

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 Nos. 44, 70 of 2016
MA No. 27, 29 & 32 of 2016 in CASE No. 44 of 2016 and
MA No. 19, 30 & 31 of 2016 in CASE No 70 of 2016

Date: 20 December, 2016

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

Case No. 44 of 2016

Petition of Maharashtra State Electricity Distribution Company Ltd. for removal of difficulties in implementation of MERC Order dated 04.08.2015 in Case No. 190 of 2014 in the matter of verification of compliance of RPO targets by MSEDCL for FY 2013-14.

Maharashtra State Electricity Distribution Company Ltd (MSEDCL) Petitioner
Maharashtra Energy Development Agency (MEDA) Implied Party

Appearance

For MSEDCL : Ms Deepa Chawan (Adv)
Shri. D.H. Kulkarni (Rep)
For MEDA : Shri. P.C. Diwakar, (Rep)
For Consumer Representative : Dr. Ashok Pendse, TBIA

Miscellaneous Application (MA) No. 27 of 2016 in Case No. 44 of 2016

Intervention Application filed by Green Energy Association in Case No 44 of 2016.

Green Energy Association Applicant
Maharashtra State Electricity Distribution Company Ltd (MSEDCL) Petitioner

Appearance

For Applicant : Shri. Hasmit Trivedi (Adv.)
For MSEDCL : Ms Deepa Chawan (Adv.)
Shri. D.H. Kulkarni (Rep.)
For Consumer Representative : Dr. Ashok Pendse, TBIA

Miscellaneous Application (MA) No. 29 of 2016 in Case No. 44 of 2016

Intervention Application filed by Wind Independent Power Producers Association (WIPPA) in Case No 44 of 2016.

Wind Independent Power Producers AssociationApplicant
Maharashtra State Electricity Distribution Company Ltd (MSEDCL) Petitioner
Appearance

For Applicant : Shri. Parinay Deep Shah (Adv)
For MSEDCL : Ms Deepa Chawan (Adv)
Shri. D.H. Kulkarni (Rep)
For Consumer Representative : Dr. Ashok Pendse, TBIA

Miscellaneous Application (MA) No. 32 of 2016 in Case No. 44 of 2016

Intervention Application filed by Indian Wind Power Association (Northern Regional Council) in Case No 44 of 2016.

Indian Wind Power Association, Northern Regional Council (IWPA-NRC)Applicant
Maharashtra State Electricity Distribution Company Ltd (MSEDCL) Petitioner
Appearance

For Applicant : Shri. Hasmit Trivedi (Adv.)
For MSEDCL : Ms Deepa Chawan (Adv)
Shri. D.H. Kulkarni (Rep)
For Consumer Representative : Dr. Ashok Pendse, TBIA

Case No. 70 of 2016

Petition of Maharashtra State Electricity Distribution Co. Ltd. for extension of time for meeting RPO shortfall on cumulative basis in respect of non compliance of RPO Targets by MSEDCL for FY 2014-15.

Maharashtra State Electricity Distribution Company Ltd (MSEDCL) Petitioner
Maharashtra Energy Development Agency (MEDA)Impled Party

Appearance

For MSEDCL :Ms Deepa Chawan (Adv)
Shri. D.H. Kulkarni (Rep)
For MEDA :Shri.P.C. Diwakar, (Rep)
For Consumer Representative :Dr. Ashok Pendse, TBIA

Miscellaneous Application (MA) No. 19 of 2016 in Case No. 70 of 2016

Intervention Application filed by Green Energy Association in Case No 70 of 2016.

Green Energy AssociationApplicant
Maharashtra State Electricity Distribution Company Ltd (MSEDCL) Petitioner

Appearance

For Applicant : Shri. Hasmit Trivedi (Adv.)
For MSEDCL : Ms Deepa Chawan (Adv.)
Shri. D.H. Kulkarni (Rep.)
For Consumer Representative : Dr. Ashok Pendse, TBIA

Miscellaneous Application (MA) No. 30 of 2016 in Case No. 70 of 2016

Intervention Application filed by Wind Independent Power Producers Association (WIPPA) in Case No70 of 2016.

Wind Independent Power Producers AssociationApplicant
Maharashtra State Electricity Distribution Company Ltd (MSEDCL) Petitioner

Appearance

For Applicant : Shri. Parinay Deep Shah (Adv)
For MSEDCL : Ms Deepa Chawan (Adv)
Shri. D.H. Kulkarni (Rep)
For Consumer Representative : Dr. Ashok Pendse, TBIA

Miscellaneous Application (MA) No. 31 of 2016 in Case No. 70 of 2016

Intervention Application filed by Indian Wind Power Association (Northern Regional Council) in Case No 70 of 2016.

Indian Wind Power Association, Northern Regional Council (IWPA-NRC)Applicant
Maharashtra State Electricity Distribution Company Ltd (MSEDCL) Petitioner

Appearance

For Applicant : Shri. Hasmit Trivedi (Adv.)
For MSEDCL : Ms Deepa Chawan (Adv)
Shri. D.H. Kulkarni (Rep)
For Consumer Representative : Dr. Ashok Pendse, TBIA

DAILY ORDER

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

1. Advocate of MSEDCL submitted that similar issues are raised in Case No 44 of 2016 and 70 of 2016. Case No 70 of 2016 may be considered as the base Case which has comprehensive submissions/averments and Case No 44 of 2014 may be linked to it. The Commission also observed that since some similar issues have been raised in these Cases by MSEDCL, they would be heard together.

2. Referring to the Table of RPO targets at para 1.3 of its Petition in Case No 70 of 2016, MSEDCL submitted that it will be able to fulfil the Non-Solar RPO targets by 31 March, 2017. With respect to the Solar RPO targets, it has entered into various tie-ups and will be able to fulfil them, post 2016-17, and to that extent it needs carry forward of its Solar RPO targets. MSEDCL relied on certain ATE Judgments on the issue of fixing/specifying RPO targets in the Regulations.
3. The Commission asked MSEDCL to explain :
 - (i) How its Petition is not a Review Petition ;
 - (ii) How the issues raised by MSEDCL are maintainable /justified since several years have elapsed after notification of the RPO Regulations, 2010 and it's Approach Paper.
4. MSEDCL responded that this is not a Review Petition. Relying on the ATE Judgment in Appeal Nos 265 of 2012 and 258 of 2013, MSEDCL submitted that, even after the expiry of the period of the Regulations, it can approach the Commission, if the actual capacity addition of RE sources have not taken place vis-a vis the targets set/specified by the Commission in the Regulations. In this scenario, the Commission can retrospectively verify the RPO compliance of the entity. MSEDCL emphasised its prayer 'b' for relaxing the RPO targets specified in the RPO Regulations, 2010. MSEDCL reiterated its main prayers as below;
 - b. To relax the specified RPO Targets as prescribed after undertaking the exercise of ascertaining and confirming whether the fixation of the RPO targets is in accordance with the Regulation 6.4.1 of the erstwhile National Tariff Policy (as applicable) including various factors like RE potential of the State, expected capacity addition, actual capacity addition, contracted capacity addition, actual availability, price of REC, the element of realistic approach to evolving RPO Targets, RE wheeled through Open Access, the National scenario and or other relevant factors.*
 - c. To review the ruling in Order dated 4th August 2015 in Case No. 190 of 2014 to the extent of disallowance of expenditure on purchase of RECs and/or actual power procurement to the extent of the shortfall not met by MSEDCL by the end of FY 2015-16.*
 - d. To consider the ground realities and historical capacity addition in Mini/Micro Hydro Sector in the State and revised / cancel the separate categorization of Mini/Micro Hydro RPO target.*
 - e. To allow MSEDCL to carry forward the shortfall not met by MSEDCL by the end FY 2015-16 to the next Review Period.*
5. The Commission observed that MSEDCL's prayer 'b' for relaxing the specified RPO targets and prayer 'd' for cancellation of separate Mini/Micro Hydro RPO targets as specified in RPO Regulations, 2010, will call for impleadment of all the Distribution Licensees. In prayer 'c' MSEDCL is asking for a review of the Order dated 4 August, 2015 in Case No 190 of 2014. Moreover, the issues regarding RPO carry forward and other related issues have already been dealt with by the Commission in its earlier RPO verification Orders for MSEDCL (more recently for FY 2013-14 and for FY 2014-15) and

MSEDCL, being aware of these developments, has still now come before the Commission essentially asking for review of the Order dated 4 August, 2015.

6. On the separate issue of competitive bidding for procurement of RE, the Commission observed that MSEDCL could come before the Commission with a separate proposal citing all the developments/updates on the issue of competitive bidding for RE sources.
7. The Miscellaneous Application (M.A.)s are filed by the Interveners in these Cases, viz MA Nos. 27, 29 & 32 of 2016 in Case No. 44 of 2016, and MA Nos. 19, 30 & 31 of 2016 in Case No 70 of 2016, MSEDCL stated that it has no objections and the Commission may allow the interventions.
8. Dr. Ashok Pendse of TBIA stated that MSEDCL is consistently in shortfall of meeting its RPO (both Solar and non-Solar) for the last four consecutive years, i.e. from FY 2012-13 to FY 2015-16. For each year the total RPO shortfall of MSEDCL is to the tune of approximately 1000 MU's. Other Distribution Licensees are purchasing RECs to meet their RPO shortfall, as allowed under the RPO Regulations, MSEDCL could also have met its shortfall by purchasing RECs, which it has not been done. On the one hand, MSEDCL itself is in shortfall in meeting its RPO targets, and on the other hand it is denying Open Access permissions to some OA consumers on the grounds of non-fulfilment/non-submission of their RPO targets. Such double standards by MSEDCL are not acceptable.
9. The Commission directs MSEDCL to immediately serve a copy of its Petitions to all the concerned Interveners/ Applicants in these Cases. The Interveners /Applicants are to file their Replies within a week. MSEDCL may also file its Rejoinders within a week thereafter.

Case Nos. 44 and 70 of 2016 along with the Miscellaneous Applications therein are reserved for Orders.

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

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