

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL**

**Sub : In the matter of Continuation of sale of Electricity by Applicant No. 1 to Applicant No. 2 from the non conventional wind energy generators owned by the applicant No. 1 situated at location No. 15 and 24 on Kadarkhow hills of Nagda Hills Range, Village-Nagda Distt. Dewas.**

**Petition No. 08/2011**

**ORDER**

**(Date of hearing 25<sup>th</sup> February, 2011)**

**(Date of order 11<sup>th</sup> March, 2011)**

M/s Kalani Industries Pvt. Ltd.,  
5<sup>th</sup> Floor, Treasure Island,  
11, Tukoganj Main Road, Indore

M/s Entertainment World Developers Ltd.,  
6<sup>th</sup> Floor, Treasure Island,  
11, Tukoganj Main Road, Indore.

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- Petitioners

V/s

M.P.Power Trading Co. Ltd.,  
Shakti Bhawan, Jabalpur.

- Respondent No. 1

M. P. Power Transmission Co. Ltd.,  
Shakti Bhawan, Rampur, Jabalpur.

- Respondent No. 2

M.P.Paschim Kshetra Vidyut Vitaran Co. Ltd.,  
Pologround, Indore.

- Respondent No. 3

Shri K.K.Chaturvedi, appeared on behalf of the Petitioner.

Ms Parul Dangi, Legal Executive appeared on behalf of the Respondent No. 1.

Shri R.C.Chakrobarty, Executive Engineer appeared on behalf of Respondent No. 2.

Shri Gajra Mehta, CE (Comm.) and Shri P.K.Jain, ASSE (Com.) appeared on behalf of Respondent No. 3.

2. The Petitioner, M/s Kalani Industries Pvt. Ltd. and Entertainment World Developers, Ltd. (Co-petitioner) have jointly filed this petition on 20.01.2011, in the matter of continuation of sale of electricity by Petitioner No. 1 to Petitioner No. 2 from the non-conventional wind energy generators owned by the Petitioner No. 1. The Petitioner and Co-Petitioner have deposited a process fee of ₹ 10,000/- each alongwith other documents.

3. The Petitioner has filed the present petition under Section 86(1)(e) of the Electricity Act 2003 read with Regulation No. 3.3 of The MPERC (Terms and Conditions for Intra State Open Access in Madhya Pradesh) Regulations 2005.

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**Submission made in the petition are as follows:**

4. The Petitioner No. 1 has installed Wind Farm of 1.2 MW capacity on 28.03.2008. The petitioners on 28.4.2008 filed a petition before the Commission, seeking permission for sale of power generated from the above Wind Farm to a third party. The Commission vide its order dated 03.10.2008, granted permission for sale of power generated from the above Wind Farm for the period of three years subject to the payment of wheeling charges, additional surcharge as determined by the Commission from time to time.

5. Pursuant to the order of the Commission dated 03.10.2008 and after the approval of MP Transco. vide their letter dated 17-09-2008, a quadripartite power purchase agreement was executed on 02.06.2009, between M.P. Power Trading Co. Ltd., (Tradeco.), Kalani Industries Pvt. Ltd., Entertainment World Developers Pvt. Ltd. and M/s M.P. Wind Form Ltd., whereby M.P. Tradeco. agreed to purchase surplus power and inadvertent flow of power, if any fed into the distribution/transmission network of the Discom/Transco at the rates, terms and conditions decided by the MPERC. Subsequently, a Power Purchase Agreement dated 25.07.2009 was executed between the Petitioner No. 1 and Co-Petitioner for period of three years i.e., 28.03.2008 to 27.03.2011.

6. The metering equipment, duly approved by the Commission has been installed at the Metering Point. The Petitioner No. 2 is desirous of availing the supply of electricity from Petitioner No. 1 and the Petitioner No. 1 is also willing to continue the aforesaid supply for further period of 17 years and, therefore, the Petitioners are requesting the Commission for extension of PPA. It is pertinent here, to mention that, the Open Access Agreement dated 15.01.2009 was executed between Petitioner No. 1 and Respondent No. 2 for a period of 19 years 6 month which will cover the said period of 17 years.

7. Under Regulation No. 3.3 (i) of the MPERC (Terms and Conditions for Intra-State Open Access in Madhya Pradesh) Regulation, 2005, the open access for non-conventional energy generators and users shall be provided with immediate effect and they shall be governed by the existing policy of State Government and, therefore, this petition is in line with the said regulations.

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8. In the light of the above submissions, the Petitioners have prayed that –

- (i) The Petitioner No. 1 be permitted to continue the supply of power to Petitioner No. 2 for the further period of 17 years w.e.f. 28.03.2011, from its Wind Farm of 1.2 MW established at Village Nagda Distt. Dewas (M.P.)
- (ii) That the Respondents be directed to carry out necessary formalities for the same for continuation of supply of electricity as prayed for in prayer no. 1
- (iii) That the M.P. Power Trading Co. Ltd., the Respondent No. 3 herein, be directed to purchase, account and pay for any inadvertent flow of power generated by Petitioner No. 1 which is not consumed by Petitioner No. 2 in case of any unforeseen circumstances.

9. The case was listed for hearing on 15.02.2011.

10. During the hearing on 15.02.2011, the representative of the Petitioner No.1 requested to permit to continue the supply of power to Petitioner No.2 for further period of 17 years w.e.f. 28.03.2011.

11. During the hearing, the representative of Respondent No.1 made a submission to direct the Petitioner and the Co-Petitioner to approach the Respondent No.1 for signing of PPA. It was further submitted that Respondent No. 1 should not be insisted to purchase any inadvertent flow, which is not consumed by Petitioner No.2.

12. During the hearing, the representative of Respondent No.2 submitted that they have no objection in allowing petitioners for making third party sale.

13. During the hearing, the representative of Respondent No.3 made a submission that even though they have no objection in principle but in the instant case, the Petitioner No.2 has defaulted in payment to the Company (West Discom), has not complied with the directions of the Commission and has raised disputes in various Forums and Courts. The representative of the Petitioners made a request to provide a copy of the reply submitted by Respondent No.3.

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14. On hearing the Petitioners and Respondents, the Commission has directed to provide a copy of reply to the representative of Petitioners with the direction that the Petitioners shall submit their written submissions by 22.02.2011. A copy of the reply was then handed over to them. The Commission also directed Respondent No. 3 to submit details as well as present status of various disputes raised by Petitioner No. 2. The case was listed for hearing on 25.02.2011.

15. The Petitioner vide letter No. 15175 dated 23.02.2011 submitted rejoinder to the reply and additional submissions filed by the Respondent No.1. The Respondent No. 3 vide letter No. 3795 dated 22.02.2011 has submitted the reply. During the hearing on 25.02.2011, the representative of the Petitioner submitted that the Special Leave Petition filed by MP State Electricity Board is already dismissed by the Hon'ble Supreme Court and the case is with Hon'ble Appellate Tribunal for Electricity. He has further submitted that Hon'ble High Court in Writ Petition No. 3108/2009 stayed the matter. The Commission then asked the representative of the Petitioner that as per records available the Hon'ble High Court has taken the matter in cognizance and directed the Petitioner to approach the Hon'ble Appellate Tribunal for Electricity. The Commission also asked to submit the copy of Hon'ble High Court's Order dated 12.05.2009 vide which some interim protection was granted to the Petitioner. The representative of the Petitioner could not submit the copy of the Order.

16. During the hearing, the representative of Respondent No. 1 submitted that they could not be insisted for accepting the inadvertent flow, however, the representative of Respondent No.2 submitted that they have no objection in case the permission granted to the Petitioner as the extension required for continuation of open access is already granted. The representative of Respondent No. 3 submitted that principally they have no objection in case the permission is granted to the Petitioner but there is a commercial issue which may be resolved before allowing connectivity to the Petitioner. It was submitted that an amount of Rs. 1.94 Crores is outstanding against a supplementary bill raised by the Respondent No. 3 in compliance of the Order dated 03.10.2008 passed by the Commission in SMP No. 67/2007. The Respondent No.3 in its additional submission submitted a copy of Hon'ble High Court's Order dated 12.05.2009 passed in Writ Petition No.3108/2009. The operating part of the Order is as follows:

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*“Till next date of hearing as an interim measure it is ordered that on petitioner’s depositing the monthly bills as per the tariff fixed for shopping Malls, the respondents shall not take not coercive steps against the petitioner in pursuance to their demand notice issued to the petitioner on 29.04.2009.”*

17. On hearing the Petitioners and the Respondents, the Commission grants permission for continuation of sale of electricity by Petitioner No.1 (M/s Kalani Industries Pvt. Ltd.) to Petitioner No.2 (Entertainment World Developers Ltd.) from the WEGs owned by the Petitioner No.1 constituted at location No. 15 and 24 on Kadarkhow Hills of Nagda Hills Range, Village – Nagda, Dist. Dewas for a further period of 17 years w.e.f 28.03.2011 on the same terms and conditions applicable at the time of commissioning. The Commission further directs the Respondent No.1 to take action in terms of provisions of the tariff order for procurement of power from WEGs regarding default provisions for third party sale and inadvertent flow into the grid.

18. With the above directions Petition No. 08/2011 stands disposed of.

Ordered accordingly,

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

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

**(Rakesh Sahni)**  
**Chairman**