

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@merc.gov.in
Website: www.merc.gov.in

Case No. 20 of 2023 & IA No. 13 of 2023 and 14 of 2023

Case of M/s. Rajlakshmi Minerals seeking inter alia quashing of the Notice dated 05.01.2023 issued by MSEDCL for alleged contravention of Wind Energy Purchase Agreement dated 20.08. 2014.

And

IA filed by M/s. Rajlakshmi Minerals to stay of the Notice of Contravention dated 05.01.2023 and IA filed by M/s. Rajlakshmi Minerals for urgent listing of petition and application for interim stay for the Notice of Contraventions dated 05.01.2023.

M/s. Rajlakshmi Minerals (RM) ... Petitioner

V/s

Maharashtra State Electricity Distribution Co. Ltd (MSEDCL) Respondent

Coram

Sanjay Kumar, Chairperson
Anand M. Limaye, Member
Surendra J. Biyani, Member

Appearance

For the Petitioner : Adv Pradeep Nayak
For Respondent : Adv. Rahul Sinha

ORDER

Date: 19 March 2024

1. The Rajlakshmi Minerals (**RM**) has filed the present Petition on 23 January 2023 under section 86(1) (b) and (f) of the Electricity Act, 2003 (**EA, 2003**) seeking quashing of the Notice dated

5 January 2023 issued by MSEDCL for alleged contravention of Wind Energy Purchase Agreement (**WEPA**) dated 20 August 2014.

2. RM has also filed 2 Interlocutory Applications (IAs) for stay of the Notice of Contravention (**Impugned Notice**) dated 5 January, 2023 issued by the MSEDCL and for urgent listing of petition.

3. **RM's major prayers are as follows:**

- a. *Direct the Respondent to withdraw the notice dated 05 January 2023 from the Respondent, bearing reference number CE/RE/Wind/00329*
- b. *Pending hearing and final disposal of this Petition, this Hon'ble Commission be pleased to stay the notice dated 05 January 2023 issued by the Respondent, bearing reference number CE/RE/Wind/00329).*
- c. *Any other orders that this Hon'ble Commission deems fit in the interest of justice and equity.*
- d. *Ad-interim reliefs as prayed for in Clause (B) above.*
- e. *Costs of the Petition.*

The Prayers of IA No. 13 of 2023 filed in Case No. 20 of 2023 are as follows:

- A. *Pending hearing and final disposal of this Petition, this Hon'ble Commission be pleased to stay the notice dated 05 January 2023 issued by the Respondent, bearing reference number CE/RE/Wind/00329.*
- B. *Grant the Petitioner an urgent listing of the instant application.*
- C. *Any other orders that this Hon'ble Commission deems fit in the interest of justice and equity.*
- D. *Costs.*

The Prayers of IA No. 14 of 2023 filed in Case No. 20 of 2023 are as follows:

- A. *Grant the Petitioner an urgent listing of the instant application.*
- B. *Any other orders that this Hon'ble Commission deems fit in the interest of justice and equity.*
- C. *Costs.*

4. **RM in its Case has stated as follows:**

- 4.1. RM is a Wind Energy Generator (**WEG**) and has four wind energy generators of 850 kW each, with a combined installed capacity of 3.40 MW at Pusrale & Altur Village, Shahuwadi Taluk, Kolhapur.
- 4.2. On 29 March 2014, the said WEG's were successfully commissioned, the WEGs are set up in a wind farm operated and maintained by Gamesa. This wind farm currently has 29 WEG's with the total capacity of the wind farm being 24.65 MW. MSEDCL has signed commissioning letters which states that WEGs are supplying power to MSEDCL at a common metering site at Bhendewade.
- 4.3. On 20 August 2014, RM and MSEDCL signed a WEPA for sale of 100% of its electricity generated from its WEG's. Under Article 10.01[a] of the WEPA, RM is to install Special Energy Meters (**SEM**) of a given specification at the common metering point and the metering equipment is to be duly approved, tested and sealed by MSEDCL. As per Article 10.02[a], MSEDCL is to annually conduct calibration, periodical testing, sealing and maintenance of meters in the presence of the authorised representatives of the RM.
- 4.4. On 3 January 2023, MSEDCL conducted an inspection of one of the RM's WEG, however MSEDCL did not provide any intimation of inspection either through post or email. On 5 January 2023 MSEDCL vide letter No. CE/RE/Wind/00329 issued a Notice (**impugned notice**).
- 4.5. MSEDCL raised no concern or issue since commissioning i.e., from 2014 and only in the year 2023, as an afterthought, illegally and arbitrarily decided to issue the impugned Notice on imaginary bases.
- 4.6. The Impugned Notice mentions following three grounds:
 - a) Apparent non-installation of individual meters at each wind turbine location;
 - b) Alleged non-maintenance of the individual generation records; and
 - c) Alleged non-installation of circuit breaker.
- 4.7. On 11 January 2023 RM has issued a holding response to MSEDCL requesting for an additional period of 15 days before any action is taken in furtherance to the Notice of Contravention. The issue raised by MSEDCL in the impugned notice are as below:
- 4.8. Individual Meters not required at each WEG:
 - i. RM has stated that as per WEPA there is no requirement for individual meters at each WEG, as per Article 10.01[a] of the WEPA. Since commissioning meter reading as taken from common meter, the common meter installed at the RM's WEG has been duly tested, sealed and approved by MSEDCL. Furthermore, the WEPA, under Articles 10.04

[c], [d] and [e], addresses and provides for group metering i.e. where two or more power producers are using a common evacuation system and common metering equipment.

- ii. The WEPA categorically states in Article 10.04[e] that group metering for wind generators has been approved by the Commission vide order dated 01 July 2005. The meter for RM's WEG has been periodically tested in this manner by MSEDCL and at no point MSEDCL has conveyed any need for switching from group meters to individual meters. RM has never received any communication prior to the impugned notice that discusses any contravention in its metering.
 - iii. MSEDCL's Circular No. 22 dated 15 February 2006 reaffirms the order of the Commission dated 01 July 2005 which first supported group/joint metering for WEG plants that have entered into WEPA and provides guidelines for meter reading.
 - iv. The impugned Notice provides relevant provisions of the WEPA for all the other contraventions alleged therein, the contravention regarding not having individual meters installed does not have any corresponding article in the WEPA or legal provision in support of the same. This clearly shows that even as per MSEDCL, there is no legal basis for requiring installation of individual meters.
- 4.9. RM's WEG meters are group/joint meters and the metering system adopted by a WEG has no bearing on the stability of MSEDCL's system. Therefore, there is simply no question of the integrity of MSEDCL's system being threatened by the nature of meter used at the RM's WEG.
- 4.10. Non-maintenance of the individual generation records
- i. RM has stated that it did not receive any prior intimation of the inspection that MSEDCL was going to carry out at RM's WEG. RM's WEG is one among several others that are metered at the wind farm managed by Gamesa. This facility has a separate SCADA room where the generation details and all other information (pertaining to each and every WEG installed at the wind farm) along with all other operating records are maintained in an electronic format. The SCADA room has restricted entry and only authorised personnel are permitted inside it.
 - ii. Since MSEDCL had not provided any prior notice, the officials at the facility did not have the chance to obtain necessary approvals or make the information and records pertaining specifically to the RM's WEG easily accessible.
 - iii. All the necessary particulars and records pertaining to RM's WEG has been duly

maintained at the site and it is ready and willing to furnish all necessary information in MSEDCL plans to carry out inspection once again.

- iv. MSEDCL's allegation that the RM has failed to maintain all requisite records is incorrect, it would still not give MSEDCL cause to disconnect the WEGs on the ground that of endangering or having an adverse effect on the integrity of MSEDCL's system.

4.11. WEG having capacity lesser than 1 MW do not need circuit breakers

- i. MSEDCL has further alleged that the RM's WEG does not have a circuit breaker installed and hence, this too amounts to a contravention of Article 5.06[b] of the PPA.
- ii. The WEPA draft is a standard draft whose individual articles are not modified to suit the specifics of all wind energy generators. Not all wind energy power plants are legally expected to have a circuit breaker. WEGs having capacity lower than 1000kVA (1 MW) are not required to have circuit breakers. RM's WEG comprises of 4 individual WEG of 0.850 MW each which have a cumulative capacity of 3.4 MW. Hence, when the capacity of each individual wind energy generator is 0.850 MW, there is no requirement for a circuit breaker.
- iii. The installation is as per the specifications provided for in the line diagram furnished by MSEDCL and during the periodic inspections MSEDCL has never previously raised an issue regarding needing a circuit breaker.
- iv. Furthermore, the four WEG having a capacity of 0.85 MW each, which is not a capacity value that could in any manner endanger MSEDCL system or the State Grid.

