

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 14 of 2022

Case of Wind World (India) Limited for the determination of Average Power Procurement Cost for FY2016-17 to FY2019-20 and seeking direction against MSEDCL for purchase of unutilized surplus energy generated from FY2016-17 to FY2020-21.

Coram

Sanjay Kumar, Chairperson
I. M. Bohari, Member
Mukesh Khullar, Member

Wind World (India) Ltd.

... **Petitioner**

V/s

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

Maharashtra Energy Development Agency (MEDA)

... **Respondents**

Appearance for the Parties

Wind World (India) Ltd.

Shri Ashish Singh (Adv.)

For MSEDCL

Shri Rahul Sinha (Adv.)

For MEDA

Shri Anand Raidurg (Rep.)

ORDER

Dated: 30 July 2022

1. Wind World (India) Limited (**Wind World / Petitioner**) has filed the Case on 8 October 2021 under Sections Section 61(h), 62 (1)(a), 86(1)(b), 86(1)(e), 86(1) f) of Electricity Act 2003 (EA / Act), CERC (Term and conditions for recognition and issuance of REC certificates for RE Generation Regulations, 2010, Regulation 20 of MERC Distribution Open Access Regulations 2016 (**DOA Regulations 2016**) and Regulation 14(E) of MERC (Distribution Open Access) First Amendment Regulations 2019 (**DOA (First Amendment) Regulations 2019**). The Petitioner has prayed for determination of Average Power Procurement Cost (**APPC**) for FY 2016-17 to FY2019-20 and sought direction against MSEDCL for purchase of unutilized surplus energy generated from FY 2016-17 to FY 2020-21 along with applicable interest.

2. **The Petitioner's main prayers are as follows:**

- (i) *Determine the Average Pooled Purchase Cost (APPC) of Maharashtra State Electricity Distribution Co. Ltd. for each year starting from FY 2016-17 to FY 2019-20;*
- (ii) *Direct Maharashtra State Electricity Distribution Co. Ltd. to purchase the unadjusted surplus units generated by the Petitioner at the end of each of FY 2016-17 to 2019-20 at the APPC of the respective FYs;*
- (iii) *Direct Maharashtra State Electricity Distribution Co. Ltd. to purchase the unadjusted surplus units generated by the Petitioner on a monthly basis from FY 2020-21 onwards at the generic tariff of the respective year;*
- (iv) *Direct the Respondent to pay the amounts due to the Petitioner towards such purchase of the unadjusted surplus units during FY 2016-17 to FY 2020-21, aggregating to 57,20,734 units, along with interest @18% p.a., calculated from the dates when the same were payable to the Petitioner herein, within seven (7) days.*

3. **The Petition states as follows:**

3.1. The Petitioner is engaged in the business of generating electricity from Renewable Energy (**RE**) sources. The Petitioner owns and operates 21 MW wind Power Plant (commissioned in 2001) in Sangli and Satara Districts of Maharashtra and selling power under Open Access (**OA**) to various third-party consumers.

3.2. Petitioner has injected surplus energy into the grid for the last five financial years (from FY 2016-17 to FY 2020-21), aggregating to 57,20,734 units which has still not been purchased by MSEDCL at APPC as per the provisions of the DOA Regulations 2016 and at generic tariff as per the provisions of the DOA First Amendment Regulations 2019.

3.3. The Petitioner's submission is based on the following two main issues:

Issue I: Determination of APPC of MSEDCL for each year from FY 2016-17 to FY 2019-20 for payment of over injected units under Open Access.

Issue II: Purchase of Surplus over-injected units for FY 2016-17 to FY 2019-20 at APPC rate and for FY 2020-21 at generic Tariff along with applicable interest.

3.4. Issue I: Determination of the APPC of MSEDCL for each year from FY 2016-17 to FY 2019-20 for payment of over injected units under Open Access:

- (i) Central Electricity Regulatory Commission (**CERC**) framed the CERC Renewable Energy Certificate (**REC**) Regulations on 14 January 2010 for the development of market in power from Non-Conventional Energy Sources by issuance of transferable and saleable credit certificates.
- (ii) CERC REC Regulations, 2010 *inter alia*, provided that the Central Commission shall designate an agency as the Central Agency to undertake various functions such as registration of eligible entities, issuance of certificates, maintaining and settling

accounts in respect of certificates, repository of transactions in certificates, and such other functions incidental to the implementation of REC mechanism as may be assigned by the Central Commission from time to time.

- (iii) Regulation 5 of the CERC REC Regulations (*as amended vide the Second Amendment dated 10.07.2013*) provided that the State Commissions shall determine the APPC of each DISCOM annually and provides for eligibility of generating companies and registration certificates.
- (iv) Regulation 9(2) of the CERC REC Regulations provided the principles for determination of the floor price and forbearance price of REC.
- (v) As per the CERC REC Regulations, the APPC across States in the country are taken into consideration while determining the floor & forbearance price of REC. Furthermore, the CERC vide Order dated 1 June 2010 in Petition No. 99 of 2010 (*Suo Moto*) for determining the Forbearance and Floor Price for the REC framework clearly recorded that :

“Average Power Purchase Cost (APPC): The APPC for a state represents the weighted average pooled power purchase by distribution licensees (without transmission charges) in the state during the last financial year (2009-10).”

- (vi) Further, the Commission has notified the MERC (Renewable Purchase Obligation, its Compliance and Implementation of REC Framework) Regulations, 2010 dated 7 June 2010 [**MERC RPO Regulations 2010**], *inter alia*, provided for promoting the sale of power from RE sources to any person and for procurement of energy from renewable sources by distribution licensee within the State of Maharashtra. MERC RPO Regulations 2010, apart from laying down the Renewable Purchase Obligations [**RPOs**] of the obligated entities, also provided that the REC mechanism shall be enforced in accordance with the CERC REC Regulations.
- (vii) Regulation 15.1 of the MERC RPO Regulations 2010 provided for Renewable Energy Pricing under the REC Mechanism has defined the *“Pooled Cost of Power 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 long-term and short-term energy suppliers, but excluding those based on renewable energy sources, as the case may be.*
- (viii) Further, Regulation 2.1 (31) of DOA Regulation, 2016 also provided the similar the definition of pooled cost of power purchase as above.
- (ix) In view of the above, it has been recognised by the Commission that it is important to find the APPC to effectively to implement REC Mechanism in the State of Maharashtra. However, MSEDCL has not filed any Petition regarding determination of the APPC from FY 2016-17 till FY 2019-20.
- (x) Accordingly, Indian Wind Power Association [**IWPA**] had also issued letters dated 21 June 2021 and 24 July 2021 to the Commission summarizing the purchase obligations of MSEDCL with respect to the surplus units generated by its members during FY 2016-17 and FY 2019-20, wherein IWPA highlighted the fact that its

members are facing huge losses on account of the non-determination of APPC for the respective years.

- (xi) Section 62(1)(a) of the Act, provided that tariff for procurement of power by Distribution Licensees in the State of Maharashtra from Generating Companies is to be determined by the Commission. Thus, any power to be purchased by Distribution Licensees in the State has to be as per the tariff determined by the Commission. The Tariff for the RE Sources can either be a preferential tariff or APPC which has to be either determined or approved by the Commission.
- (xii) Section 86(1)(e) of the Act also provided for regulating the power procurement of Distribution Licensees in the State including the price at which the power is to be procured by them through agreements. Thus, the APPC tariff/ price is necessarily to be determined/ approved by the State Commission at which the Distribution Licensees in the State can enter into agreements with the Generating Companies based on RE Sources.
- (xiii) The APPC is required to be determined on which alone the PPAs can be signed by the Distribution Licensees. The APPC is also required to be determined by the Commission for determining the cost of ‘*deemed purchase*’ under Regulation 20.6 of the Open Access Regulations.
- (xiv) The Commission has been determining the Annual Revenue Requirement (**ARR**) of MSEDCL every year. While determining the ARR or during true up of MSEDCL tariff proposal, the Commission also verifies the power procurement of the Distribution Licensee and based on this data, the average pooled power purchase cost i.e., APPC/ pooled cost of power purchase can be easily determined by the Commission.

3.5. Issue II: Purchase of Surplus over-injected units for FY 2016-17 to FY 2019-20 at APPC rate and for FY 2020-21 at generic Tariff along with applicable interest:

- (i) From FY 2016-17 to FY 2020-21 onwards, Petitioner has injected surplus electricity into MSEDCL’s network aggregating to 57,20,734 units details of which are as follows:

Table No.1: Year wise Petitioner’s claim for Surplus Over-injected units

FY	Units	Status of APPC Rate	Date of letter sent to MSEDCL by the Petitioner
2016-17	17,93,743	APPC rate awaited from MERC	20.07.2017
2017-18	NIL	-	-
2018-19	11,53,540	APPC rate awaited from MERC	02.05.2019
2019-20	9,34,171	APPC rate awaited from MERC	11.06.2020
2020-21	18,39,280	Generic RE tariff order for that year to be calculated by MERC	21.05.2021
Total	57,20,734		

- (ii) DOA Regulations 2016 and its first amendment stipulated that ‘*deemed*’ purchase of the surplus energy from FY 2016-17 to FY 2019-20 has to be at the APPC rates and for FY 2020-21 has to be at the generic tariff determined by the Commission for that year. In the absence of determination of the APPC FY 2016-17 to FY 2019-20 and non-clarity on the generic tariff for FY 2020-21, the Petitioner has been unable to raise a proper/ final invoice towards such deemed purchase.
- (iii) Petitioners vide the provisional invoices, duly requested MSEDCL to purchase the respective units “*as per the rate for pooled cost of power purchase for the (respective) year*”, however, MSEDCL still failed to file any Petition for determination of the same.
- (iv) Further, the Commission, *vide* its Order dated 13 November 2019 in Case No. 196 of 2019 (*MSEDCL Vs IWPA*), clarified that the existing contracts would continue with the earlier banking mechanism and monthly banking mechanism would only apply on the new contracts/ OA permissions. Therefore, Petitioner’s Open Access power sale contract which has lapsed on 30 March 2020 is eligible for yearly banking for FY 2019-20 and, thus, the settlement for the same has to be done at APPC rate determined by the Commission (*for FY 2016-17 to FY 2019-20*), and, thereafter, the entire capacity of the Plant (21 MW) would be under monthly banking from FY 2020-21 onwards.
- (v) The Commission, *vide* the Order dated 22 December 2017 passed in Case No.76 of 2017 (*Bajaj Finserv Limited v. MSEDCL*) (*a similar matter with similar issues*), held that MSEDCL is liable to pay the amounts due to the Petitioner therein on account of unadjusted/ banked units.

3.6. The Petitioner’s claims are admitted and continuous. The Petitioner is constrained to file the present Petition only on account of MSEDCL’s inaction towards the statutory mandate provided under the Act read with the regulations framed by the CERC and MERC. Therefore, the Petition is not barred by limitation Act.

4. MEDA in its Reply dated 15 February 2022 submitted that Commission may issue the appropriate directions.

5. MSEDCL in its Reply dated 30 March 2022 and additional submission dated 12 July 2022 stated as under:

Claims barred by Law of Limitation:

- 5.1. By way of the present Petition, Petitioner is seeking payment of the surplus energy for the period FY2016-17 to FY2020-21. The present Petition is filed on 29 November 2021 before the Commission, thus any claim before 28 November 2018 is barred by law of limitation.
- 5.2. The Hon’ble Supreme Court *vide* its judgment dated 16.10.2015 in the matter of “*Andhra Pradesh Power Coordination Committee and Others Versus Lanco Kondapalli Power Limited and Others*” has categorically held that principles underlying the Limitation Act, 1963 are applicable to State Commissions when it functions as Statutory adjudicatory quasi-judicial /judicial authority in determining all claims or disputes, including those arising out of contract between licenses and generating companies.

- 5.3. Hence, wherever any claim/dispute is raised before the Commission under Section 86(1)(f) of the EA then Limitation Act strictly applies, and any claim barred by limitation i.e a period of three (3) years cannot be adjudicated unless the principles underlying Section 5 and Section 14 of the Limitation Act, 1963 are satisfied. In the present case the Petitioner has failed to even plead a case under the provisions of Limitation Act.
- 5.4. It is noteworthy, that the present Petition has been filed on 28 November 2021 seeking payment for the FY 2016-17 till FY 2020-21. Petitioner vide letter dated 11 July (received by MSEDCL on 20 July 2017 had requested MSEDCL to purchase its banked units for FY2016-17. However, the present Petition has been filed belatedly only on 29 November 2021 and thus, the claim is barred by the law of Limitation and on this ground alone the present Petition deserves to be dismissed.
- 5.5. It is a settled position of law that mere representation or correspondence does not extend the period of limitation it is only the filing and /or commencing a legal proceeding that stops the period of limitation from running [Paragraphs 15 and 18 of *State of Tripura v. Arabinda Chakraborty reported in (2014) 6 SCC 460* and Paragraphs 51 and 52 of *Allahabad Development Authority and Another Vs. M/s. Vidyawati Construction Company reported at 2001 SCC Online All. 625*. It is also a settled position of law that the cause of action for each claim is separate and distinct. Part-payments extend the period of limitation only regarding the bill or subsisting claim for which payment is made and not for other claims. In the present matter there is no such case which has been made out by the Petitioner.
- 5.6. Furthermore, the Hon'ble Madras High Court in the case of *Government of Tamil Nadu & Anr. Vs. A.Rangasamy & Others reported in (2020) SCC Online Mad. 1071* at Paragraphs 28, 29, 32 and 33 has held that the limitation period for claiming delay / loss of profits / overheard charges etc. would commence from date on which the delay actually commenced i.e. the inception of such delay. Additionally, the Hon'ble Madras High Court in the case of *Tamil Nadu Electricity Board Vs. M/s. Engineering Projects India Limited reported in (2010) SCC Online Mad. 4094* at Paragraph 121, 161, 162, 163, 164, 165, 174, 183, 238 etc. has held that the limitation period for any claim commences from date on which the delay actually accrued and not on the date of quantification. Further, it's a trite law that '*equity aids the vigilant, not those who slumber on their rights*'.
- 5.7. The maxim "*Vigilantibus, non dormientibus, jura subveniunt*" (the law assists those who are vigilant, not those who sleep over their rights) clearly applies to the present case. This legal maxim refers to the legal diligence on part of the claimant which in the present case is specifically not done and on this ground alone the claims of the Petitioner ought to be rejected.
- 5.8. The Commission vide its Order dated 20 July 2018 in Case No. 193 of 2017 (*Gadre Marine Vs MSEDCL*), relied upon the Judgments passed by the Hon'ble Supreme Court on the issue of "Limitation" and has upheld the objections of MSEDCL on the applicability of "Limitation" against time barred claims.

Determination of APPC Rate

- 5.9. As per the provisions of MERC (Terms and Conditions for Determination of Renewable

Energy Tariff) Regulations, 2015, it is specified that while calculating APPC, cost of RE power purchase needs to be excluded from power purchase expenses.

- 5.10. Further, the CERC vide its Order in Petition - No.15/SM/2015 dated 03.12.2015 illustrated methodology for computation of APPC at the national level. As per the said methodology, while considering cost of power purchase, the cost of renewable energy purchase and transmission charges have to be excluded.
- 5.11. The Commission vide common Order dated 22 July 2021 in Case No. 42, 43 and 60 of 2021 has already considered the APPC calculations methodology of MSEDCL.
- 5.12. Further MSEDCL is in the process of issuing standard procedure for processing claims of over-injected energy from wind /solar generators. In the procedure, APPC rates for applicable years and the rates as per the Commission sou-motu Generic Tariff Orders from April 2020 onwards will be mentioned so that Generators can claim/ raise invoices.
- 5.13. Accordingly, MSEDCL has calculated and submitted the APPC rates for purchase of surplus over-injected energy in line with the Regulation issued by the Commission and CERC are as under:

Table No.2: MSEDCL's calculations of APPC Rate

Sr. No.	Financial Year	Applicable Rate in Rs/Unit for Solar and Wind		(Revised submission dated 12 July 2022) * Applicable Rate in Rs/Unit for Solar and Wind		Rate explanation
1	2016-17		3.35		3.35	APPC
2	2017-18		3.54		3.54	APPC
3	2018-19		3.557		3.55	APPC
4	2019-20 till 08.06.2019		3.98		3.98-3.61*	APPC
5	08.06.2019 onwards on monthly basis till Mar-2020	2.45	2.52 (except for Group I Projects) & 2.25 for group-I projects	2.45	2.52 (except for Group I Projects) & 2.25 for group-I projects	Approved rate for respective source under Short Term
6	2020-21	2.45	2.52 (except for Group I Projects) & 2.25 for group-I projects	2.45	2.52 (except for Group I Projects) & 2.25 for group-I projects	MERC approved rate for respective source under Short Term

