



BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY  
COMMISSION

CASE NO. \_\_\_ OF 2020

Filing No.: \_\_\_\_\_

IN THE MATTER OF

PETITION FOR SEEKING APPROVAL FOR TENDER DOCUMENTS FOR  
FLOATING OPEN TENDERS UNDER MUKHYAMANTRI SAUR KRISHI VAHINI  
YOJANA (MSKVY) SCHEME.

IN THE MATTER OF

AND

REGULATION 85 OF MERC (CONDUCT OF BUSINESS) REGULATIONS, 2004.

REGULATION 18 & 19 OF MERC (RPO, ITS COMPLIANCE AND  
IMPLEMENTATION OF REC FRAMEWORK) REGULATIONS, 2009.

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD

.....PETITIONER;



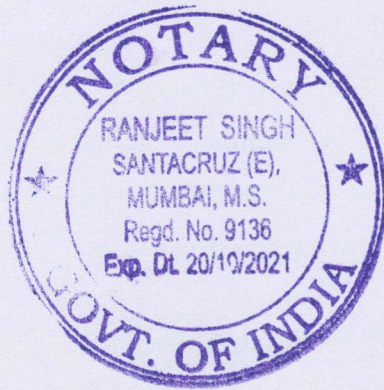
**AFFIDAVIT ON BEHALF OF PETITIONER (MSEDCL) VERIFYING THE  
PETITION**


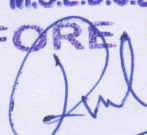
I, Shri. Nikhil Meshram, aged 39 years, having my office at MSEDCL, Prakashgad, Bandra (E), Mumbai- 400 051, do hereby solemnly affirm and state as under;

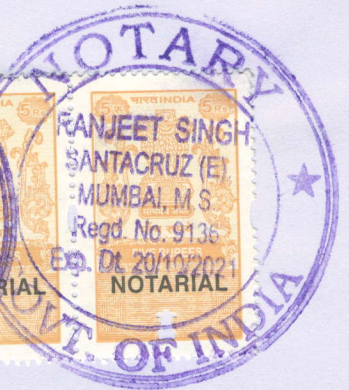
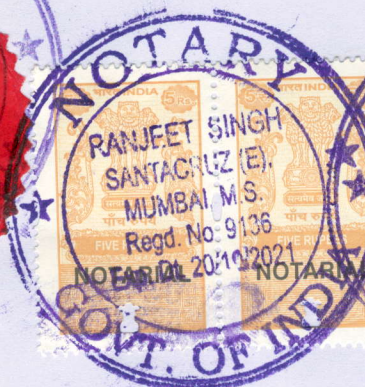
1. I am Chief Engineer (Renewable Energy) of the Maharashtra State Electricity Distribution Co. Ltd, (herein after referred to as "MSEDCL" for the sake of brevity), in the above matter and am duly authorized to make this affidavit.
2. The statements made in paragraphs of the petition are true to my knowledge and belief and statements made in paragraphs one to five 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 Petitioner is 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 Mumbai on 10<sup>th</sup> November, 2020 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.

Identified before me  
Mumbai  
Date - 10.11.2020.



  
Deponent  
**CHIEF ENGINEER (RE)  
M.S.E.D.C.L**  
**BEFORE ME**  
  
**RANJEET SINGH**  
M.Sc.LL.B.  
NOTARY  
MAHARASHTRA  
GOVT OF INDIA  
**10 NOV 2020**






The Petitioner respectfully submits as under:

1. **Background:**

- 1.1 Maharashtra State Electricity Distribution Co. Ltd. (hereinafter to be referred to as "MSEDCL" or "the Petitioner") has been incorporated under Indian Companies Act, 1956 pursuant to decision of Government of Maharashtra to reorganize erstwhile Maharashtra State Electricity Board (herein after referred to as "MSEB").
- 1.2 MSEDCL is a Company constituted under the provisions of Government of Maharashtra, General Resolution No. PLA-1003/C.R.8588/Energy-5 dated 25th January 2005 and is duly registered with the Registrar of Companies, Mumbai on 31<sup>st</sup> May 2005.
- 1.3 MSEDCL is functioning in accordance with the provisions envisaged in the Electricity Act, 2003 and is engaged, within the framework of the Electricity Act, 2003, in the business of Distribution of Electricity to its consumers situated over the entire State of Maharashtra, except some parts of city of Mumbai.
- 1.4 Hon'ble Maharashtra Electricity Regulatory Commission (Commission) has notified Maharashtra Electricity Regulatory Commission (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2019 that mandates Obligated Entities to comply with Renewable Purchase Obligation (RPO) targets.
- 1.5 Hon'ble Maharashtra Electricity Regulatory Commission (Commission) has notified Maharashtra Electricity Regulatory Commission (Terms and Conditions for Determination of Renewable Energy Tariff) Regulations, 2019 states that RE technology project entities can opt project-specific tariff in few cases.
2. **MERC Order dated 29.10.2020 in Case No. 189 of 2020**
- 2.1 MSEDCL, on 21.09.2020, filed the Petition before Hon'ble Maharashtra Electricity Regulatory Commission (Commission) seeking approval to float Open tenders and taking land on lease by paying rent under Mukhyamantri Saur Krishi Vahini Yojana (MSKVY) Scheme.
- 2.2 The Commission vide Order dated 29.10.2020 in Case No. 189 of 2020 directed MSEDCL to file modified RfS document after addressing the various issues and directions mentioned below, for approval of the Commission:



- 
- 2.2.1 Revisions in RfS documents as per amendments to guidelines time to time, if any.
  - 2.2.2 Approach to calling EoI before floating Tender
  - 2.2.3 Providing of lands upfront
  - 2.2.4 Specifying the formula for DC capacity to be considered for Change in Law computation
  - 2.2.5 Provision of formula in RfS document for arriving at per unit impact of Change in Law compensation to be recovered over the tenure of PPA
  - 2.2.6 Operational difficulties to already commissioned projects under MSKVY, if any.

2.3 It is respectfully submitted that in compliance with the Commission's Order dated 29.10.2020 in Case No. 189 of 2020, MSEDCL has prepared the Tender Documents i.e. RfS and Draft PPA considering the directions of the Commission and has addressed the issues mentioned below:


**2.3.1 Revisions in RfS documents as per amendments to guidelines time to time, if any.**

- a. MSEDCL in the next upcoming Tenders with monthly frequency will incorporate the necessary guidelines if there are any amendments or will come before the Hon'ble Commission for deviations in pursuance of the observations of the Hon'ble Commission regarding incorporating amendment in the **Guidelines for Development of Decentralised Solar Power Plants dated 13.12.2019** that will be issued by MNRE
- b. While preparing the Tender documents which are placed before this Hon'ble Commission through this Petition, above said guidelines dated 13.12.2019 has been taken into consideration except the deviation for minimum CUF of 19 % in line with the previous Tenders instead of the minimum CUF of 15 % mandated in guidelines.
- c. In this regards, MSEDCL humbly requests the Commission to allow this deviation considering the intention of MSEDCL for keeping similar CUF for the already contracted/commissioned under MSKVY.

**2.3.2 Approach to calling EoI before floating Tender**

- a. The Commission has directed MSEDCL to explore the possibility for arriving at the capacity for bidding by calling Expression of Interest (EoI).
- b. In this regards, it is to submit that MSEDCL, while selecting the district/circle capacity is relying on the Agricultural load in the district. Under MSKVY, MSEDCL is floating



- 
- tenders of 50 MW for the district/circle having agriculture load more than 100 MW and 25 MW for the district/circle having agriculture load more than 50 MW.
- c. Also, it is pertinent to note that MSEDCL even after enormous efforts during last 2-3 years could be able to contract only 527 MW against 1873 MW received Capacity through competitive bidding processes for 6500 MW under MSKVY. Five Tenders for 6500 MW capacity floated under MSKVY were under subscription and shown the same pattern for a period of almost two to three years.
- d. Such response is especially on account of un-viability of the Tariff and the un-availability of low cost lands in the State. Therefore, MSEDCL could hardly arrive at the situations to conduct e-reverse auction under MSKVY Tenders.
- e. In view of past experience and increasing shortfall in solar RPO against the gigantic Target till FY 2024-25 and therefore, MSEDCL's objectives for getting maximum capacity through the tendering process considering multifold benefits of de-centralized generation at the load centers and that to below the already adopted ceiling Tariff of Rs. 3.30 per unit. In such situations, getting stress on to make competition may further lead MSEDCL to shortfall in RPO and may deviate in power procurement plan as approved in Multi Year Tariff Order. Also, going for EOI mode initially will also consume time and will not be helpful considering the past experience.
- f. Further, the provisions of tender document have taken care of safeguarding against any gaming/cartel formation and in such cases, MSEDCL has the discretions to short close the tender or to cancel the tender, if the bids are abruptly high. .
- g. Therefore, MSEDCL respectfully requests the Commission to allow MSEDCL to float the Tenders based on the documents approved by Hon'ble Commission instead of calling EoI for saving in time

### 2.3.3 Providing of lands upfront

- a. MSEDCL in response to suggestion of the Hon'ble Commission for inclusion of provisions of lands upfront from day one, instead of waiting for 3 months, if land is available, it is most respectfully submit that one of the reason for under subscription of past tenders is due to unavailability of lands. Hence in order to facilitate the bidders MSEDCL came up with proposal of providing lands in case there is no response. However, land identification and further actions of possession takes some time.
- b. Also, MSEDCL is in process of development of online web portal for registering lands from interested farmers. As and when the portal will be functional and MSEDCL will register the Lands after verifying legality of documents submitted and list of such lands



INDIA

will be provided as a part of Tender documents and in such case the ceiling Tariff will be Rs. 3.11 per unit. Further, in such cases wherein lands will be provided by MSEDCL the Commissioning period will be allowed as 9 months instead of 12 months as per the guidelines. These both provisions viz. Rs. 3.11/- per unit ceiling tariff and ScoD period of 9 months will be incorporated in the future tender documents after lands will be in possession of MSEDCL.

- c. In this regards, MSEDCL respectfully requested that the Hon'ble Commission may acknowledge the efforts of MSEDCL by development of on-line land portal and allow some time instead of providing land at the outset and thus allow MSEDCL to initiate the tendering process time being without the provisions of lands and with the ceiling Tariff of Rs. 3.30 per unit.

#### **2.3.4 Specifying the formula for DC capacity to be considered for Change in Law computation**

- a. Hon'ble Commission directed to incorporate changes in bid conditions specifying the formula for DC capacity to be considered for Change in Law computation as follows:  
DC Capacity for Change in Law = AC Contracted Capacity x (Declared CUF/Minimum CUF stipulated in RfS)
- b. MSEDCL has included the same in its Draft PPA.

#### **2.3.5 Provision of formula in RfS document for arriving at per unit impact due to Change in Law event happened during construction period (compensation to be recovered over the tenure of PPA)**

- a. In compliance with the directions of the Hon'ble Commission, the methodology/formula for arriving at per unit impact of change in law compensation to be recovered over the tenure of PPA proposed by MSEDCL as below:


#### **Mechanism/ Methodology for the determination per unit rate of compensation due to change in Law of Change in Law**

For the Change in Law impact of every Rs. 1 Lakh, the compensation in terms of additional tariff will be Rs. 0.005 per unit (considering the carrying cost).

For calculation of the same following assumptions are considered by MSEDCL

- i. Capacity Utilization Factor (CUF) of 19% as in line with the RFS document
- ii. Depreciation is considered at 5.83% per annum for the first 12 years and remaining depreciation is spread over the remaining life of the plant in line with MERC (Terms and Conditions for Determination of Renewable Energy Tariff) Regulations, 2019.



- 
- iii. Entire additional capital cost due to impact of change in law is considered under debt (i.e. a debt equity ratio of 100:0)
  - iv. Interest rate is considered at 8% (MCLR of 7% as on 1<sup>st</sup> week of November 2020 plus 100 basis points) in line with MERC directions that the carrying cost should be less than that of late payment surcharge (which is 125 basis points above the SBI's 1-year MCLR in PPA)
  - v. O&M cost and Interest on Working Capital are not considered since the same will not be impacted by the Change in law during construction.
- b. Hon'ble Commission may suggest the best suitable methodology/formula safeguarding interest of both MSEDCL as well as bidders.

### 2.3.6 Operational difficulties to already commissioned projects under MSKVY, if any.

In this regards, MESDCL wants to submit that projects under this scheme are commissioned in recent time and operational difficulties may be observed over the time. Since, the projects under this scheme spread over the length and breadth of Maharashtra State, may have peculiar facts/issues/problems depending upon the various conditions such as load, agriculture crop pattern, availability water for irrigation, etc., which may differ also on year to year basis. Presently, individual's projects may have some project specific issues which may or may not be generic to all the decentralized projects. Hence, commenting on difficulties will be pre-mature.

3. In view of the submission made in the above mentioned paragraphs, MSEDCL humbly submits to approve the tender documents i.e. RfS and Draft PPA annexed to this Petition as Annexure-A and B respectively.


### 4. Prayers:

In view of above the Petitioner respectfully prays to the Hon'ble Commission:

- a) To allow MSEDCL to float the Tenders under Mukhyamantri Saur Krishi Vahini Yojana with the deviation in Guidelines for Development of Decentralised Solar Power Plants dated 13.12.2019 in regards to Minimum CUF from 15 % to 19 %.
- b) To initiate the tendering process without the provisions of lands with the ceiling Tariff of Rs. 3.30 per unit, till the online web land portal will be operational and land bank is available with MSEDCL in portal.
- c) To approve the formula/methodology as mentioned in para 2.3.5



- INDIA
- d) To approve the tender documents i.e. RFS and Draft PPA submitted as a part of this Petition
  - e) To consider the procurement of power through this process for fulfillment of RPO Targets.
  - f) To consider the submission made by the Petitioner and consider the same while deciding the Petition as well as for further actions;
  - g) To pass any other order/relief as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice;
  - h) To condone any error/omission and to give opportunity to rectify the same;
  - i) To permit the Petitioner to make further submissions, addition and alteration to this Petition as may be necessary from time to time.

  
Chief Engineer (Renewable Energy)

Place: Mumbai

Date: 10-11-2020

