

## **MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION BHOPAL**

**Sub: In the matter of petition under Section 86 of the Electricity Act, 2003 r/w Regulation 11 (Power to Relax) and Regulation 12 (Power to issue directions) of the 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 Deviation Settlement Mechanism.**

**Petition No. 23 of 2020**

### **ORDER**

**(Date of order: 14<sup>th</sup> May' 2021)**

- |  |   |   |                    |
|--|---|---|--------------------|
| <b>(1) M/s. DJ Energy Pvt. Ltd.</b><br>A-2, East of Kailash, New Delhi – 11006   | } | - | <b>Petitioners</b> |
| <b>(2) M/s. Uttar Urja Projects Pvt. Ltd.,</b><br>A-2, East of Kailash, New Delhi – 110065                               |   |   |                    |
| <b>Vs.</b>   |   |   |                    |
| <b>(1) State Load Despatch Centre</b><br>M.P. Power Transmission Co. Ltd.<br>Nayagaon, Rampur, Jabalpur – 482 008 (M.P.) | } | - | <b>Respondents</b> |
| <b>(2) Reconnect Energy Solutions Pvt. Ltd.</b><br>173, A Sector, Scheme No. 54<br>Indore, Madhya Pradesh 452010         |   |   |                    |

Shri Arijit Maitari, Advocate appeared on behalf of the petitioners.

Shri S.S. Patel, SE appeared on behalf of the Respondent No.1.

The subject petition is filed under Section 86 of the Electricity Act, 2003 read with Regulation 11 (Power to Relax) and Regulation 12 (Power to issue directions) of the 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 Deviation Settlement Mechanism.

2. The subject petition was filed by the petitioners DJ Energy Pvt. Ltd. and Uttar Urja Projects Pvt. Ltd, which are independent power producers, having wind energy projects of 94

MW (2 X 47) and 76 MW (2 X 38) located at District of Ratlam and Mandsaur, Madhya Pradesh, respectively.

3. The Respondent No. 1 is the State Load Despatch Centre ("SLDC"), Jabalpur. The Respondent No. 2 is the Qualified Coordinating Agency ("QCA"), which has been appointed by the Petitioners in terms of the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism ("DSM") And Related Matters of Wind And Solar Generating Stations) Regulations, 2018 ("Regulations 2018").

4. In the subject petition, the petitioners have broadly submitted the following:

- 1) *The Petitioners are filing the present Petition under Section 86 of the Electricity Act 2003, read with Regulations 11 (Power to Relax) and Regulation 12 (Power to Issue Directions) of Regulations 2018, to inter alia, pass appropriate orders to assist in implementing and to remove difficulties in the challenges faced in the compliance of the Regulations 2018 read with the First Amendment to Regulations 2018. Furthermore, the Petitioners are filing the petition under Regulation 46 of the MPERC (Conduct of the Business) Regulations, 2004, seeking exercise of power. to issue directions to remove difficulty in implementations of the Deviation Settlement Mechanism.*

**A. BRIEF INTRODUCTION OF REGULATIONS 2018:**

- 2) *The concept of deviation rates (earlier known as Unscheduled Interchange charges) was introduced by the Central Electricity Regulatory Commission with the Availability-Based Tariff ("ABT") in the year 2000. Subsequently with the passage of time, in order to integrate high penetration of renewables into the state grid effectively, facilitate large scale grid integration of wind/ solar generating stations and maintain grid stability and security, appropriate regulations were notified by the State Commissions. Consequently, under the said appropriate regulations, regulatory framework was formulated by the respective SLDCs.*
- 3) *In tune with the above, this Hon'ble Commission published the draft regulations on forecasting and scheduling of wind and solar projects and invited comments to the same. Subsequently, this Hon'ble Commission in exercise of its powers conferred under Section 181 of the Electricity Act, 2003, notified Regulations 2018 on 12 April 2018 vide notification No. 513/2018/MPERC, which were subsequently published on 20 April 2018 in the gazette.*
- 4) *It is submitted that, Regulations 2018 defined 'Deviation' to mean the 'the total actual injection minus its total scheduled generation in a time-block for a Seller; and the total actual drawal minus its total scheduled drawl for a Buyer, and such actual injection and drawal shall form part of the State Energy Accounts to be prepared by SLDC'. Accordingly, Regulations 2018 defined, inter alia, the terms actual drawal, actual injection, buyer, seller, pool account, scheduled drawal. As can be seen above, the Regulations 2018 as notified by this Hon'ble Commission under its scope covered both Buyer(s) & Seller(s)*

*involved in the transaction facilitated through short-term, medium-term or long-term open access in intra-state transmission or distribution of electricity (including intra-state wheeling of power), as the case may be, in respect of all wind/ solar generators with a combined installed capacity of 10 MW & above or 5 MW & above, respectively, including those connected via pooling stations, through drawal and injection of electricity, within or outside the State. Further, Regulations 2018 aimed to 'govern the functioning of the various State Entities in a way that discipline is maintained with regards to the injection and drawal of energy by such state entities and the reliability and integrity of the power system is maintained'.*

- 5) *As far as a State Entity is concerned, Regulations 2018 defined 'State Entity' to mean such person who is in the SLDC control area and whose metering and energy accounting is done at state level. Additionally, Regulations 2018 enumerated that a QCA shall be treated as a State Entity and shall be registered with the SLDC. Therefore, Regulations 2018 aimed at governing the functioning of the various State Entities including the QCA.*
- 6) *As per Regulations 2018, an agency, being a QCA, was to be appointed for coordinating on behalf of wind/ solar generators connected to a pooling station. The QCA may be one of the generators or any mutually agreed agency, responsible for, inter alia, coordinating with STU/ SLDC for metering, data collection/ transmission, communication.*
- 7) *In terms of Regulation 2(1)(s), QCA was defined as follows: Qualified Coordinating Agency (QCA)': means the agency coordinating on behalf of Wind/Solar Generators connected to a pooling station. QCA may be one of the generators or any other mutually agreed agency for the several purposes.*

*However, Regulations 2018 were silent on the qualifying requirements for a QCA by wind/ solar generators, appointment of QCA by generators, registration of QCA with SLDC and/or roles and responsibilities of the QCA. It is also pertinent to mention that under Regulations 2018, there is no mention of the QCA, apart from in the definitions and under Regulation 6(a) of Regulations 2018.*

- 8) *It is also pertinent to state that appointment of a QCA was not made a 'precondition for participation in Deviation Settlement Mechanism' in terms of Regulation 4 of Regulations 2018. Furthermore, the Procedure laid down under Regulation 6(a) of Regulations 2018 stated that a wind/ solar generator or QCA may as the case may be participate in the forecasting, scheduling and eliminating of gaming.*
- 9) *As Regulations 2018 aimed to govern the functioning of the various State Entities, the procedure in terms of a plan for data telemetry, formats of forecast submission and other details were to be provided in the Detailed Procedure to be prepared by Respondent No. 1 and approved by Commission as per sub clause 5 of Regulation 6(a) of Regulations 2018.*
- 10) *This Detailed Procedure was essential, especially, inter alia, to detail the method for metering and data collection and/or calculation of deviation charges. However, no time period was prescribed for the formulation of such detailed procedure which was essential*

*for the governance and functioning of the State Entities. Additionally, Regulation 6(b) sub clause · "h" enumerated that once the accounting procedures, as above, were put in place, all wind and solar generators were to be treated together as a virtual pool within the State Deviation Pool Account. It was however unclear, whether the final DSM charges were to be calculated on RE plants after first netting off all errors within the state pool. However, no such detailed procedure was formulated until 4 October 2019, i.e. for a period of one and a half year from the passing of Regulations 2018.*

- 11) It is also pertinent to note that in terms of sub clause 2 of Regulation 6(a), 'revision in generation schedule on the day of operation was to be permitted in accordance with the procedure specified under the Grid Code and MPERC Intra-state open access regulations 2005'. Therefore, it is submitted that under the Regulations 2018 there was a clear lack of clarity on whether there was any restriction to the number of revisions to be made, and without any detailed procedure, it was also difficult to ascertain the validity of the method adopted for arriving at DSM charges for each pooling station.*
- 12) Additionally, Regulation 10 of Regulations 2018 envisaged that Respondent No. 1 shall also formulate the operating procedures and business rules for constitution of a State Power Committee, which shall also be approved by this Commission.*

#### **B. AMENDMENT NO. 1 TO REGULATIONS 2018.**

- 13) It is only after about 1 year 6 months from the notification of Regulations 2018 that the Hon'ble Commission in exercise of its power under Section 181 of the Act notified the 'First amendment' on 25.09.2019 to the Regulations 2018, which was then published in the gazette on 4 October 2019 ("First Amendment"). Annexure I to the First Amendment detailed the 'Operating Procedure for Implementation ' of Regulations 2018 ("Detailed Procedure").*
- 14) It is appropriate to note that the First Amendment to Regulations 2018 · amended the objective and scope of Regulations 2018 and restricted its applicability only to Sellers involved in the transactions facilitated through short-term, medium-term or long-term open access in intra-state transmission or distribution of electricity (including intra-state wheeling of power) and limited the commercial mechanism for deviation settlement only in relation to injection of electricity by the users of the grid. Accordingly, definitions of actual drawal, buyer, scheduled drawal and Regulation 5 of Regulations 2018 were omitted. Additionally, the definitions of deviation, gaming, MRI, pool account and QCA had to be amended.*
- 15) It is also pertinent to state that the scope of Regulations 2018 had been expanded to include 'all wind & solar generators selling power outside the state under open access and having combined installed capacity of 1 MW and above'. Furthermore, the First Amendment to Regulations 2018 also inserted subclause 8 to Clause 4 of Regulations 2018, wherein, under the pre- conditions for participation in Deviation Settlement Mechanism, the following clause has been inserted:*

*(8) All wind or solar generators including those connected via pooling station shall have to appoint a common QCA which may be one of the generator or mutually agreed agency. If generators fail to appoint a common QCA within a period of two months from the date of issue of notice by SLDC, then SLDC shall advise the concerned licensee for disconnection of defaulting generators. The licensee shall take action accordingly under intimation to SLDC.*

*Thereby, the First Amendment made the appointment of a QCA compulsory, which was completely different from the requirements under Regulations 2018. Therefore" in terms of the same, the definition of QCA was expanded to make QCA responsible for coordination with STU/ SLDC for metering & AMR, data collection/ transmission, telemetry & communication.*

- 16) It is also pertinent to state that by way of the First Amendment, additional 2 months' time period was given to Respondent No. 1 to formulate a State Power Committee, after obtaining the approval of this Hon'ble Commission. It is pertinent to state that it is the State Power Committee which can review energy accounting and billing for inter-utility exchange of power and ensure settlement of deviations amongst state entities in accordance with Regulations 2018 along with monitoring compliance of Regulations 2018. Therefore, formation of State Power Committee is essential for the implementation of Regulations 2018.*
- 17) The Detailed Procedure as envisaged under Regulation 6(5) of Regulations 2018 was for the first time notified under this said First Amendment. After the Detailed Procedure was notified, the First Amendment accordingly deleted Regulations 6(a), 7, 8, 9 of Regulations 2018. Therefore, until the notification of the Detailed Procedure under the First Amendment on 4 October 2019, the elaborate details which are essential and at the core of the mechanism for deviation settlement mechanism were not available at all. These included inter alia qualifying requirements for a QCA by wind/ solar generators, appointment of QCA by generators; registration of QCA with SLDC, detailed Roles and Responsibilities of the QCA, Mode of declaration of Available capacity (AvC), forecasting, scheduling and despatch, metering and data collection, computation of data charges and payment of deviation charges.*
- 18) It is submitted that under Regulations 2018, the Detailed Procedure had to be prepared by the SLDC in relation to the plan for data telemetry, formats of forecast submission and other detail in that regard. However, when the SLDC framed the Detailed Procedure, it went beyond its scope defined under Regulation 6(5) of Regulations 2018 and went on to carve a completely new mechanism, inter alia, in relation to qualification of QCA, appointment of QCA, registration of QCA with SLDC, roles of responsibilities of QCA and the appointment of QCA as one of the pre-condition for participating in the deviation settlement mechanism.*

