

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL**

Subject: In the matter of petition under section 86(1)(b) of the Electricity Act, 2003 for determination of Annual Capacity Charges and Energy Charges for 300 MW contracted power from PTC India Ltd, sourced from 300 MW Unit-1 of Lanco Amarkantak Power Ltd. for FY 2013-14.

Petition No. 04/2015

ORDER

(Date of Motion hearing: 10th February'2015)

(Date of Order: 12th February' 2015)

M.P. Power Management Company Ltd., Jabalpur

Petitioner

V/s

**1. M/s. PTC India Ltd.,
2nd Floor, NBCC Tower,
15 Bikaji Cama Place, New Delhi – 1100 066**

Respondents

**2. M/s. Lanco Amarkantak Power
Plot No. 397, Udyog Vihar Phase – III,
Gurgaon, Haryana– 122 016**

Shri Pramod Chaudhary, AGM appeared on behalf of the petitioner.

2. M.P. Power Management Company Ltd. has filed the subject petition under section 86(1)(b) of the Electricity Act, 2003 for determination of Annual Capacity Charges and Energy Charges for 300 MW contracted power from PTC India Ltd. sourced from 300 MW Unit-1 of Lanco Amarkantak Power Ltd. for FY 2013-14.

3. The petition is filed under Section 86(1) (b) of the Electricity Act, 2003. The petitioner has submitted the following in the petition:

“(i) That, the petitioner had filed Petition No. 78 of 2012 before this Hon’ble Commission under Section 86(1)(b) of the Electricity Act, 2003 for approval of procurement of 300 MW contracted power, from PTC India Ltd. by the petitioner under the PSA dated 30th May 2005 signed between the erstwhile MPSEB and PTC, which has been sourced from 300 MW unit 1 of Lanco Amarkantak Power Ltd. under the PPA dated 11th May 2005 signed between PTC and Lanco, pursuant to the Settlement Agreement dated 16th October 2012 signed amongst the Petitioner and Respondents.

(ii) That, the Hon’ble Commission had, vide order dated 1st December 2012, accorded approval to the process of the subject power procurement under the Settlement

Agreement and implementation mechanism filed by the petitioner under 86(1)(b) of Electricity Act 2003. The Hon'ble Commission had also, vide the same order, determined annual fixed cost and energy charges for the period 2012-13 as per the relevant provisions of the CERC (Terms and Condition of determination of Tariff) Regulations, 2009.

- (iii) That, the petitioner now requests the Hon'ble Commission to determine the annual capacity charges and energy charges for the year 2013-14 as per relevant provisions of CERC (Terms and Conditions of determination of Tariff) Regulations, 2009.*
- (iv) The cost data and other relevant information as submitted by M/s. Lanco, Respondent No. 2, to M/s. PTC(I) Ltd., Respondent No. 1, and further submitted by PTC(I) Ltd Respondent No. 1, to MPPMCL Petitioner is submitted before the Hon'ble Commission for determination of tariff for year 2013-14.*
- (v) That, earlier, the petitioner had filed Petition No. 78 of 2012 before Hon'ble Commission for approval of tariff arising out of the present PSA dated 30th May, 2005 and PPA dated 11th May, 2005 and Settlement Agreement dated 16th October 2012. The cost data and relevant information relating to FY 2012-13 and 2013-14 were submitted therein with an object of aligning the tariff block period with the five years tariff block period as followed by Hon'ble Central Electricity Regulatory Commission, New Delhi. Accordingly, a full amount of Filing Fee of Rs. 10,00,000/- was tendered in Petition No. 78/2012. However, the Hon'ble Commission was pleased to approve the tariff for one year only viz. FY 2012-13 vide order dated 1st December 2012, virtually leaving the tariff for FY 2013-14 to be approved at a later stage. Since, the Filing Fee for approval of tariff for FY 2013-14 has already been tendered in Petition No. 78/2012, it is submitted that the Hon'ble Commission may be pleased to dispense the petitioner from tendering Filing Fee in present petition."*

4. With the above submissions, the petitioner has prayed the following in the petition:

- “(a) Dispense the petitioner from tendering filing fee in present petition.*
- (b) Determine annual capacity charges and energy charges for procurement of power from Respondent No. 2's project through Respondent No. 1 for the year 2013-14.”*

5. During the course of motion hearing held on 10th February'2015, the representative appeared on behalf of the petitioner reiterated the above mentioned contention before the Commission. He was asked to inform the present status of various appeals mentioned in Commission's order dated 1st December'2012 in petition No. 78 /2012 and which were pending before the Hon'ble Supreme

Court of India. The representative appeared on behalf of the petitioner stated that all Civil Appeals mentioned in the aforesaid Commission's order have been disposed of by the Apex court in reference to the settlement of disputes among the parties placed before the Apex court. He submitted a certified true copy of the "Record of Proceedings" dated 16.07.2013 upon hearing the matter by Hon'ble Supreme Court of India.

6. On examination of the subject petition, the Commission has observed the following:

- (i) The earlier petition No. 78 of 2012 and the subject petition have been filed under the same section i.e 86(1) (b) of the Electricity Act'2003 but the prayer in the subject petition is different from the prayer made in the earlier petition.
- (ii) The following issues were dealt with by the Commission under section 86 (1) (b) of the Electricity Act,2003 while passing its order dated 1st December'2012 in earlier petition No. 78/2012.
 - (a) To consider approval to the PSA between the petitioner and the Respondent No. 1 and,
 - (b) To fix the price at which the electricity shall be procured through the agreement for purchase of power for distribution and supply under section 86(1)(b) of the Electricity Act, 2003.
- (iii) While passing order dated 1st December'2012 in petition no. 78/2012, the Commission reviewed the conditions envisaged in the Settlement Agreement and the Implementation mechanism resulting in amendments to PPA entered into by the parties and found that the amendments to PPA were in order. With regard to the price of electricity which was to be procured through aforesaid agreements, the capital cost of Rs. 1236.40 Crores was examined in light of the Chartered Accountant's Certificate and other documents placed before the Commission by the petitioner. On examination of the details and documents, the capital cost as agreed between the parties, was found in order and the break-up of the same has been mentioned in Commission's order dated 1st December' 2012.
- (iv) As per the contents in the petition and the submissions made by the representative of the petitioner during the motion hearing, there is no change in the agreements resulted in amendments to PPA (having validity for 25 years) approved by the Commission in its order dated 1st December, 2012. The capital cost of Rs 1236.40 Crores as considered by the Commission after detailed examination in the aforesaid order is also unchanged.
- (v) The Capacity Charges and Energy Charges determined in the aforesaid order were indicative only based on the capital cost considered by the Commission and the

conditions articulated and agreed to by the parties in the agreements placed before the Commission.

7. The Commission has also observed that the petitioner had earlier approached the Commission in Petition No. 78 of 2012 with a relevant prayer and after depositing the applicable fee for discharging its function under section 86(1)(b) of the Electricity Act'2003. However, with the subject petition, the petitioner has approached the Commission with a different prayer for determination of Annual Fixed Charges and Energy Charges on annual basis. With the aforesaid observations, the petition is not maintainable, hence disposed of.

(Alok Gupta)
Member

(A.B.Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman