

Sub: In the matter of determination of generation tariff from 6 MW biomass power plant situated at village Sarandi, Tehsil Waraseoni , District Balaghat for sale of power to the M.P. Power Management Co. Ltd., Jabalpur on long term basis

ORDER

(Date of hearing: 10th February,2015)

(Date of order: 12th February,2015)

M/s Ramnik Power & Alloys Pvt. Ltd.,
C/o M/s A.P. Trivedi Sons,
Main Road, Balaghat-481001(M.P.) - Petitioner

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

Shri Harsh Trivedi, Ex. Director of the company and Shri Subhash Sood, Consultant appeared on behalf of the petitioner.

Shri Sanjeev Khare, DGM appeared on behalf of the respondent.

2. The petitioner, M/s Ramnik Power & Alloys Pvt. Ltd., Balaghat has filed this petition seeking determination of generation tariff from 6 MW biomass power plant situated at village Sarandi, Tehsil Waraseoni , District Balaghat for sale of power to the M.P. Power Management Co. Ltd., Jabalpur on long term basis.

3. The petitioner has stated that:

(i) M/s Ramnik Power & Alloys Pvt. Ltd., Balaghat is an HT consumer with a contract demand of 3400 kVA at 33 kV. The petitioner is engaged in manufacturing of ferro/manganese alloys and also has a co-located 6MW biomass based captive power plant set up in the financial year 2009-10 after obtaining approval from the M.P. Urja Vikas Nigam Ltd. and the State Government. The plant was commissioned on 30.12.2009. The plant has run till December, 2011 only.

(ii) The petitioner has now chosen to sell its entire power from the plant to the licensee seeing the economics and technical/operational/financial viability of the industry as a whole and to meet the entire power requirement of the alloys industry by taking power from the licensee. Hence, this petition.

4. In its petition, the petitioner sought approval of the Commission for change in the use of power from “captive use” to “sale of entire power to the licensee” as per clause 10.20 of the tariff order dated 07.08.2007 and determination of tariff thereof for the remaining useful life of the plant as per the relevant provisions of the Act and the Regulations of the Commission. The petitioner further submitted that the year wise tariff allowed to M/s ASN Industries , Hyderabad as per Commission’s order dated 20.11.2013 may be allowed to it also as the petitioner’s case is identical to M/s ASN Industries, Hyderabad on account of both the plants having been commissioned in the control period of tariff order dated 07.08.2007.

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5. The matter was heard on 10.02.2015. Respondent made a written submission. During the hearing on 10.02.2015, the petitioner reiterated the contents of the petition and submitted that:

- (a) Clause 3.1 of the tariff order dated 07.08.2007 states that this tariff order is applicable to all biomass based power generation projects commissioned on or after the date of issue of the order and intended for sale of electricity to the distribution licensees within Madhya Pradesh.
- (b) Clause 4.1 of the aforesaid tariff order states that the control period will close at 31.03.2012.
- (c) Clause 10.20 of the tariff order dated 07.08.2007 permits the project developers to make a change in the use of power from “captive use or third party sale” to the “sale to the licensee” after obtaining permission from the Commission.
- (d) The provisions in clause 10.20 of the tariff order dated 07.08.2007 and in the first sentence of clause 8.22 of the tariff order dated 02.03.2012 are identical i.e. the rate shall be as decided by the Commission.
- (e) Since the petitioner’s plant was commissioned on 30.12.2009 i.e. within the control period of first tariff order dated 07.08.2007, only clause 10.20 is applicable to the petitioner, the applicability of which was ordered by the Commission in its order dated 30.08.2013 in the case of M/s ASN Industries, Hyderabad.
- (f) Clause 8.22 of the tariff order dated 02.03.2012 makes mention of two categories of plants namely
 - (i) such plants which were making captive use or third party sale but now intended to supply entire power to the utility and
 - (ii) such plants who are continuing third party sale or captive use but also intend to supply surplus power to the utility.

In respect of first category of plants, prior permission of the Commission will be required for purchase of power by the utility and in respect of second category; power from them shall be taken @ Rs. 2.45 per kWh being the variable rate only. This case falls in the first category as the petitioner is stopping captive use and is seeking permission to supply the entire power and, therefore, the rate shall be as decided by the Commission.

- (g) Clause 10.20 of the order dated 07.08.2007 does not provide for a situation where a developer is supplying only surplus power to the utility left after third party sale or captive use i.e. this clause is applicable to the developers who have stopped third party sale or captive use and are intending to supply entire power to the licensee. The eventuality of sale of surplus power not envisaged in clause 10.20 of the tariff order dated 07.08.2007 as was envisaged in clause 8.22 of the tariff order dated 02.03.2012 and the Commission allowed only variable cost to such sale of surplus power. But in this case, the supply of entire power to the licensee is sought.
- (h) Since the plants of both M/s ASN Industries and the petitioner were commissioned within the control period of first tariff order dated 07.08.2007 and the clause 10.20 is applicable to both, therefore the petitioner is entitled to identical tariff as allowed to M/s ASN Industries, Hyderabad.

