

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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Case No. 57 of 2011

In the matter of

Petition filed by Reliance Infrastructure Limited (RInfra-D) seeking Clarification on various issues related to MERC (Renewable Purchase Obligations, its compliance and Implementation of REC framework) Regulations, 2010.

Shri. V.P. Raja, Chairman

Shri. Vijay L. Sonavane, Member

Reliance Infrastructure Limited

.....

Petitioner

Vs.

1. Maharashtra State Electricity Dist. Co. Ltd
2. Brihan Mumbai Electric Supply & Transport Undertaking
3. Tata Power Co. Ltd
4. Maharashtra Energy Development Agency Ltd

Respondents

ORDER

Dated: December 1, 2011

M/s. Reliance Infrastructure Limited filed a Petition before the Commission on March 18, 2011, under Regulation 7.2, 18 and 20 of the MERC (Renewable Purchase Obligation, its Compliances and Implementation of REC framework) Regulations, 2010 (hereinafter referred to as “MERC (RPO-REC) Regulations”), *inter alia*, seeking clarification on various issues related to MERC (RPO-REC) Regulations, 2010.

2. The prayers of the Petitioner are as follows:

“.....

- a) *The Hon'ble Commission may be pleased to clarify that trading margin is included in the said Regulation 7.2 for considering the eligible quantum in respect of RE procurement by payment of trading margin.*
- b) *(i)The Hon'ble Commission may be pleased to allow RInfra to waive the compliance of annual targets under Regulation 7.1 of RPO Regulations relating to Solar Power for FY 2010-11 and FY 2011-12;*
(ii) In the alternative to the prayer (b)(i) above, this Hon'ble Commission may be pleased to allow RInfra to meet its solar RPO on a cumulative basis for the entire control period i.e. FY 2010-11 to FY 2015-16.
- c) *The Hon'ble Commission may be pleased (i) to allow as pass through the additional cost, which may be incurred by RInfra- D to compensate the bagasse based RE suppliers for foregoing the benefits of tax exemption that they may have enjoyed, had they sold the power to MSEDCL, or (ii) to review the non-solar RPO targets in the event of disallowance of compensation in the form of reimbursement of actual tax on sugarcane purchase.*
- d) *The Hon'ble Commission may be pleased to clarify whether such RE purchased from traders who have in turn tied up with RE Generators would be eligible for compliance of RPO by RInfra/ distribution licensees even though such power may be accredited or such Generator may be registered under the REC Regulations.*
- e) *The Hon'ble Commission may be pleased to clarify that the RE generated outside Maharashtra and purchased at preferential tariff and delivered at Maharashtra InSTS would be considered for RPO compliance.*
- f) *Pass any other Order as may be appropriate under the circumstances.*

g) *The Hon'ble Commission condone any inadvertent Omissions/ errors/ shortcomings.*

h) *The Hon'ble Commission may please permit the petitioner to add or modify this petition with additional information, if so required during the course of hearings."*

3. The Petitioner in its Petition submitted as follows;

3.1 The Petitioner is a distribution licensee and an Obligated Entity within the meaning of Regulation 2(m) of MERC (RPO-REC) Regulations. In the present petition, the Petitioner is seeking clarification on following various issues pertaining to MERC (RPO – REC) Regulations, as set out herein;

3.2 **Issue no 1:** *Clarification of the proviso to Regulation 7.2 of MERC RPO Regulations, 2010 in respect of trading margin in case of RE procurement from traders.*

3.2.1 Regulation 7 provides for Renewable Purchase Obligation target (RPO target). Under Regulation 5.1, the minimum percentage of RPO as specified in the Schedule to Regulation 7.1 is applicable to all distribution licensees in the State of Maharashtra and as such, is applicable to the Petitioner. The said schedule gives the minimum quantum of purchase in terms of percentage from renewable energy sources equivalent in kWh.

3.2.2 Under Regulation 8.1 of MERC (Terms and Conditions for Determination of RE Tariff) Regulations, 2010 (hereinafter referred to as "MERC RE Tariff Regulations"), this Commission notified the generic preferential tariff on *suo-motu* basis pursuant to issuance of revised norms by Central Electricity Regulatory Commission (CERC) at the beginning of the each year of the Control Period for renewable energy technologies for which norms have been specified under the MERC RE Tariff Regulations.

3.2.3 An Order dated 14th July, 2010 (suo-motu) was passed by the Commission in Case No. 20 of 2010 for determining the said generic tariff under Regulation 8 of MERC RE Tariff Regulations. By the said Order, the Commission determined levelled tariff for different RE projects for F.Y 2010-11 and after adjusting the benefits of accelerated depreciation (if availed), the net levelled tariff is the tariff at Ex-bus of RE Generation facility which does not include any trading margin.

3.2.4 Furthermore, Generation from various RE projects is tied by the respective generators with the trading licensees who are willing to sell the power to the Petitioner at preferential tariff as determined by the Commission. However, the trading licensee demands additional amount towards trading margin.

3.2.5 The Petitioner is continuously striving to meet RPO targets set by the Commission by reaching out to RE developers through setting RE generation facility through its group company, publishing Expression of Interest (EoI) for RE procurement and by meeting RE developer associations and individual RE developers. The RPO under Regulation 7.1 which is as follows;

Year	Gross Input	Non solar RPO target	
		%	MU
A1:	MU		
FY12	8900	6.75	601
FY13	9256	7.75	717
FY14	9626	8.5	818
FY15	10011	8.5	851
FY16	10412	8.5	885

3.2.6 In June 2010, the Petitioner has received offers from wind power developers totaling 365 MW, which are expected to be commissioned during end of F.Y 2011-12 to end of F.Y 2012-13. Out of these offers, the Petitioner has already contracted 265 MW wind power directly with these generators at tariff rate of Rs 5.07 per kWh for wind zone-1 as approved by the Commission, without depreciation which will be revised as per year of commissioning in accordance with Tariff Order for the subsequent years.

Balance capacity of 100 MW on offer is at various stages of negotiation of terms and conditions of EPA. This 100 MW wind power capacity under negotiation, although available directly from generators without involvement of any traders, would take 12-18 months for commissioning and the applicable tariff is higher than tariff for Biomass/Bagasse based Co-generation sources available from trader even after trading margin is paid by Petitioner.

3.2.7 For the financial year 2010-11, the Petitioner has met its non-solar RPO on account of additional contracts it executed on short term basis in view of the Order passed by the Commission dated October 28, 2010 in Case No. 45 of 2010 in the matter of Petition filed by BEST seeking relaxation of Regulation 7.2 of MERC (RPO-REC) Regulations. The relaxation granted by the said Order dated October 28, 2010 for consideration of renewable energy procured through short term basis at other than the Commission's approved rates towards RPO compliance is only for F.Y 2010-11. However for F.Y 2011-12 onwards, RE Generators have already tied up power with traders. Such Traders are insisting on charging trading margin from the buyers. Such RE capacity offered by Traders which is mostly biomass power and bagasse based co-generation power which are already operational or that would be operational from first quarter of F.Y 2011-12 onwards.

3.2.8 RE offered by traders is not only readily available for meeting RPO from F.Y 2011-12 onwards, but also inclusive of trading margin, and can be scheduled compared to power from new wind plants proposed to be set up. The Petitioner has attempted to procure RE by publishing an EoI in January 2011, but have received only one offer for non-solar RE i.e. 230 KW wind power.

3.2.9 In view of the foregoing, it becomes imperative for the Petitioner to pay the trading margin over and above the Preferential Tariff in case of RE procurement from the traders to fulfill RPO compliance. However, the Commission has not notified any ceiling on trading margin either for long term or for short term. In view of the urgency to conclude the contracts with traders with RE plants which are already commissioned and generating electricity, the Petitioner has finalized PPAs with 4 paise/ kWh as ad-

interim trading margin for procurement of RE from traders on long term basis which is being agreed in EPAs and is subjected to approval of the Commission.

3.2.10 In view of above, the Petitioner prays that the Commission be pleased to clarify that trading margin is included in the said Regulation 7.2 for considering the eligible quantum in respect of RE power procurement by payment of trading margin.

3.3 Issue No. 2: Solar RPO Compliance during the control period of FY 2010-11 to FY2015-16.

3.3.1 The MERC (RPO – REC) Regulations have stipulated the annual Solar and Non-solar RPO target separately. As per the schedule specified under Regulations 7.1 of the MERC (RPO – REC) Regulations, the Petitioner is required to procure 0.25% of gross input energy for each year during F.Y 2010-11 to 2012-13 and 0.5% of gross input energy during FY 2013-14 to 2015-16, from Solar power. At projected gross input levels during the RPO control period, the solar energy and power requirement is as under;

Period	Solar MU's/Annum	Solar Capacity to be installed in MW
FY 2010-11 to FY 2012-13	23	15-17
FY 2013-14 to FY 2015-16	48	30-33

3.3.2 Solar Power industries are being in nascent stage in India. The bidding process negotiations, development and supply of materials and about 15-18 months are required for commissioning of solar PV plant. Most of Solar PV suppliers, that have submitted bids (totaling around 60 MW) in response to an EoI issued by the Petitioner on January 2011, indicated that their respective plants would be commissioned around in December 2012.

3.3.3 In view of the foregoing, the Petitioner initiated efforts to meet its solar RPO target by studying possibility of setting up solar PV capacity at Dahanu in Maharashtra. The group company conducted technical studies as well as invited technical bids from the potential suppliers of solar PV panels during August – December 2010. The

proposed solar PV project at Dahanu is in the process of getting necessary approvals/ permission/ clearances from various authorities and is expected to be commissioned before March 31, 2012. The Petitioner has entered into an EPA for purchase of 40 MW solar PV capacity with Dahanu Solar Power Private Limited (DSPPL) at Preferential Tariff applicable as per Tariff Orders passed by the Commission from time to time. With effect from March 31, 2012, the Solar project will be set up and the Petitioner would be able to meet its solar RPO targets. Although, the Petitioner is in a position to meet its solar RPO from FY 2012 – 13 onwards, it is not in a position to meet its solar RPO for FY 2010 – 11 and F.Y 2011-12.

3.3.4 As stated above, the solar power industries are being at early stage of development in India, the projects are being set up, either as per preferential tariff or in the competitive bidding process under Jawaharlal Nehru Nation Solar Mission. It appears that there are no solar power projects that opt for registration under Regulation 50 of the MERC (RPO – REC) Regulations. It appears that in such cases, in terms of exposure to market driven REC mechanism is perceived to be more by solar power developers. Even if some solar power projects opt for tariff under REC mechanism, the solar REC may be available only from last quarter of FY 2011-12 on account of minimum gestation period required for setting up a solar power project. Thus, there is no chance of solar REC being available during FY 2010-11 and very remote possibility of solar REC being available during FY 2011-12.

3.3.5 In the present scenario, the State of Maharashtra has negligible solar installed capacity making it impossible to meet the annual solar RPO target. And hence, the Petitioner is not in position to meet its solar RPO for FY 2010-11 either through purchase of solar energy or through solar REC's. In view of the above constraints for meeting the solar RPO for FY 2010-11 and FY 2011-12, the Petitioner submitted that, the Commission may be pleased to allow the Petitioner:

- a) *to waive the compliance of annual targets under Regulation 7.1 of RPO Regulations relating to Solar Power for FY 2010-11 and FY 2011-12.*
- b) *in the alternative, allow R-Infra to meet its solar RPO on a cumulative basis for the entire control period i.e. FY 2010-11 to FY 2015-16.*

3.4 Issue No. 3: Exemption of Sugarcane Purchase Tax to Bagasse based Cogeneration plants of sugar mills selling power to MSEDCL.

3.4.1 The recent Cabinet decision, as available on the Government of Maharashtra (“GoM”) website, has allowed exemption of Sugarcane Purchase Tax to those Bagasse based Cogeneration plants in Maharashtra, who sell power only to MSEDCL. This decision to grant the tax exemption to bagasse based Cogeneration units selling power only to MSEDCL and not other distribution licensees in Maharashtra, is constraining the availability of energy from such plants for other distribution licensees including Petitioner.

3.4.2 Owing to the Policy of GoM in respect of Sugarcane Purchase Tax in case of sale of power to MSEDCL, the Cogeneration developers are not interested to sell power to the Petitioner. Few Cogeneration developers orally informed the Petitioner that they may consider entering into EPAs with the Petitioner, if they are compensated for tax exemption benefit that would be foregone in case of sale of power to the Petitioner.

3.4.3 Moreover, the Petitioner is in process of entering into EPA with one such Cogeneration plant to compensate for Sugarcane Purchase Tax paid by the sugar mill on actual basis, which will be acted upon after seeking approval of the Commission. The Petitioner has taken the decision of compensating the tax paid on actual basis, as it would not only help the Petitioner towards RPO compliance but also avoid the purchase of RECs, thus beneficial for consumers also.

3.4.4 In this context, the Petitioner prays that the Commission may be pleased to allow as pass through the additional cost, which may be incurred by the Petitioner to compensate the bagasse based RE suppliers for foregoing the benefits of tax exemption that they may have enjoyed, if they sold the power to MSEDCL. This would bring the Petitioner in an equitable position, with respect to MSEDCL, in its efforts to meet target under MERC (RPO – REC) Regulations and the Petitioner requested the Commission to review the non-solar RPO targets in the event of disallowance of compensation in the form of reimbursement of actual tax on sugarcane purchase.

3.5 Issue No. 4: Clarification in respect of eligibility of RE Power purchased at preferential tariff from trader for RPO compliance, in case REC has been issued for same electricity sold to trader at negotiated price.

3.5.1 The Central Electricity Regulatory Commission (CERC) issued Regulations on CERC (Terms and conditions for recognition and issuance of Renewable Energy Certificate (REC) for Renewable Generation Regulations) Regulations 2010, on 14th January, 2010. The REC Regulations contain, inter alia, the eligibility criteria for accreditation of Renewable Energy Generators for registration and issuance of Renewable Energy Certificate. The eligibility criteria for issuance of REC is covered under Regulation 5(1) of the CERC REC Regulations, which is reproduced as under:-

“

5. Eligibility and Registration for Certificates:

(1) A generating company engaged in generation of electricity from renewable energy sources shall be eligible to apply for registration for issuance of and dealing in Certificates if it fulfills the following conditions:

- a. It has obtained accreditation from the State Agency;
- b. It does not have any power purchase agreement for the capacity related to such generation to sell electricity at a preferential tariff determined by the Appropriate Commission; and
- c. It sells the electricity generated either (i) to the distribution licensee of the area in which the eligible entity is located, at a price not exceeding the pooled cost of power purchase of such distribution licensee, or (ii) to any other licensee or to an open access consumer at a mutually agreed price, or through power exchange at market determined price.

Explanation:-- for the purpose of these regulations 'Pooled Cost of Purchase' means the weighted average pooled price at which the distribution licensee has purchased the electricity including cost of self-generation, if any, in the previous year from all the

energy suppliers long-term and short-term, but excluding those based on renewable energy sources, as the case may be.”

3.5.2 Some of the RE generators in Maharashtra are selling electricity from their RE projects to traders in which they are covered under 5(1)(c) of REC Regulation entitling them for registration and accreditation. Few traders, who have contracted or likely to contract electricity from such RE generators intending to participate in REC Mechanism, have approached the Petitioner for selling the same electricity at preferential tariff. Moreover, proviso to Regulation 7.2 of MERC (RPO – REC) Regulations states that the Renewable Energy procured at approved rate shall only be considered for RPO compliance by distribution licensee.

3.5.3 In view of above, being a distribution licensee to take a suitable steps for purchase of power from such traders who have purchased renewable energy from RE Generators, who in turns have been/are being accredited or registered for REC for the same power, so that the Petitioner can take due diligence to incorporate suitable terms and conditions in EPAs. Under these circumstances, the Petitioner further requested that, the Commission may be pleased to clarify whether such RE purchased from traders who have in turn tied up with RE Generators would be eligible for compliance of RPO by the Petitioner/distribution licensees, even though such power may be accredited or such Generator may be registered under the REC Regulations.

3.6. Issue No. 5: *Clarification in respect of tariff applicable for inter-state RE purchased at Maharashtra InSTS.*

3.6.1 Regulation 4 of MERC (RPO – REC) Regulations provides for eligible RE for procurement by obligated entities like the Petitioner, for RPO compliance. The said Regulation 4 is reproduced below:-

“.....

4. *Eligible renewable energy sources*

4.1 *For the purpose of this Regulation, energy generation from all types of renewable energy sources as recognized or approved by the MNRE, shall be considered.*

*Provided that any new technology could be qualified as “renewable” only after the State Commission has approved the technology based on the approval of the MNRE.
.....”*

3.6.2 Regulation 7.2 of MERC (RPO – REC) Regulations provides for compliance for RPO by Obligated Entities like the Petitioner, which is once again reproduced as below:-

“7.2 Every Obligated Entity may meet its RPO target by way of own generation or procurement of power from RE developer or by way of purchase from other licensee or by way of purchase of renewable energy certificate or by way of combination of any of the above options.

Provided further that procurement of RE power generated within the State by Distribution Licensee at rate other than rate approved by the State Commission directly from generator or from trader shall not be considered as eligible quantum for fulfillment of renewable purchase obligation of such distribution licensee”

Proviso to Regulation 7.2 above deals with approved rate for procurement of RE power generated within Maharashtra.

3.6.3 The Petitioner has received business leads on some biomass based power plants outside Maharashtra who are ready to supply RE power from their plants at Maharashtra InSTS, i.e Delivery point is within Maharashtra, at Preferential Tariff approved by this Commission. Further, such developers are ready to pay for all applicable charges and losses payable/received till energy is delivered in Maharashtra InSTS, due to which the consumers will not be required to bear such additional costs associated with inter-state transaction. The commercial implication for inter-state transaction deliverable at

Maharashtra InSTS would be exactly same as procurement of power from RE generated within Maharashtra. Since, the biomass plants are scheduled for commissioning during April-May 2011, there is an urgency to conclude EPA with the biomass plants located outside the Maharashtra State and ready to deliver electricity at Maharashtra InSTS at tariff approved by the Commission for intra-state RE plants.

3.6.4 In line with the above issue, the Petitioner prays that the Commission may be pleased to clarify that the RE generated outside Maharashtra and purchased at preferential tariff and delivered at Maharashtra InSTS would be considered for RPO compliance.

4. Based on the Petitioner's submission as elaborated in above issues, the Commission admitted the Petition and the notice was issued to the Petitioner and four authorized consumer representatives on April 19, 2011. Consequently, the first hearing was held on May 9, 2011.

5. During the hearing, Shri.Vivek Mishra, Dy. GM and Shri. G. Srinivasa Rao, Dy. GM appeared on behalf of the Petitioner. The Petitioner made a presentation on the five different issues as mentioned in the prayers of its Petition.

