

Sub: In the matter of petition under Section 86(1)(b) of the Electricity Act, 2003 read with Regulation 46 of the MPERC (Conduct of Business)(Revision-I) Regulations, 2016 seeking extension/relaxation of the control period prescribed in terms of the tariff order dated 26.03.2013 governing procurement of power from Wind Electric Generators to the petitioner

ORDER

(Date of hearing: 18th April,2017)

(Date of order: 19th April,2017)

M/s Orange Bercha Wind Power Pvt. Ltd., 301 B, 3 rd Floor, D-21, Corporate Park, Sector-21, Dwarka, New Delhi- 110 075	-	Petitioner
M.P. Power Transmission Co. Ltd., Block No. 2, Shakti Bhawan, Rampur, Jabalpur- 482008	-	Respondent No. 1
M.P. State Load Despatch Centre, Nayagaon, Rampur, Jabalpur- 482008	-	Respondent No. 2
M.P. Power Management Co. Ltd., Block No. 11, 3 rd Floor, Shakti Bhawan, Rampur, Jabalpur- 482008	-	Respondent No. 3
M.P. New and Renewable Energy Department, Vallabh Bhawan, Mantralaya, Arera Hills, Bhopal- 462 004	-	Respondent No. 4

Shri Naman Nagrath, Sr. Advocate appeared on behalf of the petitioner.

2. The petitioner, M/s Orange Bercha Wind Power Pvt. Ltd. has filed this petition under 86(1)(b) of the Electricity Act, 2003 read with Regulation 46 of the MPERC (Conduct of Business)(Revision-I) Regulations, 2016 and sought extension/relaxation of the control period mentioned in the terms of the tariff order dated 26.03.2013 governing procurement of power from Wind Electric Generators to the petitioner. In its petition, the petitioner mainly prayed the Commission to:

- (i) waive off the delay in commissioning of the project and grant an extension/relaxation in the control period of the tariff order dated 26.03.2013 as applicable to the petitioner consequently hold that the petitioner is entitled to avail the tariff rate of Rs. 5.92 per unit;
- (ii) direct Respondent No.3 to amend Power Purchase Agreement dated 10.02.2017 executed between the petitioner and Respondent No.3 to include the tariff rate of

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Rs. 5.92 per unit as per the tariff order dated 26.03.2013 to be paid to the petitioner from 05.05.2016;

(iii) allow the petitioner to add/modify/alter/amend the pleadings and submit additional information, if required, before the Commission.

3. The case was listed for motion hearing on 18.04.2017. During the motion hearing, the petitioner restated the contents of the petition and requested to extend the control period of the tariff order dated 26.03.2013 till the date of commissioning of this project. He has also stated that a writ petition no. 14363/2016 was filed before the Hon'ble High Court on the aforesaid matter. The Hon'ble High Court vide its order dated 23.02.2017 directed as under:

“ In view of the aforesaid submissions made by learned counsel for the parties, the petition filed by the petitioner is disposed of with a direction to the petitioner to approach MPERC within a period of three weeks from today, if such application is preferred by the petitioner within a period of three weeks then MPERC shall consider and decide the same in accordance with law within a period of six months thereof. ”

Hence, this petition is filed.

4. Having heard the petitioner and on considering the written submission of the petitioner, the Commission has noted that the aforesaid project was commissioned on 05.05.2016 and the clauses 4.1 and 12.29 of the tariff order dated 17.03.2016 applicable to all such projects provide as under:

“ 4.1 This tariff order will be applicable to all new wind electric generation projects in the State of Madhya Pradesh commissioned at 00.00 hrs. on 01.04.2016 or thereafter for sale of electricity to the distribution licensees within the State of Madhya Pradesh. This order also specifies the terms & conditions (other than tariff) for captive user or for sale to third party. ”

“12.29 All existing projects i.e. projects commissioned before 00.00 hrs. of 01.04.2016 shall continue to be governed by the terms and conditions applicable at the time of their commissioning. ”

5. The Commission has considered the documents submitted by the petitioner and observed that the petitioner has already executed a Power Purchase Agreement (PPA) on 10.02.2017 with the respondent no.3. In the clause 4.1.1 of the aforesaid PPA, the date of commissioning of the 50 MW WEGs is mentioned as 05.05.2016. The Commission has, therefore, noted that the aforesaid project was commissioned after 01.04.2016 and, as such, the matter shall be dealt with under the provisions of clause 4.1 of the tariff order dated 17.03.2016 as applicable to all such other wind electric power projects.

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6. Based on the above observations and the documents placed before the Commission by the petitioner, the Commission does not find any merit in the aforesaid contentions of the petitioner as mentioned in the petition.

7. In view of the above, the petition no. 07/2017 is not maintainable and is dismissed.

Ordered accordingly.

(Alok Gupta)
Member

(A.B.Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman