



BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

AT MUMBAI

IA NO. _____ OF 2020

IN

CASE NO. 338 OF 2019

IN THE MATTER OF:

APPLICATION UNDER REGULATION 81 AND 92 OF THE MERC (CONDUCT OF BUSINESS)
REGULATIONS, 2004 FOR URGENT LISTING AND FOR SEEKING INTERIM/AD-INTERIM RELIEFS

AND

IN THE MATTER OF:

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD

The Chief Engineer (Renewable Energy)

Maharashtra State Electricity Distribution Co. Ltd.

Plot No G-9, Prakashgad

5th floor, Station Road

Bandra (East), Mumbai – 400051

...Applicant/Petitioner

VERSUS

1) MAHARASHTRA ENERGY DEVELOPMENT AUTHORITY

MHADA Commercial Complex

2nd floor Opp: Tridal Nagar

Yerwada. Pune - 411 006

...Respondents



AFFIDAVIT IN SUPPORT OF THE PETITION

I, Kavita Gharat, aged 43 years, Chief Engineer (Renewable Energy) of the Applicant/ Petitioner, having my office address at Bandra Mumbai, do solemnly affirm and say as follows:

1. I am an authorized representative of the Applicant/ Petitioner in the above matter and am duly authorized and competent to make this affidavit.
2. The statements made in paragraphs 7(A) to 7(G) of the accompanying Application are true to my knowledge and beliefs and statements made in rest of the paragraphs are based on legal advice 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 Applicant/ 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 3rd day of June 2021 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.

Kavita Gharat

Applicant/ Petitioner

Chief Engineer (Renewable Energy)
MSDCL
Prakashgad, 5th Floor,
Prof. Anant Kanekar Marg,
Bandra (East), Mumbai - 400 054

Identified before me

Place: Mumbai

Date: 03.06.2021

BEFORE ME

Shivaji N. Dhanage

Adv. Shivaji N. Dhanage
Notary Govt. Of India
Regd. No. 15376 MUMBAI (MS)
404-405, 4th Floor, Davar House,
197/199, Near Central Camera Bldg.,
D.N. Road, Fort, Mumbai - 400001
Mob.: 6788385738

NOTED & REGISTERED

Page No... **87** ...Sr. No... **513**

Dated... **3 JUN 2021** ...



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**APPLICATION ON BEHALF OF THE PETITIONER / APPLICANT FOR URGENT
CIRCULATION FOR PLACING THE MATTER FOR URGENT HEARING AND
FOR URGENT INTERIM RELIEFS**

MOST RESPECTFULLY SHOWETH:

1. The present application is filed by Maharashtra State Electricity Distribution Company Limited ("MSEDCL"), which 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") under Section 131 of the Electricity Act, 2003. MSEDCL is a Company constituted under the provisions of Government of Maharashtra, General Resolution No. PLA1003/C.R.8588/Energy-5 dated 25th January 2005 and is duly registered with the Registrar of Companies, Mumbai on 31st May 2005.
2. The Respondent No. 1 is an Agency registered as a Society under Societies Registration Act, 1860 (in 1985) and Bombay Public Trust, 1950 (in 1987). It provides assistance to State and Central Government to promote and develop new and renewable sources of energy and technologies and to promote and implement energy conservation. It works as the State Nodal Agency in renewable energy sector and state designated agency in energy conservation sector. It is committed to explore the resources such as Wind, Bagasse Cogen, Hydro, Biomass, Geothermal, Wave which are clean and ecofriendly in nature. Maharashtra Electricity Regulatory Commission vide its

order dated 01.07.2010 has designated Maharashtra Energy Development Agency (hereinafter referred to as "MEDA" for sake of brevity) as a State Agency to undertake functions as envisaged in MERC (Renewable Purchase Obligation (RPO), its Compliance and REC Framework implementation) Regulations, 2010.

3. The Applicant repeats, reiterates and confirms herein all that has been stated in the Petition therein for the same being true and correct and the same is not being reproduced herein for the sake of brevity.
4. In terms of Regulation 81 and Regulation 92 of the MERC (Conduct of Business) Regulations, 2004 ("COB Regulations") the Applicant/ Petitioner is filing the present Application praying for URGENT interim/ad-interim order to be passed by this Hon'ble Commission till the petition is finally adjudicated in the interest of justice and equity.
5. That detailed facts leading to the filing of the Petition have been enumerated in the Petition itself, and hence the same are not being repeated for the sake of brevity. That the contents of the Petition may be read as part of the present Application.
6. The Applicant in filing the present Application is invoking Section 94 of the Electricity Act, 2003 read with Regulation 81 and 92 of the COB Regulations. In terms of the said provisions, this Hon'ble Commission has been vested with powers to grant interim order at any stage and wide powers to permit a party to amend its Petition in the interest of justice.

The relevant provisions are being reproduced: -

- Regulation 81 of the COB Regulations: -

"Interim Orders, investigation, inquiry, collection of information, etc:

The Commission may pass such ad-interim or interim orders, as the Commission may consider appropriate at any stage of any proceedings, having regard to the facts and circumstances of the case."

- Regulation 92 of the COB Regulations: -

"Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission."

7. The Applicant submits that the urgent listing of above Petition is prayed for, under the above circumstances and due to the following grounds detailing extreme urgency:

- A) The Petition has been filed on 13.12.2019. It is respectfully submitted that the payments to be made towards wind energy should be arrived at in a scientific manner with complete

analysis of data of the project on field including the actual data. This informed, studied and scientific approach would be conducive to the interest of all stakeholders.

- B) The grievance of the Petitioner / Applicant that there is an erroneous Wind Zone Classification resulting in consequential financial losses being suffered by the DISCOM, in turn impacting the common consumers of the State, ought to be granted a redress.
- C) The MEDA Report dated 28.02.2019 needs to be critically appraised in line with the contentions raised by MSSEDCL.
- D) Any further delay in consideration of the matter would adversely impact the Petitioner / Applicant as the Wind Generators are receiving their payments as per the erroneous Wind Zone Classification.
- E) In the event, for any reason the matter is delayed, this Hon'ble Commission has the power and authority to pass ad-interim and interim orders permitting the Applicant to make payments to the Wind Generators in accordance with their actual CUF.
- F) This Hon'ble Commission has consistently and continuously since March 2020 considered the trials and tribulations of the lockdown which was the consequence of the worldwide Pandemic and noted the financial hardships suffered by various stakeholders. In this regard, the Petitioner /Applicant would

bring to the notice of this Hon'ble Commission that proper payments with correct Wind Zone Classification is need of hour, to alleviate the adverse financial situation of the Petitioner /Applicant.

- G) It is respectfully submitted that MSEDCL in the present case, is espousing the interests of the common consumers in the State, so that Wind Zone Classification is undertaken in a scientific and informed manner. The State Consumers would then be accordingly liable to pay for Wind Energy upon proper consideration of all available data and technological advances.
8. The Applicant submits that the present application is *bonafide* and preferred in the interest of justice including the interest of the common consumers of the State.
9. The Applicant submits that no prejudice will be caused to the Respondents if the prayers sought by the Applicant are allowed.
10. The Applicant, therefore, by way of this Application is praying for an early hearing of the Petition and requesting this Hon'ble Commission to expedite the hearing of the above Petition.
11. In light of the above-stated facts and circumstances, the Applicant humbly prays that this Hon'ble Commission may be pleased to:
- a) To grant urgent listing of the present matter for hearing as convenient to this Hon'ble Commission;

- b) Alternatively, permit the Petitioner /Applicant to pay the WTG as per their actual CUFs;
- c) pass any such further and other orders as this Hon'ble Commission may deem fit to pass in the facts and circumstances of the case.

Advocate for the Petitioner / Applicant

Place : Mumbai

Date : 03.06.2021.


Petitioner/Applicant
Chief Engineer (Renewable Energy)
MSEDCL
Prakashgad, 5th Floor,
Prof. Anant Kanekar Marg,
Bandra (East), Mumbai - 400 051



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PETITION OF MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO. LTD. FOR
RECLASSIFICATION OF WIND ZONES OF WIND ENERGY PROJECTS IN MAHARASHTRA

AND

IN THE MATTER OF:

Maharashtra State Electricity Distribution Company Ltd.Petitioner

Vs.

Maharashtra Energy Development Authority ...Respondent

To
The Secretary
Maharashtra Electricity Regulatory Commission

Dear Sir,

We are concerned for our client, Maharashtra State Electricity Distribution Company Ltd. ("MSEDCL"), the Petitioner abovenamed.

1. The above Petition is filed by MSEDCL pursuant to the provisions of Section 86 (1) (e) r/w Section 61 (b) to (d) and 62 (5) to (6), Section 86 (1) (b), Section 181 and other provisions of the Electricity Act, 2003 as applicable. In the above Petition, MSEDCL has prayed to amend the wind zone classification methodology as prescribed by the Respondent in conformity with the provisions of Section 86 (1) (e) read with r/w with Section 61, 64 and 181 and other provisions of the Electricity Act, 2003, after following the due process therefor. The Petitioner is also filing an Interim Application seeking urgent listing and urgent ad interim reliefs.
2. Case Details: The Maharashtra State Electricity Distribution Co. Ltd. has filed petition on 13.12.2019 being case No. 338 of 2019 for reclassification of wind zones for the wind projects in Maharashtra.
- 2) Contact details of the Advocate on Record: Mr. Rahul Sinha i/b. M/s. DSK Legal Advocates & Solicitors

Email ID of the AOR: Rahul.Sinha@dsklegal.com

Mobile No. of the AOR: 9769308822

Alternate Number of the AOR: 9920348294 [Ms. Prerna Gandhi]

Office Address: Dhanraj Mahal, C-16, 3rd floor, Chattrapati Shivaji Marg, Apollo Bunder, Mumbai – 400 001.

3. The Petitioner consents to the above matter being taken up for hearing through video conference mode.
4. The Advocate on Record for the Petitioner would link to the Hon'ble Commission through own Desktop / Laptop.
5. The Petitioner is forwarding the Mentioning Application to the Ld. Secretary, MERC at the Email ID ehearing@merc.gov.in.
6. The reasons for urgency necessitating the scheduling of the e-hearing:
 - A) The Petition has been filed on 13.12.2019 and has not been listed for hearing ever since.
 - B) The grievance of the Petitioner that there is an erroneous Wind Zone Classification resulting in consequential financial losses being suffered by the DISCOM, in turn impacting the common consumers of the State, ought to be redressed by this Hon'ble Commission.
 - C) Any further delay in consideration of the matter would adversely impact the Petitioner as the Wind Generators are receiving their payments as per the erroneous Wind Zone Classification and the MEDA Report dated 28.02.2019 needs to be critically appraised in line with the contentions raised by MSEDCL.
 - D) In the event, for any reason the matter is delayed, this Hon'ble Commission has the power and authority to pass ad-interim and interim orders permitting the Petitioner to make payments to the Wind Generators in accordance with their actual CUF.
 - E) This Hon'ble Commission has consistently and continuously since March 2020 considered the trials and tribulations of the lockdown which was the consequence of the worldwide Pandemic and noted the financial hardships suffered by various

stakeholders. In this regard, the Petitioner would bring to the notice of this Hon'ble Commission that proper payments with correct Wind Zone Classification is need of hour, to alleviate the adverse financial situation of the Petitioner.

- F) It is respectfully submitted that MSEDCL in the present case, is espousing the interests of the common consumers in the State, so that Wind Zone Classification is undertaken in a scientific and informed manner. The State Consumers would then be accordingly liable to pay for Wind Energy upon proper consideration of all available data and technological advances.
7. It is respectfully submitted that grave losses and prejudice would be caused to the Petitioner, in the event that the matter is not taken up for consideration, in extreme urgency.
8. It is therefore humbly prayed that the above Petition be listed on the Schedule of Hearing Cases, urgently.
9. In the circumstances, the Petitioner respectfully prays that:
- a. this Hon'ble Commission be pleased to list the above matter in the Schedule of Hearing Cases, urgently, for Remote Access Hearing through Video Conference;
 - b. Pass such further order or orders as this Hon'ble Commission may deem just and proper in the circumstances of the case.

Dated this 03rd day of June, 2021



DSK Legal
Advocate for the Petitioner