

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 136 of 2008

In the matter of
Petition filed by Pudumjee Pulp & Paper Mills Ltd. seeking permission to comply with
RPS obligation cumulatively for the period from FY 2007-08 till FY 2009-10

Shri V.P. Raja, Chairman
Shri A. Velayutham, Member
Shri S. B. Kulkarni, Member

ORDER

Dated: August 17, 2009

M/s Pudumjee Pulp & Paper Mills Ltd. submitted a Petition before the Commission on December 31, 2008, and made further submissions on affidavit on February 3, 2009, seeking directives of the Commission to permit the Petitioners to comply with RPS obligation cumulatively for the period from FY 2007-08 till FY 2009-10.

2. M/s Pudumjee Pulp & Paper Mills Ltd., vide its Petition, made following prayers to the Commission:

1. *“The Applicant therefore prays that in the view of the above and in view of the Hon’ble Commission’s views in its Order (Petition filed by REL) dated 29.09.2007 in Case No. 4 of 2007 that, as there was insufficiency of Renewable Energy, the percentage may be achieved as a cumulative average for the periods 2007-08, 2008-09 and 2009-10;*
2. *With reference to the above and RPS Order dated 16.08.2008 (Para 2.6.12) the applicant may be permitted to meet the RPS percentage cumulatively for the period of 2007-08 to 2009-10 and therefore the penalty may not be charged till March 2010.”*



3. M/s Pudumjee Pulp & Paper Mills Ltd., in its Petition, submitted as under:
- i. M/s Pudumjee Pulp & Paper Mills Ltd. is a HT consumer of Maharashtra State Electricity Distribution Company Limited (MSEDCL) and is supplied power at 22 kV level through express feeders. It draws approximately 35 MU per annum from MSEDCL and it generates and uses over 30 MU per annum from its Captive Power Plant (CPP) of 6 MW capacity. Further, it does not bank power generated from its captive power plant.
 - ii. M/s Pudumjee Pulp & Paper Mills Ltd. is not an Open Access (OA) consumer, as neither has it drawn power from any other source except MSEDCL nor exported power. Further, it does not sell CPP Power to any third party.
 - iii. M/s Pudumjee Pulp & Paper Mills Ltd. further submitted that in the year 2007, MEDA put across that the RPS Order is not applicable to the CPP users who do not transmit CPP power through the network of the distribution licensees. However, the Commission in its Order dated November 17, 2008, in Case No. 83 of 2007, on the Petition filed by M/s Captive Power Producers Association (CPPA) seeking clarification arising out of the Commission's RPS Order dated August 16, 2006 in Case No. 6 of 2006, clarified that the RPS Order is applicable to the CPP users, irrespective of whether they are grid connected or not connected.
 - iv. Further, the Commission analyzed the difficulties faced by the distribution licensees and passed an Order dated September 26, 2007 in Case No. 4 of 2007, on the Petition filed by REL seeking (i) waiver of minimum targets of RPS for FY 2006-07 and (ii) relaxation in RPS targets for FY 2007-08.
 - v. The Commission passed an Order dated September 15, 2008 in Case No. 13 of 2008, on the Petition filed by MSEDCL, seeking reconsideration of the Clauses of penalty under the Renewable Purchase specification. In the aforesaid Order, on Para. 16, the Commission observed:

“In its Order Dated 26.9.2007 in Case No. 4 of 2007, the Commission had observed that in such cases owing to the insufficiency of renewable energy sources available in Maharashtra, REL could achieve the cumulative average of the RPS percentage (as otherwise specified for FY 2006-07, FY 2007-08, FY 2008-09 and FY 2009-10) and had opined that REL should try to make good any



shortfall in the RPS target pertaining to one fiscal year, in the following fiscal year. This would apply to MSEDCL as well.”

- vi. The Commission in its Order dated August 16, 2006, in Case No. 6 of 2006, on the matter of Long term development of Renewable Energy Sources and associated Regulatory (RPS) Framework on Para 2.6.12 (page 24) has mentioned:

2.6.12 “The Commission may waive the above minimum targets for the year as per clause 2.6.8 of this Order subject to supply constraints or any other uncontrollable factors in the opinion of the Commission”.(emphasis added)

- vii. M/s Pudumjee Pulp & Paper Mills Ltd. further submitted that although they do not accept the RPS Order dated August 16, 2006, in total, they decided to follow the advice of the Commission in this matter. They further submitted that various efforts were made for purchasing power from RE sources to meet the RPS obligation.
- viii. M/s Pudumjee Pulp & Paper Mills Ltd. repeatedly contacted MEDA, REDAM, respective Wind Mills Association and also Co-generation Association of India but did not get any response from any of these agencies. The Petitioner tried to get the RE power from different sources but was unsuccessful in complying with the RPS target for FY 2007-08 and FY 2008-09. Further, MSEDCL is levying exorbitant wheeling charges, which are not affordable to CPP to comply with RPS obligations.
- ix. Recently, M/s Pudumjee Pulp & Paper Mills Ltd. received a definite offer from M/s. Bajaj Finserv Ltd., who has assured to make the RE power available to its requirement. Therefore, the Petitioner has made application for his requirement of RE power to complete its backlog of FY 2007-08 in the current and coming years and is in the process of executing its Power Procurement Agreement (PPA) with M/s. Bajaj Finserv Limited to meet its RPS obligation.

4. In response to the various issues raised by M/s Pudumjee Pulp & Paper Mills Ltd., MEDA submitted that:



- i. The Commission has never amended, modified or repealed RPS Order dated August 16, 2006, and has not mentioned the same in its Orders dated September 29, 2007 and September 15, 2008:
- ii. The profit or loss accounting is considered for the industry on fiscal year basis only. Further, penalty being one of the financial parameters, it cannot be carried over to the further years.
- iii. Further, to permit the carryover of the penalty will defeat the whole purpose of the RPS Order dated August 16, 2006. Further, the Order envisages the penalty collected from the defaulters to be used for the development of renewable energy sector and any deferment of payment of penalty shall deprive the State from the development of renewable energy in the given year.

5. The Commission, vide Notice dated February 12, 2009, scheduled a hearing in the matter on February 25, 2009. During the hearing, the Petitioners reiterated its submissions filed under affidavit.

6. In this context, the Commission observes that as per the Order dated August 7, 2009, in Case Nos. 104, 122 and 125 on the Petition seeking waiver of RPS targets stipulated under the Commission's Order dated August 16, 2006 in Case No. 6 of 2006, the Commission has modified the target RPS percentage for FY 2007-08, FY 2008-09 and FY 2009-10. The relevant extract of the said Order is as under:

"39. Further, considering year-to-year shortfall in RE capacity addition, the Commission is of the view that it would not be practical to expect that such shortfall can be made good on cumulative basis by the end of FY 2009-10. Hence, the Commission believes that in pursuance of Cl. 2.6.12 of RPS Order (Case 6 of 2006), it would be most appropriate to modify the RPS percentage requirement for FY 2007-08, FY 2008-09 and FY 2009-10 to be lower of (a) RPS target as specified under Cl. 2.6.7 or (b) actual achievement of RPS target in respect of each Eligible Person." (emphasis added).



7. In view of the above, the Commission holds that above dispensation shall also be applicable in case of Petitioner being 'Eligible Person'.

With the above clarifications and necessary directions, the Commission disposes of the Petition filed by M/s Pudumjee Pulp & Paper Mills Ltd., in Case No. 136 of 2008.

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(V.P. Raja)
Chairman



(P.B. Patil)
Secretary, MERC