

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of fixing of trading margin in accordance with Section 86(1) (j) of Electricity Act, 2003.

Petition No. 99/2010

ORDER

**(Date of hearing 19th December, 2011)
(Date of ordersheet 22nd December, 2011)**

M.P.Power Trading Co. Ltd. Shakti Bhawan, Rampur, Jabalpur.	-	Petitioner
V/s		
MP Poorv Kshetra Vidyut Vitaran Co. Ltd. Jabalpur (M.P.)	-	Respondent No. 1
MP Paschim Kshetra Vidyut Vitaran Co. Ltd. Indore (M.P.)	-	Respondent No. 2
MP Madhya Kshetra Vidyut Vitaran Co. Ltd. Bhopal (M.P.)	-	Respondent No.3

Ms. Parul Dangi, Legal Executive appeared on behalf of Petitioner.

Shri Sanjay Okhade, EE (Comm.) and Shri P.K.Singh, CE (Comm.) appeared on behalf of Respondent No. 1.

Shri Sanjay Mohase, CE (Comm) and P.K.Jain, Addl. SE appeared on behalf of Respondent No. 2.

Shri P.M.Tilloo, AE (Comm.) appeared on behalf of Respondent No.3.

2. Petitioner has filed this petition under Section 86(1)(j) of the Electricity Act, 2003.
3. The case was listed for motion hearing on 18.01.2011.
4. During the motion hearing on 18.01.2011, the representatives of Petitioner had submitted that Petitioner is a deemed Trading Licensee under Section 14 of the Electricity Act, 2003. It is handling the entire power procurement including short-term power as per the GoMP notifications dated 19.03.2008 and 16.06.2009. They further submitted that they have been raising bills to the Discoms as per the energy account issued by SLDC after grossing up its own expenses.
5. The representatives of Petitioner also submitted that the Commission has not allowed Petitioner's own expenses in the retail tariff orders for the period from FY 2007 to FY 2011 while the guidelines contained in the notification dated 19.03.2008 and 16.06.2009 entitles Petitioner to recover its own expense till such time trading margin is fixed by the Commission. Petitioner has submitted that the CERC has issued Regulation on fixation of trading margin,

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2010 vide notification dated 11.01.2010. The Commission has also issued MPERC (Eligibility Criteria for grant of trading licence, the duties and the terms & conditions of trading licensee) Regulation, 2004.

6. Petitioner had made projections for the period FY 2012 and FY 2013 for the quantum of power procurement through long term and short term alongwith power purchase cost and expenditure of MP Tradeco towards establishment, salary and A&G considering the impact of GoMP order dated 30.11.2010. Based on the projections, the total expenditure works out to be 1.940 paise per unit and 1.976 paise per unit for FY 2012 and FY 2013, respectively. Petitioner has further submitted that the power purchase cost ranges from Rs. 2.43 to 2.496/kwh and CERC has prescribed trading margin of 4 paise for power procurement at price less than or equal to Rs. 3/kwh vide notification dated 11.01.2010. Petitioner therefore prayed to fix trading margin of 4 paise per unit to Petitioner and permit it to charge from the State Discoms in addition to other traders and utilities in case of intra-State transactions.

7. During the hearing the Commission had pointed out that as per Clause 2 of CERC notification dated 11.01.2010, the referred CERC Regulation does not apply to the intra-State trading in electricity. It also does not apply to long term procurement. As such their demand to fix trading margin as per Clause 4 of the above notification is not tenable. The Commission also inquired whether 870 Personnel are required for the trading of power by MP Power Trading Co. as the Commission has to study the impact of employees' expenses, etc. on the retail tariff. The representative of Petitioner submitted that the core activity of MP Power Trading Co. Ltd. is trading. The Power Trading Co. Ltd. is facilitating the Discom in power purchase and it is also engaged in disposing-of the surplus power and arranging short term power as and when required by the Distribution Licensee. The recent orders of the State Government transferring employees to trading company include personnel for common services of other un-bundled Companies. The representatives of Petitioner also stated that in future trading activity shall also be done by Trading Company and therefore working capital is also required. The representatives of Petitioner also submitted that the reasonable expenses be allowed as a pass through to the Trading Company.

8. The Commission admitted the petition and directed Petitioner to study similar situations in other States and submit a report before the next hearing. The case was listed for hearing on 15.03.2011.

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9. During the hearing on 15th March, 2011, the representative of Petitioner submitted that as directed by the Commission, they have made correspondence with Gujarat, Chhattisgarh and Uttar Pradesh Trading Companies/Transmission Companies to obtain status of trading margin being charged from the State Distribution Licensees. They could get response from Gujarat Urja Vikas Nigam Ltd. (GUVNL). The GUVNL intimated that they are charging at the rate of 4 paise per unit on the entire energy handled by them on behalf of the Distribution Licensees. The surplus/gap is distributed amongst the Distribution Licensee in the ratio of their percentage allocation.

10. During the hearing, Respondent No. 3 stated that trading margin of 4 paise per unit should not be allowed. The actual expenditure on trading activity could be allowed to Petitioner and the common expenditure may be charged proportionately.

11. The Commission directed Petitioner to submit by 18.04.2011 the audited accounts of Petitioner since inception (unaudited accounts where audit is pending), the list and break-up of employees engaged exclusively in trading activity and the revenue in inter-State trading included in power purchased from out of State so that reasonable expenditure allowable towards trading activity could be assessed.

12. The next date of hearing was fixed on 26.04.2011 which was adjourned to 31.05.2011.

13. All the three Respondents submitted written replies. The Central Discom and East Discom submitted that till the trading margin is decided by the Commission, the actual expenses of MP Trading Co. Ltd. may be allowed as per the provisions of GoMP notification dated 11.05.2010 and allow Respondent to claim expense of Trading Co. on actual basis in their ARR/True up petition. The West Discom submitted that they agree if the Commission fixes adequate trading margin per unit for MP Trading Co. and permit it to charge from the Discom in addition to their traders and utilities in case of Intra-State transactions. Also after meeting out all expenses from the amount collected under the head of trading margin, the remaining amount of trading margin may be distributed among Discoms.

14. Petitioner submitted written reply on 31.05.2011 alongwith the audited accounts for FY 2006-07, 2007-08, 2008-09 and 2009-10. Petitioner had also submitted the details

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of employees exclusively engaged in trading activities. It was also submitted that 685 numbers of employees have been provisionally transferred to MP Trading Co. The information in respect of Inter-State Trading (short-term sale of purchase of power) was also submitted.

15. The Commission directed to study the information/documents submitted by Petitioner and Respondents. The case was listed for hearing on 26.07.2011.

16. On examination of the information/documents, the following observations are made :

- (a) The details of employees exclusively engaged in trading activities are not available in the accounts. However, in the reply submitted by Petitioner, 133 employees are shown as engaged exclusively for trading activities.
- (b) 685 employees of MPSEB provisionally transferred to Petitioner Company are not related to the trading activities but it is mentioned that the expenditure in respect of all employees shall be booked by Trading Company in future in their accounts.
- (c) The details of revenue required on account of working capital, opening of LCs for power purchase and reasonable profit are not submitted.

17. During the hearing on 26.07.2011, the representative of Petitioner submitted that Respondents are not objecting to the trading margin at the rate of 4 paise per unit. Also the Gujarat Electricity Regulatory Commission has allowed trading margin to the extent of 4 paise per unit on the electricity traded to the GUVNL, which is also having similar status as of Petitioner Company (MP Power Trading Company). It was, however, pointed out by the Commission that their contention is not borne out by record. The GUVNL is a holding company which is charged with coordination, managing loan portfolio of the sector, supplying power to other bulk licensees namely Kandla Port, etc.

18. On hearing Petitioner, the Commission is of the view that for long term power procurement, no trading is involved as most of the power from Central Generating Companies as well as from MP Power Trading Company is allocated in favour of the Distribution Companies by the State Government. The power is procured by the MP Power Trading Co. based on the allocation approved by the State Government and as such there is no trading of power in the true sense. The representative of Petitioner submitted that some activities are to be performed by the Trading Company on behalf of Distribution licensees for long term power procurement.

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19. During the hearing, the Commission enquired from Petitioner whether they are earning any margin on trading for short term power procurement. The representative of Petitioner submitted that they are not charging any trading margin from Respondent Distribution Licensees on this account. Respondents were in agreement to the above submission of Petitioner.

20. On hearing Petitioner and Respondents, the Commission directs Petitioner to reformulate the proposal for recovery of legitimate expenses incurred on account of power procurement and short term trading activities only after excluding the provisions of revenue requirement on account of expenditure towards 685 employees who are not engaged in trading activities. Further, the Commission was of the opinion that the expenditure towards activities to be performed on common services to Distribution Licensees and other companies could be billed to such companies. The Commission, subject to check on validity of services performed and prudence of expenses, intends to allow these as pass through in their respective ARR.

21. The case was listed for hearing on 20.09.2011 which was adjourned to 22.11.2011 and subsequently the case was rescheduled for hearing on 19.12.2011. However, Petitioner has submitted representation seeking permission to withdraw, with liberty to file the same in future, the present Petition No. 99/2010 on the ground that there have been major developments in the petitioners organization as well as in MPSEB relating to the reformation process in view of the provisions of Electricity Act, 2003. The reformation process is likely to be finalized very shortly. The process of allocation of the employees and staff of MPSEB to successor Companies is also at advanced stage and likely to be finalized and given effect to very shortly. This may lead to major changes in the overall financial status viz cash flow of Petitioner company.

22. Considering the request and facts of the case, the Commission allows the Petitioner to withdraw the petition.

23. In view of the above, the Petition No. 99 of 2010 stands dismissed as withdrawn.

Ordered accordingly,

(C.S.Sharma)
Member (Eco.)

(Rakesh Sahni)
Chairman