

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

BHOPAL

Sub: In the matter of petition under Section 86 of the Electricity Act, 2003 read with Regulation 6(5), 10 and 12 of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 and Regulation 46 of the MPERC (Conduct of Business) Regulations, 2004, seeking exercise of power to issue directions to remove difficulty in implementation of the Regulations.

Petition No. 63 of 2020

ORDER

(Date of Order: 14th May' 2021)

AMPL Cleantech (P) Ltd.

Avani Signature, 6th Floor, 91A/1, Park Street,
Kolkata, West Bengal – 700 016

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Petitioner

V/s.

1. M. P. Power Transmission Company Ltd.,

Block No.2, Shakti Bhawan, Rampur, Jabalpur – 482008.

2. M.P. State Load Despatch Centre

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Respondents

Through its Chief Engineer

M.P. Power Transmission Co. Ltd.

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

Ms. Swapna Sheshadari, Advocate appeared on behalf of the Petitioner.

Shri Ashish Bernard, Advocate appeared on behalf of the Respondent No.2

The petitioner, AMPL Cleantech (P) Ltd. has filed the subject petition under Section 86 of the Electricity Act, 2003 read with Regulation 6(5), 10 and 12 of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 and Regulation 46 of the MPERC (Conduct of Business) Regulations, 2004, seeking exercise of power to issue directions to remove difficulty in implementation of the Regulations.

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

- i. The Petitioner is engaged in the business of generation of renewable energy and has been operating three solar power generating projects, namely 30 MW project (20MW+10 MW) at Alote and a 10 MW project at Susner in the State of Madhya Pradesh. The details of the solar energy based generating stations of the Petitioner in the State of Madhya Pradesh are as under:*

Project Location	Capacity	COD
Village: Richa, Tehsil: Alote, District: Ratlam	30 MW (20 MW + 10 MW)	20 MW - 15-09-2016 10 MW – 12-07-2017

Village: Bid Madhopur, Tehsil: Susner, District: Agar Malwa	10 MW	09-06-2015
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- ii. *The present petition is being filed by the Petitioner AMPL Cleantech (P) Ltd. against the decision of the Respondents to unilaterally issue DSM statements and implement the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of wind and solar generating stations) Regulations, 2018 (As amended) (hereinafter referred as the "Regulations") issued by the Hon'ble Commission in the absence of any approved 'Detailed Procedure' under Regulation 6(5) of the said Regulations. The Petitioner is also challenging the veracity of the DSM Accounts shown to be accrued to the Petitioner on account of time drift issue in the meters which has also been admitted by the Respondents.*
- iii. *The 'Detailed Procedure' under Regulation 6(5) is a pre-requisite for implementation of the Regulations. Without there being an approved 'Detailed Procedure' as envisaged in the Regulations, there are a number of practical difficulties which arise in implementation of the Regulations, for which the Petitioner is seeking directions of the Hon'ble Commission.*
- iv. *The 'Detailed Procedure' was approved on 25.09.2019 and was notified in the Official Gazette on 04.10.2019. However, for the period prior to 04.10.2019, the Respondents had unilaterally published DSM statements on the MPSLDC portal since August 2018. Even though the accounts were published, no demands were raised by MPSLDC since even the MPSLDC did not have any clarity on the procedure to be followed.*
- v. *Further, the billing meters installed at the Grid sub-station of the Respondent no.1 has faced time synchronization/time drift issues, which has resulted in incorrect computation and accrual of the DSM charges to the Petitioner.*

Relevant Facts:

- i. *It is stated that on 20.04.2018, the Hon'ble Commission, under Section 181 of the Electricity Act, 2003, has notified the Regulations, namely, the MPERC (Forecasting, Scheduling, Deviation and Settlement Mechanism and related matters of Wind and Solar Generating Stations) Regulations, 2018. A copy of the Regulations is attached hereto and marked as Annexure A.*
- ii. *Further, on 21.02.2019, the Hon'ble Commission issued a public notice stating that it proposes to make amendments to the Regulations, including provision for a detailed operating procedure. Copies of the Public Notice, and the proposed amendment to the Regulations are attached hereto and marked as Annexure B and Annexure C, respectively.*
- iii. *It is stated that there was no clarity on the operation and implementation of the Regulations, till the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Statement Mechanism and Related Matters of Wind and Solar Generating Stations) (First Amendment), Regulations, 2019, including the 'Detailed Procedure' was notified on 04.10.2019. A copy of the same is attached as Annexure D. Therefore, it was only from 04.10.2019 that there was clarity on how the forecasting and scheduling will be done under the Regulations.*

- iv. *The objective of the Regulations, as stated in Regulation 3, is to facilitate large-scale integration of wind and solar power while maintaining the grid stability, reliability and security as envisaged under the Grid Code, through forecasting, scheduling, and commercial mechanism for deviation settlement of wind and solar generators.*
- v. *For the purposes of the present Petition, the following extracts under the Regulations are important to take note of:*

“6. Forecasting, scheduling and elimination of gaming

(a) Procedure:

- (1) *The provisions of the Grid Code and the M.P. Electricity Regulatory Commission (terms and Conditions for intra-state open access in Madhya Pradesh) Regulations, 2005 as amended from time to time, shall be applicable for declaration of capacity, scheduling and elimination of gaming.*
- (2) *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.
- (3) *The wind and solar generator or the QCA, as the case may be, shall have the option of accepting the concerned SLDC's forecast for preparing its schedule or provide the concerned SLDC with a schedule based on its own forecast, and such schedule shall be used as reference for deviation settlement.*
- (4) *The QCA shall coordinate the aggregation of schedules of all generators connected to a pooling station and communicate it to the SLDC. The QCA shall undertake all commercial settlement on behalf of the wind or solar generator(s) connected to the respective pooling station(s).*
- (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.*
- (6) *The Commission, either suo-motu or on a petition made by SLDC, or any affected party, may initiate proceedings against any generating company or seller on charges of gaming and if required, may order an inquiry in such manner as decided by the Commission. When the charge of gaming is established in the above inquiry, the Commission may without prejudice to any other action under the Act or Regulations thereunder, disallow any charges for Deviation received by such generating company or the seller during the period of such gaming.*
- (7) *The charges for deviation for wind and solar generators which are state entities undertaking inter-state or intra-state transactions, shall be governed as per the provisions outlined under the following sub clauses of this regulation.*

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.*
- (2) *The State Power Committee shall:*
 - (a) *Co-ordinate and facilitate the intra-state energy exchange for ensuring optimal utilisation of resources.*
 - (b) *Review energy accounting and billing for inter-utility exchange of power.*
 - (c) *Ensure settlement of deviations amongst State Entities in accordance with these Regulations.*
 - (d) *Monitor compliance of these Regulations by State Entities.*

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 any affected party, issue such directions as may be considered necessary in furtherance of the objective and purpose of these Regulations."

- vi. *As reproduced above, Regulation 6(a) provides for the 'Procedure' to be adopted for the purpose of forecasting, scheduling and elimination of gaming. Further, Regulation 6(5) therein, provides that the plan for data telemetry, formats of forecast submission and other details, are to be provided in the 'Detailed Procedure' to be prepared by the SLDC and approved by the State Commission.*
- vii. *Regulation 10 thereafter, mandates the Respondents to formulate, within three (3) months of the notification of the said Regulations, the 'Operating Procedures and Business Rules' for construction of State Power Committee, and the same is thereafter to be approved by the Hon'ble Commission.*
- viii. *Therefore, for implementation of the Regulations, an essential pre-requisite is of there being an approved 'Detailed Procedure' formulated by the Respondents. The purpose of having the 'Detailed Procedure' is to have clarity on many practical aspects which would otherwise cause difficulties in implementation of the Regulations.*
- ix. *Without prejudice to the foregoing, the Petitioner submits that several projects in the State, including that of the Petitioner were facing Time Synchronization/RTC issues with their billing meters. The meters were not time synchronized and thus were recording generation data in time drift for every 15 Minutes Time Block. Since, MRI Data of the billing meters with time drift were considered by MPSLDC for DSM computation, this led to incorrect computation of the DSM charges.*

- x. *The meters of 10 MW Solar Power project of the Petitioner's installed at Susner Gridsub-station of MPPTCL were corrected by Petitioner in presence of MPPTCL representatives and officers of the distribution licensee/Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd. (MPPKVVCL) on 05.02.2020. A copy of the Time Correction report is annexed herewith and annexed as Annexure E. It is a matter of fact that in order to calculate the DSM Charges accurately, the meters which are in the custody of MPPTCL, must be time synchronized, which has been admitted by the Respondent No. 1 in its letter dated 03.06.2020 addressed to other generators, stating that the meters installed at the pooling stations are to be time synchronized for accurate computation of the DSM charges. A copy of the letter dated 03.06.2020 issued by MPPTCL is annexed herewith and marked as Annexure F. It is also a matter of fact that first amendment to MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating station) Regulation 2019 mandates the responsibility of QCA for coordination with STU / Discoms / SLDC for metering and testing / calibration of SEMs installed at polling stations.*
- xi. *In view of the above, the adjustments in DSM charges for the period from October 2018 till 05.02.2020 need to be rectified by the Respondents, since the time drift issue was for technical reasons beyond the control of the Petitioner. The DSM charges shown to be accrued to the Petitioner in respect of 10 MW Susner plant on SLDC website for the period from October, 2018 to January, 2020 are attached hereto and marked as Annexure G.*
- xii. *The SLDC's portal shows Rs. 49,86,323 as the DSM charges accrued to the Petitioner's 10 MW plant at Susner for the period from October 2018 to January 2020. However, as per the QCA's calculations based on SCADA Data, the approximate DSM charges comes to around Rs. 8,06,881.*

Grounds and Submissions:

A. RE: Date of applicability of Commercial Settlement:

- xiii. *While the Respondents had not put in place any 'Detailed Procedure' approved by the Hon'ble Commission within the time frame as envisaged under the Regulations, in absence of an approved 'Detailed Procedure', there were a number of issues on which there was no clarity whatsoever and it was practically impossible to implement the Regulations and ensure seamless forecasting and scheduling during the period starting from August 2018 till 04.10.2019 i.e. prior to approval and notification of the 'Detailed Procedure'.*
- xiv. *For example, while proviso to Regulation 6(2) provides that revision in generation schedule within a day was permitted, there was no clarity on the number of revisions permitted. Wind and Solar generation being entirely dependent on weather conditions, local site-specific conditions and inherently variable, the 'Detailed Procedure' was essential for the implementation of the Regulations. While most states have adopted the Regulations framed by the Hon'ble Central Commission which allow 16 revisions in 24 hours, there was no clarity in the present case.*
- xv. *Further, it is respectfully submitted that without there being any clarity about the 'Detailed Procedure', operational framework and commercial applicability of the Regulations, it was*

not possible to ascertain the validity of the method adopted for arriving at DSM Charges for each pooling station.

- xvi. *In fact, the standard practice adopted in other states is to have a mock-trial period before implementation of the Regulations. The mock-trial period is required to check the accuracy of proposed framework and have a practical experience of the problems to formulate workable solutions. Also, once the 'Detailed Procedure' is formulated, the QCA is required to make changes in the software and the process, so as to comply with such approved procedures. This calls for allowing a reasonable time after the approved procedures are made available for implementation.*
- xvii. *The grievance of the Petitioner in the present Petition is on account of the fact that the Respondents for the period from August 2018, till notification of the approved procedure on 04.10.2019, during which there was no 'Detailed Procedure' in place, has computed DSM Accounts for renewable energy-based generators. The DSM charges shown to be accrued to the Petitioner on the SLDC's website for the months of August 2018 to January 2020 are attached hereto and marked as Annexure H.*
- xviii. *Further, the Respondents have discriminated between the power generators while implementing the Regulations and thus is in violation of the preconditions for participation in the Deviation Settlement Mechanism as provided under Regulation 4(1) of the Regulations and Para 3(1) of the Operating Procedure for Implementation of the said Regulations. Interestingly, there were certain pooling sub-stations which did not submit data to the Respondents, and the said data was not being included in calculation of final DSM Accounts by the Respondents. Therefore, to that extent, the non-performers i.e. pooling stations who did not submit any data to the Respondents, were incentivized for their non-performance.*
- xix. *The Respondents have also wrongfully implemented the Regulations prior to 04.10.2019, for the reason that the First Amendment to the Regulations bearing the Detailed Procedure in Annexure I thereto, came into force on the date of its notification i.e. on 04.10.2019. It is respectfully submitted that from 04.10.2019, there is a clarity as to how the forecasting will operate, the implementation of the Regulations for the past period remains unclear and selective, and it is still not clear as to how the period from August, 2018 till 04.10.2019 would be dealt with. The act on the part of the Respondents to implement the same retrospectively from the date of issuance of the DSM Accounts i.e., August 2018 onwards, would be completely unfair and amounts to retrospectivity.*
- xx. *It is respectfully submitted that such an approach cannot be permitted. The operation and implementation of the Regulations, can only be prospective i.e. after the approval of the 'Detailed Procedure', which as mentioned under Regulation 6(5), was essential to facilitate understanding between the stakeholders and to avoid any unnecessary disputes in relation to DSM mechanism. The said procedure had only been notified on 04.10.2019.*
- xxi. *Thus, the period from August 2018 to 04.10.2019, for which there was no approved 'Detailed Procedure', ought to be treated as a testing period for SLDC.*
- xxii. *Without prejudice to the above, the procedure adopted by the Respondents for the above period is evidently flawed, as QCAs who did not submit data to the Respondents were not being*

included in the calculation of DSM Accounts, and therefore, to that extent were being incentivized for their non-performance. It is evident that even the Respondents have not strictly implemented the Regulations from August 2018 till 04.10.2019, and was only computing the DSM Accounts as a test run. This, in fact, would be in line with the practice being followed in other states as well.

- xxiii. *The renewable energy-based generators, including the Petitioner, would be prejudiced if the Regulations, after approval of the 'Detailed Procedure', were to be applied retrospectively. As stated above, prior to 04.10.2019 when the 'Detailed Procedure' was not available, there was no clarity on a several issues such as scheduling format, number of permissible revisions, Bank Guarantee values, etc.*
- xxiv. *In view of the above, the Hon'ble Commission is requested to pass directions clarifying that the Regulations would be implemented prospectively after the date of notification of the 'Detailed Operating Procedure' for implementation of the Regulations i.e., 04.10.2019..The Hon'ble Commission may also clarify that the DSM Accounts computed for the period prior to 04.10.2019, during which there was no 'Detailed Procedure' in place, are not to be acted upon, and the same may be treated as a test run.*

3. With the above submission, the petitioner prayed the following:

- (a) Hold and direct that the Regulations would be implemented only prospectively from 04.10.2019 i.e. the date of notification and approval of the 'Detailed Procedure';
- (b) Pass orders to quash and set aside the DSM charges accrued to the petitioner as per DSM Statements generated for the period August 2018 till 04.10 .2019;
- (c) Direct the SLDC to recompute the DSM Charges shown to be accrued to the Petitioner's 10 MW Susner plant from 04.10.2019 till 05.02.2020 taking into account the time drift issue in the meters;
- (d) In the alternative and without prejudice to the above, hold that the DSM charges in respect of 10 MW Susner project shown to be accrued to the Petitioner be rectified from October 2018 till 05.02.2020 as per Annexure G;
- (e) Direct the Respondents not to take any coercive steps against the Petitioner till disposal of this petition;

Proceeding in the subject petition:

4. The subject petition was admitted on 4th December' 2020. Vide order dated 5th December' 2020, the petitioner was directed to serve the copy of subject petition to the respondents within 3 days and report compliance of service to the Commission. The Respondents were directed to file their replies to the subject petition within 10 days thereafter. The petitioner was asked to file rejoinder on the aforesaid replies within 7 days thereafter.

5. At the hearing held on 09.02.2021, the Commission observed that the Respondent No. 2 filed its

reply to the subject petition. The petitioner filed rejoinder on 08.02.2021. 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:

6. The Respondent No. 2 (SLDC) broadly submitted the following in its reply to the subject petition:

- i. *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.*
- ii. *That the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 notified on 20.04.2018. 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.*
- iii. *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.*
- iv. *That for safe, secure & reliable operation of the grid as well as continuous supply to the consumers, all the generators and drawee entity 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 drawee entity.*
- v. *That adhering to scheduled generation by generator and scheduled drawal by drawee entity is utmost necessary for the stability of the grid. If either generator or drawee entity deviates from the schedule given by SLDC, may cause threat to Grid security.*
- vi. *It is to submit that MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) (FSDSM) Regulations, 2018 had come into force from the date of publication in Madhya Pradesh Gazette i.e. on 20.04.2018. In order to complete requisite formalities for implementation of MPERC (FSDSM) Regulations, 2018, SLDC vide letter dated 01.05.2018 had requested to Hon'ble State Commission to allow commercial settlement under this Regulation w.e.f. 1st August 2018 so that sufficient time could be given to the RE Generators to make necessary preparation for metering, data collection, forecasting close to actual so as to minimize financial burden in terms of Deviation*

Charges and also adhering to grid discipline. Accordingly, SLDC had started issuing DSM Accounts for wind / solar generators w.e.f. 1st August 2018. Copy of the letter dated 01.05.2018 is annexed herewith as Annexure-1.

- vii. *It is to submit that MPERC (FSDSM) Regulations 2018 could be implemented in the State of MP without approval of 'Detailed Procedure' as regulatory provisions for computation of Deviation Charges were clear and does not require any further clarification. It is pertinent to mention here that there is no additional condition incorporated in Annexure-I of First Amendment i.e. Detailed Operating Procedure of First amendment to MPERC (FSDSM) Regulations 2018 which may cause any financial burden on the RE Generators.*
- viii. *It appears that RE Generators instead of building capability for the functions to be performed under the MPERC (FSDSM) Regulation-2018, were engaged in extending the date of commercial settlement by raising the issues which were clearly defined in the Regulation-2018 and needs no further clarification / elaboration for implementation. The statement of the Petitioner that Respondents had unilaterally published DSM statements on the MPSLDC portal since August 2018 is incorrect and denied. The Petitioner is searching an escape route for non-payment of DSM Charges for a certain period of time.*
- ix. *It is to submit that SLDC prepare and upload the DSM Account on the website of SLDC and intimation through post is also sent to the QCAs and no separate demand / invoice is raised by SLDC. It is a regulatory obligation of QCAs to settle the DSM Charges with RE DSM Pool Account within the timeline given in MPERC (FSDSM) Regulations 2018.*
- x. *It is to submit that MPERC (FSDSM) Regulations 2018 mandates the responsibility to QCA for coordination with STU / SLDC for metering, data collection / transmission, communication. The responsibility for testing / calibration of meters installed at the pooling station is also assigned to QCA in First amendment of MPERC (FSDSM) Regulations 2018.*
- xi. *SLDC while issuing first DSM Account has observed the time drift in ABT meters installed at the pooling station of petitioner, SLDC vide letter dated 29.10.2018 and 31.08.2019 had requested to the QCA (M/s RE Connect Energy Solutions Pvt. Ltd.) and to Licensee to get the meters time synchronized. SLDC has also mentioned the list of meters having time rift in the Deviation Accounts issued for the month of Sept 2018 onwards. After continuous pursuance from SLDC the QCA of the petitioner has requested SLDC for applying time correction in meter data prior to issuance of DSM Account for the month of March 2019. Thus, SLDC has applied the time correction in meter data w.e.f. March 2019 onwards till 5th Feb 2020 (date of time synchronization) and accordingly the Deviation Charges of petitioner pooling station was computed by SLDC and uploaded on SLDC website. Copy of letter dated 29.10.2018, 06.12.2018, 31.08.2019 and 17.09.2019 are collectively annexed herewith as Annexure -2.*
- xii. *The petitioner had made Madhya Pradesh Power Transmission Co. (MPPTCL) as respondent no.1 and State Load Despatch Centre (SLDC) as respondent no. 2. It is to submit that issues raised by the petitioner and relief sought in the petition is related with the functions and*

duties of SLDC. M.P. Power Transmission Co. Ltd. (MPPTCL) is no way related to the issues raised and relief sought in the petition. Thus, the reply on the petition is not required to be submitted by the respondent no.1 M.P Power Transmission Co. Ltd. (MPPTCL).

- xiii. It is submitted that the procedures for metering and forecasting / scheduling activities to be performed under MPERC (FSDSM) Regulations 2018 are already indicated in various regulations of CEA / CERC / MPERC notified prior to notification of this regulation and the Solar / Wind Generators are well aware of the regulatory provisions for metering and forecasting / scheduling.*
- xiv. Methodology for computation of DSM Charges for Wind / Solar Generators has been given in detail in the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 and does not require any elaboration for carrying out computation of DSM Charges of RE Generators.*
- xv. The regulation of Hon'ble State Commission had sufficient clarity in every respect for implementation. However, in the First Amendment to Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018, basic criteria for metering, computation of DSM Charges, forecasting / scheduling remain the same. Sections deleted / added by the Hon'ble State Commission does not have any additional financial implication on the RE Generators.*
- xvi. Thus, the submission of the Petitioner that there was no clarity on the operation and implementation of the MPERC (FSDSM) Regulations 2018 before the publication of Detailed Procedure on 04.10.2019 is not correct and only to escape from paying DSM Charges for deviation from the forecasted generation for some period.*
- xvii. It is submitted that Regulation 10 of MPERC (FSDSM) Regulations 2018 do not allow the petitioner to overlook the implementation of MPERC (FSDSM) Regulations 2018. The given mandate is for SLDC, which has been complied by respondent no. 2 on time.*
- xviii. It is to submit that MPERC (FSDSM) Regulations 2018 mandates the responsibility to QCA for coordination with STU / SLDC for metering, data collection / transmission, communication. The responsibility for testing / calibration of meters installed at the pooling station is also assigned to QCA in First amendment of MPERC (FSDSM) Regulations 2018.*
- xix. The Respondent no. 2 (SLDC) during the validation of meter data has observed that some of the meters installed at the pooling station of RE Generators have time drift including that of petitioner. SLDC vide letter dated 29.10.2018 and 31.08.2019 had requested to the QCA (M/s RE Connect Energy Solutions Pvt. Ltd.) and to Licensee to get the meters time synchronized. SLDC has also mentioned the list of meters having time drift in the Deviation Accounts issued for the month of Sept 2018 onwards. After continuous pursuance from SLDC for correction in*

time drift, the QCA of the petitioner has requested to SLDC for applying time correction in meter data prior to issuance of DSM Account for the month of March 2019. Thus, SLDC has applied the time correction in meter data w.e.f. March 2019 onwards till 5th Feb 2020 (date of time synchronization) and accordingly the Deviation Charges of petitioner pooling station was computed by SLDC and uploaded on SLDC website.

Further, it is to submit that QCA / Petitioner had taken too much time for correction of time drift in meter which could have been done within a month. Reason for such inordinate delay is not understood whereas this has involved financial implication.

- xx. *It is to submit that on request of QCA, SLDC has corrected the meter data matching with SCADA data w.e.f. March 2019 onwards till 5th Feb 2020 and computed the DSM charges of the petitioner. The Deviation Charges accounts uploaded on SLDC website of the petitioner are correct for the period from March 2019 to 05th Feb 2020. The Deviation Charges accounts for the period Oct 2018 to Feb 2019 shall be revised by SLDC on receipt of request from petitioner / QCA and after due reasonability check on information / data provided by QCA.*
- xxi. *It is to submit that as per Clause-6 (a) (5) of MPERC (FSDSM) Regulations 2018, SLDC has to prepare Detailed plan of data telemetry, formats of forecast submission and other details in this regard. The procedures for various activities to be performed under this regulatory provision were already indicated in various regulations of CERC / MPERC notified prior to notification of this regulation. The RE Generators are already complying the regulatory provisions in this regard. Hence, Hon'ble Commission has deleted this clause in the First Amendment of Regulation-2018.*
- xxii. *The provisions of Regulation-2018 are clear in itself and did not pose any hurdle / difficulty in implementation. However, SLDC had prepared a Detailed Operating Procedure covering all the existing regulatory provisions and amendment proposed to the Regulation-2018, on 29th June-2018 for approval of Hon'ble Commission.*
- xxiii. *It is to submit that 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.*

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. The above provisions were also informed to the QCA / Developers / Generators during the meeting held at SLDC on 23.10.2018. In compliance to above regulatory provisions, SLDC has accepted all the revisions made by RE Generators during the real time of operation. Thus, the statement of the Petitioner is not correct.

- xxiv. *It is to submit that regulatory provisions for computation of DSM charges of RE Generators were clearly defined in MPERC (FSDSM) Regulations 2018 and there is no change in the procedure for computation of DSM Charges of RE Generators in Annexure-I of First Amendment of MPERC (FSDSM) Regulations 2018 which may cause any financial burden on the RE Generators. Hence, the petitioner statement that it is not possible to ascertain the validity of the method adopted for arriving at DSM Charges for each pooling station is incorrect and hence denied specifically. Moreover, had the petitioner faced such difficulty in implementation of Regulations, they should have filed submission before Hon'able Commission at that point of time.*
- xxv. *It is to submit that SLDC is an implementing agency for MPERC (FSDSM) Regulations 2018 notified by Hon'able Commission and has to perform all the functions in accordance with the regulatory provisions specified in the regulations. The date of commercial implementation of the regulations is beyond the purview of SLDC, however, to make necessary preparation for implementation of regulations, SLDC has requested to Hon'able Commission to allow (3) month time and accordingly SLDC has started issuing the Deviation Charges of RE Generators w.e.f. 1st August 2018. However, the petitioner did not prefer to file any request before Hon'able Commission, prior to instant petition, for seeking more time for implementation of Regulations and for exercising mock trial.*
- xxvi. *It is to submit that as per prevailing regulatory provisions, collection and submission of readings of Inter-face energy meters is assigned with the Licensee (Distribution / Transmission) in whose jurisdiction pooling station is located. Initially for few months, readings of around 2 to 4 no. out of 104 no. pooling stations could not be obtained either through AMR or Licensee. Thus, RE Generators cannot be held responsible and penalize for non-receipt of their reading at SLDC. Since the Inter-face meter data was not provided by the Licensee, their actual generation is replaced with forecasted generation to avoid any financial burden on the RE Generators without being at fault. There was no discrimination amongst Generators. SLDC vigorously pursued with the Distribution Licensee for furnishing reading of these pooling stations and Distribution Licensee started furnishing readings of these pooling stations within few months.*
- xxvii. *It is to submit that MPERC (FSDSM) Regulations 2018 had come into force from the date of publication in Madhya Pradesh Gazette i.e. on 20.04.2018. In order to complete requisite formalities for implementation of MPERC (FSDSM) Regulations, 2018, SLDC had requested to Hon'ble State Commission to allow commercial settlement under this Regulation w.e.f. 1st*

August 2018 so that sufficient time could be given to the RE Generators to make necessary preparation for metering, data collection, forecasting close to actual so as to minimize financial burden in terms of Deviation Charges and also adhering to grid discipline. Accordingly, SLDC had started issuing DSM Accounts for wind / solar generators w.e.f. 1st August 2018. Thus, the statement of the petitioner that SLDC has implemented the MPERC (FSDSM) Regulations 2018 retrospectively is incorrect and denied specifically.

Further, it is to submit that there is no change in the procedure for computation of DSM Charges of RE Generators in MPERC (FSDSM) Regulations 2018 and in Annexure-I (Detailed Operating Procedure) of First Amendment of MPERC (FSDSM) Regulations 2018 which may cause any financial burden on the RE Generators. The procedures for various activities such as metering and forecasting / scheduling to be performed under MPERC (FSDSM) Regulations 2018 were already indicated in various regulations of CERC / MPERC notified prior to notification of this regulation.

- xxviii. *The reply to this issue regarding scheduling and no. of revisions raised in this para have already been submitted in reply to para 27 to 29. However, regarding Bank Guarantee it is to submit that initially some of the Wind / Solar generators reluctant to clear their dues towards DSM Pool Account and there was no obligation on the Generators / QCA to open Letter of Credit in case of default in payment of DSM charges upto One year as per clause 9(4) of MPERC (FSDSM) Regulations -2018. Thus, to ensure payment to the DSM Pool Account by the Wind / Solar Generators through QCA, clause 8 of Annexure-I of First amendment of MPERC (FSDSM) Regulations -2018 is introduced for submission of Bank Guarantee as a Payment Security Mechanism.*
- xxix. *It is to submit that MPERC (FSDSM) Regulations 2018 mandates the responsibility to QCA for coordination with STU / SLDC for metering, data collection / transmission, communication. The responsibility for testing / calibration of meters installed at the pooling station is also assigned to QCA in First amendment of MPERC (FSDSM) Regulations 2018.*
- xxx. *It is to submit that SLDC during the validation of meter data has observed that some of the meters installed at the pooling station of RE Generators have time drift including that of petitioner. SLDC had immediately requested to QCA and Licensee vide letter dated 29.10.2018 and 31.08.2019 to get the meters time synchronized. SLDC has also mentioned the list of meters having time drift in the Deviation Accounts issued for the month of Sept 2018 onwards.*
- xxxi. *SLDC has also furnished the data of meters having time drift installed at the RE pooling stations to their QCA for verification with SCADA data, except (4) nos of pooling station including that of petitioner pooling station, the QCAs of all the other pooling stations has applied the time correction and furnished the meter data matching with SCADA data. The QCA of the petitioner has requested to SLDC for applying time correction in meter data prior to issuance of DSM Account for the month of March 2019. Thus, SLDC has applied the time correction in meter data w.e.f. March 2019 and accordingly the Deviation Charges of petitioner pooling station was computed by SLDC and uploaded on SLDC website. The*

petitioners had time synchronized their meters on 5th Feb 2020 after repeated persuasion from SLDC.

As per clause 7(ii) of Annexure-I of First amendment of MPERC (FSDSM) Regulations 2018, the QCA can file comments / rectification request to SLDC within 15 days from the date of publishing of the DSM Account on SLDC website. However, neither QCA nor petitioner has filed the request to SLDC for rectification / revision of Accounts due to time drift in meters for the period prior to March 2019 so far.

xxxii. *The petitioner in the sub para (a to c and f to g) has made payer before the Hon'able Commission. Regarding sub para (d & e), the comments of Respondent No.2 (SLDC) are as under:*

(d) It is to submit that SLDC had already applied the time correction in meter data recorded in the ABT meter installed at the pooling station of petitioner w.e.f. March 2019 and accordingly computed the DSM Charges of the petitioner. Thus, the DSM Accounts for the period from 04.10.2019 to 05.02.2020 are correct and do not require revision due to time drift in meters.

(e) It is to submit that DSM Accounts for the period October 2018 to March 2019 shall be revised by SLDC on receipt of requisition for rectification of DSM Accounts and SCADA data from the QCA of the petitioner.

xxxiii. *The petitioner had made Madhya Pradesh Power Transmission Co. (MPPTCL) as respondent no.1 and State Load Despatch Centre (SLDC) as respondent no. 2. It is to submit that issues raised by the petitioner and relief sought in the petition is related with the functions and duties of SLDC. M.P. Power Transmission Co. Ltd. (MPPTCL) is no way related to the issues raised and relief sought in the petition. Thus, the reply on the petition is not required to be submitted by the respondent no.1 M.P Power Transmission Co. Ltd. (MPPTCL). The reply of Respondent No.2 (SLDC) may also be considered as a reply of Respondent No.1 (MPPTCL).*

7. The petitioner M/s AMPL Cleantech (P) Ltd. filed its rejoinder to the reply filed by the Respondent. The petitioner broadly submitted the following:

- i. *The present Petition has been moved by the Petitioner [AMPL Cleantech (P) Limited] against the decision of the Respondents to unilaterally issue DSM statements and implementing the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of wind and solar generating stations) Regulations, 2018 (hereinafter referred to as the "Regulations") issued by the Hon'ble Commission, in the absence of any approved 'Detailed Procedure' as envisaged under Regulation 6(5) of the said Regulations.*
- ii. *The Petitioner is seeking exercise of power of the Hon'ble Commission to issue directions to remove difficulty in implementation of the aforesaid Regulations, and to clarify that the said Regulations would be implemented only prospectively from 04.10.2019, i.e., the date of notification of the approved 'Detailed Procedure'.*

- iii. *The present rejoinder is being filed by the Petitioner to the reply filed by the Respondent No. 2 [Madhya Pradesh State Load Despatch Centre] (hereinafter referred to as the "SLDC") to the Petitioner's petition.*
- iv. *At the outset, it is stated that the contents of the reply filed by the SLDC are wrong, devoid of merit and thus, denied. Save as expressly admitted herein, each contention and averment raised by the SLDC in its reply is denied as if set out in full and traversed herein seriatim.*
- v. *While there is no dispute on the submission made by the SLDC that the Regulations have been notified for safe, reliable and economic operation of the grid, the SLDC seems to be using the Regulations to earn money/impose high levels of penalty, rather than for grid discipline. It is further submitted that the absence of procedure for the period between 20.04.2018 and 04.10.2019 has even affected the SLDC and its decision-making inasmuch as, for the said period, intra-state generators who have submitted their schedule, but their generation data was not made available (either wholly or partly, and for reasons ranging from absence of meter data to errors in transmission of the generation data) to the SLDC, the SLDC has not demanded payment of any DSM Charges in such cases and has treated such cases as 'zero deviation'. This particular lacuna has infact only been addressed now after publication of the 'Detailed Procedure'. This shows the arbitrariness in the decision-making process as the uncertainties were not accounted for in the absence of the approved Detailed Procedure, which was notified only on 04.10.2019.*
- vi. *There is no doubt that once the schedules are given, the generators should adhere to the schedule and minimize deviation. However, when there is no clarity as to how the scheduling and deviation would be treated to any of the parties involved, no penalties should be imposed. The SLDC has not met this case but is making general submissions on the DSM mechanism. The Petitioner reiterates the contents of the Petition filed and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*
- vii. *The contents of para-wise reply filed by SLDC to Paras 1 to 4 of the petition are wrong and are denied. It is stated that the Regulations, notified on 20.04.2018, provided for an essential pre-requisite of there being a 'Detailed Procedure' formulated by the SLDC and approved by the Hon'ble Commission for its implementation. However, inspite of the statutory obligation, the SLDC did not put any 'Detailed Procedure' as approved by the Hon'ble Commission in place within the time frame (i.e., 3 months) as envisaged under the Regulations, but started publishing DSM Accounts for renewable energy-based generators for the period from August 2018 onwards on its portal, when the approved Detailed Procedure itself was only notified on 04.10.2019, i.e., after more than 17 months of the issuance of the Regulations. It needs no reiteration that the power to levy and collect any penalties can only be exercised in the manner and as per procedure prescribed for such levy, which requires approval of the Hon'ble Commission.*
- viii. *In absence of an approved Detailed Procedure, there were a number of issues faced by the Petitioner on which there was no clarity whatsoever and it was practically impossible to implement the Regulations and ensure seamless forecasting and scheduling:*
 - (a) *While the Proviso to Regulation 6(2) provides that revision in generation schedule within a day was permitted, there was no clarity on the number of revisions permitted. Wind and Solar generation being entirely dependent on weather conditions, local site-specific*

conditions and inherently variable, the Detailed Procedure was essential for the implementation of the Regulations. While most States have adopted the CERC Regulations which allow for 16 revisions in 24 hours, there was no clarity in the present case until the Detailed Procedures were published.

- (b) Further, without there being any clarity about the Detailed Procedure, operational framework and commercial applicability of the Regulations, it was not possible to ascertain the validity of the method adopted for arriving at accurate DSM Charges for each pooling station.*
- (c) In fact, the standard practice adopted in other States is to have a mock trial period before implementation of the DSM Regulations. The mock trial period is required to check the accuracy of proposed framework and have a practical experience of the problems to formulate workable solutions. Also, once the detailed procedure is formulated, the QCA will be required to make changes in the software, hardware and the process as to comply with such approved procedures to ensure minimum deviation. This calls for allowing a reasonable time after the approved procedures are made available for implementation.*
- (d) Interestingly, there were certain pooling sub-stations in which the generators did not submit data to the SLDC, and the said data was not being included in calculation of final DSM Accounts. Therefore, to that extent, the non-performers i.e., pooling stations who did not submit any data to the SLDC, were incentivized for their non-performance.*
- ix. Moreover, as is stated above, the absence of procedure for the period between 20.04.2018 and 04.10.2019 has even affected the SLDC and its decision-making inasmuch as, for the said period, intra-state generators who have submitted their schedule, but their generation data was not made available (either wholly or partly, and for reasons ranging from absence of meter data to errors in transmission of the generation data) to the SLDC, the SLDC has not demanded payment of any DSM Charges in such cases, and has treated such cases as 'zero deviation'. This particular lacuna has infact only been addressed after publication of the Detailed Procedure on 04.10.2019.*
- x. Further, several projects in the State, including that of the Petitioner were facing Time Synchronization/RTC issues with their billing meters. The meters were not time synchronized and thus the generation data scheduled by QCA for a particular time block is significantly different from the actual generation data recorded in the ABT meters for every 15 Minutes Time Block. Since, MRI Data of the billing meters with time drift were considered by MPSLDC for DSM computation, this led to incorrect computation of the DSM charges.*
- xi. Contrary to all of the above, in its reply, the SLDC contends that the Regulations had sufficient clarity in every respect for implementation and did not require any further elaboration/clarity. The SLDC has also stated that it implemented the Regulations w.e.f. August 2018 itself. However, later in the reply, the SLDC thereafter takes a U-turn and states that it had convened a meeting with the RE Generators, Developers and QCAs on 23.10.2018 and addressed the issues/problems faced in implementation of the Regulations. The stand of the SLDC is self-contradictory, and is ample evidence of the uncertainty in the absence of the Detailed Procedure. There is no room for uncertainty in such a regulatory framework, more so when the uncertainty leads to levy of penalties.*

- xii. *It is wrong and denied that no additional condition has been incorporated in the Detailed Procedure, which may cause any additional financial burden on the RE generators. There is also no basis for the SLDC to stipulate that the RE generators, instead of taking steps to comply with the Regulations, were engaged in extending the date of commercial settlement by raising settled issues. The Detailed Procedure is the operational documents which implements the provisions of the Regulations. It is impossible to prove either for the Petitioner or for the SLDC as to how each would have arranged its affairs, had the Detailed Procedure been available along with the Regulations itself. SLDC, being a statutory organization and having a regulatory obligation to get the Detailed Procedure approved from the State Commission in a time bound manner, cannot today make sweeping statements to the effect that the RE generators are searching for an escape route for non-payment of DSM Charges. The prayer of the Petitioner is quite reasonable and only for implementation of the Regulations from a date when they were practically implementable. This is a genuine difficulty and this Hon'ble Commission has full powers to address such a difficulty by passing appropriate orders.*
- xiii. *The SLDC has admitted that while issuing the first DSM Account in August 2018, it observed time drift in the ABT meter installed at the 10 MW Susner pooling station. It is not clear as to why the SLDC chose to inform the above to the Petitioner's QCA only on 29.10.2018 and 31.08.2019 when it realized that on a month-to-month basis, the time drift would lead to absurd results and the levy of high DSM charges on the Petitioner. Such delay by SLDC in intimation of the time drift in ABT meters resulted in inaccurate and substantially high DSM charges, which could ultimately be resolved in the month of February 2020.*
- xiv. *The various letters written by SLDC regarding the time drift issue in ABT meters clearly show that the issue was not in Petitioner's control and could only be resolved in coordination with the SLDC, QCA, the distribution & transmission licensees. The SLDC has failed to appreciate that the meters are in custody of MPPKVCL/Discom, MPPTCL/transmission licensee, and the Petitioner is prohibited from even touching the meter and tampering with the meter is a punishable offence under the Electricity Act, 2003.*
- xv. *Further, the SLDC, while admitting that time drift issue was not in control of the Petitioner, stated that the same was QCA's responsibility. The SLDC cannot contend that even though it was not the Petitioner's fault, the DSM Charges would still be levied on and recovered from the Petitioner. Thus, as a principle of natural justice, the Petitioner cannot be penalized for fault beyond its control.*
- xvi. *There is also no merit in the contention of SLDC that it has corrected the meter data matching with SCADA data from March 2019 to February 2020, and computed the DSM charges correctly. It is stated that due to unavailability of actual time drift data, the SLDC has simply adjusted the start of generation of ABT meter as per the starting block of generation according to the SCADA data. Since the time drift for all months / periods in question would not be the same, only adjusting / matching the generation block to the SCADA data will not result in computation of accurate DSM charges.*
- xvii. *Without prejudice to the contention that the DSM Charges for this period (October 2018 to 05.02.2020) should not be levied at all, the fairest manner to arrive at the accurate charges would be to let the distribution / transmission licensee, which is the custodian of the ABT meters, identify*

and provide the exact time drift for each time block in question and place the same before this Hon'ble Commission. The Petitioner reiterates the contents of the Petition filed and states that the contentions and averments of SLDC to the contrary are wrong and are denied.

- xviii. *The contents of para-wise reply filed by SLDC to Paras 11 and 16 of the Petition are wrong and are denied. The same are mere repetition of the contents of the para-wise reply to paras 1 to 4, to which the Petitioner has already dealt in detail in paras 7 to 12 above. The same are not being repeated for the sake of brevity. The Petitioner reiterates the contents of paras 7 to 12 above and the contents of the Petition filed, and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*
- xix. *Since the SLDC has stated that no reply is required to Paras 13 & 14 of the Petition, the contents thereof stand admitted. The SLDC admits that Regulation 6(a)(5) provided for the SLDC to formulate a Detailed Procedure, which would include plan for data telemetry, formats of forecast submission, No. of revisions and other details in this regard, and thereafter get the same approved by this Hon'ble Commission.*
- xx. *The contents of para-wise reply filed by SLDC to Para 15 of the Petition are wrong and are denied. It is reiterated that Regulation 10 of the Regulations mandates the SLDC to formulate, within 3 months of the notification of the Regulations, the "Operating Procedures and Business Rules" for construction of State Power Committee, and the same is thereafter approved by this Hon'ble Commission. The Petitioner reiterates the contents of the Petition filed, and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*
- xxi. *The contents of para-wise reply filed by SLDC to Paras 17 & 18 of the Petition are wrong and are denied. As is stated in paras 13 to 15 above, the SLDC has admitted that while issuing the first DSM Account in August 2018, it observed time drift in the ABT meter installed at the 10 MW Susner pooling station. It is not clear as to why the SLDC chose to inform the above to the Petitioner's QCA only on 29.10.2018 and 31.08.2019 when it realized that on a month-to-month basis, the time drift would lead to absurd results and the levy of high DSM charges on the Petitioner. Such delay by SLDC in intimation of the time drift in ABT meters resulted in inaccurate and substantially high DSM charges which could ultimately be resolved in the month of February 2020.*
- xxii. *The various letters written by SLDC regarding the time drift issue in ABT meters clearly show that the issue was not in Petitioner's control and could only be resolved in coordination with the SLDC, QCA, the distribution & transmission licensees. The SLDC has failed to appreciate that the meters are in custody of MPPKVCL/Discom, MPPTCL/transmission licensee and the Petitioner is prohibited from even touching the meter and tampering with the meter is a punishable offence under the Electricity Act, 2003. Further, the SLDC, while admitting that time drift issue was not in control of the Petitioner, stated that the same was QCA's responsibility. The SLDC cannot contend that even though it was not the Petitioner's fault, the DSM Charges would still be levied on and recovered from the Petitioner. Thus, as a principle of natural justice, the Petitioner cannot be penalized for fault beyond its control. The Petitioner reiterates the contents of the Petition filed, and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*
- xxiii. *The contents of para-wise reply filed by SLDC to Paras 19 & 20 of the Petition are wrong and are denied. As is stated in paras 16 and 17 above, it is reiterated that there is no merit in the contention*

of SLDC that it has corrected the meter data matching with SCADA data from March 2019 to February 2020, and computed the DSM charges correctly. It is stated that due to unavailability of actual time drift data, the SLDC has simply adjusted the start of generation of ABT meter as per the starting block of generation according to the SCADA data. Since the time drift for all months / periods in question would not be the same, only adjusting / matching the generation block to the SCADA data will not result in computation of accurate DSM charges.

- xxiv. *Without prejudice to the contention that the DSM Charges for this period (October 2018 to 05.02.2020) should not be levied at all, the fairest manner to arrive at the accurate charges would be to let the distribution / transmission licensee which is the custodian of the ABT meters identify and provide the exact time drift for each time block in question and place the same before this Hon'ble Commission. The Petitioner reiterates the contents of the Petition filed and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*
- xxv. *The contents of para-wise reply filed by SLDC to Para 21 of the Petition are wrong, and are denied. It is completely absurd for the SLDC to contend that the procedure, formats and other details, that were needed to be provided under the Detailed Procedure, were already indicated in various regulations of CERC / MPERC notified prior to notification of the Regulations. If such was the case, there would have been no need for the SLDC to formulate the Detailed Procedure, which was notified on 04.10.2019 after approval of this Hon'ble Commission. Infact, the Petitioner's case is that it has appointed the QCA and complied with the Regulations even in the absence of the Detailed Procedure by giving proper schedule as understood by the Petitioner. However, the prayer of the Petitioner is that no DSM or penal charges should be levied by the SLDC for the period between August 2018 to 04.10.2019 in view of lack of clarity on practical implementation of the Regulations.*
- xxvi. *It is also wrong on the part of the SLDC to contend that since the RE Generators were already complying with the Regulations, this Hon'ble Commission has deleted the said Regulation 6(a)(5) vide the 1st Amendment to the Regulations. On the contrary, the Regulation 6(a)(5), which provided for formulation of the Detailed Procedure by SLDC, has been deleted on account of the SLDC formulating the said Detailed Procedure, which was approved by this Hon'ble Commission and was published as an Annexure to the said 1st Amendment. The contentions of the SLDC in this regard are completely vague and baseless. The Petitioner reiterates the contents of the Petition filed and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*
- xxvii. *The contents of para-wise reply filed by SLDC to Para 21 of the Petition are wrong, and are denied. Regulation 6(b) of the Regulations prescribed charges for non-compliance of the forecasting. Further, Proviso to Regulation 6(a)(2) permitted RE generators, such as the Petitioner, to revise their Generation Schedule in accordance with the procedure specified under the Madhya Pradesh Electricity Grid Code, 2005 ("M.P. Grid Code"). However, at the time when these Regulations were notified, i.e., on 20.04.2018, the M.P. Grid Code did not permit revision of schedule by RE Generators, such as the Petitioner. The 4th Amendment to the M.P. Grid Code notified on 05.12.2008 only permitted the State Sector Generating Station ("SSGS") to revise its schedule. The relevant provision from the 4th Amendment to the M.P. Grid Code reads as below:*

"8.6 RULES FOR REVISION IN SCHEDULE IN REAL TIME OPERATION

*i. 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.*

.....”

- xxviii. *The aforesaid void between the Regulations and the M.P. Grid Code led to an anomalous situation wherein while the Regulations permitted the RE generators to revise their schedule, however, the same could not be done by the RE generators, including the Petitioner, as a corresponding amendment was not carried out in the M.P. Grid Code and the Petitioner was deprived from revising its schedule.*
- xxix. *The contents of para-wise reply filed by SLDC to Para 23 of the Petition are wrong and are denied. The same are mere repetition of the contents of the para-wise reply to paras 1 to 4, to which the Petitioner has already dealt in detail in paras 7 to 12 above. The same are not being repeated for the sake of brevity. The Petitioner reiterates the contents of paras 7 to 12 above and the contents of the Petition filed, and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*
- xxx. *The contents of para-wise reply filed by SLDC to Para 24 of the Petition are wrong and are denied. It is stated that though the DSM Accounts were being published by the SLDC since August 2018, however billing of the same by SLDC is still not being done. Thus, evidently, no such occasion has occurred till the filing of the present petition which warranted filing of any request before this Hon'ble Commission. Further, several petitions have been filed by the RE generators on this issue before this Hon'ble Commission in the same time frame as the Petitioner and thus, it is wrong on part of the SLDC to contend that the Petitioner ought to have approached this Hon'ble Commission earlier. The Petitioner reiterates the contents of the Petition filed and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*
- xxxi. *Since the SLDC has stated that reply to this para has already been submitted in reply to preceding paras, the relevant preceding paras of this rejoinder are accordingly reiterated.*
- xxxii. *The contents of para-wise reply filed by SLDC to Para 26 of the Petition show the uncertainty & confusion, and also a selective attitude adopted by the SLDC qua implementation of the Regulations. The SLDC has admitted that the Distribution Licensees had not furnished the details of certain pooling stations and the details could also not be obtained through AMR, and therefore, no financial liability has been cast on such generators. However, other generators who ensured availability of metering and other relevant data to the SLDC are being penalized by the SLDC. Moreover, the Petitioner, whose billing meters were facing Time Synchronization/RTC issues, and thus were recording generation data in time drift for every 15 Minutes Time Block, leading to incorrect computation of the DSM charges, no such leniency has been shown, even though the same was beyond the Petitioner's control. The meters were in the custody of the MPPKVVCL/MPPTCL and were required to be calibrated by coordination between the Petitioner, QCA and the distribution & transmission licensee. The Petitioner reiterates the contents of the Petition filed and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*

- xxxiii. *The contents of para-wise reply filed by SLDC to Paras 27 to 29 of the Petition are wrong and are denied. The same is mere repetition of the preceding paras and as such, do not require a separate response. The Petitioner reiterates the contents of the preceding paragraphs of this rejoinder and the Petition filed and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*
- xxxiv. *Since the SLDC has stated that reply to this para has already been submitted in reply to para 26, the rejoinder to para 26 above is reiterated. The Petitioner reiterates the contents of the Petition filed and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*
- xxxv. *Since the SLDC has stated that reply to this para has already been submitted in reply to paras 27 to 29, the rejoinder to paras 27 to 29 above is reiterated. The Petitioner in Para 31 of the petition has stated that in the absence of Detailed Procedure which was notified on 04.10.2019, there was no clarity on several issues, such as scheduling format, no. of permissible revisions, Bank Guarantee, etc. The SLDC is admitting that there was no provision regarding submission of Bank Guarantee before the Detailed Procedure was notified and the same were introduced, for the first time, only in the Detailed Procedure. The Petitioner reiterates the contents of the Petition filed and states that the contentions and averments of SLDC to the contrary are wrong and are denied.*

8. The Respondent No. 2 (SLDC) filed its final common written submission (in similar other petitions) as follows:

- 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 inter alia 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. *In this regard, it is pertinent to note that the petitioner in Petition No.16/2020 (Ostro Wind) has started doing its real time revisions in generation from 01.08.2018 and by way of demonstration it is submitted that on 01.08.2018 it has undertaken as many as 15 real time revisions.*
- vi. ***Similarly, the petitioner in Petition No.63/2020 (AMPL Cleantech) has on 02.08.2018 started its real time revisions and as on 02.08.2018 has undertaken as many as three real time revisions.***
- vii. *Further, the petitioner in Petition No.23/2020 (DJ Energy) has on 02.08.2018 started the real time revisions and has undertaken 15 real time revisions as on 02.08.2018.*
- viii. *Lastly 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.*
- ix. *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.*
- x. *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.*
- xi. *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.

- xii. *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.***
- xiii. *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 Hon'ble 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.*
- xiv. *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.*
- xv. *In view of the submissions made hereinabove, it is, therefore, prayed that the instant petitions may kindly be dismissed.*

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

- i. *The present Written Submissions are being filed to summarize the arguments made by the Petitioner on 09.02.2021 before this Hon'ble Commission in the instant Petition.*
- ii. *It is stated that the petition has been filed against the decision of the MP-SLDC to unilaterally issue DSM statements and implementing the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of wind and solar generating stations) Regulations, 2018 ("DSM Regulations") issued by the Hon'ble Commission, without there first being any approved Detailed Procedure under Regulation 6(5) of the DSM Regulations.*
- iii. *The said DSM Regulations were notified by this Hon'ble Commission on 20.04.2018, the objective of which, as stated in Regulation 3, is to facilitate large scale integration of wind and solar power while maintaining the grid stability, reliability and security as envisaged under the*

Grid Code, through forecasting, scheduling, and commercial mechanism for deviation settlement of wind and solar generators.

- iv. *Further, Regulation 6(a) provided for a “procedure” to be adopted for the purpose of forecasting, scheduling and elimination of gaming. Sub-clause (5) therein, provided that the plan for data telemetry, formats of forecast submission and other details, are to be provided in the ‘Detailed Procedure’ to be prepared by the MP-SLDC and approved by this Hon’ble Commission. (@pages 21-22 of the Petition)*
- v. *Therefore, for implementation of the DSM Regulations, an essential pre-requisite is of there being a ‘Detailed Procedure’ formulated by the MP-SLDC, and approved by the Hon’ble Commission. The purpose of having the ‘Detailed Procedure’ is to have clarity on many practical aspects which would otherwise cause difficulties in implementation of the DSM Regulations. Thus, till the time the ‘Detailed Procedure’ formulated by the MP-SLDC, and approved by the Hon’ble Commission was not published, the DSM Regulations could not have been implemented.*
- vi. *However, inspite of the statutory obligation, the MP-SLDC did not put forth any ‘Detailed Procedure’ for approval of the Hon’ble Commission within the time frame as envisaged under the DSM Regulations, but started issuing DSM Statements for renewable energy-based generators for the period from August 2018, whereas the ‘Detailed Procedure’ was only approved and notified on 04.10.2019, i.e., after more than 17 months of the issuance of the DSM Regulations. (@page 47 of the Petition)*
- vii. *The Petitioner therefore, is only praying that the DSM Regulations be implemented prospectively from the date of notification of the approved ‘Detailed Procedure’ i.e., from 04.10.2019, as it is only after the said ‘Detailed Procedure’ was notified that the issues which were being faced by the Petitioner and the other RE generators in the State in implementing the DSM Regulations and ensure seamless forecasting and scheduling got resolved.*
- viii. *In absence of the approved Detailed Procedure, as stated above, there was no clarity whatsoever on the following issues and it was practically impossible to implement the DSM Regulations and ensure seamless forecasting and scheduling:*
 - (a) *While the Proviso to Regulation 6(a)(2) provides that revision in generation schedule within a day was permitted, there was no clarity on the number of revisions permitted. Wind and Solar generation being entirely dependent on weather conditions, local site-specific conditions and inherently variable, the Detailed Procedure was essential for the implementation of the DSM Regulations. While most states have adopted the CERC Regulations which allow for 16 revisions in 24 hours, there is no clarity in the present case. (@pages 21-22 of the Petition)*
 - (b) *Further, without there being any clarity about the Detailed Procedure, operational framework and commercial applicability of the DSM Regulations, it was not possible to ascertain the validity of the method adopted for arriving at DSM Charges for each pooling station.*
 - (c) *In fact, the standard practice adopted in other states is to have a mock trial period before implementation of the DSM Regulations. The mock trial period is required to check the accuracy of proposed framework and have a practical experience of the problems to*

formulate workable solutions. Also, once the detailed procedure is formulated, the QCA is required to make changes in the software and the process as to comply with such approved procedures. This calls for allowing a reasonable time after the approved procedures are made available for implementation.

- ix. *The absence of 'Detailed Procedure' for the period between 20.04.2018 and 04.10.2019 has even affected the MP-SLDC and its decision-making inasmuch as, for the said period, intra-state generators who have submitted their schedule, but their generation data was not made available (either wholly or partly, and for reasons ranging from absence of a meter to errors in transmission of the generation data) to the MP-SLDC, the MP-SLDC has not levied any DSM Charges, and has treated such cases as cases of 'zero deviation'. This particular lacuna has infact only been addressed after publication of the Detailed Procedure.*
- x. *Interestingly, there were certain pooling sub-stations which did not submit data to the MP-SLDC, and the said data was not being included in calculation of final DSM Accounts. Therefore, to that extent, the non-performers i.e., pooling stations who did not submit any data to the MP-SLDC, were incentivized for their non-performance.*
- xi. *Further, there were certain pooling sub-stations which did not appoint the QCA and thus, did not furnish their forecasting and availability data to MP-SLDC. The MP-SLDC computed the DSM Charges for such pooling stations considering the availability and schedules as "zero". Therefore, to that extent, the pooling stations who did not appoint the QCA were also incentivized.*
- xii. *In the arguments addressed, the MP-SLDC has contended that the DSM Regulations had sufficient clarity in every respect for implementation and did not require any further elaboration/clarity. The MP-SLDC has further contended that all the issues / problems faced by the RE generators in implementation of the DSM Regulations were addressed in the meeting dated 23.10.2018. The stand of the MP-SLDC is not only self-contradictory, but also against the records of the case.*
- xiii. *In the meeting dated 23.10.2018 held between the MP-SLDC, RE Generators, Developers and the QCAs, the RE generators had pointed out certain issues in implementation of the DSM Regulations, which issues were flagged by MP-SLDC. However, they were not resolved. The same has been explained in detail by M/s Ostro Madhya Wind Private Limited in its Petition No. 16/2020. In fact, the MP-SLDC advised the generators to approach this Hon'ble Commission to get the said issues resolved.*
- xiv. *The MP-SLDC, in the hearing, further argued that some of the RE generators have revised their schedules from 4 times to 16 times in a day, and that the same signifies that the RE generators were aware of the revisions in the schedules. The said contention of the MP-SLDC is ex-facie erroneous and in fact, the varying numbers of revisions made by the RE generators themselves proves that there was no clarity on the number of revisions allowed to a RE generator during the day.*
- xv. *In fact, it is the Petitioner's case that it has complied with the DSM Regulations, as understood by the Petitioner, even in the absence of the Detailed Procedure by giving proper schedule. However, the only prayer is that the DSM charges should not be levied by the MP-SLDC for the*

period from August 2018 to 04.10.2019, in view of lack of clarity on practical implementation of the DSM Regulations.

- xvi. *Further, if indeed the contention of the MP-SLDC is accepted that the DSM Regulations were complete in every aspect and could be implemented without any clarity/clarification, there would have been no requirement to notify the 'Detailed Procedure' or the first Amendment on 04.10.2019.*
- xvii. *Without prejudice to the foregoing, the Petitioner submits that several projects in the State, including that of the Petitioner were facing Time Synchronization/RTC issues with their billing meters. The meters were not time synchronized and thus, were recording generation data in time drift for every 15 Minutes Time Block. Since, MRI Data of the billing meters with time drift were considered by MPSLDC for DSM computation, this led to incorrect computation of the DSM charges.*
- xviii. *The said meters, of the 10 MW Solar Power project of the Petitioner, installed at Susner Grid sub-station of MPPTCL only came to be corrected in presence of MPPTCL representatives and officers of the distribution licensee/MPPKVCL on 05.02.2020.*
- xix. *The MP-SLDC in the hearing fairly admitted the above issue being faced by the Petitioner, and had stated that an arrangement had been worked out by MP-SLDC for the time period in question when the time synchronization issue persisted. The MP-SLDC however did not delve upon the details of the arrangement so worked out by the MP-SLDC, in the hearing.*
- xx. *On the said arrangement, in its reply, the MP-SLDC stated that it has corrected the meter data matching with SCADA data from March 2019 to 05.02.2020, when the time synchronization issue was resolved, and computed the DSM charges correctly. With respect to the previous period of August 2018 to February 2019, the MP-SLDC suggested to apply the same methodology in computation of the DSM charges. However, this methodology is not correct.*
- xxi. *It is stated that due to unavailability of actual time drift data, the MP-SLDC has simply adjusted the start of generation of ABT meter as per the starting block of generation according to the SCADA data. Since the time drift for all months / periods in question would not be the same, only adjusting / matching the generation block to the SCADA data will not result in computation of accurate DSM charges. Thus, the arrangement as sought to be worked out by the MP-SLDC for the time period in question when the Petitioner were facing time synchronization issues in its billing meters will only add fuel to the said issue.*
- xxii. *Without prejudice to the above contention that the DSM Charges for this period (August 2018 to 05.02.2020) should not be levied at all, the fairest manner to arrive at the accurate charges would be to let the distribution / transmission licensee, which is the custodian of the ABT meters, identify and provide the exact time drift for each time block in question and place the same before this Hon'ble Commission.*
- xxiii. *In the alternative, the Hon'ble Commission may extrapolate the data for the period after 05.02.2020 (post resolution of the time synchronization issue) to the prior period, when the time synchronization issue persisted. A table depicting the DSM Charges shown to be accrued to the Petitioner's 10 MW Susner plant is attached hereto and marked as Appendix-1. The computations in the table show that the average monthly DSM charges after resolution of the*

time synchronization issue only comes to about Rs. 36,667, whereas, the same monthly average, for the time period when the time drift issue persisted, comes to about Rs. 3,25,650.

- xxiv. *In view of the above, the Petitioner requests this Hon'ble Commission to invoke its 'power to relax' and 'power to issue directions' under Regulations 11 and 12 of the DSM Regulations to direct that the DSM Regulations would be implemented only prospectively from 04.10.2019, i.e., from the date of notification of the approved 'Detailed Procedure' by the MP-SLDC, and consequently, set aside the DSM statements issued by MP-SLDC on the Petitioner till such date. The said Regulations 11 and 12, inter-alia, read as under: (@page 26 of the Petition)*

"11. Power to Relax.

The Commission may by general or specific 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 any affected party, issue such directions as may be considered necessary in furtherance of the objective and purpose of these Regulations."

- xxv. *The Hon'ble Appellate Tribunal in various judgments has held that the 'Power to relax' can be invoked if the Regulations in any manner cause hardships to a party.*

- xxvi. *Thus, the Hon'ble Commission has ample powers under the above Regulations to issue directions to the MP-SLDC in case of difficulties being faced by any concerned party in the implementations of the DSM Regulations. The practical difficulties explained above are ample evidence of difficulties and issues having faced by the Petitioner.*
- xxvii. *In the alternative, on account of the time synchronization issue being faced by the Petitioner, the Hon'ble Commission may direct the MP-SLDC to not levy DSM Charges for the period from August 2018 to 05.02.2020, or direct the MP-SLDC to re-compute the DSM charges for the period from August 2018 to 05.02.2020 in view of the methodology as explained in para 23 above.*

Commission's Observation and Findings:

10. 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 petitioner, M/s. AMPL Cleantech (P) Ltd. is engaged in the business of generation of renewable energy and has been operating three solar power generating projects, namely 30 MW project (20MW+10 MW) at Alote and a 10 MW project at Susner in the State of Madhya Pradesh. The subject petition has been filed under Section 86 of the Electricity Act, 2003 read with Regulation 6(5), 10 and 12 of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations)

Regulations, 2018 and Regulation 46 of the MPERC (Conduct of Business) Regulations, 2004, seeking directions of Commission to remove difficulty in implementation of the Regulations.

- (ii) The petitioner is seeking directions to remove difficulty in implementation of MPERC FSDSM Regulations, 2018 on the following three grounds:
- (a) Difficulty in implementation of FSDSM Regulations, 2018 due to absence of detailed operating procedure in the Regulations, 2018.
 - (b) The billing meters installed at the Grid sub-station of the Respondent no.1 faced time synchronization/time drift issues, which has resulted in incorrect computation and accrual of the DSM charges to the Petitioner.
 - (c) That the principal FSDSM Regulations, 2018 itself contemplated revision of schedule by a generating company but the petitioner was not able to revise its schedules due to ambiguity/vacuum in applicable MP Electricity Grid Code.
- (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) The 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 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. 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.

11. The petitioner has broadly submitted the following in the petition and in their additional submissions:

- i. The 'Detailed Procedure' under Regulation 6(5) is a pre-requisite for implementation of the Regulations. Without there being an approved 'Detailed Procedure' as envisaged in the Regulations, there are a number of practical difficulties which arise in implementation of the Regulations, for which the Petitioner is seeking directions of the Hon'ble Commission.
- ii. The 'Detailed Procedure' was approved on 25.09.2019 and was notified in the Official Gazette on 04.10.2019. However, for the period prior to 04.10.2019, the Respondents had unilaterally published DSM statements on the MPSLDC portal since August 2018. Even though the accounts were published, no demands were raised by MPSLDC since even the MPSLDC did not have any clarity on the procedure to be followed.
- iii. Further, the billing meters installed at the Grid sub-station of the Respondent no.1 has faced time synchronization/time drift issues, which has resulted in incorrect computation and accrual of the DSM charges to the Petitioner.
- iv. It is stated that there was no clarity on the operation and implementation of the Regulations, till the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Statement Mechanism and Related Matters of Wind and Solar Generating Stations) (First Amendment), Regulations, 2019, including the 'Detailed Procedure' was notified on 04.10.2019. A copy of the same is attached as Annexure D. Therefore, it was only from 04.10.2019 that there was clarity on how the forecasting and scheduling will be done under the Regulations.
- v. Regulation 6(a) provides for the 'Procedure' to be adopted for the purpose of forecasting, scheduling and elimination of gaming. Further, Regulation 6(5) therein, provides that the plan for data telemetry, formats of forecast submission and other

details, are to be provided in the 'Detailed Procedure' to be prepared by the SLDC and approved by the State Commission.

- vi. Regulation 10 thereafter, mandates the Respondents to formulate, within three (3) months of the notification of the said Regulations, the 'Operating Procedures and Business Rules' for construction of State Power Committee, and the same is thereafter to be approved by the Hon'ble Commission.
- vii. Therefore, for implementation of the Regulations, an essential pre-requisite is of there being an approved 'Detailed Procedure' formulated by the Respondents. The purpose of having the 'Detailed Procedure' is to have clarity on many practical aspects which would otherwise cause difficulties in implementation of the Regulations.
- viii. Without prejudice to the foregoing, the Petitioner submits that several projects in the State, including that of the Petitioner were facing Time Synchronization/RTC issues with their billing meters. The meters were not time synchronized and thus were recording generation data in time drift for every 15 Minutes Time Block. Since, MRI Data of the billing meters with time drift were considered by MPSLDC for DSM computation, this led to incorrect computation of the DSM charges.
- ix. The adjustments in DSM charges for the period from October 2018 till 05.02.2020 need to be rectified by the Respondents, since the time drift issue was for technical reasons beyond the control of the Petitioner. The DSM charges shown to be accrued to the Petitioner in respect of 10 MW Susner plant on SLDC website for the period from October, 2018 to January, 2020.
- x. In fact, the standard practice adopted in other states is to have a mock-trial period before implementation of the Regulations. The mock-trial period is required to check the accuracy of proposed framework and have a practical experience of the problems to formulate workable solutions. Also, once the 'Detailed Procedure' is formulated, the QCA is required to make changes in the software and the process, so as to comply with such approved procedures. This calls for allowing a reasonable time after the approved procedures are made available for implementation.
- xi. It is respectfully submitted that such an approach cannot be permitted. The operation and implementation of the Regulations, can only be prospective i.e. after the approval of the 'Detailed Procedure', which as mentioned under Regulation 6(5), was essential to facilitate understanding between the stakeholders and to avoid any unnecessary disputes in relation to DSM mechanism. The said procedure had only been notified on 04.10.2019. Thus, the period from August 2018 to 04.10.2019, for which there was no approved 'Detailed Procedure', ought to be treated as a testing period for SLDC.

12. In response, the Respondent No. 2 (SLDC) has submitted the following in its reply and other submissions in this matter:

- i. For safe, secure & reliable operation of the grid as well as continuous supply to the consumers, all the generators and drawee entity 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 drawee entity.

- ii. MPERC (FSDSM) Regulations 2018 could be implemented in the State of MP without approval of 'Detailed Procedure' as regulatory provisions for computation of Deviation Charges were clear and does not require any further clarification. It is pertinent to mention here that there is no additional condition incorporated in Annexure-I of First Amendment i.e. Detailed Operating Procedure of First amendment to MPERC (FSDSM) Regulations 2018 which may cause any financial burden on the RE Generators.
- iii. SLDC while issuing first DSM Account has observed the time drift in ABT meters installed at the pooling station of petitioner, SLDC vide letter dated 29.10.2018 and 31.08.2019 had requested to the QCA (M/s RE Connect Energy Solutions Pvt. Ltd.) and to Licensee to get the meters time synchronized. SLDC has also mentioned the list of meters having time drift in the Deviation Accounts issued for the month of Sept 2018 onwards. After continuous pursuance from SLDC, the QCA of the petitioner has requested SLDC for applying time correction in meter data prior to issuance of DSM Account for the month of March 2019. Thus, SLDC has applied the time correction in meter data w.e.f. March 2019 onwards till 5th Feb 2020 (date of time synchronization) and accordingly the Deviation Charges of petitioner pooling station was computed by SLDC and uploaded on SLDC website.
- iv. It is submitted that the procedures for metering and forecasting / scheduling activities to be performed under MPERC (FSDSM) Regulations 2018 are already indicated in various regulations of CEA / CERC / MPERC notified prior to notification of this regulation and the Solar / Wind Generators are well aware of the regulatory provisions for metering and forecasting / scheduling.
- v. Methodology for computation of DSM Charges for Wind / Solar Generators has been given in detail in the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 and does not require any elaboration for carrying out computation of DSM Charges of RE Generators.
- vi. The regulation of Hon'ble State Commission had sufficient clarity in every respect for implementation. However, in the First Amendment to Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018, basic criteria for metering, computation of DSM Charges, forecasting / scheduling remain the same. Sections deleted / added by the Hon'ble State Commission does not have any additional financial implication on the RE Generators.

- vii. The Respondent no. 2 (SLDC) during the validation of meter data has observed that some of the meters installed at the pooling station of RE Generators have time drift including that of petitioner. SLDC vide letter dated 29.10.2018 and 31.08.2019 had requested to the QCA (M/s RE Connect Energy Solutions Pvt. Ltd.) and to Licensee to get the meters time synchronized. SLDC has also mentioned the list of meters having time drift in the Deviation Accounts issued for the month of Sept 2018 onwards. After continuous pursuance from SLDC for correction in time drift, the QCA of the petitioner has requested to SLDC for applying time correction in meter data prior to issuance of DSM Account for the month of March 2019. Thus, SLDC has applied the time correction in meter data w.e.f. March 2019 onwards till 5th Feb 2020 (date of time synchronization) and accordingly the Deviation Charges of petitioner pooling station was computed by SLDC and uploaded on SLDC website.
Further, it is to submit that QCA / Petitioner had taken too much time for correction of time drift in meter which could have been done within a month. Reason for such inordinate delay is not understood whereas this has involved financial implication.
- viii. It is to submit that on request of QCA, SLDC has corrected the meter data matching with SCADA data w.e.f. March 2019 onwards till 5th Feb 2020 and computed the DSM charges of the petitioner. The Deviation Charges accounts uploaded on SLDC website of the petitioner are correct for the period from March 2019 to 05th Feb 2020. The Deviation Charges accounts for the period Oct 2018 to Feb 2019 shall be revised by SLDC on receipt of request from petitioner / QCA and after due reasonability check on information / data provided by QCA.
- ix. It is to submit that as per Clause-6 (a) (5) of MPERC (FSDSM) Regulations 2018, SLDC has to prepare Detailed plan of data telemetry, formats of forecast submission and other details in this regard. The procedures for various activities to be performed under this regulatory provision were already indicated in various regulations of CERC / MPERC notified prior to notification of this regulation. The RE Generators are already complying the regulatory provisions in this regard. Hence, Hon'ble Commission has deleted this clause in the First Amendment of Regulation-2018.
- x. It is to submit that 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.
- xi. Further, it is to submit that there is no change in the procedure for computation of DSM Charges of RE Generators in MPERC (FSDSM) Regulations 2018 and in Annexure-I (Detailed Operating Procedure) of First Amendment of MPERC (FSDSM) Regulations 2018 which may cause any financial burden on the RE Generators. The procedures for various activities such as metering and forecasting / scheduling to be performed under

MPERC (FSDSM) Regulations 2018 were already indicated in various regulations of CERC / MPERC notified prior to notification of this regulation.

13. 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)** With regard to the issue of time drift in the meters, the Respondent No. 2 (SLDC) has submitted that while observing the aforesaid technical issue of the meters installed at the pooling station of the petitioner, SLDC vide letters dated 29.10.2018 and 31.08.2019 had requested the QCA (M/s RE Connect Energy Solutions Pvt. Ltd.) and the Licensee to get the meters time synchronized. After continuous pursuance by the Respondent No.2, the QCA of the petitioner had come up for applying time correction in meter data. Subsequently, the Respondent No.2, SLDC applied time correction in meter data matching with SCADA data w.e.f. March 2019 onwards till 5th Feb 2020 (date of time synchronization) and accordingly the Deviation Charges of petitioner pooling station was computed by SLDC and uploaded on SLDC website. Further, as submitted by SLDC, the Deviation Charges accounts for the period of March 2019 to 05th Feb 2020 as uploaded on SLDC website of the petitioner are correct. However, the Deviation Charges accounts for the period Oct 2018 to Feb 2019 shall be revised by SLDC after checking/verifying the information / data provided by QCA to SLDC. Accordingly, the time drift issue of meter was technical and operational in nature and the same has been addressed by the SLDC. Moreover, as stated by SLDC, the Deviation Charges accounts shall be revised by it.
- (f)** 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. Moreover, 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.*”
- (g)** MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations, 2018 was notified on 20.04.2018. The

aforesaid 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.”***

- (h) 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.
- (i) As stated by the Respondent, the petitioner had submitted revisions in forecasted generation in real time of operations during the period from 1st August 2018 to 21st June 2019 and the same has been accepted by SLDC and the schedules were issued to the petitioner 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 has been entertained and generation schedules were issued to generators including that of petitioner. SLDC has submitted that the first real time revision was started by the petitioner from 02.08.2018 and the petitioner have undertaken 3276 real time revisions till 20.06.2019 for its project.
- (j) As stated by SLDC along with the details of Available Capacity, day ahead forecast and real time revisions, the petitioner started submission of revision in forecast from 02.08.2018 for their project. The aforesaid revisions as submitted by the petitioner during real time of operations were accepted and the schedules were issued by SLDC accordingly.
14. 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 directions to remove difficulty in implementation 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