

No. CE/PP/ 14644

Date: 15/06/2018

To,  
The Secretary,  
Maharashtra State Regulatory Commission,  
World Trade Centre, Centre No. 01,  
13<sup>th</sup> Floor, Cuffe Parade, Mumbai.

Sub: Petition seeking review of the MERC'S Order dated 02.05.2018 (Case No. 111 of 2017) in the matter to regulate purchase and procurement process of Distribution Licensees, including the price at which electricity shall be procured from the Generating companies or from other sources through agreements for purchase of power for distribution and supply within the State.  
Ref.: Hon'ble MERC Order dated 02.05.2018 (in case no. 111 of 2017).

Dear Sir,

Maharashtra State Electricity Distribution Company Limited (MSEDCL) is hereby submitting the Petition seeking review of the Order no. 111 of 2017 dated 02.05.2018 in the matter to regulate purchase and procurement process of Distribution Licensees, including the price at which electricity shall be procured from the Generating companies or from other sources through agreements for purchase of power for distribution and supply within the State. The necessary fees as per MERC (Fees & Charges) Regulations 2004, of Rs. 10,000/- (Ten Thousand only) through RTGS has been paid vide UTR No. MAHBH18166533750 dated 15.06.2018 to Hon'ble Commission.

This may please be taken on record & be placed before Hon'ble Commission.

Thanking You.

Yours faithfully,

*K. Bharat*

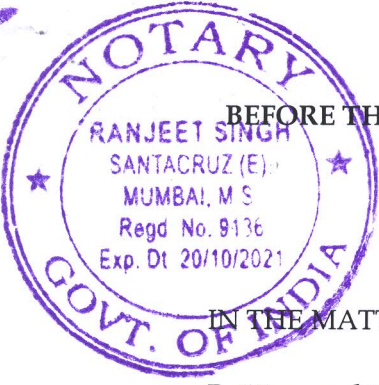
Chief Engineer (Power Purchase)  
MSEDCL

Encl. A/A

Copy s.w.r.to:  
The Director (Comm.), MSEDCL, Mumbai.

**Maharashtra State Electricity Distribution Company Limited**

5<sup>th</sup> floor, Prakashgad, Plot No.G-9, Bandra (East), Mumbai - 400 051 ■ (P) 26478643, ■ (O) 26474211,  
■ Fax- 26475012 Email: cepp@mahadiscom.in Website: www.mahadiscom.in



BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION, MUMBAI

PETITION No. of 2018

IN THE MATTER OF

Petition seeking review of the MERC'S Order dated 02.05.2018 (Case No. 111 of 2017) in the matter to regulate purchase and procurement process of Distribution Licensees, including the price at which electricity shall be procured from the Generating companies or from other sources through agreements for purchase of power for distribution and supply within the State.

Maharashtra State Distribution Co. Ltd.

... Petitioner

Vs.

Maharashtra State Power Generation Company Limited

... Respondent

**Affidavit in support of Review Petition**

I, Kavita Gharat, aged 40 Years, having my office at MSEDCL, Prakashgad, Plot No.G-9, Anant Kanekar Marg, Bandra (E), Mumbai-400051 do solemnly affirm and say as follows:

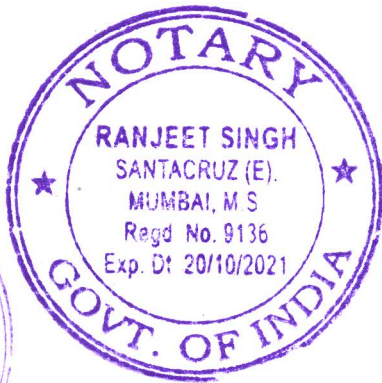
I am Chief Engineer (Power Purchase) of Maharashtra State Electricity Distribution Co. Ltd., the Petitioner in the above matter and am duly authorized by the said Petitioner to make this affidavit.



The statements made in the enclosed Petition seeking review of the Order no. 111 of 2017 dated 02.05.2018 in the matter to regulate purchase and procurement process of Distribution Licensees, including the price at which electricity shall be procured from the Generating companies or from other sources through agreements for purchase of power for distribution and supply within the State are based on the information received from the concerned officers of the Company and I believe them to be true.

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 relief sought are identical or similar to the issues arising in the matter pending before the Commission.

I solemnly affirm at Mumbai on this 15<sup>th</sup> day of June, 2018 that the contents of this affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from.



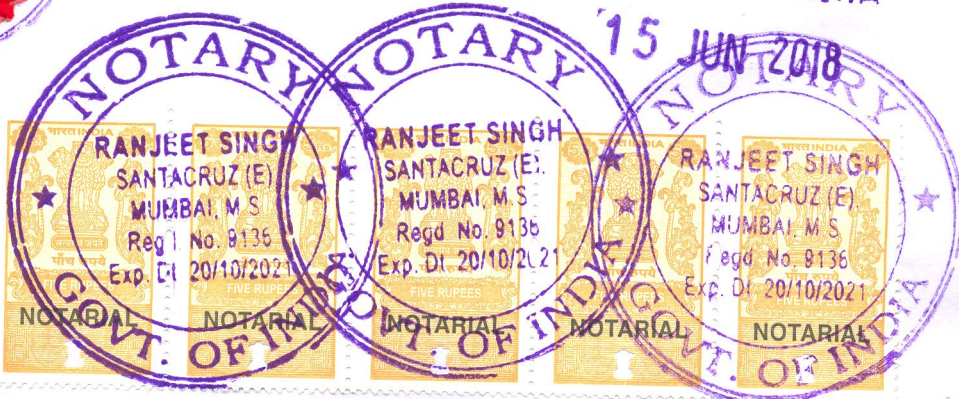
*M. S. E. D. C. L.*  
Chief Engineer (Power Purchase)  
M. S. E. D. C. L.

Deponent  
**BEFORE ME**

*R. S.*

**RANJEET SINGH**  
M Sc LL B.  
NOTARY  
MAHARASHTRA  
GOVT OF INDIA

15 JUN 2018





BEFORE THE HON'BLE MAHARASHTRA ELECTRICITY  
REGULATORY COMMISSION, MUMBAI

Case No. of 2018

**IN THE MATTER OF**

Petition seeking review of the MERC'S Order dated 02.05.2018 (Case No. 111 of 2017) in the matter to regulate purchase and procurement process of Distribution Licensees, including the price at which electricity shall be procured from the Generating companies or from other sources through agreements for purchase of power for distribution and supply within the State.

**IN THE MATTER OF:**

Maharashtra State Electricity Distribution Company Limited  
5th Floor, Prakashgad,  
Plot No. G-9, Bandra (East),  
Mumbai - 400051

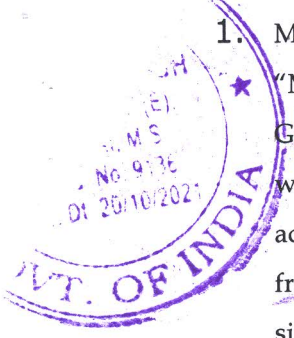
**... PETITIONER**

Maharashtra State Power Generation Company Limited  
2<sup>nd</sup> Floor, Prakashgad,  
Plot No. G-9, Bandra (East),  
Mumbai - 400051

**... RESPONDENTS**



## Background:

- 
1. Maharashtra State Electricity Distribution Company Limited (hereinafter to be referred "MSEDCL") is a Company constituted under the provisions of Government of Maharashtra General Resolution No. PLA - 1003 / C. R. 8588 dated 25th January 2005 and is duly registered with the Registrar of Companies, Mumbai on 31st May 2005. MSEDCL is functioning in accordance with the provisions envisaged in the Electricity Act, 2003 and is engaged, within the framework of Electricity Act, 2003, in the business of distribution of electricity to its consumers situated over the entire State of Maharashtra, except Mumbai City & its suburbs (excluding Mulund & Bhandup).
  2. MSEDCL has filed a petition (Case No. 111 of 2017) before the Hon'ble Commission to regulate purchase and procurement process of Distribution Licensees, including the price at which electricity shall be procured from the Generating companies or from other sources through agreements for purchase of power for distribution and supply within the State.
  3. The Hon'ble Commission issued an order dated 2nd May 2018 (Case no. 111 of 2017) (Annexure- I), ruling that the Commission is not inclined to initiate the amendment of Regulations 44 and 48 of the MYT Regulations, 2015 as proposed by the petitioner due to the following grounds:
    - I. Hon'ble Commission is separately initiating process of reviewing ABT order and FBSM applicable in the state
    - II. MSEDCL may also approach the CEA for it's inputs and views with regard to its contention for it's monthly instead of annual normative availability
    - III. MSEDCL should put in place a system for monitoring not only the coal stocks available with the contracted Generators and shortfall or otherwise in coal supply.
    - IV. MSEDCL can request MSLDC to ask for demonstration of the declared capacity of the relevant Generating Stations or Units. A monitoring system for periodical assessment of declared capacity could also be put in place. If the Generator fails to demonstrate the declared capacity, the Regulations provide for the consequences.

However, the Petitioner submits that in the ibid order dated 02nd May 2018, there are certain apparent errors or the non-consideration of petitioner's submission and the Petitioner has apprehension over the way certain issues have been dealt with by the Hon'ble Commission and the Petitioner is approaching the Hon'ble Commission with this Petition seeking review of the said order in matter of to regulate purchase and procurement process of Distribution Licensees, including the price at which electricity shall be procured from the Generating companies or

from other sources through agreements for purchase of power for distribution and supply within the State.

4. MSEDCL has come up with this review petition with positive intention to provide quality, reliable and economical supply to the end consumers. Hence, it is contended in this review petition to determine the minimum limit of monthly availability of a generation unit and has proposed 80% minimum availability. After submitting the actual analysis of the generator's availability, it is also requested to the Hon'ble Commission for disallowing the fixed capacity charges on monthly basis instead of cumulative annual basis and to make necessary amendments in MERC MYT regulation 2015.

### Reason for Review Petition

5. MSEDCL humbly submits that Hon'ble Commission, vide its order dated 02.05.2018 (in case no. 111 of 2017) has failed to address following MSEDCL's concern:
- I. In spite of demonstrating by analysis of actual availability data by MSEDCL, Hon'ble commission has failed to redress the issue of gaming in declaring the capacity of generating stations/unit in lean demand period by the generator.
  - II. Hon'ble Commission has also failed to address the MSEDCL's concern regarding the minimum monthly availability from the long term generators which is important and quintessential for providing the reliable and economic power supply to the consumers.
  - III. Hon'ble Commission has not considered MSEDCL's concern regarding the capacity demonstrations and role of SLDC thereof;
- AND
- IV. Compliance of the Hon'ble Commission directives regarding formation of Coal monitoring cell and proposed Generating Availability Committee.

The Petitioner is submitting this Petition seeking review of MERC Order dated 02nd May 2018 for kind consideration of the Hon'ble Commission.

### 6. Provisions of Review:

- a) Electricity Act 2003

Section 94 (1) (f) of the Electricity Act 2003 allows the Appropriate Commission to review its own decisions, directions and orders. The relevant clause is reproduced below for reference:

“

#### ***94. Powers of Appropriate Commission***

***(1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court***



under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:--

.....  
(f) reviewing its decisions, directions and orders;  
....."

b) MERC Regulation:

Regulation 85 (Review of Decisions, Directions & Orders) of MERC (Conduct of Business) Regulations, 2004, which is reproduced here below:

"

85 (a) - Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal has been allowed, may, upon discovery of new & important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a Review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Commission."

7. Based on the above Section of the Electricity Act, 2003 and the relevant Regulations issued by the Hon'ble Commission, the Petitioner requests the Hon'ble Commission to admit the Petition without prejudice to its rights to seek redressal under the Appellate remedy provided in Section 111 of the Electricity Act, 2003 or by initiating any other proceedings as may be advised.

### MSEDCL Submission

8. Regarding the review of the FBSM mechanism, MSEDCL submits that in May 2012, CE (MSLDC) has filed the petition vide case 56 of 2012 for removal of difficulties in operation and implementation of intrastate ABT order and FBSM. After a series of hearing, Hon'ble MERC formed the committee in April 2013 to review FBSM under the chairmanship of Shri. Khaparde, Professor (Electrical Dept.), IIT, Mumbai. The committee after exhaustive deliberation and study submitted the detail report with recommendations to the Hon'ble commission in August 2013. MSEDCL submits that even after the lapse of about 05 years, the order in the matter to address the issues in FBSM is not issued by the Hon'ble commission till date.
9. As per the MYT Regulation 2015, the definition of "Declared Capacity" is as under:  
"Declared Capacity" means, in relation to a generating Station, the capability to deliver ex-bus electricity in MW declared by such generating Station in respect of any time-block of the day as defined in the State Grid Code or whole of the day, taking into account the

*availability of fuel or water, and subject to further qualification in the relevant Regulation."*

10. In this regards, MSEDCL humbly submits that the definition of Declared Capacity is self-explanatory and it is expected that the thermal generating units to demonstrate the availability of its units/station. The availability has a wider scope and it is mandatory to the generators for providing continuous and reliable power from its thermal generating units to the distribution utility for the whole month. The generators has to ensure the availability of the capacity out of the contracted capacity for the whole month and accordingly has to ensure that fuel/water and other such require to provide the consistent capacity throughout the month only with exceptions of breakdown if any.
11. Hence, in consideration of the importance of the fuel to declare the consistent, reliable capacity to be declared, Central Electricity Authority (CEA) has determine the minimum coal stock availability with the thermal generating stations in its regulation. Accordingly, CERC and this Commission also considered this fact and have allowed Interest on Working Capital (IoWC) for coal stock of 15 days for pithead and 30 days for non-pit head.
12. CEA periodically reviews the requirement of the coal for thermal generators premises and makes necessary amendments in coal stock requirements. Accordingly, recently, vide notification no. no. CEA/Yojana/FM/1/42/2017/6055-6113 dtd. 08.11.2017 has already issued the guidelines for maintaining the coal stock at the thermal generating stations for thermal power plants on the basis of the distance and location as under:

Distance of Power Plant	Number of Days of Stock
Pit-head Station	15
Upto 500 kms from coal mine	20
Upto 1000 kms from coal mine	25
Beyond 1000 kms from coal mine	30

This amply clears the importance of an availability of fuel and declaration of monthly capacity of the generating unit/station.

### **Minimum Monthly Availability**

13. MSEDCL submits that the coal allocation against FSA to a generating unit is distributed quarterly considering the seasonal variation in power demand as follows:

Q1 - 25%,            Q2 - 22%,            Q3 - 25% and            Q4 - 28%



Further, in case generating company fails to lift the coal in specific quarter, the balance un-lifted coal quantum is disallowed to the generator. Thus it is clear from this allocation that FSA also takes care of the variation power demand throughout the year and also the disallowance of the coal on none lifting.

14. MSEDCL further submits that in case of lower scheduling below Minimum Off take of 65%, there is the provision in PPA for compensation to the generators by procurers i.e. in case procurer provides lower schedule below 65% and due to this generating station is unable to lift the coal from coal companies and further due to this low lifting coal companies i.e. CIL/SCCL as per FSA provision levy the penalty on thermal generating station then such penalty amount is recovered from the procurers i.e. Distribution Licensees.

15. If it is so; then MSEDCL submits that there should also be provision of disallowance of capacity charges / or a penalty which should take care in case where procurer (Distribution Licensees) gives the schedule to the generators and if generators is unable to supply pre-determined capacity (MSEDCL has proposed 80% of contracted capacity) for that month.

Hence, MSEDCL once again humbly request this Hon'ble Commission to consider this issue for declaring the availability and also to make the necessary changes in the regulations.

### **Compliance of the MERC's Order dated 02.05.2018 (in case no. 111 of 2017)**

#### **Coal Monitoring Committee**

16. It is submitted that, Hon'ble Commission, vide its Daily Order dated 20.12.2017, has observed as under:

*"...it is necessary to put in place a system for monitoring not only the coal stocks available with the Generators and the shortage or otherwise of coal to be supplied by CIL, but also if indenting for coal has been undertaken diligently by the Generators in lean periods so that sufficient stock is available for periods of high power demand and /or when there is a shortfall in coal supply by CIL."*

Further, Hon'ble Commission has directed MSEDCL to inform the actual or proposed coal monitoring system.

17. In compliance of the Hon'ble Commission directive, MSEDCL, on 27.02.2018, had submitted the MSEDCL has already form a Coal Monitoring Committee looking after following functions:

- Daily Coal Stock Report is gathered from all IPPs viz. APML, RIPL, GMR Warora and from MSPGCL.

