

Before the  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 41 of 2010**

In the matter of  
**Petition filed by M/s Navlakha Translines under Section 42 (3) of the Electricity Act 2003 and Regulations 3 and 18(2) of the MERC (Distribution Open Access) Regulations, 2005 and Regulations 92-94 of the MERC (Conduct of Business) Regulations, 2004 in the matter of adjudication of dispute regarding provisions of Non discriminatory Open Access**

**Shri V.P. Raja, Chairman**  
**Shri Vijay.L. Sonavane , Member**

M/s Navlakha Translines.  
50-A, Hadapsar Industrial Estate,  
Pune -411 013.

...Petitioner.

V/s

Maharashtra State Electricity  
Distribution Company Ltd.  
Prakashgad, Bandra (East),  
Mumbai- 400 051.

...Respondent.

**ORDER**

**Dated: October 20, 2011**

M/s Navlakha Translines, a wind energy developer submitted a Petition under affidavit, before the Commission on August 18, 2010 under Section 42(3) of the Electricity Act, 2003 and Regulations 3 and 18 (2) of MERC (Distribution Open Access) Regulations 2005 and Regulations 92 to 94 of MERC (Conduct of Business)

Regulation, 2004 for adjudication of dispute with MSEDCL for not providing non-discriminatory open access.

2. The prayers in the Petition are as follows:

“

- a) *That the Hon'ble Commission may kindly pass an Order directing MSEDCL, to ensure that non discriminatory open access is provided to the petitioner to enable supply of electricity from its generating station to consumers (in the present case ) such as M/s Bramha Bazaz Hotel Ltd.*
- b) *That the Hon'ble Commission be pleased to direct MSEDCL to give credit to the consumers for the energy already supplied by the petitioner in the respective months from the date of commissioning and to be supplied by the petitioner by feeding the same into the grid and not to hold back the same.*
- c) *That the Hon'ble Commission be pleased to pass such further order or orders as this Hon'ble Commission may deem just and proper in the circumstance of the case.”*

3. The Petitioner M/s Navlakha Translines, in its Petition submitted as under:

- a) The Petitioner a registered partnership firm, has commissioned on September 30, 2009 a 2.1 MW Wind Turbine Generator (WTG) of Suzlon at site Chakala, Village -Gangapur, District- Nandurbar in the presence of representatives of MSEDCL, MEDA and M/s Suzlon Infrastructure Services, Pune. The commissioning certificate was then accordingly issued by MSEDCL to M/s Navlakha Translines on October 6, 2009.
- b) It had intimated MSEDCL, that it is going to sell the 100% power generated from the 2.1 MW WTG under Third Party Sale to M/s Brahma Bazaz Hotel, Pune. Accordingly, it submitted its application dated February 24, 2010, wherein as per the prevailing practice it requested the Respondent to grant No Objection Certificate (NOC) and credit the units injected by the Petitioner into the grid from the date of commissioning (i.e. September 30, 2009). A consent letter of power purchase from third party M/s. Brahma Bazaz Hotel, Pune was also submitted to MSEDCL in this regard vide letter dated February 24, 2010.

- c) Meanwhile, the Respondent, MSEDCL issued the Procedure of Distribution Open Access in the month of April, 2010 and as per the amended procedure a separate open access application was submitted by the consumer i.e. M/s Brahma Bazaz Hotel, Pune on April 17, 2010. The petitioner submitted that as per “Clause 2” of the Procedure of Distribution Open Access issued by MSEDCL, MSEDCL is supposed to convey the concurrence /rejection of application within 7 days from the date of receipt of the applications and permission must be granted within 30 days from the date of application.
- d) Furthermore, the developer, Suzlon, vide reminder letters dated May 14, 2010 and June 10, 2010 intimated the Respondent that all the time-lines had passed and that the application was presumed to be accepted by MSEDCL. It further requested the Respondent to issue the NOC (No Objection Certificate) and credit notes for the energy fed into the grid. The same was also communicated by the Petitioner to the Respondent vide his letter dated August 11, 2010.
- e) As regards, the current status of the matter, the Petitioner submitted that from the month of September 2009 the Respondent has neither issued Credit notes nor granted Open-access till date.
- f) Further the Petitioner submitted its grounds for filing the Petition as under:
  - i. As per Section 42(3) of the Electricity Act 2003, the Distribution Utility is under statutory obligation to provide non-discriminatory use of its distribution system to all open access consumers. Under the said Section, the duties of MSEDCL with respect to such supply shall be that of a common carrier providing non-discriminatory OA.
  - ii. As regards the eligibility to seek OA under Regulation 3.1 of the MERC (Distribution Open Access) Regulations, 2005 any person who has the contract demand more than 1 MVA is eligible for OA. Further under Regulation 3.2 of the MERC (Distribution Open Access) Regulations, 2005, OA to the distribution system of Distribution Licensee shall be allowed to a Generating Company or a Distribution Licensee, other than such Distribution Licensee.
  - iii. The Wind Tariff Order dated November 24, 2003 entitled the generators to sell 100% of the power generated to third party, and Order dated 25th May 2009 in Case 71 of 2008 wherein MSEDCL was directed to issue credit

notes and provide OA without demanding that license be obtained for supply by a generator.

4. The Commission, vide its Notice dated September 23, 2010, scheduled a hearing in this matter on October 05, 2010, and directed the Petitioner to serve a copy of its Petition to the Respondent and the four Consumer Representatives authorised under Section 94 (3) of the EA 2003.
5. During the hearing held on October 05, 2010, Shri. Shridhar Prabhu, Advocate appeared on behalf of M/s. Navlakha Translines. Mrs. Deepa Chawan, Counsel, i/b. Little & Company, Shri P.S. More, CE (Commercial) and Shri R.G. Sonavane, SE (Commercial) appeared on behalf of MSEDCL. The Commission after hearing both parties observed that the consequential issues arising out of not granting Open Access may be sorted out across the table by the Petitioner and the Respondent jointly and which was agreed to by both the parties. The Commission directed the parties to file their respective written submissions and scheduled the next hearing on December 2, 2010.
6. In compliance of, the Commission's directive, the Petitioner filed its written submissions on November 10, 2010, stating the following:
  - a) The Respondent has not replied to any letter submitted by the Petitioner, nor fixed up any meeting in order to resolve the issues.  
Further the Petitioner in its letter dated October 27, 2010 to the Respondent MSEDCL, has mentioned that approx 38 lakh units have been generated and injected into the grid since the commissioning of the project (i.e. from September 2009 to September 2010).
  - b) The Petitioner also proposed a mechanism to sort out the issue arising out of not getting Open Access. He further stated that total consumption of the open access consumer was 3.6 lakh units and M/s Brahma Bazaz Hotel would have received this credit provided timely open access was granted. Thus, in the absence of the credit provided for the same, the only option according to it, was to return the amount equivalent to total generation from project, net of losses to the consumers.
  - c) The Petitioner also stated that in addition to the above, an interest was also collected by MSEDCL from the consumer, since September 2009. Thus, in order to correctly estimate the amount as well as interest payable, the Petitioner requested MSEDCL to provide the credit report/notes for this project.

d) The Petitioner in its written submission to the Commission submitted that the Respondent, MSEDCL vide its letter dated November 18, 2010, addressed to the Petitioner has granted it the permission, for sale of power to “Third Party” under Distribution Open Access Regulations, subject to certain conditions. The specific condition nos. 8, 15, 16, 17 of the said letter, imposed on the Petitioner have been reproduced below:

**i. Condition No: 8**

The RE Generator shall pay following charges to MSEDCL:

- **Administrative Charges:** Rs 50,000/- per annum in lump sum shall be paid within a month from the date of receipt of this NOC or date of commencement of Open Access period.
- **Operating Charges:** Rs 15,000/- per month.

**ii. Condition No:15**

The RE Generator shall install ABT (Special Energy Meters) with communication facilities and communication arrangement with State Load Dispatch Centre.

**iii. Condition No:16**

As per the requirement of FBSM, Wind generators will have to schedule energy with State Load Dispatch Centre.

**iv. Condition No :17**

The petition for cross subsidy is pending at MERC with Case no 43 of 2010 and the decision in this case is binding on Open Access users and Superintending Engineer, O&M Circle, MSEDCL, Nandurbar is requested to obtain undertaking from the generator to this extent on Stamp paper of Rs. 100/.

e) The Petitioner submitted that the condition no.s 15 and 16 of the said letter, are not in line with the Commission’s directives issued in its Order dated May 17, 2007 (*Case No 42 of 2006*) in the matter of Introduction of Availability Based Tariff Regime at State level within Maharashtra and other related issues. In the said Order the Commission has not considered the generation as a part of imbalance pool settlement including RE generators. Under Clause 2.3.5, the Hon’ble Commission directed as under:

**2.3.5 “Since the Commission has not considered generators as part of imbalance pool settlement to begin with, the question of including RE generators in such mechanism does not arise at this stage.”**

Further under Clause 2.11.4 the Hon’ble Commission also clarified the same thing. The referred Clause is as follows:

**2.11.4 “As mentioned above, RE generators are excluded from ambit of ABT mechanism. Same is in line with generation tariff orders approved by the Commission for various renewable energy sources.....”**

The Hon’ble Commission also ruled that all the generators with unit size > 50 MW and excluding RE generating stations shall furnish their forecasted unit wise schedule in respect of generating stations to MSLDC on day ahead basis for scheduling period of 15 minute duration. The relevant extract from the above mentioned order is as follows:

**4.1.3 “Availability of Schedules from Generating Stations**

**All Generating Stations (with unit size > 50 MW) excluding RE generating stations shall furnish their forecasted unit-wise availability schedule in respect of generating stations to MSLDC-OD on day-ahead basis for scheduling period of 15-minute duration i.e. the availability schedule for each generating station shall cover unit-wise availability forecast schedule for 96 time blocks each of 15-minute duration for following day.”**

- f) As regards condition No 8 the Petitioner submitted that the charges imposed on the Petitioner are against the Commission’s Order and directives. As per the Commission’s Order issued in Case No 92 of 2008 dated March 23, 2009, charges other than charges specified in sample illustration are application processing charges which is Rs 5000 per application for short term open access charges. Further these charges are neither defined in the sample illustration for Open Access available on the Commission’s website nor on the Forum of Regulators (FOR’s) website where the charges for open access transactions are given.

g) As regards condition No 17 the Petitioner submitted that the final outcome of the pending petition of cross subsidy with the Hon'ble Commission would be binding on Petitioner as well as the Respondent and hence there is no need to submit any undertaking for the same to MSEDCL. Further the Petitioner also referred to Hon'ble Commission's Order dated November 7, 2007 (*Case No 21 of 2007*) whereby it directed that MSEDCL cannot direct the wind energy Generators to submit any such undertaking as wind energy generators are bound by the Orders of the Commission.

The relevant extract from the above mentioned order is as follows:

**“9 It is not necessary for MSEDCL to mandate wind energy wheelers to submit such a written undertaking since all wind energy wheelers would be, in any event, bound by the Orders of the Commission.”**

7. During the hearing held on December 2, 2010, the Advocate for the Petitioner submitted that the Respondent has granted the permission for sale of power to “Third Party” under Distribution Open Access Regulations, subject to certain conditions as stated in the letter dated, November 18, 2010 addressed to the Petitioner. The letter stated 17 conditions, subject to which the Respondent granted the permission to the Petitioner, for sale of power to third party under Open access Regulations. The Respondent submitted that the conditions mentioned in its letter to the Petitioner were generic in nature and not meant specifically for the Petitioner alone.
8. After hearing both the parties the Commission, observed that certain conditions imposed by MSEDCL for giving Open Access to the Petitioner such as (a) ABT metering, (b) scheduling of energy with SLDC, (c) separate undertaking for cross subsidy and (d) payment of administrative and operating charges are not in line with the earlier Orders / Regulations issued by the Commission. Thus, MSEDCL cannot impose such conditions on the Petitioner. The Commission also directed both the contesting parties to file their written submissions before the next date of hearing scheduled on January 4, 2011.
9. The Petitioner in its additional submission to the Commission dated December 27, 2010 submitted as follows:
  - a) The Petitioner had unwillingly and due to compulsion submitted the total charges of Rs 16,21,270/- for the period from March 2010 to October 2010

to MSEDCL, which included transmission charges, wheeling charges, export unit, administrative charges @ Rs 50,000 per annum and the operating charges @Rs 15,000/-for eight months which were neither as per the Commission's Order/s nor defined in any rule or regulations. The Respondent MSEDCL after receipt of above payment issued Credit Reports to the Petitioner on December 21,2010 however no further communication was received from the Respondent, with regards to grant of non discriminatory Open Access.

b) The Petitioner also proposed the following options for commercial settlement with the Respondent, MSEDCL:

**i. Energy injected from September 30, 2009 to February 28, 2010:** The Respondent was receiving and using the energy fed into its grid from the date of Commissioning of project on September 30, 2009. In this regard the Petitioner requested the Commission to direct the Respondent to pay for the energy at the lowest TOD slab rate for HT energy tariff, under rule related to banking which is also applicable to third party sale. Also, the payment of surplus energy should be made to the developer and not to the consumer in case of third party sale.

**ii. Energy injected from March 1, 2010 to November 30, 2010:** The petitioner submitted that total 41.43 lakh units have been injected into the grid from the date of commissioning to November 30, 2010 and the monthly consumption of open access consumer is around 3.6 lakh units. Since it is not possible to adjust the 41.43 lakh units already injected, the only option available with the Respondent is to refund the amount equivalent to total generation from wind project, net of losses to the consumer.

**iii. Normal Open Access from December 1, 2010:** As regards the period starting from December 1, 2010 onwards the Petitioner requested the Commission to issue necessary directions to the Respondent to grant the open access for third party sale normally.

10. Further the Respondent, MSEDCL issued a corrigendum in the matter of Permission for, 'Sale of Power to third party under Open access' to the Petitioner vide its letter dated December 23, 2010 No. 38544 which stated that as directed by the Commission during the hearing held on December 2, 2010 certain pre-imposed



conditions which were inconsistent with the Commission's earlier orders were modified. The relevant extract of the letter stating the existing and modified condition has been reproduced below:

“.....*In line with the above directives ,*

1) *The condition mentioned at serial no. 15 of the letter ,under reference ,is modified as below:*

*Existing condition:*

*(15) The RE Generator shall install ABT (Special Energy Meter) with communication facilities and communication arrangement with State Load Dispatch Centre.*

*Modified condition:*

*(15) The RE Generator(Supplier) shall install or have installed a Special Energy Meter as specified in clause 7.1(iii),read with clause no.(2)(n) of MERC(Distribution Open Access) Regulations 2005.*

2) *The condition mentioned at serial no 16 of the letter , under reference stands deleted.*

*Existing condition (deleted now)*

*(16) As per the requirement of FBSM, Wind generators will have to schedule energy with State Load Dispatch Centre.*

3) *The condition mentioned at serial no 17 of the letter ,under reference,was regarding obtaining an undertaking from the OA user.*

*Existing condition:*

*(17) The Petition for cross subsidy is pending at MERC with Case No.43 of 2010 and the decision in this case is binding on Open Access users and Superintending Engineer ,O&M Circle,MSEDCL,Nandurbar is requested to obtain undertaking from the generator to this extent on the stamp paper of Rs. 100/-.*

*Modified condition:*

*(16) The petition for cross subsidy is pending at MERC with Case no 43 of 2010 and the decision in this case will be binding on all Open Access users.”*

11. The Respondent MSEDCL vide its additional submission dated February 24,2011 submitted that as directed by the Commission during the hearing held on January 4, 2011,the Respondent discussed the matter with Shri Navlakha (M/s. Navlakha Translines), Shri Kumar (M/s. Suzlon) and Shri Suman (M/s. Brahma Bazaz Hotel). Based on the discussion during the meeting, the Petitioner and the Respondent

agreed on a few terms and conditions, and the Commission was requested to take note of the same. The said terms and conditions are summarized as follows:-

- a) The Cross Subsidy Surcharge calculations worked out by MSEDCL is Rs 3.76 per unit for Commercial and Rs 0.85 per unit for Industrial consumers, and that the same would be pleaded before MERC.
- b) In the interest of consumers and in order to implement the provisions of the Act, MSEDCL accepts the Interim Cross Subsidy Surcharge as agreed by the Petitioner as adjustable advance against Cross Subsidy Surcharge of Rs 0.8 per unit for the past period till such time, MERC decides the Cross Subsidy Surcharge as per the provisions of the Act.
- c) MSEDCL shall release all the past credit notes/adjustments and the treatment of the same will be given by considering that the credit notes are released in the respective months; subject to adjustment of Rs 0.8 per unit from the Petitioner.
- d) Based on the credit notes of the respective months, the energy bills of the said consumer would be re-calculated and refund would be effected in three equal installments after retaining Rs.0.8 per unit towards Interim adhoc cross subsidy surcharge.
- e) The said arrangement would be implemented immediately after approval or concurrence of the Commission.

12. The Petitioner also vide its additional submission dated February 24, 2011 submitted a similar affidavit stating the details of the agreement as mentioned above.

13. Having heard both the parties and after considering the material placed on record the Commission's findings and decisions are as follows:

- a) The Respondent wants the Petitioner to pay what is called an Interim Cross subsidy surcharge, and open access would be said to be given only and subject to payment of the abovesaid Interim Cross subsidy surcharge. The parties want that the Commission should approve the said Bilateral Interim Agreement entered into by the Petitioner and the Respondent. However, the question is as to whether the Interim Cross subsidy surcharge agreed to in the agreement by both the parties is lawful as also whether the adjustment of Rs. 0.8 per unit towards Interim adhoc cross subsidy surcharge is legal?

The Commission is of the view that during the tenure of the open access as sought for by the Petitioner from the Respondent, payment of cross subsidy surcharge was governed by the Commission's order dated September 5, 2006 in Case No.9 of 2006. In the said Order dated September 5, 2006, the

Commission while deciding on the methodology of computation of CSS had also considered the Tariff Policy issued by the Ministry of Power, Government of India, in line with the provisions of the EA 2003. Further, the Commission vide the Order in Case No 9 of 2006 dated September 5, 2006 specified the formula for CSS, in line with the Tariff Policy with minor clarifications such as inclusion of the transmission losses in the system losses. Therefore, the Commission substantially adopted the formula for CSS computation as prescribed by the Tariff Policy. Subsequent to the above order dated September 5, 2006, the Commission issued an Order in Case No. 54 of 2005 dated October 20, 2006 in the matter of approval of MSEDCL's Annual Revenue Requirement (ARR) for FY 2004-05, FY 2005-06 & FY 2006-07 and determination of Tariff for FY 2006-07. The Commission in this Order computed the Surcharge based on the formula specified by the Commission's Order dated September 5, 2006 in Case No. 9 of 2006 and which worked out to be 'zero'. Thereafter, in all the subsequent tariff orders of MSEDCL, CSS came to be 'zero'. The Commission was under statute (Sec. 3, 86(4)) of EA 2003 mandated to adopt the cross subsidy surcharge formula provided in the statutory Tariff Policy notified by the Central Government under Section 3 of EA Act, 2003. The said Order dated September 5, 2006 in Case No. 9 of 2006 provided inter alia as follows:-

*27. As regards exemption of OA purchasing power from renewable sources of energy, various Sections of the EA 2003 entrust the Commission with the responsibility of developing policies for promotion of renewable sources of energy. Section 86(1)(e) specifically mandates the Commission to develop policies for sale of renewable energy to any person. In view of the above, the Commission exempts OA consumers purchasing power from renewable sources of energy, from the payment of cross-subsidy surcharge." {Emphasis added}*

***“Annexure 3: Formula to be adopted for computation of Cross-subsidy surcharge***

...

***Salient Features***

*1. All OA transactions will have to pay the above cross-subsidy surcharge, except in the following cases:*

....

*OA consumers purchasing power from renewable sources of energy.”*

Hence, OA consumers purchasing power from renewable sources of energy were exempted from payment of Cross Subsidy Surcharge. Moreover, consequent to adoption of the CSS formula, CSS worked out to 'zero'. In these circumstances, then, how can the parties hereto agree to an Interim Cross subsidy surcharge and

an adjustment of Rs.0.8 per unit towards Interim adhoc cross subsidy surcharge? Such an agreement or arrangement not only overreaches the decision of the Commission taken in the Order dated 5<sup>th</sup> September 2006 but also contravenes the same. Under Section 42, cross subsidy surcharge is to be determined by the Commission. Neither MSEDCL nor the Petitioner, would have any power to agree to any interim cross subsidy surcharge in contravention of the Order dated 5<sup>th</sup> September 2006. Hence, the entire proposed interim arrangement is held to be unsustainable, unauthorized, *ultra vires* and thus, void.

- b) Further, the Commission has subsequently issued an order dated September 9, 2011 in case 43 of 2010 for de novo re-determination of Cross Subsidy Surcharge, wherein the Cross Subsidy Surcharge has been recomputed and the Commission has decided as under:

***“41. Cross Subsidy Surcharge exemption and Open Access for Renewable Energy (RE) Sources***

*..... j) The Commission views that increase in generation from renewable sources is also environmentally beneficial policy and it is also the mandate of the EA 2003 as per the provisions of Section 86 (1) (e) thereof read with Para 5.2.20 of the NEP. However, considering the submissions of the distribution licensees and the parties representing the RE Sector, the Commission is of the view that some CSS must be levied on OA transactions by RE Sector instead of continuing with the exemption. **Therefore, the Commission decides to fix CSS as 25% of the applicable CSS for open access consumer purchasing power from renewable sources of energy.** This would compensate the distribution licensees and yet not demote promotion of RE Sector.*

***48. Other Conditions of Cross Subsidy Surcharge***

***Applicability of Cross Subsidy Surcharge for Consumers Opting for Open Access***

*a) The CSS provided in the Para 47 above for all the Open Access consumers would be applicable as per the provisos to Section 42 (2) of the EA 2003. The CSS under this Order shall be applicable to all consumers of all distribution licensees in the State of Maharashtra, who opt for open access, under the MERC (Distribution Open Access) Regulations, 2005 as amended from time to time.*

*b) The CSS under this Order shall be applicable **from the date of this Order.***”

- c) Hence with effect from September 9, 2011 in case of open access consumer purchasing power from renewable sources of energy , the CSS shall be 25% of the applicable CSS as stated in para 41 of the aforesaid order.
- d) The Respondent vide its letter dated November 18,2010 had granted the Petitioner, the permission for sale of power to ‘third party’ under Open access for a period of one year from billing month March 2010,subject to certain conditions stated in the letter. The Commission during the hearing held on December 2, 2010 directed, that the Respondent cannot impose conditions and charges which are inconsistent with the earlier orders and Regulations of MERC and that the Open Access should be granted without further delay. In compliance of the same the Respondent MSEDCL, took corrective steps and issued a Corrigendum dated December 23,2010 thereby modifying the inconsistent conditions stated in the earlier Letter of permission, except Condition no.8, wherein the Petitioner was asked to pay Administrative charges of Rs.50000/- per annum in lump-sum and Operating charges worth Rs 15000/- per month.
- e) However, “Administrative and other charges” are within “*fees for processing the application*” under the first proviso to Regulation 4.1 of the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2005 because “*fees for processing the application*” are for Administrative purposes. In such an event, the first proviso to Regulation 4.1 of the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2005, clearly states that an application for open access to the distribution system of a Distribution Licensee shall be accompanied by fees for processing the application as may be stipulated by the Distribution Licensee **with the previous approval of the Commission.** The aforesaid Regulations are extracted hereinbelow-

***“4 Processing of applications for distribution open access***

*4.1 An application for open access to the distribution system of a Distribution Licensee shall be made to such Distribution Licensee in the Form provided in Annexure I herein:*

*Provided that such application shall be accompanied by necessary particulars / documents and fees for processing the application as may be*

*stipulated by the Distribution Licensee with the previous approval of the Commission:*

*Provided further that the requisition for information/ particulars/ documents and fees for processing the application shall be reasonable having regard to the requirement of the applicant.*

*Provided also that every Distribution Licensee shall put up, on its internet website, within a period of sixty (60) days prior to the date on which open access is allowed to any consumer/ person or within sixty (60) days from the grant of licence, whichever is later, the information requirements, procedures, application forms and fees, in downloadable format, as may be necessary for an application to be made by such consumer/ person for open access to its distribution system.”*

The aforesaid Regulations apply to generating companies; licensees and consumers. Thus, if MSEDCL wants to levy administrative charges without seeking the approval of the Commission, the same would be in contravention to the aforesaid Regulations. Hence, MSEDCL is statutorily mandated to seek prior approval of the Commission on the aforesaid charges under the proviso to Regulation 4.1 of the Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations, 2005.

- f) The Petitioner also prayed for credit to be given to its consumer for the energy already supplied by the Petitioner in the respective months from the date of commissioning. It also prayed for the release of credit notes for energy to be supplied by it by feeding the same into grid and the same should not be held back by MSEDCL. The Commission is of the view that, cases of self use and third party sale (prior to expiry of validity period) have been dealt with by the Commission in its order (Tariff for procurement of wind energy & wheeling for third party-sale and/ or self-use) dated November 24, 2003. Accordingly credit notes should be immediately released by the Respondent MSEDCL and any other form of adjustment made to the same would be treated as contravention of the Order dated 5<sup>th</sup> September 2006.

Accordingly, with the above directions the Petition in Case No.41 of 2010 stands disposed of.

Sd/-  
(Vijay L. Sonavane)  
Member

Sd/-  
(V. P. Raja)  
Chairman