

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**

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CASE Nos. 59 of 2003 with Case Nos. 17(3), 3, 4 & 5 of 2002

In the matter of

**Review of Order dated 24.11.2003 for procurement of wind energy, etc., conditions
for change from self-use/ third party sale to sale to MSEB.**

Shri P. Subrahmanyam, Chairman

Dr Pramod Deo, Member

Shri A. Velayutham, Member

CLARIFICATORY ORDER

Dated: **September 10, 2004**

Under their Petition filed on 5th March, 2004, the Maharashtra State Electricity Board (MSEB) have sought review of the Commission's Order dated 24th November, 2003 in Case Nos. 17(3), 3, 4 and 5 of 2002 regarding procurement of wind energy and wheeling for third party sale and/or self-use. Among other things, MSEB have sought directives with regard to the conditions to be applicable for a change by wind energy projects from self-use/ third party sale to sale to MSEB, in order to remove one of the difficulties ostensibly faced in implementing the Order dated 24th November, 2003.

2. After the hearing held on 11th March, 2004, the Commission issued an Interim Order on 12th March, 2004. The interim Order notes that, on several issues, MSEB have sought substantive modifications to the principal Order which did not meet the requirements governing review under the Conduct of Business Regulations and hence could not be entertained by the Commission. The interim Order also clarified some other issues raised by MSEB. A further hearing was held on 11th May, 2004, where some remaining matters were discussed. What would be the conditions applicable for change from self-use/ third party sale to sale to MSEB was one of the issues remaining for clarification, and is addressed in the present Clarificatory Order. This relates to paras 1.6.9 and 3.4.13 of the principal Order.

3. Para 3.4.13 of the Order dated 24th November, 2003 reads as follows:

"Change in Third Party Purchaser will be permissible subject to installation of real time ToD meters with online reading feature as per Para 1.6.5. Owners/ Producers can also switch over to the option of sale to MSEB/ Utility subsequently subject to the conditions to be laid down by the Commission." (emphasis added)



Noting that the conditions referred to above had yet to be stipulated, the Commission stated in its interim Order dated 12th March, 2004 that

"since such conditions have not yet been laid down, which would be done in due course and may take into account the sharing of responsibilities for purchase as between the utilities/ licensees, at present such switch-over from self-use/ third party sale to sale to MSEB / or other licensees will not be operative. However, change from self-use to third party sale or vice versa, or a switch-over from one third party to another is permitted subject to installation of real time ToD meters, etc. as set out in the Order."

4. The Commission also notes that provision of open access is an important feature of the Electricity Act, 2003 so that the Licensees' facilities can be used for self-consumption or third party sale, and the relevant Regulations that have recently been notified or are under finalisation also take into account earlier Orders of the Commission under which such access has been provided. With regard to purchase of power from renewable sources by MSEB and other Licensees, the concern raised by MSEB in their review Petition that the purchase obligation should be shared equitably between the Licensees and not cast on MSEB alone has been separately addressed by the Commission's Order dated 3rd September, 2004 in Case No. 1 of 2004 by stipulating a 'Renewable Purchase Obligation' on all Licensees.

5. In view of the above, the Commission now clarifies that the following conditions shall apply in the case of wind energy producers seeking to switch over from self-consumption/ third party sale to the option of sale to MSEB or other concerned Licensees:

- (i) All wind energy project holders shall be permitted to exercise the option of switching over to sale to MSEB (or other Licensees) on a one-time basis from the date of this Clarificatory Order, irrespective of any conditions on such switch over that may have been imposed by MSEB earlier. However, existing projects will have to exercise this option by 31st December, 2004. MSEB should ensure that the project holders are intimated accordingly by 30th September, 2004, both through Public Notice in the press and through their website, and also through the major associations such as REDAM and InWEA
- (ii) All other stipulations in the Order dated 24th November, 2003 will continue to apply, including the level of and period for which the tariff determined for different Groups of projects is applicable. In particular, where a project holder switches from self-consumption/third party sale to sale to MSEB/ Licensee, the period upto which purchase by the latter is mandated would be counted from the date of commissioning of the project, i.e. that period would be deducted since the project holder has already benefited from self consumption or sale to third parties during that time.
- (iii) The project holders opting for sale to MSEB/ Licensees shall not be permitted to exit until the EPA period (as at (ii) above) is over, unless it is provided for in the EPA or mutually agreed to.



6 Since, by its interim Order dated 12th March, 2004, the Commission has already rejected review of certain matters and clarified certain other matters where called for, and also dealt with the sharing of purchase obligations in its Order dated 3rd September, 2004 (Case No. 1 of 2004), with this present clarification the Commission also disposes of Case No. 59 of 2003.

Sd/-
(Pramod Deo)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(P. Subrahmanyam)
Chairman, MERC

Sd/-
(A.M. Khan)
Secretary, MERC

