

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No.29 of 2016**

**Date: 31 March, 2016**

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

**Petition of M/s Maha Co-Gen Green Power Producers Association for seeking amendment /modification in the provisions of the MERC (Terms and Conditions for Determination of Renewable Energy Tariff) Regulations, 2015.**

M/s Maha Co-Gen Green Power Producers Association ..... Petitioner

Maharashtra State Electricity Distribution Co. Lt (MSEDCL) ..... Respondent

**Present During the hearing**

For the Petitioner : Shri. B.G. Kulkarni, Adv.

For the Respondent (MSEDCL) : Shri. A. J. Deshpande

**Daily Order**

Heard the Advocate of the Petitioner and Representative of the Respondent.

Petitioner stated that:-

1. It has filed this Petition seeking to modify/amend the proviso to Regulation 46.2 of the MERC (Terms and Condition for Determination of Renewable Energy Tariff) Regulations, 2015.
2. For a bagasse/biomass based RE Generator, under the provisions of Regulations 42 and 58 of RE Tariff Regulations, 2010, it was specified that use of fossil fuel shall be limited to 15% of total fuel consumption, and excess over 15 % was treated to be a default. For such default, penalty provisions are specified under Regulations 43.2 and 59.2.
3. The extent of penalty specified under Regulations 43.2 and 59.2 of Regulations, 2010 was reasonable, rational and viable. At least the variable cost and part of fixed charge were covered in the default period by imposing penalty of Rs. 0.50 per unit. The extent of profit was reduced, but the existence of the RE Generation Plant was not endangered. At the same time, RPO obligation of MSEDCL was not adversely affected as bagasse/biomass based RE Generation /co-generation plants continued generation notwithstanding the penalty imposed. Hence these penalty provisions were not objected to.

4. Regulations 45 and 63 of RE Tariff Regulations, 2015 retains the condition of maximum use of 15% fossil fuel. However, proviso to Regulation 46.2 specified that for the entire period of default, power is to be sold to the Distribution Licensees at Average Power Purchase Cost (APPC) of such Licensee for the relevant year. This provision of Regulations 46.2 would change the character of Generation Plant from RE to fossil fuel based Plant during the period of default. Not even fixed costs could be recovered, and hence the Plant would have to shut down.
5. Biomass and bagasse are natural, agricultural wastes. The availability depends upon many factors such as cultivation, monsoons, techno commercial challenges etc. The extent of availability has been reduced by more than 30 to 35 % in last two years. Hence, to that extent of shortage, it becomes imperative for RE Generator to use fossil fuel. As such no RE Generator /Co-generation Plant is using fossil fuel (coal) by way of choice. Hence, the provision for payment at APPC rate should be substituted by the earlier provisions (rate lower by Rs. 0.50 per unit than the applicable preferential Tariff) of Regulation 43.2 of RE Tariff Regulations, 2010.

Respondent (MSEDCL) stated that:-

1. The recent GoM Policy on RE Sources seeks to promote the development of biomass and bagasse based Generation /co-generation. For MSEDCL, biomass and bagasse based Generation /co-generation has following features/advantages;
  - (i) They are schedulable and firm RE sources and hence are considered in the power purchase planning of MSEDCL.
  - (ii) Such Generation /co-generation is available at various locations as Distributed Generation.
  - (iii) MSEDCL has EPA's/PPA's with these Generation /co-generation Plants and gets power during the peak season.
2. Such Generation /co-generation Plants have proven technology. MSEDCL wants such Generation /co-generation to continue, and the Commission may consider the submission of the Petitioner.

With respect to the submission made by Petitioner about the issue of fuel availability beyond the control of Generator, the Commission mentioned that this issue is equally applicable to other RE Sources such as Wind and Solar, but it cannot be agreed that such plants should be allowed to use fossil fuels. In response to a query of the Commission, both the parties admitted that no specific submission/objection was raised by them on the default provisions during the consultation process on the 2015 Regulations.

The Commission asked the Petitioner to submit the details of defaults period for which fossil fuel consumption of such Plants was beyond 15% in last three years within two weeks.

**Case is reserved for Order.**

**Sd/-**  
**(Deepak Lad)**  
**Member**

**Sd/-**  
**(Azeez M. Khan)**  
**Member**