

Petition no. 99/04 and 104/04 clubbed with 33/05 and 126/04

Sub: Review of Commission's order dated 11/06/2004 for procurement of wind energy.

ORDER
(Passed on 1.3.2006)

A tariff order was passed on 11/06/2004 in the matter of procurement of wind energy. Following petitioners had filed the petitions for review of aforesaid order dated 11/06/2004.

- (i) Petition No. 99/2004 filed by M/s. Consolidated Energy Consultants Ltd., Bhopal.
- (ii) Petition No. 104/2004 filed by M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore
- (iii) Petition No. 33/2005 filed by M/s. Indian Wind Power Association, Chennai.
- (iv) Petition No. 126/2005 filed by MPSEB for review of Petition No. 51/2004 (filed by M/s. Kalani Industries, Dhar).

2. Various issues raised by the petitioners are as under:

(i) Petition No. 99/2004 filed by M/s. Consolidated Energy Consultants Ltd., Bhopal.

Shri M.K. Deb, the representative of the petitioner contended that :-

- (i) Average project IRR works out to be 10.04 %, which is lower than assumed interest rate of 10.5 %.
- (ii) The Debt Service Cover Ratio is 1.16, which should be more than 1.50 hence projects shall not be bankable.
- (iii) The dividend income from the project works out to 12.95 %, which would be further lowered since security deposit shall be deducted during first five years.
- (iv) The average return is only 10.55 %.

- (v) There appears a discrepancy in calculation of interest amount @ 10.5 %.
- (vi) Tax saving of Rs. 11.25 lacs per year has been assumed to be ploughed back for repayment of loan.
- (vii) Cash flow statement only indicates 16 % return on initial equity but does not provide for any return on extra amount of Rs. 11.25 lacs invested every year continuously for 10 years.
- (viii) Determination of purchase price and norms are not rational.

(ii) Petition No. 104/2004 filed by M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore

The Board's Counsel in Review Petition No. 104/04 filed by the Board contended that:

(i) As the Board had already entered into the agreement with developers for a period, which shall expire after 2007, the rates for such unexpired period of agreements should not be revised from Rs. 2.25 per unit to Rs. 2.87 per unit. The representative of the Board has quoted Clause 5 of the agreement executed by the Board with the developers according to which:

“In case if sale of power to MPEB, same shall be purchased by the MPEB @ Rs. 2.25 (Two Rupees and twenty five paise) per unit, exclusive of statutory taxes, duties if levied and the same shall not undergo any change during the entire terms of the agreement.”

(ii) The Board's generation cost is Rs. 1.53 per unit and energy purchased from central sector is Rs. 1.92 per unit even then the Board is purchasing power from wind power developers at the higher rate of Rs. 2.25 per unit. Therefore, the developers have no right to claim for enhanced rates of Rs. 2.87 per unit.

(iii) The rates for existing developers should not be enhanced from Rs. 2.25 per unit to Rs. 2.87 per unit because the existing wind generators at this stage have already derived all possible benefits of State Government Policies, incentives by way of subsidies, exemption and deferment of taxes and well located plots of land on nominal rent of Rs. 1 per annum for 5 years.

(iv) The Board should not be insisted to share 50% cost of infrastructure as the interconnection line between wind generators and MPSEB system being dedicated

lines and cannot be tapped by the petitioner for assisting power supply to any other consumers thereby no return at any point of time.

(iii) Petition No. 33/2005 filed by M/s. Indian Wind Power Association, Chennai.

The petitioner prays to the Commission:-

(i) To factor the statutory levy of Income Tax including Minimum Alternate Tax payable.

(ii) To consider the debt repayment obligation during the first ten years of the Project life to enhance the depreciation rate from 4.5% to at least 6% during the first ten years and reduce the depreciation rate to 3% from 11th to 20th year.

(iii) To permit reduction in demand charge to the extent of wind power project installed by the Captive use or the capacity of wind power contracted by the third party purchaser in their energy bills.

(iv) Petition No. 126/2005 filed by MPSEB for review of Petition No. 51/2004 (filed by M/s. Kalani Industries, Dhar.)

The petitioner submitted to review the order dated 13/07/2004 against Petition No. 51/2004 allowing the Board to pay Rs. 2.87 per unit instead of Rs. 2.25 paise per unit on the plea that the average cost of power purchased by MPSEB from NTPC is approximately Rs. 1.92 per unit while the Board is paying to the wind power generators @ Rs. 2.25 per unit.

3. The Commission vide order dated 15/02/2005 directed to club Petition No. 126/2004 with Petition No. 104/2004. The Commission has further directed vide order dated 05/04/2005 to club Petition No. 33/2005 with Petition No. 104/2004.

4. The Commission held hearings in the matter on 20.10.2004, 16.12.2004, 11.1.2005, 15.3.2005 and 26.7.05 and meetings on 1.4.2005 & 30.7.05 along with petitioners in the office of the Commission.

5. Following issues were discussed:--

M.P.Pashchim Kshetra VV Co. Ltd., Indore

(i) Wherever a subsisting agreement between the Board and the developers exists, then the agreement should be honoured i.e. the

Board will continue to pay at Rs. 2.25 per unit as per agreement. They should not be asked to pay at Rs. 2.87 per unit as per the order.

- (ii) The rates for developers who had started generation before the date of the order viz. 11.6.2004, should not be enhanced from Rs. 2.25 per unit to Rs. 2.87 per unit as the existing wind generators have already derived all possible benefits of State Government Policies.
- (iii) The Board should not be insisted to share 50% cost of infrastructure as the interconnection line between wind generators and MPSEB system being dedicated lines and cannot be tapped by the petitioner for assisting power supply to any other consumers thereby no return at any point of time. Also, the Govt.'s policy has to be followed and accordingly full cost of infrastructure is to be borne by the developer.

Moreover, the CUF with new machines is of the order of about 25 % whereas the Commission has considered it as 22.5 %

M/s Consolidated Energy Consultants Ltd., Bhopal

- (i) In the Commission's order dated 11.6.2004, there is an error apparent from the records that the depreciation provision is not commensurate with the loan repayment/ interest on loan. The tariff for new wind generators may be considered @ Rs. 3.90 per unit for first ten years and @ Rs. 2.50 per unit for next ten years instead of as per provisions in the order dated 11.6.2004.
- (ii) The Clause no. 7.5 of order dated 11.6.2004 may be modified to the extent that security may be taken on the basis of per unit fed to the system (say 25 paise/unit sold) instead of percentage of ROE.
- (iv) The agreement already entered into with existing wind generators may be reviewed. In case the agreement is for self use and third party sale, the Board may be allowed to pay @ Rs. 2.25 per unit sold and if the agreement is for sale of electricity to the Board only, Board may be directed to pay @ Rs. 2.87 per unit sold. This arrangement may be made applicable till the expiry of agreement period or a new agreement is executed.

State Government

The representative stated that the provisions as per existing policy of the State Government may be considered.

M/s Indian Wind Power Association

The representative stated that they agreed with the contention of M/s Consolidated Energy Consultant Ltd.

6. The Commission after taking into consideration various factors and views of all stakeholders decided the norms of various factors and determined the tariff for wind energy on 11.6.04. Shri Deb has objected mainly on the issue of depreciation provision and payment of principle amount. He opined that there is an error apparent as the depreciation provision is not commensurate with the loan repayment/interest on loan and no fund shall remain as per cash flow. The tariff for wind energy projects was determined on the basis of **Cost Plus Approach**. The tariff order provides depreciation on straight line method considering 90 % of the asset value to be depreciated in 20 years with residual value @ 10 %. Therefore in the initial four years only, the interest on term loan is more than the provision of depreciation but in the remaining years the depreciation provision is more and after tenth year, the depreciation provision shall give substantial surplus of fund.

7. The Commission has further directed to review the various possibilities of tariff structure. The following stakeholders have submitted various tariff structures:

- (i) M/s Indian Wind Power Association, Chennai
- (ii) M/s Consolidated Energy Consultants Ltd., Bhopal

8. The matter was further discussed in the internal meeting on 6.1.2006 and subsequent discussion on 10.2.2006. The main issues of various petitions are :

- (i) Whether existing wind generators be allowed to reimbursement either @ Rs. 2.25 per unit as per agreement executed between the parties or Rs. 2.87 per unit as per tariff order passed on 11.6.04.
- (ii) Whether the order dated 11.6.04 requires review and determination of tariff be done on cash flow basis instead of cost plus approach.

(iii) Whether cost of infrastructure shall be borne by the distribution companies as per tariff order dated 11.6.04.

(iv) Whether some change in the quantum of security deposit to be considered.

9. The Commission has considered various issues of all the petitioners and various options submitted by the stakeholders and directs as under :-

(i) the rate payable for existing wind generators as on 11.6.04 will be @ Rs. 2.25 per unit till the agreement period of existing agreement is expired and for new agreement after 11.6.04 they may be allowed to charge @ Rs. 2.87 per unit.

(ii) the cost of infrastructure may be borne by the Discoms/developers as per procedure specified in clause 6.15 of the tariff order dated 11.6.04.

(iii) the developer is not required to deposit any amount towards security as enumerated in clause 7.5 & 7.6 of tariff order dated 11.6.04.

(iv) the tariff for new wind energy project for its project life of 20 years shall be in the following manner w.e.f. 11.6.04 :

Year	1	2	3	4	5	6	7	8	9	10
Tariff (Rs./unit)	3.97	3.80	3.63	3.46	3.30	3.30	3.30	3.30	3.30	3.30
Year	11	12	13	14	15	16	17	18	19	20
Tariff (Rs./unit)	3.30	3.30	3.30	3.30	3.30	3.30	3.30	3.30	3.30	3.30

10. Ordered accordingly.

Sd/-

(R.Natarajan)
Member (Econ.)

Sd/-

(D.Roybardhan)
Member (Engg.)

Sd/-

(P.K.Mehrotra)
Chairman