

Sub: In the matter of petition under sections 61, 62 and 86 of the Electricity Act, 2003 read with the provisions of MPERC (Co-generation and generation of electricity from renewable sources of energy) (Revision-I) Regulations, 2010 and the tariff orders dated 7.8.2007 and 3.5.2013 passed by the Commission

ORDER

(Date of hearing: 29th October,2013)

(Date of order: 20th November,2013)

M/s ASN Industries Pvt. Ltd.,
205, Mayfair Gardens, Road No. 12,
Banjara Hills, Hyderabad - Petitioner

M.P. Power Management Co. Ltd., Jabalpur - Respondent

Shri Mohan Kishore V., Director of the company appeared on behalf of the petitioner.

Shri Sanjeev Khare, DGM appeared on behalf of the respondent.

2. The petitioner, M/s ASN Industries Pvt. Ltd. has filed this petition under sections 61, 62 and 86 of the Electricity Act, 2003 read with the provisions of MPERC (Co-generation and generation of electricity from renewable sources of energy) (Revision-I) Regulations, 2010 and the tariff orders dated 7.8.2007 and 3.5.2013 passed by the Commission.

3. **Facts of the case :**

(a) M/s ASN Industries Pvt. Ltd. had set up a 7.5 MW biomass based power plant in District Katni in Madhya Pradesh. The plant was commissioned on 08.12.2011.

(b) Earlier, the petitioner had filed a petition no. 37/2013 before the Commission for applicability of fixed charges as per order dated 07.08.2007 and variable charges as per the subsequent orders dated 02.03.2012 and 03.05.2013 and prayed for directions to enter into PPA with the respondent. The petitioner also prayed that alternatively the respondent may be directed not to restrict the open access so that the petitioner's plant can at least attempt to get a viable sale price by sale to third parties.

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- (c) By order dated 30.08.2013, the Commission gave directions to the SLDC and M.P. Power Transmission Co. Ltd. to afford short/long term open access to the petitioner should it seek such facility. The Commission had also left open the possibility of re-fixation of the tariff for the remaining period of the plant life in the event that the petitioner chooses to sell power to the Distribution Licensees in the State.
- (d) The petitioner has chosen to sell power to the Distribution Licensees in the State. Hence, this petition.
- (e) In its petition, the petitioner has submitted that after commissioning of the biomass plant in December, 2011 the petitioner had been supplying power at the Power Pooled Purchase cost at Rs. 2.47 per unit determined by the Commission to the Distribution Companies. However, the biomass plant could not run on a sustained basis. The petitioner made a request to accord a realistic tariff in terms of para 10.20 of the tariff order dated 07.08.2007 to facilitate the petitioner to enter into a PPA with the respondent. The petitioner also quoted the relevant legal provisions of Sections 61, 62 and 86 of the Electricity Act, 2003. The petitioner also submitted the actual cost incurred towards capital cost, operation and maintenance cost, interest on loan, interest on working capital and fuel charges. The petitioner has prayed the Commission to fix suitable tariff considering the factual issues to sustain the project in its operation and direct the respondent to enter into a PPA with the petitioner with a tariff as determined by the Commission in these proceedings.

4. The matter was heard on 29.10.2013. Respondent made a written submission. During the hearing on 29.10.2013, the Petitioner reiterated the contents of the petition and submitted that the petitioner's project must have been conceived taking into

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account the applicable rate as per the tariff order dated 07.08.2007. Also, the petitioner was well aware of the fact that this tariff will be applicable for its project for the entire life. So now the petitioner should not have any hitch in accepting the tariff as per tariff order dated 07.08.2007 for the remaining period of plant life of 20 years. The respondent also submitted that the petitioner has unpaid dues of about Rs. 50 lakhs against its permanently disconnected HT connection. During the hearing on 29.10.2013, the petitioner agreed to pay the outstanding amount. In its written submissions, the respondent submitted that the petitioner sold energy to the respondent at APPC rate on short term basis in 2012. The petitioner has not sold power to the respondent under any long term PPA. The developer neither had any arrangement of third party sale nor for captive consumption and there is no evidence of any third party agreement that has been terminated. So in this case, it is apparent that clause 10.20 would not be applicable. The respondent, therefore, urged to the Commission that:

- (a) the petitioner be directed to enter into PPA at the applicable rates as per tariff order dated 07.08.2007.
- (b) The petitioner can sell power to any third party within the state of Madhya Pradesh.
- (c) The petitioner be directed to clear the dues along with surcharge within 15 days or before approaching to the respondent for execution of PPA.

5. Having heard both parties and considering their written submissions, the Commission is of the view that the sale of energy at APPC on short term basis under REC mode may be treated as third party sale as the petitioner had neither sold energy to the respondent at the tariff determined by the Commission nor used the energy for captive consumption. Also, in the tariff order dated 07.08.2007 under clause 10.20, the Commission envisaged only two possibilities other than sale to the respondent at the tariff determined. This does not mean that other possibilities cannot be covered under

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clause 10.20. Hence, clause 10.20 of the tariff order dated 07.08.2007 would be applicable in this case.

Regarding determination of tariff for this project, the Commission is of the view that since the plant was commissioned on 08.12.2011, the fixed cost as computed in the tariff order dated 07.08.2007 would be applicable. In the order dated 30.08.2013, the Commission appreciated the difficulty of the petitioner in view of the wide variation in the fuel cost making tariff unviable given to the petitioner vide order dated 07.08.2007. The fuel cost, being a variable factor depends on prevailing biomass price. Therefore, the biomass price shall be applicable as considered in the Commission's order dated 03.05.2013 for the FY 2013-14 and onwards. Accordingly, the year wise tariff w.e.f. FY 2013-14 for the balance period of project life works out to as under:

(Amount in Rs./unit)

Year	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
F.C.	1.91	1.87	1.83	1.79	1.75	1.72	1.68	1.65
V.C.	3.11	3.27	3.43	3.60	3.78	3.97	4.17	4.38
Total	5.02	5.14	5.26	5.39	5.53	5.69	5.85	6.03

2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31
1.62	1.58	1.19	1.22	1.26	1.29	1.33	1.37	1.41	1.46
4.60	4.83	5.07	5.32	5.59	5.87	6.16	6.47	6.79	7.13
6.22	6.41	6.26	6.54	6.85	7.16	7.49	7.84	8.20	8.59

The Commission directs the respondent to enter into PPA with the petitioner for balance life of the project at the aforesaid tariff. The Commission also directs the

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petitioner to clear the dues outstanding against the permanently disconnected HT connection before execution of PPA with the respondent.

Ordered accordingly.

Sd/-
(Alok Gupta)
Member

Sd/-
(A.B.Bajpai)
Member

Sd/-
(Rakesh Sahni)
Chairman