

CE/RE/Petition/ **h 0 2097**

Date: **20 JAN 2020**

To,  
**The Secretary,**  
Maharashtra Electricity Regulatory Commission,  
13<sup>th</sup> Floor, Centre No.1, World Trade Centre,  
Cuffe Parade, Colaba,  
**Mumbai - 400 005.**

**Sub:** Filing of Petition for removal of difficulty under Regulation 19 of MERC (Renewable Purchase Obligations, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2019.

Respected Sir,

Please find enclosed herewith Petition for removal of difficulty under Regulation 19 of MERC (Renewable Purchase Obligations, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2019

The requisite fee of Rs. 10,000 is paid through RTGS vide UTR No. MAHBH20017372199 dated 17.01.2020.

Submitted for your further needful please.

Thanks & Regards,

*sb Karad*

**Chief Engineer (Renewable Energy)**

**Copy s.w.r. to:**

The Director (Commercial), MSEDCL, Mumbai.



BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY  
COMMISSION

CASE NO. \_\_ OF 2020

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

IN THE MATTER OF

PETITION FOR REMOVAL OF DIFFICULTY UNDER REGULATION 19 OF  
MERC (RENEWABLE PURCHASE OBLIGATIONS, ITS COMPLIANCE AND  
IMPLEMENTATION OF RENEWABLE ENERGY CERTIFICATE FRAMEWORK)  
REGULATIONS, 2019.

AND

IN THE MATTER OF

RELAXATION OF PENALISED CLAUSES UNDER RPO REGULATIONS, 2019 TO  
THE EXTENT OF NON-FULFILMENT OF RPO TARGET BY 2022-23.

AND

FIXING OF TARIFF FOR PROCUREMENT OF POWER FROM RE SOURCES  
POST EXPIRY EPA

AND

SEEKING INCREASE IN CEILING TARIFF FOR PROCUREMENT OF SOLAR  
AND WIND POWER THROUGH COMPETITIVE BIDDING PROCESS

AND

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

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD

.....PETITIONER;

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

I, Mrs. Kavita Gharat, aged 42 years, having my office at MSEDCL, Prakashgad, Bandra (E),  
Mumbai- 400 051, do hereby solemnly affirm and state as under;

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 **20 January, 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.

  
Deponent

Identified before me

Mumbai

Date - 20.01.2020.

**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.

**2. MEDCL Position in RPO Targets**

2.1 In line with Maharashtra Electricity Regulatory Commission (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2016, MSEDCL has achieved the Solar RPO target up to FY 2015-16 and Non-Solar target up to FY 2017-18. The status of the RE procurement shortfall is as mentioned under -

Period	Solar (Mus)	Non-Solar (Mus)
FY 2016-17	671	0
FY 2017-18	1476	0
FY 2018-19 (Provisional)	1321	1933
<b>Total</b>	<b>3468</b>	<b>1933</b>

2.2 It is submitted that, MSEDCL is trying to fulfill the above said shortfall in RPO target by purchase of RECs and energy. Considering the existing shortfall and future RPO targets, MSEDCL needs to procure additional RE power for fulfillment of RPO targets.

- 2.3 Further, it is respectfully submitted to the Hon'ble Commission that MSEDCL is facing difficulties in purchasing RECs due to non-availability of sufficient quantities of RECs and increased rates of RECs in the market. The REC prices discovered in the market for the months of November 2019 and December 2019 are provided below, for the kind reference-

Month	Buy Bids (REC)	Cleared Price(Rs/REC)
Nov-19	Solar	2,400
	Non-Solar	1,800
Dec-19	Solar	2,400
	Non-Solar	2,000

### 3. MERC RPO Regulations, 2019.

- 3.1 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, and mandated Obligated Entities to purchase minimum quantum of Renewable Energy as stipulated below –

*7.1 Every Obligated Entity shall procure electricity generated from eligible RE sources to the extent of the percentages, out of its total procurement of electricity from all sources excluding energy from Hydro power in a year, set out in the following Table :—*

Year	Quantum of purchase (in %) from Renewable Energy sources (in terms of energy equivalent in kWh)		
	Solar	Non-Solar (other RE)	Total
(a)	(b)	(c)	
2020-2021	4.50%	11.50%	16.00%
2021-2022	6.00%	11.50%	17.50%
2022-2023	8.00%	11.50%	19.50%
2023-2024	10.50%	11.50%	22.00%
2024-2025	13.50%	11.50%	25.00%

- 3.2 The Hon'ble Commission has also set out penalties for any shortfall in meeting the targets as set in Regulation 7 of Maharashtra Electricity Regulatory Commission (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2019 as stipulated below –

12.3. Any shortfall in meeting the minimum percentage of RE as specified in Regulation 7 may be carried forward from FY 2020-21 and FY 2021-22 to FY 2022-23 and from FY 2023-24 to FY 2024-25 and Obligated Entity shall meet such shortfall on cumulative basis by 31 March 2023 and 31 March 2025, respectively;

Provided that Distribution Licensee shall be subjected to reduction in Annual Revenue Requirement at a rate of Rs 0.10 per kWh for cumulative shortfall in total RE procurement target for each year;

Provided further that other Obligated Entities shall be subjected to penalty of Rs. 0.10 per kWh for cumulative shortfall in total RE procurement target for each year;

Provided further that any cumulative shortfall in RE procurement as on 31 March 2023 and/or 31 March 2025 shall not be carried forward for next year and be adjusted by imposing reduction in ARR for Distribution Licensees and imposing penalty for other Obligated Entities, at rate of floor price of respective REC as on that date;

Provided further that if Obligated Entity is able to demonstrate that even after taking all possible measures including procurement of RECs, it is not able to meet RPO then the Commission may reduce the penalty amount subject to conditions as may be stipulated in that Order....”

#### 4. Renewable Energy Position of MSEDCL

- 4.1 As on 31.12.2019, MSEDCL has contracted 4,017MW capacity of Solar Power and 6,778 MW capacity of Non-Solar Power. Breakup of source wise contracted and commissioned capacity is as below –

S. No.	Source	Contracted Capacity in MW	Commissioned in MW
1	Solar	4017	2109
2	Wind	3999	2999
3	Bagasse based Co-generation	2406	2248
4	Biomass	236	182
5	Small Hydro	121	112
6	Municipal Solid Waste	16	4
	<b>Total</b>	<b>10795</b>	<b>7654</b>

- 4.2 Further, some of Energy Purchase Agreements (EPAs) of MSEDCL are expiring in the upcoming years during when RPO obligation is to be met. Out of 7,654MW of total commissioned Renewable Power, EPAs of 1,765.77MW will be expiring during years from FY 2019-20 to FY 2023-24. The Source wise details of the same as shown below –

( in MW)

Technology	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
<b>Wind</b>	<b>495.3</b>	<b>220.25</b>	<b>141</b>	<b>43.57</b>	<b>223.45</b>
Bagasse	67	43.5	0	73.7	297
Biomass	0	16	71	10	40
Small/Mini/Micro Hydro	0	3	2.25	10	8.75
<b>Total</b>	<b>562.3</b>	<b>282.75</b>	<b>214.25</b>	<b>137.27</b>	<b>569.2</b>

4.3 To achieve RPO targets as set out by Hon'ble Commission in the RPO Regulations, 2019 MSEDCL will be required to procure around 8000 MW additional Solar and around 2000 MW additional Non-Solar power.

#### 5. MSEDCL's efforts for RE procurement.

5.1 To achieve the RPO targets set by the Hon'ble Commission, MSEDCL has been aggressively calling for tenders through transparent competitive bidding from December 2017, under Solar and Non-Solar category. Details of such tender under both categories are summarized below discussed further –

S.No.	Technology	No.of Tenders (Nos)	Total Tendered Capacity (MW)	Rate discovered (Rs/unit)	Bid received	Contracted Capacity (MW)
1	Solar	11	10650	2.71-3.30	4085	2235
2	Wind	6	2450	2.52-2.87	594	588
3	Bagasse	8	1179	4.75-4.99	471.85	411.85
4	Others (Wind-Solar Hybrid)	2	180	-	0	0
	<b>Total</b>	<b>27</b>	<b>14459</b>	<b>0</b>	<b>5150.85</b>	<b>3234.85</b>

#### 5.2 Solar power Tenders under MSKVY

5.2.1 The Government of Maharashtra (GoM) vide Government Resolution (G.R) dated 14 June, 2017 and its amendment dated 17.03.2018 has issued Policy under "Mukhyamantri Saur Krishi Vahini Yojana" "Muprovide power to Agricultural (AG) Consumers during day time by installation of Solar Projects and appointed Maharashtra State Power Generation Company Limited (MSPGCL) and MSEDCL as implementation agency.

5.2.2 The details of tenders floated by MSEDCL under "Mukhyamantri Saur Krishi Vahini Yojana" through competitive bidding is as shown below:

Sr. No.	Date of Tender	Capacity of Tender (MW)	Bids received (MW)	Tariff discovered (Rs/kWh)	PPAs signed (MW)
---------	----------------	-------------------------	--------------------	----------------------------	------------------

Sr. No.	Date of Tender	Capacity of Tender (MW)	Bids received (MW)	Tariff discovered (Rs/kWh)	PPAs signed (MW)
1	27.04.2018	1000	235	3.09 to 3.15	235
2	15.09.2018	1400	180	3.29 to 3.30	Nil
3	07.01.2019	1400	1170	3.16 to 3.30	10
4	20.09.2019	1350	5	3.14	Under process
		5150	1590		245

5.2.3 The abstract shows the tenders floated under MSKVY are under subscription and has shown the same pattern for a period of almost two years. Out of total tendered capacity of 5150 MW under MSKVY, bids for only 1590 MW capacity received and Power Purchase Agreements for 245 MW Solar capacity were executed.

5.2.4 For the tender floated on 15.09.2018 for 1400 MW capacity, bids for 180MW were received and after the reverse auction, Tariff of Rs. 3.29 per unit (30 MW) to Rs. 3.30 per unit (150 MW) were discovered. Subsequently, the Commission vide Order dated 15 February 2019 in Case No. 7 of 2019, Hon'ble commission approved signing of PPAs at the discovered tariff subject to the condition that MSEDCL should deduct Rs. 0.18/kWh from the discovered tariff, if bidders were found to have not paid the safeguard duty actually.

The Commission's ruling in the Order dated 15.02.2019 is reproduced below:

"....2. The Commission accords approval for signing the PPAs with the above parties as per the rates discovered through the competitive bidding process.

3. MSEDCL is directed to submit the copy of invoices which underscores Safe guard Duty paid by the bidders after SCOD of the projects. In case the Safe guard duty is not paid by the bidders, MSEDCL shall reduce Rs 0.18/Unit from the discovered Tariff.

4. The Solar power procured from these projects shall be counted towards fulfilment of its Solar RPO for the respective periods. ..."

5.2.5 Further, MSEDCL filed the review Petition to review the Commission's Order dated 15.02.2019 in Case No. 7 of 2019, to the extent of change in tariff by 18 paise/unit on account of safe guard duty. The Hon'ble Commission vide Order dated 22.04.2019 dismissed the review Petition and clarified as below:

"...2. However, the Commission clarifies that condition of deduction of Rs. 0.18 per unit is applicable only when bidder imports solar panel / module from the Countries to whom Safeguard Duties have been made applicable and bidder has not incurred any expenditure on Safeguard Duty. It is not applicable for import of solar panel / module



*from other countries or sourcing it from domestic manufacturers. Further, in order to maintain fairness of the competitive bidding process, the Commission suggests to Maharashtra State Electricity Distribution Co. Ltd to allow the bidders to withdraw their bids if such condition imposed by this Commission in impugned Order dated 15 February, 2019 is not acceptable to the bidders. Maharashtra State Electricity Distribution Co. Ltd may conduct fresh competitive bidding process for such capacity. ...”*

5.2.6 Accordingly, both the successful bidders did not accept the condition and withdrawn their bids and therefore, MSEDCL returned bank guarantee towards EMD to the bidders without signing of PPA.

5.2.7 Further, as directed by the Hon'ble Commission, MSEDCL floated fresh tender on 07.01.2019 for 1400 MW Solar capacity. In response to this, bids for 1170 MW were received and after completion of reverse auction, tariff ranging between Rs. 3.16 per unit to Rs. 3.30 per unit were discovered. Subsequently, MSEDCL filed Petition before the Hon'ble commission for adoption of Tariff and Hon'ble Commission vide Order dated 07.06.2019 in Case No. 64 of 2019 directed MSEDCL to renegotiate the tariff with the bidders. the relevant directions are reproduced below:

*“...26. In view of the above, rate proposed for adoption under present Petition is clearly not in accordance with recent rates discovered by MSEDCL and so adopted by this Commission by various Orders which includes the adoption of rates of Rs.3.10/unit under Mukhyamantri Saur Krishi Vahini Yojana. However, considering the importance of the Scheme and its benefit to the system and the farmers, the Commission thinks fit to direct MSEDCL to renegotiate the tariff with the bidders to bring the same in the range of tariffs as has been adopted by the Commission recently. In case the renegotiated tariffs are similar and in the range as per the adopted tariffs in Case No 277 of 2018 dated 27 November, 2018, the Commission deems the same approved and no new Petition needs to be filed.*

*27. Such negotiations may enable MSEDCL to procure part quantum of the tendered power from the generators who are willing to supply power at the rates which have been discovered in similar tender. This action is possible for MSEDCL as the tender for procurement is in stand alone / small capacities. This will ensure that part procurement will commence immediately. For balance quantum if necessary, MSEDCL may take further action by re-tendering the balance/ required quantity.*

5.2.8 As per directions the orders of the Hon'ble Commission, MSEDCL approached the bidders renegotiate the tariff. However, only Kosol Energie Pvt. Ltd. agreed to renegotiate the tariff from Rs. 3.16 per unit to Rs. 3.15 per unit for supply of power from its 10 MW solar power project. Therefore, MSEDCL file review Petition to adopt the Tariff discovered through competitive bidding in respect of 1160 MW capacity of solar power projects. The Hon'ble Commission vide Order dated 09.08.2019 in Case No. 168 of 2019 rejected MSEDCL's prayer and ruled that rate proposed for adoption is clearly not in consonance with the market condition and hence cannot be adopted.

Further, the remaining bids of capacity 1160 MW have been withdrawn by the successful bidders and therefore the bank guarantee towards EMD were returned to the bidders.

5.2.9 MSEDCL would like to submit that further solar tenders under MSKVY received poor response, due to the various reasons including the renegotiation of Tariff and post bidding change of terms, etc.

### 5.3 Solar power Tenders other than MSKVY

5.3.1 MSEDCL floated following inter/intra state Solar tenders during last two years. The details are as follows.

S. No.	Tender Type	Capacity (MW)	Tender Date/ Month	Ceiling Tariff (Rs./kWh)	Capacity of bids received (MW)	Discovered Tariff (Rs./kWh)
1	Inter/Intra state	1000	09.04.2018	3.00	1000	2.71 to 2.72
2	Inter/Intra state	1000	05.12.2018	2.90	1000	2.74 to 2.75
3	Inter/Intra state	1000	04.06.2019	2.80	0	NA
4	Inter/Intra state	500	23.08.2019	2.80	0	NA
5	Intrastate	500	22.11.2019	2.90	500	2.89 to 2.90
6	Intrastate	500	27.12.2019	2.90	-	In process

5.3.2 It is also important to note here that even in the Grid connected Inter/Intra state Solar Tenders of total 1500 MW Capacity did not receive any response on account of the lower ceiling Tariff which tends MSEDCL to increase the ceiling Tariff to Rs. 2.90 per unit in further tenders for active participation of the bidders.

5.4 MSEDCL has also issued few technology agnostic tenders as listed below. The Hon'ble commission may kindly note that none of these tenders have received any response from the bidders even after multiple extensions to the bid submission date.

S.No.	Tender Type	Capacity (MW)	Tender Date/ Month	Ceiling Tariff (Rs./kWh)	Capacity of bids received (MW)	Discovered Tariff (Rs./kWh)
1	Floating Solar – Ujjani Dam	1000	24.12.2018	3.00	0	NA
2	Hybrid (Solar-Wind)	100	02.01.2019	2.75	0	NA
3	Hybrid (Solar – Wind)	80	06.09.2019	2.80	0	NA

## 5.5 Wind Power Tenders for post expiry EPA

5.5.1 Hon'ble Commission vide Order dated 12 July, 2018 in Case No. 84 of 2015 in the matter of Petition filed by Jawahar Shetkari Sahakari Sakhar Karkhana Ltd, ruled that extension of Wind EPA has to be based on a competitive bidding mechanism and MSEDCL would have to necessarily float tenders and interested projects will have to participate in the bid process for EPA extension.

*“...it is observed that the Fixed cost (comprising only operating cost) of existing project whose EPA has expired are significantly lower compared to that of the new projects. The same is Rs 0.66 per unit in case of Bagasse cogen projects, Rs. 0.55 per unit in case of Biomass projects and Rs 0.75 per unit in case of wind projects. In this context, a lower ceiling tariff should be set to avoid any undue advantage to the project and at the same time should ensure participation in the bids. In view of the above, it is decided to set a ceiling tariff of Rs. 0.75 per unit for discovery of fixed cost of wind (GroupIII), Rs. 0.66 per unit for bagasse co-generation projects and Rs. 0.55 per unit for biomass projects, whose initial EPA have expired or is due for expiry. (It may be noted that, variable cost of existing bagasse and biomass projects shall be continued to be linked with the rates as determined under the generic tariff determined annually).*

*e) Periodicity of conducting Bid: The eligible projects whose EPA are due for expiry shall intimate to Distribution Licensee at least 6 months in advance. Considering the intimations received from the eligible projects and based on accumulation of sufficient bid volume and also considering the RPO requirement, MSEDCL may carry out the bidding process on an annual basis or in any frequency based on the need.*

..”

5.5.2 Further, MSEDCL filed the Petition before Hon'ble Commission to review the Commission's Order dated 12 July, 2018 in Case No. 84 of 2015 related to the Ceiling Tariff for procurement of power from RE Generators whose EPAs are expired.

The Hon'ble Commission vide Order dated 2 November, 2018 in Case No. 264 of 2018 allowed the review and ruled that MSEDCL shall continue to procure short term power (3 to 12 months) through a web based portal and purchase wind energy at Rs. 2.25 per unit for group I and at Rs. 2.52 per unit from Group II, III and IV Wind projects through MoU route for RPO mitigation. Hon'ble Commission also directed MSEDCL to procure the Long term power from group III wind projects whose EPA has expired by calling competitive bids ( with e-reverse auction) with a ceiling tariff rate of Rs. 1.97 per unit. The relevant ruling of the Order is reproduced below:

*∴...5. For group 3 wind projects whose EPA has expired, procurement of energy by MSEDCL would be by calling competitive bids ( with e-reverse auction) a ceiling tariff rate of Rs. 1.97 per unit....”*

5.5.3 As per the directives of the Hon'ble Commission, MSEDCL on 20.12.2018 floated a tender for procurement of 500 MW power through competitive bidding on long term basis from the Wind Generator whose EPA are due for expiry at ceiling Tariff of Rs. 1.97 per unit. During the pre-bid meeting of this 500 MW Tender, entities who attended the pre-bid meeting requested to increase the Ceiling Tariff, however, MSEDCL did not revise the ceiling rate of Rs. 1.97 per unit as it was fixed in compliance with the Commission's Order dated 2 November, 2018 in Case No. 264 of 2018. Even after the extension of last date of bid submission from 14 January, 2019 to 21 January, 2019, no bid was received and MSEDCL had cancelled the tender.

5.5.4 Further, MSEDCL filed the Petition before Hon'ble Commission seeking approval to procure the Wind Power from the Wind generators of Group II, III and IV whose EPAs with MSEDCL have expired, at the Tariff of Rs. 2.52/- per unit. Hon'ble Commission vide Order dated 09.04.2019 in Case No. 50 of 2019 directed MSEDCL to procure wind power through competitive bidding route from projects under Group II, III and IV whose EPAs have expired and MSEDCL was allowed to decide the ceiling rate after proper due diligence subject to condition that the same shall not be more than the rates approved for the short term procurement of wind energy. ( Rs. 2.52 per unit). The relevant ruling of the Commission is reproduced below:

*“...2. The Commission directs Maharashtra State Electricity Distribution Co. Ltd. to procure wind power through competitive bidding route from projects under Group II, III and IV whose EPAs have expired.*

3. Maharashtra State Electricity Distribution Co. Ltd is allowed to decide the ceiling rate after proper due diligence at their end but the same shall not be more than the rates approved for the short term procurement of wind energy...”

5.5.5 In compliance with the Hon'ble Commission's directives, MSEDCL, on 04.06.2019 floated the tender for procurement of 500 MW Wind energy, whose EPAs with MSEDCL have expired to which MSEDCL received the very poor response i.e. only 7 MW bids out of 500 MW floated capacity at a tariff of Rs. 2.52 per unit.

5.5.6 Later, MSEDCL, 30.08.2018 floated a tender for procurement power from new wind projects to be developed and the wind projects whose EPAs with MSEDCL have been expired, with a ceiling tariff of Rs. 2.92 per unit. This Tender also did not receive any response, which tends MSEDCL to cancel the same.

5.5.7 The details of the EPAs with wind generators expiring in the recent period is shown in the Table below:

( in MW)

Technology	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Wind	525	495.3	220.25	141	43.57	223.45

5.5.8 MSEDCL floated following Wind Power tenders under Post Expiry Energy Purchase Agreement projects and despite re-tendering of capacities and huge advertisement subscription is almost negligible.

Wind Tenders						
S.No.	Tender Type	Capacity (MW)	Tender Date	Ceiling Tariff (Rs./kWh)	Capacity of bids received (MW)	Discovered Tariff (Rs./kWh)
1	Post Expiry	250	12.04.2018	2.52	81	2.51 to 2.52
2	Post Expiry	500	20.12.2018	1.97	0	NA
3	Post Expiry	500	04.06.2019	2.52	7	2.52
4	Inter/Intra state and Post expiry	500	30.08.2019	2.90	0	NA
5	Post Expiry	200	27.12.2019	2.52	NA	NA

5.5.9 MSEDCL observes that most these tenders of 'post expiry of EPA' have received very low response due to low commercial attractiveness of the ceiling tariffs set and the generators with such projects are selling in Open Access markets for better prices.

5.5.10 Also, MSEDCL is able to contract with a very less quantum in comparison to the capacity expiring year on year basis. During last year, although EPAs of around 1000 MW Wind capacity expired, only Generators for upto 300 MW capacity applied to MSEDCL on web portal on short term procurement.

5.5.11 In spite of such multifold efforts taken by MSEDCL, MSEDCL could not add to the capacity of expired Wind EPA again in its non-solar Capacity which results in increase in shortfall in the non-solar RPO Target fulfillment. MSEDCL had floated tenders for more than 2450 MW during last two years but received very poor response which resulted in contracting with 594 MW Capacity only.

## 5.6 Other Non-Solar Power Tender

5.6.1 MSEDCL filed the Petition before Hon'ble Commission seeking approval of Average Power Purchase Cost (APPC) for long term procurement of power from FY 2019-20 onwards for remaining useful life of the project i.e. for 7 years from bagasse based co-generation whose EPA validity has expired or to be expired upto FY 2019-20 for the capacity of 115 MW. In the said Case, it was also requested to allow signing of Power Purchase Agreement (PPA) at rate of yearly APPC (excluding Renewable Energy and Transmission Charges) with ceiling of Rs. 4.00 per unit. The Prayers of the MSEDCL in the said Petition were as follows:

*"...e P To accord approval to the rate of APPC (excluding Renewable Energy and transmission charges) of that particular financial year subject to the ceiling rate of Rs. 4.00 p.u. from FY 2019-20 till the remaining useful life of the project i.e. 7 years in respect of bagasse based co-generation projects whose EPA period is expired/ expiring.*

*b. To accord approval that the energy purchased by MSEDCL from such projects is entitled for fulfillment of non solar RPO target of MSEDCL..."*

5.6.2 However, the Commission vide its Order dated 31 May 2019 in Case No. 88 of 2019 did not consider the prayer of MSEDCL and directed it to procure such power through competitive bidding only. The Commission suggested that mutually agreed price approved by the Commission for JSSSKL could be the ceiling price based on which the bidding process could be conducted.

- 5.6.3 Accordingly, MSEDCL filed Petition before Hon'ble Commission in Case No. 248 of 2019 seeking approval for bid documents i.e. RfS and PPA for Competitive Bidding process to be followed for procurement of 50 MW bagasse based co-generation power from projects which have completed EPA period of 13 years with the ceiling rate of Rs. 3.56 p.u. which is rate approved by the Commission in JSSSKL case. The Commission vide Order dated 9 October 2019 in Case No. 248 of 2019 accorded approval with relevant changes in the bid document.
- 5.6.4 Accordingly, the tender for procurement of 50 MW bagasse-based co-generation power from projects which have completed EPA period of 13 years was floated. Total 6 bidders participated in tender. The result of reverse auction were found incongruous and hence, MSEDCL canceled the tender.
- 5.6.5 Thereafter, MSEDCL received letter from all the above bidders stating that they are ready to sign PPA with MSEDCL at a rate of Rs. 3.56 per unit for further useful life of the project. The bidders also requested to grant the synchronizing permission for their bagasse-based co-generation plant considering start of the crushing season for FY 2019-20 from second week of November 2019.
- 5.6.6 Further, MSEDCL filed the Petition before this Hon'ble Commission to allow MSEDCL to purchase power from the bagasse-based co-generation projects of six bidders which has completed EPA period of 13 years at Rs. 3.56 per unit for further useful life of project.
- 5.6.7 Hon'ble Commission vide Order dated 04.12.2019 allowed MSEDCL to procure power from these six projects at Rs. 3.56 for the year 2019-20 and directed to conduct competitive bidding for subsequent years. The relevant ruling of the Commission is reproduced below:

*"...2. Maharashtra State Electricity Distribution Company Ltd. is allowed power from bagasse based co-generation projects of Mula Sahakari Sakhar Karkhana, Jawahar Shetkari Sahakari Sakhar Karkhana Ltd., Shree Pandurang Sahakari Sakhar Karkhana Ltd., Shri Viganahar Sahakari Sakhar Karkhana Ltd., Bhimashankar Sahakari Sakhar Karkhana Ltd. and Rajarambapu Patil Sahakari Sakhar Karkhana Ltd. at rate of Rs. 3.56 per unit for FY 2019-20.*

*3. For period starting from 1 April, 2020, Maharashtra State Electricity Distribution Co. Ltd. shall conduct fresh bidding process to procure power from bagasse based co-generation plants whose*

*EPA have expired. Such competitive bidding process shall be initiated well in advance so that fresh EPAs can be signed before starting of next crushing season..."*

- 5.6.8 As per the directives of the Commission, MSEDCL has floated the tender for procurement of 100 MW power from Bagasse based co-generation projects, whose EPAs with MSEDCL are expired or to be expire upto FY 2020-21, which is around 158.50 MW.
6. In view of the above, MSEDCL submits that **Wind projects** whose EPAs with MSEDCL are expired/getting expired and further, MSEDCL is also not receiving the response to the tenders floated for the procurement of power from expired capacity. Therefore, MSEDCL is getting less non-solar power during the recent period which is resulting in the increase in shortfall to fulfill the non-Solar RPO target of FY 2018-19 and FY 2019-20, despite multiple sincere efforts by MSEDCL to retain such quantum. This has resulted into the reduction in procurement of around 2890 MUs of wind power from around 1500 MW Wind capacity.
  7. Therefore, MSEDCL is hereby proposing to increase the ceiling Tariff for wind post-expiry tenders from the existing ceiling of Rs. 2.52 per unit as approved by the Commission. MSEDCL in its recent wind post expiry tender with the ceiling Tariff of Rs. 2.95 per unit did not receive any response. Considering the same and to receive active participation from these expired projects in future tenders, MSEDCL has to increase the ceiling Tariff, as the procurement of non-solar power is very essential for MSEDCL to fulfill the RPO Targets.
  8. However, in case of power from **Bagasse based co-generation projects** after expiry of the EPAs, considering its characteristic as firm power, availability during the peak load season, RTC availability and project's willingness to sell power only to MSEDCL, it is proposed to allow MSEDCL for long term procurement of power from FY 2020-21 onwards for remaining useful life of the bagasse based co-generation project whose EPA validity has expired or to be expired at the ceiling rate of Average Power Purchase Cost (APPC) of the respective year (excluding RE and Transmission charges) with a cap of Rs. 4.00 per unit, so that MSEDCL will be able to fulfill the stipulated RPO Target in the future and will not have uncertainty of getting this power through time consuming competitive bidding.



9. In regards to the procurement of **Solar Power**, the Hon'ble commission has also acknowledged MSEDCL's efforts and opined, in the Order dated 19.12.2019 in Case No. 323 of 2019, that aggressive Ceiling Tariff might be one of the reasons for the lower response –

*10. Having ruled as above, the Commission notes that even after repeated extension of bid deadline, there has been very poor response to the bidding process. As against 1350 MW, bid has been received only for 5 MW and that too by a single bidder that participated in the tender. Therefore, in the opinion of the Commission, there is a need for MSEDCL to review their bidding conditions on holistic basis, considering the overall market scenario in the country so as to attract more bidders. Ceiling rate may be one of bottlenecks causing poor response.*

