

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL**

**Sub : In the matter of review against Order dated 11.03.2011 passed in Petition No. 08/2011 in the matter of purchase of inadvertent flow of power by MP Power Trading Co. Ltd. from Wind Electricity Generator of M/s Kalani Industries Pvt. Ltd. in case of third party sale to M/s Entertainment World Developers Ltd.**

**Petition No. 35/2011**

**ORDER**

**(Date of hearing 21<sup>st</sup> June, 2011)**

**(Date of order 25<sup>th</sup> June, 2011)**

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

- Petitioner

V/s

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

- Respondent No. 1

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

- Respondent No. 2

Shri A.B.Bajpai, CGM (Comm.) and Ms Parul Dangi, Legal Executive appeared on behalf of the Petitioner.

2. The Petitioner, MP Power Trading Co. Ltd., Jabalpur has filed this petition on 16.05.2011 under Section 94(1)(f) of the Electricity Act, 2003 seeking review of order dated 11.03.2011 passed in Petition No. 08/2011 of M/s Kalani Industries Pvt. Ltd.

3. The petition is filed for review of order passed in Petition No. 08/2011 filed by M/s Kalani Industries Pvt. Ltd. However, the Petitioner is also seeking review of the following orders to the extent of sale in advertent flow of energy to the Petitioner in case of captive use or third party sale.

- (i) Order dated 17.05.2010 passed in Petition No. 73/2009 – M/s Kalani Industries Pvt. Ltd. v/s MP Tradeco.
- (ii) Order dated 28.06.2010 passed in Petition No. 31/2010 – M/s Cepco Industries Pvt. Ltd. v/s MP Tradeco.
- (iii) Order dated 22.09.2009 passed in Petition No. 37/2010 – M/s Suzlon Wind Farm Services Ltd. MP Tradeco.

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(iv) Order dated 10.03.2011 passed in Petition No. 100/2010 – M/s Dhar Automatives Pvt. Ltd. v/s MP Tradeco.

4. The Petitioner has contended that in the aforesaid orders, the Commission has allowed the Wind Electric Generator to sell the inadvertent flow of energy, if any, fed into the system, at the rates determined by the Commission in the Tariff Order in case of captive consumption/third party sale.

5. The Petitioner has sought the review on the following grounds :

(a) The MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulation, 2010 do not speak about any directive to Petitioner regarding purchase of inadvertent flow of power.

(b) All the energy generated by the Wind Electric Generators less wheeling charges, is to be continued by the third party consumer and the wheeled energy not consumed by the third party consumer is an inadvertent flow in the system of Petitioner which serves no useful meaning to the Petitioner, as this indefinite flow of energy cannot be planned to be allocated to any of the identified HT consumers.

(c) That the inadvertent flow of energy comes into existence due to the default of the third party and the third party consumer only be made responsible for consuming wheeled energy.

6. The Petitioner has further stated that the Commission vide its Tariff Order dated 21.11.2007 for procurement of power from Wind Electric Generators, has prescribed tariff for inadvertent flow of energy into the system at Rs. 2.90 per unit (for existing projects commissioned after 11.06.2004) and has also mentioned that the rate for purchase of inadvertent flow shall be Rs. 2.87/kwh (those WEGs commissioned on or before 11.06.2004) and whose earlier agreement period is over. Further the Petitioner has averred that Clause 12.22 of Tariff Order dated 14.05.2010, provides that the Licensee shall purchase the inadvertent flow of power at Rs. 2.95 per unit being tariff rate arrived at on levelized basis after omitting return on equity.

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7. In light of the above submission, it has been prayed that the Petitioner should not be insisted to purchase any inadvertent flow of power injected into the grid but not consumed in case of captive use or third party sale.

8. The case was listed for hearing on 14.06.2011 which was adjourned to 21.06.2011.

9. During the hearing on 21.06.2011 the representative of the petitioner reiterated the requests made in the Petition. It was also submitted that -

- (i) The inadvertent flow in the system cannot be planned in advance to be allocated to any of the identified HT consumers.
- (ii) The possibility of gaming by the WEG developer for dumping such inadvertent flow of power cannot be ruled out.
- (iii) As the inadvertent flow of energy comes into existence due to the default of third party therefore third party consumer can only be made responsible for consuming the wheeling energy. The Respondent may not be insisted upon to purchase any inadvertent flow of power appearing into existence in the grid due to default of third party.
- (iv) Suitable amendment in the tariff order dated 14.05.2010 may be made so that the Respondent is not required to purchase the so called inadvertent flow of energy.

10. On hearing the Petitioner, the Commission observed that all its past orders commencing from November 2007 have provided for purchase of inadvertent flow by the Licensees. If proper energy accounting is done by the Petitioner, there is no possibility of gaming by the WEGs as apprehended by the Petitioner. The Commission further noted that review petition is not maintainable as the Petitioner could not justify any of the following grounds of review –

- (a) Discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the aggrieved

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party or could not be provided by him at the time when the order was made.

(b) On account of some mistake or error apparent on the face of record, or

(c) For any other sufficient reason.

11. The Commission, therefore, holds that the petition is not maintainable. The Commission also directs the Petitioner to ensure compliance of the provisions of tariff order dated 14.05.2010 without demur.

12. With the above directions, the Petition No. 35/2011 stands disposed of at the admission stage.

Ordered accordingly,

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

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

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