

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL**

**Sub : In the matter of application for grant of power distribution license under Section 14 of the Electricity Act, 2003 and as per Regulation No. 1389/MPERC/2003 dated 24.05.2004.**

**Petition No. 71 of 2009**

**ORDER**

**(Date of Hearing : 5<sup>th</sup> October, 2010)**

**(Date of Order : 6<sup>th</sup> October, 2010)**

M/s MPAKVN(I) Ltd.,  
Free Press Complex,  
AB Road, Indore.

- Petitioner

V/s

M. P. Paschim Kshetra Vidyut Vitaran Co. Ltd.,  
GPH Compound, Pologround, Indore.  
(West Discom)

- Respondent

Shri Ajay Porwal, Consultant and Shri Ravi Tiwari, Advisor appeared on behalf of the Petitioner.

2. The petition is in the matter of application for grant of power distribution license under Section 14 of the Electricity Act, 2003 and as per the Commission's Regulation No. 1389/MPERC/2003 dated 24.05.2004. The case was listed for motion hearing on 12.01.2010.

3. During the motion hearing, the Commission had admitted the petition and directed the Petitioner to take necessary action to submit latest audited Balance Sheet alongwith required information/data as per MPERC (Procedure of Application for Licence) Regulations, 2004 notified on 04.06.2004. The next date of hearing was fixed on 26.02.2010.

4. During the hearing on 26.02.2010, the Commission had directed the Petitioner to submit certain documents as required in accordance with MPERC (Procedure of Application for Licence) Regulations, 2004 by 18.03.2010. The next date of hearing was fixed on 23.03.2010.

5. During the hearing on 23.03.2010, the Commission had accepted the request of the Petitioner for submission of Audited Balance Sheet for the year 2006-07 by May 2010. The Commission had also directed that the request for submission of Audited Balance Sheet for the year 2007-08 by July 2010 and for year 2008-09 by December, 2010 will be considered only after the Petitioner provides the provisional Balance Sheet for the year 2007-08 and 2008-09 by

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31<sup>st</sup> May, 2010. The following documents were also required to be submitted by 07.04.2010 by the Petitioner :

- (i) 5 copies of Maps
- (ii) Statement describing land and assets, which the applicant has acquired for the purpose of distribution of electricity and the means of such acquisition.
- (iii) NOC from the Government, if required.

6. The Petitioner was also directed to publish notice as per approved draft and to ensure that application alongwith other required documents as per Clause 1.8 of MPERC (Procedure of Application for License) Regulations, 2004 are kept ready for public inspection and could be furnished to the person applying for copies of such documents at a price not exceeding reasonable duplicating charges. Representations or suggestions or objections received in this regard were to be submitted to the Commission alongwith the Petitioner's response within 7 days after the last date of receipt of representation suggestions/objections.

7. It was noted that the Petitioner had not complied with the above directions of the Commission and had obtained additional load of 5 MVA, over and above 5 MVA, temporarily permitted by the Commission. Therefore, on 30.06.2010, a notice was issued to the Petitioner to appear personally, before the Commission on 13.07.2010, regarding compliance of the Commission's Order dated 31.03.2010. The Petitioner replied to the Commission that the Central Government has amended Clause (b) of Section 14 of the Electricity Act, 2003 vide notification dated 03.03.2010 as under:

*"Provided that the Developer of a Special Economic Zone notified under Sub-Section (1) of Section 4 of the SEZ Act, 2005 shall be deemed to be a Licensee for the purpose of this Clause, with effect from the date of notification of such Special Economic Zone".*

8. The Petitioner had requested the Commission to pass Order accordingly so that the Company may file its ARR and Retail Tariff application.

9. During the hearing on 13.07.2010, after considering the submissions made by the Petitioner, the Commission had directed the Petitioner as under :

- (i) To submit the audited Balance Sheet of power business of the Company alongwith other documents as ordered by the Commission vide its earlier order dated 23.03.2010.

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- (ii) To apply to the Commission for extension of interim arrangement for availing of power from MP Paschim Kshetra Vidyut Vitaran Co. Ltd., if they want to avail power beyond the period earlier allowed.
- (iii) To submit a revised draft notice for publication in the newspaper as required under sub-section 2 of Section 15 of the Electricity Act, 2003.
- (iv) To submit the ARR and Retail Tariff application on projection basis.

10. The next date of hearing was fixed on 12.08.2010.

11. During the hearing on 12.08.2010, the Petitioner had submitted that the petition for extension of procurement of power has been filed separately with the Commission. The Petitioner had submitted the revised draft notice incorporating additional Clause for approval. The Petitioner also submitted the documents related to NTPC allocation for 8 MW up to 31<sup>st</sup> March, 2011. The Petitioner had stated that it requires additional 2 weeks' time for submitting separate unaudited Balance Sheet for the period 2005-06, 2006-07, 2008-09 and 2009-10 after segregating the same from the composite accounts of SEZ.

12. During the hearing, the Managing Director of the Petitioner Company submitted that they will require approximately a year's time to get their Balance Sheet audited for the separate power business. On a query raised by the Commission, the Petitioner submitted that they require single tariff to be approved by the Commission as they have only one class of consumers with them i.e. HT Industrial Consumers.

13. After considering the submissions made by the Petitioner and in view of the amended Clause (b) of Section 14 of the Electricity Act, 2003 vide notification dated 03.03.2010, the Commission accepted that Petitioner being the developer of Special Economic Zone notified under Section 4(1) of the SEZ Act, 2005 shall be deemed to be a Distribution Licensee. The Commission had further directed the Petitioner to publish the approved draft of the revised notice. The next date of hearing was fixed on 07.09.2010.

14. During the hearing on 07.09.2010, no one appeared on behalf of the Petitioner. The Commission, therefore, gave another opportunity to the Petitioner to report the compliance of the Commission's Order dated 27.08.2010 on the next date of hearing. The next date of hearing was fixed on 05.10.2010.

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15. During the hearing on 05.10.2010, the representative of the Petitioner submitted that the notice, as approved by the Commission would, be published within a week's time. The representative of the Petitioner also submitted that the Petitioner would be the sole Distribution Licensee with its own dedicated distribution system within the SEZ area. Regarding arrangement for power procurement, he submitted that action was being taken for long term/medium term procurement of power from generators/traders.

16. In view of the above, Petition No. 71 of 2009 stands disposed of, with the direction that a copy of the published notice be filed with the Commission within 15 days.

Ordered accordingly,

**(C.S.Sharma)**  
**Member (Eco.)**

**(K.K.Garg)**  
**Member (Engg.)**

**(Rakesh Sahni)**  
**Chairman**