

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL**

Subject: In the matter of Petition under Section 86 (1) (f) of the Electricity Act, 2003 seeking direction to MPPKVVCL to stop levying of TMM charges for the energy consumed from renewable energy (RE) and for adjustment of TMM difference charges being levied on renewable energy consumed by the Petitioners from August 2020 onwards and for connection in calculation of TMM difference charges for future bills.

ORDER

(Date of Order: 13th December' 2023)

- 1. Vehicle Factory Jabalpur,**
- 2. Grey Iron Foundry, Jabalpur- : Petitioners**
- 3. Bharat Electronic Limited (BEL), Bangalore**

V/s

- 1. MP Poorv Kshetra VVCL, Jabalpur (East Discom) : Respondents**
- 2. MP Power Management CL, Jabalpur (MPPMCL)**

Shri Vikramaditya Singh, advocate appeared on behalf of the Petitioners.

1. The subject Petition is filed by Petitioners under Section 86(1)(f) of the Electricity Act,2003 read with clause 1.6 and 1.25, 1.26 & 1.29 of the General Terms and Conditions of High Tension Tariff issued by MPERC as part of Retail Supply Tariff Order 2020-21 and 21-22 seeking direction to Respondent East Discom to stop levying of TMM charges for the energy consumed from renewable energy (RE) and adjustment of TMM difference charges being levied on renewable energy consumed by the Petitioners from August 2020 onwards and for correction in calculation of TMM difference charges for future bills. The following prayers are made by the petitioners:-
 - i.* Admit the instant Petition.
 - ii.* Direct Respondent No. 1 to stop levying of TMM charges for the energy consumed from renewable energy (RE)/CGP.

- iii.* Direct Respondent No. 1 to bill the Petitioners only on the basis of the energy sold to them by the DISCOM from Grid;
 - iv.* Direct Respondent No. 1 to factor in the energy supplied by solar CGP while calculating TMM in monthly bills;
 - v.* Direct Respondent No. 1 to levy TMM difference charges correctly by utilizing the formula TMM difference charges contested by GIF=[Contract Demand x 100-{Units of MPPKVVCL consumed + Renewable Energy Units Consumed}]*Rate in all past and future bills;
 - vi.* Direct Respondent No. 1 to adjust-set off the illegal charges already charged and recovered from Petitioner Nos. 1 & 2 herein since August, 2020 in the future monthly bills;.
 - vii.* Award cost of the litigation to the Petitioners;
And/or
 - viii.* Pass such other order/orders, as may be deemed just and proper in the nature and circumstances of the present case.
2. Vide affidavit dated 28.07.2023, an Interlocutory Application under Section 92(2) of the Electricity Act, 2003 r/w Section 39(1) and (2) of the CPC, 1908 was submitted along with the petition, seeking ad interim ex parte stay on the levying of TMM difference charges on the Petitioners by Respondent No. 1.
3. The brief of the case as submitted in petition are as under:
- i.* The petitioner no 1, 2 and 3 are public sector undertaking of Govt. of India through Department of Defense, Production, under Ministry of Defense, GoI.
 - ii.* Petitioner no 3 (BEL) has set up Captive Generating plant for supply of solar energy from 10 MW plant. A power purchase agreement between BEL(Petitioner No.3) and VFJ (Petitioner No.1) was executed on 10.03.17 and subsequently GIF (Petitioner No. 2) was made party to the agreement vide amendment dated 12.09.2018.
 - iii.* The aforesaid Captive power plant was installed and being operating solely for benefit of petitioner No 1 and 2 at their factory premises by petitioner No 3 under mandate of Jawaharlal Nehru National Solar Mission (JNNSM) Govt. of India. As per JNNSM mandate, the power so generated is for self use of Defense Establishment and excess power shall be sold to Discoms.

As per the said scheme, Petitioners 1 & 2 have to pay Rs 4.75 per unit for units consumed from Captive power plant.

