

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 72 of 2019

Case of Maharashtra State Electricity Distribution Co. Ltd., for approval of procurement of bagasse based co-generation power for meeting the non-solar renewable purchase obligations.

Coram

**I. M. Bohari, Member
Mukesh Khullar, Member**

Maharashtra State Electricity Distribution Co. Ltd.Petitioner

Vighnagar Sahakari Sakhar Karkhana LtdImpleaded Respondent No.1
Rajarambapu Patil Sahakari Sakhar Karkhana LtdImpleaded Respondent No.2
Maharashtra Energy Development AgencyImpleaded Respondent No.3

Appearance:

For the Petitioner	: Ms Kavita Gharat (Rep)
For Impleaded Respondent No.1	: Shri. G.V. Patil (Rep)
For Impleaded Respondent No. 2	: Shri S.D. Korade (Rep)
For Impleaded Respondent No. 3	: None

ORDER

Dated: 22 May, 2019

1. Maharashtra State Electricity Distribution Co. Ltd. (**MSEDCL**) has filed this Case dated 15.03.2019 for approval of procurement of bagasse based co-generation power for FY 2018-19 under Section 62 and 86 (1), (b), (e) of the Electricity Act, 2003 (**EA**)for meeting the Non-Solar Renewable Purchase Obligations (**RPO**).

2. Prayers of the MSEDCL are as follows:

1. To admit the Petition as per the provisions of Section 62 and 86 (1) (b), (e) of the Electricity Act 2003.

2. To accord approval for Rs. 3.56/unit for FY 2018-19 as rate for procurement of energy from bagasse based co-generation plant of M/s Vighnahar Sahakari Sakhar Karkhana Ltd. (6 MW) & M/s Rajarambapu Patil Sahakari Sakhar Karkhana Ltd. (12 MW) which has completed EPA period of 13 years.
3. To accord approval that the energy purchased by MSEDCL from M/s Vighnahar Sahakari Sakhar Karkhana Ltd. & M/s Rajarambapu Patil Sahakari Sakhar Karkhana Ltd. is entitled for fulfillment of non solar RPO target of MSEDCL

3. MSEDCL in its Petition states that:

3.1. RPO targets and fulfillment

- 3.1.1. The Commission notified the Maharashtra Electricity Regulatory Commission (Renewable Purchase Obligation, its compliance, and implementation of REC framework) Regulations, 2016 (**RPO Regulations 2016**) on 30 March, 2016 for the control period from FY 2016-17 to FY 2019-20. As per Regulation 7.1 of the RPO Regulations 2016, the RPO targets have been set as provided in the table below:

Year	Quantum of purchase (in %) from RE sources (in terms of energy equivalent in kWh)		
	Solar	Non-Solar	Total
2018-19	2.75%	11.00%	13.75%
2019-20	3.50%	11.50%	15.00%

- 3.1.2. Accordingly, MSEDCL contracted Renewable Energy with all RE generators to fulfill its Non-Solar RPO targets. The details of the same are provided in the table below:

Sr. No.	Source	Total target for RPO as per all RE Policy (excluding Open Access)	Capacity Status as on 31.12.18 (MW)	
			Contracted	Commissioned
1	Wind	3500	4532	3532
2	Bagasse based Co-generation	2000	2306	2197
3	Biomass	700	236	182
4	Small Hydro	500	120	112
5	MSW		15.5	4
Total-Non-solar		6700	7212	6027

- 3.1.3. In view of the above, RPO Compliance for FY 2017-18 by MSEDCL is given below:

Particulars	Non-Solar(including mini-micro Hydro) RPO		Total Solar and Non Solar RPO	
	MUs	%	MUs	%
Target	12801	10.50	15239	12.50
Achievement (Including REC Purchase)	12801	10.50	13763	11.29
Shortfall in MU	0 MUs		1476 MUs	

3.1.4. MSEDCL has fulfilled non-solar RPO (including mini-micro hydro) for FY 2017-18 by additionally purchasing the 2211,000 nos. of non-solar RECs equating to 2211 MUs.

3.1.5. Further for FY 2018-19, the Commission has set RPO for MSEDCL in its MERC RPO Regulation, 2016 which is presented as under:

Gross Energy Consumption (GEC) i.e. MSEDCL input in MUS	Non-Solar RPO target and requirement		
	%	MUs	Capacity MW (CUF 22%)
124116	11.00	13653	7084

3.1.6. MSEDCL has also procured RECs instead of actual power to fulfill part of its RPO for FY 2018-19. To meet the short fall it had procured power from Bagasse based Co-generation projects whose 13 years of EPA validity has expired or was going to expire.

3.2. Procurement of Bagasse based Co-generation power from projects whose 13 years of EPA validity has expired: -

3.2.1. The Commission vide its Order dated 2 November, 2018 in Case No. 264 of 2018 approved Rs. 3.98/unit for FY 2018-19 as rate for procurement of energy from M/s Jawahar Shetkari Sahakari Sakhar Karkhana Ltd. (JSSSKL), bagasse based co-generation project, which has completed EPA period of 13 years.

3.2.2. However, MSEDCL further negotiated with JSSSKL for the power procurement rate. Accordingly, JSSSKL gave an undertaking dated 12 December, 2018 agreeing to supply the power to MSEDCL at Rs 3.56/Unit for FY 2018-19 subject to the approval of the Commission.

3.2.3. Meanwhile, M/s Vighnagar Sahakari Sakhar Karkhana Ltd (VSSKL) on similar lines of JSSSKL submitted an undertaking on 18 December, 2018 agreeing to supply the power at Rs 3.56/Unit for FY 2018-19 as its 13 years EPA for 6 MW capacity was going to expire on 22.12.2018.

- 3.2.4. Accordingly, permission was granted by MSEDCL to VSSKL to inject power in the grid for FY 2018-19 at a rate of Rs. 3.56/Unit subject to approval of the Commission.
- 3.2.5. Further, the Commission vide its order dated 9 January, 2019 in Case No. 225 of 2018 approved Rs. 3.56/unit for FY 2018-19 as rate for procurement of energy from JSSSKL.
- 3.2.6. Before expiry of EPA with VSSKL, MSEDCL purchased power from VSSKL at preferential tariff which are very high. Now after completion of 13 years of EPA period, VSSKL has recovered its capital cost and is ready to supply power at Rs. 3.56/ Unit to MSEDCL for FY 2018-19. The bagasse based co-generation power is firm in nature and the purchase of power at this rate will be beneficial to meet the RPO target of MSEDCL.
- 3.2.7. There is one more bagasse based co-generation project of 12 MW capacity of M/s Rajarambapu Patil Sahakari Sakhar Karkhana Ltd (**RPSSKL**) whose 13 years of EPA validity is ending on 29 March, 2019 i.e. during FY 2018-19. Accordingly, RPSSKL has submitted an application for the renewal of EPA post its expiry.

4. Hearing held on 9 May, 2019 is summarized as under:

- 4.1. During the hearing held on 9 May, 2019, MSEDCL reiterated its submission. Upon query, to the impleaded parties, VSSKL and RPSSKL affirmed that they agree to sale Power to MSEDCL at Rs 3.56/Unit post expiry of EPA.

Commission Analysis and Ruling:

5. MSEDCL has sought approval of the Commission to procure power from VSSKL and RPSSKL bagasse-based cogeneration plants at Rs 3.56/Unit whose 13 years EPAs has expired in FY 2018-19.
6. The Commission by its Order dated 12 July, 2018 in Case No. 84 of 2015 has categorically dealt with the issue of the projects whose EPA period had expired. The Commission directed MSEDCL that procurement of power from such projects shall be through a competitive bidding process and sale and purchase made under interim arrangement should be adjusted with the rate discovered through the competitive bidding process. The relevant extract of the Order is as below:

Other terms of EPA: Except for the tariff and tenure, the other existing provisions in the old EPA shall be continued. While conducting the competitive bidding, the Distribution Licensees shall follow modalities/principles as stipulated under this Order. Further, for modalities/

principles other than that is set under this Order, the Distribution Licensee is free to follow Central Government approved guidelines for competitive bidding of wind/solar projects. The Commission shall approve the purchase price discovered as part of the transparent bidding process under Section 86 (1) (b) of the Act, 2003, following due regulatory process. Besides, it is noted that MSEDCL in its suggestions has proposed first right of refusal to be provided to them in cases of EPA expiry. Regarding this, Commission is of the view that since extension of EPA now has to be based on a competitively bid mechanism, wherein MSEDCL will have to necessarily float tenders and interested projects will have to participate in the bid process for EPA extension, any such provision of first right of refusal upon expiry of old EPA becomes infructuous.

With the above, the Commission also rules that the interim arrangement allowed to the Petitioner vide Daily Order dated 3 December, 2015 in this Case shall cease to be valid from date of issuance of this Order and the final dispensation as per this Order shall apply. Further, the dispensation in the said daily Order to apply APPC rate was purely of interim nature and without prejudice to the final dispensation. The relevant extract of the Daily Order is cited at para 5 of this Order.

Accordingly, the energy sale or purchase made under such interim arrangement should be adjusted with the rate discovered through the process to be carried out as per the final dispensation as outlined in this Order. MSEDCL shall invite bids for selection of wind (Group-III), biomass and bagasse projects, whose EPA has expired, immediately after issuance of this Order.

7. The Commission has directed MSEDCL to adopt competitive bidding process for procurement of power from the generators whose EPA has expired, however, considering the difficulty in conducting competitive bidding for single project whose 13 year EPA has expired, the Commission in its Order dated 9 January, 2019 in Case No. 225 of 2018 had accorded approval for power procurement from JSSSKL (24 MW) Bagasse based Co generation plant at Rs 3.56/Unit in FY 2018-19.
8. Meanwhile, 13 years EPA with VSSKL (6MW) expired on 22.12.2018 and that of RPSSKL's expired on 29.03.2019. Both these EPAs are expiring with few days left (3 months for VSSKL and 2 days for RPSSKL's EPA) of FY 2018-19. VSSKL and RPSSKL agreed to supply power at Rs 3.56/Unit for balance period of FY 2018-19 post expiry of their respective EPAs. Accordingly, MSEDCL has requested the Commission to allow such power procurement for FY 2018-19.
9. The Commission notes that MSEDCL has already filed separate Petition seeking approval of the Commission for procurement of Bagasse based Co-generation projects from

JSSSKL, VSSKL and RPSSKL etc for FY 2019-20. The Commission will deal with the issue of procurement of power through competitive bidding, or otherwise in that Order.

10. In present case, power procurement period is limited to around 3 months for VSSKL and 2 days for RPSSKL post expiry of their respective EPAs. Both these generators have agreed to supply power to MSEDCL for that remaining period of FY 2018-19 at Rs. 3.56/Unit. The said rate of Rs. 3.56/Unit has already been approved by this Commission vide its Order dated 9 January, 2019 in Case No. 225 of 2018 for power procurement from JSSSKL for FY 2018-19 post expiry of its EPA. Under these circumstances, and considering limited period of power procurement, the Commission is inclined to approve power procurement from VSSKL and RPSSKL at rate of Rs. 3.56/Unit post expiry of their EPAs in remaining period of FY 2018-19.

11. Hence, the following Order:

ORDER

1. **The Case 72 of 2019 is allowed.**
2. **The Commission allows Bagasse based power procurement from Vighnahr Sahakari Sakhar Karkhana Ltd and Rajarambapu Patil Sahakari Sakhar Karkhana Ltd at Rs 3.56/Unit to Maharashtra State Electricity Distribution Company Limited for remaining period of FY 2018-19 post expiry of their EPAs.**
3. **Such procurement of Bagasse based power shall be considered for meeting the Non-solar RPO requirement of Maharashtra State Electricity Distribution Company Limited.**
4. **Commission directs MSEDCL to initiate process for procurement of all its RE requirement through competitive bidding only.**

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I. M. Bohari)
Member

(Abhijit Deshpande)
Secretary



MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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