5.1 The Petitioner stated that it is facing a problem of procurement of power through REC. Due to some environmental issues raised at Dahanu for its proposed 40 MW Solar PV projects; it is planning to commission the Solar PV project in Rajasthan State. Furthermore, it is stated that the Petitioner will get the Solar power from NVVN in the month of January 2012. In view of the above constraints for meeting solar RPO for FY 2010-11 and FY 2011-12, the Petitioner requested the Commission (a) to waive the compliance of annual targets under Regulation 7.1 of RPO Regulations relating to Solar Power for FY 2010-11 and FY 2011-12; (b) in the alternative, to allow the Petitioner to meet its solar RPO on a cumulative basis for the entire control period i.e. FY 2010-11 to FY 2015-16.

5.2 The Petitioner raised the issue regarding the decision of GoM on exemption of tax on purchase of sugarcane for Baggase based Cogeneration plants who will sell the power to only MSEDCL. Therefore, the Petitioner requested the Commission to allow as pass through the additional cost, which may be incurred by the Petitioner to compensate the bagasse based RE suppliers for foregoing the benefits of tax exemption that they may have enjoyed, if the same has been sold to MSEDCL.

5.3 Moreover, the Petitioner seeks clarification that, whether RE purchased from traders who have in turn tied up with RE Generators, would be eligible for compliance of RPO by the distribution licensees even though such power may be accredited or such Generator may be registered under the REC Regulations.

5.4 The Petitioner received business leads on some biomass based power plants outside Maharashtra who are ready to supply RE from their plants to the Petitioner at preferential Tariff approved by the Commission. In this situation, the Petitioner seeks clarification that the RE generated outside Maharashtra and purchased at preferential tariff and delivered at Maharashtra InSTS would be considered for RPO compliance. Also, the Petitioner seeks clarification that whether trading margin is included in the said Regulation 7.2 for considering the eligible quantum in respect of RE procurement by payment of trading margin.

5.5 Having heard the Petitioner, the Commission directed the Petitioner as follows:-

5.5.1 To study and submit evidence of non-availability of Solar REC in the Power Market. Also submit the status of Solar REC registered and issued by NLDC.

5.5.2 Pertaining to the GoM RE Policy/Order, the Petitioner may request the GoM to apply the said Order to all distribution licensees in the Maharashtra State.

6. In line with the directions given by the Commission, on May 19, 2011, the Petitioner submitted the details w.r.t solar REC as under:-

6.1 No Solar (Thermal or PV) Generator is accredited by Nodal Agency as well as no Solar REC has been issued by NLDC as on 18th May 2011.

6.2 As per the Bidding details available with IEX and PXIL, there is no sell bid for solar RECs on both the Power exchanges.

6.3 The Petitioner had bid for Solar RECs during the trading sessions in the Month of March i.e. on March 30, 2011. However due to non- availability of Solar RECs for sale, no Solar REC was traded.

7. The matter was held on May 19, 2011. During the hearing, Shri. Kapil Sharma, Additional V.P, Shri. Srinivasa Gandepalli, Dy. GM, Shri. Vivek Mishra, Dy. GM and Shri. Ghanshyam Thakkar, Sr. Manager appeared on behalf of the Petitioner.

7.1 During the hearing, the Petitioner explained the REC mechanism and process of REC auction in the Power Trading market and submitted the details about the no. of Solar and No-solar REC issued till date and its auction in Indian Energy Exchange and PXIL.

7.2 The Petitioner once again reiterated the issues related to trading margin, non-availability of solar power, solar REC in the market and procurement of RE power from outside the Maharashtra State.

7.3 The Commission observed that sufficient data is required to examine the present solar development trend and REC market in the Country. The Commission directed the Petitioner to submit the necessary details regarding no. of RE developers who got Accreditation, Registration and REC at National level and in the Maharashtra State.

7.4 Furthermore, the Commission directed the Petitioner to exercise and formulate the optimistic, pessimistic and realistic scenario of solar development and REC market w.r.t present trend of solar development and MW capacity booked by the manufacturers against the order received in the Country and submit the information about the Solar PV

cell manufacturers, no. of solar MW capacity booked by the Solar manufacturers against the order and their expected capacity to be exported and corresponding internal market development, so that it would be possible to predict the expected Solar MW capacity likely to be come up in the subsequent year/months.

8. As per the directives given by the Commission in the hearing held on May 19, 2011, the Petitioner submitted details about REC issued by NLDC, Accredited RE generators at National level and at State level particularly for Maharashtra State, Registered RE Generators at National Level and at State level particularly for Maharashtra State and details about the Solar Market development, as elaborated below, to the Commission on June 17, 2011.

8.1 The REC status as on June 16, 2011 is as follows;

Particulars	India	Maharashtra
Accredited RE Generators	74 nos., for total capacity of 455.1MW	44 nos., for total capacity of 234.45 MW
Registered RE Generators	50 for total capacity of 308.9 MW	31 nos., for total capacity of 157.45 MW
Total Non-solar REC issued	46,320 nos.	26,299 nos.
Total Non-solar REC Redeemed	19,186 nos.	7207 nos.
Balance Non-solar REC	27,134	19,092 nos.
Total Solar REC Issued	Nil	Nil

8.2 The Petitioner also submitted a report on the development of Solar power in India, trend in production of Solar PV cells and module in India and company-wise details of manufacturing capacity for Solar PV cells in India.

9. On June 16, 2011, the Maharashtra State Electricity Distribution Company Ltd. (“MSEDCL”) filed an intervention application on affidavit and requested the Commission to allow them to intervene in this matter.

10. The matter was heard thereafter on June 17, 2011. Shri.Kapil Sharma, Shri. G. Srinivasarao, Shri. G. J. Thakkar and Shri.Pankaj Pandya appeared on behalf of the Petitioner. Shri. R. G. Sonavane appeared on behalf of MSEDCL.

10.1 During the hearing, the Commission admitted the intervention application filed by MSEDCL. The Commission observed that as MEDA is the State Nodal Agency for implementation of RPO-REC framework in the Maharashtra State and as this matter is concerned with all distribution licensees in the Maharashtra State, the Commission directed the Petitioner to implead MSEDCL, BEST, TPC-D and MEDA as a party and also directed to serve the copy of the Petition on all the parties. Further, the Commission also directed that all parties should file their say on affidavit within two weeks and scheduled the next hearing in this matter on July 20, 2011.

11. The matter was heard on 20th July 2011. Shri. Himanshu Mishra and Shri. G. J. Thakkar appeared on behalf of the Petitioner. Shri. M. S. Kele appeared on behalf of MSEDCL. Shri. Prashant Joshi appeared on behalf of TPC-D. Shri. K. N.Rajagopal appeared on behalf of BEST and Shri. S. A. Patil appeared on behalf of MEDA during the hearing.

11.1 Shri. G. J. Thakkar, representative of the Petitioner summarized the Petition and submitted that they have complied with all the directives given by the Commission in the hearing held on June 17, 2011.

11.2 MSEDCL submitted that Commission has framed Regulation 7.2 which is in consonance with the National policy. MSEDCL has signed MoU with MAHAGENCO on November 11, 2010 for purchase of 250 MW Solar power from MAHAGENCO's plant located in Dhule district. In the first phase, out of total 250 MW capacity, 125 MW will be available by end March 2012 and in the second phase, remaining 125 MW will be available from March 2013.

11.3 BEST submitted that it has signed PPA with MAHAGENCO for 10 MW solar power, which will be expected in the last quarter of the current financial year. Furthermore, BEST submitted as far as trading margin is concerned, whether the RE

power is purchased from Inter-State or Intra-State, the trading margin is over and above the Commission's preferential RE tariff.

11.4 TPC-D Submitted that, as on date it has 110 MW of wind power in Maharashtra and another 45 MW is expected to come in this year. 3 MW solar PV plant at Mulasi is proposed to be expanded up to 10 MW through feasibility study.

11.5 MEDA submitted that exemption of sugar cane purchase tax for the baggage based co-generation projects in sugar mills having PPA with MSEDCL is a State Policy matter. Therefore, the Petitioner may refer this issue to the Energy Department, Government of Maharashtra.

11.6 Having heard all the Parties, the Commission directed MEDA, BEST, TPC-D and MSEDCL to submit their say on affidavit and scheduled the next date of hearing in this matter on August 11, 2011.

12. In line with the directives given by the Commission during the hearing held on June 17, 2011 and July 20, 2011, MEDA, MSEDCL and BEST submitted their views on affidavit before the Commission on July 20, 2011 and TPC-D submitted its views on affidavit before the Commission on August 3, 2011. The point-wise reply submitted by MEDA and the distribution licensees is reproduced below:

12.1 MEDA's submission:

12.1.1 As far as the trading margin in case of RE procurement from traders is concerned, Regulation 7.2 of MERC (RPO – REC) Regulations relates only with the ways of procurement of RE power by which obligated entities can meet their RPO obligation and nothing to do with the trading margin.

12.1.2 On issue of relaxation of solar RPO for the compliance control period of F.Y 2010-11 to F.Y 2015-16, MEDA submitted that, for encouragement of solar energy development in the State, the Commission has kept separate solar RPO obligation. This obligation can be fulfilled by the following ways:-

1. by way of own generation or
2. procurement of power from solar power developers or
3. by way of purchase from other licensees or
4. by way of purchase of solar renewable energy certificates or
5. by way of combination of any of the above options.

Obligated entities may fulfill the solar RPO by adopting above options, hence relaxation in solar RPO does not arise.

12.1.3 As regards the matter of pass through of additional cost which may be incurred by the Petitioner to compensate the bagasse based RE suppliers for foregoing the benefits of tax exemption, that they may have enjoyed if the same RE power was sold to MSEDCL, MEDA submitted that the exemption on sugar cane purchase for the bagasse based co-generation plants in sugar mills having PPA with MSEDCL is a State Policy matter. Therefore, the Petitioner may refer this issue to the Energy Department of Government of Maharashtra.

12.1.4 Pertaining to the issue of clarification in respect of eligibility of RE power purchased at preferential tariff from trader for RPO compliance, in case REC has been issued for the same electricity sold to trader at negotiated price, MEDA submitted that RE purchased from trader cannot be considered as eligible for fulfilling RPO compliance as per Regulation 7.2 of MERC (RPO – REC) Regulations.

12.1.5 So far as the clarification in respect of tariff applicable for inter-State RE purchased at Maharashtra inSTS is concerned, it is to be noted that the tariff declared by the State Regulatory Commission for RE generation is applicable within the State only.

12.2 MSEDCL's Submission:

12.2.1 The Commission after public hearing and considering the total obligatory functions of Distribution Licensee has framed Regulation No.7.2. The Regulations framed are in consonance with the National policy. There is no change in the circumstances which have already been considered by the Commission. MSEDCL

therefore, support the Regulations and there is no need to relax the Regulation 7.2 of MERC (RPO – REC) Regulations.

12.2.2 Further, whether the purchase of RE power is on Short term basis or Long term basis, it should take place at the rate specified by the Commission only. Also, cartelization by generators and extra profiteering by them is possible in a shortage situation if regulated rates and period are not insisted upon. However, the Commission may clarify the queries as sought by the Petitioner.

12.2.3 The Solar technology is quite new and at present very few solar generating plants have been installed in the State of Maharashtra. The solar energy generation is however in the process of MoU/EPA and in construction phase. MSEDCL has entered into MoUs and EPAs with solar generators for capacity to tune of 272 MW as reproduced below:-

a. MSEDCL has signed MoU on November 11, 2010 with Mahagenco for purchase of solar power from their solar plant of 250 MW located in Dhule district. Out of total 250 MW solar capacity, the EPA for purchase of 125 MW solar power has been executed for the first phase. The solar power from that 125 MW Mahagenco solar plant will be made available from March, 2012. The solar power from remaining 125 MW Mahagenco solar plant during the second phase will be made available from March, 2013.

b. MSEDCL has also executed solar EPA with the following generators under JNNSM/NVVN scheme;

Name of the Solar Generator	Capacity in MW
M/s. MSPGCL	1
M/s. Videocon Industries	5
M/s. Clover Solar India Pvt. Ltd.	2
M/s. Panjanya Power Pvt. Ltd.	5
M/s. MSPGCL	4

M/s. Sepset Constructions Pvt. Ltd.	2
M/s. Citra Real Estate Pvt. Ltd.	2
M/s. Babasaheb Ambedkar SSK Ltd.	1
TOTAL	22

12.2.4 In view of above, it is imperative that solar energy to the extent as required under Regulation 7.1 of MERC (RPO – REC) Regulations, to meet the RPO target would not be available in the State until March, 2012. Hence, the RPO target for solar energy may be relaxed for FY 2010-11 and FY 2011-12.

12.2.5 Furthermore, the issue of exemption from tax in the matter of Bagasse/sugar cane is under the jurisdiction of appropriate Government and hence the same needs to be represented before the appropriate Government.

12.3 BEST's Submission:

12.3.1 Without admitting the individual factual grievance made by the Petitioner in this Petition, BEST is also aggrieved by the inclusion of Regulation 7.2 and its proviso as it stands today in the MERC (RPO – REC) Regulations. BEST is detrimental in fulfilling the RPO. BEST has already taken initiatives and contracted about 300 MUs of RE from various RE sources. BEST had requested various Developers/Traders who were issued LoIs requesting them whether they would sell RE to BEST at the Commission's approved rate. But most of them have refused this arrangement which has resulted into delay in entering into long term power procurement, which in turn has affected fulfillment of RPO under these Regulations.

12.3.2 With reference to the trading margin issue raised by the Petitioner, BEST admits that the tariff determined by the Commission is ex-bus of RE generation facility which does not include the trading margin. Obviously, the trading margin remains over and above what BEST has to pay for procuring RE and this increases the cost of RE procurement. In the absence of fixation of the trading margin on Intra-state basis, BEST has to adopt the trading margin provided by the CERC Guidelines for Inter-state purchase of renewable energy.

12.3.3 As regards the issue regarding difficulties for meeting Solar RPO during the control period of F.Y 2010-11 to F.Y 2015-16 raised by the Petitioner, BEST admits that it is difficult to obtain the Solar RE in the initial two years of the Control Period on account of minimum gestation period required for commissioning of Solar Power Projects. BEST has executed 10 MW Solar PPA with Mahagenco and the power is expected to flow by last quarter of the current financial year. BEST has to opt for REC route to comply with the obligation of solar power which is not practical by considering the current situation and therefore, it requested the Commission to waive the solar target for the first two years of control period i.e. F.Y 2010-11 and F.Y 2011-12. However, BEST disagrees with the part of the prayers of the Petitioner that the high cost of solar power combining the obligation of these two years with the remaining three years of the control period will burden the Consumers.

12.3.4 With reference to the third issue raised by the Petitioner regarding the exemption of the sugarcane purchase tax to Bagasse based Co-generators who are selling the power to only MSEDCL, this puts BEST into a disadvantageous position as BEST is not entitled to such a waiver if the power is sold to BEST.

12.3.5 As far as the issue regarding eligibility of RE purchased on preferential tariff from traders for RPO compliance in case REC has been issued for the same electricity, BEST is buying RE power within the State as well as from outside the State at MERC's approved tariff only after ensuring that the offered power is eligible for RPO compliances. However, BEST agrees with the Petitioner that the Commission has to formulate the mechanism to safeguard from such traders who have traded RE purchased from RE generators for which REC has already been issued or such RE generators who already accredited or registered under REC mechanism.

12.3.6 On the issue regarding applicability of tariff for inter-state RE purchased at Maharashtra InSTS, BEST refrains from joining the Petitioner on this issue as the relevant Regulations is silent on this point. The only condition in procuring the interstate RE is that the tariff under which this RE is procured in Maharashtra periphery should be the one which has been approved by the Commission. BEST is

buying RE from outside the State at the Commission's approved tariff for RPO compliances. However, necessary clarification is required to address this issue.

12.3.7 In view of above, Regulation 7.2 of MERC (RPO – REC) Regulations be relaxed and/or modified accordingly and meantime allow BEST to procure the RE on short term basis.

12.4 Tata Power Company Ltd.'s Submission:

12.4.1 Tata Power has been trying its best to meet RPO target for its distribution business as prescribed by the Commission by setting up its own RE generation capacity, procure RE generation at preferential tariff rates and by purchase of RECs. Currently, Tata Power has about 110 MW Wind generation installed capacity within Maharashtra with additional 45 MW expected to be commissioned in FY 2011-12. Further, it has also set up 3 MW Solar project at Mulshi along with a 60 KW roof top project at its Carnac Receiving Station. RE power expected to be procured through in-house installed capacity would not be sufficient to meet the RPO target specified by the Commission.

12.4.2 However, in view of the increasing demand of Tata Power – D on account of changeover sales, the RPO target for Tata Power also has been increasing significantly. The RE expected to be procured through the in-house installed capacity would not be sufficient to meet the RPO target specified by the Commission. Further, it submitted that the REC market is in a nascent stage and trading in RECs are yet to attain the desired levels. In fact, there have been no trades for Solar RECs.

12.4.3 In this regards, Tata Power –D has been trying to procure RE through traders from sources within Maharashtra through open bidding route. A trading margin as determined by the Commission should be allowed for the purpose of considering the power in RPO and such trading margin should be a pass through to the consumers.

12.4.4 Considering the normative PLF of 19% for Solar PV, the total requirement of the State is approximately 177 MW in F.Y 2011-12. However, at present the Solar PV capacity set up in the State is not even 10% of the required capacity for meeting the Solar RPO for F.Y 2011-12. As far as Tata Power -D is concerned, it has established 3 MW Solar PV project on its own land assets at Mulshi which may contribute about 5 MUs annually. However, Tata Power –D’s requirement would be in excess of 15 MUs.

12.4.5 The Solar REC market is yet to develop and till date there has been no sell bid for Solar REC on both exchanges. Thus, despite having a significant capacity of self-owned Solar generation, it would be difficult to meet the specified solar RPO target set by the Commission. Therefore, TPC-D requested that, the waiver or cumulative compliance permission should be granted to a distribution licensee on case to case basis, based on the efforts undertaken by the licensee to comply with MERC (RPO – REC) Regulations.

12.4.6 Regulation 15 of MERC (RPO – REC) Regulations restricts the eligibility of the generator to claim RECs, to only the generator selling electricity to the host utility at pooled cost of power purchase. Therefore, the Commission is requested to clarify regarding the mismatch in the eligibility conditions stipulated in CERC (REC) Regulations, 2010 and MERC (RPO – REC) Regulations.

12.4.7 As regards purchase of RE from outside the Maharashtra State is concerned, it submitted that RE purchased from outside the state through transparent bidding process may be allowed to distribution licensees to meet the RPO targets. This would enable distribution licensees wider options for sourcing all types of RE. In case the Commission envisages that this would lead to higher rates for the RE being purchased from outside the State, the Commission may if it deems fit, consider imposing a cap on the rate of purchase of RE from outside the State.

