

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Dated: 29 April, 2022

CORAM: Sanjay Kumar, Chairperson
I.M. Bohari, Member
Mukesh Khullar, Member

Case No. 164 of 2021

**Petition of Sterling Agro Industries for waiver of deviation charges levied upon the
Petitioner from 6 January 2020 to 28 June 2020 for deviation at the Dahiwadi Pooling
Sub Station level**

Sterling Agro Industries Petitioner

V/s

Maharashtra State Load Despatch Centre Respondent

RE Connect Energy Solutions Pvt. Ltd.Impleaded Respondent

Appearance:

Sterling Agro IndustriesMs Shikha Ohri (Adv.)

Maharashtra State Load Despatch Centre Shri. Karan Bhosale (Adv.)

RE Connect Energy Solutions Pvt. Ltd. ...Ms. Binita Rawat (Rep.)

Daily Order

1. Heard the Advocates of the Petitioner and Respondents.
2. Advocate appearing on behalf of Maharashtra State Load Despatch Centre (**MSLDC**)

requested the Commission to decide its application for impleading Maharashtra State Electricity Distribution Co. Ltd. (**MSEDCL**) in the present matter and stated that:

- i. In the present Petition, the Petitioner, inter alia, has stated that few generators connected to its Pooling State have yet to appoint the Qualified Coordinating Agency (**QCA**) and hence their generation is being injected into grid without a schedule, which is affecting the Petitioner in terms of excess deviation charges.
 - ii. As per the Amended Procedure for Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation (**Amended F&S Procedure**), MSEDCL is empowered to disconnect the non-complying wind/solar energy generators from the grid.
 - iii. MSLDC had taken all the efforts for smooth implementation of the MERC (Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation) Regulations, 2018 (**F&S Regulations**) and Amended F&S Procedure, however, MSEDCL, under whose control area, most of the Wind and Solar Generators are located, is not providing any compliance of action taken towards disconnection of non-complying wind/solar energy generators. Therefore, it is essential to implead MSEDCL in the present Petition.
 - iv. Only MSEDCL can inform as to whether the non-complying generators are disconnected from the grid or not.
 - v. The Commission needs to take a holistic view and allow impleadment of MSEDCL in the present matter.
 - vi. The Petitioner will not be prejudiced if MSEDCL's impleadment is allowed, however MSEDCL's impleadment would help to address the issues being faced in implementation of the F&S Regulations.
3. The Advocate appearing on behalf of the Petitioner objected to the impleadment of MSEDCL and stated that:
- i. The Hon'ble Supreme Court has laid down the broad principles for dealing with the application for impleadment, according to which, an entity has to be either a necessary party or a proper party in the proceeding. However, MSEDCL is neither a necessary party nor a proper party in the present case
 - ii. Non-compliance on part of MSEDCL in spite of MSLDC's repeated communication is a separate grievance of MSLDC and same is not connected to the present Petition. The case of the Petitioner is independent of any such non-compliance.
 - iii. The Petitioner has not sought any relief against MSEDCL.
 - iv. The Petitioner has stated facts specific to its Pooling Substation (**PSS**) i.e., Dahiwadi PSS, such as the remote location of the PSS, the network constraints and other infrastructure related issues at this PSS due to which QCA could not schedule the generation with required accuracy, resulting into levy of excess deviation

charges on the Petitioner. These are matters of fact, and do not require any submissions on behalf of MSEDCL.

- v. Impleadment of MSEDCL will unnecessarily increase the scope of present Petition which would delay the present proceeding.
 - vi. Although the Petitioner has been protected, in the interim, as per the Daily Order dated 18 February 2022, MSLDC cannot raise its grievance in present Petition and MSLDC can seek its prayer against MSEDCL by initiating its separate proceeding.
4. The representative appearing on behalf of QCA, RE Connect Energy Solutions Pvt. Ltd. stated that it had no objection to the impleadment of MSEDCL.
 5. Having heard the Parties and after going through the respective submissions of the Parties, the Commission notes that:
 - i. In terms of the principle laid down by the Hon'ble Supreme Court, the Court can direct impleadment of a person in a proceeding only if such person is either a necessary party or a proper party to the proceeding. A necessary party is the person who ought to be joined as party to the suit and in whose absence an effective decree cannot be passed by the Court. A proper party is a person whose presence would enable the Court to completely, effectively and properly adjudicate upon all matters and issues, though he may not be a person in favour of or against whom a decree is to be made.
 - ii. Apart from the issue of non-availability of real time data for scheduling its generation, the Petitioner has also highlighted non-registration of few generators connected at its Dahiwadi PSS as the reason of undue deviation impact. However, the Petitioner's key contention is regarding non-availability of real time data since it has sought waiver of the deviation charges from the date of commercial implementation of the F&S Regulations till the period, the real time generation data was not made available to it.
 - iii. This core issue raised by the Petitioner can be decided in absence of MSEDCL. The issue raised by MSLDC about MSEDCL's lack of action on disconnection of the non-registered generators is a separate issue and same is not directly connected with the issue raised by the Petitioner. Thus, MSEDCL is neither a necessary Party nor a proper Party since in absence of MSEDCL, present Petition can be adjudicated.
 - iv. It is not the case that there is a possibility of adverse impact on MSEDCL on account of outcome of present Petition.
 - v. MSLDC is a statutory authority under the EA which is empowered to issue directions to the licensees for ensuring the integrated grid operations and for achieving the maximum economy and efficiency in the operation of power system. Every licensee and generating company and any other person connected with the operation of the power system has to comply with the directions issued by the MSLDC. Hence, MSLDC has to ensure that it exercises all its powers to ensure

that it discharges all responsibilities entrusted to it under the EA and in case of any dispute regarding instructions issued by MSLDC, the dispute can be referred to the Commission for decision as per the provisions of the EA.

6. In light of the above, MSEDCL's impleadment in present Petition lacks adequate justification and MSLDC has to take all necessary steps to ensure compliance by MSEDCL as highlighted by MSLDC in its various communications and if needed, it may initiate separate proceeding as per the provisions of EA.

Next date for E-hearing shall be informed by the Secretariat of the Commission.

**Sd/-
(Mukesh Khullar)
Member**

**Sd/-
(I. M. Bohari)
Member**

**Sd/-
(Sanjay Kumar)
Chairperson**