

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 19 of 2007

In the matter of
Maharashtra Energy Development Agency's (MEDA) petition for seeking orders
with regard to non-compliance of the Commission's RPO Order dated September 3,
2004, by distribution licensees for FY 2004-05 and FY 2005-06

Dr. Pramod Deo, Chairman
Shri A. Velayutham, Member
Shri S. B. Kulkarni, Member

ORDER

Dated: October 3, 2007

Maharashtra Energy Development Agency (MEDA), submitted a Petition under affidavit, before the Commission on June 11, 2007, seeking orders in regard to non-compliance of the Commission's RPO Order dated September 3, 2004, by distribution licensees in Maharashtra for FY 2004-05 and 2005-06.

2. MEDA, vide its Petition, submitted that for FY 2004-05, Mula Pravara Electricity Cooperative Society (MPECS) has not paid the RPO obligation amount of Rs. 0.9028898 Crore to RPO pool even after being a "Drawee Licensee". MPECS has shown inability to settle RPO account under its letter dated April 15, 2006 to MEDA and hence, the RPO settlement for FY 2004-05 is incomplete. Further, MEDA submitted that it has issued Renewable Settlement Advice (RSA) for FY 2005-06 to all distribution licensees in the State of Maharashtra but in response, only BEST has deposited an amount of Rs. 9.6517863 Crore to the RPO pool. REL, TPC and MPECS have not deposited their respective obligation amount to RPO pool even after reminder from MEDA and hence, RPO account for FY 2005-06 is incomplete.

3. MEDA, vide its Petition, has made following prayers to the Commission:
- a) *to direct MPECS to settle the RPO account of FY 2004-05 by paying the obligation amount to RPO pool within stipulated time frame and action against non compliance thereof.*
 - b) *to direct REL, MPECS and TPC to clear their RPO obligation of FY 2005-06 by paying the amount to RPO pool within stipulated time frame and action against non-compliance thereof.*

- c) *to direct MSEDCL and TPC to carry out the Energy Reconciliation Adjustment (ERA) as per the proposition given by the MEDA and agreed by all the distribution licensees, within stipulated time frame.*
- d) *to take appropriate action deemed fit against the licensees for their non compliance.”*

4. The Commission vide its Notice dated July 9, 2007, scheduled the hearing in the matter on July 25, 2007 and directed MEDA to serve a copy of its Petition to all the distribution licensees in Maharashtra and four authorized consumer representatives and the distribution licensees were directed to submit their comments to the Commission by July 20, 2007.

5. At the hearing held in the matter on July 25, 2007, the Commission observed that the data provided by MEDA, vide its Petition, as to the extent to which MSEDCL, MPECS, REL, and TPC have failed to meet their respective RPO obligation for FY 2004-05 and FY 2005-06, appears to be under estimated by MEDA. The Commission sought clarification from MEDA with regard to the following:

- a) Source of the said data collected by MEDA
- b) Framework adopted by MEDA for collection of such data
- c) Capacity of renewable energy (especially wind energy) that was installed in Maharashtra during FY 2004-05

6. Shri. Niraj Kumar, Consultant of MEDA, submitted that so far as non-compliance of the Commission's RPO Order during FY 2005-06 is concerned, MEDA has collected data from the distribution licensees. Shri. Niraj Kumar further submitted that MEDA does not readily have the data pertaining to the installed capacity of wind energy in the State of Maharashtra for FY 2004-05.

7. The Commission observed that depending on the actual capacity of renewable wind 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. In this regard, the Commission enquired from MEDA that considering it 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. Niraj Kumar submitted that MEDA has obtained the data from MSEDCL and has duly verified the same, before submission under its Petition.

8. 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. Ajit Pandit, Consultant to Commission 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.

9. Shri. Niraj 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 the Commission gives such a direction to MEDA. Shri. Sudhir Kumar, General Manager, 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.

10. The Commission observed that MEDA may engage consultant to perform due diligence/cross-verification of the data but after certification, should take full responsibility as to the veracity of the said data. The Commission observed that the verification of the said data is crucial as based on the said data, requisite action shall be taken against 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.

11. The Commission enquired that 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 for the same. MEDA was asked to apprise the Commission on the same in due course of time after 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 distribution licensees under MEDA's Petition.

12. The Commission enquired of MEDA that whether the distribution licensees in Maharashtra have disputed the allegations of non-payment that have been made under its Petition, and whether any reasons have been furnished by them for such non-payment? Shri. Niraj Kumar submitted that the stand taken by REL and BEST is that unless the Energy Reconciliation Adjustment (ERA) 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. He submitted that 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. He further added that REL and BEST have not shown any positive response post the said meeting. On an enquiry made by the Commission, Shri. Niraj Kumar submitted that MEDA would be able to submit a copy of the minutes pertaining to the said meeting. He further 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.

13. Shri. Ajit Pandit 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 MEDA's 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 FY 2005-06 is a mistake which should be rectified by MEDA while it submits certified data within one week, as undertaken.

14. Shri. A.D. Palamwar, Director (Operations), MSEDCL, submitted that as per the records of MSEDCL, it does not dispute the figures submitted by MEDA under its Petition.

15. 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. 6.50 Crore and Rs. 9.65 Crore, respectively, towards purchase of renewable energy during FY 2004-05 and FY 2005-06. Shri. Niraj Kumar agreed to the submissions of Shri. Shinde.

16. 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 is not disputed by TPC. Further, MSEDCL has settled their RPO account for FY 2005-06 and accordingly TPC shall be making payments of Rs. 41 Lakh to MEDA within a period of one week, for purchase of renewable energy from the Supa base. He added that the payments for FY 2004-05 are not outstanding. He further submitted that so far providing credit for purchase of renewable energy by REL and BEST are concerned, TPC would be able to provide such credit once MSEDCL provides such credit to TPC which is still pending. It was again 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.

17. The Commission enquired of the representatives present on behalf of MSEDCL whether payments that are outstanding against TPC can be released expeditiously. Shri. Palamwar submitted that the processing of the said payments is at the final stage and MSEDCL would release all outstanding payments to TPC latest by the end of the first week of August 2007.

18. 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.

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

20. The Commission observes that MSEDCL is the chief defaulter in the settlement of the RPO account and in light of all the circumstances; there is no pending issue regarding RPO settlement, as submitted by MEDA and agreed by all distribution licensees. MSEDCL had agreed to release all outstanding payments to TPC latest by the end of the first week of August 2007 and MEDA was also directed to ensure the settlement of the RPO Account with MSEDCL and the drawee licensees, by August 15, 2007, yet the Commission has not received any confirmation from utilities and MEDA regarding final settlement of RPO account for FY 2004-05 and FY 2005-06.

21. Subsequently, MEDA was expected to submit a certified data of total installed capacity and total energy generation from renewable sources in Maharashtra and the rectified calculations of RPO settlement account for FY 2004-05 and FY 2005-06, to the Commission. However, MEDA has not submitted the same to the Commission.

22. Hence, the Commission hereby directs all licensees to comply with Commission's directives under this Order and undertake settlement of RPO for FY 2004-05 and FY 2005-06 within four weeks from date of issuance of this Order. The Commission hereby cautions the licensees that non-compliance of the same shall be dealt with in accordance with applicable provisions under Electricity Act 2003.

Accordingly, the Petition in Case No. 19 of 2007 stands disposed off.

Sd/-
(S.B.Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr Pramod Deo)
Chairman

(P. B. Patil)
Secretary, MERC