

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400 005.
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Case No. 3 of 2005

In the matter of
Petition by M/s Shri Charbhuj Sales Corporation regarding breach of the Clarificatory
Orders dated 10.09.2004 and 30.09.2004 related to Wind Energy

Dr Pramod Deo, Chairman
Shri A. Velayutham, Member

Dated: 30th November, 2005

ORDER

1. M/s. Shri Charbhuj Sales Corporation (SCSC) filed a Petition dated 25th March, 2005 complaining that Maharashtra State Electricity Board (MSEB) are committing breach of Clarificatory Orders dated 10.09.2004 (in the matter of Case 59 of 2003) and 30.09.2004 (in the matter of Case 7, 15 and 16 of 2004). The Petitioner has prayed as under–

- (a) *That the opponent Board be directed to cancel the NOC No. 8535 dated 14.3.2004 issued in favour of M/s Arvind Cotsyn (India) Ltd.*
- (b) *That the opponent Board be directed to purchase the power generated by the complainant from April 2003 and to pay the price thereof.*
- (c) *That suitable penalty, be imposed on the opponent Board for breach of the Order dated 10.09.2004 and dated 30.09.2004.*

2. MSEB submitted its replies and objections to above Petition through its letter dated 10th May 2005. As per its submission, MSEB agreed to pay for the entire energy purchase from April 2003 to February 2004 citing partial modification of its earlier NOC dated 24th March 2004 issued vide its letter dated 5th May 2005. However, MSEB submitted that Credit Notes for the period from March 2004 to December 2004 have been issued to the Petitioner in the name of M/s Arvind Cotsyn Ltd, as third party purchaser of the Petitioner and MSEB expressed its willingness to finalise accounts of Petitioner in respect of such third party transactions by the Petitioner. As regards the matter of change of option from self use/ third party sale to sale of power to MSEB (or other licensees) on one time basis, as per Commission's Order dated 10th September 2004, MSEB submitted that the matter is sub-judice since it had approached Hon'ble High Court of Judicature at Bombay impugning the Order dated 10.09.2004 through its Writ Petition No. 3110 of 2004.

3. The Commission conducted hearing in the matter on 16th June 2005. During the hearing, the Petitioner reiterated its submissions filed through its Petition and requested the Commission to settle the matter expeditiously in view of serious financial burden imposed on the Petitioner on account of non-release of payment by MSEB for the energy supplied by it.

4. During the hearing, the representative of MSEB submitted that admittedly there was a lapse on MSEB's part and that MSEB should have responded to the Petitioner on time. MSEB further admitted that the Credit Notes were issued by MSEB in the name of wrong party and with retrospective effect and that the same would stand corrected and also that MSEB has been consuming power. Further, MSEB submitted that it has not willfully disobeyed or violated the Commission's Order dated 10th September 2004 but that it has filed a Writ Petition No. 3110 of 2004 in the Bombay High Court challenging the Commission's Order and the matter is sub-judice. MSEB further submitted that it is willing to remit funds to the Petitioner that have been pending since April 2003. Further, it agreed to finalize credits of third party purchaser and to revise and to issue the Credit Notes appropriately in the name of the Petitioner.

5. Further, the Commission notes that MSEB has prayed for withdrawal of its Writ Petition No. 3110 of 2004 which has been granted by Hon'ble High Court of Judicature at Bombay through its Order dated July 25, 2005.

6. In view of above the Commission notes that, the parties have agreed to mutually resolve the issue and if aforesaid actions, as submitted during the hearing, are carried out by either parties, the need to pursue matter further does not arise. Accordingly, the Commission directs MSEB to settle the matter expeditiously in the instant case of the Petitioner, in any case not later than one month from the date of this Order, if not done until now.

7. Pursuant to GoM Notification dated 6th June 2005, MSEB has given way to three functional successor entities and a holding company (the distribution function having been vested in the Maharashtra State Electricity Distribution Company Limited or MSEDCL). However, the term 'MSEB' has been used throughout this Order for convenience.

With this Order, the Commission disposes the Petition of Shri Charbhuj Sales Corporation.

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr. Pramod Deo)
Chairman, MERC



(M.K.Kundu)
Secretary, MERC