

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub: In the matter of long term tariff issues which will benefit SEZ consumers.

Order

Date of motion hearing: 25.07.2017

Date of order: 01.08.2017

**M/s Pithampur Audyogik Sangathan ,
231, Saket Nagar Indore -452018 MP, : Petitioner**

V/s

**M.P.A.K.V.N (Indore) Ltd.
3/54, Press Complex, Free Press House : Respondent
A.B. Road, Indore**

Dr. Gautam Kothari, appeared on behalf of the petitioner.

2 The petitioner has filed the subject petition and prayed the Commission for open discussion on long term power purchase agreement; consistency in retail supply tariff orders issued by the Commission for Discoms of the State and for SEZ for FY 2017-18; maintaining of the separate accounts for power business and incorporating state govt. scheme for incentive for higher consumption in the retail supply tariff order for FY 2017-18 issued by the Commission on 07.04.2017 for SEZ, Pithampur.

3. The motion hearing in the matter was held on 25/07/2017. The Commission has observed that the subject petition has been filed by petitioner without referring to any of the provisions of regulations / relevant section of the Electricity Act 2003. However, on the aforementioned issues included in the prayer, the Commission has observed that the petitioner's contention on transparency in execution of long term power purchase agreement by the respondent with MP Power Management Co. Ltd. does not arise as the agreement was executed as per the provisions of Govt. of Madhya Pradesh notification dated 30th March, 2016 in respect of allocation of MPGENCO power to the respondent and subsequently the power purchase cost for the respondent has been worked out on the basis of the Generation Tariff orders issued by the Commission from time to time. Further, the long term power purchase cannot be equated / substituted with the short term power purchase. Therefore, the petitioner's claim for seeking open discussion in the matter is unwarranted.

4. With regard to the other issues included in the prayer by the petitioner, the Commission observed that the Commission has deliberated, in detail, on these issues in the retail supply tariff order issued by the Commission on 07/04/2017 for FY 2017-18 for SEZ. The Commission has followed due process of tariff determination in accordance with the provisions of the appropriate regulations notified by the Commission from time to time. The aforementioned order of the Commission is unambiguous. However, any deliberation on these issues would lead to review of the Commission's retail supply tariff order for FY 2017-18 for SEZ.

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5. A review of Commission's retail supply tariff order is admissible only as per the clause 1.32 and 1.33 of MPERC (Details to be furnished and fee payable by licensee or generating company for determination of tariff and manner of making application) Regulations 2004. This is given below:

“Review of Tariff Order :

1.32 All applications for the review of tariff shall be in the form of petition accompanied by the prescribed fee. A petition for review of tariff can be admitted by the Commission under the following conditions:

(a) The review petition is filed within sixty days from the date of the tariff order and

(b) It is proved that an error apparent from the records is there.

1.33 The Commission on its own, being satisfied that there is a need to review the tariff of any generating company or the licensee, shall initiate the process of review the tariff of any generating company or the licensee in accordance with the procedures set out in MPERC (Conduct of Business) Regulations.”

6. Further, for filing a review petition before the Commission, the following conditions have to be fulfilled:

(a) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or;

(b) on account of some mistake or error apparent on the face of the record or;

(c) any other sufficient reason.

7. The issues raised in the subject petition have been examined for establishing the maintainability of the subject petition in light of the aforementioned provisions also. The Commission has observed that contentions raised by the petitioner are inconsistent with the provisions required for review of an order. Hence, prima facie the review of the Commission's order has not been established through the subject petition.

8. In view of the facts and circumstances as narrated hereinabove, the petition is not maintainable and therefore, stands disposed of.

(Alok Gupta)
Member

(A. B. Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman