

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL**

Sub: In the matter of Petition under Regulation 52 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 read with Section 62 and Section 86(1) (a) of the Electricity Act, 2003 to direct MPPMCL to reimburse the filing and publication charges incurred by the petitioner during the true-up proceedings for FY 2016-17 in P No. 57/2017 and true-up proceedings for FY 2017-18 in P. No. 49/2018 of 2x250 MW (Phase-I) Coal based thermal power project at Bina, Dist. Sagar Madhya Pradesh.

Petition No. 04 of 2020

ORDER

(Date of Motion Hearing: 25th January' 2020)

(Date of Order: 28th January' 2020)

**M/s Jaiprakash Power Ventures Ltd.,
Sector 128, Noida, Uttar Pradesh -201304**

- **Petitioner**

Vs.

1. **M.P. Power Management Company Ltd.,**
Block No. 2, Shakti Bhawan, Rampur, Jabalpur – 482008

2. **The Managing Director**
M. P. Poorv Kshetra Vidyut Vitaran Co. Ltd.
Shakti Bhawan, Rampur, Jabalpur – 482008.

3. **The Managing Director**
M. P. Madhya Kshetra Vidyut Vitaran Co. Ltd.
Nishtha Parisar, Govindpura, Bhopal – 462023

4. **The Managing Director**
M. P. Paschim Kshetra Vidyut Vitaran Co. Ltd.
GPH Compound, Pologround, Indore.

- **Respondents**

Shri Ajeya Kumar Tripathi, DGM appeared on behalf of petitioner.

M/s. Jaiprakash Power Ventures Limited have filed the subject petition under Regulation 52 of MPERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015 read with Section 62 and Section 86(1) (a) of the Electricity Act, 2003 to direct MPPMCL to reimburse the filing and publication charges incurred by the petitioner during the true-up proceedings for FY 2016-17 in P No. 57/2017 and true-up proceedings for FY 2017-18 in P. No. 49/2018 of 2x250 MW (Phase-I) Coal based thermal power project at Bina, Dist. Sagar Madhya Pradesh.

2. In the subject petition, the petitioner broadly submitted the following:

- i. *“It is submitted that the petitioner had filed Multi Year Tariff Petition No. 05/2016 seeking determination of the Capacity Charges in respect of FY 2016-17, FY 2017-18 and FY 2018-19 which was determined by Hon'ble Commission vide Multi Year Tariff Order dated 08.08.2016.*
- ii. *It is submitted that the Petitioner had incurred additional Capital Expenditure during FY 2016-17 of Rs 1.69 Crores and therefore, the Petitioner in accordance with Regulation 8.4 of the MPERC Tariff Regulations had filed the Petition No. 57 of 2017 seeking True Up of the Capacity Charges in respect of FY 2016-17 determined by the Commission vide MYT Order dated 08-08-2016 which was Trued up vide Order dated 24-05-2018 wherein the Commission had allowed the Additional Capitalization of Rs 1.01 Crores.*

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- iii. *Similarly, the Petitioner had incurred additional Capital Expenditure during 2017-18 of Rs 15.77 Crores and therefore, the Petitioner in accordance with Regulation 8.4 of the MPERC Tariff Regulations had filed the Petition No. 49 of 2018 seeking True Up of the Capacity Charges in respect of FY 2017-18 determined by the Commission vide MYT Order dated 08-08-2016 which was Trued up vide Order dated 31-05-2019 wherein Hon'ble Commission had most graciously allowed the Additional Capitalization of Rs 0.0273 Crores.*
- iv. *It is submitted that the Petitioner had inadvertently missed out on claiming the Publication and Application filing charges while filing the True Petition for the Financial Year 2016-17 and 2017-18 due to which Hon'ble Commission did not pass an explicit direction for reimbursement of Publication and Application filing charges in the respective True Up Orders.*
- v. *After the True Up proceedings were concluded, Tariff orders in Petition No. 57 of 2017 was passed on 24th May 2018 and in Petition No. 49 of 2018 was passed on 31st May 2019.*
- vi. *Subsequent to issuance of True Up Orders for the Financial Year 2016-17 in Petition No. 57 of 2017 and 2017-18 in Petition No. 49 of 2018, the Petitioner went ahead to claim the Publication and Filing charges vide Bill No. JBTPP/ 2019-20/MPPMCL/PPA-Jan-11/1 and JBTPP/ 2019-20/MPPMCL/PPA-Jan-11/1 dated 12/10/2019. Copies of both the bills are attached as Annexure-1.1 & Annexure-1.2.*
- vii. *The reimbursement against these bills was however categorically declined by MPPMCL on the grounds that the True Up Orders passed in Petition No. 57 of 2017 and Petition No. 49 of 2018 didn't pass any such orders directing MPPMCL to reimburse such charges to Petitioner. Communication on the issue in order to satisfy MPPMCL was carried out over the telephone as well as E-mail (Copy of e-mails attached as Annexure 2). However, the same remained fruitless and the reimbursement to the Petitioner was denied by MPPMCL.*
- viii. *Aggrieved with the said refusal of the Respondent No.1, the Petitioner approached the Hon'ble Commission and vide letters dated 1st November, 2019 in respect of both the Financial Years i.e. FY 2016-17 & FY 2017-18, and humbly requested the Hon'ble Commission to pass appropriate order directing the Respondent No.1 to reimburse the Petition Filing and Publication charges. Letters to the Hon'ble Commission are attached as Annexure-3.1 & Annexure-3.2.*
- ix. *The Commission after carefully studying the matter vide letter dated 21/11/2019 directed the Petitioner to file an appropriate Petition in the matter clearly providing the supporting documents to support the claim of communications undertaken with MPPMCL over the issue. Copy of the said direction of the Commission is attached as Annexure-4.*

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- x. In compliance with the Orders of the Commission, the Petitioner is hereby filing instant Petition requesting the Hon'ble Commission to take up the issue and relevant facts in the matter into due consideration and pass relevant orders directing the MPPMCL to Reimburse the Application Filing and Publication Charges.*
- xi. Although as admitted by the Petitioner above, that the Petitioner had inadvertently missed out on claiming the publication and filing charges while filing the True Petition for the Financial Year 2016-17 and 2017-18, the Petitioner hereby respectfully submits that as per Regulation 52 of Madhya Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Generation Tariff) Regulations, 2015, the Respondents ought not to have denied the Petitioner of the Reimbursement the Application Filing and Publication Charges.*
- xii. In view of the above, the Petitioner is of the view that the inadvertent mistake on the part of the Petitioner in not claiming the publication and filing charges while filing the True Petition cannot be the basis of denial of its just and legitimate claim by the Respondent. Hence, the Petitioner vide this Petition earnestly requests the Hon'ble Commission to take up the issue in its kind consideration and redress the grievance of the Petitioner.*

3. With the above submission, the petitioner in the subject petition has prayed to pass appropriate Orders directing recovery of the Petition filing fees paid to the Commission and also the publication expenses from the beneficiaries in respect of Financial Year 2016-17 and 2017-18.

4. Motion hearing in the subject matter was held on 25th January' 2020 wherein, the petitioner reiterated the contentions in the subject petition. The representative of the petitioner was not able to submit the provisions under which the subject petition has been filed and he simply informed that the publication charges and petition filing fee is now claimed in accordance to Regulation 52 of MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 which provides as under:

52. Application fee, publication expenses and other statutory charges:

The following fees, charges and expenses shall be reimbursed directly by the beneficiary in the manner specified herein:

- 1. The application filing fee and the expenses incurred on publication of notices in the application for approval of tariff, may in the discretion of the Commission, be allowed to be recovered by the generating company directly from the beneficiaries:*
- 2. The Commission may, for the reasons to be recorded in writing and after hearing the affected parties, allow reimbursement of any fee or expenses, as may be considered necessary.*
- 3.*

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5. In terms of provisions under aforesaid Regulations, it is in discretion of this Commission to allow the application filing fee and the expenses incurred on publication of notices in the application for approval of tariff. However, the petitioner had not claimed aforesaid charges in its true-up petitions for FY 2016-17 and FY 2017-18 and therefore, the Commission has not dealt with this issue considering that the petitioner had either waived off such charges or not preferred to claim these charges for its own reasons.

6. On perusal of the subject petition, the Commission has observed that the order in petition No. 57 of 2017 for true-up of FY 2016-17 was passed on 24th May' 2018 and order in petition No. 49 of 2018 for true-up of FY 2017-18 was passed on 31st May' 2019. The petitioner has filed the subject petition after long period of aforesaid true-up orders (after more than one and half year from the date of the order issued in petition No. 57 of 2017 and more than after six months from the date of order in petition No. 49 of 2018) issued by the Commission.

7. The Commission has further observed that the petitioner has not filed any cogent reason for not claiming these charges in above true-up petitions. The representative of petitioner during the hearing has simply submitted that the claim towards these charges were 'inadvertently missed out while filing both true-up petition for FY 2016-17 and FY 2017-18.

8. In view of all above, the Commission has found that the petitioner has failed to submit any cogent reason and any specific provision for considering/allowing the subject petition. Therefore, the subject petition is not maintainable in terms of the provisions under MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 and the Electricity Act, 2003 invoked by the petitioner, hence disposed of.

SD/-

(Shashi Bhushan Pathak)
Member

SD/-

(Mukul Dhariwal)
Member

Place: Bhopal

Date: 28th January' 2020