

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of petition for permission under Section 86(1)(e) of the Electricity Act, 2003 for wheeling the energy generated by the WEG to the place of consumption for captive use and execution of fresh Power Purchase and Wheeling Agreement for the balance period of project life for one WEG at Location No. 8 of M/s Chirayu Health & Medicare Pvt. Ltd.

Petition No. 64/2011

ORDER

(Date of hearing 10th January, 2012)

(Date of order 12th January, 2012)

M/s Chirayu Health & Medicare Pvt. Ltd., - Petitioner
6, Malipura, Bhopal (MP) – 462001.

V/s

M.P.Madhya Kshetra Vidyut Vitaran Co. Ltd., - Respondent No. 1
Nishtha Parisar, Govindpura, Bhopal.

M.P.Paschim Kshetra Vidyut Vitaran Co. Ltd., - Respondent No. 2
GPH Compound Pologround, Indore.

M.P.Power Transmission Co. Ltd., - Respondent No. 3
Shakti Bhawan, Vidyut Nagar, Jabalpur.

M.P.Power Trading Co. Ltd., - Respondent No. 4
Shakti Bhawan, Rampur, Jabalpur.

Shri Anoop Sharma, Advocate and Shri Vinod Tiwari appeared on behalf of Petitioner.

Shri R.K.Khade, EE appeared on behalf of Respondent No.1.

Shri Anant Chaure, Law Officer appeared on behalf Respondent No. 2.

Shri R.C.Chakraborty, EE appeared on behalf of Respondent No. 3.

Ms. Parul Dangi, Legal Executive appeared on behalf of Respondent No. 4.

2. Petitioner, has filed this petition on 17.10.2011 seeking permission under section 86 (1) (e) of the Electricity Act, 2003 for wheeling the energy generated by the WEG to the place of consumption for captive use & execution of Fresh Power Purchase & Wheeling Agreement for the balance period of project life.

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3. Petitioner is the owner of 1 No. Wind Electric Generator (WEG) of 225 KW rating installed in the wind farm at village Sujapur, Tehsil Jaora, Distt. Ratlam at location no. 8 Energy generated and provided by this WEG was consumed for captive use w.e.f. the date of commissioning i.e. 11.03.2006. A bulk power transmission agreement dated 10.04.2007 was executed with MP Transmission Co. Ltd. for a period of 10 years for one no. of WEG at location No. 8.

4. Petitioner had signed bulk power wheeling agreements with Respondent No.2 for wheeling of power generated from the above WEG on 19.05.2007, respectively. The agreement was executed for a period of five years from the date of commencement of generation. The WEGs were commissioned on 11.3.2006 and hence the agreement commenced with effect from 11.3.2006 and expired on 10.3.2011.

5. Petitioner has stated that the energy generated from the said WEG will be consumed for captive use. Petitioner agrees to:

- a. Sign a fresh power wheeling agreement as per the draft approved by the Commission under the wind power tariff order dated 11.06.2004 (as revised on 01.03.2006) with Respondent Nos. 1 and 2 for this purpose.
- b. Pay @ 27 paisa/unit of reactive energy consumption made from the grid as provided in the said order.
- c. Pay @ 2% of the energy injected towards wheeling charges in terms of units as provided in the said order.

6. In the aforesaid background, Petitioner has prayed as under :

- (i) For wheeling of energy from its 1 no. of WEG at Location no. 8 in the wind farm at Village Sujapur, Distt. Ratlam to its printing press at Bhopal for captive consumption through the HT connection provided to the premises.

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- (ii) For execution of fresh Power Wheeling Agreement with Respondent no. 1 & 2 for balance period of project life for the above WEG at Location no.8.
- (iii) For payment of the surplus energy (energy delivered by its WEG to the grid but not consumed) at the rate of Rs. 2.90/unit as specified in the Wind Power Tariff order of MPERC dated 11.06.2004 (as revised on 01.03.2006).
- (iv) For continuation of wheeling of energy to the place of consumption and adjustment of the wheeled energy in the monthly electricity bills of the consumer till the date of execution of fresh agreement.

7. It is submitted that the wheeling agreement was executed for a period of five years from the date of commencement which has already been expired on 10.3.2011. However, Petitioner has contended that, by virtue of Clause 17.1 of the agreement dated 19.5.2007, the said agreement is still continuing.

8. Petitioner has been injecting power into the grid even after agreement expired in March, 2011 without executing the agreement. Petitioner never approached the Commission or Respondent No. 1 and 2 for seeking permission for renewal of the said PPA for the balance period. Petitioner has filed the present petition after the lapse of six months from the date of expiry of term of agreements seeking permission for execution of fresh PPA with Respondent No. 1 and 2 for balance period of project life.

9. The case was listed for hearing on 22.11.2011.

10. During the hearing, the representative of Petitioner reiterated the contents of the petition. He has also submitted that the power is still being injected into the grid in terms of provisions of Clause 17.1 of the agreement dated 19.05.2007 with Respondent No.2. According to the aforesaid Clause of the agreement, the date of connectivity to the grid / fed power to West Discom / Transco system shall be deemed date of

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commencement of agreement. In such case if Petitioner continues to avail wheeling services from Respondent No.2 even after expiry of this agreement without further renewal or formal extension thereof, then all the provisions of this agreement shall continue to operate till this agreement is formally renewed, extended or replaced. He has, therefore, requested to direct Respondents for payment of the wheeled energy with effect from April, 2011.

11. During the hearing, the Commission enquired from Respondent No. 2 whether any notice was issued to Petitioner for termination of agreement dated 19.05.2007. The representative of Respondent No.2 could not reply. The Commission noted that MP Power Trading Co. shall further be required to execute agreement and to make payment for the wheeled energy on behalf of the Distribution Licensee in terms of the tariff order dated 14.05.2010. Petitioner has not made MP Power Trading Co. Respondent in the petition. The Commission directed to issue notice to MP Power Trading Co. Ltd. to appear before the Commission on the next date of hearing. Copy of the petition may also be sent to MP Power Trading Co. Ltd. The Commission also directed Respondent No. 2 to allow Petitioner to continue to inject power into the grid. The Commission further directed to make payment to Petitioner for surplus energy and also allow adjustment in bills of captive consumer of wheeled energy from the date of filing of petition by Petitioner. The matter regarding payment for surplus energy and adjustment of wheeled energy in the bills of captive consumer for the period from April 2011 to the date of filing of petition by Petitioner shall be decided after hearing MP Power Trading Co. Ltd. on the next date of hearing. The case was listed for hearing on 10.01.2012.

12. During the hearing on 10.01.2012, the representative of Petitioner submitted that Respondents raised the following issues to be considered:

- a. The earlier agreement expired on 10.03.2011.
- b. New agreement with retrospective date cannot be executed.

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He has further submitted that earlier agreement executed by Respondent No.2 itself was having retrospective effect. The agreement was executed in 2007 with date of commencement of March, 2006. Therefore, the argument that new agreement with retrospective date cannot be executed is not acceptable. He has also submitted a copy of letter No. 7780 dated 08.04.2011 issued by CE (Comm.), West Discom to Petitioner wherein it is mentioned that the Petitioner's earlier agreement is going to expire in the month of May, 2012. As the agreement is not expired till the date of filing of petition as per aforesaid letter, Petitioner has filed the petition timely. He has further submitted that the aforesaid letter is not a notice of termination of earlier agreement.

13. During the hearing, the representative of Respondent No.2 submitted that the letter No. 7780 dated 08.04.2011 is a reminder letter and not a notice of termination of earlier agreement. The representative of Respondent No.4 offered no comments after hearing the arguments of Petitioner.

14. On hearing Petitioner and Respondents, the Commission holds that earlier agreement continued to be in full force and effect as per provision in Section 17.1 of that agreement and that the said agreement was not terminated as accepted by Respondent No.2. Accordingly, Respondents are directed to make payment to Petitioner for surplus energy and provide adjustment of wheeled energy in the bills of captive consumer for the period from April, 2011 to the date of filing of petition by Petitioner. The Respondent No.2 is directed to execute a fresh agreement effective from the date of filing of this petition.

15. With the above directions, Petition No. 64 of 2011 stands disposed of.

Ordered accordingly,

sd/-
(C.S.Sharma)
Member

sd/-
(Rakesh Sahni)
Chairman