

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL

Sub: In the matter of petition under Section 62, 86(1)(b) and 86(1)(e) of the Electricity Act, 2003 read alongwith MPERC (Conduct of Business) Regulations, 2004 for amendment in MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulations, 2010.

Petition No. 52 of 2019

ORDER

(Date of Hearing: 21st January' 2020)

(Date of Order: 23rd January' 2020)

New and Renewable Energy Department,
Government of Madhya Pradesh,
Through its Principal Secretary,
Vallabh Bhawan, Bhopal (M.P.) – 462004

- **Petitioner**

V/s

(1) M.P. Power Management Company Ltd.,
Shakti Bhawan, Rampur, Jabalpur – 482008

(2) M. P. Madhya Kshetra Vidyut Vitaran Co. Ltd.
Nishtha Parisar, Govindpura, Bhopal – 462023

- **Respondent**

(3) M. P. Paschim Kshetra Vidyut Vitaran Co. Ltd.
GPH Compound, Pologround, Indore – 452001

(4) M. P. Poorv Kshetra Vidyut Vitaran Co. Ltd.
Shakti Bhawan, Rampur, Vidyut Nagar, Jabalpur – 482008.

None appeared on behalf of the petitioner.

Shri Ashish Anand Bernard, Advocate appeared on behalf of Respondent No.1

Shri R.K. Thukral, AE, Shri R. Kotwala appeared for other Respondents

The petitioner, New and Renewable Energy Department has filed the subject petition under 62, 86(1)(b) and 86(1)(e) of the Electricity Act, 2003 read alongwith MPERC (Conduct of Business) Regulations, 2004 for amendment in MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulations, 2010.

2. Vide Commission's last order dated 7th January' 2020, the Respondents were directed to file their reply to the subject petition by 17th January' 2020 after serving a copy of the same on the other side also. The petitioner was directed to submit the balance information by 12th January' 2020 after serving a copy of the same on other side also.

3. During the course of hearing held on 21st January' 2020, the Commission has observed the following:

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- (i) None appeared on behalf of petitioner.
- (ii) Vide letter No. NRED/416/2019-20/760 dated 10.01.2020 the petitioner has re-submitted the details on certain issues as sought by the Commission.
- (iii) By affidavit dated 17th January' 2020, the Respondent No. 1 (MPPMCL) has filed its reply to the subject petition.

4. In its aforesaid submission dated 10th January' 2020, the petitioner has broadly submitted the following:

- (i) The details of Bagasse based Co-Generating Plants having total 41.8 MW installed capacity is as under:

No. of Plants	Installed Capacity (MW)	Capacity used captive consumption (MW)	Capacity Available for Sale to Discom (MW)
Three Plants	64.8	23.0	41.8

- (ii) The calculation for arriving at the figure of 194 MU energy available from Bagasse based power plants to reduce the gap of noncompliance of RPO by Discoms.
- (iii) MPPMCL has not signed PPA with any of the Bagasse Based Cogenerating plant developers, hence, no data is available for unscheduled energy from Bagasse based Cogenerating plants in the state on account of Merit Order Dispatch (MoD).
- (iv) The tariff adopted for Bagasse based cogeneration plants by Gujarat, Rajasthan and Tamil Nadu.

5. In its reply filed by affidavit dated 17.01.2020, the Respondent MPPMCL has broadly submitted the following:

- “(i) It is most respectfully submitted that the grounds of petitioner on which the Must run status for Bagasse based cogeneration plant has been prayed seems to be appropriate and Hon'ble Commission may consider the prayer subject to acceptance of the submissions made herein below.*
- “(ii) As on date MPPMCL has not entered in to PPA with any of these plants and it is understood that till now these plants are being run as captive power plants or selling to other parties through IEX.*
- “(iii) In the instant case of bagasse based cogeneration power plants, it is seen that, they are generally captive and have not been set up for sole objective of sale of power to the*

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distribution licensee. In other words, the power plant has not made capital investment only with the sole objective of supply of power to the distribution licensee. The generation of power by using bagasse as fuel is a secondary activity, as bagasse is the waste product of sugar mill and the same is used as fuel for generation of steam, primarily for use in sugar production in the mill and secondarily used for generation of power. Therefore, it is evidently clear that, as such there is no capital investment typically made exclusively for sale of power to the distribution licensee.

- (iv) A bagasse based power plant is essentially a plant located in the sugar mill and therefore there is no investment to be made by the power plant generator with respect to land and therefore the same ought to be reduced from the consideration of capital cost.*
- (v) It is further submitted that there is a declining trend in the capital cost of high pressure boilers and therefore the same ought to be examined by the Hon'ble Commission. It is submitted all these aspects become a part of the capital cost and it is imperative that the capital cost as determined in the Tariff order dated 01.04.2013 is considered and re-examined.*
- (vi) Furthermore, it is submitted that this Hon'ble Commission also ought to appreciate that the entire capital cost of bagasse based plant cannot be burdened on the DISCOMs/ Respondent, for the simple reason, and as stated herein-above, the plant is not established exclusively for supply of power to the DISCOMS, but is established by the sugar manufacturer to attain its own efficiency of using the by-product generated in sugar manufacturing. Therefore loading the entire capital cost on the DISCOM is not correct.*
- (vii) With respect to consideration of "Depreciation" as a component of tariff, it is submitted that the Tariff order 2013 provides for 7% while the CERC RE Tariff regulations, 2017 provide for 5.28% and therefore it is submitted that the same be considered. Also on the issue of Return on Equity, the Tariff order provides for a 20% pre-tax RoE, the same appears to grant a very high RoE and ought to be re-considered as per CERC RE Regulations 2017.*
- (viii) In view of above it is submitted that, this Hon'ble Commission ought to also review and re-examine the capital cost loaded on the tariff, for following reasons:*
 - (a) That, the Bagasse based cogeneration power plant is primarily a captive power plant and not established solely for sale of power to the licensee.*
 - (b) That, the fuel which is used in power plant is a by-product of the sugar manufacturing process and therefore the bagasse plant has huge savings in terms of fuel cost.*

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Therefore, there is no requirement to grant a fuel cost of Rs. 1583 Per MT to bagasse based cogeneration plants as mentioned in the tariff order dated 01.04.2013.

(c) That, there is no transportation cost involved as the fuel (Bagasse) is available at the power plant site itself.

(ix) It is therefore, submitted that this Hon'ble Commission may consider to reduce the fixed cost component of the bagasse based cogeneration plants in the tariff determined.

(x) Further, it is most pertinent to mention herein that this Hon'ble Commission may consider to evolve a mechanism or process by virtue of which the capacity of bagasse based cogeneration plant should be co-terminus with the manufacturing capacity of the sugar mill to avoid any misuse of benefits of preferential tariff by procuring additional bagasse from other sugar mills, as they are essentially captive power plants, who are generating power from bagasse produced from waste product of sugar manufacturing.

(xi) In view of the submissions made herein above, it is submitted that the petition may be allowed keeping the interests of Respondent as stated herein above in mind."

6. During the course of hearing held on 21.01.2020, Ld. Counsel for the Respondent reiterated the contention in its aforesaid reply to the subject petition. The submissions made by the petitioner and Respondent are taken on record by the Commission. On examination of all aforesaid submissions made by the parties, the Commission shall come up with an appropriate draft amendment in MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulations, 2010 with regard to the issues in the subject matter. Considering the submissions of respondent in the subject matter, the Commission may also review and re-examine the tariff in respect of Bagasse based cogeneration plants. The Commission Secretary is directed to initiate the process for amendment in the aforesaid Regulation and revision of tariff for Bagasse based cogeneration plant.

With the aforesaid observations and directions, the subject petition is disposed of.

(Shashi Bhushan Pathak)
Member

(Mukul Dhariwal)
Member