13. On August 10, 2011, the Petitioner submitted its additional submissions as follows:-

13.1 The Petitioner has contracted 337 MW wind power directly from RE generator at tariff approved by the Commission. The Petitioner has attempted to procure RE by publishing an EOI in January, 2011, but have received only one offer for Non solar RE (230 KW Wind Power). The Petitioner is continuously striving to meet RPO targets sets by the Commission.

13.2 Many of the generators have entered into Long Term PPAs with trading licensees who are willing to sell the power to the Petitioner at preferential tariff as determined by the Commission with additional amount towards the trading margin. The Petitioner requested the Commission to clarify trading margin provisions since there is no trading margin determined by the Commission.

13.3 Negligible Solar capacity and non availability of Solar RECs makes it impossible to meet Solar RPO target and in view of the constraints for meeting solar RPO, the Petitioner requested a) to waive the compliance of annual target b) allow the Petitioner to meet its Solar RPO on a cumulative basis for the entire control period F.Y 2011-2012 to F.Y 2015-2016.

13.4 Maharashtra has a total installed capacity of 565 MW of Bagasse based Co-generation plants as on 31st March 2011. Only 30 MW is tied up with the Petitioner for supply of power at preferential tariff. The Government of Maharashtra decision on sugarcane purchase tax exemption to Bagasse based Co-generation plants selling power to MSEDCL only and not other distribution licensees in Maharashtra, is constraining the availability of energy from such plants for other distribution licensees including the Petitioner.

13.5 The Petitioner has been requesting Government of Maharashtra to extend the exemption from payment of sugarcane purchase tax in case of sale of power to any distribution licensee in Maharashtra so that all licensees would be then in an equal position to procure RE from such co-generation plants. However, in absence of favorable consideration by Government of Maharashtra, the situation of discrimination still continues and not a single bagasse based co-generator is ready to sell the power to the Petitioner. In fact, a generator who has tied up 30 MW power with the Petitioner, is

willing to terminate contract with the Petitioner and willing to sell power to MSEDCL to take benefit of exemption of Sugarcane Purchase Tax. Under these circumstances, the Commission may be pleased to allow as pass through the additional cost, which may be incurred by the Petitioner to compensate the bagasse based RE suppliers for foregoing the benefits of tax exemption that they may have enjoyed, if they sold the power to MSEDCL.

13.6 Regulation 7.2 of MERC (RPO – REC) Regulations, provides that for RPO compliance, procurement at preferential tariff could be made either through generator or trader. In view of this, the Commission may clarify such RE Power purchased from traders who have in turn tied up with RE Generators would be eligible for compliance of RPO by the Petitioner/Distribution licensees even though such power may be accredited or such Generator may be registered under REC Regulation.

13.7 Furthermore, the Petitioner is facing difficulties in tying up long term PPA with RE generators as they are asking for higher tariff and more favorable terms and conditions than offered by MSEDCL. Under these circumstances, the Commission may please allow interstate RE procurement at preferential tariff determined by the Commission so that Distribution licensees can fulfill RPO Obligation.

14. The matter was heard on August 11, 2011. During the hearing the Petitioner once again reiterated the issues as mentioned in the petition and additional affidavit. The Petitioner also gave the reference of issue wise submissions made by MEDA, MSEDCL, M/s. Tata Power Co. Ltd and BEST.

15. Having heard all parties and after considering the materials placed on record the Commission's findings and decisions on the issues raised by the Petitioner are as follows:

15.1 Issue no 1: *Clarification of the proviso to Regulation 7.2 of MERC RPO Regulations, 2010 in respect of trading margin in case of RE procurement from traders.*

The Commission's ruling: Regulation 7.2 of the MERC (RPO – REC) Regulations is reproduced as below;

“7.2 Every ‘Obligated Entity’ may meet its RPO target by way of own generation or procurement of power from RE developer or by way of purchase from other licensee or by way of purchase of renewable energy certificate or by way of combination of any of the above options:

Provided further that procurement of RE power generated within the State by Distribution Licensee at rate other than rate approved by the State Commission directly from generators or from traders shall not be considered as eligible quantum for fulfillment of renewable purchase obligation of such distribution licensee.” (Emphasis added)

A Distribution Licensee can “..meet its RPO target by”.... “*by way of purchase from other licensee*”. An electricity trader is defined in Section 2(26) of the Electricity Act, 2003 as follows -

“(26) "electricity trader" means a person who has been granted a licence to undertake trading in electricity under section 12;”

Regulation 9 of the Electricity Rules, 2005 notified by the Central Government, provides as follows:-

“9. Inter-State trading License - A license issued by the Central Commission under section 14 read with clause (e) of sub-section (1) of section 79 of the Act to an electricity trader for Inter-State Operations shall also entitle such electricity trader to undertake purchase of electricity from a seller in a State and resell such electricity to a buyer in the same State, without the need to take a separate license for intra-state trading from the State Commission of such State.”

Thus, a Distribution Licensee can meet its RPO by way of purchase from an intra-state or inter-state electricity trader. Obviously, the electricity trader will factor in a trading margin when it purchases RE power from a generator and resells the same to a Distribution Licensee.

The Commission is of the view that the spirit behind the words “rate approved by the State Commission” in Regulation 7.2 means that a Distribution Licensee is free to source RE power from an Electricity Trader so long as the mutually agreed price plus the trading margin does not exceed the “rate approved by the State Commission”.

15.2. Issue no. 2:

(i) The Hon'ble Commission may be pleased to allow RInfra to waive the compliance of annual targets under Regulation 7.1 of RPO Regulations relating to Solar Power for FY 2010-11 and FY 2011-12;

(ii) In the alternative to the prayer (b)(i) above, this Hon'ble Commission may be pleased to allow RInfra to meet its solar RPO on a cumulative basis for the entire control period i.e. FY 2010-11 to FY 2015-16.

The Commission's ruling:

During the course of hearings, the Commission observed that there is asymmetry of the information available with the Petitioner and the other distribution licensees with respect to present and upcoming Solar projects under preferential tariff route and particularly under REC route and expected solar capacity in India and in Maharashtra with reference to the solar PV capacity booked with the Manufactures. The present available data with National Load Dispatch Centre, being the Central Agency for Registration and Issuance of REC, shows that, neither any Solar REC has been issued to solar developer nor any Solar REC is available at both the Power Exchanges. Under these circumstances, the Commission is not inclined to take any decision at this stage but will take a view for F.Y 2010-11 and F.Y 2011-12 cumulatively at the end of F.Y 2011-12.

15.3 Issue No. 3: *The Hon'ble Commission may be pleased (i) to allow as pass through the additional cost, which may be incurred by RInfra- D to compensate the bagasse based RE suppliers for foregoing the benefits of tax exemption that they may have enjoyed, had they sold the power to MSEDCL, or (ii) to review the non-solar RPO targets in the event of disallowance of compensation in the form of reimbursement of actual tax on sugarcane purchase.*

The Commission's ruling:

The Petitioner and other Distribution Licensees may approach the Government of Maharashtra in the matter of sugar cane tax exemption and for making Government of Maharashtra Policy applicable to other distribution licensees in the Maharashtra State.

*15.4 **Issue No. 4:** The Hon'ble Commission may be pleased to clarify whether such RE purchased from traders who have in turn tied up with RE Generators would be eligible for compliance of RPO by RInfra/ distribution licensees even though such power may be accredited or such Generator may be registered under the REC Regulations.*

The Commission's ruling:

The "MERC (RPO-REC) Regulations", inter alia provides as follows:-

"8.1 Subject to the terms and conditions contained in these Regulations, the Certificates issued under the Central Electricity Regulatory Commission (Terms and conditions for recognition and issue of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 shall be valid instruments for the discharge of the mandatory obligations set out in these Regulations for the obligated entities to purchase electricity from renewable energy sources. Provided that in the event of the obligated entity fulfilling the renewable purchase obligation by purchase of Certificates, the obligation to purchase electricity from generation based on solar as renewable energy source can be fulfilled by purchase of solar certificates only, and the obligation to purchase electricity from generation based on renewable energy other than solar can be fulfilled by purchase of non-solar certificates."

On January 14, 2010, the Central Electricity Regulatory Commission (CERC) has notified CERC (Terms and conditions for recognition and issuance of Renewable Energy Certificate) Regulations 2010 and subsequently vide its Order dated June 1, 2010 in the matter of CERC (Terms and conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 notified the "Model Procedure/Guidelines for Accreditation, Registration, Issuance and Redemption of Renewable Energy Certificate".

The CERC (Terms and conditions for recognition and issuance of Renewable Energy Certificate) Regulations 2010 provides as follows:-

“5. Eligibility and Registration for Certificates:

(1) A generating company engaged in generation of electricity from renewable energy sources shall be eligible to apply for registration for issuance of and dealing in Certificates if it fulfills the following conditions:

a. it has obtained accreditation from the State Agency;

b. it does not have any power purchase agreement for the capacity related to such generation to sell electricity at a preferential tariff determined by the Appropriate Commission; and

c. it sells the electricity generated either (i) to the distribution licensee of the area in which the eligible entity is located, at a price not exceeding the pooled cost of power purchase of such distribution licensee, or (ii) to any other licensee or to an open access consumer at a mutually agreed price, or through power exchange at market determined price.

Explanation.- for the purpose of these regulations ‘Pooled Cost of Purchase’ means the weighted average pooled price at which the distribution licensee has purchased the electricity including cost of self generation, if any, in the previous year from all the energy suppliers long-term and short-term, but excluding those based on renewable energy sources, as the case may be.

(2) The generating company after fulfilling the eligibility criteria as provided in clause (1) of this regulation may apply for registration with the Central Agency in such manner as may be provided in the detailed procedure:

...”

Hence, in view of the above CERC (Terms and conditions for recognition and issuance of Renewable Energy Certificate) Regulations 2010, RE generators cannot sell electricity from their RE projects to traders and also be covered under 5(1)(c) of REC Regulation thus disentitling them for registration and accreditation. One essential condition for being eligible to apply for registration for issuance of and dealing in REC is that the RE Generator “***..does not have any power purchase agreement for the capacity related to such generation to sell electricity at a preferential tariff determined by the Appropriate Commission***”. Traders, who have contracted or likely to contract electricity from such RE generators and are intending to participate in REC Mechanism, cannot sell the same electricity at preferential tariff. Under these circumstances, the question as to whether such RE purchased from traders who have in turn tied up with

RE Generators would be eligible for compliance of RPO by the Petitioner/distribution licensees even though such power may be accredited or such Generator may be registered under the REC Regulations, is to be answered in the negative.

The Commission is of the view that the RE Generators opting for the capacity under REC Mechanism, can sell the electricity component and environment attribute separately. However, the electricity component is devoid of environmental attribute so it is basically equivalent to 'conventional' electricity. As such, for the capacity committed under 'REC Mechanism', the Obligated Entities cannot claim for the electricity component as “Green Energy” purchased from traders or directly from RE generators or from other distribution licensees, for their RPO compliance.

15.5 Issue No. 5: *The Hon’ble Commission may be pleased to clarify that the RE generated outside Maharashtra and purchased at preferential tariff and delivered at Maharashtra InSTS would be considered for RPO compliance.*

The Commission’s ruling:

The Distribution Licensee can in terms of Regulation 7.2 of MERC (RPO – REC) Regulations “..meet its RPO target by”.... “*by way of purchase from other licensee*”.

Hence, RE based power plants outside Maharashtra can supply RE power from their plants at Maharashtra InSTS, i.e Delivery point is within Maharashtra. The thrust of Regulation 7.2 of “*rate approved by the State Commission*”. Regulation 2 (p) defines "**Preferential Tariff**" to mean the tariff fixed by the State Commission for sale of energy from a generating station based on renewable energy sources to a distribution licensee in accordance with Maharashtra Electricity Regulatory Commission (Terms and Conditions for determination of RE Tariff) Regulations, 2010. Therefore, as long as, RE based power plants outside Maharashtra, supply RE power at Preferential Tariff approved by this Commission, Distribution Licensees can source such power. This will not amount for determination of tariff by this Commission, of the said RE based power plants outside Maharashtra but will be covered under Section 86(1)(b) which provides as follows:-

86. (1) The State Commission shall discharge the following functions, namely: -

....

“(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

The Commission observed that such developers are ready to pay for all applicable charges and losses payable/received till energy is delivered in Maharashtra InSTS, due to which the consumers will not be required to bear such additional costs associated with inter-state transaction. The commercial implication for inter-state transaction deliverable at Maharashtra InSTS would be exactly same as procurement of power from RE generated within Maharashtra.

Hence, this will be considered as eligible quantum for fulfillment of renewable purchase obligation of distribution licensees provided these are *long term arrangements*.

With the above, Case No. 57 of 2011 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman