

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL

Sub: Petition regarding clarification on definition of Renewable Hybrid Energy Project.

ORDER

(Hearing through video conferencing)

(Date of Order:07.02.2024)

Managing Director,

MP Power Transmission Company Ltd.,
Shakti Bhawan, PO Vidyut Nagar, Rampur,
Jabalpur, 482008

- **Petitioner**

Vs.

1. Managing Director,

MP Power Management Co. Ltd.,
Shakti Bhawan, PO Vidyut Nagar,
Rampur, Jabalpur, 482008

2. Managing Director,

MP Poorv Kshetra Vidyut Vitaran Co. Ltd.,
Shakti Bhawan, PO Vidyut Nagar,
Rampur, Jabalpur, 482008

3. Managing Director,

MP Madhya Kshetra Vidyut Vitaran Co. Ltd.,
Nishtha Parisar, Govindpura,
Bhopal, 462023

4. Managing Director,

MP Paschim Kshetra Vidyut Vitaran, Co. Ltd.,
GPH, Pologround, Indore, 452003

5. Managing Director,

MP Industrial Development Corporation Ltd.,
Indore

6. West Central Railway,

Jabalpur

- **Respondents**

National Solar Energy Federation of India,

135-137, 1st Floor, Rectangle-1,
D-4, Saket, District Centre, Chirag,
Delhi, 110017

- **Intervener**

Shri Abhinav Anand, AE & Ms Poorva Saigal, Advocate appeared on behalf of petitioner.
Shri Manoj Dubey, Advocate appeared on behalf of Respondent No. 6.
Shri Aditya K Singh, Advocate appeared on behalf of Intervener.

The subject petition is filed by MP Power Transmission Company Ltd., Jabalpur, under Clause 18 of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-II), Regulations, 2021 {RG-33(II) of 2021} and in MPERC ((Fees, Fines and Charges) (Revision-I) Regulations, 2010 [RG-21(I) of 2010] and various Hybrid Policy at national as well as State level.

2. By affidavit dt. 03.10.2023, the petitioner broadly submitted the following:

i. MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION (COGENERATION AND GENERATION OF ELECTRICITY FROM RENEWABLE SOURCES OF ENERGY) (REVISION-II), REGULATIONS, 2021 {RG-33(11) OF 2021-

Hon'ble Commission has issued "MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-II) {RG- 33(11) of 2021 }" on 02.11.2021 notified in MP Gazette on 12.11.2021, which shall remain in force from the date of their publication in Official Gazette of the Government of Madhya Pradesh.

Hon'ble Commission vide Clause 2 (xix) (Definition) of above said Regulation has defined Renewable Hybrid Power Projects in the following manners:-

"Renewable Hybrid Energy Project means a renewable energy project that produces electricity from a combination of renewable energy sources having a single point of injection or maximum two points of injection into the grid.

ii. CLARIFICATION REGARDING DEFINITION OF RENEWABLE HYBRID ENERGY PROJECT:-

In the subject matter it is most respectfully submitted that Ministry of New & Renewable Energy (Wind Energy Division), Government of India has issued National Wind Solar Hybrid Policy on 14.05.2018. In line with the abovesaid policy several States like Gujrat, Rajasthan, Karnataka and Andhra Pradesh have also issued Renewable Hybrid Policy. In the abovesaid policies Hybrid Power Projects have been clearly defined i.e. their physical and technical arrangements have been well defined

iii. The instant petition is being filed under the following Provisions-

(A). CLAUSE 2 (AIMS AND OBJECTIVES) AND CLAUSE 5 (IMPLEMENTATION STRATEGY) OF NATIONAL WIND SOLAR HYBRID POLICY:

"2.1 The main objective of the Policy is to provide a framework for promotion of large grid connected wind-solar PV hybrid system for optimal and efficient utilization of transmission infrastructure and land, reducing the variability in renewable power generation and achieving better grid stability"

"2.2 Policy also aims to encourage new technologies, methods and way outs involving

combined operation of wind and solar PV plants”

“5.1 The implementation of wind solar hybrid system will depend on different configurations and use of technology.

*a. **Wind-Solar Hybrid- AC integration:** in this configuration the AC output of the both the wind and solar systems is integrated either at LT side or at HT side. In the later case both system uses separate step-up transformer and HT output of both the system is connected to common AC Bus-bar. Suitable control equipment are deployed for controlling the power output of hybrid system.”*

(B). CLAUSE 3 (106) OF CENTRAL ELECTRICITY REGULATORY COMMISSION (INDIAN ELECTRICITY GRID CODE) REGULATIONS, 2023:

“Renewable Hybrid Generating Station” or “RHGS”- means a generating station based on hybrid of two or more renewable source(s) of energy with or without Energy Storage System, connected at the same inter-connection point ”;

(C). CLAUSE 2 (aa) OF CENTRAL, ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR TARIFF DETERMINATION FROM RENEWABLE ENERGY SOURCES) REGULATIONS, 2020:

“Renewable hybrid energy project” means a renewable energy project that produces electricity from a combination of renewable energy sources, connected at the satire interconnection point,

(D). CLAUSE 4 (21) OF RAJASHTHAN WIND AND HYBRID ENERGY POLICY, 2019

“Hybrid Power Projects” means a power project which generates power by combining conventional and non-conventional energy sources or combining two or more non conventional energy sources and feeding the generated power through a common pooling station/evacuation system into the grid.

(E). CLAUSE 7 OF GUJARAT WIND- SOLAR HYBRID POWER POLICY, 2018

Wind-Solar Hybrid Power Generation System or the Hybrid Project, means the system of combined generation of wind and solar power at existing or new solar/wind power projects (or) co-located where injection of-wind or solar power is at the interconnection point of the pooling sub-station of existing wind farms/ sending-end sub-station of existing solar power installations.

Under the scheme of wind-solar hybrid power generation, wind and solar PV systems may be connected at the same inter connection point at pooling/sending-end sub-station. In order to achieve the benefits of hybrid plant in terms of optimal and efficient utilization of transmission infrastructure and better grid stability by reducing the variability in renewable power generation, it is desired that:

- i. At the locations of having good wind power potential, the solar PV capacity to be added as the solar-hybrid component could be relatively smaller.*

- ii. Similarly, in case of the sites where the wind power density is relatively lower or moderate the component of the solar PV capacity could be relatively on a higher side.*
- iii. Evacuation capacity for the purpose of connectivity and injection of power shall be worked out.*

(F). CLAUSE 5.2.4 OF KARNATAKA RENEWABLE ENERGY POLICY 2022-2027:

Solar-Wind Hybrid Energy Projects

a. Promotion of Solar-Wind Hybrid Energy Projects

- i. Hybrid projects can be Wind-Solar energy with or without energy storage system.*
- ii. The rated capacity of one resource (wind or solar) shall be as per the National Wind-Solar Hybrid Policy 2018 wide No. 238/78/2017-Wind dated 14 May 2018, issued by the Ministry of New & Renewable Energy and its amendments or as per the guidelines issued by MNRE for Hybrid Projects. Other provisions as per the National Wind-Solar Hybrid Policy 2018 remain applicable.*
- iii. This Policy is applicable for hybridization of existing or under construction Wind or solar projects into hybrid projects and also for new Wind-Solar Hybrid power generation projects.*

(G). CLAUSE 4 OF ANDHRA PRADESH WIND-SOLAR HYBRID POWER POLICY-2018:

Under the category of wind-solar hybrid power plants, Wind turbine generators and Solar PV systems will be configured to operate at the same point of grid connection. There can be different approaches towards integrating wind and solar depending upon the size of each of the source integrated and the technology type.

(H). CLAUSE 18 POWER TO REMOVE DIFFICULTIES OF MPERC (CO-GENERATION AND GENERATION OF ELECTRICITY FROM RENEWABLE SOURCES OF ENERGY) (REVISION-II), REGULATIONS, 2021 {RG-33(I1) OF 2021}

“if any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by order, make such provisions not inconsistent with the provisions of these Regulations or the Act, as may appear to be necessary for removing the difficulty.

3. With the aforesaid submissions the petitioner prayed the following:

- i. Kindly Provide clarification regarding definition of Renewable Hybrid Power projects along with appropriate guidelines in light of the submission made at para 9 of the Petition through the submissions annexed thereof.*

- ii. *Condone any inadvertent omission/ errors/ short-comings and permit the petitioner to add/ change/ modify/ alter this Petition and make further submissions as may be required at a later stage.*
 - iii. *Pass such orders, as Hon'ble Commission may deem fit and proper and necessary in the facts and circumstances of the case to grant relief to the applicant.*
4. At the motion hearing held on 5th December' 2023, the Petitioner reiterated the genesis of the Petition. Petition was admitted and petitioner was directed to make MP Power Management Company Ltd, a respondent. Petitioner was directed to serve a copy of petition to respondents within 7 days and respondents were directed to submit response within 15 days of receipt of petition. The case was fixed for hearing on 9th January' 2023.
5. By Affidavit dt. 13.01.2024, National Solar Energy Federation of India filed an Interlocutory Application to intervene in the subject matter and submitted the following:
 - i. *The Applicant herein i.e. NATIONAL SOLAR ENERGY FEDERATION OF INDIA ("**NSEFI**" / "**Applicant**"), is a society registered under the Societies Registration Act of 1860 and is an association formed for representing various distributed renewable energy developers, hybrid developers and system integrators. The office of the society is situated at 135-1371 Rectangle 1, D4, Saket- 110017, New Delhi, India. The Applicant comprises of leading solar power developers. Independent Power Producers. EPC service providers, consultants concentrating on high growth of the renewable energy. It focuses on multinational solar federations and other industry organizations and contributes to pan-India issues of solar industry. Its members have set up hybrid power plants in various geographical locations across India. Its members are also setting up various hybrid power plants in the state of Madhya Pradesh.*
 - ii. *NSEFI is filing the present application seeking permission of this Hon'ble Commission to be impleaded as a party respondent in the Petition no. 53 of 2023 ("**Captioned Petition**") which is pending adjudication before this Hon'ble Commission.*
 - iii. *The present Petition has been filed by the Petitioner seeking clarification on the definition of 'Renewable Hybrid Energy Project'*
 - iv. *It is humbly submitted that members of NSEFI had invested in hybrid projects in the state of Madhya Pradesh basis the definition of "Renewable Hybrid Energy Project" as per Regulation 2 (xix) of Madhya Pradesh Electricity Regulatory Commission (Co Generation and Generation of Energy Sources from Renewable Sources of Energy) Regulations, 2021. Hence, any interpretation in definition will have adverse impact on members of NSEFI, if otherwise.*
 - v. *It is submitted that NSEFI came to know about the filing of the present Petition from the website of this Hon'ble Commission and members of NSEFI will be affected by outcome of the present proceedings.*
 - vi. *The present Application is being filed to get NSEFI impleaded in the captioned Petition, as NSEFI is necessary party and the decision of this Hon'ble Commission shall have a*

direct impact on the "Renewable Hybrid Energy Projects" under planning and/or development by members of the Applicant in the state of Madhya Pradesh.

- vii. *In light of the above facts and circumstances, it is in the interest of justice, fair play, and equity that NSEFI is impleaded as a party in the captioned Petition as the legal issues pending in the said Petition, and the outcome of the same, will have a direct and significant impact on the legal rights of the members NSEFI as well as affect the ongoing projects in the State of Madhya Pradesh.*
- viii. *In view of the above, it is humbly submitted that the Applicant is a necessary and proper party to the captioned Petition and hence ought to be allowed to be impleaded in the present proceedings. The Hon'ble Supreme Court in the matter of Ramesh Harichand Kundanlal v Municipal Corporation of Greater Bombay (1992) 2 SCC 524 held as follows:*
- "6... The question of impleadment of a party has to be decided on the touch stone of Order 1 Rule 10 of the Code of Civil Procedure,1908. which provides that only a necessary or a proper party may be added. In the light of the clear language of the Rule, it cannot be said that a person cannot be added as defendant even in a case where his presence is necessary to enable the Court to decide the matter effectively. A necessary party is one without whom no order can be made effectively. **A proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding. The addition of parties is generally not a question of initial jurisdiction of the Court but of a judicial discretion which has to be exercised in view of all the facts and circumstances of a particular case. The Court is empowered to join a person whose presence is necessary for the prescribed purpose and cannot under the Rule direct the addition of a person whose presence is not necessary for that purpose.***
- ix. *It is submitted that applying the aforesaid finding of the Hon'ble Supreme Court, it is clear that the Applicant is necessary party whose presence is required to enable this Hon'ble Commission to completely, effectively and adequately adjudicate upon the subject matter captioned Petition.*
- x. *It is humbly submitted that considering the situation, if the Applicant is precluded from participating in the said proceedings, it shall gravely prejudice the rights of the Applicant herein.*
- xi. *That it is necessary for the determination of real matter in dispute and the right of the Applicant will be jeopardized in case the Applicant is not impleaded as a necessary party in the present matter. As such, the Applicant in order to safeguard its rights and interests is approaching this Hon'ble Commission and praying for impleadment as necessary party in order to contest the case for protection of rights and interests of Renewable Hybrid Energy developers in the State of Madhya Pradesh*
- xii. *In addition to and without prejudice to the above, it is respectfully submitted that the impleadment of the Applicant will not delay the proceedings before this Hon'ble Commission as the matter is at a very initial stage.*

xiii. *It is submitted that no harm or prejudice would be caused to any of the parties. in case the Applicant is impleaded as a party in the captioned Petition whereas in case the present application is not allowed the Applicant is likely to suffer grave prejudice and irreparable loss in as much as it would not be able to take effective steps to advance legal arguments, make written submissions and protect the interests of Renewable Hybrid Energy developers.*

6. By Affidavit dt. 15.01.2024 the Respondent MPPMCL, Jabalpur submitted the following: -

i. *That, by way of instant petition, the Petitioner is seeking clarification regarding the definition of 'Renewable Hybrid Power Projects', defined under Regulation 2 (xix) of the MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision - II) Regulations, 2021, which defines-the said term as:*

"Renewable Hybrid Energy Project means a renewable energy project that produces electricity from a combination of renewable energy sources having a single point of injection into the grid:"

ii. *That, under para 9 of the petition, the Petitioner has extracted various analogous definitions relating to Renewable Hybrid Energy Project in other policies, regulations, codes, etc. Except for extracting various definitions, the Petitioner has not pointed out any ambiguity, variations or any other derogations, if any, in the related definitions which may have lead the Petitioner to file instant petition seeking clarification on the definitions.*

iii. *That, a careful and harmonious reading of various definitions related to Renewable **Hybrid** Energy Project, as extracted hereunder, read with remarks made against them would reflect that the said term is very clear and simple in itself and does not lead to any obscurity:*

S. No.	Related Act, Rules, Regulation, Policy, Code, etc.	Definition	Remarks
i	Regulation 2 (xix) of the MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-II) Regulations, 2021	'Renewable Hybrid Energy Project' means a renewable energy project that produces electricity from a combination of renewable energy sources having a single point of injection into the grid.	There should be a combination of minimum two different renewable energy sources- wind, solar or any other source and they should be connected to single point of injection into the grid.
ii	Clause 5.1 (a) of Implementation Strategy of National Wind Solar Policy	Wind-Solar Hybrid- AC Integration: In this configuration the AC output of both wind and solar	Two different sources- wind and solar are integrated at LT or HT side into

		systems is integrated either at LT side or at HT side. In the latter case both system uses separate step-up transformer and HT output of both the systems is connected to common AC Bus-bar. Suitable control equipment are deployed for controlling the power connected at the same inter-connection point.	the grid, i.e., wind and solar renewable energy are injected at single point into the grid.
iii	Clause 3 (106) of CERC (Indian Grid Code) Regulations, 2023	'Renewable Hybrid Generating Station' or 'RHGS' means a renewable energy project that produces electricity from a combination of renewable energy sources, connected at the same inter-connection point.	Injection of renewable energy by combination of wind, solar or any other at the single/ same point of inter-connection into the grid.
iv	Clause 7 of Gujarat Wind-Solar Hybrid Power Policy, 2018	Wind-Solar Hybrid Generation System, or the Hybrid Project means the system of combined generation of wind and solar power at existing or new solar/ wind projects (or) co-located where injection of wind or solar power is at the interconnection point of the pooling sub-station of existing wind farms/ sending-end- sub-station of existing solar power installations.	combined generation of wind and solar power injection of the same is at (same/ single) interconnection point of the pooling sub-station
v	Clause 5.2.4 (a) (1) of Karnataka Renewable Energy Policy, 2022-2027	Hybrid Projects Can be Wind- Solar energy with or without energy storage system.	Wind-Solar energy with or without energy storage system
vi	Clause 4 (21) of Rajasthan Wind and Hybrid Energy Policy, 2019	"Hybrid Power Projects" mean a power project which generates power by combining conventional and non-conventional energy sources <u>or combining two or more non-conventional energy</u>	combined generation of wind and solar power and injection of the same is through a common pooling station

		<u>sources and feeding the generated power through a common pooling station/evacuation system into the grid.</u>	
vii	Clause 4 of Andhra Pradesh Wind-Solar Hybrid Power Policy 2018	Under the category of Wind-solar hybrid power plants, Wind turbine generators and Solar PV systems will be configured to operate at the same point of grid connection. There can be different approaches towards integrating wind and solar depending upon the size of each of the source integrated and the technology type.	Wind-Solar hybrid power plants, Wind turbine generators and Solar PV systems will be configured to operate at the same point of grid connection
viii	Ministry of Power Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects, dt. 21 st August 2023	3. Applicability of Guidelines: 3.1 These Guidelines are being issued under the provisions of Section 63 of the Electricity Act, 2003 for long-term procurement of electricity through competitive bidding process, by Procurer(s), from Hybrid Power Projects having (a) bid capacity of 10 MW and above for projects connected to intra-state transmission system; and (b) bid capacity of 50 MW and above for projects connected to inter-state transmission system, <u>subject to the condition that the rated power capacity of one resource (wind or solar) shall be at least 33% of the total contracted capacity.</u> 3.2 <u>The solar and wind projects of the hybrid project may be located at same or different locations.</u>	Hybrid Power- Wind and Solar, Hybrid projects may be located at same or different locations

iv. That, a harmonious consideration of all the definitions, as extracted in preceding para,

goes well to clarify that none of them are obscure- or in derogation to each other. The definitions are similar to each other in as much as there should be a combination of minimum two different renewable energy sources –wind, solar or any other source and they should be connected to single point of injection into the grid, All the definitions can be well accommodated in or imbued in to meet the requisites of Ministry of Power Guidelines for Tariff Based Competitive bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects, dated 21st August- 2023. There does not appear to arise any conflicting position to apply the definitions in any way to meet out the requirements of the Ministry of Power Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects, dated 21st August 2023. There may not be any occasion for the Petitioner to seek any clarity without pinpointing out the exact and actual difficulty, if any, faced in applying the definitions.

7. The last hearing in the subject matter was held on 16th January' 2024 in which Petitioner and Respondent No. 6 were heard. Intervener i.e. National Solar Energy Federation of India was also heard on the application to intervene in the matter and they were allowed to intervene as they appeared to be necessary party in the subject matter and no objections were raised to their joining as intervener by the petitioner or respondents. Intervener sought 7 days' time for written submission in the matter. Time was granted. The case was reserved for Orders.
8. By Affidavit dt.19th January 2024, the Intervener i.e. National Solar Energy Federation of India submitted the following in their submission: -
 - i. *The present submission is being filed by National Solar Energy Federation of India in response to the Petition filed by Madhya Pradesh Power Transmission Co. Ltd. seeking clarification of the definition of 'Renewable Hybrid Energy Project' in terms of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2021.*
 - ii. *The National Solar Energy Federation of India ("**Intervener**") is filing this Submission pursuant to the liberty granted by this Hon'ble Commission vide its order dated 16.01.2024.*
 - iii. *The Counsel for the Petitioner in its oral submissions, vide hearing dated 16.01.2024, stated that the Petitioner has approached this Hon'ble Commission as the various hybrid developers have sought connectivity from multiple locations for setting up hybrid projects based on renewable energy. The Petitioner is seeking clarification on the aspect whether the connection of hybrid power projects is allowed from different locations, in terms of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2021.*
 - iv. *Before dwelling on the merit of the case, it is relevant to reproduce Clause 2 (xix) of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2021 ("**MPERC RE Regulation, 2021**") which provides the definition of Renewable Hybrid Energy Project as under:*

*(xix) 'Renewable Hybrid Energy Project' means a renewable energy project that produces electricity from a combination of renewable energy sources having a **single point of injection or maximum two points of injection** into the grid;*

Hon'ble Commission in afore-quoted para has specifically allowed injection from maximum two points. Bare reading of this regulation leave no doubt and this sub-regulation does not require any clarification.

- v. *It is submitted that the MPERC RE Regulation, 2021 in clear terms state that the hybrid plant can be located at two different location and can inject power from the two points into the grid. This definition clause does not put any restriction whatsoever for injecting power from two locations into the grid.*
- vi. *It is humbly submitted that the word Renewable Hybrid Energy Project has been defined in the definition clause (xix) of MPERC RE Regulation, 2021.*

Justice G.P. Singh at Principles of Statutory Interpretation (12th Edn., Lexis Nexis, Wadhwa Nagpur at Page no.178 provides that the objective of definition clause is to avoid the necessity of frequent repetitions in describing all the subject-matter to which the word or expression so defined is intended to apply.

- vii. *This Hon'ble Commission in its wisdom has used the expression "means" for defining the terminology "Renewable Hybrid Energy Project".*

It is humbly submitted that the Hon'ble Supreme Court of India in catena of judgments has held that when a word is defined to 'mean' such and such, the definition is prima facie restrictive and exhaustive.

- a. *Vanguard Fire & General Insurance Co. Ltd., Madras v. Fraser & Ross, AIR 1960 SC 971*
 - b. *Kasilingam v. P.S.G. College of Technology, AIR 1995 SC 1395*
 - c. *Commissioner of Trade Tax U.P. v. Kajaria Ceramics Ltd., AIR 2005 SC 2968*
 - d. *Commercial Taxation Officer, Udaipur v. Rajasthan Tax Chem. Ltd., (2007) 3 SCC 124*
- viii. *Further, the Hon'ble Supreme Court of India in **P. Kasilingam v. P.S.G. College of Technology, 1995 Supp(2) SCC 348**, has interpreted the word 'means' as under:
19. (...)*

*The use of the word 'means' indicates that "definition is a hard-and-fast definition, and no other meaning can be assigned to the expression than is put down in definition".
(...)*

Therefore, the definition given in Clause (xix) of MPERC RE Regulation, 2021 has to be given exhaustive and literal meaning and has to be read in the sense that the

injection of power from two points in to the grid is allowed. In other words, neither anything can be added nor anything can be subtracted from the meaning of “Renewable Hybrid Energy Project” as laid down in Clause 2 (xix) of MPERC RE Regulation, 2021. It is submitted that an exercise of clarifying existing provision so flaw cannot tantamount to amendment of such law and in effect, defeat the very objective of such law. (Assistant General Manager and Ors. Vs. Radhey Shyam Pandey (Supreme Court-Civil Appeal No. 10813 of 2010))

LITERAL INTERPRETATION OF STATUTE

- ix. *It is humbly submitted that the Hon’ble Supreme Court of India has gone to the extent of holding that if the language of the statute is clear and unambiguous, the court cannot discard the plain meaning. (CIT v. T. V Sundaram Iyyengar, (1975) 1011.T.R 764 SC).*
- x. *In the instant case, the definition of “Renewable Hybrid Energy Project” at Clause (xix) of MPERC RE Regulation, 2021, in clear terms allows injection into the grid from maximum two points. Therefore, any other interpretation of this clause will lead to injustice and should not be allowed.*
- xi. *The Hon’ble Supreme Court of India in **B. Premanand v. Mohan Koika (2011) 4 SCC 266**, has held as under:*

9. It may be mentioned in this connection that the first and foremost principle of interpretation of a statute in every system of interpretation is the literal rule of interpretation. The other rules of interpretation e.g. them is chief rule, purposive interpretation, etc. can only be resorted to when the plain words of a statute are ambiguous or lead to no intelligible results or if read literally would nullify the very object of the statute. Where the words of a statute are absolutely clear and unambiguous, recourse cannot be had to the principles of interpretation other than the literal rule, vide Swedish Match AB v. SEBI (2004) 11 SCC 641: AIR 2004 SC 4219]

- xii. *It is submitted that this Hon’ble Commission shall clarify that the words used in MPERC RE Regulation, 2021 are unambiguous and it does not require any other interpretation except as stated in the Regulation i.e. ‘Renewable Hybrid Energy Project’ allows injection of power into the grid from **two different locations**. Any other interpretation will require ignoring the specific term “or **maximum two points of injection**” from the sub-regulation.*
- xiii. *It is further submitted that, the Petitioner in its petition has quoted excerpts from Ministry of New & Renewable Energy Wind-Solar Hybrid Policy dated 14.05.2018.*

*However, in its oral submission on the date of the hearing the Petitioner has quoted paras from “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects” issued by Ministry of Power on 21.08.2023 (“**MOP Guidelines, 2023**”) and requested this Hon’ble Clarification to clarify definition of Renewable Hybrid Energy Project in terms of MOP Guidelines, 2023.*

Para 3.2 of MOP Guidelines 2023 in clear terms state that the hybrid project can be located at same or different locations. For the convenience of this Hon'ble Commission, we are hereby reproducing Para 3.2 of MOP Guidelines 2023:

3.2. The solar and wind projects of the hybrid project may be located at same or different locations.

Therefore, it is humbly submitted that even Petitioner is recognizing that existing binding legal regime also allows hybrid projects to be connected to the grid from various locations and there is no legal or technical disability in giving effect to the two point injection by hybrid plants.

The Hon'ble Supreme Court of India in "**Mahendra v. Sushila**", AIR 1965 SC 364 (371) observed that no fact need to be proved if in any proceeding which the parties thereto or their agents agree to admit it the hearing.

Relevant paras from the Judgment is as follows:

Section 58 of the Evidence Act, inter alia, provides that no fact need be proved in any proceeding which the parties thereto or their agents agree to admit it the hearing or which by any rule of pleading in force at the time they are deemed to have admitted by their pleading. Rule 5 of Order 8, C.P.C provides that every allegation of fact in the plaint, if not denied specifically or by necessary implication or stated to be not admitted in the pleadings of the defendant, shall be taken to be admitted except as against a person under disability. Both these provisions, however, vest discretion in the court to require any fact so admitted to be proved otherwise than by such admission.'

- xiv. It is humbly submitted that the Hon'ble Commission issued "MPERC (Terms and Conditions for Intra-state Open Access in Madhya Pradesh Regulations 2021 ("**MPERC Open Access Regulations**"))).

Regulation 2.1. xvii of MPERC Open Access Regulations defines "point of injection" as a connection at which electricity is transferred to the transmission network or the distribution network (as the case requires),,

Regulation 2(xix) of MPERC RE Regulations defines the "Renewable Hybrid Energy Project" as a renewable energy project that produces electricity from a combination of renewable energy sources having single point of injection or maximum two points of injections into the grid.

Conjoint reading of MPERC Open Access Regulations and MPERC RE Regulations reflect that this Hon'ble Commission has allowed hybrid power developers to transfer electricity to the transmission network or distribution network (as the case requires) from maximum two point of connection. Any other interpretation will require ignoring specific provisions of MPERC RE Regulations and MPERC Open Access Regulations.

- xv. There is no condition in these Regulations that both points of injection have to be

single point of connection. Had the intention of MPERC that injection from both the component of Hybrid sources had to beat same bus, it would have said so and the Regulation would have been worded as “Renewable Hybrid Energy Project” as a renewable energy project that produces from a combination of renewable energy sources injecting power at common AC Bus. Both these Regulations have been framed by the Commission in exercise of powers conferred by the 2003 Act and have accordingly force of law. It is trite law that the Regulations framed by the Commissions are subordinate legislation and becomes part of parent Statute itself after being placed before the legislature. Being subordinate legislation, these are binding on all stake holders including the Commission itself.

xvi. *It is a matter of the record that separate located projects of members of the intervener have been registered as Hybrid Projects by the Office of the Commissioner, New and Renewable Energy, Government of MP in terms of MPERC RE Regulations.*

xvii. *Therefore, it is humbly prayed that the Hon’ble Commission should hold that there is no ambiguity in the definition of the “Renewable Hybrid Energy Project” and the injection from two different locations are allowed in terms of MPERC RE Regulations.*

Pass any other order/direction as the Hon’ble Commission may deem fit in the interest of justice.

Commission’s observations and order:

9. The Commission has observed the following from the petition and the submissions of the petitioner and Respondent in this matter:

- (i) That petitioner has quoted provisions relating to connectivity of hybrid projects in the regulations of Central Electricity Regulatory Commission, this Commission, Policies of Ministry of New & Renewable Energy, Government of India, Policies of some of the States, bidding guidelines issued by MNRE and MoP, GoI from time to time to demonstrate the different connectivity conditions adopted therein.
- (ii) Petitioner while quoting the connectivity conditions of renewable hybrid generating plants, prayed to provide clarification regarding definition of Renewable Hybrid Power projects.
- (iii) Respondent MPPMCL in its submission has given incorrect definition while quoting regulation 2(xix) of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2021. However, it has submitted that, a harmonious consideration of all the definitions mentioned in reply, goes well to clarify that none of them are obscure- or in derogation to each other. The definitions are similar to each other in as much as there should be a combination of minimum two different renewable energy sources –wind, solar or any other source and they should be connected to single point of injection into the grid. All the definitions can be well accommodated in or imbued in to meet the requisites of Ministry of Power Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects, dated

21st August- 2023. There does not appear to arise any conflicting position to apply the definitions in any way to meet out the requirements of the Ministry of Power Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects, dated 21st August 2023. There may not be any occasion for the Petitioner to seek any clarity without pinpointing out the exact and actual difficulty, if any, faced in applying the definitions.

- (iv) Intervener i.e. National Solar Energy Federation of India has submitted that this Commission in clause (xix) of regulation 2 of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2021 has provided the definition of Renewable Hybrid Energy Project as under:

“(xix) ‘Renewable Hybrid Energy Project’ means a renewable energy project that produces electricity from a combination of renewable energy sources having a single point of injection or maximum two points of injection into the grid.”

Intervener also mentioned that Hon'ble Commission has specifically allowed injection from maximum two points and it leave no doubt and this sub- regulation does not require any clarification.

- (v) Commission noted that the petitioner has not closely examined the regulations and provisions applicable in Madhya Pradesh. MPERC regulations framed under section 181 are applicable in Madhya Pradesh. At the same time, bidding guidelines issued by MoP and MNRE are to be followed mandatorily. Rather than citing appropriate provisions, petitioner has unnecessarily reproduced the provisions applicable to projects in other states or to inter-state projects.
- (vi) The petitioner has prayed to provide clarification regarding definition of Renewable Hybrid Energy Project specified in clause (xix) of regulation 2 of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2021 without mentioning if there are any difficulties in implementation of renewable hybrid projects installed in the State as per said definition or without seeking any amendments to the definition. During the hearing, petitioner also wanted clarification whether the hybrid renewable energy projects would be co-located in case of two-point injections or would be located at different places. Neither the petitioner could point out any provision which imposes the conditions of being co-located, nor is there any such condition in the existing regulations.
- (vii) Commission further noted that none of the stakeholders have submitted any objections on the definition of renewable hybrid projects specified in MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2021 or any likely difficulties in implementation of same.

- (viii) Commission also noted that the MNRE in its bidding guidelines dated 14.10.2020 and MoP in its recent bidding guidelines dated 21.08.2023 issued under section 63 of the Electricity Act, 2003 has provided connectivity of hybrid renewable generating plants at multiple locations. Clause 3(iii) (c) of MNRE guidelines dated 14.10.2020 and clause 3.2 of MoP guidelines dated 21.08.2023 is reproduced as under: -

“3(iii)(c): - The solar and wind projects may be located at same or different locations.”

“3.2. The solar and wind projects of the hybrid project may be located at same or different locations.”

Clause 3.1 and 3.4 of MoP guidelines dated 21.08.23 are also relevant in the present context and reproduced as under: -

“ 3.1 These Guidelines are being issued under the provisions of Section 63 of the Electricity Act, 2003 for long term procurement of electricity through competitive bidding process, by Procurer(s), from Hybrid Power Projects having (a) bid capacity of 10 MW and above for projects connected to intra-state transmission system; and (b) bid capacity of 50 MW and above for projects connected to inter-state transmission system, subject to the condition that the rated power capacity of one resource (wind or solar) shall be at least 33% of the total contracted capacity.

3.4 The provisions of these Guidelines shall be binding on the Procurer, Authorised Representative and Intermediary Procurer. The process to be adopted in event of any deviation proposed from these Guidelines is specified in Clause 19 of these Guidelines.”

MNRE and MoP have allowed connectivity of hybrid renewable projects at multiple points in their bidding guidelines dated 14.10.2020 and 21.08.2023 respectively. States and Electricity Regulatory Commissions are bound to comply with the bidding guidelines of Central Government for power procurement under section 63 of the Electricity Act, 2003.

Order

10. In light of the factual position as discussed in detail in Para 9 above, Commission finds that there is no ambiguity in the definition of renewable hybrid energy projects as specified in clause (xix) of regulation 2 of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2021. Petitioner failed to point out any ambiguity in the definition of renewable hybrid energy projects and seek specific clarification. All the States of the country are sovereign to frame policies and free to adopt definition of renewable hybrid energy projects, not inconsistent with the provisions of Act and rules framed thereunder, within their jurisdiction according to State specific needs.

The conditions of connectivity of renewable hybrid projects adopted by some of the States or CERC may not be a ground to revise the connectivity conditions of such plants in other States. Commission thus holds that the definition of renewable hybrid energy projects as specified in clause (xix) of regulation 2 of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2021 is clear and no clarification is required thereon.

With the above direction, instant petition stands disposed of.

(Prashant Chaturvedi)

Member

(Gopal Srivastava)

Member(Law)

(S.P.S. Parihar)

Chairman