

Sub : In the matter of petition to terminate the PPA and to sell wind electric power to third party under the provisions of clause 12.18 and 12.19 of the tariff order dated 21.11.2007 under clause 9(o) and 10(9) of the M.P. Vidyut Sudhar Adhiniyam, 2000 read with provisions of Section 86 of the Electricity Act, 2003 and its sub-sections

ORDER

(Date of hearing: 15th December, 2015)

(Date of order: 4th January, 2016)

M/s Sanwaria Energy Ltd., E-1/1, Arera Colony, Bhopal – 462 016	-	Petitioner
M.P. Power Management Co. Ltd., Shakti Bhawan, Rampur, Jabalpur- 482 008	-	Respondent No. 1
MP Paschim Kshetra VV Co. Ltd., GPH, Polo Ground, Indore- 452 003	-	Respondent No.2

Ms. Shivani Jhariya, Consultant appeared on behalf of the petitioner.
Shri Manoj Dubey, Advisor(Law), Shri N.K.Sharma, AGM and Shri Sanjeev Khare, DGM appeared on behalf of the respondent no.1.
None appeared on behalf of the respondent no.2.

2. The petitioner, M/s Sanwaria Energy Ltd., Bhopal has filed this petition seeking directions to the respondent no.1 to terminate the PPA and to sell wind electric power to third party under the provisions of clause 12.18 and 12.19 of the tariff order dated 21.11.2007. The case was listed for motion hearing on 15.12.2015.

3. During the motion hearing on 15.12.2015, the petitioner re-stated the contents of the petition. She also stated that the respondent no.1 is not terminating the PPA and the payment is also outstanding since last more than one year. During the hearing, the respondent no.1 stated that by letter dated 27.08.2015, the petitioner was informed that the payments till January, 2015 have been released and requested to reconsider about termination of PPA and if the PPA is to be terminated then a proper default notice is required to be sent. By letter dated 12.10.2015, the petitioner replied to the respondent no.1 that default notice has already been submitted vide notice dated 25.07.2015 as per the provisions of the PPA and, therefore, the PPA shall be terminated with effect from the date of receipt of the letter dated 12.10.2015, which was received on 14.10.2015. Accordingly, the respondent no.1 terminated the PPA w.e.f. 14.10.2015. During the hearing, the petitioner also requested the Commission to allow payment of energy injected into the system w.e.f. 15.10.2015. But, the respondent no.1 requested to treat

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this as unauthorized use of licensee's infrastructure and to be dealt with accordingly as the petitioner could not arranged for open access from the date of termination of PPA.

4. Having heard the petitioner and the respondent and on considering their written submissions, the Commission has noted that the respondent has not informed the petitioner regarding termination of PPA w.e.f. 14.10.2015 and, therefore, the petitioner continued to inject energy into the licensee's system even after 14.10.2015. The respondent no. 1 has not taken any action to stop the use of licensee's infrastructure by the petitioner despite termination of PPA w.e.f. 14.10.2015. Also, the aforesaid injected energy is being sold to the consumers by the distribution licensee. Therefore, it may be treated as inadvertent flow of energy into the system by the petitioner. Accordingly, the respondent no. 1 is directed to make the payment to the petitioner for inadvertent flow of energy as per the tariff mentioned in the relevant tariff orders. The petitioner is also directed to obtain permission for open access in case of third party sale and to execute Power Wheeling Agreement with the respondents.

5. With the above directions, the petition no. 61 of 2015 stands disposed of.

Ordered accordingly.

(Alok Gupta)
Member

(A.B.Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman