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# MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

## BHOPAL

**Sub: In the matter of petition under section 86(1) (f) of the Electricity Act, 2003 read with Regulation 11 (Power to Relax) and 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 Regulations in relation to Deviation Settlement.**

### **ORDER**

**(Date of Order: 25<sup>th</sup> March' 2022)**

- (1) M/s. Green Infra Wind Energy Limited.,**  
5<sup>th</sup> Floor, Tower C, Building No. 8,  
DFL Cybercity, Gurugram – 122002 Haryana
- **Petitioners**
- (2) M/s. Green Infra Corporate Solar Limited.,**  
5<sup>th</sup> Floor Tower C, Building No. 8,  
DFL Cybercity, Gurugram- 122002 Haryana
- Vs.**
- (1) M.P. State Load Dispatch Centre**  
Block no. 2 Shakti Bhavan, Rampur  
Jabalpur (M.P.) 482008
- **Respondents**
- (2) RE Connect Energy Solutions Private Limited,**  
173, A Sector, Scheme No. 54,  
Indore (M.P.) 452010

Shri Sumant Nayak, Advocate and Ms. Kritika Angruishi, Advocate appeared on behalf of the petitioners.

Shri Nirnay Gupta, Advocate appeared on behalf of the Respondent No.1.

None appeared on behalf of Respondent No. 2.

The petitioners M/s. Green Infra Wind Energy Limited and M/s. Green Infra Corporate Solar Limited filed the subject petition under section 86(1) (f) of the Electricity Act, 2003 read with Regulations 11 and 12 of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 and Regulation 46 of the MPERC (Conduct of Business) Regulations, 2004, seeking directions to remove difficulty in implementation of the Regulations in relation to Deviation Settlement.

2. The petitioners are independent power producers having wind power project of 60 MW located at Rojwas and wind power project of 44 MW located at Nipaniya, respectively in Madhya Pradesh.

3. The Respondent No. 1 is Madhya Pradesh State Load Despatch Centre (SLDC) which is a body constituted under sub-section (1) of Section 31 of the Electricity Act, 2003. The SLDC is responsible for coordinating scheduling of Buyers and Sellers in accordance with provisions of the State Grid Code.

4. The Respondent No. 2 is Qualified Coordinating Agency ("QCA"), which has been appointed by the Petitioners in terms of the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and Related Matters of Wind and Solar Generating Stations) Regulations, 2018. The DSM Regulations are applicable to the Petitioners as the combined installed capacity of the Petitioner's project referred hereinbefore is in excess of 10 MW.

5. The petitioners broadly submitted the following in the petition:

1. *In order to maintain grid discipline and grid security as envisaged under the Grid Code of various states through a commercial mechanism for Deviation Settlement, appropriate regulations were notified by various state electricity regulatory commissions. Accordingly, this Commission had published the draft regulations on forecasting and scheduling of wind and solar projects and invited comments to the same. Subsequently, this Commission in exercise of its powers conferred under Section 181 of the Act, notified the Madhya Pradesh Electricity Regulatory Commission (Forecasting, Scheduling, Deviation Settlement Mechanism and Related Matters of Wind and Solar Generating Stations) Regulations, 2018 on 12.04.2018.*
2. *It is submitted that from a detailed review of the above Regulations, the following are clear:*
  - 2.1 *The Original Regulations defined 'Deviation' to mean, '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 drawal for a Buyer, and such actual injection and drawal shall form part of the State Energy Accounts to be prepared by SLDC'. As can be seen, the Original Regulations 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.*
  - 2.2 *The Original Regulations, provided that an agency, being a QCA, was to be appointed for coordinating on behalf of wind/ solar generators connected to a pooling station and would be treated as a 'State Entity'. The QCA could be one of the generators or any mutually agreed agency, responsible for, inter alia, coordinating with STU/ SLDC for metering, data collection/ transmission,*

*communication. Additionally, the Original Regulations were silent on the qualifying requirements for a QCA, and more specifically the detailed roles and responsibilities of the QCA. Further, the appointment of a QCA was not even on of the 'pre-condition for participation in Deviation Settlement Mechanism' elucidated under Regulation 4 of the Original Regulations.*

*2.3 A Detailed Procedure was to be framed which would outline 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. It would be worthwhile to note that the Detailed Procedure was only formulated on 04.10.2019, i.e. after a period of over one and a half years from the passing of the Original Regulations.*

*2.4 It is also pertinent to note that sub-clause 2 of Regulation 6(a) of the Original Regulations provided that, '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 Original Regulations there was a clear lack of clarity on whether there was any restriction to the number of revisions to be made. Essentially, 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 even after 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 was only when the State Grid Code was amended in October 2019, it was for the first time clarified that the Generators were to be permitted 16 deviations from the schedule. It is submitted that accordingly, many generators had submitted different revisions within the same period and some have benefitted with lower DSM charges by submitting revisions to the tune of 67 revisions.*

*2.5 As stated hereinabove, within three months of notification of the Original Regulations, the Respondent No. 1 was supposed to formulate a State Power Committee, which shall inter alia ensure settlement of deviations amongst state entities in accordance with the said Original Regulations. In relation to this requirement, it is submitted that the State Power Committee was formulated only on 30.12.2019, and its first meeting took place on 28.09.2020. Accordingly, as there was no State Power Committee, there was no body in place to check the implementation of the deviation settlement mechanism by the SLDC.*

***Difficulty in Implementation of the Original Regulations:***

3. *It is submitted that, as can be seen from the above, while the Original Regulations envisaged certain procedures to be carried out for the purposes of implementing the said Regulations, the said procedures were either not achieved or lacked basic clarity. To elucidate the above, appointment of a QCA was not a pre-condition to participate in the deviation settlement mechanism in terms of the Original Regulations and neither was there any qualification/ criteria or method for appointment of a QCA. Nevertheless, the Petitioners, on their part appointed the Respondent No. 2 as QCA, and issued a consent letter dated 23.05.2018 to the Respondent No. 1.*
4. *Furthermore, as there was no clarity with respect to the role, function or responsibility of a QCA until the Detailed Procedure was approved by this Hon'ble Commission and the Petitioners were left to define the scope of services that ought to be performed by a QCA. Accordingly, the Petitioners had appointed a QCA, however, unknowing of the responsibilities that would be eventually cast upon its QCA. It is also pertinent to state that for nearly a period of 1 year and half, i.e. till the time the Detailed Procedure was not notified, the QCA, i.e. Respondent No. 2 was acting without a formal approved procedure and by following the industry practices that are accepted in other states where the deviation settlement mechanism had been initiated or were in their trial phase.*
5. *It is also pertinent to state here that a QCA had to be appointed and paid a service fee, without an understanding of its role within the Regulations 2018. It is also pertinent to state that a 'purchase order' was also issued by Respondent No. 2 for the forecasting and scheduling charge from the period from April 2018 to 19 December 2020, wherein, the QCA has not provided for 'rectification, review and/ or settlement of accounts between the State Entities' as a scope of service, which was later envisaged as a responsibility under the Detailed Procedure.*
6. *Additionally, it is only after the Detailed Procedure was published, that there was a clarity upon issues such as, how a QCA has to be appointed, who can be a QCA, and what is the role and responsibility of a QCA, etc.*
7. *Importantly, as reckoned under Original Regulations, any QCA, if appointed by any wind/ solar generator, had to be registered with the SLDC, however, the Original Regulations were silent on the process of the registration.*
8. *It is respectfully submitted that, despite the fact that the Petitioners on their part had appointed their QCA, however, in the absence of a Detailed Procedure as envisaged*

*under sub-clause 5 of Regulation 6(a) of the Original Regulations and a State Power Committee, several issues arose in the implementation of the Original Regulations. In that view of the matter, upon receiving a demand of payment from the Respondent No. 1 through letter dated 06.10.2018, the Respondent No. 2 on 08.10.2018 wrote a detailed letter to Respondent No. 1 highlighting the impossibility of implementation of the Original 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 this Commission. It is submitted that the Respondent No. 2 also highlighted issues which were important for grid operation and for minimizing the costs for the generators. Some of the issues faced by Respondent No. 2 as a QCA are summarized below:*

