

**Before the  
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION  
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**Case No. 8 of 2012, Case No. 18 of 2012, Case No 20 of 2012 & Case No 33 of 2012**

**Dated:** April 27, 2012

**CORAM: Shri V. P. Raja, Chairman  
Shri Vijay L. Sonavane, Member**

**In the matter of:**

**Case No 8**

Indian Wind Power Association – Maharashtra State Council	.....	Petitioner
V/s		
Maharashtra State Electricity Distribution Company Limited	.....	Respondent -1
Maharashtra Energy Development Agency	.....	Respondent-2

**Case No 18 of 2012**

Tata Motors Limited	.....	Petitioner
V/s		
Maharashtra State Electricity Distribution Company Limited	.....	Respondent-1
Maharashtra Energy Development Agency	.....	Respondent-2

**Case no 20 of 2012**

Enercon (India) Limited	.....	Petitioner
V/s		
Maharashtra State Electricity Distribution Company Limited	.....	Respondent-1
Maharashtra Energy Development Agency	.....	Respondent-2

**Case no 33 of 2012**

Ushdev International Ltd. & Others	.....	Petitioner
V/s		
Maharashtra State Electricity Distribution Company Limited	.....	Respondent-1
Maharashtra Energy Development Agency	.....	Respondent-2

**Counsel/ Representative for the Petitioner (s):** Shri. Harinder Toor, Counsel , i/b Shri T.V. Subramaniam and Ms. Dipali Sheth & Ms Dhvani Mehta of MDP & Partners.  
**(In Case No. 8 of 2012)**

**Counsel/ Representative for the Petitioner (s):** Ms. Swapna Seshadri, Counsel, Shri. M.G. Ramachandran, Counsel, i/b Ms. Dipali Sheth and Ms Dhvani Mehta of MDP & Partners.  
**(In Case No. 18 of 2012)**

**Counsel/ Representative for the Petitioner (s):** Shri. M.G. Ramachandran, Counsel  
**(In Case No. 20 of 2012)** Ms. Swapna Seshadri, Counsel.

**Counsel/ Representative for the Petitioner (s):** Shri Sanjay Sen, Counsel.  
**(In Case No. 33 of 2012)**

**Counsel/ Representative for the Respondent-1:** Mrs. Deepa Chavan, Counsel.

**Representative for Vidarbha Industries Association:** Shri. R.B. Goenka

**Representative for MEDA** : Shri. Manoj Pise

### **Daily Order**

Heard the Counsel/ Advocates of the Petitioners (Indian Wind Power Association, Tata Motors, Enercon (India) Ltd and Ushdev International Ltd. & Others, the Counsel / Advocate of the Respondent No. 1, the representative of MEDA and the Authorised Consumer representative, Vidarbha Industries Association.

The Counsels for Petitioners indicated that all written submissions (pleadings) in Case Nos. 8, 18, and 20 of 2012 have already been submitted to the Commission. They have also indicated that Circular No. 155, even though stayed by the Commission, is still being operated by MSEDCL, as the Incentives are not being passed on to Open Access (OA) consumers.

Mr Sanjay Sen, counsel for Ushdev International and others, prayed for interim relief as sought in its Petition. Mr. Sen also indicated that Circular No. 147 was in operation for about 115 days.

Shri R.B. Goenka, Authorized Consumer representative, requested the Commission to look into the issue of eligibility of discount cross subsidy surcharge applicable to the Renewable Energy Generators for Open Access transactions. He

also suggested that the Distribution licensee may be allowed the Banking charges in kind for meeting its Renewable Purchase Obligation. He has also mentioned that similar issues in case of Captive OA consumers have been resolved after his discussions with MSEDCL. In the similar manner these issues, under Circular No. 155 need to be resolved.

The Counsel of Petitioners submitted that matter represented in the letter ref. no. MD/MERC/Wind/8954 dated April 4, 2012, sent by Managing Director (MSEDCL), covers the issues which are of nature of Policy review, whereas the Petitions under consideration of the Commission are of the nature of ascertainment of legal sanctity of a particular Commercial Circular issued by MSEDCL. They further submitted that the issues raised in the Petitions and issues pertaining to policy review emanating out of the above mentioned letter, may be taken up, separately through separate proceedings.

