

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 43 of 2020

Case of Winro Commercial (India) Ltd. seeking direction against Maharashtra State Electricity Distribution Co. Ltd. on the issue of outstanding payments of Power Purchases, Interest on delayed payment and overdue interest for delay payment surcharge for wind power supplied by it

Winro Commercial (India) Ltd.Petitioner

V/s

Maharashtra State Electricity Distribution Co. Ltd..Respondent

Appearance

For the Petitioner :Shri. Jeetendra Ranawat (Adv.)
For the Respondent :Shri. Ashish Singh (Adv.)

Coram

I.M. Bohari, Member
Mukesh Khullar, Member

ORDER

Date: 14 August 2020

1. Winro Commercial (India) Ltd. (**WCIL**) has filed this Case dated 27 January 2020 against Maharashtra State Electricity Distribution Company Ltd. (**MSEDCL**) under Section 86(1) (f) the Electricity Act, 2003 (EA), for directions to MSEDCL to clear outstanding payments of Power Purchases, Interest on delayed payment and overdue interest for delay payment surcharge for wind power supplied by it.
2. **Main Prayers of WCIL are as follows:**
 - a) *To direct Respondent to pay principal amount of Rs. 27,44,832/- (Rupees Twenty seven Lakhs Forty Four Thousand Eight Hundred and Thirty Two Only) towards energy bills raised and submitted by the Petitioner upto 31st March, 2019 together with payment of surcharge/interest amount of Rs. 1,54,633/- (Rupees One Lakh Fifty*

Four Thousand Six Hundred and Thirty Three Only) accrued thereupon from October 2018 to 16th January 2020 i.e. payable to Petitioner in terms of WEPA in all aggregating to sum of Rs. 28,99,465/- (Rupees Twenty Eight Lakhs Ninety Nine Thousand Four Hundred and Sixty Five Only) and interest from the date of filing i.e. 16th January 2020 of the Petition till realization of the same to the Petitioner as per the Particulars of Claim attached hereto being EXHIBIT G to the Petition

3. WCIL in its Petition has stated as under:

- 3.1 It had entered into a Wind Energy Purchase Agreement (WEPA) of 1.25 MW on 29 April 2006 with MSEDCL for a period of 13 years.
- 3.2 As per section 12.02 of the WEPA, a credit period of 45 (Forty Five) days, from the date of receipt of the invoice is available to MSEDCL for releasing the payments. Delay in payment beyond this credit period attracts late payment surcharge/ Delay Payment Charge (DPC).
- 3.3 MSEDCL persistently failed to make payments towards the legitimate dues against the energy supplied to it. Accordingly, WCIL issued various notices to MSEDCL to clear the dues. However, it failed to make the payments of the energy supplied and billed.
- 3.4 Period and amount of Dispute is as tabulated below:

Sr. No	Particulars	Claimed as per Petition
1	Outstanding Principal amount (Rs. in lakh)	27.45
2	Delay Payment Charge (Rs. In Lakh)	1.55
3	DPC Period	10/2018 to 01/2020
4	Total outstanding amount (Rs. In Lakh)	28.99

4. MSEDCL in its reply dated 28 April 2020 has stated that:

- 4.1 MSEDCL has already paid the Rs. 0.27 Crs. to WCIL for generation month of September 2018 to February 2019 under old EPA which expired in March 2019 and Rs. 0.39 Crs. under Short Term Power Purchase Agreement for generation months from April to December 2019.
- 4.2 Total outstanding is Rs. 0.10 Crs. (as on 24.04.2020). MSEDCL is making all possible efforts to release the payments in timely manner in accordance with availability of funds.
- 4.3 The delay in payment of wind generators is basically due to low recovery (around 7%) from agriculture consumers, arrears of government departments for supply of electricity to public water works and street light consumers category etc. The Commission allowed provision for bad debts of 1.5% of receivables in MERC MYT Regulations. Thus, if there are no funds available with MSEDCL, because of delayed ARR, outstanding from Government and agricultural arrears, it may not be always possible to make timely payments to the wind generators.
5. At the hearing held on 31 July 2020 the Advocate of the Petitioner reiterated its submission and also insisted that this case be kept open till MSEDCL pays all outstanding amount. The

Representative of MSEDCL reiterated submission made in its reply and further stated that as part of financial support requested from Financial Institutions on account of financial crunch due to Covid-19, it has included outstanding payments of RE generators as well in the proposal. The outstanding dues of RE generators will be directly paid by these Financial Institutions from amount approved to the MSEDCL. The Commission directed MSEDCL to submit its written submission within two days mentioning the details of outstanding payments and when it is proposed to be cleared.