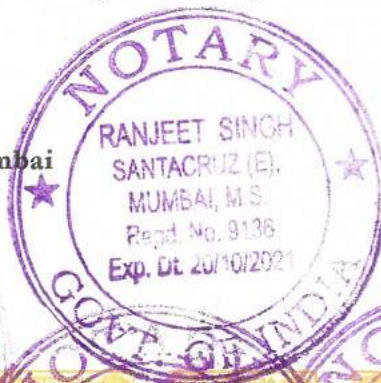
10. MSEDCL is of view that the existing ceiling tariff Rs. 3.15 per unit is not viable for the bidders considering the existing module prices, size and scale of the projects, increase labor cost, land acquisition rates in Maharashtra and falling rupee exchange rate, etc. Therefore, MSEDCL, on 01.01.2020 has floated the tender considering the above directives of the hon'ble Commission with the ceiling Tariff of Rs. 3.30 per unit. MSEDCL hereby proposes to further increase the ceiling Tariff for Solar Power under MSKVY, If no or negligible response to floated tender for Solar Power.
11. The circumstances cited above puts MSEDCL in ransom position affecting MSEDCL to have shortfall in achievement of RPO Targets on one hand, and on the other hand constrains MSEDCL for purchase REC of higher prices, which are also available for a very less volume in the energy exchanges, most of the time. This may result in the levy of the penalty as stipulated under Maharashtra Electricity Regulatory Commission (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2019, which ultimately affects common consumers of MSEDCL.
12. Hence, to relieve MSEDCL from the circumstances cited above and with a view to tie-up RE generation as per the targets specified by Hon'ble Commission, it is essential that the developers should positively participate in competitive bidding process. One reason of making the developers participate is by way of increase in ceiling tariff, which is acknowledged by the Hon'ble Commission as cited above in para 10. Hence, no penalty should be levied for not meeting the RPO targets till FY 2019-20.

13. Further, it is pertinent to note that even-though MSEDCL had floated more than 9650 MW of Solar and about 3629 MW of Non-Solar based tenders during last two years but had received very poor response which has resulted in contracting 2245 MW in Solar and about 1000 MW in Non-Solar only. Despite multiple efforts in floating RE tenders and giving enormous publicity over newspapers, response has been poor over past two years. This will impact the RPO targets of FY 2020-21 and 2021-22.
14. It is pertinent to note that till date, MSEDCL is getting around 1300 MW Power from commissioned projects selected under competitive bidding process against the capacity of around 1735 MW approved by the Hon'ble Commission during last 2 years and remaining 435 capacity is expected during next few months.
15. Above status shows that MSEDCL is getting the RE Power from the contracted project within their Scheduled Commissioning Date and if MSEDCL received the complete tendered capacity, MSEDCL might get the additional 6000 MW Solar capacity and might procure around 10000 MUs Solar Power (considering 19 % CUF), which is much more than the cumulative shortfall of 3468 MUs till FY 2018-19 and the expected shortfall till FY 2021-22.
16. Regulation 19 of Maharashtra Electricity Regulatory Commission (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2019 provides the provisions for removing difficulties arises in giving effect to the provisions of the Regulations.
17. In order to attract the bidders, MSEDCL is proactively planning for RE procurement and is also in process to invite EoI for land banking which will facilitate the bidders to develop the solar plants with ease and attractive rates subject to the approval of the Commission. MSEDCL also submits that, it is planning to float new tender in Solar, and Non-Solar category. However, commissioning such plants would take at least eighteen (18) to twenty-four (24) months from now. Therefore, considering all the facts and the efforts taken by MSEDCL for achieving stipulated RPO Targets, it is humbly requested not to levy any penalty on MSEDCL for not meeting the cumulative shortfall and the expected standalone shortfalls to RPO targets till FY 2022-23.
18. **Prayers:**

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

- a) To admit the Petition as per the provisions under Regulation 85 of the MERC (Conduct of Business) Regulations, 2004 and Regulation 19 of the MERC (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations.
- b) To not levy the penalty, on non-compliance of standalone annual targets and cumulative targets of RPO, till 2022-23, in lieu of repeated efforts by MSEDCL to procure power through Renewable Energy sources but not receiving responses from the bidders.
- c) To allow MSEDCL to revise the ceiling tariff rate for competitive bidding tenders floated under MSKVY for solar project with capacity 2 to 10 MW at 11 kV level from Rs.3.15/kWh to Rs 3.30/kWh or above as per the market conditions.
- d) To allow MSEDCL to purchase the said 50MW bagasse power with expiry EPAs at APPC price of respective financial years, for remaining useful life, with a tariff cap of Rs. 4.00 per unit.
- e) To allow MSEDCL to issue tenders with combination of 'post EPA expiry wind' and new capacities, to encourage better participation and accordingly allow, MSEDCL to increase ceiling tariffs, for upcoming Wind Energy tenders, based on the market conditions.
- f) To consider the submission made by the Petitioner and consider the same positively 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.

Place: Mumbai



Chief Engineer (Renewable Energy)

BEFORE ME

RANJEET SINGH

M.Sc.L.L.B

18

MAHARASHTRA

GOVT. OF INDIA

20 JAN 2020

SANTACRUZ (E)

MUMBAI, M.S.

Regd. No. 9136

Exp. Dt. 20/10/2021

NOTARIAL

NOTARIAL

NOTARIAL

