

NOTICE

Subject: Petition of M/s. OPGS Power Gujarat Pvt. Ltd. under Section 86 (1) (f) of the EA, 2003 and Regulation 32 of the MERC (DOA) Regulations, 2016 qua disputes with MSEDCL over its arbitrary and wrongful delay in granting the Petitioner Distribution Open Access.

- **Case No. 141 of 2016**

OPGS Power Gujarat Pvt. Ltd. has submitted a Petition under affidavit on 03.11.2016 under Section 86 (1) (f) of the EA, 2003 and Regulation 32 of the MERC (DOA) Regulations, 2016. The Petitioner, OPGS Power Gujarat Pvt. Ltd. is a special purpose vehicle of generating station comprising two captive generating units with an installed capacity of 150MW each in Kutch District. The Petitioner's state that the generation capacity allocated to its group captive consumers in Maharashtra is stranded resulting in debilitating losses to the extent of Rs. 17,28,00,000 to the Petitioner on account of Respondent MSEDCL's withholding its consent of open access which was communicated to the Petitioner only on 30.09.2016 and 28.10.2016, leaving the Petitioner's group captive consumers no option but to procure power from MSEDCL at a higher price, thereby incurring huge financial losses and hence, humbly prays to:

- 1) *Direct MSEDCL to provide its timely consent forthwith and henceforth to the Petitioner as per the applicable Regulations including under Regulation 8.3 and Regulation 12 of the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2016 to enable the Petitioner, to avail inter-state open access to supply power to its consumers situated in MSEDCL's distribution area under Section 9 of the Electricity Act, 2003, as a captive generator;*
- 2) *Direct MSEDCL to compensate the Petitioner for the damages resulting from its wrongful withholding of consent under Regulation 8.3 and Regulation 12 of the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2016 and legal costs incurred by the Petitioner in respect of the instant proceedings;*
- 3) *Declare that no fees, charges or penalties may be levied on the Petitioner or its consumers arising as a consequence of MSEDCL's illegal and discriminatory withholding of consent; and*
- 4) *Direct MSEDCL to compensate the Petitioner for the losses and damages, including legal costs, suffered by it due to MSEDCL's discriminatory and arbitrary withholding of consent in respect of the Petitioner's inter-state STOA.*
- 5) *Pass any other/further order in the interest of justice.*

Interim Relief

- a) *Direct MSEDCL to provide its consent forthwith under the applicable Regulations including under Regulation 8.3 and Regulation 12 of the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2016 to enable the Petitioner avail inter-state STOA on an immediate basis;*

b) Stay the levy of any fees, charges or penalties on the Petitioner or its consumers, which may arise as a consequence of MSEDCL's illegal and discriminatory withholding of consent;

c) Pass ex-parte ad interim order in terms of Interim Prayer (a) above; and Pass any other/further order in the interest of justice.

2. I am directed to communicate that the hearing on Interim application in the above matter will be held in the presence of the authorized Consumer Representatives on **Thursday, 10 November, 2016 at 11.30 hrs** in the office of the Commission at 13th floor, Centre No.1, World Trade Centre, Cuffe Parade, Mumbai - 400 005.

3. The Petitioner is directed to serve within 1 week, a copy of its above Petition (both in soft and hard copy) to the Respondents and the authorised Institutional Consumer Representatives.

4. The Respondent is directed to submit their say on affidavit in 1+6 copies to the Commission with documents, if any, on the above mentioned Petition within 2 weeks from receipt of copy of Petition, with a copy to the Petitioner and the authorized Institutional Consumer Representatives.

5. The Parties are directed to file their Petition and submissions in MS -Word file and PDF version as far as possible, and to file 1+6 copies of all relevant documents/citations produced during the proceedings.

Sd/-

(R. S. Sonawane)
Dy. Director (Legal)

M/s. OPGS Power Gujarat Pvt. Ltd.
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Petitioner

Maharashtra State Electricity Distribution Co. Ltd
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Respondent

Cc:- Chief Engineer (Commercial),
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Cc: **Institutional Consumer Representatives:-**

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