

**Sub: In the matter of petition under Section 86(1)(e) of the Electricity Act, 2003**

**ORDER**

**(Date of hearing: 23<sup>rd</sup> January,2018)**

**(Date of order: 25<sup>th</sup> January,2018)**

M/s Shree Chlorates, - Petitioner  
101-102, Block –B, Radhakrishna Complex,  
10/1, Manoramaganj, A.B. Road, Indore-452 001

M.P. Power Management Co. Ltd., - Respondent  
Shakti Bhawan, Rampur, Jabalpur

Shri Ankit Vyas, Consultant appeared on behalf of the petitioner.

Shri Manoj Dubey, Advocate appeared on behalf of the respondent.

2. The petitioner, M/s Shree Chlorates has filed this petition under Section 86(1)(e) of the Electricity Act, 2003 seeking directions to the respondent to make the payment of dues and to grant permission for third party sale. In its petition, the petitioner prays the Commission to direct the respondent:

- (a) To make payment of all outstanding invoices without further delay to the petitioner and grant permission for third party sale;
- (b) To produce the statement of accounts relating to the petitioner reflecting details of invoices raised, payments made, payment due along with all Delayed Payment Surcharge that has become due;
- (c) To pay the entire Delayed Payment Surcharge immediately to the petitioner.

3. The case was listed for motion hearing on 26.09.2017. During the motion hearing, the petitioner restated the contents of the petition. The Commission directed to issue notice for hearing to the respondent and the next date of hearing was fixed for 24.10.2017.

4. During the hearing on 24.10.2017, none appeared on behalf of the petitioner and the respondent. The Commission directed to allow one more opportunity to the petitioner and the respondent to attend the hearing. The next date of hearing was fixed for 21.11.2017. The respondent filed the written submissions on 20.11.2017.

5. During the hearing on 21.11.2017, the respondent stated that the principal amount against the invoices has been paid but the delayed payment surcharge has not been paid. The petitioner then requested to allow some time to file a rejoinder to the written submissions made by the respondent. The Commission allowed the petitioner to file the rejoinder and the next date of hearing was fixed for 19.12.2017. The petitioner filed a copy of the rejoinder on 18.12.2017.

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6. During the hearing on 19.12.2017, the respondent stated that the copy of the rejoinder was not received. The Commission directed the petitioner to provide a copy of the rejoinder to the respondent and the next date of hearing was fixed for 23.01.2018.

7. During the hearing on 23.01.2018, the petitioner stated that the payment against the invoices up to September, 2017 is made and now there is a gap of three months. The respondent is giving priority for payment to the developers who are offering rebate in the bills. The respondent stated that now the position of payment is improved. Respondent stated that the developers are not compelled to provide rebate in the bills.

8. Having heard the petitioner and the respondent and considering their written submissions, the Commission noted that the respondent has already made the payment of the invoices up to September, 2017. In its written submission dated 20.11.2017, the respondent has submitted that since all the bills of the petitioner for the energy supplied till the month of September, 2017 have been paid, the request to permit them to go for third party sale of power, may not be agreed to. Also, the procedure under default in payment and termination/revival of Agreement is specified under clause 35 to 37 of the Power Purchase Agreement dated 05.08.2008 executed between the petitioner and the respondent. The Commission noted that the aforesaid procedure has not been followed by the petitioner/respondent. The Commission also noted that in its written submission dated 16.11.2017, the respondent has not submitted the details of delayed payment surcharge due/paid to the petitioner.

Therefore, the Commission directs the petitioner/respondent to take further action in the matter in accordance with the provisions of the tariff order/Power Purchase Agreement dated 05.08.2008.

9. In view of the above directions, the petition no. 38 of 2017 stands disposed of.  
Ordered accordingly.

**(Anil Kumar Jha)**  
Member

**(Mukul Dhariwal)**  
Member

**(Dr. Dev Raj Birdi)**  
Chairman