

2715

JAWAHAR SHETKARI SAHAKARI SAKHAR KARKHANA LTD., HUPARI

Shri Kallappanna Awadenagar, Hupari-Yalgud 416 203, Tal.: Hatkanangale, Dist.: Kolhapur (Maharashtra)

Phone (0230) 2450402, Fax (0230) 2450401

E-mail : kprjsssk@gmail.com

O.W.Accts/ 2575 /2015-16

Date: - 18/06/2015

To,
Secretary,
Maharashtra Electricity Regulatory Commission,
13th Floor, Centre No. 1
World Trade Centre,
Cuffe Parade
MUMBAI -400005

MERC		
Inward No: 1232	Date 19/06/2015	
Chairman	Member	Member
Secretary	Dir (EE)	Dir (T)

Sub:- Submission of Petition

Respected sir,

We, Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., Hupari having main activity of sugar production and Bagassed based Co-generation have successfully executed the EPA with MSEDCL, and completed the tenure of 13 years of EPA with the MSEDCL and desires to supply continuously power to MSEDCL.

Accordingly, we are submitting herewith necessary petition regarding renewal of EPA alongwith proposed tariff.

A copies of said Petition are being forwarded by us to all consumers representatives and respondents.

You are, therefore, requested to kindly schedule our petition for urgent hearing & oblige.

Thanking You,

Yours faithfully

For Jawahar SSSK Ltd., Hupari


(B. M. Kalawant)

Chief Executive Officer

Encl: As above.

R.No: 4813, dt. 22.6.15
Rs. 1000/-
cash:

BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION, MUMBAI

Filing No.

Case No.

In the matter of Petition / application in compliance with the directions given by Hon'ble Commission in Order dated 11.11.2014 in MERC Case No. 127 of 2014.

AND In the matter of :-

Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., Hupari
Shri Kallappaanna Awade Nagar,
Hupari - Yalgud,
Tal. Hathkanagle, Dist, Kolhapur - 416 203
E-mail :- kprjsssk@gmail.com

Petitioner /Applicant

Chief Engineer (Commercial)
Maharashtra State Electricity Distribution Co. Ltd.,
Prakashgad, 5th floor, Plot No G-9,
Bandra (East), Mumbai - 400051
E-mail :- cecomm@mahadiscom.in

Respondent / Non Applicant

Fact of the case/Petition :-

1) We M/s. Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., Hupari having main activity of sugar production & Bagassee based co generation have successfully executed the EPA with MSEDCL & completed the tenure of 13 Years of the said EPA on 27.11.2014 and in order to renew the said EPA we approached to MSEDCL. For the term and tariff of the proposed EPA MSEDCL by letter dated 12.03.2014 has directed to Petitioner to approach at MERC. (Annexure - A)

2) Accordingly for seeking directions of MERC in relation to tariff and term of EPA, On 06.06.2014 Jawahar has filed MERC Case No. 127 of 2014 by following due procedure and by paying requisite fee.

3) Meanwhile, on 07.07.2014 MERC has passed Suo - Motu Order in MERC Case No. 100 of 2014 for Determination of Generic Tariff for Renewable Energy Sources for FY 2014 -15 and determined tariff rates for renewable projects. In the same Order in para No. 1.30 Commission has ruled as follows-

"1.30 Guidelines for old Bagasse based Cogeneration Plant

MERC RE Tariff Order (Case No. 100 of 2014) for FY 2014-15 Page 23 of 101- Stakeholders comments/Suggestions: MSEDCL requested the Commission to issue guidelines such as term of EPA & the tariff to be made applicable in respect of old Bagasse based Cogeneration Plant commissioned prior to MERC RE Tariff Regulation, 2010 and whose EPAs are expired or due for expiry this year.

Commission's Ruling:

The Commission notes that it had stipulated the tenure of EPA for old Bagasse based Cogeneration Plant commissioned (prior to MERC RE Tariff Regulation 2010), vide its Order dated 16 August, 2002 under para 4.6 of the said Order. The Commission is of the view that the parties could mutually discuss and agree for terms and conditions after expiry of the existing EPA."

4) First hearing of Petition filed by the Petitioner - Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., Hupari, (MERC Case No. 127 of 2014) was scheduled on 19.08.2014 which was postponed and later on first hearing held on 30.10.2014 and Hon'ble Commission had given Final Order on 11.11.2014 relevant part of the Order is as follows-

"In view of the Commission's ruling in Case No. 100 of 2014 as mentioned above and based on the submission made by MSEDCL, as the tenure of EPA is due for expiry, the Commission is not inclined to direct either party to enter into the new EPA. However, the Commission is of the view that both the parties could mutually discuss and agree for terms and conditions including tariff after expiry of the existing EPA.

With regards to MSEDCL's prayer for considering the power purchased from JSSSKL's co-generation plant for meeting RPO targets of MSEDCL, the Commission clarifies that same will be considered for meeting RPO targets of MSEDCL in respective years, provided that JSSSKL shall not opt for REC mechanism for the same capacity of its bagasse based co-generation project, which has been considered under EPA.

With the above, Petition of M/s. Jawahar Shetkari Sahakari Sakhar Karkhana Ltd. in Case No. 127 of 2014 stands disposed of accordingly."

.....(Annexure-B)

5) Accordingly as a part of discussion, the Petitioner - Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., Hupari, by letter dated -20/01/2015 has proposed to MSEDCL tariff of Rs.5.81 per unit for seven years for new EPA and requested to MSEDCL to reply early.

6) For new EPA, MSEDCL by letter dated 20.05.2015 has informed the Petitioner "proposed tariff" alongwith other terms and conditions for seven years as follows :-

1 st Year (FY 14-15)	2 nd Year (FY 15-16)	3 rd Year (FY 16-17)	4 th Year (FY 17-18)	5 th Year (FY 18-19)	6 th Year (FY 19-20)	7 th Year (FY 20-21)
4.48	4.50	4.52	4.54	4.57	4.59	4.62

.....(Annexure-C)

7) Petitioner - Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., Hupari, by letter dated 20.05.2015 has given consent to MSEDCL for proposed tariff for seven years and requested to execute EPA as per terms and conditions mentioned in letter dated 20.05.2015 given by MSEDCL.

.....(Annexure-D)

Submission/Ground in support of the case:-

8) We the Petitioner, without using coal produces hundred percent bagasse based clean energy which is environment friendly and which is promoted by Electricity Act and National Electricity Policy and National Tariff Policy.

9) Petitioner submits that period of more than one year has been passed from filing MERC Case No. 127 of 2014 and the Petitioner is in financial trouble to pay bills of its members / farmers supplying sugarcane and requests to Hon'ble Commission to schedule urgent hearing and pass order.

21/09

Jurisdiction of the Commission:-

10) As per Section 86(1)(b) of the Electricity Act, 2003 and Regulation 94 of MERC (conduct of business) Regulations, 2004 Hon'ble Commission has power and jurisdiction to dispose off this Petition.

Fees:-

11) As per Regulation 26(b) of MERC (Fees and Charges) Regulations, 2004 Petitioner is paying fee of Rs. 1000/- by cash.

12) Relief clause:

In view of the above the Petitioner most respectfully prays to Hon'ble Commission as follows:-

1) Hon'ble Commission may give approval to the Petitioner / Applicant and Respondent / Non Applicant to execute EPA for seven years as per terms and conditions alongwith proposed tariff mentioned in letter dated 20.05.2015 given by MSEDCL to Petitioner.

2) Petitioner requests to schedule urgent hearing in the matter.

3) Any other suitable direction/s or order/s as Hon'ble Commission may deem fit and proper in the facts and circumstances of the Case.

Place: Hupari.

Date : 18.06.2015.



(B. M. Kalawant)
Chief Executive Officer
Petitioner)

19/6/15

**Affidavit as per Form III of MERC (conduct of business) Regulations, 2004.
BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION, MUMBAI**

Filling No.

Case No.

In the matter of Petition / application in compliance with the directions given by Hon'ble Commission in Order dated 11.11.2014 in MERC Case No. 127 of 2014.

AND In the matter of :-

Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., Hupari
Shri Kallappaanna Awadenagar,
Hupari - Yalgud,
Tal. Hatkanangale, Dist, Kolhapur - 416 203
E-mail :- kprjsssk@gmail.com

Petitioner /Applicant

Chief Engineer (Commercial)
Maharashtra State Electricity Distribution Co. Ltd.,
Prakashgad, 5th floor, Plot No G-9,
Bandra (East), Mumbai - 400051
E-mail :- cecomm@mahadiscom.in

Respondent / Non Applicant

Affidavit verifying the Petition

I, Babalu Miyalal Kalawant, son of Miyalal Pilaji Kalawant, aged 48 years residing at Ichalkaranji, do solemnly affirm and say as follows:

1. I am a Chief Executive Officer of the petitioner in the above matter and am duly authorised and competent to make this affidavit.
2. The statements made in paragraphs 01 to 07 of the petition/application are true to my knowledge and belief and statements made in paragraph 08 are based on information and I believe them to be true.
3. I say that there are no proceedings pending in any court of law/ tribunal or arbitrator or any other authority, wherein the Petitioners are a party and where issues arising and/or reliefs sought are identical or similar to the issues arising in the matter pending before the Commission.

Solemnly affirm at Ichalkaranji on this 18th day of June, 2015 that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Date : 18.06.2015
Place: Ichalkaranji.

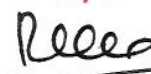
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18/6/2015

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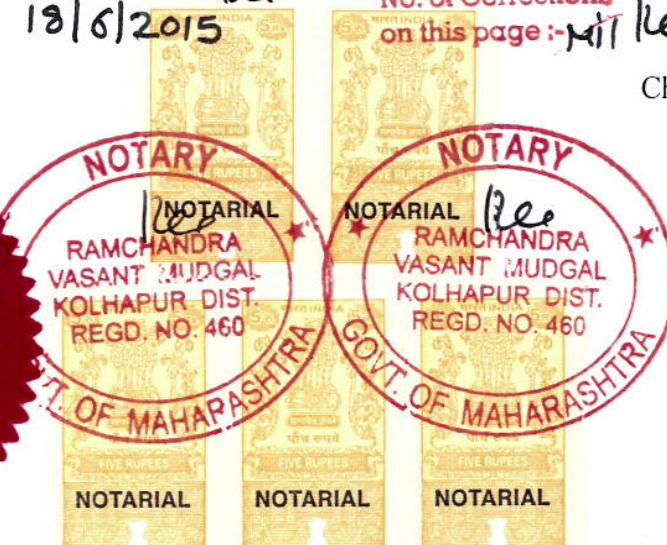

(B. M. Kalawant)

Chief Executive Officer

SOLEMNLY affirmed before me
by Bablu Miyalal
who is identified before me Kalawant
by Personally
whom I personally know on Thursday
this 18th day of June 2015



RAM V. MUDGAL
ADVOCATE & NOTARY PUBLIC,
12/143, VASANT NIWAS, ICHALKARANJI.





Maharashtra State Electricity Distribution Co. Ltd.
Prakashgad, Plot No.G-9, Bandra (East), Mumbai - 400 051
☎ (P) 26474753, (O) 26474211 / 26472131, Fax- 26472366, Website : www.mahadiscom.in

Comm/JSSSKL/Cogen/

No 08672

Date : 2 MAR 2014

To
M/s Jawahar Shetkari S.S.K. Ltd., Hupari,
Shri Kallapana Awadenagar Hupari,
Yalgud, Hatkangale,
Dist. Kolhapur -416 203

Sub: Regarding tariff for your 12 MW cogeneration project after expiry of EPA.

Ref: Your Office letter No. 10958 dated 27.02.2014.

Dear Sir,

In connection to the above subject and letter under reference, it is to inform that, currently the tariff for your 12 MW cogeneration project is Rs. 5.69 per unit for FY 2013-14. Also, the rate as determined by MERC for FY 2014-15 shall be made applicable. However, it is to inform that, the EPA for your 12 MW generator is expiring on 21.11.2014.

In this regards, it is requested to approach MERC with a petition for determination of tariff after expiry of tenure of EPA i.e. 13 years. The rate as determined by MERC for your 12 MW project shall be made applicable.

This is for your information and necessary action please.
Thanking you.

Yours faithfully,

Chief Engineer (Commercial)

Copy S.w.r to-

1. The Executive Director (Commercial), MSEDCL, Mumbai.
2. The Executive Director II, MSEDCL, Pune.

Copy f.w.cs to-

The Chief Engineer (O&M Zone), MSEDCL, Kolhapur.

Copy to-

The Superintending Engineer, O&M Circle, MSEDCL, Kolhapur.

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महाराष्ट्र विद्युत नियामक आयोग

Maharashtra Electricity Regulatory Commission

No. MERC/Case No. 127 of 2014// 01155

14 November, 2014

ORDER

Subject: Petition of Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., for fixation of tariff for non fossil fuel based cogen projects completing the tenure of 13 years of EPA with the distribution licensee and in process of renewal of EPA.

- Case No. 127 of 2014

Appended is a copy of Order dated 11.11.2014, in the above matter.

(Signature)
14.11.14
(Anilkumar Ukey)
Dy. Director (Legal)

Encl. Copy of Order

Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., Hupari
Shri Kallappaanna Awade Nagar,
Hupari - Yalgud,
Tal. Hathkanagle, Dist, Kolhapur - 416 203
E-mail :- kprjsssk@gmail.com

Petitioner:

Chief Engineers (Commercial)
Maharashtra State Electricity Distribution Co. Ltd.,
Prakashgad, 5th floor, Plot No G-9,
Bandra (East), Mumbai - 400051
E-mail :- cecomm@mahadiscom.in

Respondent

Cc: Consumer Representatives:-

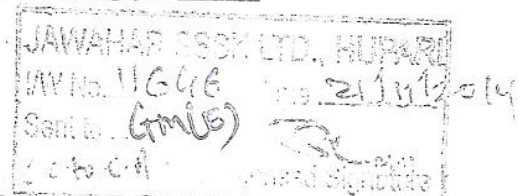
Prayas (Energy Group)
Amrita Clinic, Athvale Corner,
Lakdipool-karve Road Junction,
Deccan Gymkhana, Karve Road,
Pune 411 004.
E-mail: peg@prayaspune.org

The General Secretary,
Thane Belapur Industries Association,
Rabale Village, Post Ghansoli,
Plot P-14, MIDC,
Navi Mumbai 400 701
E-mail: tbia@vsnl.com

Mumbai Grahak Panchayat,
Grahak Bhavan,
Sant Dynaneshwar Marg,
Behind Cooper Hospital,
Vile Parle (West), Mumbai 400 056
E-mail: mgpanchayat@yahoo.com

Maharashtra Chamber of Commerce,
Industry & Agriculture,
Oricon House, 6th floor,
12 K. Dubash Marg, Fort, Mumbai - 400 001
(Nashik Branch)
E-mail : maccia.nsk@gmail.com

Vidarbha Industries Association,
1st Floor, Udyog Bhavan,
Civil Line, Nagpur 440 001.
E-mail: rkengg@gmail.com



13/11/14 7

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
13th Floor, Centre No.1, World Trade Centre, Cuffe Parade, Mumbai- 400 005
Tel: 022 - 22163964/65/69 Fax: 022 - 22163976
E-mail: mercindia@merc.gov.in
Website: www.merc.gov.in / www.mercindia.org.in

Case No. 127 of 2014

In the matter of
Petition filed by Jawahar Shetkari Sahakari Sakhar Karkhana Ltd. for fixation of
tariff for non-fossil fuel based co-generation projects completing the tenure of 13
years of EPA with the Distribution Licensee and in process of renewal of EPA.

Smt. Chandra Iyengar, Chairperson
Shri Deepak Lad, Member

Jawahar Shetkari Sahakari Sakhar Karkhana Ltd.

..... Petitioner

V/s

Maharashtra State Electricity Distribution Company Limited (MSEDCL) Respondent

Present during the hearing:

Advocate/ Representative (s) for the Petitioner	: Shri. M.G.Joshi (Rep.) : Shri. B.M. Kalawant (Rep.)
Advocate/ Representative (s) for MSEDCL	: Shri. A.S.Ghogare (Rep.) : Shri. P.H. Jambhulkar (Rep.)
Consumer Representative	: Dr. Ashok Pendse, TBIA

ORDER

Dated: 11 November, 2014

Jawahar Shetkari Sahakari Sakhar Karkhana Ltd. (JSSSKL) Hupari, Dist. Kolhapur has
filed a Petition on 6 June, 2014 under Sections 61(h), 62, 86(1) (a, b & e), 86(4) of the



Electricity Act, 2003 and Regulation 93 & 95 of MERC (Conduct of Business) Regulations, 2004 for fixation of tariff for the non fossil fuel based cogeneration project completing the tenure of 13 years of EPA with the Distribution Licensee.

2. The prayers of JSSSKL are as follows:

"We M/s. Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., the petitioner, pray the Hon'ble Commission to kindly consider our case with above background. We have successfully executed the EPA with MSEDCL, & completed the tenure of 13 Years of EPA with the MSEDCL, for supply of power in future and are in process of renewal of EPA for supply of power to MSEDCL.

We pray the Hon'ble Commission to issue appropriate orders for renewal of such EPA, with the preferential tariff made applicable for our projects with renewed EPA.

We M/s. Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., the petitioner, hence pray to the Hon'ble Commission to kindly consider our case with above background & issue appropriate order for renewal of our EPA, with the preferential tariff made applicable for our project with renewed EPA."

3. The facts as stated in the Petition are as follows:

3.1. JSSSKL is a co-operative sugar factory with operational 9000 TCD capacity sugar plant and 27 MW bagasse based co-generation power plant at Hupari Dist-Kolhapur.

3.2. JSSSKL has an Energy Purchase Agreement (EPA) dated 5 October, 2002 with erstwhile MSEB for 13 years and supplying 12 MW power to MSEDCL (erstwhile MSEB).

3.3. The EPA with MSEDCL for supply of power is due for expiry on 22 November, 2014. JSSSKL approached MSEDCL for renewal of EPA on 27 February, 2014. MSEDCL vide its letter dated 12 March, 2014 replied JSSSKL to approach the Commission for determination of tariff after expiry of tenure of EPA.

4. JSSSKL vide its letter dated 21 July, 2014 made additional submission as below:

4.1. The State Electricity Regulatory Commissions have been mandated for the promotion of co-generation and generation of electricity from renewable sources of energy under Section 86 (1)(e) of the Electricity Act, 2003. JSSSKL has also referred the relevant provisions under National Electricity Policy, 2005 and Tariff Policy, 2006 which refers to the responsibility of the Commission for promotion of Renewable Energy.

4.2. As per the provision of MERC (Renewable Purchase Obligation, its compliance and Implementation of REC framework) Regulations, 2010, Distribution Licensees



are obligated to purchase minimum percentage of Renewable Energy to the extent of its gross energy consumption. JSSSKL has also referred the ruling of the Commission in the Order dated 16 August, 2012 in Case No. 19 of 2012 as below:

"It may be noted that MSEDCL is obligated to purchase a specified percentage of the total consumption of power in its area from renewable sources under the Renewable Purchase Obligation (RPO). The Commission, based on the mandate Section 86 (1) (e) of EA 2003, has already notified the MERC (Renewable Purchase Obligation, its compliance and implementation of REC framework), Regulations, 2010. Under the said regulations, MSEDCL has to purchase a certain percentage from renewable energy sources. Any shortfall in meeting the purchase obligation has to be met by purchase of Renewable Energy Certificates (RECs). Thus, the Commission has already taken necessary steps towards sustainability and environmental issues."

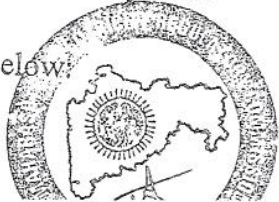
- 4.3. MSEDCL in Case No. 180 of 2013 has submitted that that its gross energy consumption is increasing day by day but no adequate capacity addition is taking place in the RE sector. This fact was considered by the Commission and MSEDCL was allowed to meet its non-solar RPO shortfall for FY 2012-13 in FY 2013-14 on cumulative basis.
- 4.4. JSSSKL submitted that availability of bagasse is directly affecting due to variation in monsoon, severe competition between sugar factories, alternative use of bagasse and decrease in crushing period of sugar factories from 180 days to 150 days which has resulted into unstable and higher cost of bagasse. The Plants are procuring fuel at the average rate of Rs. 2500 per MT. Over and above the landed price of bagasse in factory, further costs involved in handling and shifting the bagasse from its storage place to return bagasse carrier and feeding the bagasse carrier become costly.
- 4.5. The Commission in its Order dated 22 March, 2014 in Case No. 6 of 2013 has revised the variable charge in pursuance of the powers of the Commission under "Power to Relax" as specified in Regulation 75.1 of the MERC RE Tariff Regulations, 2010 in order to ensure that co-generation projects continue to operate in the State. The applicable tariff FY 2013-14, for non-fossil fuel based co-generation projects commissioned prior to FY 2013-14 as below:

Tariff for Non-Fossil based Bagasse Cogen Power Projects commissioned prior to FY 2013-14

<i>Fixed Charge (Rs/kWh)</i>	<i>Variable Charge for FY 2013-14 (Rs/kWh)</i>	<i>Tariff for FY 2013-14 (Rs/kWh)</i>
2.26*	3.43	5.69

** As per Order dt 11 January, 2010 in Case No 123 of 2008 "*

4.6. JSSSKL has submitted its revised Prayers as below:



- "a) Petitioner requests to apply doctrine of "harmonious construction" for interpretation of various provisions of National Electricity Policy, Tariff Policy and the Electricity Act, 2003 and MERC (Terms and conditions for determination of RE Tariff) Regulations, 2010. As per this doctrine the courts must try to avoid conflicts between the provisions of the statutes. Thus the provisions must be so interpreted that conflict between the two is avoided and each of them is given effect and, for that purpose the scope and meaning of one may be restricted so as to give meaning to the others also.
- b) In view of this Petitioner requests the Commission not to apply provisions of MERC (Terms and conditions for determination of RE Tariff) Regulations, 2010 so that there may not be reduction of Tariff determined (Rs. 5.69/ kWh) in Case No.6 of 2013 in the matter of determination of generic tariff for the fourth year of the first control period. Rather requests to apply "Powers to Relax" as specified in Regulation 75.1 of the MERC RE Tariff Regulations, in Order to ensure that there is no tariff cut and co-generation projects continue to operate in the State.
- c) Petitioner requests to apply doctrine of "Mischief Rule" for interpretation of various provisions of National Electricity Policy, Tariff Policy and The Electricity Act, 2003 and MERC (Terms and conditions for determination of RE Tariff) Regulations, 2010

(Mischief Rule looks into four aspects in the construction of the Act of the Legislature:

- o What was the law before making the Act?
- o What is the mischief or defect for which the law did not provide?
- o What is the remedy that the Act has provided?
- o What is the reason for the remedy?

This Rule highlights the importance of the statute and that the interpretation should promote the remedy and suppress the mischief.

Remedial and welfare statutes are liberally construed so as to extend the operation of the Act)

As mentioned above National Electricity Policy, Tariff Policy and the Electricity Act, 2003 establishes the overwhelming emphasis on environmental friendly renewable sources of energy. Environmental degradation is the mischief and promotion of clean and renewable sources of energy is the remedy. Preferential tariff is one of the vital part of promotion. Reduction in existing tariff would be adversely affect investment level and capacity addition in renewable sector so that distribution. Licensees can not able complete their respective RPO targets therefore mischief would remain unsolved rather it's gravity would increase day by day. Therefore Commission may apply "Powers to relax" as specified in Regulation 75.1 of the MERC RE Tariff Regulations. The Word "shall"



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used in Section 61, 66 86 has binding force on SRC's promote Renewable Energy.

- d) *Petitioner requests to the Commission suitable increment be given in tariff determined (Rs. 5.69/ kWh) in Case No. 6 of 2013, so that new players can come in this field and suitable tariff in main driver which is helpful in development of market as mentioned in Section 66 of the Electricity Act,2003.*
- e) *The Commission may increase duration of first control period under Regulation 8 of the MERC (Terms and conditions for determination of RE Tariff) Regulations, 2010, till the sufficient growth of Renewable Energy Sector.*
- f) *The Commission may direct the tenure of renewed EPA agreement shall be for another period of seven years as the economic life of the plant is 20 years or tenure of renewed EPA agreement shall be for more than seven years as the Hon'ble Commission may deem fit.*
- g) *Any other relief as this Hon'ble Commission may deem fit in the facts and circumstances of the Case."*

5. MSEDCL vide letter dated 27 October, 2014, submitted as below:

- 5.1. MSEDCL has always promoted renewable generation in the State and is procuring power at the tariff as determined by the Commission from time to time.
- 5.2. The EPAs are executed on long term basis. The tenure of EPA is 13 years from date of commissioning in case of bagasse based co-generation plant. Accordingly, EPA was executed with JSSSKL for the period of 13 years and the same will expire on 22 November, 2014.
- 5.3. Co-generation is schedulable power with two additional advantages of distributed generation and availability during rabbi crop season. JSSSKL's co-generation plant has been completing 13 years of operation and their EPA is due for expiry. It has recovered the capital cost of the plant. Therefore, while determining the tariff after expiry of long term EPA, only variable cost which includes fuel cost, O and M expenses may be considered.
- 5.4. A reasonable tariff may be decided keeping MSEDCL consumer's interest protected since capital cost is recovered with ROE. The variable cost determined by the Commission on yearly basis for projects commissioned prior to FY 2013-14 may be considered as the tariff to be made applicable to the projects after expiry of 13 years' tenure of the EPA. The tenure of EPA shall be for further seven years. i.e. till the project completes 20 years up to life span of the plant.



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5.5. The power procured from the co-generation plant may be allowed to be considered in the RPO of the MSEDCL.

6. The matter was heard on 30 October, 2014. During the hearing JSSSKL reiterated its submissions and prayed the Commission to re-determine the tariff for its non-fossil based co-generation plant and direct MSEDCL to enter into EPA for remaining life of the plant. MSEDCL also reiterated its submission and submitted that power produced from bagasse based co-generation is schedulable. MSEDCL further requested the Commission to re-determine the tariff by considering the interest of the common consumers.

The Commission's analysis and Ruling:

7. The EPA of JSSSKL with MSEDCL is signed on 5 October, 2002. The tenure of EPA is 13 years from date of commissioning and the same will expire on 22 November, 2014. The tenure of EPA is governed by the Commission's Order dated 16 August, 2002 in Case Nos. 8/9/10/15/17/18/19/20/21 of 2001.
8. The RE projects commissioned before the notification of RE Tariff Regulations, 2010 are covered under Regulation 3.2 and 3.3 of MERC RE Tariff Regulations, 2010 which is reproduced as below:

"3.2 In case of existing RE projects, applicable tariff and other terms and conditions, shall be governed by respective RE Tariff Orders and amendments thereof as issued from time to time by the Commission and the tariff, tariff structure and other conditions as specified under respective RE Tariff Order shall continue to be applicable for such existing RE projects over the duration of the Tariff Period as stipulated under respective RE Tariff Orders.

9. MERC RE Tariff Regulations, 2010, also specifies that the fuel price for each year of operation, for both existing and new non-fossil fuel based co-generation projects shall be adjusted based on an indexation mechanism with effect from 1 April, 2013. The relevant extract of the Regulations is as reproduced as under:

"56.1 In case of (existing and new) non-fossil fuel based co-generation projects, the following indexing mechanism for adjustment of fuel prices for each year of operation, from April 1, 2013, will be applicable for determination of applicable variable charge component of tariff:

The indexed Bagasse Fuel Price (P_n) in case of Non-fossil fuel based Co-generation projects for each year (n) of the Control Period shall be notified pursuant to notification of such indexed Bagasse Fuel Price norm as applicable for Non-fossil fuel based Co-generation projects within Maharashtra by Central Electricity Regulatory Commission in accordance with indexation mechanism stipulated under CERC RE Tariff Regulations.
Where,



$P(n)$ = Price per ton of Bagasse for the n th year to be considered for tariff determination"

10. Accordingly, the Commission vide Order dated 7 July, 2014 in Case No. 100 of 2014 has determined the variable charge component of the tariff applicable to FY 2014-15 for the non fossil fuel based co-generation projects commissioned prior to 31 March, 2014. The fixed charge component of the tariff of such projects shall continue to be governed by the relevant Orders issued by the Commission.

The applicable tariff during FY 2014-15 for non-fossil fuel based co-generation Projects commissioned prior to FY 2013-14 is as given below:

<i>Date of Commissioning of the Cogeneration Project</i>	<i>Fixed Charge (Rs/kWh)</i>	<i>Variable Charge for FY 2014-15 (Rs/kWh)</i>	<i>Tariff for FY 2014-15 (Rs/kWh)</i>
<i>Prior to FY 2013-14</i>	<i>2.26**</i>	<i>3.81</i>	<i>6.07</i>

** As per Order dt 11 January, 2010 in Case No. 123 of 2008

11. Further during the Suo motu proceedings in Case No. 100 of 2014, MSEDCL had raised the similar issue. The Commission has dealt this issue in Order dated 7 July, 2014 in Case No. 100 of 2014. The relevant Para of the Order is as below:

"... Stakeholders Comments/Suggestions:

MSEDCL requested the Commission to issue guidelines such as term of EPA & the tariff to be made applicable in respect of old Bagasse based Cogeneration Plant commissioned prior to MERC RE Tariff Regulation, 2010 and whose EPAs are expired or due for expiry this year.

Commission's Ruling:

The Commission notes that it had stipulated the tenure of EPA for old Bagasse based Cogeneration Plant commissioned (prior to MERC RE Tariff Regulation 2010), vide its Order dated 16 August, 2002 under para 4.6 of the said Order. The Commission is of the view that the parties could mutually discuss and agree for terms and conditions after expiry of the existing EPA."

12. In view of the Commission's ruling in Case No. 100 of 2014 as mentioned above and based on the submission made by MSEDCL, as the tenure of EPA is due for expiry, the Commission is not inclined to direct either party to enter into the new EPA. However, the Commission is of the view that both the parties could mutually discuss and agree for terms and conditions including tariff after expiry of the existing EPA.



- 14
13. With regards to MSEDCL's prayer for considering the power purchased from JSSSKL's co-generation plant for meeting RPO targets of MSEDCL, the Commission clarifies that same will be considered for meeting RPO targets of MSEDCL in respective years, provided that JSSSKL shall not opt for REC mechanism for the same capacity of its bagasse based co-generation project, which has been considered under EPA.

With the above, Petition of M/s. Jawahar Shetkari Sahakari Sakhar Karkhana Ltd. in Case No. 127 of 2014 stands disposed of accordingly.

Sd/-
(Deepak Lad)
Member

Sd/-
(Chandra Iyengar)
Chairperson




(Rajendra Ambekar)
Director (Tariff)



Maharashtra State Electricity Distribution Co. Ltd.

(A Govt. of Maharashtra Undertaking)
CIN: U40109MH2005SGC153645

"Prakashgad", 5th Floor, Station Road, Bandra (E), Mumbai -400 051.
Tel.: (P) 26474753, (O) 26474211, Fax : (022) 26472366
Email: cecomm@mahadiscom.in, Website: www.mahadiscom.com

No. Comm/ Cogen/ JSSSKL/

Date:

To,
M/s Jawahar Shetkari Sahakari Sakhar Karkhana Ltd. (M/s JSSSKL)
Shri. Kallappa Anna Awadenagar,
Hupari-Yalgud,
Tal. Hatkangala,
Dist. Kolhapur - 416203.

22051
20 MAY 2015

Subj: Renewal of EPA of your bagasse based co-generation power plant.

Ref: 1. Your letter dated 27.02.2014, 14.11.2014;
2. MERC order dated 11.11.2014 in Case No. 127 of 2014.

Dear Sir,

In connection with the above subject & letters under reference, it is to inform as under:

1. The Energy Purchase Agreements (EPA) was executed with your 24 MW bagasse based co-generation plant for tenure of 13 years and the validity of the same has expired on 22.11.2014.
2. Accordingly, vide letter dated 27.02.2014 your office requested for renewal of EPA. However, vide T.O.L. dated 12.03.2014, it was requested to approach MERC with a petition regarding determination of tariff after expiry of tenure of EPA. Subsequently, a petition was filed by you before MERC (Case No. 127 of 2014).
3. MERC vide order dated 11.11.2014 directed M/s JSSSKL and MSEDCL to mutually discuss and agree for terms and conditions including tariff continuity of the existing EPA.
4. Further, MSEDCL has worked out the tariff rate on the basis of norms stipulated under MERC RE Tariff Regulation 2010 and proposal was submitted for approval.
5. The Competent Authority of MSEDCL has accorded approval for renewal of EPA of your bagasse based co-generation plant subject to following:
 - a. A fresh EPA shall be executed with M/s. JSSSKL for a period of 7 years (considering useful life of co-gen plant being 20 years).

b. The tariff shall be as below:

1 st Year (FY 14-15)	2 nd Year (FY 15-16)	3 rd Year (FY 16-17)	4 th Year (FY 17-18)	5 th Year (FY 18-19)	6 th Year (FY 19-20)	7 th Year (FY 20-21)
4.48	4.50	4.52	4.54	4.57	4.59	4.62


c. M/s JSSSKL shall not claim REC.

- d. In case of usage of coal above 1700 to 1750 Kcal they actually will get extracted and the above rates will not be valid.
- e. The EPA shall be executed with M/s JSSSKL only after prior approval from MERC.

You are requested to submit the consent for the above conditions if the same are agreeable to you. After receipt of the same, a proposal will be submitted to MERC for approval.

Thanking you.

Yours faithfully,


Chief Engineer (Commercial)

Copy s. w. rs. to :

- 1. The Director (Operations), MSEDCL, Mumbai.
- 2. The Executive Director (Commercial), MSEDCL, Mumbai.

Copy f.w.cs.to:

The Chief Engineer, MSEDCL, Kolhapur Zone.

Copy to:

The Superintending Engineer (O&M), MSEDCL, Kolhapur Circle.

जवाहर शेतकरी सहकारी साखर कारखाना लि., हुपरी

श्री कल्लाप्पाणा आवाडेनगर, हुपरी-यळगूड ४१६ २०३, ता.हातकणंगले, जि.कोल्हापूर. (महाराष्ट्र)

फोन (०२३०) २४५०४०२, फॅक्स (०२३०) २४५०४०१

ई-मेल : kprjsssk@gmail.com

जा.क्र. : एडीएम/इले./ १६७० /२०१५

दिनांक : २० मे, २०१५

प्रति,
मा. मुख्य अभियंता (वाणिज्य),
महाराष्ट्र राज्य विद्युत वितरण कंपनी लि.,
प्रकाशगड, ५ वा मजला,
बांद्रा (पू), मुंबई.

विषय : २ X १२ मेगॅवॉट वीज खरेदी करार नुतनीकरणाबाबत...

संदर्भ : आपले पत्र क्र.कम./को-जन/जेएसएसएसकेएल/२२६५१,
दि.२० मे, २०१५.

मा. महोदय,

आपल्या वरील संदर्भिय पत्रानुसार आमच्या कारखान्याच्या बगॅसवर आधारीत सहवीज निर्मिती प्रकल्पाकरीता नव्याने वीज खरेदी करार करावयाचा असल्याने आपल्या सदर पत्रातील कलम ५ नुसार -

- पुढील वीज खरेदी कराराचा कालावधी हा ७ वर्षांचा राहिल.
- वरील संदर्भिय पत्रामध्ये नमूद केलेल्या वीज खरेदीचा दर कारखान्यास मान्य आहे.
- कारखाना जी वीज निर्यात करेल त्या वीजेवर रिन्थुएबल एनर्जी सर्टिफिकेट्सचा लाभ घेणार नाही.
- कारखाना वीज निर्मितीकरीता कोळशाचा वापर करित नाही.

वरील सर्व अटी व शर्ती कारखान्यास मान्य आहेत.

तेव्हा आपल्या कार्यालयाकडून वीज खरेदी कराराकरीता महाराष्ट्र विद्युत नियामक आयोग यांच्याकडे सदर प्रस्ताव मान्यतेसाठी पाठवून द्यावा, जेणेकरून वीज खरेदी करार लवकरात लवकर करून घेणे सोईचे होईल.

कळावे, ही विनंती.

आपला विश्वासू,
जवाहर शे.सह.सा.का.लि.करिता,


(बी.एम.कलावंत)

मुख्य कार्यकारी अधिकारी