The Commission in the matter relating to issues emanating from letter from MD (MSEDCL) directed the Petitioners to implead Government of Maharashtra (The Chief Secretary, Government of Maharashtra and The Principle Secretary (Energy), Government of Maharashtra). Further, the Petitioners were directed to serve copies of response to above mentioned letter to Government of Maharashtra (The Chief Secretary, Government of Maharashtra and The Principle Secretary (Energy), Government of Maharashtra), including their Rejoinders on the Letter.

The Commission in the matter relating to issues emanating from letter from MD (MSEDCL), further directed the petitioners to implead all the distribution Utilities in Maharashtra, as parties. Further, the Petitioners were directed to serve copies of response to above mentioned letter to all the distribution Utilities in Maharashtra, including their Rejoinders on the Letter.

The Commission opined that policy making is continuous process and with evolving scenario the policy matters have to be reviewed/modified/alterd, but at the same time in the evolving scenario, in anticipation of policy review, there cannot be a policy vacuum. The Commission after hearing all the parties ruled as under:

1. All the matters pertaining to Case 8 of 2012, Case 18 of 2012, Case 20 of 2012 and Case 33 of 2012, prior to the letter sent and pleadings before the Commission before or after the above mentioned letter was sent, pertaining to the above mentioned Petitions shall be taken up, separately and issues emanating from the letter sent by the MD (MSEDCL) shall be taken as a part of Policy review exercise, separately.

**Part- I: Case No. 8 of 2012, Case No. 18 of 2012, Case No. 20 of 2012 and Case No. 33 of 2012**

2. The Stay Order dated February 23, 2012, issued by the Commission on the operation of the MSEDCL's Circular No. 147 dated September 30, 2011 and Circular No 155 dated January 23, 2012 continues. MSEDCL shall not take any consequential action on the basis of these circulars, till any further Order from the Commission.
3. MSEDCL is expected to comply with all the practice and procedures relating to wind energy generators and consumers, for metering requirement, meter reading, energy accounting, issuance of credit notes, eligibility of incentives and disincentives, tariff to be levied for over drawl and over injection, etc., that was in existence prior to September 30, 2011. All these should continue till any further Order from the Commission. Status-quo-ante prior to September 30, 2011 (prior to issuance of Commercial Circular No. 147) has to be continued by MSEDCL, till further Orders.
4. Joint Meter readings for Wind Generators should continue as per earlier practice prior to September 30, 2011.
5. Issuance of credit notes should continue as per the timelines indicated in the Citizen charter issued by MSEDCL.
6. Petitioners shall submit the details of consumers and its generation details including quantum of electricity, injection point, drawl point, consumer location, etc., to whom electricity is sold from their wind Power Plants. Petitioners need to confirm on affidavit (within a Week) that whether electricity from their Plant is being sold within Maharashtra or outside Maharashtra.

**Part- II: Policy review in matters related to Wind Power in Maharashtra**

7. Illustrative issues that may be considered for Policy review are listed below:
  - a. The Petitioners need to submit the details of Capital Expenditure along with effect of various concessions for Group I/Group II & Group III wind generation plants. The data pertaining to the recovery of investment for Group II Plants after expiry of their EPA tenure needs to be submitted in detail, in order to arrive at proper policy decisions.

- b. Are there any gaps in existing EPAs and are some important provisions relating to the arrangement after the expiry of tenure of Agreement, etc, provided in the existing EPAs.
  - c. What is the pace of obsolescence of wind Generation technology?
  - d. Objective of introducing REC mechanism, its intended beneficiaries and whether discount on Cross Subsidy Surcharge available to open access transactions from renewable energy generators is a preferential treatment and whether generators getting this discount should qualify for REC benefits also.
  - e. Banking Charges, etc.
8. Views of State Government of Maharashtra on the letter sent by MD (MSEDCL) will be sought.
9. Decision about Public consultation process (Public Hearing) on the policy review will be taken by the Commission after studying the submissions by the Petitioners & Respondents.

On enquiry by the Commission as to whether all the submissions are complete from all the parties (in Part I above i.e. with reference to Circulars Nos. 147 & 155), the Respondent submitted that they will submit their rejoinder in Case No. 33 of 2012 by May 4, 2012 and the Petitioner submitted that it will submit its reply to rejoinder by May 5, 2012, to complete the pleadings before the Commission. No further time shall be granted for completion of pleadings on Part-I of the proceedings. The Pleadings shall also cover the technical issues involved in the matter.

Commission, after receiving the above said information, will decide the next course of action in these matters separately as indicated above in Part I & Part II.

Sd/-  
(Vijay L. Sonavane)  
Member

Sd/-  
(V. P. Raja)  
Chairman