

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of payment of penal interest by M/s M.P.Power Trading Company for sale of electricity and assuring payment thereof towards the sale of electricity generated by Wind Electric Generators to promote the development of market of wind power as per Section 66 and Section 86(1)(f) of the Electricity Act, 2003 and also as per the Section 86 (1)(e) and Section 61 (h) of the Electricity Act, 2003.

Petition No. 18 and 19 of 2010

ORDER

(Date of Hearing 5th October, 2010)

(Date of Order 6th October, 2010)

M/s Ruchi Soya Industries Ltd.,
301, Mahakosh House,
7/5 South Tukoganj Nath Mandir Road,
Indore – 1 (MP) - Petitioner No. 1

M/s Ruchi Infrastructure Ltd.,
301, Mahakosh House,
7/5 South Tukoganj Nath Mandir Road,
Indore – 1 (MP) - Petitioner No. 2

V/s

M.P.Power Trading Co. Ltd.
Shakti Bhawan, Rampur,
Jabalpur (M.P.) - Respondent No. 1

MP Paschim Kshetra Vidyut Co. Ltd.,
GPH Compound, Pologround,
Indore. - Respondent No. 2

Shri Pradeep Kumar, Manager and Shri A.K.Tiwari, Manager appeared on behalf of the Petitioners.

2. The Petitioner No.1 had filed a petition for payment of penal interest as per Section 12.7 of Tariff Order dated 21.11.2007 due to delay in payment of bills towards the sale of electricity generated by 15 Nos. of WEGs of 1.5 MW capacity each of M/s Ruchi Soya Industries Ltd. by M.P.Power Trading Company. The Petitioner No. 2 had also filed a petition for payment of penal interest as per Section 12.7 of Tariff Order dated 21.11.2007 due to delay in payment of bills towards the sale of electricity generated by 17 Nos. of WEGs of 600 KW capacity each of M/s Ruchi Infrastructure Ltd. by M.P.Power Trading Co. Ltd. The cases were listed as Petition No. 18 of 2010 and 19 of 2010 for motion hearing on 20.05.2010.

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3. During the motion hearing on 20.05.2010, the representative of the Petitioners prayed to the Commission to -

- (a) Issue orders/instructions to the MP Tradeco to pay the penal interest as per the provisions under Clause 12.7 of the tariff order dated 21.11.2007. It is also requested to fix a time limit for payment of the due penal interest.
- (b) The payment mechanism which has been incorporated in Clause No. 33(a), (b), (c) and (d) in the PPA dated 11.08.2008 is not put in practice in toto by the distribution Licensee/MP Trading Co. Ltd. It is requested to instruct the concerning body to follow the terms and clause as per executed PPA.

4. On hearing the representative of the Petitioners, the Commission was of the view that the issues raised in the petitions are related to the agreement executed by the Petitioners with MP Power Trading Co. Ltd. The Commission enquired under what provisions of the Electricity Act, 2003 these petitions have been filed so that Commission could decide whether the petitions are maintainable or not. The representative of the Petitioners could not reply satisfactorily and requested to allow some time to amend the petition.

5. The Commission allowed the Petitioners to amend the petitions clearly bringing out the jurisdictional issue and directed to submit the amended petitions with relevant documents.

6. The Petitioner No. 1 and 2 have submitted a combined petition on 17.09.2010. The case was listed for motion hearing 05.10.2010.

7. During the motion hearing, the representative of the Petitioners have submitted that this petition is filed under Section 86(1)(f) of the Electricity Act, 2003 with the prayer that –

- (a) Commission may issue necessary directions to M.P.Power Trading Co. Ltd. to release payment against the outstanding dues alongwith applicable delayed payment surcharge with immediate effect.
- (b) Commission may issue further Orders, as may be necessary, to ensure timely payment towards electricity injected by Wind Energy Generators within due date for all future transactions of sale of power by Wind Energy Developers.

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8. The Petitioners have submitted that there is a delay in making payment to the Petitioners by M.P.Power Trading Co. Ltd. against the bills submitted to them and the M.P.Power Trading Co. Ltd. is not making payment of interest on outstanding amount as per the provisions of Tariff Order for procurement of power from WEGs issued on 21.11.2007.

9. During the motion hearing, the Commission enquired from the Petitioners whether the M.P.Power Trading Co. Ltd. has refused payment of outstanding bills. The representatives of the Petitioners mentioned that M.P.Power Trading Co. Ltd. was neither refusing payment of bills nor making payments.

10. On hearing the representatives of the Petitioners, the Commission decided to deal with the two petitions namely Petition No. 18 of 2010 and 19 of 2010 simultaneously because both are identical and are being disposed of through this common order.

11. Section 86(1)(f) of the Electricity Act, 2003 provides as under :

“86. Functions of State Commission – (1) The State Commission shall discharge the following functions, namely :

(f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;”

12. After considering the submissions made by the Petitioners, the Commission is of the view that the petitions submitted by the Petitioners are not maintainable as not making payment timely by the Respondent No. 1 to the Petitioners cannot be construed as a dispute between the Petitioners and the Respondent No.1 and therefore is not covered under Section 86(1)(f) of the Electricity Act, 2003. The Commission, therefore, directs the Petitioners to approach the appropriate authority of the Respondent No. 1 for release of payments.

13. In view of the above, the Petitions Nos. 18 of 2010 and 19 of 2010, being not maintainable, stand disposed of.

Ordered accordingly,

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

(K.K.Garg)
Member (Engg.)

(Rakesh Sahni)
Chairman