

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL**

Sub: In the matter of petition under Regulation 11, 12 and 13 of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar Generating Stations) Regulations, 2018

Petition No. 10 of 2020

ORDER

(Date of order: 14th May' 2021)

(1) M/s. Walwhan Solar MP Ltd.,
Block B, 34 Sant Tukaram Road,
Carnac Bunder, Masjid, Mumbai - 400009

(2) M/s. Tata Power Renewable Energy Ltd.,
Block B, 34 Sant Tukaram Road,
Carnac Bunder, Masjid, Mumbai - 400009

V/s

State Load Despatch Centre

M.P. Power Transmission Co. Ltd.

Nayagaon, Rampur, Jabalpur – 482 008 (M.P.)

- **Petitioners**

- **Respondent**

Shri Venkatesh, Advocate appeared on behalf of the petitioners.

Shri Ashish Bernard, Advocate and Shri Anurag Mishra, EE, SLDC appeared on behalf of the Respondent.

The petitioner No.1 has installed Solar Power Project with cumulative capacity of 130 MW in Distt. Neemuch in M.P. The petitioner No.2 has installed 44 MW Wind Power Project in Distt. Shajapur in M.P. The subject petition was filed under Regulations 11, 12 and 13 of the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar Generating Stations) Regulations, 2018.

2. In the subject petition, the petitioners broadly submitted the following:

The Petitioners are constrained to invoke the 'Power to Relax' and are seeking relaxation on the application of Regulation 6 (b) of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 ("DSM, 2018") for the period commencing from 24.04.2018 upto 04.10.2019. The Petitioners are seeking the aforesaid relaxation due to following reasons:-

(a) The Hon'ble Commission on 12.04.2018 published in Gazette on 24.04.2018 specified the DSM, 2018 and made it applicable upon all Solar and Wind RE Generators.

- (b) Regulation 6 (b) of the DSM, 2018 prescribed charges for non-compliance of the forecasting. Further, Proviso of Regulation 6 (a) (2) permitted RE generators such as the Petitioners to revise their Generation Schedule in accordance with the procedure specified under the Madhya Pradesh Electricity Grid Code, 2005 ("MPEGC").
- (c) However, it is respectfully submitted that at the relevant time i.e. at the time when the DSM, 2018 was specified by this Hon'ble Commission, the MPEGC did not permit revision of schedule by a RE Generator such as the Petitioners. It is also relevant to mention that at the time of when MPEGC was in operation, the presence of Wind and Solar Power in the State MP was very minimal. In fact, the Commission on 05.12.2008 notified the 4th Amendment of MPEGC, in doing so the Commission only permitted State Sector Generating Station ("SSGS") to revise its schedule.
- (d) Therefore, it is submitted that the aforesaid void between DSM, 2018 and MPEGC led to an anomalous situation wherein while the DSM, 2018 permitted the Petitioners to revise their schedule, however, the same could not be done by the Petitioners as a corresponding amendment was not carried out in the MPEGC. Therefore, from the date when the DSM, 2018 was notified, the Petitioners became liable for payment of Charges per Regulation 6 (b) of the DSM, 2018 as the Petitioners were deprived from revising their scheduling.
- (e) The aforesaid anomaly was resolved by the Hon'ble Commission when the Hon'ble Commission on 21.06.2019 notified the Madhya Pradesh Electricity Grid Code, 2019 ("MPEGC, 2019") wherein the Commission in Regulation 8. 6 (ix) permitted revision of schedule by a Generating Company. The said amendment in the MPEGC, 2019 was then carried forward to the 1st Amendment of the DSM, 2018 which was specified by the Hon'ble Commission on 04.10.2019.
- (f) Since the original DSM, 2018 itself contemplated revision of Schedule by a generating company such as the Petitioners, owing to the vacuum in the MPEGC applicable at the relevant time, the Petitioners are liable to pay exorbitant DSM charges to the tune of Rs 2.07 Crores (i.e Petitioner No.1 and Petitioner No. 2 together) as computed on 30.08.2019.
- (g) Hence, owing to the aforesaid anomaly/void the Petitioners are constrained to file the present Petition seeking invocation of 'Power to relax' as specified in Regulation 11 of the DSM, 2018 and seeks waiver of the DSM charges payable by the Petitioners for the period commencing from 24.04.2018 up to 04.10.2019, owing to void in MPEGC which resultantly prevented Petitioners from revising their schedule even though Proviso to

Regulation 6 (a) (2) of the DSM, 2018 permitted the Petitioners to carry out such a revision.

3. With the above submissions, the petitioners prayed the following:
- (i) Seeking relaxation in application of Regulation 6(b) of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 for the period of 24.04.2018 to 04.10.2019.
 - (ii) Allow commercial implementation of DSM to be effective from the date of notification of the Detailed procedure.
 - (iii) Direct SLDC not to seek recovery of DSM charges levied on petitioner prior to aforesaid period.

Proceeding in the subject petition:

4. The subject petition was admitted on 2nd June' 2020. Vide order dated 3rd June' 2020, the petitioners were directed to serve the copy of subject petition on the Respondent (SLDC) in this matter. The Respondent was directed to file reply to the petition within 15 days after serving a copy of the same on other side.

5. At the next hearing held on 13th October' 2020, the Commission observed the following:

- i. The Respondent State Load Despatch Centre (SLDC) filed reply to the subject petition on 17th July' 2020.
- ii. Ld. Counsel of the petitioners stated that he has not received the complete reply filed by the Respondent. He has therefore, sought ten (10) days' time to file the rejoinder after receipt of complete reply from the Respondent.
- iii. The Respondent was directed to ensure service of its complete reply to the petitioners within a week. The petitioners were asked to file rejoinder to the aforesaid reply within 10 days, thereafter.

6. During the course of next hearing in this matter held on 4th December' 2020, the Commission observed that the petitioner filed rejoinder on 24.11.2020 therefore, the case was fixed for arguments on the 09th February'2021 along with other similar petitions.

7. At the hearing held on 09.02.2021, Ld. Counsels for the parties concluded their arguments. The parties were directed to file their written submissions within 10 days. The case was reserved for order on filing of written submissions by the parties within the above stipulated time.

Submissions by the Parties:

8. The Respondent (SLDC) submitted the following in reply to the subject petition:

1. *SLDC is bound to perform all the functions and duties within the regulatory framework only and cannot deviate from the regulatory provisions on request of any of the State Grid entity / Renewable Energy Generator etc.*
2. *That the regulations are formed by the Regulatory Commissions for safe, secure, reliable and economic operation of the grid. Further, regulations are also formed for commercial settlement amongst the Regional / State Grid entities.*
3. *That the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 notified on 20.04.2018, hereinafter referred as MPERC (FSDSM) Regulations 2018. Prior to issue of 1st amendment, the draft amendment was published and Public Hearing was held before the Commission wherein the stakeholders have represented their point of view and made written submissions. The amendment was issued after considering all such representations.*
4. *That electrical grid is a volatile system and strict discipline is utmost needed from all the entities connected with the Regional / State Grid. If any of the entity violates the grid discipline as mandated in Indian Electricity Grid Code and M.P. Electricity Grid Code, may cause threat to the secure grid operation. It is pertinent to submit here that smooth operation of the grid is utmost necessary for ensuring reliable and quality power supply to the consumers.*
5. *That for safe, secure & reliable operation of the grid as well as continuous supply to the consumers, all the generators and distribution licensees shall have to adhere to forecasted generation and demand submitted to SLDC on day ahead basis. However, in case of any contingency, regulatory provisions exist for making revisions in real time of operation in forecasted generation and demand, respectively for generators and distribution licensees.*

6. *That adhering to scheduled generation by generator and scheduled drawal by distribution licensee is utmost necessary for the stability of the grid. If either generator or distribution licensee deviates from the schedule given by SLDC, may lead to insecure operation of the grid.*
7. *The pointwise reply to the reasons submitted by the petitioners for seeking relaxation through the instant petition is submitted hereunder:*
 - a) *MPERC (FSDSM) Regulations 2018 is only applicable to the wind generators having combined installed capacity of 10 MW and above and solar generators with an installed capacity of 5 MW and above including those connected via pooling stations and selling power within or outside the State.*
 - b) *In MPERC (FSDSM) Regulations 2018 Clause-2 of Regulation-6 (a), it is clearly mentioned that the Petitioners could make revisions in forecasted generation during the real time of operation as per provisions of Grid Code. As per Clause-8.6 of fourth amendment of MPEGC, State Sector Generating Stations can revise their forecasted generation during the real time of operation as & when required. **There is no restriction on number of revisions during the day of operation.***
 - c) *Clause-6(a)(2) of MPERC (FSDSM) Regulations 2018 is reproduced below-*

The generating station, as far as possible, shall generate electricity as per the day ahead generation schedule finalized by the State Load Despatch Centre in accordance with the Grid Code.

Provided that the revision in generation schedule on the day of operation shall be permitted, in accordance with the procedure specified under the Grid Code and M.P. Electricity Regulatory Commission (terms and conditions for intra-state open access in Madhya Pradesh) Regulation, 2005 as the case may be.

It is clearly understood from the above clause that procedure specified under Grid Code and MPERC (Terms & conditions for intra-state open access in Madhya Pradesh) Regulation-2005 for SSGS shall also be followed for real time revisions in forecasted generation by Wind and Solar Generators. It appears that the Petitioners have misinterpreted the regulatory provisions in this regard. The statement of the Petitioners is not correct.

- d) *The Petitioners were not unaware of the regulatory provisions regarding revisions in forecasted generation during the real time of operation. SLDC had addressed doubts / queries on the regulatory provisions of MPERC (FSDSM) Regulations 2018, if any raised by the Wind / Solar Generators, telephonically before the commercial implementation of Regulation w.e.f. 01.08.2018. SLDC had also convened a meeting on 23.10.2018 with Wind / Solar Generators, Developers and QCA to explain in detail all the regulatory provisions and suitably addressed all the queries raised by them. During the meeting, it was made clear to all the Wind / Solar Generators that the Regulation is complete in every respect and could be implemented in the State of MP.*
- e) *In the meeting on 23.10.2018, it was made clear to all the participants that SLDC is the Implementing Agency of MPERC (FSDSM) Regulations 2018 and would act as per the provisions contained in the Regulation. Any relaxation in any of the regulatory provisions and commercial implication is beyond the purview of SLDC and may be taken up directly with the Hon'ble State Commission.*
- f) *Most of the qualified Wind and Solar Generators / QCAs had started revising forecasted generation during the real time of operation w.e.f. 1st August 2018. **M/s Walwahan Solar MP Ltd. has started submission of revision in forecast through their QCA (M/s Reconnect Energy Solutions Pvt. Ltd.) from 02.08.2018 for their 25MW Solar Power plant and from 11.10.2018 for their 105MW Solar Power Plant. M/s Tata Power Renewable Energy Ltd. has started submitting the revision in forecasted generation through their QCA (M/s Manikaran Analytics Ltd.) from 01.08.2018.** The revisions in forecasted generation submitted by the petitioners during real time of operations has been accepted and accordingly the schedules were issued by SLDC. For ready reference, the Available Capacity, day ahead forecast and real time revisions submitted by the petitioner for the above dates are annexed herewith as Annexure-1.*
- g) *The regulatory provisions for real time revisions during the day of operation are indicated in the MPERC (FSDSM) Regulations 2018. However, the State Commission has specifically mentioned regarding real time revisions in RE forecasted generation in MPEGC, 2019 after the notification of MPERC (FSDSM) Regulations, 2018.*
- h) *It is submitted that Hon'ble Commission vide third Amendment to Madhya Pradesh Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2010 notified on 25.04.2014 annexed*

herewith as Annexure-2, has clearly specified the requirement of scheduling for wind and solar generators under Regulation-9 "Scheduling" as hereunder:

"The scheduling of Wind Electric Generators with collective capacity of 10 MW and above and Solar Generating Plants with collective capacity of 5 MW and above shall be made as per the decision of the Central Electricity Regulatory Commission".

- i) *Further, Hon'ble Commission vide seventh Amendment to Madhya Pradesh Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2010 notified on 15.11.2017 annexed herewith as Annexure-3, has also specified the requirement of scheduling of Co-generation and Generation from Renewable Sources of Energy under Regulation-9 "Scheduling of Co-generation and Generation from Renewable Sources of Energy" as hereunder:*

The Co-generation and generation from Renewable Sources of Energy shall be subjected to "Scheduling" in terms of the provisions of Indian Electricity Grid Code, 2010, as amended from time to time.

- j) *It is to submit that regulatory provisions regarding forecasting / scheduling are in vogue prior to notification of Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018. SLDC was pursuing all the Wind / Solar Generators for submitting the day ahead forecast before notification of this regulation. Most of the RE Generators had already been forecasting their generation on day ahead basis prior to notification of MPERC (FSDSM) Regulations 2018.*
- k) *It is to submit that since number of revisions to be done by the RE Generators / SSGS have not been indicated in the MPEGC, 2005 and amendments thereof, thus there was no restriction on number of revisions done by SSGS and RE Generators. SLDC had never denied any requisition seeking revision in forecasted generation during the real time of operation and all the requests had been entertained and generation schedules were issued accordingly, including that of Petitioners.*
- l) *It is to submit that IEGC and other Regulations are notified by the CERC for Inter-state level whereas Grid Code and other Regulations are issued by the State Commissions for Intra-state level i.e. for the entities connected with the State Grid and located within the geographical area of the State. Regulatory affairs dealt by Central and State*

Commissions are area specific, some of the provisions which are required for Inter-state level only may not be relevant / required at Intra-state level and vice versa.

- m) The State Commission considers Inter-state regulatory provisions which are also applicable at Intra-state level while framing Grid Code and other Regulations. Thus, it is not possible for State Commissions to notify Regulations immediately after CERC notification as applicability of Regulations at Intra-state level is to be studied and there is procedural delay in notification / incorporation of the relevant sections in the existing Grid Code / Regulations for Intra-state level.*
- n) The statement of the petitioner's is denied as there was no anomaly regarding revision in schedule during real time of operations in regulatory provisions of MPERC (FSDSM) Regulations 2018. However, the State Commission has further elaborated the provisions of real time revisions in the MPEGC, 2019 not changing the intent of MPEGC, 2005 and amendments thereof.*
- o) It is submitted that the Wind and Solar Generating Stations were allowed to make revision in schedule during real time of operation as per regulatory provisions. During the period from 1st August 2018 to 21st June 2019, the petitioners have submitted the revisions in forecasted generation during the real time of operations, the same has been accepted, accordingly the schedules were issued by the SLDC. Based on the forecasted generation after incorporating real time revisions and actual generation in 15 Min. time blocks, DSM Charges are computed as per relevant clauses of MPERC (FSDSM) Regulations, 2018.*
- p) It appears that Petitioners were not serious for accurate forecasting of generation which is necessary for minimizing the DSM Charges, rather pursuing for extension of date of commercial implementation of the Regulation. Had the Petitioners taken due care for forecasting of generation and timely revising forecast during the real time of operation, the financial burden due to DSM Charges could have been minimized.*
- q) The financial burden to the tune of Rs. 2.07 Crores from 1st August 2018 to 31st August, 2019 on Petitioners in terms of DSM Charges is solely due to not faithful compliance of provisions of MPERC (FSDSM), Regulations, 2018 and cannot be attributed to any anomaly / ambiguity of the regulation.*
- r) The petitioners statement regarding void in MPEGC and MPERC(FSDSM) Regulations 2018 is denied specifically as the regulatory provisions of MPERC(FSDSM) Regulations*

2018 and MPEGC 2005 and subsequent amendments had not prevented the petitioners to revise their schedule during real time of operations. During the period from 1st August 2018 to 21st June 2019, the petitioners have submitted the revisions in forecasted generation during the real time of operations, the same had been accepted by SLDC.

9. The petitioner No. 1, M/s Walwhan Solar MP Ltd., submitted the following in its rejoinder to the reply filed by the Respondent (SLDC):

- i. *Petitioners are constrained to invoke the 'Power to Relax' and are seeking relaxation on the application of Regulation 6 (b) of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 for the period commencing from 24.04.2018 upto 04.10.2019.*
- ii. *That on. 17.07.2020, the Respondent filed its Reply to the instant Petition. Accordingly, the present Rejoinder is being filed on behalf of the Petitioners in terms of the Order dated 13.10.2020 passed by this Hon'ble Commission.*
- iii. *Broadly stated, the Respondent has inter alia raised the following contentions in its Reply:*
 - (a) *In terms of Regulation 6 (a) (2) of DSM, 2018, the Petitioners could make revisions in forecasted generation during the real time operation as per the provisions of the MPEGC, 2005.*
 - (b) *Provisions regarding forecasting/scheduling have been in vogue prior to the notification of DSM, 2018.*

Re Ambiguity/vacuum qua revision and scheduling for RE Generators

- iv. *That the Respondent vide its Reply has contended that Petitioners have misinterpreted the regulatory provisions of this Hon'ble Commission qua revisions made in forecasted generation during the real time operation while placing reliance on Regulation 6 (a) (2) of the DSM, 2018.*
- v. *It is most respectfully submitted that the said contention raised by the Respondent is wholly erroneous and, in this regard, the following is noteworthy:*
 - (a) *The Hon'ble Commission on 12.04.2018 published in Gazette on 24.04.2018 specified the DSM, 2018 and made it applicable upon all Solar and Wind RE Generators.*
 - (b) *Regulation 6 (b) of the DSM, 2018 prescribed charges for non-compliance of the forecasting.*

- (c) *Further, Proviso of Regulation 6 (a) (2) permitted RE generators such as the Petitioners to revise their Generation Schedule in accordance with the procedure specified under the Madhya Pradesh Electricity Grid Code, 2005 ("MPEGC").*
- (d) *However, it is pertinent to mention herein that although the Solar and Wind RE Generators were permitted to revise their Generation schedule at that point in time as per the DSM 2018, but the MPEGC did not enable the same. This was only specifically permitted when the MPEGC was amended by the Hon'ble Commission.*
- (e) *Therefore, the said vacuum between the DSM, 2018 and the MPEGC led to a precarious situation wherein while the DSM, 2018 permitted revision of generation schedule by RE Generators, a similar provision was not there in the MPEGC because of which the RE Generators could not revise their generation schedule.*
- (f) *Accordingly, from the date when the DSM, 2018 was notified, the Petitioners became liable for payment of Charges as per Regulation 6 (b) of the DSM, 2018 as the Petitioners were deprived from revising their scheduling.*
- vi. *The aforesaid anomaly was resolved by the Commission when the Commission on 21.06.2019 notified the Madhya Pradesh Electricity Grid Code, 2019 ("MPEGC, 2019") wherein the Commission in Regulation 8.6 (ix) permitted revision of schedule by a Renewable Generating Company. The said amendment in the MPEGC, 2019 was then carried forward to the 1st Amendment of the DSM, 2018 which was specified by the Hon'ble Commission on 04.10.2019.*
- vii. *Since the original DSM, 2018 itself contemplated revision of Schedule by a generating company such as the Petitioners, owing to the vacuum in the MPEGC applicable at the relevant time, the Petitioners were not able to revise their schedule and resultantly DSM charges to the tune of Rs. 2.07 Crores was imposed upon the Petitioners.*
- viii. *That the Respondent has further contended that the Petitioners could always make revisions in forecasted generation during the real time operation in terms of Regulation 6 (a) (2) of the DSM, 2018 and the MPEGC, 2005.*
- ix. *The said contention raised by the Respondent is wholly erroneous. In this regard, it is imperative to first delve into Regulation 6 (a) (5) read in conjunction with Regulation 10 of the DSM 2018. For ease of reference the said Regulations are reproduced hereunder:*

"6. Forecasting, scheduling and elimination of gaming

.....(5) *The plan for data telemetry, formats of forecast submission and other details in this regard shall be provided in the Detailed Procedure to be prepared by SLDC and approved by the State Commission.*

10. Governance Structure and constitution of State Power Committee

(1) Within three months from date of notification of these Regulations, the State Load Despatch Centre shall formulate Operating Procedures and Business Rules for constitution of State Power Committee, which shall be approved by the State Commission."

- x. *From the bare perusal of the aforesaid, it is amply clear that the DSM, 2018 provided for an essential pre-requisite of there being a "Detailed Procedure" which had to be formulated/issued by the Respondent and subsequently approved by the Commission within 3 months. However, it was only on 25.09.2019, pursuant to the MPEGC 2019, that the DoP was approved by the Commission i.e. after a lapse of almost one and a half years from the date of notification of DSM, 2018.*
- xi. *In this backdrop it is submitted that without there being any certainty about the Detailed Procedure until 25.09.2019 there was ambiguity/uncertainty qua the number of revisions that were permitted.*
- xii. *Furthermore, it is most respectfully submitted that the DSM Regulations, 2018 were in operable as Regulation 6 of the unamended DSM Regulations, 2018 a detailed mechanism for Forecasting, Scheduling and elimination of gaming. However, after the 1st Amendment to the DSM, 2018 the Hon'ble Commission has stream line the scope of Regulation 6 into Annexure -I of the Amended DSM Regulations, 2018. From the perusal of Annexure – I of the Amended DSM Regulations, 2018 it is evident that only when the said Annexure was introduced the Hon'ble Commission has stipulated a robust and detailed mechanism by which DSM Regulations, 2018 would be implemented in the State of Madhya Pradesh. The Petitioner craves liberty to detail the impact of Annexure -I during the course of submissions before the Hon'ble Commission. In fact the un-amended Regulation 6 (h) of the DSM, 2018 envisaged that once all procedures are put in place, all wind and Solar generators shall be treated together as a virtual pool within the state Deviation pool account. And only then deviations within the virtual pool could be settled first at the rates and methodology stipulated above for wind and solar generators. Therefore, even the unamended Regulations inherently mandated that the liability of deviation shall only be imposed once all procedures are put in place. In the present case the Detailed Operating Procedure as envisaged under the DSM regulations was specified much later hence the procedure as envisaged under Regulation 6 (h) was only put in place*

at a later date. Therefore, correspondingly the liability ought to be imposed on from a later date when the Detailed Operating Procedure was put in place.

- xiii. *Therefore, for the effective implementation of DSM Regulations, 2018, a Detailed Operating Procedure in this regard was an essential requirement as the purpose of having the detailed procedure is to have clarity on many practical aspects which would otherwise cause difficulties in the implementation of the said Regulations.*
- xiv. *That wind and solar generation is entirely dependent on weather conditions, local site specific conditions, the Detailed Procedure was essential for the implementation of the Regulations.*
- xv. *However, the Respondent without considering the fact that there was no Detailed Operating procedure, the Respondent started issuing DSM Accounts for RE Generators such as the Petitioners. That such an approach of retrospectively imposing DSM Charges on the Petitioners even when the Detailed Procedure did not exist cannot be permitted.*
- xvi. *It is further submitted that due to the non-existence of the Detailed Procedure, even the Qualified Controlling Agency ("QCA") appointed by the Petitioners was not clear as to how the revisions were to be carried out. This is evident from the letters dated 08.10.2018, 25.01.2019 and 16.02.2019 issued by RECONNNECT Energy, the QCA appointed by the Petitioner to the Respondent as well as this Hon'ble Commission. The QCA vide the aforesaid letters time and again reiterated the difficulties being faced due to the lack of clarity on account no Detailed Operating Procedure in place to ensure smooth implementation of the DSM Regulations, 2018, applicability of the Regulation, number of revisions that were to be submitted and also on the lack of clarity qua the virtual pool and its methodology. A True Copy of letters dated 08.10.2018, 25.01.2019 and 16.02.2019 issued by the QCA to the Respondent as well as this Hon'ble Commission is annexed hereto and marked as ANNEXURE R/1 (Colly.).*
- xvii. *Therefore, clearly at the relevant point in time the vacuum in the DSM regulations, 2018 prevented even the QCA effectively and hence no liability for the said period ought to be imposed upon the Petitioner.*
- xviii. *In fact Respondent SLDC in its Reply has contended that the Regulations had sufficient clarity on the revision of schedule and they were implemented on the date of notification of DSM, 2018. However, the said principle contention of the Respondent SLDC runs contrary to its own averment that on 23.10.2018 it held a meeting to clarify issues concerning DSM, 2018. Therefore, clearly in the absence of requisite amendment in the*

MPEGC and specification of DoP as per the Regulations, the revisions within the schedule of RE generation could not be purposefully carried out.

- xix. *That it was only in 2019, when the MPEGC, 2019 was notified that RE Generators were specifically permitted to revise their schedule. Therefore, the contention raised by the Respondent is wholly erroneous.*

Re Provisions regarding forecasting/scheduling have been in vogue prior to the notification of DSM, 2018

- xx. *That the Respondent while relying upon Regulation 9 of the Madhya Pradesh Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2010 (Cogen Regulations, 2010) has contended that the provisions qua forecasting/scheduling have been in vogue prior to the notification of DSM, 2018.*
- xxi. *It is most respectfully submitted that the said contention raised by the Respondent is erroneous and that the respondent has misinterpreted the said Regulations in the instant case.*
- xxii. *It is stated that although the Cogen Regulations, 2010 permitted scheduling for RE Generators, however neither the unamended nor the amended Regulation 9 of the Cogen Regulations, 2010 permitted revision of such scheduling. In fact, even the IEGC, 2010 and MPEGC, 2005 did not envisage such a dispensation to RE Generators.*
- xxiii. *It also apposite to mention that the Respondent No.1 in its Reply has not controverted the submissions made by the Petitioner qua the difficulties faced by it. Therefore, the submissions made by the Petitioner qua the difficulties faced by it remain uncontroverted and may graciously be considered by this Hon'ble Commission.*

10. The Respondent (SLDC) in its final written submission has broadly submitted the following:

- i. *It is submitted most respectfully that in the instant petition the petitioners have essentially sought a relief by invoking the regulation 11, pertaining to Power to Relax of the MPERC (Forecasting, Scheduling, Deviation, Settlement Mechanism and Related Matters of Wind and Solar Developing Station) Regulations, 2018 (hereinafter referred to as "the MPERC Regulations").*
- ii. *It is the common case of all the petitioners that Regulation 6(b) should be relaxed and not made applicable only from 20.04.2018. It is submitted that therefore, the petitioners have invoked the powers to relax under Regulation 11 of the MPERC Regulations, 2018 and have*

interalia prayed that Regulation 6(b) which deals with imposition of deviation charges be made applicable from 04.10.2019 i.e. the date of publication of First amendment to the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations 2018.

- iii. The primary ground taken in all the petitions is that as there was no mechanism or procedure prescribed in the M.P. Grid Code for revision in generation schedule as per Regulation 6(2) of the MPERC Regulations, 2018, therefore, it was not possible for the petitioners to revise their schedule on a real time basis and as they could not do so because of the unavailability of the specified procedure, therefore, no charges can be imposed on the petitioners under Regulation 6(b) of the MPERC Regulations, 2018. It is also the common case of the Petitioners that since the specified procedure has been notified on 25.09.2019 and made applicable from 04.10.2019 from the date of publication therefore any such deviation charges can be made applicable prospectively and not retrospectively. It is also the common case of the Petitioners that due to the non-availability of the specified procedure the Petitioners could not undertake revision of their generation schedule on the day of operation.*
- iv. It is submitted that the answering respondent has filed its detailed return in all the matters which shall be read as part and parcel of the instant written submissions, however, without prejudice to the same, it is submitted that all the Petitioners have started their real time revisions as per the MPERC Regulations, 2018 from the month of August, 2018. It is, therefore, completely incorrect on the part of the petitioners to aver or allege that they could not undertake real time revisions in the Schedule due to the absence of the specified procedure in the Grid Code.*
- v. The petitioners in Petition No.10/2020, (Walwhan Solar) has two generating plants and with respect to its 25 MW generating plant it has undertaken three real time revisions on 02.08.2018 and with respect to its 105 MW generating plant which took its first real time revision on 11.10.2018 and it undertook four real time revisions on 11.10.2018 and (Tata Power Renewable Energy Ltd.) has 190MW wind power project at Lahori has started real time revisions on 01.08.2018 and has undertaken 15 real time revisions. A detailed chart showing the real time revisions started by the petitioners on 01.08.2018, 02.08.2018 and 11.10.2018 is annexed as Annexure-I.*
- vi. Therefore, it is completely incorrect on the part of the Petitioners to aver or allege that the real time revisions were not possible from 2018 till 04.10.2019 and therefore, no deviation charges can be imposed on them for this period.*

- vii. *Further, it is pertinent to note that as stated hereinabove the first real time revision was started by the petitioners from 01.08.2018, 02.08.2018 and 11.10.2018 and it is submitted that till 20.06.2019 the petitioner in Petition No.16/2020 has undertaken about 4860 real time revisions till 20.06.2019, similarly in Petition No.10/2020, petitioners has undertaken 3244 real time revisions for its 25 MW solar plant as till 20.06.2019 and 2287 real time revisions for its 105 MW solar plant till 20.06.2019 and 4860 real time revisions for its 190 MW wind power project. Similarly, the petitioner in Petition No.63/2020 (AMPL) has undertaken 3276 real time revisions till 20.06.2019 and lastly the petitioner in Petition No.23/2020 has undertaken 4845 real time revisions till 20.06.2019. The detailed chart showing the same is attached as Annexure-II.*
- viii. *It will thus be seen that the entire basis of the petitions filed by the petitioners that there was no specified procedure for undertaking real time revisions and, therefore, no deviation charges can be imposed under Regulation 6(b) of the MPERC Regulations, 2018, as the Petitioner were unable to take real time revisions, is completely erroneous and incorrect on the facts of the case as with all the petitioners have been undertaking real time revisions from August, 2018 and have never ever objected to the fact while taking real time revisions that specified provision is unavailable. Therefore, to now aver or allege that the charges cannot be imposed is incorrect on the part of the petitioners.*
- ix. *Further, it is most respectfully submitted that the bills for deviation settlement were issued way back on 06.10.2018 with complete details and it is completely incorrect on the part of the petitioners to aver or allege that they have filed the petitions in the year 2020 as the bills were received by them on 20.01.2020. It is submitted that the bills issued on 20.01.2020 are nothing but a notice to the petitioners and other such charges to pay the amount immediately. A copy of the bills dated 06.10.2018 and 20.01.2020 are attached as Annexure-III.*
- x. *It is, therefore, submitted that the bills have been issued way back on 06.10.2018 and none of the petitioners have objected to the same therein and have instead continued with their actions of revision of schedules in the year till 20.6.2019. Further, the meetings were also held with the answering respondents on 23.10.2018 wherein it was decided that the real time revisions can be issued and, therefore, it is completely incorrect on the part of the petitioners in the instant petition to aver or allege that this Commission should direct that Regulation 6(b) which seeks to impose the deviation charges be made applicable from 04.10.2019 and not from the year 2018.*
- xi. *It is submitted that the instant written submissions are in addition to the reply submitted by the answering respondent and the answering respondent submits that the written*

submissions be treated as part and parcel of the reply. In light of the submissions made hereinabove it is most respectfully submitted that no case is made out by the Petitioners for invocation of regulation 11 (Power to Relax) of the MPERC Regulations, 2018.

11. The petitioner in its filed final written submission broadly submitted the following:

- i. *The present Written Submissions are being filed on behalf of M/s Walwhan Solar MP Limited (WSMPL) and Tata Power Renewable Energy Ltd (TPREL) (Collectively referred to as Petitioners) in the present Petition.*

Re: Ambiguity/Vacuum qua revision and scheduling for RE Generators

- ii. *It is pertinent to mention that the aforesaid gap between DSM, 2018 and MPEGC led to an anomalous situation wherein while the DSM, 2018 permitted Petitioners to revise their schedule, however, the same could not be done due to corresponding Amendment which was not carried out in MPEGC. Therefore, from the date when the DSM, 2018 was notified, the Petitioners became liable for payment of Charges as per Regulation 6(b) of the DSM, 2018 as the unamended MPEGC deprived the Petitioners from revising their scheduling. Regulation 6(b) of the DSM, 2018 is extracted below for ready reference of this Hon'ble Commission:*

"6. Forecasting, scheduling and elimination of gaming

- (a) *The wind or solar generators which are state entities undertaking intra/inter-state transaction shall be paid as per scheduled generation.*
 - (i) *In the event of actual generation being lesser than the scheduled generation, the deviation charges for shortfall in generation shall be payable by such wind or solar generators which are state entities into State Deviation Pool Accounts as given in Table-I of Schedule.*
 - (ii) *In the event of the actual generation being more than the scheduled generation, the Deviation Charges for excess generation shall be payable to the wind or solar generators which are state entities undertaking inter-state transactions from State Deviation Pool Account as given in Table-II of Schedule.*
 - (iii) *The wind or solar generators which are state entities undertaking intra state transactions, shall be paid as per actual generations.*
 - (iv) *In the event of actual generation of a generating station or a pooling station, as the case may be, being less or more than the scheduled generation, the*

deviation charges for shortfall or excess generation shall be payable by the wind and solar generator or the QCA, as the case may be, to the State Deviation Pool Account, as given in Table-III or Table-IV of Schedule, as the case may be."

- iii. *The aforesaid anomaly was resolved vide notification dated 21.06.2019 notified by this Hon'ble Commission whereby Regulation 8.6 (ix) was implemented thereby permitted revision of schedule by a Generating Company. The said amendment in the MPEGC, 2019 was then carried forward to 1st Amendment of DSM, 2018 which was specified by this Hon'ble Commission on 04.10.2019. The relevant extracts of MPEGC, 2019 is extracted below:*

"The schedule by wind and solar generators may be revised by giving advance notice to the SLDC. Such revisions shall be effective from 4th time block, the first being the time-block in which notice was given. There may be one revision for each time slot of one and half hours starting from 00:00 hours of a particular day subject to maximum of 16 revisions during the day"

- iv. *Since the Original DSM, 2018 itself contemplated revision of Schedule by a Generating Company such as the Petitioners, owing to the vacuum in the MPEGC applicable at the relevant time, the Petitioners were not able to revise their schedule and resultantly DSM charges to the tune of 2.07 Cores was imposed upon the Petitioners.*
- v. *In view of the fact that original DSM, 2018 contemplate revision of Schedule by a Generating Company, therefore, owing to the void in the MPEGC applicable at the relevant time, Petitioners were liable to pay exorbitant DSM charges to tune of 2.07 Crores as computed on 30.08.2019.*

Re: Non-Existence of Detailed Operating Procedure

- vi. *From the bare perusal of aforesaid, it is amply clear that DSM, 2018 provided for an essential pre-requisite of their being a "Detailed Operating Procedure" which has to be formulated/issued by the MPSLDC and subsequently approved by this Hon'ble Commission within 3 months. However, it was only on 25.09.2019, pursuant to the MPEGC 2019, that the Detailed Operating Procedure was approved after a lapse of almost one and a half years from date of notification of DSM, 2018.*
- vii. *Furthermore, the DSM Regulations, 2018 were operatable as per Regulation 6 of the unamended DSM Regulations, 2018 a detailed mechanism for Forecasting, Scheduling and elimination of gaming. However, after the 1st Amendment to the DSM, 2018, the Hon'ble Commission has streamlined the scope of Regulation 6 into Annexure-1 of the Amended DSM*

Regulation, 2018. From the perusal of Annexure-1 of the Amended DSM Regulations, 2018 it is evident that only when the said Annexure was introduced by this Hon'ble Commission has stipulated a robust and detailed mechanism by which DSM Regulations, 2018 would be implemented in the State of Madhya Pradesh.

- viii. *It is pertinent to mention that the un-amended Regulation 6(h) of the DSM, 2018 envisage that once all procedures are put in place, all Wind and Solar Generators shall be treated together as a virtual pool within the state Deviation pool account and only then deviations within the virtual pool could be settled first at the rates and methodology stipulated above for Wind and Solar Generators. Therefore, even the unamended Regulations inherently mandated that the liability of deviation shall only be imposed once all procedure is put in place. In the case at hand, the Detailed Operating Procedure are envisaged under the DSM Regulations were notified much later, therefore, procedure as envisaged under Regulation 6(h) was only put in place at a later date. Therefore, correspondingly the liability ought to be imposed on from a later date when the Detailed Operating Procedure was put in place.*
- ix. *MPSLDC without taking into consideration the fact that there was no Detailed Operating Procedure started issuing DSM Accounts for RE Generators. It is submitted that such an approach of retrospective imposition of DSM Charges on the Petitioners cannot be permitted.*
- x. *At this Juncture, it is pertinent to mention that due to non-existence of Detailed Operating Procedure, even the Qualified Controlling Agency ("QCA") appointed by the Petitioners did not have clarity concerning the implementation of revision to be carried out. It is pertinent to mention that QCA had issued various letters dated 08.10.2018, 25.02.2019 and 16.02.2019 to MSSLDC seeking clarity concerning the Detailed Operating Procedure to ensure smooth implementation of the DSM Regulations, 2018.*
- xi. *Furthermore, the reliance placed upon by the MPSLDC upon Annexure R-1 filed along with its reply favors the case of the Petitioners. It is pertinent to mention that Annexure R-1 filed along with the Reply substantiates that there was no clarity concerning the Revision of Schedule as prescribe under the Regulations as some generators were carrying out a handful of 3-4 revisions, whereas other generators had carried out as many as 15 revision within a day. The said data itself depicts the lack of clarity and the ambiguity prevalent at the relevant point in time. Hence, the facts explain above make the present case a fit case for power to Relax being exercised by this Hon'ble Commission.*
- xii. *In view of the foregoing submissions made above, it is evident that DSM, 2018 from the very inception contemplated revision of schedule by RE Generators, however, owing to the void in the MPEGC and non-existence of Detailed Operating Procedure, the Petitioners were*

prevented from revising their schedule and which further lead to imposition of substantial DSM Charges by MPSLDC.

- xiii. *Therefore, since this Hon'ble Commission has not weeded out the Vacuum, it is prayed that this Hon'ble Commission be pleased to*
- (a) relax the application of Regulation 6(b) of DSM, 2018 for the period commencing from 24.04.2018 upto 04.10.2019; and*
 - (b) direct MPSLDC to not to seek recovery DSM charges levied from the Petitioners*
- xiv. *The present Written Submissions have consolidated all submissions on behalf of the Petitioners. Notwithstanding the same, with respect to any contention or submission which has not been specifically dealt with in the present Written Submissions, the same as detailed in the Petition / Rejoinders / and the same may be read as part and parcel of the present document. Omission of any specific point in the present Written Submissions may not be treated as an admission on part of the Petitioners.*

Commission's Observation and Findings:

12. On perusal of the contents in subject petition and submissions of both the parties in this matter, the Commission has observed the following:

- (i) The subject petition has been filed by the M/s. Walwhan Solar MP Ltd., (petitioner No. 1 having Solar Power Project with cumulative capacity of 130 MW in MP) and M/s. Tata Power Renewable Energy Ltd., (petitioner No. 2) having 44 MW Wind Power Project in MP. The subject petition is filed under Regulations 11, 12 and 13 of the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar Generating Stations) Regulations, 2018 ("FSDSM Regulations, 2018") notified on 24th April' 2018.
- (ii) The petitioners are seeking relaxation from applicability of Regulation 6 (b) of MPERC FSDSM Regulation, 2018 on the following two grounds:
 - (a) That the principal FSDSM Regulations, 2018 itself contemplated revision of schedule by a generating company such as petitioners but the petitioners were not able to revise their schedules due to ambiguity/vacuum in applicable MP Electricity Grid Code.
 - (b) Due to non-existence of detailed operating procedure in aforesaid FSDSM Regulation, 2018, the petitioners were prevented from revising their schedules.

- (iii) Regulation 11, 12 and 13 of the FSDSM Regulations, 2018 are reproduced below: -

“11. Power to Relax

The Commission may by general or special order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected by grant of relaxation, may relax any of the provisions of these Regulations on its own motion or on an application made before it by an interested person”

12. Power to issue directions: -

“if any difficulty arises in giving effect to these Regulations, the Commission may on its own motion or on an application filed by an affected party, issue such directions as may be considered necessary in furtherance of the objective and purpose of these Regulations.”

13. Repeal and Saving

- (1) Nothing in these Regulations shall be deemed to limit or otherwise effect the inherent power of the Commission to make such orders as may be necessary for ends of justice to meet or to prevent abuses of the Process of the Commission.*
- (2) Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.*
- (3) Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising nay power under the Act for which no Regulations have been framed, and the Commission may deal with such matters, powers and ductions in manner it thinks fit.”*

- (iv) MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations, 2018 was notified on 20.04.2018, (FSDSM Regulations, 2018). This FSDSM Regulations, 2018 is applicable to the wind generators having combined installed capacity of 10 MW and above and solar generators with an installed capacity of 5 MW and above including those connected via pooling stations and selling power within or outside the State. Regulation 1 (3) of the

FSDSM Regulations, 2018 stated that ***“The above Regulations shall come into force from the date of publication of this notification in the Madhya Pradesh Gazette.”***

- (v) Regulation 6 (b) of the DSM, 2018 prescribed charges for non-compliance of the forecasting. Regarding the scheduling generating stations, Regulation 6(a)(2) of the FSDSM Regulations, 2018 stated as follows:

“The generating station, as far as possible, shall generate electricity as per the day-ahead generation schedule finalized by the State Load Despatch Centre in accordance with the grid code.

Provided that the revision in generation schedule on the day of operation shall be permitted, in accordance with the procedure specified under the Grid Code and M.P. Electricity Regulatory Commission (Terms and Conditions for Intra-state Open Access in Madhya Pradesh) Regulations, 2005 as the case may be.”

- (vi) On 5th December’ 2008, the Commission notified the 4th Amendment to Madhya Pradesh Electricity Grid Code (Revision-I), 2005. **As per Clause-8.6 (i) of fourth amendment of MPEGC, State Sector Generating Stations can revise their forecasted generation during the real time of operation as & when required.** Clause-8.6 (i) of fourth amendment of MPEGC, (Revision-I), 2005 stated as follows:

In case of forced outage of a unit, SLDC will revise the schedules on the basis of revised declared capability by the generator (SSGS). The revised schedule will become effective from 4th time block, counting the time block in which the revision is advised by the generator to be the first one.

- (vii) In the aforesaid Regulation, the State Sector Generating Stations were allowed to revise schedule which will become effective from 4th time block. There was no restriction on number of revisions during the day of operation. Section 2 (definition) of the aforesaid Grid Code define the State Sector Generating Station as follows:

Any power station within the State, except the Inter-State Generating Station (ISGS) located within the State.

- (viii) In the Clause-2 of Regulation, 6 (a) of the FSDSM Regulations, 2018, it is mentioned that the petitioners could make revisions in forecasted generation during the real time of operation as per provisions of Grid Code. As per Clause 8.6 of fourth amendment of MPEGC, State Sector Generating Stations can revise their forecasted generation during

the real time of operation as & when required. There was no restriction on number of revisions during the day of operation.

- (ix) Subsequently, on 21st June' 2019, the Madhya Pradesh Electricity Grid Code (Revision-II), 2019 was notified. Regulation 8.6 of the MPEGC, 2019 provides rules for revision in schedule in real time operation. For revision of schedule by a Renewable Generating Company, Regulation 8.6 (ix) stated as follows:

“The schedule by wind and solar generators may be revised by giving advance notice to the SLDC. Such revisions shall be effective from 4th time block, the first being the time-block in which notice was given. There may be one revision for each time slot of one and half hours starting from 00.00 hours of a particular day subject to maximum of 16 revisions during the day.”

- (x) First amendment to FSDSM Regulations, 2018 was notified on 4th October' 2019. In the amendment, the operating procedure for forecasting, scheduling and elimination of gaming which was provided in MPERC, FSDSM Regulations, 2018, was given institutional strength without any change in the principles and methodology for computation of Deviation Charges.

13. The petitioners have broadly submitted the following in the petition and in their additional submissions:

- i. The Commission on 12.04.2018 published and notified in Gazette on 24.04.2018, the FSDSM Regulations, 2018 and made it applicable upon all Solar and Wind RE Generators.
- ii. Regulation 6 (b) of the DSM, 2018 prescribed charges for non-compliance of the forecasting. Further, Proviso of Regulation 6 (a) (2) permitted RE generators such as the petitioners to revise their Generation Schedule in accordance with the procedure specified under the Madhya Pradesh Electricity Grid Code, 2005 (“MPEGC”).
- iii. The aforesaid Regulations, 2018 were operatable as per Regulation 6 of the unamended DSM Regulations, 2018 wherein a detailed mechanism for Forecasting, Scheduling and elimination of gaming was provided. However, after the 1st Amendment to the DSM, 2018, the Commission has streamlined the scope of Regulation 6 into Annexure-1 of the Amended DSM Regulation, 2018. From the perusal of Annexure-1 of the Amended DSM Regulations, 2018 it is evident that this Commission has stipulated a robust and detailed mechanism in aforesaid Annexure 1

of amended Regulations by which DSM Regulations, 2018 would be implemented in the State of Madhya Pradesh.

- iv. However, at the relevant time i.e. at the time when the FSDSM, Regulations, 2018 was specified by the Commission, the MPEGC did not permit revision of schedule by a RE Generator such as the petitioners. At the time of when MPEGC was in operation, the presence of Wind and Solar Power in the State MP was very minimal. In fact, the Commission on 05.12.2008 notified the 4th Amendment of MPEGC, in doing so the Commission only permitted State Sector Generating Station ("SSGS") to revise its schedule.
- v. The aforesaid void between FSDSM Regulations, 2018 and MPEGC led to an anomalous situation wherein while the DSM, 2018 permitted the petitioners to revise their schedule, however, the same could not be done by the petitioners as a corresponding amendment was not carried out in the MPEGC. Therefore, from the date when the DSM, 2018 was notified, the Petitioners became liable for payment of Charges per Regulation 6 (b) of the DSM, 2018 as the petitioners were deprived from revising their scheduling.
- vi. The aforesaid anomaly was resolved by the Commission when the Commission on 21.06.2019 notified the Madhya Pradesh Electricity Grid Code, 2019 wherein the Commission in Regulation 8. 6 (ix) permitted revision of schedule by a Generating Company. The said amendment in the MPEGC, 2019 was then carried forward to the 1st Amendment of the DSM, 2018 which was specified by the Commission on 04.10.2019.
- vii. Since the original DSM, 2018 itself contemplated revision of Schedule by a generating company such as the petitioners, owing to the vacuum in the MPEGC applicable at the relevant time, the petitioners are liable to pay exorbitant DSM charges to the tune of Rs 2.07 Crores (i.e Petitioner No.1 and Petitioner No. 2 together) as computed on 30.08.2019.
- viii. Hence, owing to the aforesaid anomaly/void, the petitioners are constrained to file the present Petition seeking invocation of 'Power to relax' as specified in Regulation 11 of the DSM, 2018 and seeks waiver of the DSM charges payable by the petitioners for the period commencing from 24.04.2018 up to 04.10.2019, owing to void in MPEGC which resultantly prevented Petitioners from revising their schedule even though Proviso to Regulation 6 (a) (2) of the DSM, 2018 permitted the Petitioners to carry out such a revision.

14. In response, the Respondent has submitted the following in its reply and other submissions in this matter:

- i. MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 notified on 20.04.2018. Before notification of 1st amendment, the draft amendment was published and Public Hearing was held wherein the stakeholders represented their point of view and made written submissions. The amendment was issued after considering all such representations.
- ii. Electrical grid is a volatile system and strict discipline is utmost needed from all the entities connected with the Regional / State Grid. If any of the entity violates the grid discipline as mandated in Indian Electricity Grid Code and M.P. Electricity Grid Code, may cause threat to the secure grid operation. It is pertinent to submit here that smooth operation of the grid is utmost necessary for ensuring reliable and quality power supply to the consumers.
- iii. For safe, secure & reliable operation of the grid as well as continuous supply to the consumers, all the generators and distribution licensees shall have to adhere to forecasted generation and demand submitted to SLDC on day ahead basis. However, in case of any contingency, regulatory provisions exist for making revisions in real time of operation in forecasted generation and demand, respectively for generators and distribution licensees.
- iv. Adhering to scheduled generation by generator and scheduled drawal by distribution licensee is utmost necessary for the stability of the grid. If either generator or distribution licensee deviates from the schedule given by SLDC, may lead to insecure operation of the grid.
- v. In MPERC (FSDSM) Regulations 2018 Clause-2 of Regulation-6 (a), it is clearly mentioned that the Petitioners could make revisions in forecasted generation during the real time of operation as per provisions of Grid Code. As per Clause-8.6 of fourth amendment of MPEGC, State Sector Generating Stations can revise their forecasted generation during the real time of operation as & when required. There is no restriction on number of revisions during the day of operation.
- vi. The Petitioners were not unaware of the regulatory provisions regarding revisions in forecasted generation during the real time of operation. SLDC had addressed doubts /

queries on the regulatory provisions of MPERC (FSDSM) Regulations 2018, if any raised by the Wind / Solar Generators, telephonically before the commercial implementation of Regulation w.e.f. 01.08.2018. SLDC had also convened a meeting on 23.10.2018 with Wind / Solar Generators, Developers and QCA to explain in detail all the regulatory provisions and suitably addressed all the queries raised by them. During the meeting, it was made clear to all the Wind / Solar Generators that the Regulations are complete in every respect and could be implemented in the State of MP.

- vii. In the meeting on 23.10.2018, it was made clear to all the participants that SLDC is the Implementing Agency of MPERC (FSDSM) Regulations 2018 and would act as per the provisions contained in the Regulation. Any relaxation in any of the regulatory provisions and commercial implication is beyond the purview of SLDC and may be taken up directly with the State Commission.
- viii. Most of the qualified Wind and Solar Generators / QCAs had started revising forecasted generation during the real time of operation w.e.f. 1st August 2018. M/s Walwahan Solar MP Ltd. has started submission of revision in forecast through their QCA (M/s Reconnect Energy Solutions Pvt. Ltd.) from 02.08.2018 for their 25MW Solar Power plant and from 11.10.2018 for their 105MW Solar Power Plant. M/s Tata Power Renewable Energy Ltd. has started submitting the revision in forecasted generation through their QCA (M/s Manikaran Analytics Ltd.) from 01.08.2018. The revisions in forecasted generation submitted by the petitioners during real time of operations has been accepted and accordingly the schedules were issued by SLDC. For ready reference, the Available Capacity, day ahead forecast and real time revisions submitted by the petitioner for the above dates are annexed herewith.
- ix. It is to submit that since number of revisions to be done by the RE Generators / SSGS have not been indicated in the MPEGC, 2005 and amendments thereof, thus there was no restriction on number of revisions done by SSGS and RE Generators. SLDC had never denied any requisition seeking revision in forecasted generation during the real time of operation and all the requests had been entertained and generation schedules were issued accordingly, including that of Petitioners.
- x. The Wind and Solar Generating Stations were allowed to make revision in schedule during real time of operation as per regulatory provisions. During the period from 1st August 2018 to 21st June 2019, the petitioners have submitted the revisions in

forecasted generation during the real time of operations, the same has been accepted, accordingly the schedules were issued by the SLDC. Based on the forecasted generation after incorporating real time revisions and actual generation in 15 Min. time blocks, DSM Charges are computed as per relevant clauses of MPERC (FSDSM) Regulations, 2018.

15. With the above observations and submissions made by the petitioner and Respondent on record, the findings of Commission are as under:

- (a) MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations, 2018 was notified on 20.04.2018. Regulation 5 of the aforesaid Regulations provides the principles for operationalization of Deviation Settlement Mechanism. The operating procedure for implementation of Regulations was provided in detail under Regulation 6 of the aforesaid Regulations. Further, it was provided in Regulation 6 of said Regulations, 2018 that the declaration of capacity, scheduling and elimination of gaming shall be applicable as per provisions under Grid Code and MPERC (Terms and Conditions for intra-state open access in Madhya Pradesh) Regulations 2005. The schedule of deviation charges applicable for under injection/over injection by Wind/ Solar generators has been provided under Table I to IV in the said Regulations, 2018 and there has been no change in Deviation Charges under aforesaid Tables I to IV in amended FSDSM Regulations, 2019. None of the parties in this matter approached the Commission under Regulation 12 of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations, 2018 for any difficulty in giving effect to the aforesaid Regulations as contended by the petitioners.
- (b) With regard to contention of the petitioners on the issue of non-existence of detailed operating procedure in MPERC FSDSM Regulations 2018, the Commission on perusal of provisions under amended Regulations 2019, has noted that the following details were provided in the amended Regulation:
 - (i) Consequences, if a Qualified Co-ordinating Agency (QCA) is not appointed by the generator.
 - (ii) General guidelines for appointing QCA and registration by QCA
 - (iii) Roles and responsibilities of QCA
 - (iv) Payment of security by QCA to SLDC towards deviation charges.
 - (v) Settlement of deviation charges mechanism.
 - (vi) Pre-conditions for participation in DSM
 - (vii) Event of default and consequences
 - (viii) Schedule for Deviation Charges

- (c) The Commission has further noted the following on perusal of unamended FSDSM Regulations 2018:
- (i) The provisions for appointing QCA, registration and responsibilities of QCA were provided under Regulation 2(1)(s) of unamended Regulations 2018.
 - (ii) Preconditions for participation in DSM was provided under Regulation 4(1) to (7) of unamended Regulations 2018.
 - (iii) Principles and framework for operationalization of DSM was provided under Regulation 5 (a) to (f) of unamended Regulations 2018.
 - (iv) Procedure for forecasting, scheduling and elimination of gaming was provided under Regulation 6 (a) to (h) of unamended Regulations 2018.
 - (v) Settlement of Deviation charges was provided under the heading of “Accounting for charges of deviation” in Regulation 8 (1) to (3) of unamended Regulations 2018.
 - (vi) Schedule of payment of charges for deviation was provided under Regulation 9(1) to (5) of unamended Regulations 2018. There has been no change in the deviation charges specified in Table (I) to (IV) provided under schedule of unamended Regulations 2018.
- (d) From the above comparison of the provisions under amended Regulations 2019 vis-à-vis the provisions under unamended Regulations 2018, it is noted that the amendment in certain provisions in unamended Regulations 2018 was made to give institutional strength to the existing Regulations and there has not been any change in the principles for computation of deviation charges after notification of amended Regulations 2019.
- (e) As per provisions under Clause-8.6 (i) of the fourth amendment to MPEGC, 2005 (Revision-I), the State Sector Generating Stations are allowed to revise their forecasted generation during the real time of operation as & when required and the revised schedule shall become effective from 4th time block. There was no restriction on number of revisions during the day of operation. Further, in the MP Electricity Grid Code the State Sector Generating Station is defined as “*Any power station within the State, except the Inter-State Generating Station (ISGS) located within the State.*”
- (f) MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations, 2018 is applicable to the wind generators having combined installed capacity of 10 MW and above and solar generators with an installed capacity of 5 MW and above including those connected via pooling stations and selling power within or outside the State. Regulation 1 (3) of the aforesaid Regulations, 2018 provides that “***the above Regulations shall come into***

force from the date of publication of this notification in the Madhya Pradesh Gazette."

- (g) The Respondent SLDC submitted that the FSDSM Regulations, 2018 notified on 24.04.2018 but the commercial implication of the aforesaid Regulations was applied by SLDC after three months i.e., from 01.08.2018. The Respondent SLDC also submitted that it had convened a meeting with Wind Solar Generators, Developers and QCA on 23.10.2018 to explain in detail all the regulatory provisions and addressed all the queries raised by the generators. It was made clear by SLDC to all the Wind / Solar Generators during the meeting that the Regulation is complete in every respect and can be implemented in the State of MP.
- (h) As stated by the Respondent SLDC, the petitioners had submitted revisions in forecasted generation in real time of operations from 1st August 2018 to 21st June 2019 and the same has been accepted by SLDC and the schedules were issued to the petitioners by SLDC. The Respondent (SLDC) further stated that there was no restriction on number of revisions done by SSGS / RE Generators. Further, SLDC had never denied any requisition seeking revision in forecasted generation during the real time of operation and all such requests were entertained and generation schedules were issued to generators including that of petitioners. SLDC has also submitted that the first real time revision was started by the petitioner No.1 from 01.08.2018, 02.08.2018 and 11.10.2018 and the petitioner No.1 undertook 3244 real time revisions for its 25 MW solar plant till 20.06.2019 and 2287 real time revisions for its 105 MW solar plant till 20.06.2019. The petitioner No.2 undertook 4860 real time revisions for its 190 MW wind power project.
- (i) The Respondent SLDC submitted along with the details of Available Capacity, day ahead forecast and real time revisions that the petitioner No.1 (M/s Walwahan Solar MP Ltd) started submission of revision in forecast through their QCA (M/s Reconnect Energy Solutions Pvt. Ltd.) from 02.08.2018 for their 25MW Solar Power plant and from 11.10.2018 for their 105MW Solar Power Plant. The petitioner No. 2 (M/s Tata Power Renewable Energy Ltd) started submission of revision in forecasted generation through their QCA (M/s Manikaran Analytics Ltd.) from 01.08.2018. The aforesaid revisions as submitted by the petitioners during real time of operations were accepted and the schedules were issued by SLDC accordingly.

16. In view of aforesaid observations and examination of facts and circumstances in the matter, the Commission finds no merit in contention of the petitioners seeking relaxation in application of Regulation 6(b) of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018.

With the aforesaid observations and findings, the prayer is disallowed and the subject petition is dismissed.

(Shashi Bhushan Pathak)
Member

(Mukul Dhariwal)
Member

(S.P.S. Parihar)
Chairman