

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 183 of 2019**

Case of Maharashtra State Electricity Distribution Co. Ltd. seeking approval for Short Term Procurement of Power from Captive Power Plants (Conventional) under Section 62 and 86 (1) (b), (e) of The Electricity Act 2003.

**Coram**

**Anand B. Kulkarni, Chairperson**  
**I.M. Bohari, Member**  
**Mukesh Khullar, Member**

Maharashtra State Electricity Distribution Co. Ltd. : Petitioner

**Appearance**

For the Petitioner : Smt. Kavita Gharat

**ORDER**

**Date: 11 September, 2019**

1. Maharashtra State Electricity Distribution Co. Ltd. (**MSEDCL**) has filed this Case dated 30 July, 2019 seeking approval for Short Term Procurement of Power from conventional Captive Power Plants (CPP) under Section 62 And 86 (1) (b), (e) of the Electricity Act, 2003 (**EA**)
2. **MSEDCL's main prayers are as follows:**
  - a) *To admit the Petition as per the provisions of Section 62 and 86 (1) (b), (e) of the Electricity Act 2003.*
  - b) *To accord approval for purchase of short-term power from embedded & non-embedded CPPs based on conventional for FY 2019-20 & FY 2020-21 as proposed by MSEDCL.*

**3. MSEDCL in its Case has stated as follows:**

- 3.1. As per the provisions of EA and Electricity Rules 2005, CPP holder can generate power for self-use as well as sell power to third party (upto 49%). It is the responsibility of the CPP holder to abide by the provisions of the Act and Rules.
- 3.2. MSEDCL is continuously receiving applications from conventional CPPs including waste heat recovery CPPs for sale of surplus power from their plants.
- 3.3. Previously, MSEDCL had been procuring power since 2011, from conventional CPPs to meet the demand-supply gap. The EPAs were executed for the maximum period of 1 year and the rates of such power purchase had been revised on yearly basis depending upon the market conditions. Considering its surplus power situation, MSEDCL has discontinued procurement of such power from CPPs since March, 2016.
- 3.4. The Commission vide its Order dated 12 September, 2018 in Case No. 195 of 2017 has directed MSEDCL to procure all short-term power through competitive bidding route.
- 3.5. The power requirement for meeting MSEDCL demand is predominantly during peak Hours. MSEDCL has decided to explore the option of purchase of surplus power from CPPs to reduce the power purchase cost, saving Koyna water and the Coal for its thermal generation. There is difference of about 2000-5000 MW between Peak and Off peak demand due to seasonal variations. Hence, the power may be procured from CPPs at different rates in two slots i.e. Peak period (06.00 to 22.00 Hrs) and Off peak period (22.00 Hrs to 06.00 Hrs).
- 3.6. The power from CPPs being infirm in nature may be procured at rate lower than average variable cost of power purchase. The Average variable cost of power purchase for MSEDCL is around Rs. 2.84/unit for FY 2018-19.
- 3.7. MSEDCL has no direct control over generation of CPPs. Therefore, the CPPs will have to submit the tentative day ahead generation schedule, so as to enable MSEDCL to match its demand & supply.
- 3.8. The procurement of power from embedded and non-embedded CPP's (conventional) for FY 2019-20 and FY 2020-21 is proposed at rate given below:

Sr. No.	Time slot	(Rs./unit)
1	Upto 25 % of Total Generation	

	22.00 Hrs to 06.00 Hrs	1.00
	06.00 Hrs to 22.00 Hrs	2.25
2	Beyond 25 % and upto 49% of Total Generation:	
	22.00 Hrs to 06.00 Hrs	--
	06.00 Hrs to 22.00 Hrs	2.25

3.9. The power shall be purchased under following conditions:

- a. No Power will be purchased prior to CoD of projects.
- b. The power offered by CPPs will be purchased upto 49% of total generation.
- c. The entire power supplied above 49% (including up to 49%) will be treated as lapsed.
- d. The CPP selling power above 49% of its capacity shall be treated as a generating company.
- e. The CPP shall have to install SEM – special energy meters with visibility at SLDC and Automatic Meter Reading arrangement for billing purpose.
- f. The project will have to submit the tentative day ahead generation schedule.
- g. MSEDCL may terminate the contract by giving 15 days' Notice considering the then demand supply position of MSEDCL and financial impact from such purchase.
- h. Online portal will be developed for submitting application for sale of power and also for declaration of tentative day ahead generation on the portal.

4. At the hearing held on 20 August, 2019, the representative of MSEDCL reiterated its submissions as made in the Petition.

### **Commission's Analysis and Rulings**

5. The Commission notes that in the past MSEDCL was procuring surplus power from CPPs to meet its demand supply gap. However, considering power surplus situation, it stopped such procurement since March, 2016. Now, as it is receiving requests from CPPs, MSEDCL through present Petition proposes to start power procurement from such CCPs at a fixed tariff mentioned in para 3.8 above. For this purpose, MSEDCL proposes to establish online portal for enabling CPPs to submit their application for sale of power and also for declaring day ahead schedule.

6. Proposed power procurement is for Short Term period and from conventional sources. The Ministry of Power (MoP), vide notification dated 30 March, 2016, has issued Guidelines for Short-term power procurement by Distribution Licensees through tariff-based competitive bidding. With that background, the Commission by its Order dated 12 September, 2018 in Case No. 195 of 2017 has directed MSEDCL to procure all short-term power through competitive bidding route only. As per said bidding Guideline, short term competitive bidding should be

through e-bidding portal i.e. [www.mstcecomerc.com](http://www.mstcecomerc.com) (DEEP Portal). Accordingly, MSEDCL has been procuring short-term power either through Power Exchanges or DEEP e-bidding portal to meet its short term power requirement.

7. Thus, MSEDCL does have option to procure such power through DEEP Portal. However, MSEDCL is not opting for the same. This might be due to the fact that DEEP Portal requires feeding Capacity (MW) for which bid is called for, whereas for CPPs, MSEDCL has proposed procurement all of their surplus energy and not fixed capacity in MW. Also, the Commission notes that the power so generated/proposed to be procured is from Captive Power plants and also from Waste Heat Recovery in those plants. In both the cases Commission feels that assets need to be utilized optimally. Considering these distinct features, the Commission is inclined to allow request of MSEDCL.
8. While principally allowing this arrangement, MSEDCL shall be responsible to procure this power only in the most beneficial commercial manner and by reducing procurement of the costlier power (Demand-Supply matching) so that the arrangement is financially benefiting to the consumers. Also, MSEDCL should ensure that essential feature of MoP's Guideline dated 30 March, 2016, i.e. reverse bidding shall be enabled.
9. MSEDCL can fix a ceiling rate for this purpose as per its own due diligence. Further, if rate discovered through such reverse bidding is lower than the Short-Term ceiling rate approved by the Commission, then such rate shall be deemed to be adopted by the Commission and MSEDCL need not file separate Petition for the same.
10. Having ruled as above, the Commission would like to clarify on following aspects mentioned in MSEDCL's proposal:
  - 10.1. MSEDCL stated that power from CPP is infirm in nature. This is not correct. These are fossil fuel based CPPs and are schedulable. Hence, these CPPs would need to submit their Day ahead schedule.
  - 10.2. Regarding the Waste Heat Recovery based Fossil-fueled CPP, the Commission in its Order under Case No. 278 of 2018 and in the review Order under Case No. 145 of 2019 has allowed procurement of power on medium-term basis. Hence, such project shall have option to sell their power on medium term basis as per above referred Orders of the Commission or they may participate in short term power procurement envisaged in this Petition.

10.3. Regarding treating energy above 49% as getting lapsed, the Commission notes that when CPP fails to consume 51% energy and injects more than 49% energy into the grid, it loses CPP status and its consequence will duly follow. From MSEDCL's proposal it is observed that it will be offering rate which is lower than normal power procurement rate to CPP. Further, as stated in para 10.1 above, CPP has to provide Day ahead schedule which MSEDCL has to incorporate in its power planning. Energy available from CPPs may get part or full dispatch based on MoD principles. Under such circumstances, if CPP injects energy which is more than 49% of its Capacity and if MSEDCL agrees to accept it considering its demand supply scenario, MSEDCL would need to pay for it instead of treating it lapsed. MSEDCL should provide such clause in its EPA for proposed power procurement. For losing captive status, MSEDCL may initiate separate action as envisaged under the Law.

11. Hence the following Order


**ORDER**

- 1) **The Case No. 183 of 2019 is partly allowed.**
- 2) **Maharashtra State Electricity Distribution Co. Ltd. is allowed to procure surplus power from Captive Power Plant through reverse bidding process subject to clarification given at paras 7, 8 and 9 above.**

Sd/-  
(Mukesh Khullar)  
Member

Sd/-  
(I.M. Bohari)  
Member

Sd/-  
(Anand B. Kulkarni)  
Chairperson

  
(Abhijit Deshpande)  
Secretary

