

Sub: In the matter of clarification of the rates applicable for Biomass Energy Projects commissioned before 02.03.2012 in tariff order dated 3rd May 2013 issued by the Commission

ORDER

(Date of hearing: 24th August,2013)

(Date of order: 31st August,2013)

M/s RDM care (India) Pvt. Ltd.,
2/12, West Patel Nagar,
New Delhi - Petitioner

M.P.Power Management Co. Ltd.
Shakti Bhawan, Rampur, Jabalpur-482008 - Respondent

Shri Malinder Singh, CEO of the company appeared on behalf of the petitioner.
Shri Manoj Dubey, Advocate appeared on behalf of the respondent.

2. The petitioner, M/s RDM care (India) Pvt. Ltd. has filed this petition in the matter of clarification of the rates applicable for Biomass Energy Projects commissioned before 02.03.2012 in tariff order dated 3rd May 2013 issued by the Commission.

3. Facts of the case:

(a) The petitioner is supplying power to the respondent from its 1.2 MW biogas based electricity generation plant at village Pariyat, District Jabalpur. The PPA for sale of power has been executed on 05.04.2010 at the tariff, terms and conditions as applicable to biomass based power plant and indicated in tariff order dated 07.08.2007.

(b) Subsequently, the Commission issued new tariff order dated 02.03.2012 for procurement of power from biomass plants. The Commission also determined the tariff for existing projects. A supplementary power purchase agreement for sale of power was executed on 06.06.2012 in line with para 9.1 of the tariff order dated 02.03.2012. The aforesaid order dated 02.03.2012 was challenged before Hon'ble Appellate Tribunal for Electricity (APTEL) and by judgment dated 18.02.2013, the case was

Sub: In the matter of clarification of the rates applicable for Biomass Energy Projects commissioned before 02.03.2012 in tariff order dated 3rd May 2013 issued by the Commission

remanded back to the Commission. After inviting comments and holding a public hearing, an order was passed on 03.05.2013 which revised the tariff order dated 02.03.2012. But the revised tariff order dated 03.05.2013 does not stipulate separate tariff for existing biomass based power projects. It was, therefore, presumed by the petitioner that the revised order dated 03.05.2013 may also be applicable for existing projects.

(c) The petitioner has raised the bills for power sold to the respondent at revised tariff indicated in the order dated 03.05.2013. But the respondent admitted the bills as per earlier order dated 02.03.2012 and paid accordingly. Hence, this petition.

(d) In light of the above submissions, the petitioner has prayed before the Commission to issue necessary clarification regarding applicability of tariff order dated 03.05.2013 for existing biomass based power projects commissioned prior to 02.03.2012.

4. The case was listed for hearing on 24.08.2013.

5. During the hearing on 24.08.2013, the petitioner reiterated the contents of the petition and requested the Commission to clarify the rates applicable for biomass energy projects commissioned before 02.03.2012.

6. During the hearing, Counsel for the respondent filed written submissions. The respondent mentioned that the plant was commissioned on 20.08.2011 and at that time the tariff order dated 07.08.2007 was applicable. Thereafter, a supplementary agreement was executed as per tariff order dated 02.03.2012. This tariff order was set aside by Hon'ble APTEL by its order dated 18.02.2013 and remanded back the matter to the Commission. The Commission issued tariff order dated 03.05.2013 which is applicable to projects commissioned in FY 2012-13 and FY 2013-14. Therefore, the contention of the petitioner that order dated 03.05.2013 may also be applicable to the biomass projects commissioned prior to 02.03.2012, is not tenable.

**Sub: In the matter of clarification of the rates applicable for Biomass Energy
Projects commissioned before 02.03.2012 in tariff order dated 3rd May 2013
issued by the Commission**

7. Having heard the parties, the Commission is of the view that there can be no doubt on the scope and applicability of the order dated 03.05.2013. The order dated 03.05.2013 overhauls the Commission's order dated 02.03.2012. In effect, therefore, the applicable orders in respect of biomass electricity generation are those dated 07.08.2007 (for projects commissioned upto 01.03.2012) and dated 03.05.2013 (applicable to projects commissioned on or after 02.03.2012).

8. In light of the above conclusion of the Commission, the petitioner is only entitled to tariff under order dated 07.08.2007.

Ordered accordingly.

(Alok Gupta)
Member

(A.B.Bajpai)
Member

(Rakesh Sahni)
Chairman