5. **MSEDCL's Reply received on 13 April 2023 is summarised below:**

- 5.1. MSEDCL has refuted the RM's claim regarding compliance with the provisions of the WEPA. MSEDCL states that RM has failed to install individual meters as required by the WEPA and did not maintain the necessary operating records at the facility.
- 5.2. On 3 January 2023, MSEDCL carried out sample inspection of WTGs of RM. During the said inspection, MSEDCL observed the material breach of obligation on part of generators under WEPA. Accordingly, on 5 January 2023 it issued the impugned notice. The Notice categorically mention the (i) Violation of Article 5.03 (b) of WEPA (RM failed to install Special Energy Meter with telecommunication facility at each facility.) (ii) Violation of Article 8.04 of WEPA (RM failed to maintain operation record at the facility that contain

accurate and up to date operating log). In Case of RM one more violation is highlighted i.e. Article 5.03 of WEPA (RM failed to install a circuit breaker)

5.3. The said Notice further stated that considering the lapses/breach as observed, MSEDCL would be compelled to invoke Article 7.05 (iii) (b) of WEPA, i.e., Right to disconnect wind energy due to system/ grid constraints due to violation of the said provisions of the EPA.

5.4. Individual Meters:

5.4.1. While conducting sample inspection on 5 January 2023, it is observed that no individual meter was installed at the wind turbine locations. Installation of individual meters by RM is imperative and not a matter of discretion. Provisions of WEPA as executed between RM and MSEDCL provides for installation of individual meters. MSEDCL referred to Article 5.03 (b) of the WEPA which states that the seller shall ensure that the facility at all times have installed SEM with telecommunication facility with ABT feature as per CEA specifications and Regulations.

5.4.2. Further, Article 9.05 of the WEPA categorically provides that power generators using common evacuation system through common metering equipment, the reading of such joint meter reading needs to be supported by meter reading of individual power generators.

5.4.3. MSEDCL in its submission referred to the Commission's letter dated 01 July 2005 wherein requirement of individual metering has been highlighted. The requirement of having individual meter readings w.r.t. individual power generators to be provided along with the joint meter reading is comprehensively sound and based on logic. In the present case, RM is one of the group generators, i.e., different generators being connected at a common evacuation point. Thus, during the joint meter reading, which takes place at the common evacuation point, it is imperative to have individual meter reading of all the concerned WTG's so that accurate data of individual power generation is available for all logical purposes including billing. It is also necessary to acknowledge that different generators connected to common evacuation system are governed by their respective WEPAs and tariffs specified therein.

5.4.4. The provisions of WEPA categorically provides that the generator has to provide individual meter readings during the joint meter reading. On that basis MSEDCL pays for the generation.

5.5. Operating Records:

- 5.5.1. Article 8.04 of the WEPA provides the requirement for maintaining Operating Records at the facility.
- 5.5.2. At the time of inspection at the facility/ projects of RM, the Operating Records were sought by the Inspecting Officer, however, during such inquiry, it was intimated to the Inspecting Officer that the operating records were not available at the facility. The aforementioned established a clear contravention of the WEPA by RM and thus warranted the issue of the Notice dated 5 January 2023.
- 5.5.3. The Regulation 14(3) of Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 (CEA Metering Regulations) mandates Generating Company to record the metered data, maintain a database of all the information associated with energy accounting and audit meters and verify the correctness of the metered data. It also mandates the generating company to prepare quarterly, half yearly and yearly energy account for its system. RM has not taken into consideration aforesaid obligation in terms of the CEA Metering Regulations.
- 5.5.4. MSEDCL referred to the Commission's Order dated 22 October 2020 in Case No. 175 of 2017 wherein it is categorically highlighted that it is the responsibility of generator to record its metered data and maintain database of all the information associated with the energy accounting and audit meters. Further, MSEDCL submitted that it is a settled position of law that the terms of the contract are to be read in consonance to the entire contract and not in isolation as is being argued. For sufficing the argument MSEDCL referred to the Judgement of the Hon'ble Supreme court in the matter of '*Nabha Power Ltd. v. Punjab SPCL, (2018) 11 SCC 508 : (2018) 5 SCC (Civ) 1 : 2017 SCC OnLine SC 1239*'.

5.6. Authority to disconnect:

- 5.6.1. It is an established fact that MSEDCL being a Distribution Licensee is responsible for the grid safety and any adverse effect upon its consumers. It would be relevant to note that in absence of individual metering and availability of individual meter data, there is always a possibility that Licensee end up in paying high for energy purchase, from WTGs feeding through a common evacuation system.
- 5.6.2. The right to disconnect has been entrusted with MSEDCL by the WEPAs, more specifically Article 7.05 (iii) (b) of WEPA.

6. At the E hearing held on 7 February 2023

- 6.1. The Commission noted that during ‘mentioning’ application held on 31 January 2023, the Commission had restrained MSEDCL from taking any coercive action against 6 Petitioners or similarly placed other WTGs till further orders.
- 6.2. During the hearing MSEDCL brought to the notice of the Commission that certain wind generators had given undertakings before the Hon’ble Bombay High Court to install individual meters within 30 days. Further, MSEDCL requested an adjournment to file a detailed reply, therefore allowing MSEDCL to file its replies within two weeks and the petitioners to file their rejoinders within one week, the Commission extended the status quo with condition that no coercive action would be taken in relation to the notice under challenge.

7. At the E hearing held on 30 January 2024

- 7.1. The Petitioner reiterated its submission that MSEDCL arbitrarily issued a notice on 5 January 2023 citing discrepancies about individual meter not installed, not maintaining records of generation and circuit breaker not installed at WEG and comply aforesaid discrepancies within 7 days or it will disconnect the WEG.
- 7.2. MSEDCL stated that it has not disconnected WEG as per the Commission’s interim Order. Further, the Commission has already dealt with the issue raised in the present matters in its Order dated 22 November 2023 issued in Case No. 17 of 2023 and Case No. 18 of 2023.
- 7.3. The Commission directed parties to submit their rejoinder and reply, if any within 7 days.

8. RM’s Written submission received on 6 February 2024 is summarised below:

- 8.1. RM in its written submission has reiterated same issues as submitted in its Petition.
- 8.2. There is no legal requirement in the law for the time being in force, for installation of ‘individual meters’, whether as per the provisions of the WEPA or as per the legal definition of ‘meter’.
- 8.3. WEPA provides for joint meter reading at a common evacuation system with support of individual meter readings of all such separate power generators. However, this does not in any manner, prescribe for installation of meters at each and every wind turbine, of each individual power generator. RM’s WEGs have in-built metering devices that provide the units of energy generated, and therefore, individual WEG readings are available due to these in-built devices.

- 8.4. Further, MSEDCL in its Notice of Contravention has cited that there is a failure to maintain operating records at its premises. RM has stated that it did not receive any prior intimation of MSEDCL coming to the wind farm for an inspection. RM's WEG is one among several others that are metered at the wind farm. This facility has a separate SCADA (Supervisory Control and Data Acquisition System) room where the generation details and all other information (pertaining to each and every WEG installed at the wind farm) along with all other operating records are maintained in an electronic format. The SCADA room has restricted entry and only authorised personnel are permitted inside it.
- 8.5. The Clause 9.04 of the WEPA deals with maintaining operational records categorically provides that the MSEDCL may examine the operating records and data kept upon request. Since MSEDCL had not provided any prior notice or made any requests, RM had no opportunity to instruct the officials at the facility to make the information and records pertaining specifically to the RM's WEG. Therefore, the allegation that the RM failed to maintain all requisite records is misleading and untrue.
- 8.6. As regards to the installation of Circuit breakers RM has stated that there is no legal requirement mandating the installation of circuit breakers for individual WEGs. According to Regulation 35 (2) (ii) of CEA (Measures Relating to Safety and Electricity Supply) Regulations, 2010, circuit breakers are only required for consumers with WEGs having a capacity greater than 1 MW and RM's WEGs have a capacity of 0.85 MW each, which does not meet the threshold for mandatory circuit breaker installation.
- 8.7. Further, MSEDCL has failed to provide any explanation as to how the continued operation of the RM's WEG may endanger the integrity of the MSEDCL's system or have an adverse effect on the electric service to MSEDCL's other consumers.
- 8.8. The group metering arrangement for the WEG was duly approved by MSEDCL before commissioning, and MSEDCL had accepted this system for nine years without any issue. MSEDCL has never previously raised an issue regarding the need for a circuit breaker during periodic inspections at the WEG.
- 8.9. MSEDCL has allowed only seven (7) days period to complete necessary modifications such as installation of individual meters and Circuit breakers is an impossible timeline and could not have been adhered to, even if it extend its best efforts. Therefore requested at least six months to install individual meter and Circuit Breaker.

9. MSEDCL's Written submission received on 7 February 2024 is summarised below:

9.1. MSEDCL has stated that the Commission has already dealt with each issues distinctly in detail in Order dated 22 November 2013 in Case No. 17 and 18 of 2023. MSEDCL has cited all the issues dealt by the Commission and requested to decide the matter accordingly.

Commission Analysis and Ruling

10. The Commission notes that present Petition has been filed under Section 86 (1) (b) and Section 86 (1) (f) of the EA-2003 challenging impugned Notice dated 5 January 2023 issued by MSEDCL citing various discrepancies about individual meter not installed, not maintaining records of generation and circuit breaker not installed at WEG and directed to comply within 7 days or it will disconnect the WEG.

