

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@merc.gov.in
Website: www.mercindia.org.in / www.merc.gov.in

Case No.139 of 2015

Date: 8 March, 2016

CORAM: Shri. Azeez M. Khan, Member
Shri. Deepak Lad, Member

Petition of M/s Green Energy Association for non compliance of the Commission's Order dated 3 January, 2013 in case Nos. 8, 18 and 20 of 2013

M/s Green Energy Association Petitioner

Maharashtra State Electricity Distribution Co.Ltd. (MSEDCL)

Maharashtra Energy Development Agency (MEDA) Respondents

Present During the hearing

For the Petitioner : Ms. Dipali Sheth (Adv)

For the Respondents (MSEDCL) : Ms. Deepa Chawan (Counsel)
(MEDA) : None

For Consumer Representative : Dr. Ashok Pendse (TBIA)

Daily Order

Heard the Representatives/ Advocates of the Petitioner, Respondent and Consumer Representative.

MSEDCL stated that:-

- i) M/s. Bothara Agro Equipments Pvt. Ltd., Member of Green Energy Association, on 9 May, 2013, applied for Open Access permission for FY 2013-14 for self-use. MSEDCL denied Open Access permission on 19 April, 2014 on the ground that Open Access Consumer can seek Open Access from one generating company/source only.
- ii) M/s. Bothara Agro Equipments Pvt. Ltd applied for Open Access permission for self use for FY 2014-15. Open Access permission was granted by MSEDCL on 2 December, 2014 for the period from date of installation of SEM to 31.03.15. During the pendency of the Open Access permission for self-use, on 14 October, 2014, M/s.

Bothara Agro Equipments Pvt. Ltd., applied to MSEDCL to purchase the power generated by it at APPC rate.

- iii) M/s. Patodia Forgings & Gears Ltd. applied on 19 March, 2014 for Open Access for Captive use. MSEDCL has granted Open Access permission on 11 August, 2014 subject to installation of SEM.
- iv) The Commission enquired as to why MSEDCL is not purchasing power at APPC, besides MSEDCL neither fulfills its RPO nor purchase power from solar generators. In reply, MSEDCL submitted that power purchase at APPC does not help for fulfillment of RPO. MSEDCL further submitted that SEM installation is mandatory for the Open Access permission, which is very clear as per the MERC (Distribution Open Access) Regulations, 2005. MSEDCL rejected the Open Access from multiple generators as per the Commission's Order in Case No. 44 of 2014.
- v) While injecting power into the grid, Petitioner has exercised its option for self use or sale to third party and, as per the law of electricity, the power injected into the grid cannot be segregated. MSEDCL referred to various Supreme Court Judgments and submitted that Section 70 of the Indian Contract Act, 1872 does not apply when the party sought to be made liable for compensation had no option but to enjoy the benefit. In view of the above, MSEDCL is not obligated to purchase power injected into the grid.

Green Energy Association stated that:-

- i) MSEDCL has not replied in time to the Open Access application and consumed the power injected by the Petitioner. If MSEDCL had responded to the Open Access application within stipulated time, then the Petitioner would have taken further action accordingly.
- ii) The Commission may direct MSEDCL to purchase power at APPC for FY 2014-15 and at preferential tariff for FY 2015-16 as the period for claiming REC has now lapsed.

Case is reserved for Order.

Sd/-
(Deepak Lad)
Member

Sd/-
(Azeez M. Khan)
Member