

## **RECORD OF PROCEEDINGS**

DATE OF HEARING : July 25, 2007 at 12.00 hrs  
CASE No. : 19 of 2007

PETITIONERS : Maharashtra Energy Development Agency  
("MEDA")

RESPONDENTS : 1. Maharashtra State Electricity Distribution  
Co.Ltd ("MSEDCL");  
2. Tata Power Company Limited ("TPC");  
3. Mula Pravara Electric Co-operative Society  
Limited ("MPECS");  
4. Reliance Energy Limited ("REL");  
5. Brihan Mumbai Electric Supply and Transport  
Undertaking ("BEST");

MATTER : Petition filed by MEDA seeking appropriate  
directions upon respondent licensees for their non-  
compliance of directions provided under Order  
dated September 3, 2004 in Case No. 1 of 2004 (in  
the matter of determination of Renewable Purchase  
Obligation (RPO) for Distribution Licensees in  
Maharashtra) ("the RPO Order"), for FY 2004-05  
and 2005-06

QUORUM : Chairman, Member-Technical, Member-Finance

MEDA filed a Petition on June 11, 2007 seeking appropriate directions upon respondent licensees for their non-compliance of directions provided under the RPO Order. The Commission scheduled the hearing in the matter for July 25, 2007 in the presence of consumer representatives authorised on a standing basis under the Electricity Act, 2003 ("EA 2003"). Notices were issued accordingly.

2. At the hearing held in the matter on July 25, 2007, the Commission observed that the data provided by MEDA under their present Petition – as to the extent to which MSEDCL, MPECS, REL, TPC and BEST have failed to meet their respective RPO obligation for FYs 2004-05 and 2005-06 – appears to be under estimated. The Commission enquired of the representatives present on behalf of MEDA as to (i) the source/s of the said data collected by MEDA; (ii) the framework adopted by MEDA for collection of such data; (iii) the capacity of renewable energy (especially wind energy) that was installed in Maharashtra during FY 2004-05.

3. Shri. Nilesh Kumar, consultant of MEDA, submitted that so far as non-compliance of the RPO order during FY 2005-06 is concerned, MEDA has collected data from respondent licensees. Shri. Nilesh Kumar further submitted that MEDA does not readily have the data pertaining to the installed capacity of renewable wind energy in Maharashtra during FY 2004-05.

4. The Commission observed that depending on the actual amount of the capacity of renewable energy installed during FY 2004-05, and after deducting captive consumption and third-party sale, balance renewable wind energy has been supplied to the MSEDCL's grid only and not to any other licensee as REL, BEST and TPC have not been procuring renewable wind energy directly. In this regard, the Commission enquired of Shri. Nilesh Kumar, that considering that MEDA has prima facie obtained the said data from MSEDCL, has MEDA performed any due diligence to authenticate and cross-verify the said data provided by MSEDCL. Shri. Nilesh Kumar submitted that MEDA has obtained all data from MSEDCL and has duly verified the same, before submission under the present Petition.

5. The Commission invited the opinion and considered comments of Shri. Ajit Pandit, consultant of the Commission on the data submitted by MEDA. Shri. Ajit Pandit submitted that as per statements that have been submitted relating to RPO settlements, the total renewable energy generation for FY 2005-06 amounts to 924 MUs, and only 266 MUs pertain to wind energy. These figures appear to be considerably low in comparison to the earlier submissions of MEDA to the effect that as on December 2005, the installed wind energy generation for FY 2005-06 is about 1000 MW. MEDA had submitted such estimates/ data earlier while floating a Discussion Paper on RPS obligation, and while submitting various other data pursuant to the directions of the Commission. Although the said figure of 1000 MW, as earlier submitted, included the installed wind energy generation for captive use and third-party sale, nevertheless, the current figures of installed wind energy generation that have been submitted by MEDA are very low. The installed wind energy that was generated during FY 2005-06 should have been significantly higher than the data as presently submitted. Shri. Pandit further submitted that MEDA should not have collected data only from MSEDCL but also from RE Generators as per Clause 4.2 of their report on RPO Operating Framework. Accordingly, MEDA should not have submitted the same without prudent verification.

6. The Commission observed that as a nodal agency, MEDA should ensure a detailed validation check of the data that it collects from MSEDCL and cross-verify the said data with the data collected from RE Generators. Shri. Pandit submitted that as a nodal agency, MEDA is not only under the obligation of obtaining requisite data from drawee distribution licensees, but also required to obtain requisite data from renewable energy generators as to the quantum of renewable energy generated, on a monthly basis. Shri. Nilesh Kumar submitted that MEDA has been collecting requisite data from renewable energy generators pertaining to the quantum of renewable energy generated, prior to the settlement of the RPO framework and the same can be submitted, if such a direction is given by the Commission. Shri. Sudhir Kumar, General Manager (Administration)-MEDA, submitted that MEDA has been collecting requisite data as to

the quantum of renewable energy generated, from renewable energy generators on a monthly basis and has employed due diligence to verify the said data.

7. The Commission observed that MEDA may engage consultants to perform due diligence/ cross-verification of data but after certification, should take full responsibility as to the veracity of the said data. The Commission observed that, as pointed out by its consultant Shri. Ajit Pandit, the present data on non-compliance of RPO is at variance from the data earlier submitted by MEDA for the framing of RPS. The Commission observed that the verification of the said data is crucial as based on the said data, requisite action shall be taken against the defaulting licensees. It was further observed that the data recording done at MSEDCL's end may not be completely accurate and it is the duty of the nodal agency to verify the contents of the said data.

8. The Commission enquired of Shri. Sudhir Kumar whether MEDA would be in a position to promptly ascertain and verify the data that has been collected from renewable energy generators, MSEDCL and drawee distribution licensees, as in the alternative, the Commission may appoint an independent auditor. MEDA may apprise the Commission on the same in due course of time on taking confirmation from its management. Shri. Sudhir Kumar undertook to submit certified data of the total renewable energy generation that was installed in Maharashtra during FY 2004-05 and 2005-06, and the extent of drawl by MSEDCL and drawee distribution licensees, within a period of one week from July 25, 2007, to substantiate the allegations made against the respondent licensees under the present petition.

9. The Commission enquired of Shri. Sudhir Kumar whether the respondent licensees have disputed the allegations of non-payment that have been made under the present petition, and whether any reasons have been furnished by them for such non-payment. Shri. Nilesh Kumar submitted that the stand taken by REL and BEST is that unless the ERA adjustment vis-à-vis drawee licensees for the settlement of RPO in FY 2004-05 is settled, RPO obligation for FY 2005-06 cannot be performed. The Commission enquired of Shri. Nilesh Kumar as to whether such a stand as taken by REL and BEST is logical and/or judicious. Shri. Nilesh Kumar submitted initially the ERA was not settled among drawee licensees. However, most recently, MEDA had convened a meeting of all the drawee licensees whereby a consensus was achieved as to ERA adjustment. However, REL and BEST have not shown any positive response post the said meeting. On an enquiry made by the Commission, Shri. Nilesh Kumar submitted MEDA would be able to submit a copy of the minutes pertaining to the said meeting. On further enquiry made by the Commission, Shri. Nilesh Kumar submitted that MPECS has disputed on various factual issues involved in meeting the RPO obligation, and on various interpretational issues relating to the RPO operational framework.

10. Shri. Ajit Pandit, consultant to the Commission, further submitted that while calculating the RPO settlement account, MEDA should exclude the incidences of inter-se sale of renewable energy among the drawee licensees. As per the data submitted under Annexure 2 to the present petition, MEDA has excluded the inter-se sale of renewable energy between TPC and REL, while calculating the net energy input for TPC. However,

while calculating the net energy input of renewable energy for MSEDCL, MEDA has not excluded the inter-se sale of electricity from MSEDCL to MPECS. The Commission observed that such an error in the calculation of the RPO settlement account for FY 2004-05 and 2005-06 is a prima facie mistake which should be rectified by MEDA while it submits certified data within one week, as undertaken.

11. Shri. A.D. Palamwar, Director (Operations)-MSEDCL, submitted that as per the records of MSEDCL, the total progressive installed renewable energy for FY 2005-06 has been 602.9 MU. MSEDCL has purchased renewable energy of the quantum of 252.65 MU out of which about 200 MU were for self-use and 284 MU for third-party sale. On an enquiry made by the Commission, Shri. Palamwar submitted that MSEDCL does not dispute the figures that have been submitted by MEDA under their present petition.

12. As regards the payment for purchase of renewable energy by BEST is concerned, Shri. C.H. Shinde, Deputy Chief Engineer, BEST, submitted that BEST has deposited with MEDA amounts of Rs. 6.5 crores and Rs. 9.65 crores, respectively, towards purchase of renewable energy during FY 2004-05 and FY 2005-06. On an enquiry made by the Commission, Shri. Nilesh Kumar submitted that there is no dispute as to the submissions of Shri. Shinde.

13. As regards the payment for purchase of renewable energy by TPC is concerned, Shri. J.D. Kulkarni, Deputy General Manager-TPC, submitted that the data submitted by MEDA are not disputed by TPC. Further, MSEDCL has recently settled their RPO account for FY 2005-06 and accordingly TPC shall be making payments of an amount of Rs. 41 lakhs to MEDA within a period of one week, for purchase of renewable energy from the Supa base. Payments for FY 2004-05 are not outstanding. So far as payments for purchase of renewable energy from REL and BEST are concerned, TPC would be able to make the said payments once MSEDCL pays their outstanding payments/ refund to TPC. It was further submitted that the amounts pending from MSEDCL are equal to amounts due to REL and BEST. As soon as MSEDCL releases the said payments in favour of TPC, the same shall be passed on to REL and BEST.

14. The Commission enquired of the representatives present on behalf of MSEDCL whether payments that are outstanding against TPC can be released expeditiously. Shri. A.D. Palamwar, MSEDCL, submitted that the processing of the said payments is at the final stage. The Commission enquired of Shri. A.D. Palamwar as to a specific time-frame within which payments shall be released in favour of TPC. Shri. Palamwar undertook that MSEDCL shall release all outstanding payments to TPC latest by the end of the first week of August 2007.

15. Shri. J.D. Kulkarni submitted that TPC has already paid BEST for purchase of renewable energy during FY 2004-05. The Commission observed that so far as payments for inter-se sale of renewable energy are concerned, paying licensees should always keep MEDA informed once payments are made. This would help MEDA to monitor the RPO settlement account with better efficiency.

16. Shri. P.S. Pandya, Senior Consultant-REL, submitted that REL has made payments of Rs. 12.207 crores for purchase of renewable energy during FY 2004-05. However, REL presently awaits refund of Rs. 10.685 crores from MSEDCL.

17. The Commission observed that the MSEDCL is the chief defaulter in the settlement of the RPO Account and in light of the above circumstances, there is no pending issue. MEDA should submit certified data as above-mentioned within the agreed week's time and further should take full responsibility of the said certified data. MSEDCL should release all payments/refund pending as against TPC and REL latest by the end of the first week of August 2007. The Commission observed that MEDA should ensure the settlement of the RPO Account with MSEDCL and the drawee licensees, by August 15, 2007.

The hearing in the matter concluded thereafter.

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**List of Persons present at the hearing held on July 25, 2007**

1. Shri. A.D. Palamwar, MSEDCL.
2. Shri. S.G. Bharati, MSEDCL.
3. Shri. M.M. Digraskar, MSEDCL.
4. Shri. D.D. Wangikar, MSEDCL.
5. Shri. D.N. Sangekar, MSEDCL.
6. Shri. E.B. Kapse, MPECS.
7. Shri. R.V. Dandaom, MPECS.
8. Shri. P.S. Pandya, REL.
9. Shri. Srinivasarao, REL.
10. Shri. K.N. Rajagopal, BEST.
11. Shri. C.H. Shinde, BEST.
12. Shri. V.H. Rokhade, BEST.
13. Shri. S.R. Khedkar, BEST.
14. Shri. M.R. Dharajkar, BEST.
15. Shri. Pradeep Kumar, Security Global.
16. Shri. Niraj Kumar, Senco Global.
17. Shri. J.V. Tamne, MEDA.
18. Shri. Sudhir Kumar, MEDA.
19. Shri. G.D. Rane, MEDA.
20. Shri. V.H. Wagle, TPC.
21. Shri. S.R. Mehendale, TPC.
22. Shri. J.D. Kulkarni, TPC.