11. Similar action was taken by MSEDCL against other Wind Generators, and they have approached the Commission for adjudication of dispute. The Commission vide its Order dated 22 November 2023 in Case No. 17 and 18 of 2023 has dealt with issues raised therein. MSEDCL in its reply has submitted that issues raised in present matter are identical to that and hence requested to disposed of this matter in line with ruling in Order dated 22 November 2023. However, Petitioner requested for detailed adjudication based on provisions of its EPA. Accordingly, the Commission is adjudicating this matter.

12. Before dealing with the merits of the Cases, it is appropriate to delve upon the sequence of event in the matter.

Sr. No.	Date	Event
1.	29.03.2014	RM's all 4 WEG (4X 0.845MW) were successfully commissioned
2.	20.08.2014	RM and MSEDCL signed a WEPA for sale of 100% of its electricity generated from its WEG's.
3.	03.01.2023	MSEDCL carried out a sample inspection of WTGs of RM
4.	05.01.2023	MSEDCL issued Notices to RM citing various discrepancies about individual meter not installed, not maintaining records of generation and circuit breaker not installed at WEG and directed to comply within 7 days or it will disconnect the WEG.
5.	11.01.2023	RM's letter to MSEDCL seeking additional time for compliance of discrepancies.
6.	31.01.2023	The matter was mentioned before the Commission, the Commission had restrained MSEDCL from taking any coercive action against 6 Petitioners or similarly placed other WTGs till further orders.
7.	22.11.2023	The Commission disposed of matters of other 2 Petitioners in Case No. 17 of 2023 and 18 of 2023.
8.	28.12.2023	The Commission disposed of matters of other 3 Petitioners in Case No. 22 of 2023, 23 of 2023 and 24 of 2023

13. The Commission notes that the Impugned Notice mentions following (3) grounds:
 - a. Apparent non-installation of individual meters at each wind turbine location; and
 - b. Alleged non-maintenance of the individual generation records and
 - c. Alleged non-installation of circuit breaker at individual WEG.
14. The Commission notes that RM have placed on record its EPA dated 5 August 2014 for cumulative capacity of 3.40 MW.
15. The Commission notes that Wind energy segment of Renewable Energy got impetus in Maharashtra after GoM's Policy dated 29 January 1996. Since then, many private developers have set up Wind Energy projects. During that time, for ease of operation and cost economics; projects have been built with common evacuation network. The said practice is continued further by facilitation of group metering. To address billing aspects with regards to WTGs feeding power to common evacuation facilities, the Commission vide its letter dated 1 July 2005 accorded its approval for group metering. It is pertinent to note that the many facilities including the Petitioner were operational since then. However, MSEDCL vide impugned notice has first time raised certain issues which was prevailing since inception of Wind Turbine installation in Maharashtra. When such issues are raised regarding practices prevailing for decades, it needs to be deliberated and if correction is required, sufficient time must be given for implementing such correction. MSEDCL's action of giving notice for disconnection without giving sufficient time for correction is not appreciable. Such steps by Government entity/undertaking becomes counterproductive for achieving Renewable Energy targets. MSEDCL should avoid such incidences in future.
16. Considering material placed on record and averments made by the parties, the Commission notes that following issues need to be addressed in the present matters:

Issue A: Whether installation of individual meters at each wind turbine location is preconditioned as per WEPA?

Issue B: Whether the Petitioner have breached the conditionalities of WEPA by not maintaining the individual generation records?

Issue C: Whether WEPA mandates installation of circuit breaker at each WTG?

17. Issue A: Whether installation of individual meters at each wind turbine location is preconditioned as per WEPA?

- 17.1. RM submitted that there is no prescription anywhere in WEPA for installation of individual meters. The obligation of RM towards installation of metering equipment is contemplated under Article 10.01, that requires RM at its own cost install the approved SEM of 0.2s class meters, with online reading features, at the 'metering point' i.e., the physical point at which

the meters are installed on the State Grid, to measure the wind energy sold to MSEDCL at the delivery point.

- 17.2. RM urged that WEPA does not mandate installation of individual meters at every Wind Turbine location. Furthermore, RM's (4) Wind Turbines are installed Bhendewade wind farm operated and maintained by Gamesa. This wind farm currently has 29 wind energy generators with the total capacity of the wind farm being 24.65 MW and connected to Bombavade substation. MSEDCL has signed commissioning letters which states that WEGs are supplying power to MSEDCL at a common metering site at Bhendewade.
- 17.3. The said wind farm consisting of 29 WEG is equipped with SCADA facility for transferring the data of wind energy generated from the project's all WTGs to MSEDCL. Additionally, RM has also installed group metering arrangement, which was accepted MSEDCL during commissioning of project.
- 17.4. MSEDCL submitted that provisions of WEPA as executed between RM and MSEDCL provides for installation of individual meters. MSEDCL referred to Article of the WEPA which states that the seller shall ensure that the facility at all times have installed SEM with telecommunication facility with ABT feature as per CEA specifications and Regulations. RM is providing the reading from the in-built metering devices that provide the units of energy generated, which cannot be considered as a substitute for a meter reading.
- 17.5. The Commission notes that WEPA Article 10.01 (a) of WEPA categorically specify that RM should install SEM at metering point. Article 10.01 (a) reads as below:

“Article 10 MEASURING AND METERING Section 10.01 metering Equipment:

[a] The Seller shall, at its own expense, duly install the approved ABT(SEM) of 0.2s class Meters with online reading features at the Metering point (“the Main Meter”). The metering equipment shall be duly approved, tested and sealed by the MSEDCL.”

- 17.6. The Commission noted that MSEDCL is insisting on installation of individual ABT feature meters on WTGs. Reference is made to the Commission's Letter No. MERC/Wind Energy/1318 dated 1 July 2005 in which it accorded its approval to incorporate group metering clause in WEPA.
- 17.7. The Commission notes that WEPA provides for definition of Metering Point and Point of Delivery, which reads as below:

“Section 1.02: Definitions:

.....

.....

*“Metering Point” is the physical point at which the **meters are installed on the State Grid** to measure the Wind Energy sold to the MSEDCL at the delivery point.*

*“Point of Delivery” means the physical point **at which the Wind Energy is delivered to the MSEDCL’s System through the State Grid EHV Sub - station on HV side and at which the electrical interconnection is made between the Facility and the MSEDCL’s System.** The Point of Delivery is shown in Exhibit-B ”*

The above definition clearly provides that meters are required to be provided at delivery point and point of delivery is HV side of the Pooling Substation. Hence, it can be concluded that if a particular set of WTGs are feeding power to Pooling Substation the meters installed at pooling substation will serve the purposes under WEPA. But for that all WTGs need to be of the same owner and same tariff. If ownership of WTGs or applicable tariffs are different then apportionment of generation units is necessary and for said purposes provisions of Article 10.04 comes into picture.

17.8. Article 10.04 stipulates Joint Meter Reading clauses, which reads as below:

“Article 10.04 Joint Meter Reading:

...

- c. Wherever more than one power producer(s) are delivering energy produced by them using the common evacuation system and through the common Metering equipment, then they shall identify a common agency responsible for Joint Meter Reading with MSEDCL. The Joint Meter Reading taken at common evacuation system shall be supported by meter readings of individual power producers using such common evacuation system. Based on this breakup, limited to total energy delivered, the power generated from the individual powerplant shall be certified by MSEDCL*
- d.*
- e. The Commission has approved the Group Metering of wind generators vide order dated 01.07.2005. The Main and Check TOD meters having on line reading facility as per MERC Order shall be installed and maintained on the feeders at the entry point in MSEDCL / Board substation at the cost of Wind Developer/Sellers. The metering arrangement shall be as per EA 2003 and as per MERC Order and this shall be approved by MSEDCL/Board’s designated Officer. The meter will be tested periodically at the cost of Developer/ Seller as per standard practice.”*

As per above Article it is expected that the Joint Meter reading taken at common evacuation system shall be supported by meter readings of individual power producers using such common evacuation system. This will enable MSEDCL to bifurcate the generation among the evacuation system users for the purpose of individual billing/ issuing credit notes.

- 17.9. Further, Article 7.03 of WEPA clearly provides that the seller is responsible for all electric losses, transmission, and ancillary arrangements up to point of delivery. Article 8.04 of WEPA reads as below:

“

Article 8.04 Transmission and Delivery Arrangements:

The Seller shall be responsible for all electric losses, transmission and ancillary service arrangements and costs required to deliver the Wind Energy and Test Energy, on a firm transmission basis, ***from the Facility to the MSEDCL at the Point of Delivery***. The MSEDCL shall be responsible for all electric losses, transmission and ancillary service arrangements and costs required to deliver the Wind Energy and Test Energy received at the Point of Delivery, for delivering such energy, on a firm transmission service basis, to points beyond the Point of Delivery.”

In case of shared evacuation system, it is necessary to apportion the generation measured at metering point among the WTGs based on meter reading at individual WTGs. Hence, as far as loss sharing is concerned, individual meter readings are important.

- 17.10. In case of WTG operations on common evacuation network, it is possible that connected WTG are operational under different tariff regimes. Hence for billing purpose individual meter reading is important. There is a possibility that higher generation may get booked on WTGs with higher generic tariffs. Hence it is necessary to have correct individual metering of WTGs sharing common evacuation network.
- 17.11. In nutshell, if ownership and tariff of individual WTGs connected on common evacuation line is same then metering at point of delivery serves the purpose, as bifurcation of units is not the issue. But if ownership or tariff for connected WTGs are not same, then individual metering is warranted.
- 17.12. Now, issue is what should be specification of individual metering. RM in its submission categorically stated that it is providing the readings of WEGs from in-built metering devices that provide the units of energy generated by the 4 WEG and common meter provides meter reading of remaining 25 WEG. The Commission is of the opinion that readings from the said data machine cannot be considered as a substitute for a correct

meter reading. Here, Commission clarifies that as individual meters connected at WTGs are used for apportionment of generation among other players, it is necessary to have same specification meter at individual WTG and at metering point.

17.13. As far as rectification of metering abnormality, MSEDCL could have issued a 'Notice to Cure' as per WEPA. MSEDCL has not demonstrated how operation of WTGs without meters will endanger the Grid and hence reference made to WEPA in Impugned Notice is unsubstantiated.

17.14. Regarding expenditure on metering infrastructure, the Commission notes that its Renewable Energy Tariff Regulations notified from time to time requires Wind Developer to incur expenditure till metering point on State Grid. Also, Article 10.01 (a) categorically states that the seller at its own expense shall install the approved ABT(SEM) of 0.2s class meter with online meter reading feature at metering point. Hence, cost of installing meter at individual WTG has to be incurred by owner of WTG.

18. Issue B: Whether the RM have breached the conditionalities of WEPA by not maintaining the individual generation records?

18.1. RM submitted that it has been duly maintaining all individual generation records. However, MSEDCL on 3 January 2023 carried out inspection without prior permission. RM had no opportunity to instruct the officials at the facility to make the information and records pertaining specifically to the RM's WEG. Further, non-maintenance of any record does not pose any such danger or threat to the grid or MSEDCL's system.

18.2. MSEDCL submitted that at the time of inspection at the facility/ projects of the Petitioner, the Operating Records were sought by its Officers. However, they found that the operating records are not available at the facility.

18.3. The Commission notes that in Impugned Notices, MSEDCL has referred to Article 9.04 of WEPA and alleged that the RM is not maintaining records of the individual generation at project site.

Article 9.04 of WEPA reads as below:

“

Article 9.04 Operating Records:

*The Seller shall maintain Operating Records **at the Facility** that contain an accurate and up to date operating log, in electronic format, records of production, changes in*

*operatingstatus, Scheduled Outages and Forced Outages and hourly average wind speed during theTerm of this Agreement, including such records as may be required by MERC. **The MSEDCL may examine the Operating Records and data kept by the Seller at any time during the period the records are required to be maintained, upon request and during normal business hours.***” (Emphasis added)

After perusal of above Article, it is abundantly clear that operating records shall be maintained at the facility.

18.4. From the submissions made in the matter, the Commission notes that although EPA requires maintaining of operating record at WTG site, since MSEDCL carried out inspection without prior information, RM had no opportunity to instruct the officials at the facility to make the information and records pertaining specifically to the RM’s WEG available to MSEDCL Official. Also, MSEDCL has failed to demonstrate how alleged non-maintenance of operational records affects Grid. To resolve the said issue MSEDCL could have issued a ‘Notice to Cure’ under the WEPA. But reference made to WEPA and concluding that non-maintenance of record is endangering grid is not logical.

18.5. As RM has stated that all operational records are being maintained and available on site, if MSEDCL wishes to inspect the same it should give prior notice to RM.

19. Issue C: Whether WEPA mandates installation of circuit breaker at each WTG?

19.1. MSEDCL in its Notice issued to RM raised the issue of non-installation of Circuit breaker.

19.2. RM argued that the legal requirement towards installation of a circuit breaker is only mandatory for WTGs having capacity of 1 MW or above. RM’s WTGs are of 0.85 MW capacity. RM referred to Regulation 35 (2) (ii) of CEA (Measures relating to safety and electricity supply) Regulations, 2010.

19.3. MSEDCL submitted that Article 5.03 (b) of the WEPA provides for installing a circuit breaker at the facility.

19.4. The Commission notes that Article 5.03 (b) of WEPA provides for following:

“

Article 5.03 General Design of the Facility:

...

b. Have necessary protective equipments and interlocking facilities, which shall be so coordinated that any malfunctioning or abnormality in the Seller's Facility shall not adversely affect the State Grid System and in the event of such malfunctioning or abnormality the Seller's circuit breaker shall trip first to protect the equipments;”
(Emphasis added)

The above provision does not specifically mention the type of protection system (whether Circuit breaker or linked switch with fuse or any other means) is to be employed. The intension of the above provision is to safeguard the grid from any disruption/faults at generation side.

19.5. RM in its submission dated 6 February 2024 relied upon Regulation 35 (2) (ii) of CEA (Measures relating to safety and electricity supply) Regulations, 2010 (which is relevant at the time of project commissioning) for justifying that installation of a circuit breaker is mandatory only for WTGs having capacities of 1 MW or above.

Regulation 35 (2) (ii) reads as below:

“35. Supply and use of electricity: (1) The electricity shall not be supplied, transformed, converted, inverted or used or continued to be supplied, transformed, converted, inverted or used unless the conditions contained in sub-regulations (2) to (8) are complied with.

(2) The following controls of requisite capacity to carry and break the current shall be placed as near as possible after the point of commencement of supply so as to be readily accessible and capable of being easily operated to completely isolate the supply to the installation, such equipment being in addition to any equipment installed for controlling individual, circuits or apparatus, namely:

...

(ii) a linked switch with fuse or a circuit breaker by a consumer of voltage exceeding 650V but not exceeding 33 kV having aggregate installed transformer or apparatus capacity up to 1000 KVA to be supplied at voltage up to 11 kV and 2500 KVA at higher voltages (above 11 kV and not exceeding 33kV)

....” (emphasis added)

It is clear that above stipulations are applicable to consumers of electricity and not to generators.

19.6. It is pertinent to note that in the case of wind farms interaction of generation facilities with grid takes place at point of delivery which is Pooling Substation. For grid safety, circuit

breaker at pooling substation is vital. It is pertinent to note that in Maharashtra the majority of common evacuation systems have been built by developers under GoM's non-conventional energy policy framework (2008/2015 as applicable) and are operated by developers. Each WTG has contributed its capital for sharing the common evacuation system. Further, under WEPA it is responsibility of generator to deliver the power at the point of Delivery. As common evacuation facility on which Petitioner's WTGs are connected and have been operating smoothly, it is premature to conclude that operation of WTGs without individual Circuit Breaker may endanger the grid safety. Hence, considering historical practice, mandatory installation of individual Circuit Breakers, unless it is mandatory under CEA Safety Regulations, is unwarranted.

20. During the pendency of this cases, the Commission has issued Order dated 22 November 2023 in Case No. 17 of 2023 and Case No. 18 of 2023 (other cases wherein MSEDCL's Notice dated 5 and 9 January 2023 for installation of meter to each WTG was under challenge) and ruled that Wind generator shall install meter to individual WTG at its own cost, if tariff or ownership of WTGs connected on a evacuation line is not same. In that Order the Commission has directed MSEDCL to take meeting with all Wind Generators within 15 days to discuss specification meter to be installed at WTG and requirement of installation of Circuit Breaker for WTG. Subsequent to such meeting, 3 months period was granted for installation of meter to WTG and 6 months for installation of Circuit Breaker, if found applicable.
21. Although above Order was passed on 22 November 2023, during hearing held in this matter on 30 January 2024, RM or MSEDCL has not updated the Commission about whether meeting with all Wind Generators as directed in that Order was held or otherwise. In absence of such information, the Commission deems it appropriate to grant period in addition to that stipulated in Order dated 22 November 2023. Accordingly, RM would have additional one month period for installation of meter and additional 2 months for installation of Circuit Breaker, if found applicable.
22. In view of above, the Commission is not incline to grant prayer of RM for allowing cost of the Petition. It is also important to note that RM's WTGs were not disconnected and hence there was no loss accrued to RM.
23. As regards to IA's filed by RM for stay and urgent hearing, the Commission notes that during hearing on 'mentioning' application held on 31 January 2023, the Commission had restrained MSEDCL from taking any coercive action against 6 Petitioners in that matter or similarly placed other WTGs till further orders. Accordingly, MSEDCL has not taken any coercive action against all Petitioners including the present Petitioner. Hence the issue of stay of the impugned Notice is already addressed by the Commission.

24. Hence, the following Order.


ORDER

1. The Petition in Case No. 20 of 2023 is partly allowed and IA No. 13 and 14 of 2023 are disposed off accordingly.
2. The Impugned Notice dated 5 January 2023 is hereby set aside.
3. The Petitioner is directed to install meter to individual WTG as per Article 10.01 of the WEPA within timelines stipulated in para 20 above. Further, Circuit Breaker, if found applicable, to be installed with the timeline stipulated in para 20 above.

Sd/-
(Surendra J. Biyani)
Member

Sd/-
(Anand M. Limaye)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Dr. Rajendra G. Ambekar)
Secretary

