
Draft MERC (Terms and Conditions for Determination of Renewable Energy Tariff) (First Amendment) Regulations, 2016

EXPLANATORY MEMORANDUM

BACKGROUND

RE Tariff Regulations, 2010 (R. 43.2 and 59.2)

The Maharashtra Electricity Regulatory Commission (Terms and Conditions for Determination of Renewable Energy (RE) Tariff) Regulations ('RE Tariff Regulations'), 2010 provided as follows for failure by Biomass Power Projects (Regulation 43.2) and Non-Fossil Fuel-based Co-Generation Projects (Regulation 59.2) to comply with the restrictions on fossil fuel usage specified in the Regulations:

“43.2 Non-compliance with the condition of fossil fuel usage by the project developer, during any financial year, shall render such biomass power project to be ineligible to avail preferential tariff determined as per these Regulations from the date of default and for the duration of the default during such financial year when such default occurs. However, such defaulting Biomass Power Project shall continue to sell power to concerned distribution licensee even during the period of default at a rate lower by Rs. 0.50/kWh below the applicable preferential tariff determined as per these Regulations...

59.2 Non-compliance with the condition of fossil fuel usage by the project developer, during any financial year, shall render such non-fossil fuel based co-generation projects to be ineligible for preferential tariff determined as per these Regulations from the date of default and for duration of the default during such financial year when such default occurs. However, such defaulting Non-fossil fuel based Co-generation Project shall continue to sell power to concerned distribution licensee even during the period of default at a rate lower by Rs 0.50/kWh below the applicable preferential tariff determined as per these Regulations.”

Thus, under the earlier Regulations of 2010, the consequence of default in complying with the restriction on fossil fuel usage was a lower sale rate of Re. 0.50/kWh below the preferential tariff.

RE Tariff Regulations, 2015 (Proviso to R. 46.2; R. 64)

In the subsequent RE Tariff Regulations, 2015, which are applicable at present, sale from Biomass-based Power Projects and Non-Fossil Fuel-based Co-Generation Projects during the period of default was allowed at the Average Power Purchase Cost (APPC) rate, instead of the earlier rate of Re. 0.50/kWh below the preferential tariff. Regulations 46.2 and 64 read as follows:

“46.2 Non-compliance in any financial year with the conditions regarding fossil fuel usage shall render such Biomass-based Power Project ineligible to avail the generic tariff determined in accordance with these Regulations from the date of and for the duration of the default during such financial year:

Provided that such defaulting Biomass-based Project shall continue to sell power to the Distribution Licensee during the period of default at the APPC of such Licensee for the relevant year...

64. The provisions of Regulations 46 and 47 relating to Biomass-based Projects shall apply mutatis mutandis to Non-Fossil Fuel-based C-Generation Projects.”

Order dated 16.8.2016 in Case No. 29 of 2016

The Maha Co-Gen Green Power Producers Association filed a Petition seeking amendment of the above proviso to Regulation 46.2 of the RE Tariff Regulations, 2015 so as to restore the penalty of Re. 0.50/kWh reduction in the preferential tariff specified in the earlier Regulations. In its Order dated 16 August, 2016 in that Case No 29 of 2016, the Commission concluded as follows:

“8. In view of the foregoing, the Commission is of the view that there is a prima facie case for amending the relevant provisions of the RE Tariff Regulations, 2015 to restore the earlier fuel use default provision of a reduction of 50 paise/kWh in the preferential tariff for the period of default. Consequently, the Commission will separately initiate the process for amending the Regulations accordingly.”

The current RE Tariff Regulations, 2015 brought the tariff for periods of default in line with the rate applicable to Non-Fossil Fuel-based non-Qualifying Co-Generation Plants, i.e. the APPC rate. However, in its Order in Case No. 29 of 2016, the Commission recognized that there is a difference between applying the APPC rate ab initio to Non-Qualifying Plants on the one hand, and to qualifying Plants during periods of default on the other.

The Commission also acknowledged that the earlier default provisions had stood the test of time, and had struck a balance between the need for restricting the extent of fossil fuel use and the fact of exigencies in procuring biomass or bagasse to the extent required at certain times. While framing the new Regulations, it was not the intention of the Commission that such Plants be forced to close down. As contended by the Association during the proceedings, the earlier provision enabled the variable cost and a part of the fixed costs to be covered in the default period. The Association pointed out that, in such circumstances, the contribution of these Plants towards the Renewable Purchase Obligation target of Maharashtra State Electricity Distribution Co. Ltd. (the Distribution Licensee in whose area all such Plants are located) would also be

adversely affected. The Commission also noted the contention that biomass and bagasse are wastes whose availability depends upon several factors; that their availability has reduced by 30 to 35 % over the last two years; and the data presented during the proceedings of Case No. 29 of 2016. MSEDCL also supported these contentions.

DRAFT AMENDMENT TO PROVISO TO REGULATION 46.2

In view of the above, the Commission proposes to substitute the existing proviso to Regulation 46.2 of the RE Tariff Regulations, 2015 with the following proviso:

“Provided that such defaulting Biomass-based Project shall continue to sell power to the Distribution Licensee during the period of default at a rate lower by Re. 0.50/kWh than the applicable preferential tariff determined for the relevant year.”