

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 4 of 2007

In the matter of
Reliance Energy Ltd Petition seeking (i) waiver of minimum targets of RPS for FY 2006-07 and (ii) relaxation in RPS target for FY 2007-08.

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

ORDER

Dated: September 26, 2007

The Commission, in exercise of the power vested in it under clause (e) of sub-section (1) of Section 86, read with sub-section (h) of Section 61 and Section 3 of the Electricity Act, 2003 (EA 2003) and all other powers enabling it in this behalf, determined the regulatory framework for long term development of renewable energy sources namely, Renewable Purchase Specification (RPS), within the State of Maharashtra, vide its Order dated August 16, 2006 in Case No. 6 of 2006. The Commission specified minimum targets of RPS as 3.0%, 4.0%, 5.0% and 6.0% for the years 2006-07, 2007-08, 2008-09, and 2009-10, respectively.

2. M/s Reliance Energy Ltd. (REL), submitted a Petition before the Commission on April 9, 2007, seeking (i) waiver of their obligation to achieve the minimum targets for FY 2006-07; (ii) relaxation in the prescribed RPS target for FY 2007-08 from 4.0% to 2.4%, in pursuance of clause 2.6.12 of the Commission's RPS Order (Case No. 6 of 2006) dated August 16, 2006, which provides that "*the Commission may waive the minimum targets for the year subject to supply constraints or any other uncontrollable factors in the opinion of the Commission*". REL submitted that on account of various constraints and factors beyond its control, it would not be able to achieve the minimum targets specified by the Commission and consequently, REL has approached the Commission for waiver of minimum targets for the years 2006-07 and 2007-08.

3. REL, in its Petition, submitted that:
- a) REL has diligently pursued all possible sources of renewable energy but has not been able to procure any renewable energy so far.
 - b) REL has no resource of its own for generation of renewable energy and is consequently dependent on purchases from other sources. REL has approached MSEDCL and TPC for purchase of renewable energy (RE); however, they have expressed their inability to supply power to REL for the year 2006-07. REL has widely publicized in newspapers throughout the State their requirement of purchasing renewable energy and also approached various developers of renewable energy, associations, project owners and generators.
 - c) REL has requested MEDA for allocation of REL's share in the total grid connected renewable energy generation, as it believes that on the principle of RPO Order dated September 3, 2004 (Case No. 1 of 2004), MEDA would allocate a share of the State's renewable energy.
 - d) REL has signed a PPA for 45 MW with Reliance Innoventures Ltd., who in turn has entered into an arrangement with Suzlon for supply of renewable energy from a wind farm to be set up. A further purchase of 105 MW is also in pipeline. The energy agreed to be purchased from wind farms to be set up, would be available only from late 2007.
 - e) There is no standardized procedure for procurement of power from sources located other than within the area of the distribution licensees and in view of such non availability, various interested parties have sought clarifications regarding the operational issues like metering, transmission network, development of evacuation arrangement from project switchyard till MSETCL sub-station and sharing of such costs, interconnection and other permissions, etc. Further, during seventh Grid Coordination Committee (GCC) meeting, REL has requested STU to standardize the procedure of procurement of power. CE, STU, has been assigned with the responsibility of formulating the said procedure.
 - f) Strong support from Government and other agencies is required to overcome constraints like land acquisition and availability, which are critical to set up renewable energy projects. The commissioning of the small hydro projects depends on clearance of CEA and various other factors. Most of the new renewable energy projects except wind farms would commence commercial operation only in FY 2008-09.
 - g) REL had appointed M/s Feedback Ventures Ltd. (FVL) to assess the availability of renewable energy sources in the State. The final report from FVL indicates that there may not be enough renewable energy to meet RPS targets by all the utilities for FY 2007-08.
 - h) Realizing the penalty imposed by the Commission on the eligible persons for the shortfall in meeting its RPS target, RE developers are expecting higher tariff from the distribution licensees than as approved by the Commission. Further, these developers are expecting other incentives like early payment, non-sharing of CDM benefits with utilities, financing arrangement for their project, etc.

- i) A few interested parties who approached REL have already signed PPAs with MSEDCL. A move to sell power from existing projects at higher tariff would simply be a shift for sale of RE power from one distribution licensee, thus, defeating the basic principle of promotion of renewable energy sources in the State.

4. The Commission vide its Notice dated April 12, 2007, scheduled the hearing in the matter on April 25, 2007, and directed REL to serve a copy of its Petition to the other four distribution licensees (TPC, BEST, MSEDCL and MPECS), MSETCL, MEDA and four authorized consumer representatives.

5. At the hearing held in the matter on April 25, 2007, Smt. Anjali Chandurkar, Counsel for REL, submitted that in spite of diligent efforts undertaken by REL, it is not practically possible to achieve the minimum RPS target of 3.0% for FY 2006-07, as specified under clause 2.6.8 in the RPS Order dated August 16, 2006 in Case No. 6 of 2006, due to various constraints. Further, the minimum RPS target of 4.0% for FY 2007-08 should also be relaxed and modified to 2.4%. Counsel further submitted that the disallowance of the penalty for failure to achieve RPS targets, as “pass through” expenses in the ARR, as per clause 2.10.7 of the RPS Order would cause sufficient hardship to REL. The Commission enquired whether it would be possible for REL to achieve the cumulative average of the RPS percentage (as otherwise specified for FY 2006-07, FY 2007-08, FY 2008-09 and FY 2009-10) and opined that REL should try to make good any shortfall in the RPS target pertaining to one fiscal year, in the following fiscal year. It would not be judicious to grant exemption as prayed for at the stage when steps towards procurement of renewable energy have already been initiated. Counsel submitted that achieving the cumulative RPS targets would be difficult owing to the insufficiency of renewable energy sources available in Maharashtra, with reference to FVL’s ‘Final Report on Assessment for availability of RE source in the State of Maharashtra’, which states that:

“7. Conclusion: -

Here while Assessing the Renewable Energy generation and reviewing the entire RPS framework, for calculated the percentage of RPS base is taken as 82000 MUs which is of 05-06, by MEDA and on that basis derived and projected the Renewable energy generation for the Maharashtra state.

Where as the Demand projection derived for utilities for year 07 to 10 are higher than those hence Renewable Generation required is higher than the MEDA projection.

Renewable energy Generation in Maharashtra for F.Y. 06-07 till Dec 06 was 2410 MUs with installed capacity of 1907 MW and for the F.Y. 09-10 will be 6956 MUs with installed capacity between 3500 to 4000 MW.

As there is a shortage of Renewable Energy generation to meet the RPS obligation and therefore there is immense potential for the Renewable energy development for the next three year time period in Maharashtra.”

6. Shri. Ajit Pandit, Regulatory Expert, MERC submitted that the gross energy requirement levels submitted by REL for FY 2007-08, FY 2008-09 and FY 2009-10 are overstated in comparison to the energy input requirement levels specified by the Commission in the MYT Order dated April 24, 2007 passed in Case No. 75 of 2006 (in the matter of approval of ARR for REL-D for Control Period of FY 2007-08 to FY 2009-10, and Retail Tariff for FY 2007-08). As for example, with respect to FY 2009-10, REL has submitted the gross energy input level as 10,378 MU under its Petition, however, as per the Order dated April 24, 2007, the Commission has specified the same as 9,890 MU. Several other data mentioned in REL's Petition and FVL's Report, are also overstated as compared to the amounts specified by the Commission in its Order.

7. The Commission observed that REL would be able to adhere to RPS targets, should it adhere to the energy input requirement levels as specified by the Commission. REL has to re-asses their energy input requirement levels and endeavour achieving the RPS targets. Further, the Commission directed MEDA to take initiative to set up the technical task force to analyse the issue and achieve RPS targets and opined that all utilities in Maharashtra subject to the RPS Order, should collaboratively participate in the technical task force to be set up by MEDA.

8. Shri. Girish Rane, MEDA, submitted that as per the data submitted by MEDA before the Commission at an earlier point of time, the amount of renewable energy (especially bagasse power) available in Maharashtra is sufficient for all the distribution licensees to achieve the 4.0% RPS target specified for FY 2007-08. The Commission enquired whether MEDA has allocated the availability of the total renewable energy for each utility as the availability allocation is crucial considering that all renewable energy sources of Maharashtra are located in the MSEDCL license area. Shri. Pandit submitted that MEDA should further provide realistic projections/assessment with respect to availability and capacity addition of renewable energy. The Commission observed that realistic projections/assessments could be easily ascertained by MEDA through SCADA recordings.

9. Shri. J.D. Kulkarni, TPC, submitted that TPC has initiated action to set up a 100 MW wind farm to achieve its RPS target and any shortfall in achieving the RPS target pertaining to FY 2006-07 would be adjusted during FY 2008-09, as soon as the 100 MW wind farm project is commissioned. Shri. Kulkarni further submitted that streamlining the RPO mechanism would aid utilities in achieving the RPS targets. The Commission observed that issues connected to settlement of RPO are not connected to the achievement of RPS targets.

10. Shri. C.H. Shinde, representing BEST, submitted that BEST may not be able to achieve the RPS target for FY 2006-07. However, initiatives are being taken to achieve RPS target in the following years. He further submitted that BEST has approached TPC for procurement of renewable energy and it has also initiated procurement of renewable energy from solid waste energy sources developed by the Municipal Corporation of Greater Mumbai (MCGM).

11. MEDA, vide its letter dated July 3, 2007, submitted that it has set up two Committees in addition to Core Committee at MEDA, with reference to the proceedings in regard to hearing held on April 25, 2007, wherein MEDA was directed to take initiatives to set up technical task force.

- 1) Maharashtra RPS Technical Task Force – 2007, to analyse and address the issues to achieve RPS targets
- 2) A Committee to secure the proper implementation of RPS Order of the Commission.

MEDA submitted that in view to secure proper implementation of RPS Framework, the Committee would:

- a) Review monthly progress of implementation of RPS Framework
- b) Keep the Commission informed about the non-compliance of the Framework by any stakeholder
- c) File Petition before the Commission for non-compliance of the Framework
- d) Consider and address day-to-day implementation issues arising out of the operational mechanism of the Framework.

12. MEDA submitted that subsequently, MEDA held a meeting of the technical task force at Sahyadri Guest House, Mumbai on August 29, 2007, to discuss the issues pertaining to procurement of renewable energy in the State. The main focus of the meeting was to analyse difficulties faced by the distribution licensees to achieve RPS percentage target through own generation or purchase from RE generators. MEDA, vide its letter dated September 6, 2007, submitted the comments/issues brought out by the participants.

13. In this context, the Commission opines that since FY 2006-07 is already over, the need for review of applicable RPS percentage during FY 2006-07 should arise only after ascertaining actual renewable energy generation within the State during FY 2006-07. Further, as regards FY 2007-08, the Commission would like to highlight that MSEDCL under its MYT Petition (Ref. Commission's Order for Case 65 of 2006 – clause 5.3, page 125) had projected renewable energy procurement in excess of 4% of its projected energy input requirement indicating excess availability of renewable energy sources during FY 2007-08. During FY 2007-08, MSEDCL had projected power procurement from renewable energy sources of 4640 MU comprising 3720 MU from wind energy sources

and 920 MU from co-generation projects. Thus, need for review of stipulated RPS percentage would arise only upon availability of findings of the study to be undertaken by the Task Force constituted by MEDA.

14. As regards REL's submission for review of RPS percentage, the Commission notes that REL had projected quantum of 371 MU towards RE procurement under its MYT Petition. The Commission had approved RE power purchase of 360 MU during FY 2007-08 at 4.0% of the total energy input requirement of REL, vide its MYT Tariff Order dated April 24, 2007 in Case No. 75 of 2006. Thus, it is evident from the MYT Tariff Petitions filed by MSEDCL and REL that, the Utilities had estimated RE quantum procurement in line with RPS target and need for review of RPS percentage was never highlighted by any of the licensees.

15. In order to analyze this issue further, the Commission, vide its letters dated August 13, 2007 and September 3, 2007, directed MEDA to submit the detailed information regarding total installed capacity and total generation from all the renewable sources in the State, commissioned till June 30, 2007 and details of upcoming projects in FY 2007-08, which is essential to ascertain need for review of stipulated RPS percentage under RPS regime.

16. Further, during the hearing held on August 21, 2007, in the matter of MEDA's request for specific authority for successful implementation of RPO Order (Case No. 1 of 2004) and RPS Order (Case No. 6 of 2006), MEDA had submitted that RE source-wise actual RE generation data and RE developer-wise installed capacity within Maharashtra is readily available with it. MEDA was directed to submit the same to the Commission. However, despite repeated follow-up, MEDA has failed to furnish above information to Commission.

17. Subsequently, the Commission, vide its letter dated September 3, 2007 had directed MSEDCL to submit the Renewable Energy Statement for FY 2006-07, which would cover developer-wise and source-wise RE generation, RE procurement by MSEDCL and generation data of RE wheeled for third party or captive purposes.

18. However, the Commission is yet to receive any submission from MEDA and MSEDCL in this matter. The Commission is of the opinion that need to review the RPS targets for FY 2007-08, FY 2008-09 and FY 2009-10 can be ascertained only after receipt and validation of RE data of previous years from MEDA/MSEDCL and upon availability of findings of the study initiated by Task Force constituted by MEDA.

19. In view of the aforesaid observations, the Commission is of the opinion that the present petition of REL seeking relief from levy of enforcement conditions for shortfall in meeting RPS target is pre-mature at this stage. The question of seeking any relief would only arise once the findings of MEDA and MSEDCL are available. It would not be judicious to grant exemption as prayed for at this stage, when steps towards procurement

of RE power have already been initiated. REL will have liberty to approach the Commission once the findings as aforesaid, are available.

Accordingly, the Petition in Case No. 4 of 2007 stands disposed off.

Sd/-
(S.B.Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr. Pramod Deo)
Chairman

(P. B. Patil)
Secretary, MERC