



# Madhya Pradesh Electricity Regulatory Commission

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## Petition No. 94/2005

IN THE MATTER OF REVIEW PETITION UNDER CLAUSE 40 OF MPERC (CONDUCT OF BUSINESS) REGULATIONS, 2004 READ WITH CLAUSE 1.32 OF MPERC (DETAILS TO BE FURNISHED AND FEE PAYABLE BY LICENSEE OR GENERATING COMPANY FOR DETERMINATION OF TARIFF AND MANNER OF MAKING APPLICATION) REGULATION, 2004.

M/s. All India Induction Furnaces Association - Petitioner  
C/o Venus Alloys Pvt. Ltd.,  
67, Industrial Area,  
Mandsaur (M.P.)

### **ORDER**

**(Passed on this day 4<sup>th</sup> January, 2006)**

Shri Rajendra Singh, Member and Shri Nirmal Ahuja, Member appear on behalf of the petitioner. The Commission has decided to hear the applicants at the stage of motion hearing to see if there is any valid ground for admitting the petition for decision on merits.

2. The petition is in the matter of review of Commission's tariff order dated 29/06/2005 under Clause 40 of M.P.E.R.C. (Conduct of Business) Regulations, 2004.

3. The petitioner stated that it is an association of owners of Induction Furnaces situated throughout the country and has a Central Zone, which includes members operating induction furnaces. In its petition for determination of Tariff for FY 06 the Board had proposed enhancement of fixed charges of consumers availing supply at 33 KV from Rs. 440 per KVA per month to Rs. 450 per KVA per month. However, no increase was proposed in the consumption (energy) charges, which was proposed as Rs. 2.50 per unit and the tariff further admitted rebate of 5% on normal energy charges if the consumer draws energy at 50% or 60% at 33 KV. But proposal of the Board was materially altered by the Commission without giving any opportunity of hearing on the structure finalized in the tariff order which amounts to an error apparent on the face of record.

4. It is submitted by the petitioner that Commission ought to have sought objections when the Commission decided to materially differ from the proposal made in respect of power intensive industries. According to the petition the Commission proceeded in violation of Clause 31 of 2004 Regulation read with section 62 of the Electricity Act in as much as the proposed modifications made by the Commission on the proposal of the Board was never brought to the notice of the applicant/objector during the course of hearing. Therefore, the petitioners could not get any opportunity to raise objection on the alterations made by the Commission. It is not the argument of the petitioner that the Commission does not have the power to modify the proposal of the Board U/s. 61(d) but opportunity of being heard should have been given in order to safeguard consumers interest. It was also argued by the petitioner's learned counsel that frequent alterations in the tariff create an anomalous situation leading to violation of section 61(f) of the act *ibid*. The petitioner therefore submits to the Commission to allow the review of the tariff order for FY 2006 as mentioned in Para 41 read with tariff Schedule HV-3 Industrial and non-Industrial and re-determine the same after giving opportunity of hearing.

5. During the course of motion hearing today the petitioner submits that their tariff have been increased by 77 paise per unit as shown in Annexure P/9. The proposal of the Board was materially changed by the Commission without giving opportunity of hearing to the consumers committing violation of Clause 31 of Regulations 2004 and Section 62 of the Electricity Act, 2003.

6. Commission heard the petitioner. Considering the facts and circumstances of the case, Commission does not find any ground that may justify a review of the order. Commission is not agreeable with the contention of the petitioner that he could not get opportunity to raise the objection. Public hearing was held after inviting the objections from the public. Commission further states that separate public hearing for the alleged issue is not necessary and that determination of tariff is a composite exercise where some consumers may gain more from the proposal and some may have losses. Commission is of the view that this petition does not fall in the scope of the review as petitioner

fails to show the Commission any apparent error in Commission's order. If the petitioner was aggrieved with the tariff order, he would have filed an appeal against that order, but he did not opt to do so. Petitioner's argument is that power of the Commission to review the order is wider than what is envisaged in the law. But the Commission is not sharing the petitioner's view. The review window is very narrow and should be done on a very exceptional cases and that too as per the provisions of law. Section 94 of the Electricity Act 2003 and also section 10 of M.P. Vidyut Sudhar Adhiniyam 2000 conferred the Commission's same powers to review the order as vested in Civil Court under the Code of Civil Procedure 1908 (5 of 1908). The Commission finds no valid ground to review its order in this case. The petitioner may raise the issue before the Commission during the next tariff hearing, which is to be held shortly.

Therefore, in view of aforesaid, the Commission rejects the petition and decides to close the case.

Ordered accordingly.

Sd/-  
**(R.Natarajan)**  
**Member (Econ.)**

Sd/-  
**(D.Roybardhan)**  
**Member (Engg.)**

Sd/-  
**(P.K.Mehrotra)**  
**Chairman**