### ***DIFFICULTY IN IMPLEMENTATION OF REGULATIONS 2018.***



- 19) *It is submitted that even though, appointment of a QCA was not a pre-condition to participate in the deviation settlement mechanism in terms of Regulation 2018 and neither was there any qualification/ criteria or method for appointment of a QCA, the Petitioners, in part of their compliance of Regulations 2018, informed Respondent No. 1 of the appointment of a QCA, being Respondent No. 2, vide letter dated 28.05.2018 ("Letter of Appointment").*
- 20) *Importantly, as reckoned under Regulations 2018, any appointed QCA, if appointed by any wind/ solar generator, had to be registered with the SLDC, however, the Regulations 2018 were silent on the process of the registration.*
- 21) *Nevertheless, in terms of the Letter of Appointment, the Respondent No. 1 on 21.06.2018 informed Respondent No. 2 of the steps to be undertaken to register with Respondent No. 1 ("Letter of Registration"). It is pertinent to note that all the steps detailed under the Letter of Registration have been complied by Respondent No. 2. It is pertinent to note that as per the Letter of Registration a copy of agreement made between the Petitioners and Respondent No. 2 had to be submitted to process the registration. Consequently, it is submitted that the Petitioners executed an agreement on 1 July 2018 ("Agreement"), wherein the scope of role and responsibilities of the QCA were negotiated between the parties as there was no defined scope of work prescribed to the QCAs in terms of Regulations 2018. That apart, other terms were negotiated, such as fees, payment terms and/ or tenure.*
- 22) *It is pertinent to state that once the QCA was registered, the QCA was provided with a forecasting ID for all the pooling stations/ generators it was representing. It is submitted that from the above, it is therefore clear that the registration of Respondent No. 2 was on the basis of the communication issued by Respondent No. 1 as no procedure was laid down by Respondent No. 1 nor was there any procedure approved by this Hon'ble Commission.*
- 23) *However, as no detailed procedure was being formulated under sub clause 5 of Regulation 6(a) of Regulations 2018 or operating procedures and business of a State Power Committee were being notified, several issues arose in the implementation of Regulations 2018. It is pertinent to highlight that on 08.10.2018 ("Letter dated 08.10.2018"), Respondent No. 2 wrote to Respondent No. 1 highlighting the impossibility of implementation of the regulations in the absence of the Detailed procedure and therefore, refused to admit the demand for payment of DSM charges due to the lack of approved procedures on DSM implementation by the Commission. It is submitted that the Respondent No. 2 also highlighted issues which were important for grid operation and for minimising the costs for the generators. Some of the issues faced by Respondent No. 2 as a QCA are summarised below:*
- *a detailed procedure, as approved by the Commission was not being made, which in turn would require the QCA to incorporate a scheduling process for all its 64 pooling sub stations;*

- *Lack of clarity in terms of the no. of revisions granted, especially where wind/solar generation was entirely dependent on weather conditions, and therefore, inherently variable.;*
- *Lack of clarity on the DSM charges in terms of virtual pool within the state pool.;*
- *Lack of clarity on the applicability of Regulations 2018;*
- *DSM statement for the month of August covered Solar generators below 5 MW and wind generators (at a pooling station) below 10 MW.;*
- *The permissible deviation range for DSM calculations for new RE projects (defined in Regulation 2(1)(o) of Regulations 2018) and old projects which may exist in the same pooling station;*
- *No metering method is provided as approved by this Hon'ble Commission;*
- *Problems with ELTRIX scheduling application; and*
- *Lack of instructions or guidelines for payment security mechanism*

*form the generators to enable settlement of final DSM charges. However, it is submitted that Respondent No. 1 did not attempt to formulate a procedure for implementation which may be approved by the Commission even after receipt of the letter.*

- 24) *It is highlighted that Respondent No. 2 subsequent to Letter dated 08.10.2018 appraised the Hon'ble Commission of the practical challenges being faced by Respondent ~o. 2 (being a QCA of 1,700 MW capacity, inclusive of the capacity of the Petitioners) and the importance of the detailed procedure in that regard. Accordingly, Respondent No. 2 also wrote to this Hon'ble Commission on 25.01.2019 (and also copied the letter to Respondent No. 1), highlighting the importance of the need for implementation procedures for the implementation of Regulations 2018 ("Letter dated 25.01.2019"). However, no detailed procedure was implemented until 04.10.2019. True copy of the letter dated 08.10.2018 and 25.01.2019 is annexed as Annexure 9 (Colly).*
- 25) *It is also pertinent to point out that the High Court of Madhya Pradesh, at Jabalpur on 23.05.2019, in Writ Petitions with Nos. 7689/2019, 7690/2019 and 7692/2019 had also stayed any coercive action, unless this Hon'ble Commission took a decision on the impugned notices by considering all the grounds raised by the petitioners under the writ. The Petitioners state that they are unaware of the action taken by this Hon'ble Commission.*
- 26) *While the Respondent No. 1 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 DSM Regulations and ensure seamless forecasting and scheduling. Therefore, levying of DSM charges or calculation of the same cannot be accepted.*
- 27) *It is pertinent to note that Regulations 2018 aimed to maintain the grid discipline and grid security as envisaged under the Grid Code through the commercial mechanism for*

*Deviation Settlement through injection of electricity by the users of the grid. However, in the absence of detailed procedure approved by this Hon'ble Commission, implementation of the Regulations 2018 became impossible, therefore, the DSM charges are non-est in law.*

28) *Accordingly, the Detailed Procedure in terms of Regulation 6(a)(5) of Regulations 2018 was only notified on 4 October 2019. The Detailed Procedure, after almost 1 year and 6 months, set out the details of the operating procedure for implementation of Regulations 2018. Thereby, it is submitted that without the First Amendment, the implementation of Regulations 2018 was not plausible.*

29) *Significantly, Regulation 6(a) of Regulations 2018 was omitted by First Amendment to Regulation 2018 and it was replaced as reproduced hereinunder:*

**Procedure:-** *The provisions of the Madhya Pradesh Electricity 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 and the detailed operating procedure in this regard is annexed as Annexure-i.*

*Therefore, it is only on 4 October 2019 that the Detailed Procedure was notified in order to incorporate the difficulties towards the implementation of the Deviation Settlement Mechanism.*

30) *Further, it is respectfully submitted that 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.*

31) *While this Hon'ble Commission has made it clear that the Detailed Procedure is to be implemented in terms of forecasting, metering, data collection from the date of notification, however, the past period implementation remains unclear and selective. It is respectfully submitted that such an approach cannot be permitted. The commercial operation and implementation of Regulations 2018 can only be prospective i.e. after the approval of the Detailed Procedure by this Hon'ble Commission, as Detailed Procedure was essential to facilitate understanding between the stakeholders and to avoid any unnecessary disputes in relation to DSM mechanism.*

32) *Interestingly, there were certain pooling sub-stations which did not submit data to the Respondent, and the said data was not being included in calculation of final DSM Accounts by the Respondent No .1. Therefore, to that extent, the non-performers i.e. pooling stations who did not submit any data to the Respondent No. 1, were incentivized for their non-performance.*

33) *It is therefore submitted that the Notices issued retrospectively by Respondent No. 1 under the provisions of the Regulations 2018 read with First Amendment to Regulations*



*2018 could not have been done and the same will cause grave and undue financial hardship, particularly when:*

- 39.1 QCA is regarded as the single point of contact with SLDC on behalf of all the generators connected to the pooling station for the implementation of the deviation settlement mechanism [Regulation 4(8) of Regulations 2018 as amended];*
- 39.2 The procedure to appoint a QCA, which shall be treated as a state entity and procedure to register with the SLDC, was notified by this Hon'ble Commission only on 4 October 2019. Therefore, the pre-condition to implement the said deviation settlement mechanism in terms of Regulation 5 of the First Amendment was itself not available under Regulations 2018;*
- 39.3 The Detailed Procedure was prepared by Respondent No. 1 and approved by this Commission only on 25 September 2019 and notified on 4 October 2019, i.e. after a delay of 1 year and 6 months;*
- 39.4 There was no procedure under Regulations 2018 for the following:*
- a) qualifications for appointing a QCA by wind/ solar generators;*
  - b) Appointment of QCA by generators;*
  - c) Registration of QCA with SLDC;*
  - d) Detailed Roles and Responsibilities of the QCA;*
  - e) Mode of declaration of Available capacity (AvC), forecasting, scheduling and despatch;*
  - f) Metering and data collection;*
  - g) Computation of data charges; and*
  - h) Payment of deviation charges.*
- 39.5 The Detailed Procedure was notified on 4 October 2019, and the generators had time of 2 months to appoint QCA from notice, i.e. till 4 December 2019, thereby, effectively making the implementation of Regulations 2018 unattainable till December 2019.*
- 34) In other words, it is owing to the default of Respondent No. 1 in not framing the procedure under the Regulations 2018 for 1 year and 6 months since the notification of Regulations 2018, that the implementation of the said Regulations has faced practical difficulties.*
- 35) Accordingly, from a reading of the above, it is clear that if this Hon'ble Commission does not issue an order under Regulation 11 of Regulation 2018 relaxing the provisions of Regulation 2018, severe prejudice will be caused to the Petitioner as the non-payment or delay in payment of deviation charges by the QCA/ Generator will not only attract interest but will also amount to an event of default under the Detailed Procedure/ Regulations*

2018, thereby, consequently allowing Respondent No. 1 to disconnect the generator from the grid.

- 36) In light of the practical difficulties enumerated hereinabove, especially where onus for delay in framing the Detailed Procedure is on the Respondent No. 1, this Hon'ble Commission may issue necessary clarification/ directions/ instructions to Respondent No. 1 to remove practical difficulties in implementation of the Regulations and till such time not levy any deviation charge upon the Petitioner's wind generation.
- 37) This Hon'ble Commission has the jurisdiction to relax any of the provisions of the Regulations 2018 on its own motion or on an application made before it by an interested person. Further, in case any difficulty arises in giving effect to the Regulations 2018, this Hon'ble Commission can issue such directions as may be considered necessary in furtherance of the objective and purpose of these Regulations.

### **PRACTICAL DIFFICULTIES IN IMPLEMENTATION OF THE DETAILED PROCEDURE**

- 38) The First Amendment and the Detailed Procedure has significantly changed the scope and objective of Regulations 2018. Therefore, it is pertinent to state that the steps already taken under Regulations 2018 may not suffice towards implementation of the Regulations 2018 read with First Amendment & Detailed Procedure.
- 39) Furthermore, in terms of the First Amendment, all generators are provided two months to implement Regulations 2018. It is therefore submitted that by all practical means, it would also take additional reasonable time for the QCAs to register, in accordance with the Detailed Procedure with the concerned SLDC from December 2019.
- 40) It is pertinent to highlight, that even though Respondent No. 2 was appointed by the Petitioners: however, the change of nature of role and responsibilities of the QCA by way of the First Amendment and Detailed Procedure, will certainly make it necessary for the Petitioners to revisit the Agreement executed between Respondent No. 2 and the Petitioners, thereby, re-initiating the appointment of a QCA by the Petitioners in terms of the Detailed Procedure.
- 41) It is also highlighted that compliance with the technical requirements to be undertaken by the QCA will also take additional time post reappointment/ fresh appointment of the QCA.
- 42) Additionally, it is submitted that in terms of the Detailed Procedure defined the process of registration, wherein, the QCA has to undertake the following steps to register with the SLDC:
- 48.1 QCA shall submit the consent letters and copy of agreements executed with the generators to the SLDC;
- 48.2 QCA shall apply for registration with Respondent No. 1 by submitting duly filled up application form, undertakings, declarations and Bank Guarantee as per the enclosed formats.;

*Once the above steps have been followed, the eligible QCA will be registered with the SLDC and a registration number would accordingly be provided by Respondent No. 1.*

- 43) It is pertinent to highlight that the Detailed Procedure and Regulations 2018 read with First Amendment to Regulations 2018 does not define a period for registration of the QCA with Respondent No. 1. It is reiterated that the QCA has to be first re-appointed in terms of the amended scope of responsibilities and then has to be registered with the Respondent No. 1 before it can undertake its role and responsibilities under the Regulations 2018 read with First Amendment.*
- 44) However, it is submitted that Respondent No. 1 before the lapse of two months for appointing a QCA in terms of the Detailed Procedure, had prematurely given a notice dated 7.11.2019 to Respondent No. 2 to register as a QCA.*
- 45) It is submitted that as per the notice dated 7.11.2019 certain additional compliances were sought, inter alia, being submission of bank guarantee in terms of Procedure 8 of the Detailed Procedure, to ensure 0.2s class ABT meters installed at pooling station along with AMR facility and meters/ modems to be integrated successfully with Respondent No. 1's AMR server for data downloading remotely and copy of PP A for all generators selling inter-state for computation of deviation charges.*
- 46) It is also pertinent to highlight that various other issues persist with respect to implementation of Regulations 2018 and require appropriate clarification/ directions of this Hon'ble Commission.*

**5. With the above submission, the petitioners prayed the following in the subject petition:**

- a) Admit the petition for removing practical difficulties faced by the Petitioner under Regulation 11 (Power to Relax) and Regulation 12 (Power to Issue Directions) of the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and Related Matters of Wind and Solar Generating Stations) Regulations, 2018;*
- b) Declare that the Notices issued by Respondent No. 1 for levying deviation charges being Notices detailed in para 37 hereinabove as non-est in law and set aside the same;*
- c) Provide a trial/ grace period of not less than 6 months to implement the procedure as notified in Regulation 6(a) through the First Amendment to the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and Related Matters of Wind and Solar Generating Stations) Regulations, 2018;*
- d) Direct that no penalty shall be levied, and no coercive steps shall be taken by the Respondent No. 1 against the Petitioner for any deviation during the trial/ grace period as provided in prayer (c);*

**Proceeding in the subject petition:**

6. Motion hearing in the subject matter was held on 14.05.2020 through video conferencing wherein none appeared for the petitioners.

7. During the course of hearing held on the 13<sup>th</sup> October' 2020, the Commission observed the following:

- (i) None appeared on behalf of the Respondent No. 2.
- (ii) The Respondent No. 2 (Reconnect Energy Solutions Pvt. Ltd.) has not filed reply to the subject petition.
- (iii) The Respondent No. 1 has filed the reply to the petition on 23<sup>rd</sup> June' 2020.
- (iv) By affidavit dated 6<sup>th</sup> October' 2020, the petitioner filed rejoinder to the reply filed by Respondent No. 1.
- (v) Ld. Counsel for the petitioner has submitted that an application under Section 94 of the Electricity Act, 2003 has been filed by the petitioner on 12.10.2020 seeking answers to a set of questions from Respondent No. 1 (SLDC) and to ascertain certain facts on issues involved in the subject matter.

8. In view of the above, the Respondent No. 1 was directed to file reply to the aforesaid application by 29.10.2020. The Respondent No. 2 (Reconnect Energy Solutions) was directed to file reply to the subject petition within 10 days and ensure appearance before the Commission on the next date of hearing.

9. The petitioners had also filed an application on 4<sup>th</sup> December' 2020 seeking Ad-interim stay against the DSM charges and demand notice issued by the Respondent No.2 and the Respondent No.1, respectively. Considering the request of the petitioners for early hearing on the aforesaid application, the application was registered and the petitioners were directed to serve a copy of the application to the Respondents. The Respondents were directed to file their replies by 14<sup>th</sup> December' 2020. The application seeking ad-interim stay was fixed for hearing on 17<sup>th</sup> December' 2020. The Respondent No. 1 filed reply to the aforesaid application on 15<sup>th</sup> December' 2020.

10. Vide Commission's order dated 11.01.2021, the aforesaid Ad-interim application (IA No. 27/2020) filed by the petitioners was rejected and disposed of with detailed reasons mentioned in the order. The case was fixed for final arguments on 09.02.2021.

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

**Submissions by the Parties:**

**12.** Respondent No.1 (SLDC) broadly submitted the following in its reply to the subject petition:

1. *SLDC is an implementing agency for various regulations. SLDC has to perform all the functions in accordance with the regulations notified by the Regulatory Commissions and CEA from time to time. SLDC while performing its functions, cannot deviate from the regulatory provisions made in the respective regulation for that particular function.*
2. *SLDC is bound to perform all the functions and duties within the regulatory framework only and cannot deviate from the regulatory provisions on request of any of the State Grid entity / Renewable Energy Generator etc.*
3. *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.*
4. *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 1<sup>st</sup> 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.*
5. *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.*
6. *That for safe, secure & reliable operation of the grid as well as continuous supply to the consumers, all the generators and distribution licensees shall have to adhere to forecasted generation and demand submitted to SLDC on day ahead basis. However, in case of any contingency, regulatory provisions exist for making revisions in real time of operation in forecasted generation and demand, respectively for generators and distribution licensees.*
7. *That adhering to scheduled generation by generator and scheduled drawal by distribution licensee is utmost necessary for the stability of the grid. If either generator or distribution licensee deviates from the schedule given by SLDC, may lead to insecure operation of the grid.*

**PARAWISE REPLY-**

- i. *The MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 in Section-2 – “Definition”*



*has clearly defined the responsibilities and functions to be carried out by the Qualified Coordinating Agency (QCA). Section-6 (3) and (4) of the said regulation further clarifies the functions to be performed by the QCA.*

*In compliance to the said regulation, SLDC has immediately requested all the qualified Wind / Solar Generators and their Developers vide letter dated 27.04.2018 to appoint QCA which may be one of the Generator or any other mutually agreed agency capable of performing rules and responsibilities of QCA as mentioned in the regulation. Copy of the letter dated 27.04.2018 is annexed herewith as Annexure-1.*

*SLDC has registered the QCA and Wind / Solar Generator acting as a QCA, as a State Grid entity for coordinating between SLDC and Wind / Solar Generator. The names of the QCAs were submitted to SLDC by the qualified Wind / Solar Generators. SLDC before registering as QCA, has checked the capability of the agencies for performing roles and responsibilities as stipulated in the regulation.*

*Qualified Wind / Solar Generators have taken initiative for appointing QCA for performing regulatory provisions on behalf of them after notification of Principal Regulation-2018. The Qualifying Requirement for QCA was further elaborated in the First amendment to the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018.*

***Petitioner No. 1 & 2 have already appointed QCA and got registered at SLDC, Jabalpur prior to notification of First amendment to the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018. Thus, after appointment of QCA and asking for detailed qualifying requirement at a later date, has no meaning and substance and baseless.***

- ii. *Clause-3 (2) of Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 is given below-*

*These Regulations shall be applicable to Seller(s) and Buyer(s) involved in the transaction facilitated through short term open access or medium term open access or long term open access in intra-state transmission or distribution of electricity (including intra-state wheeling of power), as the case may be, in respect of all wind generators having a 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.*

*That it is very much clear from the above, only qualified Wind & Solar Generators can participate in the Deviation Settlement Mechanism. The DSM account of Wind & Solar Generators is also to be prepared and issued pooling station-wise and not QCA-wise. The role & responsibilities assigned to QCA have been defined in Clause-2 (1) (s). Since QCA is acting on behalf of RE Generator and therefore has to undertake commercial settlement on behalf of Generators for Deviation Settlement Mechanism, thus there was no specific mention of QCA in Clause-4 "Pre-conditions for participation in Deviation Settlement Mechanism".*

- iii. *Amendment of Regulation 6.2 of Part 6 of Principal Regulations of the CERC Indian Electricity Grid Code (Third Amendment) Regulations, 2015 provides that Telemetry / communication system & Data Acquisition System shall also be provided by RE Generators for transfer of information to the concerned SLDC and RLDC. Amendment to clause 5.10 of the Madhya Pradesh Electricity Grid Code (Revision-I), 2005 (Fourth Amendment) provides –*

*Reliable and efficient speech and data communication systems shall be provided by all the users to facilitate necessary communication and data exchange, and supervision/ control of the grid by the SLDC, under normal and abnormal conditions. All Users shall provide the required facilities at their respective ends and SLDC and this shall be indicated in the Connection Agreement.*

*Third Amendment to Madhya Pradesh Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2010 under Regulation-9 stipulates that- "The scheduling of Wind Electric Generators with collective capacity of 10 MW and above and Solar Generating Plants with collective capacity of 5 MW and above shall be made as per the decision of the Central Electricity Regulatory Commission".*

*It is to submit that regulatory provisions regarding data telemetry and forecasting / scheduling are in vogue prior to notification of Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018. SLDC was pursuing all the Wind / Solar Generators for submitting the day ahead forecast before notification of this regulation. Most of the RE Generators started forecasting their generation on day ahead basis. In the past, SLDC was giving permission for injection into the grid to RE Generators only when telemetry data was made available and assurance for submission of forecasted generation, after notification of regulation in this regard.*

- iv. *The Central Electricity Authority notification dated 26.11.2014 and MPEGC provides guidelines for type of meters to be installed, metering scheme, metering capability, testing & calibration requirement and the scheme for collection and dissemination of meter data.*

*The Solar / Wind Generators are well aware of the regulatory provisions for metering and communication of meter data before connecting with the State Grid.*

*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.*

*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.*

*The procedures for various activities to be performed under this regulation were already indicated in various regulations of CERC / MPERC notified prior to notification of this regulation. Thus, the submission of the Petitioners that they were waiting for approved detailed procedure is not correct and only to escape from paying DSM Charges for deviation from the forecasted generation for some period.*

*The State Pool Account is comprising of DSM Pool Account, Reactive Energy Charges Pool Account and Wind & Solar Deviation Pool Account. These 3 Pool Accounts are maintained separately under the umbrella of State Pool Account. The DSM amount receivable/ payable towards Wind & Solar Deviation Pool Account is independent and does not have any commercial effect from the other Pool Accounts.*

- v. *Clause-2 of Regulation-6 (a) has no lack of clarity and Petitioners could make revisions in forecasted generation during the real time of operation as per provisions of Grid Code and MPERC Intra State Open Access Regulations, 2005. SLDC has accepted all the revisions in forecasted generation submitted during the real time of operation by RE Generators in accordance with regulatory provisions.*
- vi. *As per Clause-10, State Power Committee has been constituted on 30<sup>th</sup> December, 2019 after approval from the Hon'ble State Commission. The meeting of the State Power Committee could not be convened due to spread of COVID-19 epidemic and subsequent lockdown in the country. Copy of letter dated 30.12.2019 forming State Power Committee is annexed herewith as Annexure-2.*

vii. *The amendment was issued by Hon'able Commission after completion of due process required for notification of amendment. Prior to issue of 1<sup>st</sup> 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. As such, the amendment was issued after considering all such representations.*

viii. *It is to submit that Deviation Settlement Mechanism for Wind & Solar Generators is implemented for injection of power into the State Grid and unpredicted / power injected into the grid without being brought into the notice of SLDC may cause threat to the Electrical Grid of the State.*

*The Clause-6 (7)(b)(iii) of the MPERC (Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 and Clause-6 (II)(i) of Annexure-I of the 1<sup>st</sup> amendment of the above regulation, is reproduced below-*

*"The Wind and Solar Generator which are State Entities undertaking Intra State transactions shall be paid as per actual generation".*

*As per above clause, settlement of energy between Generator and its consumer is done on actual basis i.e. whatever power is generated by the generator, shall be credited to its consumer on monthly basis.*

*Since the settlement of energy between RE Generator and its consumer in Intra-state is done on actual basis, there is no need to issue drawal schedule for the buyer / consumer and the question of computing deviation charges of the Discoms / consumers of RE Generators under Intra-state regime does not arise.*

*Further regarding exclusion of Buyers in the 1<sup>st</sup> amendment of MPERC Regulations 2018, it is submitted that the deviation charges of Discoms are already computed by SLDC as per MPERC BSC 2015 and actual injection of wind / solar generators selling power to MPPMCL and third party / captive use are included in the Discoms schedule.*

*In view of above, the clause of computation of DSM Charges for buyers of the RE Generators has been removed by the MPERC in the 1<sup>st</sup> Amendment to the MPERC (Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018, as the deviation computation for the buyer / consumer is not required.*

*Thus, the exclusion of buyer / Discoms / consumers of the RE Generators from computation of DSM Charges in the 1<sup>st</sup> Amendment to the MPERC (Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 is just and proper and also in line with other regulatory provisions existed in this regard.*

ix. *The scope of the Regulation-2018 had been expanded to include "all wind & solar generators selling power outside the state under open access and having combined*

*installed capacity of 1 MW and above” to facilitate Inter-state sale of power by the RE Generators located in MP.*

*The transaction of RE power under Inter-State transaction may have the Renewable Purchase Obligation and any less / excess generation is to be compensated by purchasing Renewable Energy Certificate (REC) / Notional Credit of REC to the Pool Account. The separate methodology has defined in the Regulation 2018 for settlement of RE Generators selling power under Inter-State transaction.*

*The Hon’ble State Commission in MPERC (Terms and Conditions for Intra-State Open Access in Madhya Pradesh) Regulations, 2005 has defined minimum 1 MW quantum that can be transacted under Short Term Open Access.*

*Thus, the expansion upto combined installed capacity of 1 MW is for optimum utilization of RE resources available in the State and does not have any relation / financial impact on Deviation computation for Intra State Solar Generator (5 MW and above) and Wind Generator (10 MW and above).*

- x. *On notification of Regulation-2018, some of the Wind / Solar Generators did not appoint the QCAs for their pooling station despite repeated requests from SLDC. This had made the implementation of Regulation-2018 difficult in the State of MP due to non-compliance of Regulation-2018 by some of the Wind / Solar Generators. There was no provision in the Regulation to penalize Wind / Solar Generators for non-compliance.*

*The Hon’ble State Commission has inserted Sub-clause 8 to Clause-4 of Regulation-2018 so that Wind / Solar Generator endeavor faithful compliance of the Regulation-2018 of the Hon’ble State Commission. In the absence of this inserted Sub-clause-4, SLDC could not initiate any action against the Wind / Solar Generators for faithful compliance of the Regulation-18.*

- xi. *State Power Committee has already been constituted on 30<sup>th</sup> December, 2019 after approval from the Hon’ble State Commission. Formation of State Power Committee is not essential for implementation of MPERC (FSDSM) Regulations 2018.*
- xii. *Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 already provides essential mechanism and methodology for computation of DSM Charges for Wind / Solar Generators and does not require any elaboration for carrying out computation of DSM Charges of RE Generators. The regulation of Hon’ble State Commission had sufficient clarity in every respect for implementation.*



*Regulation-6 (a), 7, 8, 9 of the main Regulation have been shifted to Annexure-I of the First Amendment to make the regulation more logical and also to avoid unnecessary duplication.*

*The procedures for various activities to be performed under this regulation were already indicated in various regulations of CERC / MPERC notified prior to notification of this regulation such as forecasting, scheduling, metering, data collection etc. have already been complied by the RE Generators.*

- xiii. *As per Clause-6 (a) (5), 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.*

*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 29<sup>th</sup> June-2018 for approval of Hon'ble Commission.*

- xiv. *As per Clause-6 (a) (4) of MPERC (FSDSM) Regulations 2018, appointment of QCA is mandatory for implementation of MPERC (FSDSM) Regulation-2018.*
- xv. *As per Clause-2 (1) (s) of MPERC (FSDSM) Regulations 2018, QCA shall be treated as State Grid entity and shall be registered with SLDC, thus the statement made by the Petitioners is not correct.*
- xvi. *The role & responsibilities of QCA as mentioned in Clause-2 (1) (s) of MPERC (FSDSM) Regulation-2018 are same as in the First Amendment of Regulation-2018. However, SLDC has elaborated the roles & responsibilities of QCA as mentioned in MPERC (FSDSM) Regulation-2018 in Detailed Operating Procedure submitted to the Hon'ble State Commission for approval for the ease of implementation of regulatory provisions contained in Regulation-2018 in the State of MP.*

*This elaboration of roles & responsibilities of QCA does not have any financial burden on Wind / Solar Generators as well as works to be performed by the QCA. Appointment of QCA, payment terms, tenure, fees etc. are to be mutually decided by the RE Generators and QCAs and beyond the scope of the MPERC (FSDSM) Regulation-2018 and First Amendment. The statement of the Petitioners does not contain any substance and hence denied specifically.*

- xvii. *The regulatory provision for forecast submission by QCA to SLDC already existed in MPERC (FSDSM) Regulation-2018. The procedure for submission of forecast to SLDC was already posted on the website of SLDC prior to implementation of Regulation-2018 and all the QCAs, Wind / Solar Generators and Developers were aware of the same. Some of the RE Generators had been submitting their forecast to SLDC in compliance to Third Amendment to Madhya Pradesh Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2010.*
- xviii. *Reply of this para has already been given in preceding paras except (viii) i.e. Problem with ELTRIX scheduling application. In this regard it is to submit that whenever QCA finds any difficulty in submitting forecast through ELTRIX portal, SLDC accepts the forecast through email. All the QCAs are aware of this arrangement.*
- xix. *Practical challenges faced by the Respondent No.2 were brought into the notice of Hon'ble Commission vide letter dated 08.10.2018 by him and copy of which is also endorsed to SLDC. Several queries were also raised by other QCAs before SLDC. Thus SLDC had convened a meeting with RE Generators, Developers and QCAs on 23.10.2018 and addressed the queries / problems faced in implementation of the MPERC (FSDSM) Regulation-2018.*
- xx. *The contents of these para are similar to issues raised by the petitioner in preceding para regarding approval of Detailed Operating Procedure and notification of 1<sup>st</sup> amendment of MPERC (FSDSM) Regulations 2018 and same have already been replied in preceding paras.*
- xxi. *As already submitted in preceding paras, MPERC (FSDSM) Regulation-2018 can be implemented in the State of MP without requiring any further clarification. SLDC had proposed Hon'ble State Commission for commercial settlement under this Regulation w.e.f. 1<sup>st</sup> 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 and accordingly SLDC issued DSM Accounts for wind / solar generators w.e.f. 1<sup>st</sup> August 2018.*

*It appears that RE Generators despite 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 need no further clarification / elaboration for implementation.*

*It is pertinent to mention here that there is no additional condition incorporated in Annexure-I of First Amendment i.e. Detailed Operating Procedure which may cause any financial burden on the RE Generators. Thus the statement of the Petitioners for*

*implementation of commercial settlement under MPERC (FSDSM) Regulation-2018, at a later date is nothing but to escape from the payment of DSM Charges for a certain period.*

- xxii. *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.*

*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.*

- xxiii. *SLDC is the implementing agency of the MPERC (FSDSM) Regulation-2018. SLDC has started issuing monthly DSM Accounts for the qualified Wind / Solar Generators, pooling station-wise as per guidelines contained in the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018. Subsequently, SLDC has started issuing weekly DSM Accounts for qualified Wind / Solar Generators w.e.f. 1<sup>st</sup> February 2020 in compliance to First Amendment of MPERC (FSDSM) Regulation-2018.*

*The Petitioners did not settle their dues towards the RE DSM Pool Account and are in default since commencement of computation of DSM Charges for qualified Wind / Solar Generators. It is to mention that some of the RE Generators are regularly making payment to the DSM Pool Account and default in payment by the Petitioners is causing hurdle in smooth implementation of the MPERC (FSDSM) Regulation-2018 and also injustice with the Wind / Solar Generators who are faithfully complying with the provisions of MPERC (FSDSM) Regulation-2018.*

- xxiv. *The First Amendment and the Detailed Procedure has not significantly changed the scope and objective of Regulations 2018. However, the changes incorporated in First Amendment does not have any impact on the methodology for computation DSM Charges for RE Generators. The purpose of making changes in First Amendment have already been elaborated in preceding paras and being summarized below.*

*The scope of the Regulation-2018 had been expanded to include "all wind & solar generators selling power outside the state under open access and having combined installed capacity of 1 MW and above" to facilitate Inter-state sale of power by the RE Generators located in MP.*

*The transaction of RE power under Inter-State transaction is scheduled based. Payment settlement and Renewable Purchase Obligation is done on schedule basis. Any less / excess generation is to be compensated by purchasing Renewable Energy Certificate (REC) / Notional Credit of REC to the Pool Account. The separate methodology has defined in the MPERC (FSDSM) Regulation 2018 for settlement of RE Generators selling power under Inter-State transaction.*

*The Hon'ble State Commission in MPERC (Terms and Conditions for Intra-State Open Access in Madhya Pradesh) Regulations, 2005 has defined minimum 1 MW quantum that can be transacted under Short Term Open Access.*

*Thus, the expansion upto combined installed capacity of 1 MW is for optimum utilization of RE resources available in the State and does not have any relation / financial impact on Deviation computation for Intra State Solar Generator (5 MW and above) and Wind Generator (10 MW and above).*

*The Clause-6 (7)(b)(iii) of the MPERC (Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 and Clause-6 (II)(i) of Annexure-I of the 1<sup>st</sup> amendment of the above regulation, is reproduced below-*

*"The Wind and Solar Generator which are State Entities undertaking Intra State transactions shall be paid as per actual generation".*

*As per above clause, settlement of energy between Generator and its consumer is done on actual basis i.e. whatever power is generated by the generator, shall be credited to its consumer on monthly basis.*

*Since the settlement of energy between RE Generator and its consumer in Intra-state is done on actual basis, there is no need to issue drawal schedule for the buyer / consumer and the question of computing deviation charges of the Discoms / consumers of RE Generators under Intra-state regime does not arise.*

*Further regarding exclusion of Buyers in the 1<sup>st</sup> amendment of MPERC Regulations 2018, it is submitted that the deviation charges of Discoms are already computed by SLDC as per MPERC BSC 2015 and actual injection of wind / solar generators selling power to MPPMCL and third party / captive use are included in the Discoms schedule.*

*In view of above, the clause of computation of DSM Charges for buyers of the RE Generators has been removed by the MPERC in the 1<sup>st</sup> Amendment to the MPERC (Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018, as the deviation computation for the buyer / consumer is not required.*

*Thus, the exclusion of buyer / Discoms / consumers of the RE Generators from computation of DSM Charges in the 1<sup>st</sup> Amendment to the MPERC (Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 is just and proper and also in line with other regulatory provisions existed in this regard.*

- xxv. *The statement of the Petitioners is denied. There is no provision in the First Amendment of MPERC (FSDSM) Regulation-2018 for two months' time to implement the regulation. The amendment has come into force from the date of publication i.e. w.e.f. 4<sup>th</sup> October, 2019.*
- xxvi. *Registration with SLDC and appointment of QCA by the generator was already existing in the MPERC (FSDSM) Regulation-2018, however further elaboration of the same has been made in the First Amendment of MPERC (FSDSM) Regulations 2018.*
- xxvii. *The role & responsibilities of QCA as mentioned in Clause-2 (1) (s) of Regulation-2018 are same as in the First Amendment of Regulation-2018. However, SLDC has elaborated the roles & responsibilities of QCA as mentioned in Regulation-2018 in Detailed Operating Procedure submitted to the Hon'ble State Commission for approval for the ease of implementation of regulatory provisions contained in Regulation-2018 in the State of MP. Appointment of QCA, payment terms, tenure, fees etc. are to be mutually decided by the RE Generators and QCAs and beyond the scope of the Regulation-2018 and First Amendment. The statement of the Petitioners does not contain any substance and hence denied specifically.*
- xxviii. *The statement of the Petitioners is denied. There is no provision in the First Amendment of Regulation-2018 for two months' time to implement the regulation. The amendment has come into force from the date of publication i.e. w.e.f. 4<sup>th</sup> October, 2019. SLDC has started computation of DSM charges of Wind and Solar Generators w.e.f. 1<sup>st</sup> August 2018 and the petitioners are making continuous default in settlement of DSM charges, hence the notice dated 07.11.2019 was served to petitioners for payment settlement for violation of clause 10(a) of Annexure-I of First amendment of MPERC (FSDSM) Regulations -2018.*
- xxix. *Contents of this para are prerequisite requirement to be complied by the wind / solar generators for connecting with the grid in compliance to other regulatory provisions already existed. 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.*



**13.** The petitioner No. 1 M/s DJ Energy Pvt. Ltd, and petitioner No. 2 M/s Uttar Urja Projects Pvt. Ltd, have jointly filed rejoinder to the reply filed by the Respondent No1.. The petitioners have broadly submitted the following:

*Before making any preliminary submissions and responding to the para wise reply of the respondent No. 1, the Petitioner would first like to highlight the pertinent points as to why this Hon'ble Commission ought to under its power to relax and power to issue directions declare that the Notices issued by Respondent No. 1 for levying deviation charges as non-est in law and set aside the same; and provide a trial/ grace period of not less than 6 months to implement the procedure. It is submitted that:*

- a. The Deviation Settlement Mechanism envisages that the accounts be settled weekly, however, what is being practiced by the SLDC is monthly settlement, which leads to difficulty in verifying the huge amount of data by the QCA and thereby increasing the risk of errors. Although, the requirements for undertaking weekly settlement of accounts, i.e., the procedure for setting up of telemetry system (inclusive of AMR and SEM) were introduced after the Detailed Procedure was approved, however, no time has been granted for setting up the appropriate system for undertaking commercial settlement; and*
- b. The importance of trial period before the commercial implementation has been highlighted in many state electricity regulatory commissions. For the said discussion it is important to place the extract of the Statement of Reasons ('SoR') for Framework on Forecasting, Scheduling and Imbalance Handling for Variable Renewable Energy Sources (Wind and Solar by the Hon'ble Central Electricity Regulatory Commission for this Hon'ble Commission's consideration:*

*3.2.3 A preparatory window will, however, be provided for the generators to ensure installation of data measurement and telemetry equipment, and for respective LDCs to prepare their systems and teams for receipt of regular data and schedules. Accordingly, the Commission has decided to make the final amendment regulations in the context effective from 1.11.2015. During this period the NLDC is directed to evolve the detailed procedure, solicit public comments and seek necessary approval of the Commission. This time must also be utilized to recruit external forecasting agencies (if required), and train the models for historical data for improved forecasting accuracy.*

*Additionally, it is important to highlight that trial period has been implemented by the Maharashtra Electricity Regulatory Commission, Gujarat Electricity Regulatory Commission and the Rajasthan Electricity Regulatory Commission. The extract of a recent order dated 27.09.2019 of the Rajasthan Electricity Regulatory Commission in Petition No. RERC-1382/18, 1406/18, 1431/18, 1495/19, 1511/19 and 1531/19 is reproduced below:*

***Issue: Whether any trial period is still required before commercial implementation of the DSM mechanism? What should be the effective date of implementation of commercial mechanism of the Regulations?***

225. Stakeholders requested for a testing/trial period, whereas, the RUVN on behalf of the Discoms submitted that irrespective of trial run, the accuracy of forecast can only be improved by constantly adapting the forecasting models with changing trends. In the absence of DSM regulations with appropriate penalties for deviation, the grid stability can get significantly hampered. **SLDC also submitted that the sufficient time was available with the generators to strengthen their SCADA system and they could have asked the QCAs for trial run of their forecast. The RERC F & S Regulation was initially to be implemented from 1.1.2018 which was extended to 1.2.2018 by the Commission. More than a year has already passed and thus, there is no requirement for a mock run or trial period now. SLDC further submitted that as per the information gathered by it, the QCAs, in addition to the information about wind velocity provided by the Indian Metrological Department, also obtain data from other national and international metrological resources/ agencies.**

**226. The draft RERC F&S Regulation for Comments were issued way back in 2016 and as a stakeholder all the generators were well aware of the fact that they have to make forecast and scheduling. Final Regulations were promulgated on 14.09.2017 and commercial operation was finally made effective from 1.02.18 giving a gap of approximately 4-5 months. As brought out during the hearing some of the generators have appointed QCA and started forecasting and scheduling in time whereas few of them did not move.**

**227. It has been brought to the notice of the Commission that SLDC has not yet issued the bills for February, 2018 to May, 2018 and Bills for June 2018 were issued in September 2018.**

**228. However, looking to the delay in issuance of first bill and other difficulties expressed by stakeholders, the commission is of the view that some more trial period should have been provided before applying commercial impact of this regulation. Therefore, the Commission extends the date of implementation of commercial mechanism from 01.02.2018 to 01.10.2018.**

*It is submitted that from a perusal of the extract of the order as reproduced above, it shows that the facts before the Hon'ble Rajasthan Electricity Regulatory Commission were very similar to the facts that are before this Hon'ble Commission. Pertinently, there has been no trial period even though the Detailed Procedure has introduced several requirements such as the telemetry system (which was never envisaged in Regulations*

2018). Therefore, it is submitted that this Hon'ble Commission ought to grant a trial period for the stakeholders (including the Petitioner) to implement the Regulations 2018.

**PRELIMINARY SUBMISSIONS:**

**A. DELEGATION INVOLVES THE GRANTING OF DISCRETIONARY AUTHORITY TO ANOTHER, BUT SUCH AUTHORITY IS PURELY DERIVATIVE. THE ULTIMATE POWER ALWAYS REMAINS IN THE DELEGATOR AND IS NEVER RENOUNCED.**

1. *It is well settled that subordinate legislation, which is generally in the realm of rules and regulations dealing with the procedure on implementation of plenary legislation, is a task generally entrusted to a specified authority. Consequently, in terms of Section 181 of the Electricity Act, 2003 ("Act"), the State Commission, i.e. this Hon'ble Commission has been conferred with the power to make regulations. -----*

*Accordingly, this Hon'ble Commission framed the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and Related Matters of Wind and Solar Generating Stations) Regulations, 2018 ("Regulations 2018") on 12.04.2018 in terms of Section 181 of the Act to maintain grid discipline and grid security as envisaged under the grid code through commercial mechanism for deviation settlement for renewable projects.*

2. *For the purposes of framing the operating procedure for effective implementation of Regulations 2018 ("Detailed Procedure"), this Hon'ble Commission had entrusted the said task to the Madhya Pradesh State Load Dispatch Centre ("SLDC"), i.e. Respondent No. 1 herein. This was done in terms of Regulation 6(a)(5) of the Regulations 2018. The SLDC thus has an important role in implementation of the procedure under the Regulations 2018. However, the procedure that was to be framed was to be implemented only after the approval of this Hon'ble Commission.*

*In relation to what is stated above, it is pertinent to note that once the power to frame the regulations is conferred upon this Hon'ble Commission, after exercising the said power and framing the regulation, the issue on how to implement the decision taken in the process, is a matter of procedure. To elucidate further, in furtherance of the implementation of the decision already taken by the primary delegate, i.e., this Hon'ble Commission as per the delegation, ministerial or clerical tasks may be performed by authorized agency. Accordingly, this Hon'ble Commission may confer discretion on an administrative agency, such as Respondent No. 1, as to the execution of the regulations and leave it to the agency to work out the details within the framework of that Regulations. However, this is so long as, the essential functions of decision making are performed by the delegate, i.e. this Hon'ble Commission.*

3. *It is highlighted that the implementation of the Detailed Procedure, covering all the existing regulatory provisions and amendment proposed to Regulations 2018, was not approved by this Hon'ble Commission until 25.09.2019, even if it is presumed that the procedure was already individually informed to each QCA or wind/solar generator acting as a state entity. Therefore, it is submitted that the Respondent No. 1 could not have implemented the Regulations 2018, unless the procedure in terms of Regulation 6(a)(5) was approved by this Hon'ble Commission.*
4. *With respect to what is stated above, it is submitted that Respondent No. 1 could only implement the Regulations 2018 once it was approved by this Hon'ble Commission. Therefore, any instructions of Respondent No. 1 on the plan for data telemetry, formats of forecast submission and other details in that regard [refer to Regulation 6(a)(5) of Regulations 2018], which were beyond injection and drawal, in the interest of grid security and grid discipline [refer to Regulation 7 of Regulations 2018], could not have been implemented, if they were at that particular point in time, not approved by this Hon'ble Commission. The Respondent No. 1 cannot act beyond the scope of the delegation under Regulations 2018 by this Hon'ble Commission.*
5. *It is pertinent to state that any instructions provided by the respondent No. 1, if at all, was beyond the mandate of Section 181 of the Act (i.e. without approval of this Hon'ble Commission and without previous publication) and Regulations 2018. In that regard, relevant para wise reply by the Respondent No. 1 are stated as follows:*

*Para: 27:-*

*The regulatory provision for forecast submission by QCA to SLDC already existed in MPERC (F&SDSM) Regulation-2018. The procedure for submission of forecast to SLDC was already posted on the website of SLDC prior to implementation of Regulation-2018 and all the QCAs, Wind / Solar Generators and Developers were aware of the same. Some of the RE Generators had been submitting their forecast to SLDC in compliance to Third Amendment to Madhya Pradesh Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2010.*

*Para 28:*

*Reply of this para has already been given in preceding paras except (viii) i.e. Problem with ELTRIX scheduling application. In this regard it is to submit that whenever QCA finds any difficulty in submitting forecast through ELTRIX portal, SLDC accepts the forecast through email. All the QCAs are aware of this arrangement.*

*Para 29*

*Practical challenges faced by the Respondent No.2 were brought into the notice of Hon'ble Commission vide letter dated 08.10.2018 by him and copy of which is also endorsed to SLDC. Several queries were also raised by other QCAs before SLDC. Thus SLDC had convened a meeting with RE Generators, Developers and QCAs on 23.10.2018 and addressed the queries / problems faced in implementation of the MPERC (FSDSM) Regulation-2018*

6. *Additionally, Respondent No. 1 has indicated that the wind and solar generators were following the instructions, independently provided by the Respondent No. 1 to each generator, whenever clarity was sought and wherever the Regulations 2018 were silent. It is also pertinent to state where there were no instructions and there was no clarity concerning the mode of commercial settlement, some QCA's had adopted the standard practice for the implementation of the deviation settlement mechanism (as approved and followed in other states). Further, there has been no definitive response on the mode followed by the Respondent SLDC as to the procedure followed for undertaking commercial settlement. One such example which is placed before this Hon'ble Commission is the no. of revisions provided by the QCA/ wind generators/ solar generators. From the reply filed by the QCA, it is learnt that some QCA's have submitted more than 16 revisions and these revisions are accepted and accommodated by the Respondent for commercial settlement. It is therefore clear that, in relation to the standard industry practice being followed by the QCA or on the instructions provided by the Respondent individually, no approval had been accorded to by this Hon'ble Commission. It is also certain that owing to a higher number of revisions done by some QCAs as compared to other QCAs who have done 16 revisions, the QCAs who submitted higher number of revisions, would have ended up paying lower DSM charges. It is therefore submitted that there is also a disparity in the obligation to pay DSM charges arising out of the Regulations 2018 for various QCAs.*

**B. RESPONDENT NO. 1 HAS CONVENIENTLY STATED THAT REGULATIONS 2018 WERE SUFFICIENT FOR COMMERCIAL SETTLEMENT OF DEVIATION CHARGES WHILE COMPLETELY IGNORING THE MANDATE UNDER REGULATION 6(a)(5) OF THE REGULATIONS 2018**

**IMPORTANCE OF THE REGULATIONS 2018**

7. *Forecasting, Scheduling and Deviation Settlement Mechanism are key to integration for RE Generators.*
8. *To ensure that RE Generators of the grid strictly adhere to their schedule and the grid operates in an efficient, secure and stable manner, the system operator or regulator have put in place regulatory measures and restrictions so as to deter such infractions from schedule. The Deviation Settlement Mechanism ("DSM") is one such regulatory measure that creates commercial penalty so as to ensure compliance with the schedule provided by the load despatch centre and to avoid deviation from the schedules and thereby cause grid*



*disturbance Deviation Charge associated with deviation, which deters the generators from deviating from their schedule.*

9. *This Hon'ble Commission therefore in exercise of its powers under the Act felt necessary to frame Regulations 2018 on forecasting, scheduling, deviation settlement and related matters for solar and wind generation sources that are connected or are likely to connect to the state grid.*

***DETAILED PROCEDURE TO IMPLEMENT THE REGULATIONS 2018 IS ESSENTIAL FOR IMPLEMENTATION OF THE COMMERCIAL SETTLEMENT MECHANISM UNDER REGULATIONS 2018***

10. *Under the Regulations 2018, the Respondent No. 1 was cast with the responsibility to formulate a detailed procedure on various aspects of forecasting and scheduling to give effect to the Regulations 2018.*
11. *It is also pertinent to state that after a review of the above, it can be seen that whenever forecasting and DSM is being implemented for the first time, firstly the procedure is being formulated and published for comments and approved by the Commission (after carrying out relevant amendment) and only thereafter, is the relevant regulation being implemented. It is also pertinent to state that the formats for forecasting and uploading facility were also being approved by the respective commissions as per the DSM settlement procedures detailed above.*
12. *It is also observed that states like Maharashtra have also provided a trial period for the DSM in order to assess the practicability of the procedure, therefore, it would be wrong to state that the grid code or any other regulation prevalent was complete for the implementation of DSM.*
13. *It is also pertinent to note that Regulations 2018 ought to have been followed immediately by the Detailed Procedure (within a reasonable time) as Regulations 2018 were effective with immediate effect in the state on all wind and solar generators above 10 MW and 5 MW respectively at individual or pooling station level. There were many additional points which were essential to be addressed in order to implement the Regulations 2018. These included applicability [Clause 1.3], Definition of "Seller" [2.1.(v)], must run status of RE plants [5a], number of revisions to be submitted [6a2], different rates of deviation for old and new RE Projects [Table 3 and 4], payment security, no. of revisions, whether DSM charges were to be calculated after netting of all errors within State pool, etc. that needed proper explanation and elaboration for implementation of DSM. It is pertinent to state that even though no period was prescribed for implementation of the Detailed Procedure under Regulations 2018, Detailed Procedure 2018, ought to have been implemented within a reasonable time.*

14. *It is also pertinent to state that in terms of Regulation 6(h) stated that 'Once the accounting procedures as above are put in place, all Wind and Solar generators shall be treated together as a virtual pool within the State Deviation Pool Account.', thereby implying that it is only after the Detailed Procedure is approved by the Commission that the DSM commercial settlement could take place.*
15. *Additionally, it is important to note that prior to the Detailed Procedure, there was no defined mode of how the QCA (who is integral for commercial settlement) would communicate with the SLDC for exchange of information with regard to the following aspects:*
  - a. *Communication of the day ahead, intraday and week ahead schedule and or any revisions to the SLDC;*
  - b. *Communication of the real time generation at the pooling substation or by the stand-alone generator; and*
  - c. *Communication of the grid constraints and curtailments by the SLDC to the QCA.*
16. *Further, the Detailed Procedure (as approved by the commission) did not just make the role of the QCA mandatory for commercial settlement (unlike the Regulations 2018) but also significantly expanded the role of the QCA for commercial settlement. Additionally, with the lack of procedure in place, it was incumbent on Respondent No. 1 to disclose the details of all the QCA's who have been registered in terms of the Detailed Procedure and the date when the said QCA is registered, keeping in mind that the Detailed Procedure has expanded the role of the QCA and made the role of QCA mandatory for commercial settlement.*

***LACK OF PROCEDURE OR HARMONY IN REGULATIONS 2018 IN VIEW OF NO APPROVED DETAILED PROCEDURE BY THIS HON'BLE COMMISSION FOR A SIGNIFICANT TIME PERIOD***

17. *The following can be ascertained after going through Regulation 6 (a) of Regulations 2018:*
  - 17.1. *The wind and solar generators and the QCA are state entities;*
  - 17.2. *The provisions of the Grid Code and M.P. Electricity Regulatory Commission (Terms and Conditions for intra-state open access in Madhya Pradesh) Regulations 2015 were applicable for declaration of capacity, scheduling and eliminating of gaming and were to be read in conjunction with the Detailed Procedure, as and when approved by the Commission.*
  - 17.3. *Regulations 2018 were framed to determine the commercial settlement of deviation charges;*
  - 17.4. *Further, Regulation 6(a)(3) provided that either the wind and solar generators or QCA 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. It*

*is pertinent to note that the formats of forecast submissions and other details in this regard were subject to Regulation 6(a)(5) of Regulations 2018, whereunder the detailed procedure had to be prepared by Respondent No. 1 and the same had to be approved by this Hon'ble Commission; and*

*17.5. Additionally, it is pertinent to state that once the schedule is submitted based on the forecast [in terms of Regulation 6 (a)(3)], such schedules shall be used as a reference for deviation settlement.*

*Accordingly, from a reading of the above it is clear that under Regulation 6 (a) of the Regulations 2018, the procedure for forecast by the wind and solar generators or QCA was not known. The procedure for forecasting was to be governed in terms of Regulation 6(a)(5), which envisaged that a detailed procedure would be formulated by the Respondent No. 1. This Detailed Procedure in turn could not be implemented unless it was approved by this Hon'ble Commission.*

*18. Further, the Respondent No. 1 has conveniently stated as following in para wise reply to para No. 18 of the reply stating that:*

*Para: 18:-*

*XXX*

*The Clause-6 (7)(b)(iii) of the MPERC (Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 and Clause-6 (II)(i) of Annexure-I of the 1<sup>st</sup> amendment of the above regulation, is reproduced below-*

*"The Wind and Solar Generator which are State Entities undertaking Intra State transactions shall be paid as per actual generation".*

*As per above clause, settlement of energy between Generator and its consumer is done on actual basis i.e. whatever power is generated by the generator, shall be credited to its consumer on monthly basis.*

*Since the settlement of energy between RE Generator and its consumer in Intra-state is done on actual basis, there is no need to issue drawal schedule for the buyer/ consumer and the question of computing deviation charges of the Discoms / consumers of RE Generators under Intra-state regime does not arise.*

*XXX*

*It is submitted that while stating the above, the Respondent No. 1 has however suitably ignored (by selectively reading Regulation 6(a)(7) of Regulations 2018) that Regulations 6(a)(3) of Regulations 2018 mandated that the wind and solar generator (who are not state entities) can provide Respondent No. 1 with a schedule based on its own forecast. It is*

*pertinent to note that the formats of forecast submissions and other details in this regard were subject to Regulation 6(a)(5), wherein the detailed procedure had to be prepared by Respondent No. 1 and the same had to be approved by this Hon'ble Commission. However, the same was not done until 04.10.2019.*

19. *It is also submitted that the Respondent No. 1 has in various bills detailed a list of 'the Generators / Developers / QCA of the following Pooling stations' who 'have not furnished the Forecasting and Availability data' to Respondent No. 1, even though there was no approved mechanism by this Hon'ble Commission for submitting the forecast in terms of Regulations 6(a)(5) of Regulations 2018.*
20. *Further, in juxtaposition to what is stated above, the Respondent No. 1 has also maintained the stand that "the provisions of Regulation-2018 are clear in itself and did not pose any hurdle/ difficulty in implementation" of the commercial settlement of the deviation charges. The Respondent No. 1 has supported its contention by stating that 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 Regulation 2018 (refer to para wise reply to para 23 in the reply). In support of this, Respondent No. 1 has relied upon the following regulations:*
  - 20.1. *CERC Indian Electricity Grid Code Regulations, 2015;*
  - 20.2. *Madhya Pradesh Electricity Grid Code, 2005 and amendments;*
  - 20.3. *MPERC (Terms and Conditions for Intra-State Open Access in Madhya Pradesh) Regulations, 2005;*
  - 20.4. *Madhya Pradesh Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2010; and*
  - 20.5. *Central Electricity Authority notification dated 26.11.2014.*
21. *In relation to the above, it is clarified that Regulation 6(a)(1) of Regulations 2018 states that "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." Furthermore, the Regulations 2018 in Regulation 7 specified that the sellers and the buyers shall strictly follow the instructions of the State Load Despatch Centre on injection and drawal in the interest of grid security and grid discipline. It is pertinent to note that Regulation 7 was deleted (but incorporated as Procedure 9 in the Detailed Procedure) by way of the First Amendment, thereby, implying that instructions of Respondent No. 1 were only to be complied with (and without the approval of this Hon'ble Commission) wherein the instructions were with respect grid security and grid discipline.*
22. *Additionally, Regulations 2018 did not comment on Madhya Pradesh Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy)*

*Regulations, 2010 and Central Electricity Authority notification dated 26.11.2014. Therefore, it is pertinent to state that:*

- 22.1. MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulations, 2010, were formulated by this Hon'ble Commission under Section 181 (2) (zp) of the Act to achieve promotion of electricity generation from Renewable sources of Energy, facilitate connectivity of these generating plants with the grid and to specify a percentage of the total requirement of the distribution licensee that shall be purchased by them from generators of new and renewable sources of energy. Therefore, the said regulation did not have anything to do with commercial settlement of deviation charges; and*
- 22.2. Additionally, Central Electricity Authority notification dated 26.11.2014 was passed under powers conferred by the sub-Section (1) of Section 55 and clause (e) of section 73 read with sub-section (2) of Section 177 of the Act, to amend the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006.*
- 23. It is further stated that Respondent No. 1 has conveniently ignored that this Hon'ble Commission has after following due procedure of law passed Regulations 2018 on 12.04.2018 in terms of Section 181 of the Act to maintain grid discipline and grid security as envisaged under the grid code through commercial mechanism for deviation settlement, thereby, the framework for Deviation Settlement Mechanism was to cover the following key design parameters, viz. (a) Scheduling period (b) Deviation (c) Settlement period (d) Measurement unit for State Deviation Pool Account (e) Deviation Pool Price Vector (t) Deviation Volume Limit (g) Premise for allocation of losses. It is only with respect to devise a commercial mechanism that this Hon'ble Commission passed the Regulations 2018, wherein it envisaged that "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."*
- 24. It is also pertinent to state that Regulations 2018 (read with Regulation 6(a)(5) of the Regulations 2018) was passed by this Hon'ble Commission even though Respondent No. 1 claims that 'the procedure for submission of forecast to SLDC was already posted on the website of SLDC prior to implementation of Regulation-2018'.*
- 25. Further, the Regulations relied upon by the Respondent to state that the aspects not covered in the Regulations 2018, were already specified is misplaced. It is submitted that each Regulation, as detailed above and relied by the Respondent, has been passed by this Commission for a specified object and none of the regulations detailed above envisaged the scope of commercial settlement for deviation mechanism.*
- 26. It is reiterated that the Respondent No. 1 cannot act beyond the scope of the delegation under Regulations 2018 by this Hon'ble Commission.*



27. *It is also essential to note that Regulations 2018 stated as follows:*  
*Clause 6 (a) (2) of the regulation states that:*  
*"...revision in generation schedule on the day of operation shall be permitted in accordance with the procedure specified under the Grid Code and MPERC Intra-state open access regulations 2005"*
28. *It is submitted that there was no clarity on the number of revisions for Intra-day revisions and timelines for day-ahead and intraday revisions till September'19 in the state regulation. As a result, the QCA took the approach of providing 16 revisions i.e. 1 revision every 1.5 hour on the basis of the general practise being followed in all other states, and as per the Model FoR regulations. However, due to no uniformity in the number of revisions in the Regulations 2018, some of the QCAs and generators had submitted more than 16 revisions in a day, which in turn has led to a benefit of more accuracy to the said generators.*
29. *It is also pertinent to highlight that the Respondent -1 has conveniently ignored that the Regulations 2018 envisages:*  
*a. Weekly settlement of accounts;*  
*b. AMR facility to be implemented; and*  
*c. State Deviation Pool Account.*
30. *In order to commence the commercial settlement mechanism after the Detailed Procedure was approved, the SLDC has not provided any time to the State Entities to implement and arrange suitable meters and provision of AMR facility for data downloading remotely at SLDC.*
31. *Additionally, the system of State Deviation Pool Account has not been implemented and it is pertinent to state that this virtual pool helps in reduction of the deviation charges across the state.*

**THE RESPONDENT NO. 1 STATES THAT "REGULATION-6 (A), 7, 8, 9 OF THE MAIN REGULATION HAVE BEEN SHIFTED TO ANNEXURE-I OF THE FIRST AMENDMENT TO MAKE THE REGULATION MORE LOGICAL AND ALSO TO AVOID UNNECESSARY DUPLICATION".**

32. *It is submitted that it is completely incorrect to state that Regulations 6(a), 7, 8, 9 of Regulations 2018 have been shifted to Annexure I of the First Amendment to make the Regulations 2018 merely "more logical" and also to "avoid unnecessary duplication". Accordingly, the averment of Respondent No. 1 in the para wise reply to para No. 22 is reproduced herein below:*

*Para: 22:-*

*XXX*

*Regulation-6 (a), 7, 8, 9 of the main Regulation have been shifted to Annexure-I of the First Amendment to make the regulation more logical and also to avoid unnecessary duplication.*

33. *With respect to the same, a comparative study of the Detailed Procedure and the Regulations 2018 exhibits that the following has been inserted, which find no reference in Regulations 6(a), 8 and 9 of Regulations 2018:*
- a. Procedure 4, detailing the procedure for Declaration of Available Capacity (AvC), Forecasting, Scheduling and Despatch. It is pertinent to note that this runs into 'xvii' sub points detailing the procedure to be followed by a QCA;*
  - b. Procedure 5 detailing the metering and data collection;*
  - c. Procedure 6 detailing the computation of deviation charges;*
  - d. Procedure 7 detailing the Settlement of Deviation Charges;*
  - e. Procedure 8 detailing the payment of security towards deviation charges;*
  - f. Annexure VI detailing the guidelines for planning of telemetry and voice communication; and*
  - g. Annexure VII detailing the format for forecast submission*
34. *It is however submitted that it was only Regulation 7 of Regulations 2018 which was duplicated and incorporated as Procedure 9 in the Detailed Procedure. Rather, it is also pertinent to highlight, that under Regulations 2018 (without the First Amendment), the RE generators or the QCA had the option of accepting the concerned SLDC's forecast for preparing its schedule or provide a schedule based on its own forecast and there was no pre-condition of appointing a QCA. However, through the First Amendment, it was only the QCA's who could undertake the provisioning or accepting of forecast. However, by way of the said First amendment, a pre-condition was also introduced whereby 'All wind or solar generators including those connected via pooling station shall have to appoint a common QCA which may be one of the generator or mutually agreed agency' [Ref. Regulations 4(8) of the Consolidated Regulations]*

**THE RESPONDENT NO. 1 INCORRECTLY STATES THAT "THE FIRST AMENDMENT AND THE DETAILED PROCEDURE HAS NOT SIGNIFICANTLY CHANGED THE SCOPE AND OBJECTIVE OF REGULATIONS 2018".**

35. *It is further submitted that the amendment was issued by this Hon'ble Commission after completion of due process of law required for notification of amendment. As demonstrated in para 21, the Detailed Procedure introduced certain procedures which were never available under the Regulations 2018. However, apart from that, the Regulations 2018 were amended significantly to:*
- a. amend the objective and scope of Regulations 2018 and restricted its applicability only to Sellers involved in the transactions facilitated through short-term, medium-term or long-term open access in intra-state transmission or distribution of electricity (including intra-state wheeling of power) and limited the commercial mechanism for*

*deviation settlement only in relation to injection of electricity by the users of the grid. Accordingly, definitions of actual drawal, buyer, scheduled drawal and Regulation 5 of Regulations 2018 were omitted;*

- b. amend the definitions of deviation, gaming, MRI, pool account and QCA had to be amended;*
- c. amend Clause 2(r) to detail that if various developers are connected via separate feeders to the same pooling substation, then each such feeder shall be considered as separate pooling substation. This is a clear indication that the aggregation which was allowed in the common pooling substation was disallowed subsequent to the amendment brought in by Hon'ble Commission;*
- d. amend Regulations 2018 to state that the QCA being appointed shall have to be a mutually approved agency. Further, it was envisaged that the failure to appoint a QCA within 2 months from the date of issuance of notice shall lead to disconnection. amend Sub - Regulation (7) of Regulation 6 to state that if 50% of the installed capacity of wind and solar generator including those connected via a pooling substation have consented for a particular QCA then remaining also have to appoint same QCA or else the said generators would be liable for disconnection.*
- e. It is also pertinent to state that the scope of Regulations 2018 had been expanded to include 'all wind & solar generators selling power outside the state under open access and having combined installed capacity of 1 MW and above';*
- f. by way of the First Amendment, additional 2 months' time period was given to Respondent No. 1 to formulate a State Power Committee, after obtaining the approval of this Hon'ble Commission.; and*
- g. The Detailed Procedure introduced for the first time "Annexure VI" detailing the guidelines for planning of telemetry and voice communication and "Annexure VII" detailing the format for forecast submission.*

*It is pertinent to state that without the aforesaid changes, the implementation of Regulations 2018 was being done at the whims and fancies of Respondent No. 1, without the approval of the Respondent Commission.*

**C. THE RESPONDENT HAS INCORRECTLY INDICATED THAT APPOINTMENT OF THE QCA WAS DEEMED MANDATORY IN TERMS OF REGULATIONS 2018. FURTHER REGULATIONS 2018 WERE SILENT ON THE CRITERIA FOR APPOINTMENT OF QCA, THE PROCESS OF REGISTRATION OR APPOINTMENT OF THE QCA.**

36. *The Respondent No. 1 has stated that appointment of the QCA was compulsory and that the responsibilities and functions were defined. With reference to the same, the Respondent No. 1 has stated as following:*

*Para- 11:-*

*The MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 in Section-2:- "Definition" has clearly defined the responsibilities and functions to be carried out by the Qualified Coordinating Agency (QCA). Section-6 (3) and (4) of the said regulation further clarifies the functions to be performed by the QCA. The role & responsibilities assigned to QCA have been defined in Clause-2 (1) (s).*

*Para- 12:-*

*Since QCA s acting on behalf of RE Generator and therefore has to undertake commercial settlement on behalf of Generators for Deviation Settlement Mechanism, thus there was no specific mention of QCA in Clause-4 "Pre-conditions for participation in Deviation Settlement Mechanism.*

