

RECORD OF PROCEEDINGS

DATE OF HEARING : August 21, 2007 at 15.00 hrs
CASE No. : 33 of 2007
PETITIONERS : Maharashtra State Electricity Distribution Company Limited (“**MSEDCL**”)
RESPONDENTS : 1. Renewable Energy Developers Association of Maharashtra (“**REDAM**”);
2. India Wind Energy Association (“**InWEA**”)
MATTER : Petition filed by MSEDCL seeking directives in respect of issues connected with procurement of wind energy from Group-II Category wind farms post the expiry of eight years from the date of commissioning of the said projects
CORAM : Chairman and Members

MSEDCL filed a Petition on July 23, 2007 seeking directives in respect of issues connected with procurement of wind energy from Group-II Category wind farms post the expiry of eight years from the date of commissioning of the said projects. The Commission scheduled the hearing in the matter for August 21, 2007 in the presence of four consumer representatives authorized on a standing basis under the Electricity Act, 2003 (“**EA 2003**”). Notices were issued accordingly.

2. At the hearing held in the matter on August 21, 2007, Smt. Deepa Chawan, Counsel for MSEDCL, referred to the letters dated April 17, 2007 and June 6, 2007 sent by MSEDCL to the office of the Commission [*Exhibits ‘F’ and ‘G’ to the Petition*]. Counsel submitted that in terms of the Order dated November 24, 2003 in Case Nos. 17(3), 3, 4, & 5 of 2002 (in the matter of applications filed by the Maharashtra State Electricity Board, Shri. Pratap G. Hogade, REDAM and InWEA for procurement of wind energy and wheeling for third-party sale and/or self-use), the tenure of the Energy Purchase Agreements (“**EPA**”s) and the Energy Wheeling Agreements (“**EWA**”s) executed by MSEDCL with wind farm projects under Group-II Category have expired as on March 31, 2007. Counsel submitted that in the present scenario, wind farm developers have certain issues that need to be resolved before a new mechanism may be adopted.

3. The Commission observed that the EA 2003 envisages generation as a de-licensed activity. The Order dated November 24, 2003 had put in place a support price for MSEDCL in the procurement of procuring power from wind energy developers. On the termination of eight years from the date of commissioning of the wind farm projects (under Group-II Category), wind energy developers shall have the right to sell energy as per their choice, and in accordance with law. Post the efflux of term in the EPAs and EWAs that MSEDCL have executed with wind farm projects (under Group-II Category),

the said wind energy developers may sell power to any other utility apart from MSEDCL. The Commission enquired of Counsel whether MSEDCL seeks approval of a future power purchase agreement with the said wind energy developers, under the present proceedings.

4. Smt. Deepa Chawan submitted that under the present proceedings, MSEDCL have not sought approval for any future power purchase agreement with the said wind energy developers. It was submitted that the present proceedings have been initiated to address and resolve the 'grey issues' that have resulted due to expiry of the said eight-year period, and the termination of the various EPAs and EWAs that MSEDCL have executed with wind farm projects (under Group-II Category). The issues concerning open access consumption further need to be addressed.

5. The Commission observed in reiteration, that so far as the operation of the Order dated November 24, 2003 is concerned, there should not be any ambiguity as to freedom a wind energy developer (under Group-II Category) is supposed to enjoy post the expiry of eight years from the date of commissioning. Such generators may modify their earlier operations and function in line with merchant plant owners. An issue will undoubtedly arise, as regards procurement tariff, if any wind energy developer (under Group-II Category) would agree to sell energy to MSEDCL, post the termination of the stipulated eight-year period. The Commission observed that the said issue needs to be addressed under separate proceedings, on an appropriate proposal that may be filed either by MSEDCL or a wind energy developer. So far as open access is concerned, the regulations stipulated under the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2005 should be followed.

6. Smt. Deepa Chawan prayed for the issuance of a Clarificatory Order in the present proceedings, as to the date on which the tariff and other related issues connected with energy procurement from wind farm projects (under Group-II Category), as determined in terms of the said Order dated November 24, 2003, shall be deemed not to be in operation. Referring to the written responses submitted by M/s. Reliance Energy Limited, and the pleadings filed by the Respondents and M/s. Bajaj Auto Limited, it was submitted that there is no adequate clarity as regards the said date.

7. Shri. Makhija, Counsel for REDAM, submitted that under the Order dated August 16, 2006 in Case No. 6 of 2006 (in the matter of long term development of renewable energy sources and associated regulatory RPS framework), the period of operation for wind energy projects has been extended from March 31, 2007 to March 31, 2010. The Commission submitted that the said Order dated August 16, 2006 revised the period of operation of only those wind farm projects, which were under Group-III Category. The case of wind farm projects under Group-II Category was not addressed under the said Order.

8. Shri. G.N. Kamath, Secretary-REDAM, submitted that there are three categories of consumers that wind energy developers under Group-II Category may sell energy, post the termination of the stipulated eight-year period from the date of commissioning of respective projects. These categories are namely (i) distribution licensees, (ii) open access or captive consumers with an obligation to meet renewable purchase obligation, and (iii) captive consumers or third-party purchasers without an obligation to meet renewable purchase obligation. It was submitted that the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2005 and the Maharashtra Electricity Regulatory Commission (Transmission Open Access) Regulations, 2005, do not have adequate clarity on the quantum of transmission loss charges that may be applicable to the category of consumers mentioned under (ii) and (iii). It was submitted by Smt. Chawan that REDAM would be required to initiate appropriate proceedings for seeking clarification on the said issues, which cannot be resolved under the present proceedings initiated by MSEDCL.

9. The Commission observed that while Commission's Transmission Tariff Order and Tariff Orders in case of various distribution licensees for MYT regime explicitly covers wheeling charge and wheeling loss related aspects, a sample illustrative example can be made available on its website for understanding purposes.

10. Smt. Deepa Chawan sought liberty to approach the Commission in due course, for approval of a power procurement agreement between MSEDCL and any wind energy developer under the Group-II Category. The Commission observed that the EA 2003 grants MSEDCL the right to approach the Commission for the approval of a power procurement agreement, and any special dispensation for the same need not be provided.

11. Shri. S.P. Shinde, DGM-M/s. Bajaj Auto Limited, referred to the ruling provided by the Commission on the applicability of tariff for procurement of renewable energy under Renewable Purchase Specification regime, as provided under the Order dated August 16, 2006, and enquired as to whether there would be any revision in the applicable transmission and wheeling charges and reactive energy charges, post the operation of the Order dated November 24, 2003 on the sale of energy from wind energy farms under Group-II Category. The Commission observed that the Orders that have already been passed on the issue of transmission and wheeling charges and reactive energy charges should remain in force.

The hearing in the matter concluded thereafter.

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List of Persons present at the hearing on August 21, 2007

1. Shri. Niraj Kumar, Sr. Analyst, Synergy Global Limited.
2. Shri. Pradeep Kumar, Manager, Synergy Global Limited.
3. Shri. Chintan Shah, Synergy Global Limited,
4. Shri. Shridhar, Manager, Enercon.
5. Shri. U.J. Makhija, Counsel for REDAM.
6. Shri Hemant J. Shah, Advocate for REDAM.
7. Shri. G. Trivedi, Advocate for REDAM.
8. Shri. G.N. Kamath, Secretary, REDAM.
9. Shri. S. Parvathinathan, REDAM.
10. Shri. R.S. Kapur, Asst. GM, TML.
11. Shri. B.A. Athavale, Sr. Manager, TML,
12. Shri. N.M. Kumar, Asst. GM, Suzlon Energy.
13. Shri. Mukesh Shah, Asst. GM, Suzlon Energy.
14. Shri. Milind Satkalmi, Dy. Manager, Suzlon Energy.
15. Shri. S.P. Shinde, Dy. GM, Bajaj Auto Limited.
16. Shri. J.T. Kokate, Engineer, Bajaj Auto Limited
17. Shri. S.G. Bharati, EE (Comm.), MSEDCL.
18. Shri. A. Ranganath, Asst. Manager, Poonawalla Group.
19. Smt. Deepa Chawan, Counsel for MSEDCL.
20. Smt. Rujuta V. Masurekar, Advocate for MSEDCL.
21. Shri. D.D. Wangikar, SE (CP), MSEDCL.
22. Shri. P.V. Anvekar, Sr. EE, TPC.
23. Shri. C.L. Kale, President, M/s. Savita.
24. Shri. M.R. Dharaskar, Suptd., BEST.