**Note: Due to typographical mistake, MSEDCL vide additional submission dated 12 July 2022 has revised the rate of APPC for FY 2019-20 as Rs.3.61 instead of Rs.3.98.*

5.14. With regard to claims for the FY 2017-18 till 2020-21, the Petitioner has claimed the over injected entirely for 21 MW wind project in Satara & Sangli District wind which is not in line with the provisions of DOA Regulations 2016 and DOA First Amendment Regulations 2019.

5.15. The eligible claim of the generator calculated by MSEDCL as per the provisions of OA Regulations 2016 and DOA First Amendment Regulations 2019 are as follows:

Table No.3: Petitioner claim v/s MSEDCL's calculations of surplus over-injected units

Circle	FY	Capacity As per NOCs	Consumer Name & No.as per NOC	Capacity in MW	Over injected Units claimed by Generator	Over Injected Units submitted by MSEDCL in reply dated 30.3.2022	(Revised Submission by MSEDCL dated 12.7.2022)
Satara	2016-17	6 MW	22929010438	12.6	1793743	0	0.00
Satara	2018-19	6 MW	22929010438	12.6	1153540	838969.2	838969
Satara	2019-20	6 MW	22929010438	12.6	934171	78356.82	783568*
Satara	2020-21	3 MW	162019000664	12.6	293588	165278.9	165279
Satara	2020-21	6 MW	22929010438	12.6	1213317	623064.6	623065
Satara	2020-21	3.6 MW	184819031650	12.6	332375	124989.3	124989.3
Sangli	2020-21	2.4 MW	184819031650	8.4		48989.3	48989.3
Total					5720734	1879648	2584860

**Note: MSEDCL vide additional submission dated 12 July 2022 submitted the revised calculation for FY 2018-19 (changes due to decimal places) as shown above.*

The units claimed by the Petitioner are 31,35,874/- more than the units considered by MSEDCL.

5.16. With regard to claims for the FY-2017-18 (only after FY 2017-18) till 2020-21, MSEDCL is processing the claims of over injected energy as per the provisions of DOA Regulations 2016 & DOA First Amendment Regulations 2019. The Petitioner seems to have considered 10% of generation from entire 21 MW wind project as a single transaction, whereas the generation for each Open Access transaction after settlement with its consumer is to be considered while calculating the over injection. Thus, there is a difference of 31,35,874/- units in the claim of Petitioner in the Petition & as per MSEDCL's calculations.

- 5.17. The Petitioner on various occasions was requested to approach MSEDCL for reconciliation of the claim by email on 4th , 21st , 23rd & 24th March,2022.
- 5.18. Further in view of the Orders of the Commission dated 04 February 2022 in Case No 100, 101 121 & of 2022 (*case of 4 Wind Generators VS MSEDCL*) and further Order dated 11 March 2022 in Case No in 131 of 2022 (*Godawat energy Vs MSEDCL*) MSEDCL is developing dedicated portal for processing over injected energy and also issuing circular thereby describing the procedure for processing the claims regarding Over injected energy. The testing of the portal is under process and soon the portal will be made go live. Thus, the claims of FY-2018-19 till 2020-21 will be paid through the portal on priority.
- 5.19. Petitioner vide its written submissions have also included their claim for the FY 2021-22 which was never part of the original claim and hence, same could not be considered by the Commission in the present case at hand.
6. **At the e-hearing through video conferencing held on 1 April 2022**, the Petitioner sought adjournment to file the rejoinder on MSEDCL's reply filed on 30 March 2022 just before the hearing. Hence the matter was adjourned.
7. **At the e-hearing through video conferencing held on 31 May 2022:**
- 7.1. Advocate of the Petitioner re-iterated its submissions as made out in the Petition. Further he stated that the Commission has passed the similar Order dated 11 March 2022 in Case No. 131 of 2021(M/s Godawat energy Vs MSEDCL) wherein the Commission has directed MSEDCL to purchase the surplus over-injected units from FY 2016-17 to FY 2019-20. Accordingly, MSEDCL in this case also is required to purchase the over-injected units as per the DOA Regulations 2016 and DOA First amendment Regulations 2019. He further added that the Petitioner's claim is not time barred under Limitation Act in terms of the Hon'ble Supreme Court Judgement for extension of limitation period due to COVID-19.
- 7.2. Advocate of MSEDCL re-iterated its submissions as made out in the reply. He further stated that the present Petition is filed on 29 November 2021 before the Commission, thus any claim before 28 November 2018 is barred by law of limitation. Further, Advocate of MSEDCL stated that the Petitioner, in spite of repeated request, did not come forward for reconciliation of over injected units.
- 7.3. Representatives of MEDA stated that they have already filed their replies in the matter and have nothing to add any further.
- 7.4. The Commission enquired from Petitioner as to why that there was a difference in the number of units in the claim of Petitioner and that contained in the submission of MSEDCL. The Commission observed that an approach of the Petitioner was rather casual as Petitioner neither filed any reply on the reconciliation of units nor approached the MSEDCL in spite of repeated request from MSEDCL. In reply, Advocate of the Petitioner stated that the Petitioner would file the correct data.
- 7.5. Accordingly, the Commission directed the Petitioner to file its submissions within three days with copy to MSEDCL.

8. The Petitioner in its additional submission dated 6 June 2022 stated as under:

- 8.1. It is the case of the Petitioner that limitation does not apply before SERC when regulatory powers are invoked. The purchase of over-injected/surplus units being essentially one of enforcement of Regulations and therefore Regulatory in nature and consequently beyond the pale of limitation bar.
- 8.2. Assuming without admitting, if limitation is applied even then the Petition filed by the Petitioner is not barred by limitation because of the following reasons:
 - a) The claim of the Petitioner for purchase of over-injected units/surplus units, is as per the provisions of the DOA Regulations, 2016 for claim pertaining to banked units for FY 2016-17, FY 2018-19 and FY 2019-20. Banked units for FY 2020-21 & 2021-22 have been claimed in compliance with DOA First Amendment Regulations, 2019.
 - b) FY 2016-17 onwards, the DOA Regulations, 2016 speak about purchase of over-injected/surplus power at the end of financial year limited to 10% of actual total generation. Hence, the limitation if any, can start only after the end of a financial year. Duty to purchase surplus over injected by MSEDCL would accrue only after end of financial year, when the data is available for actual generation throughout the financial year. Accordingly, the Petition should have been tentatively filed on or before 31.03.2020 and 31.03.2021 for FY 2016-17 and FY 2017-18 respectively. However, as per the Hon'ble Supreme Courts Orders on applicability of limitation during COVID-19, it is specifically mentioned that period from 15.03.2020 till 28.02.2022 will be excluded while calculating limitation and any limitation expiring between the above period would get an additional period of 90 days' time from 28.02.2022 to file the Petition. The present Petition was filed on 08.10.2021. Hence, no part of claim of the Petitioner is barred by limitation.
- 8.3. The Commission in an identical matter vide its Order dated 11 March 2022 in Case No. 131 of 2021 has held that claim for FY 2016-17 to FY 2019-20 is not time barred in terms of the Hon'ble Supreme Court Judgments for extension of limitation period dated 23 March 2020, 23 September 2021 and 10 January 2022 due to COVID -19 pandemic. The Commission also directed MSEDCL to purchase and make the payment of the surplus over-injected units from FY 2016-17 to FY 2019-20, after verification based on submission of necessary/ required documents and as per the applicable provisions of DOA Regulations. Hence, MSEDCL's submission that the claims are barred by Limitation Act is not true.
- 8.4. The defence of MSEDCL regarding "claiming entire over-injected power of 21 MW" is erroneous in view of the statement of claims annexed at Annexure- D. The claim of the Petitioner is in accordance with the mandate of the DOA Regulations, 2016 for claim pertaining to banked units for FY 2016-17, FY 2018-19 and FY 2019-20 (since these are old contracts). Banked units for FY 2020-21 & FY 2021-22 have been claimed in compliance with DOA First Amendment Regulations, 2019. The Petitioner has revised surplus over injected unit at Annexure D.
- 8.5. DOA Regulations, 2016 provides that, unutilised Banked Energy at the end of financial year limited to 10% of total generation in such financial year is considered as "Deemed