*Para: 49-*

*The role & responsibilities of QCA as mentioned in Clause-2 (1) (s) of Regulation-2018 are same as in the First Amendment of Regulation-2018. However, SLDC has elaborated the roles & responsibilities of QCA as mentioned in Regulation-2018 in Detailed Operating Procedure submitted to the Hon'ble State Commission for approval for the ease of implementation of regulatory provisions contained in Regulation-2018 in the State of MP.*

*Para 48*

*Registration with SLDC and appointment of QCA by the generator was already existing in the MPERC (FSDSM) Regulation-2018, however further elaboration of the same has been made in the First Amendment of MPERC (FSDSM) Regulations 2018.*

- 37. Additionally, after review of the various bills as issued by the Respondent No. 1 (as detailed in para 37 of the petition), it is revealed that the said Respondent has itself issued the DSM account to the Developers / Generators for settlement of deviation charges where the generators of the pooling stations 'have not appointed a QCA'. Therefore, this itself implies that appointment of QCA was not mandatory for settling of DSM account.*
- 38. It is submitted that from a perusal of the para wise reply of the Respondent, it appears that the Respondent No. 1 is interpreting the Regulations 2018 selectively to suit the purpose of calculation of deviation charges. It is submitted that under Regulations 2018, the wind and solar generators along with the QCA were regarded as state entities, however, by way of the First Amendment to Regulations 2018, sub-clause 8 to Clause 4 of Regulations 2018 was inserted, whereunder, the pre-conditions for participation in Deviation Settlement Mechanism, the following clause has been inserted:*

*(8) All wind or solar generators including those **connected via pooling station** shall have to **appoint a common QCA** which may be one of the*

*generator or mutually agreed agency. If generators fail to **appoint a common QCA within a period of two months from the date of issue of notice by SLDC**, then SLDC shall advise the concerned licensee for disconnection of defaulting generators. The licensee shall take action accordingly under intimation to SLDC.*

*Thereby, it is only after the First Amendment was made that the appointment of a QCA was made compulsory within 2 months from the notice of SLDC, which was completely different from the requirements under Regulations 2018. Therefore, in terms of the same, the definition of QCA was expanded to make QCA responsible for coordination with STU/ SLDC for metering & AMR, data collection/ transmission, telemetry & communication.*

39. *Therefore, prior to the First Amendment there was no compulsion or timeline under which a QCA had to be appointed by the wind and solar generators connected via a pooling station.*
40. *Even if it is believed that appointment of QCA was compulsory, it is pertinent to state that until the notification of the Detailed Procedure under the First Amendment on 4 October 2019, the elaborate details which are essential and at the core of the mechanism for deviation settlement mechanism were not available at all. These included inter alia qualifying requirements for a QCA by wind/ solar generators, appointment of QCA by generators; registration of QCA with SLDC, detailed Roles and Responsibilities of the QCA, Mode of declaration of Available capacity (AvC), forecasting by QCA, scheduling and despatch, metering and data collection, computation of data charges and payment of deviation charges by QCA.*

**APPOINTMENT OF THE STATE POWER COMMITTEE AFTER APPROVAL OF THIS HON'BLE COMMISSION WAS ESSENTIAL FOR CARRYING OUT THE RESPONSIBILITIES AS DETAILED IN REGULATION 10 OF REGULATIONS 2018**

41. *Additionally, Regulation 10 of Regulations 2018 envisaged that Respondent No. 1 shall also formulate the operating procedures and business rules for constitution of a State Power Committee ("SPC"), which shall also be approved by this Commission. The State Power Committee had an important role in the implementation of Regulations 2018 being as follows:*
  - i. *Co-ordinate and facilitate intra-state energy exchange for ensuring optimal utilisation of resources;*
  - ii. *Review energy accounting and billing for inter-utility exchange of power;*
  - iii. *Ensure settlement of deviations amongst state entities in accordance with Regulations 2018; and*
  - iv. *Monitor compliance of the Regulations 2018 by state entities.*

*However, a State Power Committee was only appointed by the Respondent No. 1 only on 30.12.2019.*



42. *It is submitted that the SLDC's admission that the State Power Committee has been constituted only on 30<sup>th</sup> December, 2019 after approval from the Hon'ble State Commission, clearly highlights that when the invoices for deviation were raised for the for the months of April 2018 to October 2019, no State Power Committee was in place whose job was inter alia to ensure settlement of deviations amongst state entities. Accordingly, it is clear that the invoices have been raised without settlement of the deviations by a State Power Committee.*
43. *The importance of appointment of the SPC vis-à-vis commercial settlement was highlighted by the Punjab State Electricity Regulatory Commission, wherein, the Hon'ble Commission had in the draft Punjab State Electricity Regulatory Commission (Punjab State Grid Code) Regulations, 2013, while considering the importance of the SPC had suggested that until the SPC is appointed, it would be necessitated that the Commission may advise another committee to over see the task of SPC. The relevant portion is extracted below:*

*(C) Provided that until such Punjab State Power Committee is constituted with approval of Commission, the State Grid Code Review Committee (SGCRC) constituted under Section 2 of PSERC (Punjab State Grid Code) Regulations, 2013, as amended from time to time, shall be responsible for providing necessary support and advice to the Commission for suitable modifications/issuance of operating procedures, practice directions, and amendment to the provisions of this Regulations, as may be necessary upon due regulatory process.*

*Provided further that until Punjab State Power Committee is constituted with approval of Commission, the Commercial & Metering Committee (CMC) constituted under Section 2.7 of PSERC (Punjab State Grid Code) Regulations, 2013, as amended from time to time, shall be responsible for monitoring compliance of these Regulations by the State Entities and guiding the SLDC for modification of procedure(s) to address the implementation difficulties, if any.*

*In view of the above, it is important to understand that the creation of SPC is for a specific purpose and is mandatory. Therefore, it becomes pertinent to note that even though there is no reasonable explanation for the delay in formulating the SPC, the commercial settlement continued without any body overlooking the important roles and tasked assigned to the SPC.*

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

- i. *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.*

- ii. *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.*
- iii. *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.*
- iv. *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.*
- v. *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.*
- vi. *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.*
- vii. *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.*

- viii. *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.*
- ix. *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.*
- x. *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.*
- xi. *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.*
- xii. *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.*
- xiii. *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.*

**15.** The petitioners in their final written submission reiterated their same contention as submitted in their petition and rejoinder. The petitioners have broadly submitted the following in their final written submission:

- i. *As Regulations 2018 aimed to govern the functioning of the various State Entities, as per sub clause 5 of Regulation 6(a) of Regulations 2018, the procedure in terms of a plan for data telemetry, formats of forecast submission and other details were to be provided in the 'Detailed Procedure' to be prepared by Respondent No. 2 SLDC and approved by Respondent Commission. This 'Detailed Procedure' was essential, especially, inter alia, to detail the method for metering and data collection and/or calculation of deviation charges. However, no time period was prescribed for the formulation of such 'Detailed Procedure' which was essential for the governance and functioning of the State Entities.*
- ii. *It is only after about 1 year 6 months from the notification of Regulations 2018 that the Hon'ble Commission in exercise of its power under Section 181 of the Act notified the 'First amendment' on 25.09.2019 to the Regulations 2018, which was then published in the gazette on 4 October 2019 ("First Amendment"). Annexure I to the First Amendment detailed the 'Operating Procedure for Implementation' of Regulations 2018.*
- iii. *It is submitted that, however, even though the Detailed Procedure was not published to implement Regulations 2018, belated notices calling for payment of DSM charges ("Notices") under Regulations 2018 were published by the Respondent SLDC on its website. Accordingly, the Petitioners moved this Hon'ble Commission on 18.02.2020 by filing this captioned petition.*
- iv. *It is well settled that subordinate legislation, which is generally in the realm of rules and regulations dealing with the procedure on implementation of plenary legislation, is a task generally entrusted to a specified authority. Consequently, in terms of Section 181 of the Act, the State Commission, i.e., this Hon'ble Commission has been conferred with the power to make regulations. Accordingly, this Hon'ble Commission framed the Regulations 2018 on 12.04.2018 in terms of Section 181 of the Act to maintain grid discipline and grid security as envisaged under the Grid Code through commercial mechanism for deviation settlement for renewable projects.*

- v. *For the purposes of framing the operating procedure or the Detailed Procedure in view of effective implementation of Regulations 2018; the task for formulating the Detailed Procedure was entrusted to the Madhya Pradesh State Load Dispatch Centre ("SLDC"), i.e., Respondent No. 1 herein, in terms of Regulation 6(a)(5) of the Regulations 2018. This Detailed Procedure in terms of Regulation 6(a)(5) of the Regulations 2018 could only be implemented after the approval of this Hon'ble Commission.*
- vi. *It is highlighted that the implementation of the Detailed Procedure, covering all the existing regulatory provisions and amendment proposed to Regulations 2018, was never available until 25.09.2019, i.e. when the First Amendment was passed and not until 04.10.2019, i.e. when the First Amendment was notified.*
- vii. *With respect to what is stated above, it is submitted that Respondent No. 1 could only implement the Regulations 2018 once it was approved by this Hon'ble Commission, as the Detailed Procedure for carrying out forecasting and scheduling was not introduced, nor provided in the MP Grid Code until June 2019. Therefore, any instructions of Respondent No. 1 on the plan for data telemetry, formats of forecast submission and other details in that regard [refer to Regulation 6(a)(5) of Regulations 2018], which were beyond injection and drawal, in the interest of grid security and grid discipline [refer to Regulation 7 of Regulations 2018], could not have been implemented, if they were at that particular point in time, not approved by this Hon'ble Commission. It is submitted that the Respondent No. 1 cannot act beyond the scope of the delegation under Regulations 2018 by this Hon'ble Commission.*
- viii. *Apart from all other issues, the single biggest factor due to which the Regulations 2018 could not have been implemented without the Detailed Procedure and the First Amendment is that till the First Amendment, which also followed the amendment to the State Grid Code in October 2019, the Generators were not even aware as to how many revisions of the Schedules could be permitted. It is therefore clear that if the permissible number of revisions to the schedule were not known to the Generators, there can be no question of treating any deviations from the schedule as actionable. It was only when the State Grid Code was amended in June 2019 and the First Amendment read with the Detailed Procedure drew upon the same, was it specified for the first time that the Generators were to be permitted 16 deviations from the schedule.*
- ix. *Prior thereto, it is now admitted by the SLDC in reply to the interrogatories (in response to query m) that prior to the amendment in the State Grid Code, the SLDC were accepting all revisions to the schedule given by Generators. This is entirely unacceptable on several counts, namely:*



- (a) *Since there were no clear direction from this Hon'ble Commission as to how many revisions were permissible, the SLDC on their own could not have allowed whatever number of revisions were made by Generators;*
- (b) *This left the matter entirely at the whim of the SLDC as to how many revisions were accepted by them. No Regulations requiring grid discipline with financial implications can possibly be implemented in such uncertainty.*
- (c) *If, during the relevant period, the Generators had known that whatever revisions were given by them, they would have been accepted by the SLDC, every Generator, including the Petitioner, the generators would simply have revised every single time-block's schedule and avoided any deviation penalty at all.*
- (d) *Hence, until this Hon'ble Commission were to specify the number of revisions to the daily schedule there could not be any financial implications for so-called deviations from the schedule.*
- x. *Further, the changes/ additions/ clarifications that were introduced via the First Amendment, which significantly changed the implementation of the commercial settlement mechanism for deviation settlement, and that were not provided for in Regulations 2018 are detailed below: -----*
- xi. *It is submitted that, in para 37 of the Petition, the Petitioners had listed out the notices along with their relevant details, calling for payment of DSM charges ("Notices") under Regulations 2018 which had been raised to the Respondent No. 2, QCA by the Respondent No. 1, SLDC. These Notices were belatedly issued, on the website of the Respondent SLDC, for the billing period mentioned therein, even though no procedure existed during the said billing period to implement the unamended Regulations 2018. Accordingly, in view of the grounds detailed in the Petition (along with the rejoinder filed by the Petitioner), the Petitioners have prayed to this Hon'ble Commission, that the said notices be declared non-est in law.*
- xii. *In this connection it is submitted that during the course of the hearing the Learned Counsel for the Respondents sought to urge that the Bills for deviation charges were not issued late but the notices themselves were the Bills in respect of deviation charges. This is factually wrong since the Bills for the previous period of August 2018 to October 2019 were in fact issued on 20.11.2020, i.e., much after the notices were issued as detailed below.*
- xiii. *It is submitted that as there was no Detailed Procedure, approved by this hon'ble Commission and no clarity on the implementation of the procedure, no deviation charges could be levied.*

- xiv. *It is pertinent to state that during the pendency of the Petition, the Petitioners had filed certain interrogatories to be answered by the Respondent No. 1 SLDC. Although the Respondent No. 1 did not provide clear responses to the interrogatories, nevertheless, from a reading of the response the following became clear:*
- (a) The Respondent SLDC is not carrying out aggregation of the commercial settlement in virtual pool within the State Deviation Pool account;*
  - (b) Even though the Respondent SLDC refutes to any delay in the formation of the State Power Committee, it has stated that the constitution of the state Power Committee was approved on 30.12.2019 and the first meeting was conveyed on 28.09.2020. Additionally, it was stated that no other body undertook the work of the State Power Committee before 30.12.2019;*
  - (c) It was submitted that out of 117 generators [being 110 pooling stations], generators of 1 pooling station (no. of generators in the pooling station was not revealed) had not appointed a QCA & generators of 15 MW M.P. wind farm, Nagda hill connected at 220 MW had withdrawn the services of QCA w.e.f 01.09.2019.;*
  - (d) Only 3 QCA had registered with Respondent SLDC in terms of unamended Regulations 2018;*
  - (e) 110 pooling stations do not have QCA's registered with the Respondent SLDC as per the Regulations 2018 read with the First Amendment;*
  - (f) Respondent SLDC had only started issuing deviation charges account on a weekly basis w.e.f. 01.02.2020; and*
  - (g) There was no fixed no. of revisions that each generator could submit and Respondent SLDC had accepted all revisions; thereby some generators availing more or less revisions per day. In this regard, it is worthwhile to submit that only on 12.06.2019, through the 4<sup>th</sup> Amendment to the MP Electricity Grid Code, in case of RE generators, revisions became effective from 4<sup>th</sup> time block. Earlier, there was no specific provision for Renewable Energy, so revisions were effective from 6<sup>th</sup> time block as in case thermal generators. This means that post the amendment, a generator can forecast & schedule 1 hour ahead, instead of 1 ½ hours ahead in the past, thereby making substantial changes in accuracy of forecast and the charges to be paid.*
- xv. *However, despite the above, during the pendency of the captioned petition, the bills in relation to deviation charges, in furtherance of the Notices detailed hereinabove (for the period from August 2018 to October 2019), were raised upon the Petitioners by the*

*Respondent No. 2 on 20.11.2020 ('Bills'), along with Bills for additional period (being period from November 2019 to August 2020).*

- xvi. *It is important to state that several Bills raised by the QCA do not tally with the Notices raised by Respondent No. 1. The difference in the amounts are detailed below: ----*
- xvii. *The Petitioners state that it is not understood as to how the difference in the deviation charges could occur when the Bills raised by the QCA categorically states as follows- 'Note: Madhya Pradesh SLDC has released DSM charges for an aggregate capacity of RE Connect Energy for Nov'19, and as per the notice, the DSM related details for your capacity is given below.' Accordingly, the Petitioners will not be incorrect in inferring that the difference that has occurred despite the above statement in the Bills issued by the Respondent QCA, is in view of the fact that no settlement of accounts have been undertaken.*
- xviii. *Additionally, it is clear that the DSM charges mentioned in all the Notices issued by Respondent No. 2 SLDC on its website were not subjected to settlement of accounts in the manner mandated under the Regulations 2018. The fact that the first meeting of the SPC took place only on September 2020 leaves no room for doubt that until then, there was no way to ensure settlement of deviation amongst the state entities (QCA being a state entity). Additionally, it is submitted that the timeline as envisaged in the Detailed Procedure to conduct settlement of deviation charges have not been followed, thereby, any rectification of the deviation charges, has also not been undertaken till date. Therefore, the deviation charges issued upon the Petitioner are in contravention to the Regulations 2018 as passed by this Hon'ble Commission. Accordingly, all the Notices impugned by the Petitioners from serial Nos. 1 to 15 in Table 1 and the Bills in Table 2 issued in furtherance of the said Notices above have been issued without following the due procedure established under the Regulations 2018 in both its unamended and present form.*
- xix. *It is also essential to state that Respondent SLDC also did not issue the Notices and Bills for the deviation charges to the Respondent QCA every consecutive month and the Notices were also issued belatedly. Therefore, it is not understood when the verification of accounts was undertaken by the Respondent QCA with the Respondent SLDC.*
- xx. *Further, since the pre-condition for implementation of the Regulations 2018 has not yet been complied with, i.e., the appointment and the registration of the QCA, being a state entity; no deviation charges ought to be levied until the Regulations 2018 read with the Detailed Procedure is compiled in toto by the generators and the Respondent SLDC.*

- xxi. *It is pertinent to state that after a review of the above, it can be seen that whenever forecasting and deviations settlement mechanism is being implemented for the first time, firstly the procedure is being formulated and published for comments and approved by the Commission (after carrying out relevant amendment) and only thereafter, is the relevant regulation being implemented. It is also pertinent to state that the formats for forecasting and uploading facility were also being approved by the respective commissions as per the DSM settlement procedures detailed above. Additionally, it can be safely concluded that the penalty for deviation was not being levied until the Detailed Procedure was approved and/ or relevant trial period for commercial implementation had expired.*
- xxii. *It is submitted that State Electricity Regulatory Commissions across India have suggested to give trial period for enforcement of DSM regulations so as to streamline the system and processes. While it cannot be quantified as to what extent the trial period can reduce the DSM charges, but it is certain that the systems erroneous performance can lead to erroneous communication leading to erroneous DSM penalty. It is very certain that many Commissions have not only given trial period post the promulgation of a detailed procedure but also have given a window for commercial implementation of the DSM penalty.*
- xxiii. *It is submitted that the trial period is meant for following purposes which clearly can have bearing on the DSM Charges:*  
*(a) It leads to betterment and stabilisation of communication systems such as telemetry, software and protocol.*  
*(b) It leads to betterment and stabilisation of the format for correspondence.*  
*(c) It leads to stabilisation and betterment of forecasting quality and schedule given basis that.*
- xxiv. *In relation to the above, it would not be out of place to mention that in Madhya Pradesh, problems in implementation of the 'Detailed Procedure' still exist, such as:*  
*(a) Issues in meter (TIME DRIFT & SLIDING WINDOW). Due to these issues DSM is wrongly calculated in various PSS. In fact, Respondent SLDC has recently released a list of Meters where they have observed drift and have generators to get it corrected. The same list has been shared to all generators by the Respondent No. 2 QCA.*  
*(b) In terms of feedback received from various generators, in case of sudden tripping/breakdown, the signed document from GSS has to be submitted to SLDC for removing the time blocks from DSM calculation which sometimes becomes very difficult for generators.*

- xxv. *It is important to highlight that trial period has been implemented by the Maharashtra Electricity Regulatory Commission, Gujarat Electricity Regulatory Commission and the Rajasthan Electricity Regulatory Commission. The extract of a recent order of the Rajasthan Electricity Regulatory Commission in Petition No. RERC-1382/18, 1406/18, 1431/18, 1495/19, 1511/19 and 1531/19 highlighting the importance of trial period is also reproduced for consideration ----:*

### **Commission's Observation and Findings:**

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

- (i) The subject petition is filed under Section 86 of the Electricity Act, 2003 read with Regulation 11 (Power to Relax) and Regulation 12 (Power to issue directions) of the 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 to remove difficulty in implementation of the Deviation Settlement Mechanism.
- (ii) Despite directions of the Commission, the Respondent No. 2 (Reconnect Energy Solutions Pvt. Ltd.) has not preferred to file any reply to the subject petition.
- (iii) The petitioners are seeking directions to remove difficulty in implementation of MPERC FSDSM Regulation, 2018 on the following two grounds:
  - (a) Difficulty in implementation of FSDSM Regulations, 2018 due to absence of detailed operating procedure in the Regulations, 2018.
  - (b) That the principal FSDSM Regulations, 2018 itself contemplated revision of schedule by a generating company but the petitioners were not able to revise schedules due to ambiguity/vacuum in applicable MP Electricity Grid Code.
- (iv) 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 any power under the Act for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in manner it thinks fit.”*

(v) MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations, 2018 was notified on 20.04.2018, (FSDSM Regulations, 2018). This FSDSM Regulations, 2018 is applicable to the wind generators having combined installed capacity of 10 MW and above and solar generators with an installed capacity of 5 MW and above including those connected via pooling stations and selling power within or outside the State. Regulation 1 (3) of the FSDSM Regulations, 2018 stated that ***“The above Regulations shall come into force from the date of publication of this notification in the Madhya Pradesh Gazette.”***

(vi) 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.”*

(vii) On 5<sup>th</sup> December’ 2008, the Commission notified the 4<sup>th</sup> 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 4<sup>th</sup> time block, counting the time block in which the revision is advised by the generator to be the first one.*

- (viii) In the aforesaid Regulation, the State Sector Generating Stations were allowed to revise schedule which will become effective from 4<sup>th</sup> 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.***

- (ix) 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.

- (x) Subsequently, on 21<sup>st</sup> 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 4<sup>th</sup> 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."*

- (xi) First amendment to FSDSM Regulations, 2018 was notified on 4<sup>th</sup> 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.

**17.** With the above observations and submissions made by the petitioners 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. Neither the petitioners nor the Respondent No.1 approached the Commission under Regulation 12 of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations, 2018 for any difficulty in giving effect to the aforesaid Regulations as contended by the petitioners.
- (b)** With regard to contention of the petitioners on the issue of non-existence of detailed operating procedure in MPERC FSDSM Regulations 2018, the Commission on perusal of provisions under amended Regulations 2019, has noted that the following details were provided in the amended Regulation:
- (i) Consequences, if a Qualified Co-ordinating Agency (QCA) is not appointed by the generator.
  - (ii) General guidelines for appointing QCA and registration by QCA
  - (iii) Roles and responsibilities of QCA
  - (iv) Payment of security by QCA to SLDC towards deviation charges.
  - (v) Settlement of deviation charges mechanism.
  - (vi) Pre-conditions for participation in DSM
  - (vii) Event of default and consequences
  - (viii) Schedule for Deviation Charges
- (c)** The Commission has further noted the following on perusal of unamended FSDSM Regulations 2018:
- (i) The provisions for appointing QCA, registration and responsibilities of QCA were provided under Regulation 2(1)(s) of unamended Regulations 2018.
  - (ii) Preconditions for participation in DSM was provided under Regulation 4(1) to (7) of unamended Regulations 2018.
  - (iii) Principles and framework for operationalization of DSM was provided under Regulation 5 (a) to (f) of unamended Regulations 2018.

- (iv) Procedure for forecasting, scheduling and elimination of gaming was provided under Regulation 6 (a) to (h) of unamended Regulations 2018.
  - (v) Settlement of Deviation charges was provided under the heading of “Accounting for charges of deviation” in Regulation 8 (1) to (3) of unamended Regulations 2018.
  - (vi) Schedule of payment of charges for deviation was provided under Regulation 9(1) to (5) of unamended Regulations 2018. There has been no change in the deviation charges specified in Table (I) to (IV) provided under schedule of unamended Regulations 2018.
- (d) From the above comparison of the provisions under amended Regulations 2019 vis-à-vis the provisions under unamended Regulations 2018, it is noted that the amendment in certain provisions in unamended Regulations 2018 was made to give institutional strength to the existing Regulations and there has not been any change in the principles for computation of deviation charges after notification of amended Regulations 2019.
- (e) As per provisions under Clause-8.6 (i) of the fourth amendment to MPEGC, 2005 (Revision-I), the State Sector Generating Stations are allowed to revise their forecasted generation during the real time of operation as & when required and the revised schedule shall become effective from 4<sup>th</sup> time block. There was no restriction on number of revisions during the day of operation. Further, in the MP Electricity Grid Code the State Sector Generating Station is defined as “*Any power station within the State, except the Inter-State Generating Station (ISGS) located within the State.*”
- (f) MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations, 2018 is applicable to the wind generators having combined installed capacity of 10 MW and above and solar generators with an installed capacity of 5 MW and above including those connected via pooling stations and selling power within or outside the State. Regulation 1 (3) of the aforesaid Regulations, 2018 provides that “***the above Regulations shall come into force from the date of publication of this notification in the Madhya Pradesh Gazette.***”
- (g) The Respondent SLDC submitted that the FSDSM Regulations, 2018 notified on 24.04.2018 but the commercial implication of the aforesaid Regulations was applied by SLDC after three months i.e., from 01.08.2018. The Respondent SLDC also submitted that it had convened a meeting with Wind Solar Generators, Developers and QCA on 23.10.2018 to explain in detail all the regulatory provisions and addressed all the queries raised by the generators. It was made clear by SLDC to all

the Wind / Solar Generators during the meeting that the Regulation is complete in every respect and can be implemented in the State of MP.

- (h)** As stated by the Respondent SLDC, the petitioners had submitted revisions in forecasted generation in real time of operations from 2<sup>nd</sup> August 2018 and the same has been accepted by SLDC and the schedules were issued to the petitioners by SLDC. The Respondent (SLDC) further stated that there was no restriction on number of revisions done by SSGS / RE Generators. Further, SLDC had never denied any requisition seeking revision in forecasted generation during the real time of operation and all such requests were entertained and generation schedules were issued to generators including that of petitioners. SLDC has also submitted that the first real time revision was started by the petitioners from 02.08.2018 and undertook 4845 real time revisions till 20.06.2019.
- (i)** The Respondent SLDC submitted along with the details of Available Capacity, day ahead forecast and real time revisions that the petitioners started submission of revision in forecast through their QCA from 02.08.2018. The aforesaid revisions as submitted by the petitioners during real time of operations were accepted and the schedules were issued by SLDC accordingly.

**18.** 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