

**Sub: In the matter of recovery of tariff payable by the respondent in terms of the power purchase agreement dated 14.08.2014**

**ORDER**

**(Date of hearing: 4<sup>th</sup> February,2016)**

**(Date of order: 18<sup>th</sup> February,2016)**

M/s Orange Mamatkhedha Wind Pvt. Ltd.,  
F-9, First Floor, Manish Plaza 1,  
Plot No. 7, MLU, Sector-10,  
Dwarka, New Delhi- 110075

- Petitioner

M.P. Power Management Co. Ltd.,  
Block No. 11, 3<sup>rd</sup> Floor, Shakti Bhawan,  
Rampur, Jabalpur- 482008

- Respondent

Shri Alok Shankar, Advocate and Shri Deepesh Shukla, Advocate appeared on behalf of the petitioner.

Shri Manoj Dubey, Advisor (Law), Shri V. Mehto, Accounts Officer and Shri Gagan Deewan, Accounts Officer appeared on behalf of the respondent.

2. The petitioner, M/s Orange Mamatkhedha Wind Pvt. Ltd. has filed this petition in the matter of recovery of tariff payable by the respondent in terms of the Power Purchase Agreement (PPA) dated 14.08.2014. The case was listed for motion hearing on 19.01.2016.

3. During the motion hearing on 19.01.2016, the petitioner restated the contents of the petition and requested the Commission to direct the respondent to clear current bills by their respective due dates as an interim arrangement. The Commission admitted the petition for hearing and fixed the next date of hearing for 02.02.2016 which was adjourned to 04.02.2016. The respondent filed a written submission on 02.02.2016.

4. During the hearing on 04.02.2016, the petitioner reiterated the contents of the petition. He has also submitted that although dues as mentioned in the petition are not disputed by the respondent, but the payments are always delayed since the date of commissioning. As per Regulations, PPA and Tariff orders, the respondent should open Letter of Credit towards payment security. The tariff order is a part of the PPA. He has also quoted various clauses of the PPA and the Judgments issued by various Hon'ble Courts. The respondent is not making any payment since September, 2015. The petitioner requested the Commission to direct the respondent to make entire payment at the earliest and to make the payment of current bills on immediate basis. The petitioner also requested to grant ten days' time for submission of arguments in writing. The Commission allowed the same to the petitioner.

5. During the hearing, the representative of the respondent stated that power to the three Distribution Licensees (Discoms) in the State are being procured by the respondent company and, therefore, the payment of invoices rests mainly on the revenue collected by the Discoms, which are loss bearing companies. The respondent is also in the process of taking short term/

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medium term loan from financial institutions so as to clear the dues of the WEGs including the petitioner. The respondent further requested the Commission to grant some time to make payment of outstanding invoices of the petitioner.

6. The petitioner has filed a written submission on 17.02.2016.

7. Having heard the petitioner and the respondent and on considering their written submissions, the Commission has noted that:

- (i) The respondent has not submitted any schedule for payment to the petitioner.
- (ii) The payments are not being made by the respondent timely in terms of the provisions of the tariff order and the PPA. Therefore, the cash flow of the petitioner shall be affected, which will ultimately determent to the promotion of generation of electricity from renewable sources of energy and thereby affects the discharge of functions by the Commission under Section 86 (1)(e) of the Electricity Act, 2003.
- (iii) The respondent is accepting the claim of the petitioner but holding the payment of the outstanding bills of the petitioner for months together on the pretext of liquidity problem.

8. Under the aforesaid circumstances, the Commission directs the respondent to make the payment of outstanding invoices to the petitioner in terms of the provisions of the PPAs/tariff orders. The Commission further directs the respondent to make suitable arrangements so that in future such delay is avoided and generation of electricity from renewable sources of energy is promoted as envisaged under Section 86 (1)(e) of the Electricity Act, 2003. The Commission also directs the respondent to report compliance promptly.

9. With the above directions, the petition no. 71/2015 stands disposed of.

Ordered accordingly.

**(Alok Gupta)**  
Member

**(A.B.Bajpai)**  
Member

**(Dr. Dev Raj Birdi)**  
Chairman