

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@mercindia.org.in
Website: www.mercindia.org.in

Constitution of Enquiry Committee in pursuance of Order dated 15 October, 2018 in Case No. 242 of 2018

Date: 15 November, 2018

1. Section 19 of the Electricity Act, 2003 empowers the State Commissions to revoke a Licence granted to a Distribution/ Transmission/Trading Licensee, after making an enquiry, if it is of the opinion that the Licensee has made wilful and prolonged default in doing anything required of the Licensee under the Act or the Rules or Regulations made thereunder and the public interest requires such revocation of the Licence.
2. Section 97 of the Electricity Act, 2003, provides that the State Commission may by general or special Order in writing, delegate to any Member, Secretary, officers of the Commission or any other person, subject to such conditions, if any, as may be specified in the Order, such of its powers and functions under the Act, except powers to adjudicate disputes under Section 86 and the powers to make Regulations as it may deemed necessary.
3. Section 94 of the Electricity Act, 2003, provides that the Commission, shall for the purpose of any inquiry or proceeding under the Act, have the same power as are vested in the Civil Court under the Code of Civil Procedure, 1908 in respect of matters on summoning and enforcing the attendance of any person and examining him on oath and discovery and production of any document or other material object producible as evidence etc.
4. As per Regulation 82 of the MERC (Conduct of Business) Regulations, 2004, the Commission may make such direction or order as it thinks fit for collection of information, inquiry, investigation, entry, search, seizure. Further in accordance with Regulation 82(a) MERC (Conduct of Business) Regulations, 2004, the Commission may, at any time, direct the Secretary or any one or more Officers or any other person as the Commission considers appropriate to study, investigate or furnish information with respect to any matter within the jurisdiction of the Commission under the Act.
5. The Commission has passed the Order dated 15 October, 2018 in Case No. 242 of 2018 directing to conduct an enquiry to ascertain whether M/s. Global Energy Pvt. Ltd.

(GEPL) is in default in discharging any of the duties and obligations cast upon it under the Electricity Act, 2003 or the Rules and Regulations made thereunder and the terms and conditions of its Trading Licence.

6. In view of the above powers of the Commission, the Maharashtra Electricity Regulatory Commission hereby constitutes a One member enquiry committee comprising of Dr. Sudhir Kumar Goel (Retd. IAS, retired from the Government of Maharashtra as Additional Chief Secretary (Agriculture and Marketing)), to conduct an enquiry of GEPL as envisaged at paras. 23 and 24 of its Order dated 15 October, 2018 in Case No. 242 of 2018.
7. The Commission hereby delegates its powers, under Section 97 of the Electricity Act, 2003 for conducting the enquiry of GEPL as contemplated under Section 19(1) of the Electricity Act, 2003, to the enquiry committee.
8. The scope of the enquiry shall be the following:
 - i. Whether GEPL has been invoking bank guarantees of consumers/generators on the issue of Power Factor Incentive in violation of Act, Rules and Regulations?
 - ii. If yes, then how many such bank guarantees have been invoked by GEPL and on what dates and for what amounts?
 - iii. What is the impact of such invocation of bank guarantee on the Licensed business of GEPL in question and Whether GEPL is financially in a position to discharge its functions efficiently being a Trading Licensee of MERC at present?
 - iv. Whether GEPL has entered into “Facilitation Agreements” with consumers/generators, even after being a Trading Licensee as per present Trading Licence of MERC? If yes, then how many such agreements have been entered and for what period?
 - v. Whether the agreements entered into by GEPL prior to grant of Licence No. 01/2018 are still subsisting and affecting present Licence? If yes, then how many such agreements are in existence?
 - vi. Whether there are disputes w.r.t agreements entered into by GEPL prior to grant of Licence No. 01/2018 affecting present trading under Licence. If yes, then how much amount is claimed against GEPL under such disputes and what is the impact of same on the present Licence?

- vii. Whether GEPL has submitted incomplete data without being in proper formats, regarding its Intra-State trading transactions in non-compliance to its “Conditions of Licence”?
 - viii. Whether the financial statements of GEPL as submitted by it are correct and genuine especially w.r.t to dues and other relevant issues including but not limited to furnishing of monthly bank account statements of all accounts held by GEPL?
 - ix. How many arbitrations have been initiated by GEPL without referring the matter to the Commission under Section 86(1)(f) of the Electricity Act, 2003 either for adjudication by the Commission or for reference to Arbitration since the onset of present Licence?
 - x. What is the relation between GEPL and Shiv Shakti Urja and whether such relation is directly in conflict with Clause 5.4 of the “Conditions of Licence” issued to GEPL?
 - xi. Whether GEPL has entered into back to back agreements with generators/consumers for trading of energy through GEPL and sale of REC, on account of such trading through Shiv Shakti Urja?
 - xii. Whether GEPL has made windfall gains against the Act and Rules/ Regulations through Shiv Shakti Urja and whether there is a quid-pro-quo between GEPL and Shiv Shakti Urja?
 - xiii. What is the amount of “Trading Margins” being charged by GEPL in all its Intra-State transactions with reference to present Licence?
 - xiv. Whether continuation of GEPL’s Trading Licence would negatively and irreparably impact “Public Interest” as propounded under section 19 ?
9. The enquiry committee would also examine any other relevant issues not specifically mentioned above or that are brought to the notice of the committee during the course of its enquiry in relation to section 19.
10. The Commission authorizes the enquiry committee, if required, to visit the premise(s)/offices of GEPL for collection of information, inquiry, investigation, entry, search, seizure and, without prejudice to the generality of its powers.

11. Director (Electrical Engineering) of the Commission will act as the Secretary to the Committee for convening the meetings at the place and time as decided by the Committee.
12. The enquiry committee shall provide opportunity to all parties interested in making submissions only with reference to present inquiry in this regard by giving a public notice inviting written comments/objections.
13. The enquiry committee shall confront GEPL with the relevant issues collected during the enquiry and provide reasonable time to GEPL, to make submissions in that regard.
14. An honorarium to be paid to Dr. Sudhir Kumar Goel for his time to conduct the enquiry shall be issued separately by the Secretary of the Commission. The Committee shall be provided full secretarial and other support.
15. The Committee shall ensure that the entire process is completed within a period of 2 months commencing from 15 November, 2018 extendable with prior permission of the Commission and thereafter shall submit the enquiry report to the Commission.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member

Sd/-
(Anand B. Kulkarni)
Chairperson