6. MSEDCL in its additional submission dated 5 August 2020 has stated that:

- 6.1 As per MSEDCL records, the principal outstanding is Rs. 0.21 Cr. for generation month upto March 2019 under old WEPA and for generation month of April 2020 to June 2020 under short term EPA. Further, the outstanding Delayed payment charges is Rs. 0.02 Cr.
 - 6.2 In pre-Covid-19 period when MSEDCL revenue was in the range of Rs 4500-5000 Cr per month, the revenue dropped to around 2000-2500 Cr per month during this lockdown period, hence MSEDCL was not in position to make timely payment to its generator.
 - 6.3 MSEDCL has approached various Financial Institutions for borrowing money in order to repay the outstanding payments of various Renewable energy generators. MSEDCL has applied for loans and it is expected that it will be sanctioned by Financial Institutions in a month's time. As and when the amount is availed from financial institutions, the same will be paid directly by the Financial Institutions to Petitioner for clearing its outstanding payment.
7. Further, the Commission sought additional information from MSEDCL regarding latest details of outstanding Principal amount, DPC and Interest on DPC for various wind generators. MSEDCL vide its email dated 8 August 2020 submitted that under long term WEPA which expired on March 2019, principal amount of Rs. 0.06 Cr. is outstanding for the generation month March 2019 and DPC amount as Rs. 0.02 Cr for is outstanding for period of September 2018 to March 2019.

Commission's Analysis and Ruling:

8. WIPL is Wind Generator who has been paid belatedly and some outstanding is yet to be paid by MSEDCL for the power supplied by it under WEPA which has expired in March 2019. The Petitioners have approached the Commission through instant Petitions for payment of outstanding principal amount, DPC amount which is yet to be paid by MSEDCL as also interest on delay in payment of DPC amount.
9. The Commission notes that as against outstanding amounts for the Principal and DPC amount claimed by the Petitioners, MSEDCL in its Reply dated 28 April 2020 has contended that it has paid some part of the outstanding amount. Further, in reply to query raised by the Commission, MSEDCL vide email dated 8 August 2020 has submitted latest position of outstanding amount against long term EPA with WIPL.

10. The Commission summarized amount claimed by the Petitioner and payments to be made as per MSEDCL in table below:

Sr. No	Particulars	Claimed as per Petition	MSEDCL's submission
1	Outstanding Principal amount (Rs. in lakh)	27.45	6
2	Principal Outstanding period	upto March 2019	For March 2019
3	Delay Payment Charge (Rs. In Lakh)	1.55	2
4	DPC Period	October 2018 to Jan. 2020	September 2018 to March 2019
5	Total outstanding amount (Rs. Lakh)	28.99	8

The Commission notes that there is difference in outstanding principal and DPC amount by both parties. This might be due to payment made by MSEDCL post filing of the Petition. Hence, the Commission directs both parties to reconcile the amount. MSEDCL shall ensure that the said reconciliation gets completed within 2 weeks and thereafter within a week inform date by which all outstanding amount would be paid.

11. As per MSEDCL's submission total outstanding amount is just Rs. 8 Lakh in present case. However, the Commission is aware of large outstanding amount in respect of other Wind Generators. On the issue of payment of such outstanding amount, the Commission notes the financial difficulties pointed out by MSEDCL due to reduction in the revenue collection on account of Covid-19 and its submission that while approaching Financial Institutions for loans to mitigate financial crunch arisen due to Covid-19, it has included outstanding payments of RE generators in that and once the amount is sanctioned by Financial Institutions (which is expected within a month), RE Generators will be paid directly by Financial Institutions without routing such amount through MSEDCL.
12. In view of the above submission made by MSEDCL the Commission opines that the delay in payment of dues is neither willful nor deliberate. Further, MSEDCL has informed about it approaching the Financial Institutions to clear the outstanding amount of RE generators including present Petitioner and hence the Commission thinks it fit to provide opportunity to MSEDCL to clear the dues of Petitioners. Hence, the Commission directs WIPL and MSEDCL to reconcile the amount. MSEDCL shall take necessary action as outlined in Para 10 above and if it deviates from its commitment of the agreed payment date, interest will be payable thereafter (beyond the date committed) at 1.25 % per month on any outstanding DPC amount.
13. As regards request of Petitioner to keep the case pending until the entire amount is cleared, Commission notes that it is not the MSEDCL but the Financial Institutions which would be directly making payment of the outstanding amount of all the generators and other parties. Therefore, keeping the case pending won't serve any purpose.
14. Hence, the following Order:

ORDER

1. The Case No. 43 of 2020 is allowed.
2. Maharashtra State Electricity Distribution Company Limited is directed to reconcile the outstanding amount with the Petitioner within two week from the date of this Order and thereafter Maharashtra State Electricity Distribution Company Limited shall inform within a week to the Petitioner the date by which full and final outstanding principal amount along with Delay Payment Charges will be paid.
3. Further, Maharashtra State Electricity Distribution Company Limited should note that if it deviates from its commitment given, penal interest will accrue at 1.25% per month on the outstanding Delayed Payment Charges.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I. M. Bohari)
Member