- a. a detailed procedure, as approved by the Hon'ble Commission was not being framed, which in turn would require the QCA to incorporate a scheduling process for all its 64 pooling sub stations;*
  - b. Lack of clarity in terms of the number of revisions permitted, especially where wind/ solar generation was entirely dependent on weather conditions, and therefore, inherently variable;*
  - c. Lack of clarity on the DSM charges in terms of virtual pool within the state pool;*
  - d. Lack of clarity on the applicability of Original Regulations;*
  - e. DSM statement for the month of August covered Solar generators below 5 MW and wind generators (at one pooling station) below 10 MW;*
  - f. The permissible deviation range for DSM calculations for new RE projects (defined in Regulation 2(1)(o) of the Original Regulations) and old projects which may exist in the same pooling station;*
  - g. No metering method is provided as approved by this Commission;*
  - h. Problems with ELTRIX scheduling application; and*
  - i. Lack of instructions or guidelines for payment security mechanism form the generators to enable settlement of final DSM charges.*
- 9. Subsequent to issuance of the letter dated 08.10.2018, the Respondent No. 2, by way of another letter dated 25.01.2019 appraised this Hon'ble Commission of the practical challenges being faced by Respondent No. 2 (being a QCA of 1,700 MW capacity, inclusive of the capacity of the Petitioners) and the importance of framing and notifying the Detailed Procedure for the implementation of Original Regulations, in that regard. The letter was also marked to the Respondent No. 1.*
- 10. It is submitted that, however, even though no procedure was laid down to implement the Original Regulations, the notices for payment of DSM charges under Regulations 2018 (without the promulgation of the Detailed Procedure) have been raised to the*

*Respondent No. 2 QCA:*

11. *It is also pertinent to point out that in relation to the above Notices:*
  - a. *There was no procedure in place that defined the steps to be undertaken by the QCA in order to settle or rectified by the QCA;*
  - b. *The Notices have not been de-pooled by the QCA and issued to either Petitioner No. 1 or Petitioner No. 2;*
  - c. *The SPC has not considered the correctness of the deviation charges levied in the Notices or whether the DSM Regulations have been implemented properly;*
  - d. *The deviation charges in the Notices for Marut Shakti Nipaniya are for the total 230 MW pooling sub-station and the deviation charges have not been communicated till date for the 44MW project of Petitioner No. 2; and*
  - e. *the Hon'ble High Court of Madhya Pradesh, at Jabalpur on 23.05.2019, in Writ Petition 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 Commission.*
  
12. *Further, 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 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 approval of this Commission.*
  
13. *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.*
  
14. *With respect to what is stated above, it is submitted that Respondent No. 1 could only implement the DSM Regulations once it was approved by this 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, could not have been implemented, if they were at that particular point in time, not*

approved by this Commission. It is submitted that the Respondent No. 1 cannot act beyond the scope of the delegation under Regulations 2018 by this Commission.

15. In any event, it is submitted that in the absence of an approved Detailed Procedure, there were a number of issues on which there was no clarity whatsoever and it was therefore impossible to implement the Original Regulations and ensure seamless forecasting and scheduling.
16. Therefore, levying of DSM charges or calculation of the same for such period, is unsustainable, and the Notices are non-est in law. Further, without there being any clarity about the Detailed Procedure, operational framework and commercial applicability of the Original Regulations, it was not possible to ascertain the validity of the method adopted for arriving at DSM Charges for each pooling station.

**Notification of the Detailed Procedure alongwith the first Amendment**

17. It was only after about 1 year 6 months from the notification of the Original Regulations, that the Commission in exercise of its power under Section 181 of the Act, notified the 'First amendment' to the Original Regulations on 25.09.2019, which was then published in the gazette on 04.10.2019. Significantly, Regulation 6(a) of the DSM Regulations was omitted by First Amendment and it was replaced as reproduced herein under:

**“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.”

18. Accordingly, after considerable delay, the Detailed Procedure in terms of Regulation 6(a)(5) of the Original Regulations, was notified only on 04.10.2019, which then set out the details of the operating procedure for implementation of the DSM Regulations. Thereby, it is submitted that without the First Amendment along with which, the Detailed Procedure was notified, the implementation of the Original Regulations was not plausible. In other words, it was only on 04.10.2019 that the Detailed Procedure was notified in order to remove the difficulties towards the implementation of the Original Regulations.
19. It is submitted that, in fact, by way of the First Amendment, the generators had time of two (2) months to appoint the QCA from the date of notification, i.e. by 04.12.2019, thereby, effectively making the implementation of the DSM Regulations unattainable

*till December 2019.*

20. *It is submitted that this 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. In any event, it is respectfully submitted that the commercial operation and implementation of the DSM Regulations can only be prospective, i.e., after the approval of the Detailed Procedure by this Commission, since the said procedure was essential to facilitate the understanding between the stakeholders and to avoid any unnecessary disputes in relation to levying of the DSM charges.*
21. *It is therefore submitted that the Notices issued by the Respondent No. 1 under the provisions of the Original Regulations could not have been issued in the absence of the Detailed Procedure, and the same will cause grave and undue hardship, particularly when there was no procedure under the Original Regulations for the following:*
- a. Provide qualifications for appointing a QCA by wind/ solar generators;*
  - b. Appointment of QCA by generators;*
  - c. Procedure for 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. treated together as a virtual pool within the State Deviation Pool Account;*
  - g. different rates to be accounted for deviation for old and new RE projects;*
  - h. Metering and data collection;*
  - i. Number of revisions;*
  - j. Computation of data charges; and*
  - k. Payment of deviation charges.*
22. *In furtherance to the above, it is submitted that the Petitioners have learnt from the Respondent No. 2, i.e., their QCA that:*
- a. till the First Amendment was notified, no settlement of account had taken place in the manner envisaged under the Original Regulations as envisaged in para-No. 11. It is important to state that even though settlement had to be done weekly, Respondent No. 1 was undertaking monthly settlement in complete disregard to this Ld. Commission's Original Regulations and had also not undertaken or published these monthly deviations until October 2019.*
  - b. contrary to the mandate of Regulation 10 (1) of the Original Regulations, no State Power Committee was formulated in three months from the date of notification of*



*the Original Regulations, i.e., by 12.06.2018. Neither, was their an appointment of another committee to oversee the task of SPC, especially as the SPC was 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 the Regulations, as may be necessary upon due regulatory process. The State Power Committee was constituted only in December 2019 and its first meeting took place only in September 2020.*

- c. There was no fixed number of revisions that each generator could submit, and the Respondent No. 1 had accepted all revisions, thereby some generators were availing more or less revisions per day, and thereby either, being charged less or more deviation charges, respectively. 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.*
- 23. Additionally, it is important to state here that the Detailed Procedure introduced other certain procedures which were never available under the Original Regulations and accordingly, amended the said Regulations significantly to the extent as detailed below:*
- a. amended the objective and scope of Original Regulations 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 Original Regulations were omitted;*
  - b. amended the definitions of deviation, gaming, MRI, pool account and QCA had to be amended;*
  - c. amended Clause 2(r) to detail that if various developers are connected vide 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. amended Original Regulations 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;*

- e. amended 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.*
- f. expanded the scope of Original Regulations to include 'all wind & solar generators selling power outside the state under open access and having combined installed capacity of 1 MW and above';*
- g. granted additional 2 months' time period was given to Respondent No. 1 to formulate a State Power Committee, after obtaining the approval of the Respondent Commission.; and*
- h. 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 Original Regulations was being done at the whims and fancies of SLDC, without the approval of the Commission.*

- 24. In any event, it is clear that the DSM charges mentioned in all the Notices issued by Respondent No. 1 on its website were not subjected to settlement of accounts in the manner mandated under the Original Regulations. The fact that the first meeting of the State Power Committee 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). Accordingly, all the Notices impugned by the Petitioner from serial Nos. 1 to 15 in Table at Para No. 16 above, have been issued without following the due procedure established under the Original Regulations.*
- 25. However, even though there were issues with the ABT meter of Petitioner No. 1, no settlement of accounts was undertaken by the Respondent No. 1 and the charges for the Petitioners were not de-pooled for any of the Notices till September 2020, the said Respondent has gone ahead and issued a demand notice dated 28.10.2020 ("Demand Notice") to the Respondent No. 2 for levying of simple interest @0.04% for each day of the delay. It is worthwhile to note that in terms of the Detailed Procedure, only settled bills are eligible for payment, and it is only on settled bills that simple interest can be charged for delay in payment. It is stated that the Respondent No. 1 had not even implemented the Detailed Procedure but is using the said procedure to benefit itself.*

*Such an exercise is wholly unjustified as the Respondent No. 1 ought not to be allowed to benefit from its non-compliance.*

26. *It is submitted that in view of the above, the Notices and the Demand Notice issued by the Respondent No. 1 ought to be stayed and the Respondent No. 1 must not be allowed to take any coercive steps against the Petitioners in furtherance of the same.*
27. *Accordingly, from a reading of the above, it is clear that if this Commission does not issue an order under Regulation 11 of the DSM Regulation for relaxing the provisions of the said Regulations, severe prejudice will be caused to the Petitioners 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 DSM Regulations, thereby, allowing Respondent No. 1 to disconnect the Petitioners from the grid.*
28. *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 not levy any deviation charge upon the Petitioner's for the period before the notification of the Detailed Procedure.*
29. *This Commission has the jurisdiction and power to relax any of the provisions of the DSM Regulations 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 DSM Regulations, 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 and Requirement of trial period:***

30. *It is submitted that the 1<sup>st</sup> Amendment and the Detailed Procedure significantly changed the scope and objective of the DSM Regulations. Therefore, it is pertinent to state that the steps that were taken under the Original Regulations were not sufficient towards implementation of the Original Regulations.*
31. *Under the Original Regulations, 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 Regulation 2018. The Relevant regulation of Reg. 2018 is detailed below:*

**6. Forecasting, scheduling and elimination of gaming**

**(a) Procedure:-**

- (1) *The provisions of the Grid Code and the M.P. Electricity Regulatory Commission (terms and Conditions for intra-state open access in Madhya Pradesh) Regulations, 2005 as amended from time to time, shall be applicable for declaration of capacity, scheduling and elimination of gaming,*
- (2) *The generating station, as far as possible, shall generate electricity as per the day-ahead generation schedule finalized by the State Load Despatch Centre in accordance with the Grid Code.*

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

- (3) *The wind and solar generator or the QCA, as the case may be, shall have the option of accepting the concerned SLDC's forecast for preparing its schedule or provide the concerned SLDC with a schedule based on its own forecast, and such schedule shall be used as reference for deviation settlement.*
- (4) *The QCA shall coordinate the aggregation of schedules of all generators connected to a pooling station and communicate it to the SLDC. The QCA shall undertake all commercial settlement on behalf of the wind or solar generator(s) connected to the respective pooling station(s).*
- (5) *The plan for data telemetry, formats of forecast submission and other details in this regard shall be provided in the Detailed Procedure to be prepared by SLDC and approved by the State Commission.*
- (6) *The Commission, either suo-motu or on a petition made by SLDC, or any affected party, may initiate proceedings against any generating company or seller on charges of gaming and if required, may order an inquiry in such manner as decided by the Commission. When the charge of gaming is established in the above inquiry, the Commission may, without prejudice to any other action under the Act or Regulations thereunder, disallow any charges for Deviation received by such generating company or the seller during the period of such gaming.*
- (7) *The charges for deviation for wind and solar generators which are state entities undertaking inter-state or intra-state transactions, shall be governed as per the provisions outlined under the following sub-clauses of this regulation.*

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32. *The following can be ascertained after going through Regulation 6 (a) of Regulations 2018:*
- 32.1 *The wind and solar generators and the QCA are state entities;*
- 32.2 *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.*
- 32.3 *Regulations 2018 were framed to determine the commercial settlement of deviation charges;*
- 32.4 *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, where under the detailed procedure had to be prepared by Respondent No. 1 and the same had to be approved by this Commission; and*
- 32.5 *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 Commission.*
33. *It is submitted that as per notice dated 07.11.2019 issued by the Respondent No. 1 to inter alia the Respondent No. 2, certain additional compliances were sought, inter alia, being submission of bank guarantee in terms of Procedure 8 of the Detailed Procedure; ensure 0.2s class ABT meters installed at pooling station along with AMR facility; meters/ modems to be integrated successfully with Respondent No. 1's AMR server for data downloading remotely; and submissions of copy of PPA for all generators selling inter-state for computation of deviation charges.*
34. *It is however submitted that it was only Regulation 7 of Original Regulations which was duplicated and incorporated as Procedure 9 in the Detailed Procedure. Rather, it is also pertinent to highlight, that under Original Regulations (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]

35. 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.
36. 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.
37. 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.
38. After a review of the above, it can be seen that the following significant changes were brought about by the First amendment to the Original Regulations:
  - a. **'Scope and applicability'** of the Original Regulations was amended as:
    - i. Wind & solar generators selling power outside the State under open access and having combined installed capacity of 1 MW and above were not charged deviation charges prior to the First Amendment and benefited with no deviation charges till Oct 2019;
    - ii. Clause 3(ix) of the 'Detailed Procedure' had also clarified as to what treatment

*will be meted out to old and new Wind/Solar projects which existed on the same pooling station and were connected to the state grid prior to the date of notification of the Regulation 2018 for the purpose of applicability of absolute errors to compute deviation charges. This clarification was also important for the applicability of the Regulations 2018;*

- iii. Further, the insertion of proviso Regulation 2 (r) to the DSM Regulations detailed that in case multiple common feeders of the same developer are connected to Grid substation, then every individual feeder shall be treated as separate pooling station. This was an important clarification which was not present earlier; and*
- iv. Buyers were removed from the scope of commercial settlement by way of deletion of Regulation No. 2(1)(b), 2(1)(e), 2(1)(u), amendment to the definition of 'deviation' in regulation No. 2(1)(g) and amendment to Regulation 3 detailing the objective and scope of Original Regulations was carried out.*

**b. 'Mode of appointment' and 'role and responsibility' of the QCA:**

- i. In terms of the DSM Regulation, QCA is a state entity. Appointment of a QCA for each pooling station was made a pre-condition to participate in deviation and settlement mechanism by way of the First Amendment;*
- ii. Further, after the First amendment, 2 months were to be granted to all the generators for the appointment of a QCA. However, the said time period was not granted by the SLDC to any generators in order to ensure implementation of the DSM Regulations and in order to follow the process of appointment and registration as per the DSM Regulations;*
- iii. 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:*
  - Communication of the day ahead, intraday and week ahead schedule and or any revisions to the SLDC;*
  - Communication of the real time generation at the pooling substation or by the stand-alone generator; and*
  - Communication of the grid constraints and curtailments by the SLDC to the QCA.;*
- iv. Further, by way of the First Amendment, it was stated that only the QCA could*

conduct the process of commercial settlement and could communicate forecast and scheduling with the SLDC. Accordingly, there was a need of time to be granted to generators to amend the scope of the contracts executed with the QCA and incorporate the responsibilities of the QCA for undertaking the generators commercial settlement, especially, as they were made the single point of contact.

**c. Absence of AMR facility under Original Regulations:**

- i. It is pertinent to state that it is only recently that Madhya Pradesh has transitioned from MRI to AMR by way of Madhya Pradesh Electricity Grid Code (Revision-II), 2019 [Published vide Notification No. 834/MPERC/2019, dated 12.06.2019], though which AMR facility was introduced via the following insertion detailed below:

**16.13 Data Collection Systems and Data Downloading**

16.13.1 All concerned Intra-State Entities (in whose premises the Special Energy Meters are installed) shall provide Automatic Meter Reading (AMR) facility for transmitting ABT meter data to SLDC remotely. If the weekly data of Special Energy Meter is not received through AMR system installed at SLDC, the same may be downloaded and transmitted to the SLDC by the owner of the ABT meter or entities who have been authorized to take energy meter reading.

Accordingly, Regulations 2018 did not foresee the requirement of AMR facility which was introduced by way of the First Amendment;

- ii. Additionally, it is important to state that, in terms of Regulation 5(c) of Regulations 2018, the Respondent SLDC calculated deviation charges on a weekly basis only from February 2020, thereby it can be safely concluded that data did not start flowing from the ABT meters and through the AMR facility until Feb 2020;
- iii. It is submitted that after the First Amendment, QCA was made responsible for providing weekly interface meter data. However, all QCAs may not be equipped with Meter Reading Instruments (MRI) and some of the meters may not have Special Energy Meters (SEMs) capable of measuring the meter data on 15-minute time block basis. Further, QCAs may also not having access to the Metering Console/equipment, which are sealed by SLDC/STU, or installed at the Substation;
- iv. Further by way of the Notices [discussed above] issued by the SLDC, it can be seen that till Oct 2019, several issues were being faced by the SLDC, such as:



- a. *ABT meter data of pooling stations was not received;*
- b. *ABT meters installed were recording 15 minutes block wise data on sliding window instead of load survey; and*
- c. *ABT meter data was not available. Thus, the JMR of this feeder is equally distributed in 15 min time block for complete month;*

**d. Forecasting and scheduling:**

- i. *It may be noted that prior to the 'Detailed Procedure', there was no clarity of the formats or submissions of forecast and scheduling. It is only after the Detailed Procedure was introduced that the web portal was to be established, where only the QCA could participate for commercial settlement of deviation charges, unlike Original Regulations;*
- ii. *It is submitted that, prior to the Detailed Procedure, there was no clarity on the number of revisions for Intra-day revisions and timelines for day-ahead and intraday revisions. The clarification on the number of revisions was only introduced after notification of Madhya Pradesh Electricity Grid Code (Revision-II) 2019 (no. RG-14(ii) of 2019) dated 12.06.2019 [ref reg 8.6]. It is further pertinent to state that it is only through this above amendment to the Grid Code of Madhya Pradesh, that process for scheduling and forecasting for renewables was first introduced by the state of Madhya Pradesh and along with that, the number of revisions was quantified.*
- iii. *It is submitted that as a result, the QCA of the Petitioners 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 released by the CERC. However, due to no uniformity in the number of revisions in the Original Regulations, some of the QCAs and generators had submitted more than 16 revisions in a day, which in turn has led to a benefit to the said generators of providing more accurate data and thus leading to lesser deviation charges. 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 unamended Regulations 2018 for various QCAs/ generators prior to the approval of the First Amendment.*

**e. Formulation of the state power committee ('SPC')**

- i. *Under the First Amendment, further time was granted for the formulation of the State Power Committee (SPC), which was done only on 30.12.2019 and first*

meeting took place on 28.09.2020. Accordingly, as there was no State Power Committee, there was no body to check the implementation of the deviation settlement mechanism by the SLDC under the Original Regulations. It is also pertinent to mention that since the SPC had its first meeting only in September 2020, therefore, even under Original Regulations, until September 2020, there was no review of the implementation of the deviation settlement mechanism by an authorised body to be approved by this Hon'ble Commission. Additionally, the Respondent SLDC has not detailed the reasons for the delay in appointment of a State Power Committee under the Original Regulations.

**f. DSM Pool Account:**

- i. After a review of the definition under Section 2(q), it can be seen that that the definition of 'pool account' was amended to 'state deviation pool account' in order to include the wind and solar generators into the state deviation pool account. It is also stated that prior to the Original Regulations, the aggregation that was taking place was primarily for thermal power. Further, it is submitted, that by way of the First Amendment, this Hon'ble Commission included wind and solar generators within the State Pool Account and thereby correlated it with the virtual pool, which means that, the wind and solar are being considered as a virtual pool in the state pool account for aggregation purpose only;
- ii. At present, the DSM account based on the DSM Regulations is prepared by SLDC, and the same needs to be part of the State DSM pool account with all payments and receipts for the deviation settlement;
- iii. Additionally, it is pertinent to state that this virtual pool helps in reduction of the deviation charges across the state, however, the same has not yet been implemented.
- iv. It is also submitted that Original Regulations provides that wind/solar generators shall be covered within the State DSM Pool Account of Renewable Energy created separately. While Regulation 2(q) states that the State Deviation Pool Account shall mean State Account for receipts and payments on account of deviation by the buyers or sellers including wind and solar generators. Hence, clarification is required as to whether virtual DSM Pool Account for RE which shall be included within State DSM Pool Account or it is envisaged to have two separate DSM accounts viz. (i) State DSM Pool Account and (ii) Separate DSM Pool Account for RE

39. *In view of the same, the Petitioners are also praying that the period of one and a half year from the date of notification of the Detailed Procedure be declared as a trial/ grace period for effective implementation the said Detailed Procedure, notified through the First Amendment, and no DSM charges be levied for the said trial period for commercial implementation.*
40. *In relation to the above, it is submitted that State Electricity Regulatory Commissions across India have provided trial period for enforcement of DSM regulations so as to streamline the system and processes.*
41. *In fact, 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, 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.*
42. *For the said discussion it is important to place the extract of the Statement of Reasons for 'Framework on Forecasting, Scheduling and Imbalance Handling for Variable Renewable Energy Sources (Wind and Solar) approved by the Central Electricity Regulatory Commission on 03.03.2017, before this Hon'ble Commission for its 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."*
43. *It is important to highlight that, in relation to implementation of the DSM Regulations, trial period has been provided by the Hon'ble Electricity Regulatory Commissions of*

6. With the aforesaid submissions, the petitioner prayed the following in the subject matter:
- (i) *Admit the petition for removing practical difficulties faced by the Petitioners 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 and Regulation 46 of the MPERC (Conduct of the Business) Regulations, 2004 to issue directions to remove difficulty in implementation of the Regulations in relation to Deviation Settlement;*
  - (ii) *Declare that the Notices issued by Respondent No. 1 for levying deviation charges being Notices from August 2018 till September 2020 are non-set in law and set aside the same;*
  - (iii) *Declare that the demand notice dated 28.10.2020 issued by the Respondent No. 1 to the Respondent No. 2 and forwarded to the Petitioners are non-set in law and set aside the same;*
  - (iv) *Declare the period of one year from the date of notification of the Detailed Procedure as a trial/ grace period to implement the Detailed Procedure as notified through the First Amendment and no DSM charges be levied for the said trial period;*
  - (v) *Directed that no penalty shall be levied, and no coercive steps shall be taken by the Respondent No. 1 against the Petitioners in relation to Prayers 'b', 'c' and 'd' ;*

7. At the motion hearing held on 24.08.2021, the petition was admitted and the petitioners were directed to serve copy of petition on all the Respondents within three days and report compliance of service to the Commission. The Respondents were directed to file their replies to the subject petition within two weeks and serve a copy of the aforesaid reply to the petitioners, simultaneously. The petitioners were directed to file rejoinder on the aforesaid reply within two weeks, thereafter.

8. At the hearing held on 26.10.2021, Ld. Counsel who appeared for the petitioners sought three weeks' time to file rejoinder mentioning that the reply of Respondent No. 1 (SLDC) was received by petitioners on 18.10.2021. In view of above, the petitioners were directed to file their rejoinder within two weeks and the case was fixed for arguments on 21.12.2021. The subject matter could not be heard on 21.12.2021 due to vacancy of Member Law in this Commission from 09.12.2021 to 04.02.2022. This case was heard on 15.02.2022 when the petitioners requested for a short adjournment since their Senior Counsel was not available due to health issues. Arguments in this matter were concluded on 22.02.2022 and the case was reserved for orders. The petitioners and Respondent were asked to file written arguments, if they so wish, within three days.

9. Vide letter dated 18.10.2021, Respondent No. 1 (SLDC) broadly submitted the following in its reply to the petition:

- “1. SLDC is bound to perform all the functions and duties within the regulatory framework only and cannot deviate from the regulatory provisions on request of any of the State Grid entity / Open Access Customer / Renewable Energy Generator etc.*
- 2. That 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.*
- 3. 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.*
- 4. 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.*
- 5. SLDC prepares and issues generation schedules for generators and drawal schedules for distribution licensees based on the forecasted demand and revise it during the real time of operation on request of generator/ Discoms.*
- 6. That adhering to scheduled generation by generator and scheduled drawal by distribution licensee is utmost necessary for the stability of the grid. If either generator or distribution licensee deviates from the schedule given by SLDC, may lead to insecure operation of the grid.*
- 7. That in the absence of Deviation Settlement Mechanism (DSM), there will not be any control over the State Grid entities and they may not be serious to maintain generation/ drawal as per injection schedule/ drawal schedule issued by the SLDC. Indiscipline caused by the entities would make the grid vulnerable. Such type of*

*indiscipline existed prior to implementation of financial mechanism for deviation from the schedule, which is presently Deviation Settlement Mechanism.*

**PARAWISE REPLY-**

**Para -7.2**

*The contents of this para are wrongly quoted by the Petitioner. It is to submit that deviation is difference of scheduled energy and actual energy.*

*As per Section-7(b) (iii) of the Main Regulation-2018, the Wind or solar generators which are state entities undertaking inter-state transactions, shall be paid as per actual generation.*

*Thus, scheduling of power of Wind/ Solar Generator has not been done to the buyer in compliance to Section-7 (b) (iii) of the Main Regulation-2018. When no scheduling has been done for the buyer, the question of computation of Deviation Charges for the buyer does not arise.*

*This interpretation has been drawn by the Petitioner just by referring Sub-section/ Section of the Main Regulation-2018 and is not the comprehensive conclusion drawn from the Main Regulation-2018.*

**Para -7.4& 8.1**

*The constitution of State Power Committee formed by the SLDC and approved by the Hon'ble Commission has no power to change the methodology of computation of Deviation Charges for the Petitioners or other Wind/ Solar Generators. The State Power Committee shall ensure settlement of weekly Deviation Charges as per weekly DSM Account for Wind and Solar Generator prepared by the SLDC.*

*In Section-8 of the Main Regulation-2018, statement of charges for deviation levied shall be prepared by SLDC on weekly basis.*

*In Section-9 of the Main Regulation-2018, Wind / Solar Generators have to clear their dues towards the State RE DSM Pool Account within the timeline given in this Section.*

*Thus, there is no role of State Power Committee in preparation of Deviation Charges and payment of dues to the State RE DSM Pool Account maintained by the SLDC.*

**Para-8.2**

*Section-2 (s) of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 clearly defines*

*the roles and responsibilities of the Qualified Coordinating Agency (QCA) to be carried out by them on behalf of the Qualified Wind / Solar Generators. Further, Section-6 (3) and (4) of the Main Regulation-2018 further defines the functions to be carried out by the QCA on behalf of Wind/ Solar Generator.*

*Roles & responsibilities assigned to the QCAs under Section-2 (s) and Section-6 (3) & (4) of the Main Regulation-2018 are self-explanatory regarding prerequisite requirement of appointment of QCAs for Wind & Solar Generators qualified for computation of Deviation Charges under the provisions of Main Regulation-2018. There is no ambiguity in the above provisions of the Main Regulation-2018.*

*In compliance to the above regulatory provisions, SLDC has immediately requested all the qualified Wind / Solar Generators and their Developers to appoint QCA well before 1<sup>st</sup> August, 2018. The QCA may be one of the Generator or any other mutually agreed agency capable of performing rules and responsibilities of QCA.*

*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.*

*Most of the qualified Wind/ Solar Generators had appointed QCAs without asking for any further guidelines/ clarification from SLDC in this regard without waiting for amendment to come. There is no change in roles & responsibilities of QCA in the first Amendment to the Main Regulation-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.*

*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 not a RE Generator and cannot participate in Deviation Settlement Mechanism, thus there is no mention of QCA in Clause-4 "Pre-conditions for participation in Deviation Settlement Mechanism".*

**Para 8.3:**

*The regulation of the 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 remained 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 is only to escape from paying DSM Charges for deviation from the forecasted generation for some period.*

*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.*

**Para 8.4:**

*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.*

*As per Section-86 (1) (h) of Electricity Act, 2003, State Grid Code shall be consistent with the Central Grid Code. Thus in case of any inconsistency or clarification, the Petitioners can refer the provisions of the Central Grid Code. This is the basic concept which should be known to all the persons of Electrical Sector. In the meeting convened by SLDC in the month of October, 2018 with Wind / Solar Generators, QCAs and Developers SLDC once again specifically clarified that Wind / Solar Generators can make 16 revisions during*



*the real time of operations.*

*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.*

**Para 8.5:**

*The constitution of State Power Committee formed by the SLDC and approved by the Hon'ble Commission has no power to change the methodology of computation of Deviation Charges for the Petitioners or other Wind / Solar Generators. The State Power Committee shall ensure settlement of weekly Deviation Charges as per weekly DSM Account for Wind and Solar Generator prepared by the SLDC.*

*In Section-8 of the Main Regulation-2018, statement of charges for deviation levied shall be prepared by SLDC on weekly basis.*

*In Section-9 of the Main Regulation-2018, Wind / Solar Generators have to clear their dues towards the State RE DSM Pool Account within the timeline given in this Section.*

*Thus, there is no role of State Power Committee in preparation of Deviation Charges and payment of dues to the State RE DSM Pool Account maintained by the SLDC. 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 first meeting of the State Power Committee could be convened on 28.09.2020. The delay in meeting was caused due to spread of COVID-19 epidemic and subsequent lockdown in the country.*

**Para 9:**

*It is submitted that all the provisions of Main Regulation-2018 do not require any further clarity for smooth and faithful implementation of the regulatory provisions of the Regulation. As submitted in preceding paras, the First Amendment to the Main Regulation-2018 and enclosed Detailed Operating Procedure is not inconsistent to the provisions of Main Regulation-2018.*

*The Petitioners had been well apprised of the regulatory provisions of Main Regulation-2018 as most of the provisions were already in vogue at the time of commercial implementation of the Main Regulation-2018 w.e.f. 1<sup>st</sup> August, 2018.*

*As intimated in this para, the Petitioners had appointed Respondent No.2 as their QCA*

*well before the commercial implementation of the Regulation-2018 w.e.f. 1<sup>st</sup> August, 2018.*

**Para 10:**

*As submitted in preceding paras, roles & responsibilities of the QCAs have been clearly defined in the Main Regulation-2018 and needs no further clarity in this regard. The First Amendment to the Main Regulation-2018 does not change the roles & responsibilities of the QCAs.*

**Para 13:**

*It is mentioned in Section-2 (1) (s) of the Main Regulation-2018 that QCA shall be treated as a State Entity and shall be registered with SLDC. The contents of this para are not correct.*

**Para 14:**

*It is to submit that roles & responsibilities of the QCAs are ample clear in the Main Regulation-2018 and needs no further clarification in this regard.*

*It is clearly mentioned in the Main Regulation-2018 that QCA shall undertake de-pooling of payments received on behalf of the generators from the State Deviation Pool Account and settling them with the individual generators.*

*In spite of clearing outstanding dues towards the State RE DSM Pool Account as per the timelines given in the Main Regulation-2018, the Petitioners are finding escape route in delay in notification of the Detailed Operating Procedure by the Hon'ble State Commission. All the regulatory provisions for computation of Deviation Charges and settlement of payment through State DSM Pool Account are already available in the Main Regulation-2018.*

*All the points summarised by the Petitioners in this para have been replied suitably in the preceding paras except metering arrangement.*

*In Part-V, Section-16 "Transmission Metering Code" Section-16.12.2 of MPEGC, location of meter to be installed at Inter-face points of Renewable Energy Generator is given in detail. Provision of meters is also given in CEA (Installation & Operation of Meter), Regulation-2006. The types of meter, accuracy clause, location, access to the data, data collection & downloading etc. have been given in detail in above Regulations.*

*In Section-9 (4) of the Main Regulation-2018, Payment Security Mechanism has been clearly defined.*

**Para 16:**

*The Regulations notified by the State Commission or Central Commission are complete in every respect for true and faithful implementation. It is not necessary to notify Detailed Operating Procedure. However, some of the regulatory provisions which cannot be implemented without Detailed Operating Procedure, for such regulatory provisions DOP has been notified.*

*All the provisions of the Main Regulation-2018 are sufficient in itself for implementation in the State of MP. No such regulatory provision existed in the Main Regulation for which DOP is required.*

*DOP annexed with the First Amendment to the Main Regulation-2018, do not change the methodology of implementation of regulatory provisions of the Main Regulation-2018. It contains additional information only.*

**Para 19:**

*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 of DSM Charges for RE Generators. The purpose of making changes in First Amendment are 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 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 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 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 scheduled 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, thus there is no need to issue drawal schedule for the buyer/ consumer. As per the regulatory provisions, drawal schedules are not being issued to the Discoms/ consumers of the Intra-state RE Generators, thus the question of computing deviation charges of the Discoms/ consumers of RE Generators under Intra-state regime does not exist. It is to submit here that as per regulatory provisions, deviation charges are computed for deviation from the schedule issued by the SLDC.*

*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.*

**Para 20:**

*The State Commission has made Respondent No.1 i.e. SLDC for faithful implementation of the Main Regulation-2018 in the State of MP.*

*It is to submit that once the Regulation is notified by the Commission, it is the responsibility of the implementing agency/ authority to implement it immediately. In the Main Regulation-2018, Commission has not put any restriction on its commercial implementation till notification of approved DOP.*

*Telemetry (Real Time Data Communication), Forecasting of Generation, Energy Meter Data submission etc. had already been complied by the RE Generators prior to notification of Main Regulation-2018.*

**Para 25:**

*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.*

*It is to submit that SLDC shall give the permission for injection of power into the Grid for new Qualified Wind/ Solar Generator only when QCA is appointed.*

**Para 27:**

*SLDC is the implementing agency of the Regulation-2018. SLDC has started issuing monthly DSM Charges bills 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 Charges bills for qualified Wind/ Solar Generators w.e.f. 1st February 2020 in compliance to First Amendment of Regulation-2018.*

*It is to mention that some of the RE Generators are regularly making payment to the DSM Pool Account and default in payment by most of the Wind/ Solar Generators is causing hurdle in smooth implementation of the Regulation-2018 and also injustice with those Wind/ Solar Generators who are faithfully complying with the provisions of Regulation.*

**Para 29:**

*Contents of this para are repetitive replied in the preceding paras. However, it is submitted several times in the preceding paras that Detailed Operating Procedure annexed with the First Amendment of the Main Regulation-2018 does not have any provision which changes the methodology of computation of Deviation Charges, submission of forecasting, roles & responsibilities of QCAs, settlement of payment through RE DSM Pool Account etc.*

**Para 30:**

*Section-9 (4) of the Main Regulation-2018 is reproduced below-  
All State Entities which had at any time during the previous financial year failed to make payment of Charges for Deviation within the time specified in these Regulations*

*shall be required to open a Letter of Credit (LC) equal to 110% of its average payable weekly liability for Deviations in the previous financial year, in favour of the SLDC within a fortnight from the date these Regulations come into force.*

*The Petitioners have violated the above provision of the Main Regulation-2018 by not opening Letter of Credit despite non-payment of Deviation Charges to the RE DSM Pool Account maintained by SLDC.*

*Section-9 (5) of the Main Regulation-2018 is reproduced below –*

*In case of failure to pay into the “State Deviation Pool Account” within the specified time of 12 days from the date of issue of statement of charges for Deviations, the SLDC shall be entitled to encash the LC of the concerned constituent to the extent of the default and the concerned constituent shall recoup the LC amount within 3 days.*

*Since the defaulter Wind/ Solar Generators did not open Letter of Credit by violating the Main Regulation, SLDC had no option to recover outstanding dues from the Wind/ Solar Generator.*

*Thus, the provision of Bank Guarantee for the payment security has been introduced in the DOP annexed with the First Amendment to the Main Regulation-2018 and on persistent violation of the Main Regulation-2018 by most of Wind/ Solar Generators by not clearing their outstanding dues towards the RE Deviation Pool Account, the Section-10 (a) & (b) “Consequences thereof” is introduced in the First Amendment to the Main Regulation-2018, which is reproduced below-*

- (a) The SLDC shall provide 15 days’ time to the QCA/Generator to present its case before serving the Notice for dis-connection from the grid.*
- (b) In case QCA/Generator fails to address/rectify the default expressed by the SLDC in the Notice within stipulated time, the SLDC shall proceed with revocation of registration of QCA and/or disconnection of respective generator from grid.*

*Thus, the SLDC has issued notices to the Wind / Solar Generators who were making default in payment as per the provisions of the Main Regulation-2018 and its First Amendment. It is to submit that most of the Wind & Solar Generators instead of clearing their outstanding dues towards RE DSM Pool Account, are adopting one or the other means for not making payment towards RE DSM Pool Account.*

**Para 32:**

- a. Contents of this para are matter of record and no comments to offer.*
- b. SLDC had observed that there was time drift in the Inter-face meter installed at the*

*Wind Plant of Petitioner No.1, through some software tool. Though it is the responsibility of the Generating Station to check the time drift of meter regularly.*

*SLDC had computed the Deviation Charges of the Petitioner No. 1 based on the time correction done by software tool available with SLDC for this purpose. However minor adjustment is done, if required based on the JMR. As the energy recorded by the Inter-face meter is utilized for commercial settlement, thus minor correction is to be done to match the energy in DSM Account and monthly SEA.*

- c. *It is to submit that as per Section-5 (b) of the First Amendment of Main Regulation-2018, DSM Account shall be prepared on weekly basis and not on monthly basis.*

*The main reason of delay in preparation of weekly RE DSM Account is delay in receipt of meter data. SLDC has to verify completeness and correctness of data in every respect before processing for DSM computation. However, SLDC has been making all out efforts to issue the weekly RE DSM Account within the timelines given in First Amendment and Main Regulation-2018.*

- d. *Section-9 (1) of the Main Regulation-2018 is reproduced below-*

*The payment of charges for Deviation shall have a high priority and the concerned constituent shall pay the indicated amounts within ten days of the issue of statement of Charges for Deviation by SLDC [or by the Secretariat of the State Power Committee, as the case may be] into the "State Deviation Pool Account".*

- e. *Section-10 (b) of First Amendment is reproduced below-*

*In case QCA/Generator fails to address/rectify the default expressed by the SLDC in the Notice within stipulated time, the SLDC shall proceed with revocation of registration of QCA and / or disconnection of respective generator from grid.*

*The SLDC had issued notices to the defaulter Wind / Solar Generators in compliance to the above provisions of the Main Regulation-2018 and its First Amendment for recovery of outstanding dues towards RE DSM Pool Account.*

- f. *Contents of this para are repetitive and replied several times in preceding paras. Further, it is once again submitted that State Power Committee is not empowered to condone the delay in payment of outstanding dues towards RE DSM Pool Account.*

**Para 34:**

*Hon'ble High Court had referred the issue of payment of outstanding Deviation Charges to the Hon'ble State Commission and advised not to take any coercive step against the defaulter Wind/ Solar Generator. The notices for disconnection from the Grid have been given in compliance to Section-10 (b) of First Amendment of the Main Regulation-2018.*

**Para 38:**

*As already submitted in preceding paras, First Amendment to the Main Regulation-2018 do not change the methodology for computation of Deviation Charges, responsibilities of QCAs, metering arrangement, forecasting of generation, timeline for payment of Deviation Charges to the RE DSM Pool Account etc. Therefore, the contents of this para are denied specifically.*

**Para 40:**

*It is to submit that Wind and Solar Generators had been submitting forecasted generation on day ahead basis prior to notification of Main Regulation-2018. SLDC has not been allowing injection of power into the Grid by Wind and Solar Generators without commitment for forecasting of generation since 2016. Thus, all the Wind/ Solar Generators commissioned before the date of notification of Main Regulation-2018 were well aware of the submission of forecasting to the SLDC.*

*Part-6, Section-23 of IEGC-2010 has made the forecasting of Wind and Solar Generation mandatory.*

**Para 41:**

*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. The Petitioners had been fulfilling the requirements indicated in this para prior to notification of Main Regulation-2018.*

*Some of the Wind/ Solar generators reluctant to clear their dues towards DSM Pool Account and did not open Letter of Credit in case of default in payment of DSM charges as per clause 9(4) of Main 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 Regulations-2018 is introduced for submission of Bank Guarantee as a Payment Security Mechanism.*

**Para 42:**

*All the issues raised in this para are elaboration of the provisions of Main Regulation-2018. It is to submit that the Petitioners were well aware of the compliance of issues mentioned in this para well before the notification of Main Regulation-2018. It is to submit that First Amendment is merely an elaboration of the regulatory provisions of the Main Regulation-2018 and does not change any methodology which could financially burden the Petitioners.*

**Para 44:**

*Contents of this para are denied specifically as it is desired that Generator connected with the*



*Grid should be aware of the issues raised in this para, else it shall be threat to the Grid security.*

**Para 45:**

*Basic roles & responsibilities of the QCAs have not been changed in the First Amendment of the Main Regulation-2018. It cannot be considered for exemption from clearing outstanding dues towards RE DSM Pool Account maintained by SLDC.*

**Para 49:**

- a. *Regular monitoring of Time Drift in the meter is the responsibility of the Petitioners/ Generators. However, Wind/Solar Generators are not fulfilling their responsibility and thus SLDC has to validate the data by using software tool on behalf of Wind/ Solar Generators.*

*Some of the Wind/ Solar Generators had installed Sliding Window Type Inter-face meters, not as per the specification of Inter-face meters required for Energy Accounting under ABT regime. This is a mistake of the Wind/ Solar Generator and SLDC brought this mistake into the notice of Wind/ Solar Generators and requested them to replace the meter by ABT Complied Inter-face meters.*

*This has additional burden on SLDC to identify the issue with the Inter-face meter and intimate to the Wind/ Solar Generators for replacement/ correction in meters.*

- b. *The tripping of the evacuating line which interrupts the generation of Solar/ Wind Generators is a rare phenomenon. For suspension of computation of Deviation Charges, the outage time of the evacuating line is required from the MPPTCL/ Discom depending upon the area of jurisdiction. Suspension of Deviation Charges computation cannot be done only on request of the Generator, the certification of the MPPTCL/ Discom is a must.*

*In light of the submissions made hereinabove, it is most respectfully submitted that the instant petition may kindly be dismissed.”*

10. By affidavit dated 4<sup>th</sup> January’ 2022, the petitioner broadly submitted the following in its rejoinder as under:

- “1. *The present rejoinder is filed on behalf of both Petitioner Nos. 1 and 2, i.e., Green Infra Wind Energy Limited and Green Infra Corporate Solar Limited. At the very outset, it is stated that the entire contents of the Reply filed on behalf of Respondent No. 1 (‘Respondent SLDC’) are incorrect and misleading and therefore denied, save to the extent which are specifically admitted hereinafter and those which amount to admission of the contents of the Petition. Further, the averments made in the Petition filed on behalf of the Petitioners are reiterated and reaffirmed herein and are not repeated for*

*the sake of brevity and to avoid any prolixity.*

2. *Before making any preliminary submissions and responding to the para wise reply of Respondent SLDC, the Petitioners would first like to highlight the pertinent points as to why this Hon'ble Commission ought to under its powers to relax and powers to issue directions declare that the Notices issued by Respondent SLDC for levying deviation charges as non est in law and set aside the same and provide a trail/ grace period for not less than 6 months to implement the procedure. It is submitted that:*
  - a. *Whenever forecasting and deviations settlement mechanism is being implemented for the first time in any state by way of regulations (Tamil Nadu, Gujarat, Rajasthan, Maharashtra to name a few), firstly the procedure is formulated, published for comments, 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 relevant 'formats for forecasting and uploading facility' were also being approved by the respective commissions as per the DSM settlement procedures. Additionally, the penalty for deviation was not being levied until the Detailed Procedure was approved and/ or relevant trial period for commercial implementation had expired;*
  - b. *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. 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, which can be obviated to a great extent through a trial process. 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;*
  - c. *In support of the above, it is important to place the extract of the SoR for 'Framework on Forecasting, Scheduling and Imbalance Handling for Variable Renewable Energy Sources (Wind and Solar) issued by the Central Electricity Regulatory Commission before this Hon'ble Commission for its 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.

*It is important to highlight that trial period has been implemented by the Electricity Regulatory Commissions of Maharashtra, Gujarat and Rajasthan; and*

d. *It is also submitted that the Respondent SLDC has itself approached this Commission in petition No. 38 of 2021 for removing difficulties and for seeking a direction and order on the procedure for settlement of deviation charges of wind and solar generators.*

**A. REGULATIONS 2018 COULD NOT HAVE BEEN IMPLEMENTED WITHOUT THE DETAILED PROCEDURE AS INTRODUCED VIA THE FIRST AMENDMENT.**

3. *It is submitted that, this 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.*
4. *For effective implementation of Regulations 2018; the task for formulating the operation procedure or 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.*
5. *It is therefore submitted that this Hon'ble Commission has to consider that the Regulations 2018 could not have come into effect in the real sense of its purpose:*
  - i. *Without the formulation of the Detailed Procedure in terms of Regulation 6(a)(5) of Regulations 2018; and*
  - ii. *Without the formulation of the State Power Committee, who had to effectively oversee the implementation of Regulations 2018.*

6. *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.*
  7. *With respect to what is stated above, it is submitted that Respondent SLDC 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 SLDC 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], could not have been implemented, if they were at that particular point in time, not approved by this Hon'ble Commission (in the form of an approved Detailed Procedure). It is submitted that the Respondent SLDC cannot act beyond the scope of the delegation under Regulations 2018 by this Commission.*
  8. *It is submitted that 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. In any event, it is respectfully submitted that the commercial operation and implementation of the DSM Regulations can only be prospective, i.e., after the approval of the Detailed Procedure by this Hon'ble Commission, since the said procedure was essential to facilitate the understanding between the stakeholders and to avoid any unnecessary disputes in relation to levying of the DSM charges.*
- B. THE DETAILED PROCEDURE WAS ESSENTIAL TO IMPLEMENT REGULATIONS 2018. ADDITIONALLY, THE DETAILED PROCEDURE INTRODUCED SIGNIFICANT CHANGES TO THE REGULATIONS 2018.**
9. *Apart from all other factors necessitating the Detailed Procedure's existence, 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 and could not have been determined by the Respondent SLDC. It was only when the State Grid Code was amended in June 2019 and the First Amendment read with the Detailed Procedure notified, was it specified for the first time that the Generators were to be permitted 16 deviations from the schedule.*

10. Prior thereto, the SLDC were accepting all revisions to the schedule given by Generators with any number of revisions. 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.
11. It is pertinent to state that it is only recently that Madhya Pradesh has transitioned from MRI to AMR by way of Madhya Pradesh Electricity Grid Code (Revision-II), 2019 [Published vide Notification No. 834/MPERC/2019, dated 12.06.2019], though which AMR facility was introduced via the following insertion detailed below:
- 16.13 Data Collection Systems and Data Downloading**
- 16.13.1 All concerned Intra-State Entities (in whose premises the Special Energy Meters are installed) shall provide Automatic Meter Reading (AMR) facility for transmitting ABT meter data to SLDC remotely. If the weekly data of Special Energy Meter is not received through AMR system installed at SLDC, the same may be downloaded and transmitted to the SLDC by the owner of the ABT meter or entities who have been authorized to take energy meter reading.
12. Accordingly, Regulations 2018 did not foresee the requirement of AMR facility which was introduced by way of the First Amendment. Additionally, it is important to state that, in terms of Regulation 5(c) of Regulations 2018, the Respondent SLDC calculated deviation charges on a weekly basis only from Feb. 2020.
13. It is submitted that after the First Amendment, QCA was made responsible for providing weekly interface meter data. However, all QCAs may not be equipped with Meter Reading Instruments (MRI) and some of the meters may not have Special Energy Meters (SEMs) capable of measuring the meter data on 15-minute time block basis. Further, QCAs may also not having access to the Metering Console/equipment, which are sealed by SLDC/STU, or installed at the Substation;

14. Further by way of the Notices issued by the SLDC, it can be seen that till Oct 2019, several issues were being faced by the SLDC, such as:

- a. ABT meter data of pooling stations was not received;
- b. ABT meters installed were recording 15 minutes block wise data on sliding window instead of load survey; and
- c. ABT meter data was not available. Thus, the JMR of this feeder is equally distributed in 15 min time block for complete month.

**C. THE ROLE OF THE QCA WAS SIGNIFICANTLY EXPANDED BY WAY OF THE FIRST AMENDMENT**

15. It is submitted that appointment of a QCA was not a pre-condition to participate in the deviation settlement mechanism in terms of the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating station) Regulations 2018 ("Original Regulations") and neither was there any qualification/ criteria or method for appointment of a QCA. Nevertheless, the Petitioners, on their part appointed the Respondent No. 2 as QCA, and issued a consent letter dated 23.05.2018 to the Respondent SLDC.

16. Furthermore, as there was no clarity with respect to the role, function or responsibility of a QCA until the Detailed Procedure was approved by this Hon'ble Commission and the Petitioners were left to define the scope of services that ought to be performed by a QCA. Accordingly, the Petitioners had appointed a QCA, however, unknowing of the responsibilities that would be eventually cast upon its QCA. It is also pertinent to state that for nearly a period of 1 year and half, i.e. till the time the Detailed Procedure was not notified, the QCA, i.e. Respondent No. 2 was acting without a formal approved procedure and by following the industry practices that are accepted in other states where the deviation settlement mechanism had been initiated or were in their trial phase.

17. It is also pertinent to state here that a QCA had to be appointed and paid a service fee, without an understanding of its role within the Regulations 2018. It is also pertinent to state that a 'purchase order' was also issued by Respondent No. 2 for the forecasting and scheduling charge from the period from April 2018 to 19 December 2020, wherein, the QCA has not provided for 'rectification, review and/ or settlement of accounts between the State Entities' as a scope of service, which was later envisaged as a responsibility under the Detailed Procedure.

18. Additionally, it is only after the Detailed Procedure was published, that there was a clarity

*upon issues such as, how a QCA has to be appointed, who can be a QCA, and what is the role and responsibility of a QCA, etc.*

19. *Importantly, as reckoned under Original Regulations, any QCA, if appointed by any wind/solar generator, had to be registered with the SLDC, however, the Original Regulations were silent on the process of the registration.*
20. *It is respectfully submitted that, despite the fact that the Petitioners on their part had appointed their QCA, however, in the absence of a Detailed Procedure as envisaged under sub-clause 5 of Regulation 6(a) of the Original Regulations and a State Power Committee, several issues arose in the implementation of the Original Regulations.*
21. *It is submitted that, in fact, by way of the First Amendment, the generators had time of two (2) months to appoint the QCA from the date of notification, i.e. by 04.12.2019, thereby, effectively making the implementation of the DSM Regulations unattainable till December 2019.*

**Commission's Observations and Findings:**

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

- (i) The subject petition has been jointly filed by M/s. Green Infra Wind Energy Limited., (petitioner No. 1) and M/s. Green Infra Corporate Solar Limited.,(petitioner No. 2) having wind power projects of 60 MW at Rojwas and 44 MW at Nipaniya, respectively in Madhya Pradesh. The petitioners have invoked section 86(1) (f) of the Electricity Act, 2003 read with Regulations 11 and 12 of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) Regulations, 2018 and Regulation 46 of the MPERC (Conduct of Business) Regulations, 2004, seeking directions to remove difficulty in implementation of the Regulations in relation to Deviation Settlement.
- (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 within stipulated time.
- (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 principal FSDSM Regulations, 2018 due to absence of detailed operating procedure in the aforesaid 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 and 12 of the MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind and Solar generating stations) 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.”*

- (v) MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations-2018 notified on 20.04.2018. Before notification of said principal Regulations, comments/objections from all stakeholders were invited and public hearing was held wherein the stakeholders represented their point of view and made written submissions also. The principal Regulation was notified after considering all such representations.
- (vi) 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.”**
- (vii) 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.*

- (viii) 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."*

- (ix) 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 defines the State Sector Generating Station which is as follows:

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

- (x) In 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.

- (xi) 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.”*

- (xii) First amendment to FSDSM Regulations, 2018 was notified on 4<sup>th</sup> October’ 2019. In this 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.

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

- a. The Original Regulations 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.
- b. The Original Regulations, provided that an agency, being a QCA, was to be appointed for coordinating on behalf of wind/ solar generators connected to a pooling station and would be treated as a ‘State Entity’. The Original Regulations were silent on the qualifying requirements for a QCA, and more specifically the detailed roles and responsibilities of the QCA. Further, the appointment of a QCA was not even on of the ‘pre-condition for participation in Deviation Settlement Mechanism’ elucidated under Regulation 4 of the Original Regulations.
- c. A Detailed Procedure was to be framed which would outline 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. Detailed Procedure was only formulated on 04.10.2019, i.e. after a period of over one and a half years from the passing of the Original Regulations.
- d. Sub-clause 2 of Regulation 6(a) of the Original Regulations provided that, ‘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’. Under the Original Regulations there was a clear lack of clarity on whether there was any restriction to the number of revisions to be made. Essentially, 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 even after 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.

- e. It was only when the State Grid Code was amended in October 2019, it was for the first time clarified that the Generators were to be permitted 16 deviations from the schedule. It is submitted that accordingly, many generators had submitted different revisions within the same period and some have benefitted with lower DSM charges by submitting revisions to the tune of 67 revisions.
  - f. Within three months of notification of the Original Regulations, the Respondent No. 1 was supposed to formulate a State Power Committee, which shall inter alia ensure settlement of deviations amongst state entities in accordance with the said Original Regulations. In relation to this requirement, it is submitted that the State Power Committee was formulated only on 30.12.2019, and its first meeting took place on 28.09.2020. Accordingly, as there was no State Power Committee, there was no body in place to check the implementation of the deviation settlement mechanism by SLDC.
  - g. In view of the above, the Notices and the Demand Notice issued by the Respondent No. 1 ought to be stayed and the Respondent No. 1 must not be allowed to take any coercive steps against the Petitioners in furtherance of the same.
13. In response, the Respondent has submitted the following in its reply in this matter:
- i. 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, it 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.
  - ii. As per Section-32 of the Electricity Act, 2003, the State Load Despatch Centre shall be the apex body to ensure integrated operation of the power system in a State. 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.
  - iii. 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.

- iv.** In MPERC (FSDSM) Regulations 2018 Clause-2 of Regulation-6 (a), it is clearly mentioned that the Petitioners could make revisions in forecasted generation during the real time of operation as per provisions of Grid Code. As per Clause-8.6 of fourth amendment of MPEGC, State Sector Generating Stations can revise their forecasted generation during the real time of operation as & when required. There is no restriction on number of revisions during the day of operation.
- v.** Clause-2 of Regulation-6 (a) is not lacking 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.
- vi.** The Petitioners were not unaware of the regulatory provisions regarding revisions in forecasted generation during the real time of operation. SLDC had addressed doubts/ queries on the regulatory provisions of MPERC (FSDSM) Regulations 2018, if any raised by the Wind/ Solar Generators, telephonically before the commercial implementation of Regulation w.e.f. 01.08.2018.
- vii.** SLDC had also convened a meeting in October' 2018 with Wind/ Solar Generators, Developers and QCA to explain in detail all the regulatory provisions and suitably addressed all the queries raised by them. During the meeting, it was made clear to all the Wind/ Solar Generators that the Regulations are complete in every respect and could be implemented in the State of MP.
- viii.** In the meeting held in October' 2018, it was made clear to all the participants that SLDC is the Implementing Agency of MPERC (FSDSM) Regulations 2018 and would act as per the provisions contained in the Regulation. Any relaxation in any of the regulatory provisions and commercial implication is beyond the purview of SLDC and may be taken up directly with the State Commission.
- ix.** Most of the qualified Wind and Solar Generators/ QCAs had started revising forecasted generation during the real time of operation w.e.f. 1<sup>st</sup> August 2018. The revisions in forecasted generation submitted by the petitioners during real time of operations has been accepted and accordingly the schedules were issued by SLDC.

- x. Since number of revisions to be done by the RE Generators/ SSGS have not been indicated in the MPEGC, 2005 and amendments thereof, thus there was no restriction on number of revisions done by SSGS and RE Generators. SLDC had never denied any requisition seeking revision in forecasted generation during the real time of operation and all the requests had been entertained and generation schedules were issued accordingly, including that of Petitioners.
  
- xi. The Wind and Solar Generating Stations were allowed to make revision in schedule during real time of operation as per regulatory provisions. The petitioners have submitted the revisions in forecasted generation during the real time of operations, the same has been accepted, accordingly the schedules were issued by the SLDC. Based on the forecasted generation after incorporating real time revisions and actual generation in 15 Min. time blocks, DSM Charges are computed as per relevant clauses of MPERC (FSDSM) Regulations, 2018.
  
- xii. As per Clause-10, State Power Committee has been constituted on 30<sup>th</sup> December, 2019 after approval from the Commission. The State Power Committee has no power to change the methodology of computation of Deviation Charges for the Petitioners or other Wind/ Solar Generators. The State Power Committee shall ensure settlement of weekly Deviation Charges as per weekly DSM Account for Wind and Solar Generator prepared by the SLDC. In Section-8 of the Main Regulation-2018, statement of charges for deviation levied shall be prepared by SLDC on weekly basis. In Section-9 of the Main Regulation-2018, Wind/ Solar Generators have to clear their dues towards the State RE DSM Pool Account within the timeline given in this Section.

Thus, there is no role of State Power Committee in preparation of Deviation Charges and payment of dues to the State RE DSM Pool Account maintained by the SLDC.

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

- (a) MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations, 2018 was notified on 20.04.2018. Regulation 5 of the aforesaid Regulations provides the principles for operationalization of Deviation Settlement Mechanism. The operating procedure for implementation of Regulations was provided in detail under Regulation 6 of the aforesaid Regulations. Further, it was provided in Regulation 6 of said Regulations, 2018 that the declaration of capacity, scheduling and elimination of gaming shall be applicable as per provisions under Grid Code and MPERC (Terms and Conditions for intra-state open access in

Madhya Pradesh) Regulations 2005. The schedule of deviation charges applicable for under injection/over injection by Wind/ Solar generators has been provided under Table I to IV in the said Regulations, 2018 and there has been no change in Deviation Charges under aforesaid Tables I to IV in amended FSDSM Regulations, 2019. None of the parties in this matter approached the Commission under Regulation 12 of MPERC (Forecasting, Scheduling, Deviation Settlement Mechanism and related matters of Wind & Solar Generating Stations) Regulations, 2018 for any difficulty in giving effect to the aforesaid Regulations as contended by the petitioners.

- (b) With regard to contention of the petitioners on the issue of non-existence of detailed operating procedure in MPERC FSDSM Regulations 2018, the Commission on perusal of provisions under amended Regulations 2019, has noted that the following details were provided in the amended Regulation:
- (i) Consequences, if a Qualified Co-ordinating Agency (QCA) is not appointed by the generator.
  - (ii) General guidelines for appointing QCA and registration by QCA
  - (iii) Roles and responsibilities of QCA
  - (iv) Payment of security by QCA to SLDC towards deviation charges.
  - (v) Settlement of deviation charges mechanism.
  - (vi) Pre-conditions for participation in DSM
  - (vii) Event of default and consequences
  - (viii) Schedule for Deviation Charges
- (c) The Commission has further noted the following on perusal of unamended FSDSM Regulations 2018:
- (i) The provisions for appointing QCA, registration and responsibilities of QCA were provided under Regulation 2(1)(s) of unamended Regulations 2018.
  - (ii) Preconditions for participation in DSM was provided under Regulation 4(1) to (7) of unamended Regulations 2018.
  - (iii) Principles and framework for operationalization of DSM was provided under Regulation 5 (a) to (f) of unamended Regulations 2018.
  - (iv) Procedure for forecasting, scheduling and elimination of gaming was provided under Regulation 6 (a) to (h) of unamended Regulations 2018.
  - (v) Settlement of Deviation charges was provided under the heading of “Accounting for charges of deviation” in Regulation 8 (1) to (3) of unamended Regulations 2018.
  - (vi) Schedule of payment of charges for deviation provided under Regulation 9(1) to (5) of unamended Regulations 2018, have not been changed in the Amended Regulations.
- (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 in October’ 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 RE generators had submitted revisions in forecasted generation in real time of operations and the same had been accepted by SLDC and accordingly schedules were issued to the RE generators by SLDC. The Respondent (SLDC) further stated that there was no restriction on number of revisions 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 revised generation schedules were issued to generators including that of the petitioners.

15. In view of the 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 along with IA No. 7 of 2021 is dismissed.

**(Gopal Srivastava)**  
**Member(Law)**

**(Mukul Dhariwal)**  
**Member**

**(S.P.S. Parihar)**  
**Chairman**