

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
**World Trade Centre, Centre No.1, 13<sup>th</sup> Floor, Cuffe Parade, Mumbai 400005.**  
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**Case No. 131 of 2023**

**Case of M/s Shree Cement Ltd. under Section 86(1)(e) of the Electricity Act, 2003 read with regulation 37 of MERC (Distribution Open Access) Regulations, 2016 for removal of difficulty in allowing Open Access as per actual wind generation.**

**Coram**

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

M/s Shree Cement Limited (SCL) : Petitioner  
V/s  
Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) : Respondent

**Appearance**

For the Petitioner : Mr. Amarjit Singh (Rep.)  
For the Respondent : Mr. Rahul Sinha (Adv.)

**ORDER**

**Date: 08 April 2024**

1. The Petitioner, M/s Shree Cement Ltd. (SCL), has filed petition on 28 April 2023 in Case No. 131 of 2023 seeking directions against Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL), to allow Open Access (OA) as per actual generation of its Wind Energy Generator (WEG) s and further requested to allow credit of energy up-to actual generation of its each WEG, with retrospective effect.
2. **SCL's main prayers are as under:**  
  
*“To direct MSEDCL to allow Open Access to the Petitioner as per actual generation of WEGs and allow credit of energy upto actual generation of each WEG, with retrospective effect.”*
3. **SCL in its Petition has stated as follows:**
  - i. SCL is a Public Limited Company incorporated and registered under the provisions of the Companies Act, 1956. It has a Cement Grinding Unit namely “Maharashtra Cement Plant” located at Village-Patas/Kangaon, Tal-Daund, Dist.-Pune. The plant

has an electricity supply connection from MSEDCL with contract demand of 14000 kVA (14 MVA) and connected at 132 kV to 220/132 kV Kurkumbh Substation of MSETCL through a dedicated transmission line.

- ii. SCL has installed a 10.50 MW (5 X 2.1 MW) Captive Wind Power Plant at Site-Jath/Mendhegiri, Dist-Sangli at location nos. JTH-014, JTH-301, JTH-307, JTH-324 and JTH-325, to meet captive power requirement of its cement plant. The wind power plant is registered with MEDA under project registration nos. Wind-17/2020-21 (JTH-014, JTH-307, JTH-324 and JTH-325) and Wind-18/2020-21 (JTH-301) dated 05.03.2021. SCL has installed Suzlon make S111 DFIG 2.1MW WEG model with enhanced performance package at above locations. Though the WEGs have installed capacity of 2100 KW, their name plate capacity is 2170 KW (2.170 MW). Furthermore, the WEGs can generate upto 2200 KW. The Captive Wind Power Plant was commissioned on 01.04.2021.
- iii. SCL has installed Special Energy Meter (SEM)s at 33 kV level on individual WEG in compliance with Regulation 17.8(a) of MERC (Distribution Open Access) Regulations, 2016. The energy export recorded by these SEMs is being used to perform monthly billing and energy adjustment under open access.
- iv. The power from the wind power plant is wheeled under STOA/MTOA to SCL's cement grinding unit (Consumer No. 173249055300) to meet its captive power requirement. For this SCL, applies for open access on MSEDCL open access online portal and obtains open access approval separately for each of WEG installed at its site. Since the WEGs of SCL have registered capacity of 2100 KW each with MEDA, the same is being referred to in all approvals/documents such as Permission to Commission, Commissioning Certificates etc. Accordingly open access is applied by SCL and approved by MSEDCL for 2100 KW for each of the WEG.
- v. Regulation 14.10 of MERC DOA Regulations, 2016 provides for energy adjustment by an open access consumer. In accordance with these regulations, MSEDCL works out block-wise energy entitlement for adjustment against block-wise energy consumed at consumption end. To do so, MSEDCL checks injection of each WEG on 15-minutes time block basis and any injection over and above 2100 KW (525 KWh in a 15-minutes block) i. e. open access capacity is not allowed for adjustment against consumption. This energy is neither paid nor banked for future adjustment.

Illustration: *(values at injection end without losses)*

<b>Time Block</b>	<b>Actual Generation (Kwh)</b>	<b>OA Limits (Kwh)</b>	<b>Energy Entitlement for Adjustment (in Kwh)</b>	<b>Energy Disallowed (Kwh)</b>
1	575	525	525	50

2	515	525	515	0
3	625	525	525	100
4	500	525	500	0
<b>Total</b>	<b>2215</b>		<b>2065</b>	<b>150</b>

From above table, the total energy generated/injected by SCL's wind plant is 2215 kWh, whereas only 2065 kWh is allowed for adjustment against consumption. The balance of 150 units is neither paid nor banked and is thus a waste of energy and financial loss to SCL.

- vi. During actual operations of WEGs, maximum output (in KW) in several time blocks, based on energy (in Kwh) recorded in 15-minutes time block by SEM installed at 33 kV level for each of the WEG, is recorded higher than 2100 KW (i. e. 525 kWh). The highest output, based on energy generated in 15-minutes block at generator terminal of each of the WEG from May-22 to Sept-22 is summarized as under:

Particulars	May-22	Jun-22	July-22	Aug-22	Sept-22
<b>JTH-014</b>					
No. of blocks with actual generation > 2100 KW (i. e. 525 KWh)	397	442	693	693	279
Highest Avg. Generation Capacity at generator terminal (KW) in a time block*	2263	2264	2264	2267	2263
<b>JTH-301</b>					
No. of blocks with actual generation > 2100 KW (i. e. 525 KWh)	546	581	808	765	323
Highest Avg. Generation Capacity at generator terminal (KW) in a time block*	2265	2264	2265	2270	2268
<b>JTH-307</b>					
No. of blocks with actual generation > 2100 KW (i. e. 525 KWh)	260	233	559	518	154
Highest Avg. Generation Capacity at generator terminal (KW) in a time block*	2275	2273	2276	2276	2270
<b>JTH-324</b>					
No. of blocks with actual generation > 2100 KW (i. e. 525 KWh)	487	480	651	649	353

Highest Avg. Generation Capacity at generator terminal (KW) in a time block *	2259	2259	2260	2260	2258
JTH-325					
No. of blocks with actual generation > 2100 KW (i. e. 525 KWh)	381	396	735	691	N-A
Highest Avg. Generation Capacity at generator terminal (KW) in a time block*	2260	2261	2263	2263	N-A

*\*Based on energy (Kwh) recorded in SEM in a time block and assuming 1.5% step-up losses*

- vii. SCL has been applying for and receiving open access approval based on capacity registered with MEDA i. e. 2100 KW. However, due to actual generation attained in several 15-minute time blocks being more than 2100 KW, it is resulting in denial of adjustment of energy generated over and above the open access capacity i.e. 2100 KW (525 kWh in 15 minutes block). This is resulting in significant energy losses for SCL, as it is not getting credit for 100% actual energy that it is entitled to from its captive power plant. The month-wise loss of energy due to actual generation more than registered (open access) capacity for 10.50 MW WPP is as tabulated below:

Particulars	May-22	Jun-22	July-22*	Aug-22	Sept-22
Total Energy generation as per SEMs for 10.50 MW Plant	3473547	3958013	N-A	4317311	2937200
Energy wheeled/adjusted after applying open access limit	3423059	3909232	N-A	4232650	2906366
Loss in kWh of Energy due to open access limit	50478	48781	N-A	84661	30834
% Loss of energy due to open access limit	1.45%	1.23%	N-A	1.96%	1.05%

*\*For July-22, individual WEG data was not available as energy accounting was done based on common feeder meters*

- viii. MERC (RE Tariff) Regulations, 2019 acknowledges that the installed capacity of a generating station should be measured based on its name plate capacity or its actual generation capacity. SCL had approached MEDA apprising them of its concern and requesting them to endorse its case to MSEDCL for allowing open access for capacity more than the registered capacity of 2100 KW, upto the actual generation capacity of WEGs. MEDA vide its letter dated 01.03.2023 has recommended SCL's case to MSEDCL for allowing open access based on actual generation of wind power project.

SCL also represented the matter to MSEDCL vide letter dated 04.02.2023 and again vide letter dated 03.03.2023 with a request to allow open access upto maximum actual generation attained by each WEG.

- ix. To tap full potential of RE based generation, MNRE has granted MUST-RUN status RE generating stations and RE generation should not be curtailed without any valid reason i.e. Grid Safety. Further Regulation 13.30 of MERC (Terms and Conditions for Determination of Renewable Energy Tariff) Regulations, 2019 provides RE Power Projects shall be treated as 'MUST RUN' Projects and shall not be subjected to 'merit order despatch' principles. Also Regulation 30.13 of MERC (State Grid Code) Regulations, 2020 provides for must-run projects that "SLDC shall make all efforts to evacuate the available solar, wind, solar-wind hybrid power and other RE considered as a must-run station as per the provisions of the MERC RE Tariff Regulations.
- x. That the combined reading of the above regulatory provisions firmly establishes that RE energy generation must be treated as Must-Run and evacuated/dispatched without any curtailment unless there is concern related to grid security. Not allowing SCL open access to the extent of actual generation of its WEGs, MSEDCL is acting against the above principle set out by MERC in its RE Tariff Regulations and Grid Code. Therefore, SCL has filed the present petition seeking direction against MSEDCL for allowing open access up to actual generation capacity of its WEGs.

**4. MSEDCL in its submission dated 5 January 2024 has stated that:**

- i. The present petition is liable to be dismissed on the grounds of non-joinder of necessary party (MEDA). SCL has been applying and receiving open access approval based on capacity registered with MEDA. Furthermore, SCL has taken recourse to MEDA's letter dated 01.03.2023 to justify its claim against MSEDCL. However, SCL has not made MEDA as a party to the current petition. As such MSEDCL submitted that the current petition is liable to be dismissed on the grounds of non-joinder of necessary parties alone.
- ii. The present petition is liable to be dismissed due to unenforceable prayers. SCL has prayed before the Commission that MSEDCL be directed to allow SCL open access as per actual generation of the WEGs. Such a proposition is averse to the regulations as set out by the Commission, specifically following Regulations: such as MERC (Terms and Conditions for Determination of Renewable Energy Tariff) Regulations, 2019 and the MERC (Distribution Open Access) Regulations, 2016 r/w MERC (Distribution Open Access) (First Amendment) Regulations, 2019 and MERC (Distribution Open Access) (Second Amendment) Regulations, 2023.
- iii. An OA approval is granted to entities as per individual open access applications, governed by the DOA Regulations. In the present matter, an open access approval was granted to SCL at 2.1 MW each to 5 WTGs of SCL i.e., after considering the installed capacity of the WTG and in terms of commissioning certificate. As such

SCL was entitled to access a quantum limited to 10.5 MW in total as was specifically applied for by SCL and further approved by MSEDCL.

- iv. The injection of excess power which is not contracted may affect the overall grid stability and as such cannot be permitted in any form/manner whatsoever. As per the DOA Regulations, open access can only be allowed for the contracted capacity between the parties, without extending it to excess generation, if any. It would be pertinent to mention here that Regulation 20 of the DOA Regulations, 2016 read with DOA Regulation (1st Amendment) 2019 makes it very clear as to the extent to which a licensee is bound to purchase the surplus energy injected into the grid in an open access approval. Pertinently, it is submitted that as per the said DOA Regulations, MSEDCL is entitled to credit energy to SCL on excess production or 10 percent of actual production, whichever is lesser. Hence the question of MSEDCL not following the DOA Regulations does not arise.
- v. Moreover, it is a trite law that individual hardship cannot and should not be a ground for change in regulations. MSEDCL relied on following precedents on the said point of law.
  - (a) Best Worker's Union v. Union of India, 2016 SCC OnLine Bom 9279:
  - (b) Noida Employees Association v. State of U.P., 2019 SCC OnLine All 4249:
  - (c) Medical Council of India vs P. Divya, 2013 SCC OnLine Mad 1323:
  - (d) New India Assurance Co. Ltd. Versus Hilli Multipurpose Cold Storage Pvt. Ltd., Civil Appeal No. 10941-10942 of 2013:
- vi. SCL's prayers are unenforceable since those are directly contrary to DOA Regulations. Therefore, the Commission may dismiss the present petition.

**5. At the E-hearing held on 30 January 2024:**

After hearing, the Commission directed SCL to file its additional submissions and MSEDCL was allowed to file its rejoinder. The case was reserved for orders.