- iv. Petitioners and Respondents had entered into duly executed Power Purchase and Wheeling Agreement (PPWA) dated 30.10.2019 for open access of wheeling of power generated through intra-state Distribution System for captive use from the injection point through 33kV at 132/33kV S/S at VFJ/GIF.
- v. As per clause 2.6 of PPWA, Petitioners have agreed to restrict the maximum demand all the time within contract demand as HT consumer. The Maximum demand which would be sum total of power availed from Respondent Discom and through Open Access from solar Generating station, shall not exceed the contract demand so that no additional load /power is drawn from the system.
- vi. The power plant commenced operation from 30.01.2020 and Respondent Discom started raising monthly bills for the energy utilized by petitioners 1 & 2 for energy drawn from Grid. The contention of petitioners herein is that Respondent Discom did not factor in (deduct) the quantum of energy supplied from Captive Generating Plant (CGP) in the said bills while calculating TMM charges.
- vii. TMM difference charges were levied on the electricity consumed by the petitioner no 1 & 2 on monthly basis by utilizing following erroneous and arbitrary formula –
TMM difference charges = (CD*100 – Units of MPPKVVCL consumed) * Rate
- viii. Petitioners have objected above arbitrary methodology vide letter dated 03.11.20 to Respondent Discom for the two bills issued on 04.09.20 and suggested following formula:
TMM difference charges = [CD*100 – {Units of MPPKVVCL consumed + Renewable Energy units consumed}] * Rate
- ix. In response to communication made by Petitioner No 2 (GIF) vide letter dated 31/03/21, Respondent East Discom vide letter dated 19/05/2021 replied that the TMM shall be billed as per clause 1.6 of General terms and conditions of High Tension Tariff issued by the Commission. Respondent Discom stated that TMM difference charges are part of tariff and recovered as fixed cost and billing of TMM is being done on the basis of energy sold by the DISCOM to the consumers, which does not include the unit consumed by consumer through any other sources such as open access/internal/captive power generation etc. In case any dispute arises regarding interpretation of tariff order and/ or applicability of tariff or any

difficulty arises regarding any provision of tariff order, consumer may approach the Commission for the redressal.

4. At the motion hearing held on 29.11.2023, the petitioners were heard on the issue of admissibility and the case was reserved for order.

The Commission observations and findings:

5. The Commission has perused the submissions made by the petitioners. The petitioners contented that Respondent Discom did not factor in the quantum of energy supplied from Captive Generating Plant (CGP) in the said bills issued to them while calculating TMM charges.
6. As regard the billing of Tariff minimum consumption, the Commission has specified the following provision at clause 1.6 (Tariff minimum consumption) of General Terms and conditions of HT tariff of Retail supply tariff order for FY 2020-21 and FY 2021-22 :-

1.6 Tariff Minimum consumption shall be billed as follows :

“1) The consumer shall be billed for guaranteed annual minimum consumption (kWh) based on number of units per kVA of contract demand specified for his category, irrespective of whether any energy is consumed or not during the year.”

2)

7. In present dispensation for determination of TMM, there is no provision for adjustment of Renewable consumption. Aforesaid provision specified by the Commission is self explanatory and does not warrant any further explanation. In light of above, the petition is found devoid of merit and hence not admitted. The petitioners, however, are at liberty to file their suggestions regarding computation of TMM charges during the proceedings for determination of ARR for FY 2024-25 and Tariff proposal for Distribution & Retail Supply Business of Distribution Licensees of State for FY 2024-25 under the tariff principles laid down in the MPERC (Terms and Conditions for Determination of Tariff for Supply and Wheeling of Electricity and Methods and Principles for Fixation of Charges) Regulations, 2021, and amendment thereof.

With above observations, the subject petition is disposed of.

(Prashant Chaturvedi)
Member

(Gopal Srivastava)
Member (Law)

(S. P. S. Parihar)
Chairman