Petitioner that the minor discrepancies between the data pertaining to the volume of the trading transactions undertaken as submitted by the Petitioner during the proceedings in Case No.22 of 2014 and in the data submitted in the instant proceedings before the Hon'ble Commission are due to change in the mechanism of accounting implemented by the Petitioner. The data submitted by the Petitioner during the proceedings in Case No.22 of 2014 were based on records which were maintained manually by the Petitioner and the data submitted in the instant proceedings before the Hon'ble Commission emanate from the automated and computerized system of maintaining data now implemented by the Petitioner.



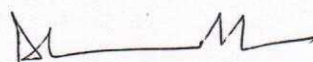
16. That with regards to the clarification sought by this Hon'ble Commission, as set out in paragraph 4(iii) above, it is respectfully submitted that the Petitioner while applying for a fresh licence to trade in electricity before the Hon'ble Commission has not opted for a higher category of licence. Also, it is pertinent to state here that the Petitioner has been compelled to file the application for grant of license to trade in electricity afresh, due to the elapse of the validity of the previous license issued by the Hon'ble Commission, and not due to any premature cancellation of its previous license by the Hon'ble Commission based on any breach or illegality. The Petitioner seeks the leave of the Hon'ble Commission to bring to its notice that it has to undertake the process of filing for a fresh licence to trade in electricity within the State of Maharashtra due to the cussed and discriminatory action of the Hon'ble Commission wherein it chose to unilaterally and arbitrarily issue a licence to the Petitioner to trade in electricity within the State of Maharashtra only for a period of only 5 (years) contrary to what has been specified under the Electricity Act, 2003.



17. In view of the fact that the instant petition has been filed by the Petitioner before the Hon'ble Commission for grant of a fresh license to trade in electricity within the State of Maharashtra, and in view of the fact that the Hon'ble Commission has proceeded to assess the eligibility Petitioner afresh, it is respectfully

submitted that, in the instant petition the eligibility of the Petitioner is assessed strictly as per the requirements specified under Section 52 of the Electricity Act, 2003.

18. 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

1 JUN 2016

Solemnly affirmed at Mumbai on this 1 day of June, 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.



[Signature]

DEPONENT

I have deputed personally

BEFORE ME

[Signature] 01-06-2016

D.R. SAWANT
M.COM.LLB
ADVOCATE HIGH COURT
NOTARY GOVT. OF INDIA
4, SHREEJI, SHRIK APT. BLDG. NG 3
OPP GANGA JAMUNA CINEMA
T4RDFD MUMBAI 400007

Notary of No 75

This document is noted at:
Sr. No. 2048 / 16 in the
Notarial Register

1 JUN 2016

abhijtd

From: Rakesh Guhagarkar <rakesh.guhagarkar@merc.gov.in>
Sent: Wednesday, April 13, 2016 2:35 PM
To: 'abhijtd'
Subject: Approved Minutes of TVS in Case No. 132 of 2015
Attachments: additional clarifications.docx

Dear Sir,

With reference to the written submissions, it is observed that following details are yet to be submitted by Global Energy Ltd. (Pending data gaps and TVS direction)

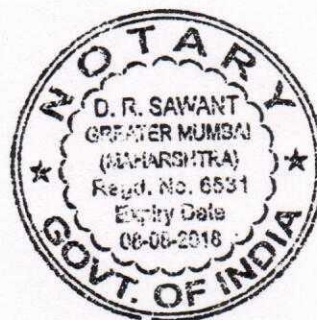
- i. An undertaking in accordance with the Amendment in MERC (Trading Licence Conditions) Regulations, 2004, inter alia, for disclosure of pending legal proceedings, if any. (Pre-TVS data gap)
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- iii. Clarification on whether GEPL has submitted the information as required in Annexure 3 and Annexure 4 of MERC (Trading Licence Conditions) Regulations, 2004 for the earlier Intra-State Licence granted by the Commission. If not submitted, said data may be submitted year-wise. (Pre-TVS data gap)
- iv. The volume of electricity traded under various Intra-State Licences and also under the Inter-State Licence. (TVS directions)

Further, in additional submissions dated 5 April, 2016 requires some additional clarifications which as attached with the E-mail. Kindly provide replies to these clarifications and also submissions regarding above pending details.

Please make the submissions at the earliest.

Regards

Rakesh Guhagarkar



During TVS, the Commission directed GEPL to submit the following:

The volume of electricity traded under various Intra-State Licences and also under the Inter-State Licence.

Observations:-

- a. The details pertaining to the volume of electricity traded by M/s. Global between September, 2007 to September, 2012, under earlier Intra-State Trading Licence granted by the Commission has been submitted by M/s. Global Energy. However, the volume of electricity traded under other State Licences and also under the inter-State Licence have not been submitted as sought during TVS.
- b. In 2014, M/s. Global had filed a Petition in Case No. 22 of 2014 for rectification of Commission's Order in Case No. 28 of 2006. During the proceeding, M/s. Global had submitted volume of trading transactions undertaken by it under earlier Intra-State Licence. In present Petition, M/s. Global has submitted the information pertaining to these trading transactions. However, discrepancy has been observed in both these submissions which is shown below:-

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- c. On 28 September, 2007, M/s. Global was granted Licence for trading of electricity in the state of Maharashtra upto 100 MU per annum. Further, as per Licence Conditions, M/s. Global was required to increase his net worth if the volume of trade moves from a lower category to a higher category and M/s. Global was required to inform the Commission of his moving from one category to the other and subsequent changes in the net worth. M/s. Global needs to clarify whether it has complied with the same.