**6. SCL's in its additional submission dated 1 February 2024 has stated that:**

- i. SCL has filed a Petition under Section 86(1)(e) of the EA, 2003 and regulation 37 of MERC (Distribution Open Access) Regulations, 2016 for allowing open access upto its actual generation for wheeling of power from its 10.50 MW (2.1 MW X 5 WEGs) Captive Wind Power Plant at Jath/Mendhegiri to its captive grinding unit located at Patas, Pune (Consumer Number 173249055300) and to allow credit of actual energy generated in its HT bill.
- ii. During a hearing held on 30 January 2024, some typographical error was observed in the Petition, wherein one phrase was reproduced twice w. r. t. the definition of 'installed capacity' written at Para 13 of the Petition. The Commission allowed SCL

to submit the corrected definition. The same is reproduced here as provided under Regulation 2.1 (s) of MERC RE Tariff Regulations, 2019.

*“Installed Capacity’ means the summation of the name plate capacities of all the Units of a Generating Station or the capacity of a Generating Station, reckoned at the generator terminals.”*

- iii. Thus, as per the definition, Installed Capacity of a generating station can be determined in either of the two ways, viz (1) Name plate capacity of the generator or (2) capacity as recorded at generator terminal. In case of SCL, as per the generation data available in SEM installed at individual WEGs at 33 KV level, each WEG generator has achieved a capacity of 2250 KW or above multiple times during their operations.
- iv. SCL has already submitted the data on month-wise number of time blocks in which actual generation was more than the installed capacity of each WEG ( i.e. 2100 KW) and maximum output (in KW) achieved by the WEGs during May-22 to Sept-22. The data was based on energy (in Kwh) recorded in 15-minutes time block by SEM installed at 33 KV level at individual WEG. The same data for each of the WEG during peak wind season, from June-23 to Sept-23 is submitted below:

<b>Particulars</b>	<b>Jun-23</b>	<b>July-23</b>	<b>Aug-23</b>	<b>Sept-23</b>
<b>JTH-014</b>				
No. of blocks with actual generation > 2100 KW (i. e. 525 KWh)	776	854	367	270
Highest Avg. Generation Capacity at generator terminal (KW) in a time block*	2259	2255	2252	2252
<b>JTH-301</b>				
No. of blocks with actual generation > 2100 KW (i. e. 525 KWh)	860	1023	487	368
Highest Avg. Generation Capacity at generator terminal (KW) in a time block*	2263	2263	2259	2261
<b>JTH-307</b>				
No. of blocks with actual generation > 2100 KW (i. e. 525 KWh)	534	596	242	163
Highest Avg. Generation Capacity at generator terminal (KW) in a time block*	2272	2281	2272	2272
<b>JTH-324</b>				
No. of blocks with actual generation > 2100 KW (i. e. 525 KWh)	784	876	350	324



Highest Avg. Generation Capacity at generator terminal (KW) in a time block *	2256	2258	2255	2257
JTH-325				
No. of blocks with actual generation > 2100 KW (i. e. 525 KWh)	704	N-A	361	332
Highest Avg. Generation Capacity at generator terminal (KW) in a time block*	2258	N-A	2258	2259

\*Based on energy (Kwh) recorded in SEM in a time block and assuming 1.5% step-up losses

- v. The month-wise loss of energy due to actual generation more than registered (open access) capacity for 10.50 MW WPP for the above period i.e. June-23 to Sept-23 is as tabulated below:

Particulars	Jun-23	July-23	Aug-23	Sept-23
Total Energy generation as per SEMs for 10.50 MW Plant	4838040	5880164	4550594	3329679
Energy wheeled/adjusted after applying open access limit	4754232	5782551	4512548	3298782
Loss in Kwh of Energy due to open access limit	83808	97613	38046	30897
% Loss of energy due to open access limit	1.73%	1.66%	0.83%	0.93%

- vi. The additional energy generated over and above the stated installed capacity i.e. 2100 KW would be consumed by SCL at its own cement grinding unit, if so, permitted by MSEDCL, without burdening MSEDCL in any manner whatsoever. Therefore, SCL requested to direct MSEDCL to allow Open Access to the Petitioner as per actual generation of WEGs and allow credit of energy upto actual generation of each WEG.

**7. MSEDCL in its Rejoinder dated 20 February 2024 has stated as follows:**

- i. The Regulation 2.1 (s) of MERC RE Tariff Regulations, 2019, defines the installed capacity that “*Installed Capacity' means the summation of the name plate capacities of all the Units of a Generating Station or the capacity of a Generating Station, reckoned at the generator terminals.*” In terms of this definition, it would be correct to say that the installed capacity of a generation plant/station is to be in terms of its name plate capacity or its generating capacity.



- ii. However, in the present case it would be pertinent to note that the said installed capacity has to be declared/registered by the generator with the MEDA first. It is noteworthy, that in the present case SCL has registered itself with MEDA only to the extent of its name plate capacity and the same has been also approved by the MEDA through its registration certificates. Thus, SCL today cannot claim its installed capacity in terms of generation when it has registered itself with name plate capacity as installed capacity.
- iii. Further, it is pertinent to note that the Commissioning certificate issued by the MSEDCL has been issued in accordance with the Registration certificate issued by the MEDA and accordingly, the other approvals i.e. CT/PT, SEM meters etc. has also been issued by MSEDCL. Further, SCL even while applying for OA approvals has only applied in terms of the name plate capacity/MEDA registration certificate, which has been dully approved by the MSEDCL. MSEDCL is correct in considering the installed capacity in terms of name plate capacity for all necessary purposes. Accordingly, SCL's prayer for allowing the OA in terms of actual generation and for providing credit notes in terms of actual generation retrospectively is absolutely unsubstantiated and outside the purview of law.
- iv. The excess power injected by SCL has already been settled under RE DSM mechanism and allowing adjustment as per SCL's prayer will not be proper and will be unjust on MSEDCL. Over injection without proper capacity declaration is also detrimental for grid security as the stability of grid is of paramount importance.

#### **Commission's Analysis and Ruling:**

8. The Commission notes that the Petitioner, SCL, has filed the present petition seeking directions against MSEDCL, to allow Open Access as per actual generation of its WEGs and further requested to allow credit of energy up-to actual generation of its each WEG, with retrospective effect.
9. The Commission notes that MSEDCL has stated that the present petition is not maintainable on the grounds of non-joinder of necessary party (MEDA). MSEDCL further stated that SCL's prayers are unenforceable since those are directly contrary to MERC DOA Regulations, 2016 and various amendments made thereunder and therefore SCL's present petition may be dismissed, being devoid of merits. MSEDCL also stated that SCL's name plate capacity of each WEG's is 2.1MW as declared/registered and accordingly MSEDCL has issued commissioning certificate for WEGs. Hence prayer to allow OA for actual generation instead of certified name plate capacity of WEGs is outside purview of law.
10. It is worthwhile to mention here the factual matrix with respect to the present case. SCL has installed 10.50 MW (5x 2.1 MW) Captive wind power plant. Each WEG has installed

and certified capacity of 2.1 MW but can generate upto 2.2 MW. The Captive wind power plant was commissioned on 01.04.2021. SCL has installed SEMs at 33 kV level on individual WEG. SCL has Cement plant with Contract demand 14 MVA, connected at 132 kV level at 220/132 kV Kurkumbh Substation of MSETCL.

11. The Commission has made a scrutiny of OA capacity based on various applications and reports filed under this case. It is observed that MSEDCL has granted various OA approvals to the SCL's Cement Plant. In MSEDCL's letter/Application dated 03.01.2023 (for MTOA for transaction period from 1 February, 2023 to 30 April, 2023) it is observed that the applied OA capacity was 2.1MVA and allotted OA capacity was 2.1 MVA. Further, the Contract Demand was mentioned as 14 MVA. On similar lines, post scrutiny, as regards to the OA meter consumption data, it is observed that SCL has submitted a few monthly reports along with the Petition, such as for the months of August 2022, September 2022. These reports, (which are recorded by meters located at wind generating station of the Petitioner), has recorded OA Contract demand as 2.1 MVA. All these documents show the SCL's OA applied and granted capacity as 2.1 MVA and not 2.2 MVA.
12. The Commission has analyzed MEDA's letter dated 01 March 2023 with respect to OA capacity. It is observed that MEDA, relying on the MNRE's Revised List of Models and Manufactures (RLMM list of approved wind turbines) in its letter addressed to MD, MSEDCL, has written that generation capacity of wind turbine (such as Petitioner's WEG) is 2.2 MW, and therefore, MSEDCL may consider OA capacity as per the name plate capacity Or OA capacity may be amended as per actual generation. **The Commission opines that MEDA's view runs contrary to the provisions of MERC DOA Regulation, 2016 and amendments thereunder. Neither MEDA has come before the Commission expressing its view on this issue nor made any submission to the suggestions/objections when previous publication procedure for framing DOA Regulations and its amendments were followed. Admittedly, the Commission also notes that MSEDCL has stated that the present petition is not maintainable on the grounds of non-joinder of necessary party i.e. MEDA.**
13. The Commission notes that Regulation 3.2 of the MERC (DOA) (First Amendment) Regulations, 2019 provides eligibility for grant of OA. It states that a Consumer having Contract Demand of 1 MVA and above with a Distribution Licensee shall be eligible for Open Access for obtaining supply of electricity from the sources as stipulated thereunder. These Regulations further provides capacity limit to conventional OA transactions. As per the 1<sup>st</sup> proviso, Partial OA consumer shall be permitted to avail OA for the capacity not exceeding its Contract Demand whereas Full OA consumer shall be permitted to avail OA for the capacity not exceeding its sanctioned load. However, in case of OA from RE sources, 2<sup>nd</sup> proviso states that the specified capacity limit up to contract demand or sanctioned load shall not be applicable for sourcing OA from RE sources subject to condition of resultant power flow. **Thus, while facilitating OA transaction from conventional and RE sources, the Commission has also cautiously taken into consideration the factor of grid operation, banking and its safety, which is the prime**

**and utmost responsibility of all the stakeholders. This implies that all the set process and procedures as specified in the Regulations need to be adhered with, by all of them in a sacrosanct manner.**

14. Pertinently, it is imperative to mention here that Regulation 20 of the DOA Regulation, 2016 read with DOA regulation (1st Amendment) 2019 makes it very clear as to the extent to which a licensee is bound to purchase the surplus energy injected into the grid in an open access approval. The relevant portion of the same is as under:

*“20. Banking of Renewable Energy generation*

*20.1. Regulation 19.3 shall not be applicable in case an Open Access Consumer obtains supply from a Renewable Energy Generating Station identified as ‘non-firm power’ ( Viz. Wind, Solar and Hybrid RE comprising Wind and Solar) by the Commission in its Regulations governing the Tariff for Renewable Energy.*

*Provided that the settlement of deviation at the injection point in case of non-firm power (Wind, Solar and Hybrid RE comprising Wind and Solar) shall be governed as per provisions specified under Maharashtra Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2018.”*

*20.2. The surplus energy from a ‘non-firm’ Renewable Energy Generating Station after set-off shall be banked with the Distribution Licensee subject to conditions stipulated under subsequent paragraphs.*

***20.3. Banking of energy shall be permitted only on monthly basis.***

*Provided that the credit for banked energy shall not be permitted to be carried forward to subsequent months and the credit for energy banked during the month shall be adjusted during the same month as per the energy injected in the respective Time of Day (‘TOD’) slots determined by the Commission in its Orders determining the Tariffs of the Distribution Licensees ;*

*Provided further that the energy banked during peak TOD slots may also be drawn during off-peak TOD slots, but the energy banked during off-peak TOD slots may not be drawn during peak TOD slots.*

*Illustration: ...*

***20.5. The unutilised banked energy at the end of the month, limited to 10% of the actual total generation by such Renewable Energy generator in such month, shall be considered as deemed purchase by the Distribution Licensee at a rate equivalent to that stipulated under yearly Generic RE tariff Order applicable for respective technology.***

15. Thus, MSEDCL is entitled to credit energy to SCL on excess production or 10 percent of actual production, whichever is lesser. The petitioner, SCL has not made out its case against MSEDCL with respect to these provisions of DOA Regulation, 2016. Hence in the opinion of the Commission the question of MSEDCL not following the DOA Regulation, 2016 and various amendments made thereunder, is not evident.
16. The Commission notes that while relying on Regulation 30.13 of MERC (State Grid Code) Regulations, 2020, SCL has incorrectly interpreted the said Regulations and in fact ignored the Grid Security part and selectively relied upon the Regulation 30.13 of MERC (State Grid Code) Regulations, 2020. SCL contended that SLDC shall make all efforts to evacuate the available solar, wind, solar-wind hybrid power and other RE considered as a must-run station as per the provisions of the MERC RE Tariff Regulations. However, SCL has suitably ignored the further part of this Regulations which states that however, SLDC may instruct the solar/wind generator to back down generation as consideration of grid security is endangered and solar/wind generator shall comply with the same.
17. It is a settled position of law that the power cannot be injected into the grid without any valid contractual agreement/OA permission/consent. The Appellate Tribunal of Electricity (APTEL) in its Judgment dated 8 May, 2017 in Appeal No. 120 of 2016 & IA No. 272 of 2016 ( *Kamachi Sponge & Power Corporation Ltd. VS TNERC*) has held that the power cannot be injected into the grid without any valid contractual agreement/OA permission/consent and the injection of such power is not entitled for any payments. The relevant para. of the APTEL Judgment is reproduced as below:

*10. I (iv)*

**.....The crux of these two judgments is also that a generator cannot pump electricity into the grid without having consent/ contractual agreement with the distribution licensee and without the approval/scheduling of the power by the SLDC. Injection of such energy by a generator is not entitled for any payments ”**

18. Hence, as per said APTEL Judgment is very clear that no generator/consumer can inject power into the grid without a valid Open Access permission/consent of the Distribution Licensee and hence it is not entitled for any payments. This provides that SCL cannot inject its energy over and above its OA capacity without any valid permission/contract/agreement from MSEDCL.
19. In the past as well, the Commission in Order dated 13 March 2019 in Case No. 269 of 2018 (Shree Cement Ltd. V/s MSEDCL) had rejected the prayers of the petitioner herein, seeking amendment in the DOA Regulations, 2016 and denied the connectivity sought for its Solar plant whose excess generation would flow into the grid in the form of inadvertent injection. The Commission held as follows.

*13.3 The Commission observes that MSEDCL has rightly contended that Banking facility to RE Generator will be available when Consumers and Generator seek the*

*Open Access. In the instant Case, it appears that the Petitioner intends to use the Grid as a storage battery arrangement by exporting unutilised Solar generation to the Grid and by using Banking facility. This arrangement will be without availing Open Access arrangement for getting Banking facility specifically so provided under Open Access Regulations.*

.....

*13.5 In view of above, the Commission is not inclined to allow such connectivity to the Petitioner for using banking facility under Distribution Open Access Regulations 2016.*

**(Emphasis Added)**

20. Therefore as regards to the present matter it is pertinent to note that it is always open for SCL to declare its installed capacity and thus, today if SCL desires to increase the same in terms of its actual generation capacity, then it has to first get the same certified by MEDA and then MSEDCL would re-issue the commissioning certificate considering such installed capacity. It would not be out of place to mention here that the change in installed capacity would directly also affect the auxiliary consumption of the wind generating plant.
21. Thus, in accordance with applicable grid connectivity regulations, it is for SCL to first get its MEDA registration done and subsequent registration/commissioning certificate corrected in terms of its generating capacity to get credit from MSEDCL in terms of generating OA capacity that too only from prospective effect and not retrospective. Further any deviation from contracted capacity by any RE generators has been accounted in accordance with MERC RE (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2018.
22. In view of foregoing, the Commission notes that while granting OA approvals, MSEDCL has acted in line with the provisions of MERC(DOA) Regulations, 2016 and the amendments made thereunder. It is pertinent to note that allowing SCL's prayers tantamount to amending the DOA Regulations, which is not correct in regulatory parlance.
23. **Hence, the following Order:**


**ORDER**

**The Petition in Case No. 131 of 2023, is dismissed.**

Sd/-  
(Surenra J. Biyani)  
Member

Sd/-  
(Anand M. Limaye)  
Member

Sd/-  
(Sanjay Kumar)  
Chairperson

  
(Dr. Rajendra G. Ambekar)  
Secretary