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6. During the hearing, the respondent stated that:
- (a) The biomass based power plant of the petitioner was installed for captive use after weighing all pros and cons. The difficulties being faced by the petitioner in running its captive power plant are a consequence of that decision and the burden of the same cannot be passed on to the respondent. Clause 10.20 of the tariff order dated 07.08.2007 in such cases mentions that the utility with the prior permission of the Commission may purchase the power at the rate as would be determined by the Commission.
 - (b) Clause 9.1 of the tariff order dated 07.08.2007 indicates the tariff for generation from biomass based power plant to be commissioned after issue of that tariff order for its project life of 20 years. This tariff comprised of fixed tariff as well as variable tariff. This tariff was not made applicable to those developers which were either making captive use or supplying power to third party and afterword desire to supply generated electricity to the utility. Clause 10.20 of the tariff order dated 07.08.2007 mentions that in such cases the utility with the prior permission of the Commission may purchase the power at the rate as would be determined by the Commission.
 - (c) Definitely, such tariff cannot be more than the tariff given under clause 9.1 to the developers which intended for sale of electricity to the distribution licensees within Madhya Pradesh from beginning. The only possibility remains is that such tariff would be less than the tariff given under clause 9.1 of the order dated 07.08.2007.
 - (d) The petitioner is comparing its case with that of M/s ASN Industries. The power plant of M/s ASN Industries was never used as a captive plant, unlike the petitioner and, therefore, no inferences can be drawn from that case.
 - (e) In the tariff order dated 02.03.2012, the Commission had specified tariff for such procurement in clause 8.22. Accordingly, the variable tariff shall be fixed by the Commission which may be in line with the variable tariff given in case of M/s ASN Industries.
 - (f) The respondent may purchase the generated electricity only at variable tariff determined by the Commission. If the petitioner is not willing to supply the generated electricity at the above rates, it can continue to use its plant as captive plant, the purpose for which the plant was installed and inadvertent power, if any, will be taken by the respondent at the rate determined by the Commission.
7. Having heard the petitioner and the respondent and on considering their written submissions made, the Commission has noted that:
- (a) Both, the petitioner and the respondent are of the view that the tariff for the aforesaid plant shall be determined by the Commission.
 - (b) In case of M/s ASN Industries, the power plant was neither used as a captive unit nor used for selling power to the third party. The generated power was supplied to the utility at the average pooled power purchase cost. This was considered by the Commission as a third party sale. In case of the petitioner, the plant is registered by the State Government under captive power unit and was used also

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as a captive power unit for about two years as stated by the petitioner. Under the above circumstances, both the units cannot be equated just because these units were commissioned during the same control period. The circumstances under which these units were functioning would prevail while determination of tariff for such plants.

(c) In its petition/additional submissions, the petitioner has not demonstrated the details of economics and technical/ operational/ financial viability of the industry on the basis of which it was decided to meet entire power requirement of the alloy industry from the licensee and not to utilize generation from its captive plant.

(d) The captive generating plant is defined in the Electricity Act, 2003 as under: “Captive generating plant” means a power plant set up by any person to generate electricity primarily for his own use andassociation;”.

The petitioner had commissioned the captive unit under the provisions of aforesaid Act and the related Rules/Regulations with the permission of the State Government. Therefore, the status of its captive unit cannot be changed simply by selling the entire generated power to the utility. Therefore, with the above status as captive unit, the selling of power shall necessarily be treated as surplus power irrespective of the quantum of sale of generated power to the utility. Accordingly, the clause 8.22 of the tariff order dated 02.03.2012 shall be applicable.

(e) In its submission, the respondent mentioned that the variable tariff may be fixed by the Commission in line with the variable tariff given in case of M/s ASN Industries.

8. Under the above circumstances, the Commission decides that the petitioner may be allowed for the balance period of the life of the captive plant to sell the generated power to the respondent after executing power purchase agreement at the following variable tariff worked out taking biomass price as considered in the Commission’s order dated 03.05.2013.

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|------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| FY of sale | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 2021-22 | 2022-23 |
| Taiff (Rs./unit) | 3.27 | 3.43 | 3.60 | 3.78 | 3.97 | 4.17 | 4.38 | 4.60 | 4.83 |
| FY of sale | 2023-24 | 2024-25 | 2025-26 | 2026-27 | 2027-28 | 2028-29 | 2029-30 | | |
| Taiff (Rs./unit) | 5.07 | 5.32 | 5.59 | 5.87 | 6.16 | 6.47 | 6.79 | | |

Ordered accordingly.

(Alok Gupta)
Member

(A.B.Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman