

No. CE/RE/MERC/Co-Gen/2019/

16692

Date: 15.06.2019

To

The Secretary,

Maharashtra Electricity Regulatory Commission,

13th Floor, Centre No.1, World Trade Centre,

Cuffe Parade, Mumbai – 400 005.

Sub: Petition for seeking review of the Hon'ble Commission's Order dated 16.01.2019 in Case No. 278 of 2018.

Respected Sir,

With reference to the above subject, please find enclosed herewith the Petition for seeking review of the Hon'ble Commission's Order dated 16.01.2019 in Case No. 278 of 2018.

Vide NEFT No.MAHBH19161163284 dated 10.06.2019 through Bank of Maharashtra in favour of "Maharashtra Electricity Regulatory Commission Funds A/c", MSEDCL has remitted the fees for the present Petition.

Submitted for the kind consideration of the Hon'ble Commission.

Thanking you,

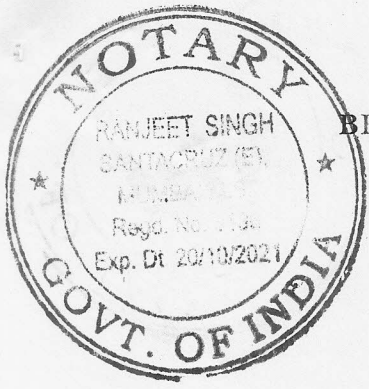
Yours faithfully,



Chief Engineer (Renewable Energy)

Copy s. w. r. to:

1. The Director (Commercial), MSEDCL, Mumbai.



BEFORE THE MAHARASHTRA STATE REGULATORY
COMMISSION

CASE NO. OF 2019

Filing No.: _____

IN THE MATTER OF

PETITION FOR SEEKING REVIEW OF HON'BLE COMMISSION'S ORDER DATED 16.01.2019 IN CASE NO. 278 OF 2018 IN THE MATTER OF MISCELLANEOUS APPLICATION IN CASE NO. 220 OF 2014 IN THE MATTER OF SECTION 86 (1) (E) OF THE ELECTRICITY ACT, 2003 AND SUGGESTIVE PROMOTIONAL MEASURES AS CALLED FOR BY THE ORDER DATED 2 MAY, 2018

IN THE MATTER OF

In the matter of Section 94(1) (f) of The Electricity Act, 2003;

AND

In the matter of Regulation 85 of Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 framed under Section 181 of the Electricity Act, 2003;

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD

.....PETITIONER;

AFFIDAVIT ON BEHALF OF PETITIONER (MSEDCL) VERIFYING THE PETITION



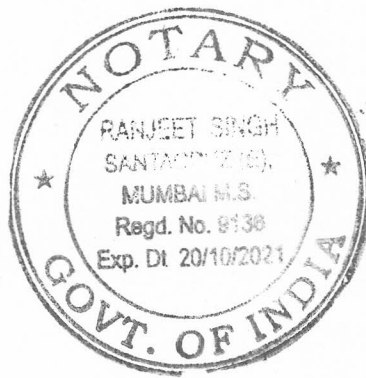
I, Mrs. Kavita Gharat , aged 41 years, having my office at MSEDCL, Prakashgad, Bandra (E), Mumbai- 400 051, do hereby solemnly affirm and state as under;

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 four 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 this **15 June, 2019** 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.

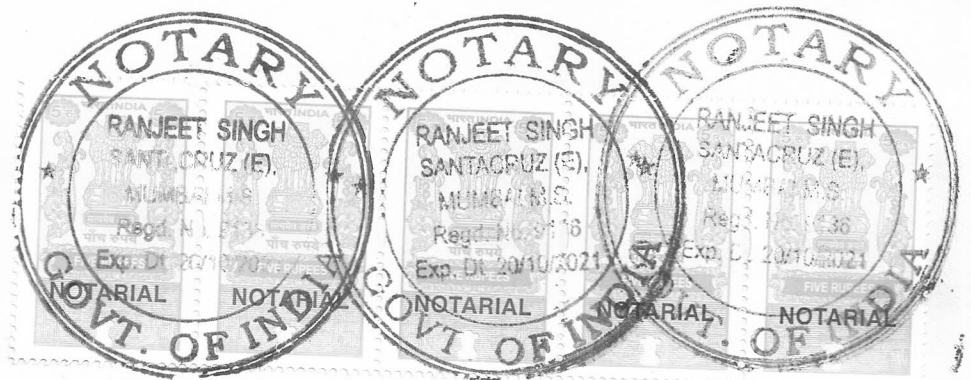
K. Gharat
Deponent


Identified before me
Mumbai
Date - 15.06.2019.



BEFORE ME
R Singh
RANJEET SINGH
M.Sc.LL.B
NOTARY
MAHARASHTRA
GOVT OF INDIA

15 JUN 2019





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 31st 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.

2. **Hon'ble Commission's Order in Case No. 278 of 2018 dated 16.01.2019:**

- 2.1. The Hon'ble Commission vide Order dated 16.01.2019 in Case No. 278 of 2018 in respect of Miscellaneous Application in Case No. 220 of 2014 filed by M/s Lloyds Metals & Energy Ltd. in the matter of Section 86 (1) (e) of the Electricity Act, 2003 and Suggestive Promotional Measures as called for by the Order Dated 2 May, 2018, directed as below:
 - 2.1.1. MSEDCL shall be the Nodal Agency to conduct Competitive Bidding exercise on behalf of all distribution licensees and shall approach the Commission for approval of SBD within 6 months of this Order.
 - 2.1.2. The Ceiling Rate for Competitive Bidding shall be INR 3.50/unit.
 - 2.1.3. The power procured from Fossil Fuel based Co-generation projects shall not be deducted from the total consumption of the Obligated Entities for their assessment of RPO.
- 2.2. In the same Order, the Commission also directed MSEDCL shall approach the Hon'ble MERC for approval of SBD within 6 months of the Order.
- 2.3. In the said Order the Hon'ble MERC has also fixed the Ceiling Rate for Competitive Bidding as INR 3.50 per unit.
- 2.4. The Hon'ble MERC also specified in the aforementioned Order that the power procured from Fossil Fuel based Co-generation projects shall not be deducted from the total consumption of the Obligated Entities for their assessment of RPO.

3. **Grounds for review:**

3.1. The APTEL in its judgment dated 2nd December, 2013 in Appeal No 53 of 2012 has held that Distribution Licensees cannot be fastened with the obligation to purchase a percentage of its consumption from fossil fuel based co-generation under Section 86(1)(e) of the EA. The relevant extract of the said judgment is reproduced herein below:


3.2. *“39. Upon conjoint reading of the provisions of the Electricity Act, the National Electricity Policy, Tariff Policy and the intent of the legislature while passing the Electricity Act as reflected in the Report of the Standing Committee on Energy presented to Lok Sabha on 19.12.2002, we have come to the conclusion that a distribution company cannot be fastened with the obligation to purchase a percentage of its consumption from fossil fuel based co-generation under Section 86(1)(e) of the Electricity Act, 2003. Such purchase obligation 86(1)(e) can be fastened only from electricity generated from renewable sources of energy.....”*

3.3. However, Hon’ble Commission in its Order dated Case No. 278 of 2018 dated 16.01.2019 has mentioned APTEL’s ruling regarding procurement of electricity from fossil fuel-based co-generation against the purchase obligation. Same is reproduced below:

“.....This important aspect has not been considered in the Century Rayon judgment, where in this Tribunal had held that the State Commission has to promote both co-generation as well as generation of electricity from renewable sources of energy. Accordingly, we feel that the State Commission could promote the fossil fuel-based co-generation by any other measures such as facilitate sale of electricity from such sources, grid connectivity, etc., but the State Commission could not compel the Distribution Licensee to procure electricity from fossil fuel-based co-generation against the purchase obligation to be specified under Section 86(1)(e) of the Electricity Act, 2003.....”

3.4. It is further submitted that the Hon’ble MERC in Case No. 56 of 2011 & 220 of 2014 had passed Order stating that Distribution Licensees cannot be fastened with the obligation to purchase power from fossil fuel-based co-generation.

3.5. MSEDCL submits that at present it is in a power surplus scenario. The surplus power is in the range of 2000-5000 MW particularly in night hours due to seasonal variation in power demand. In such scenario, MSEDCL is forced to back down power from certain generating station due to lower power demand particularly during night hours i.e. between 22.00 Hrs to 06.00 Hrs, in winter season and monsoon and power from conventional sources is requested to be backdown upto the variable cost of Rs. 1.50 to 2.00 per unit. Further the conventional sources power is being procured by MSEDCL at average variable rate of Rs. 2.40 to 2.50 per unit and the power from Fossil Fuel based Co-generation projects shall be supplied at a tariff of around Rs. 3.50 per unit, it would not be economically viable for MSEDCL to procure such power which will result into rise in its power purchase cost and shall unnecessarily burden the consumers of Maharashtra.

- 
- 3.6. Unlike MSEDCL, some of other Distribution licensees in the State have power deficit conditions and cannot even meet their base demand through their contracted long term power. The Tata Power Company Limited, Adani Energy Mumbai Limited and BEST Undertaking has the contacted the capacity of 700 MW, 1100 MW and 776 MW as against their average demand of 806 MW, 1436 MW and 826 MW respectively. Therefore, procurement of such power will be beneficial for these utilities to avoid power purchase cost of short term power and also can back down their highest variable cost generator.
- 3.7. MSEDCL also submits that as the power procured from such Fossil Fuel based Co-generation projects shall anyway not to be considered towards fulfillment of Renewable Purchase Obligation and also such power produced from waste heat gases as a by-product of the industrial process is infirm in nature. Therefore, purchasing of such fossil fuel based power at a tariff as high as at Rs. 3.50 per unit is much higher than the present tariff of RE sources like solar, wind, etc and would not be beneficial to MSEDCL and its consumers.
- 3.8. MSEDCL submits that the proposed competitive bidding mechanism for procurement of power from Fossil Fuel based Co-generation projects is intended or expected just in name competitive bidding as MERC has directed to procure all available energy of such participants, then the competition in the bidding process would not be there and the very objective of conducting a competitive bidding process will not be fulfilled and the entire process would be ineffective and would result with fed in tariff based power purchase.
- 3.9. In view of above, MSEDCL humbly requests Hon'ble Commission to relieve MSEDCL from the onus to conduct the competitive bidding process for procurement of power from Fossil Fuel based Co-generation projects, considering that the procurement of all available energy will not attract any competition. Also not to insist MSEDCL to purchase the power from fossil fuel based co-generation with ceiling Tariff of Rs. 3.50 per unit, when already with surplus power.

4. Prayers:

In view of the aforesaid facts and circumstances it is most respectfully prayed that this Hon'ble Commission may be pleased to:-

- a) Review the directions of the Hon'ble Commission in its Order dated Case No. 278 of 2018 dated 16.01.2019 and to release MSEDCL for preparing Standard Bidding Documents for the Competitive Bidding process and for conducting Competitive Bidding for procurement of power from Fossil Fuel based Co-generation projects.
- b) Renew and withdraw the direction issued for procurement of fossil fuel based co-generation with ceiling Tariff of Rs. 3.50 per unit
- c) To allow MSEDCL, the condonation of delay in the filing of review petition positively and in the interest of the consumers of MSEDCL.

- d) To consider the submission made by the Petitioner and consider the same positively while deciding the Petition as well as for further actions;
- e) 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;
- f) To condone any error/omission and to give opportunity to rectify the same;
- g) To permit the Petitioner to make further submissions, addition and alteration to this Petition as may be necessary from time to time.

Kohar
Chief Engineer (Renewable Energy)

Place & Date:

