

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of petition for renewal and extension of PPA and exemption from licence for wheeling of power to third party M/s Bestech Hospitalities Pvt. Ltd., Indore.

Petition No. 100/2010

ORDER

(Date of hearing 25th February, 2011)

(Date of order 10th March, 2011)

M/s Dhar Automatives Pvt. Ltd.,
42 Manish Puri,
Chandralok Extension,
Indore – 452018. - Petitioner No. 1

M/s Bestech Hospitalities Pvt. Ltd.,
1/2873, Ramnagar Extension,
Loni Road, Shahdra,
Delhi – 110032. - Petitioner No. 2

V/s

M.P.Paschim Kshetra Vidyut Vitaran Co. Ltd.,
GPH Compound, Indore. - Respondent No. 1

M.P.Power Transmission Co. Ltd.
Shakti Bhawan, Rampur, Jabalpur. - Respondent No. 2

M.P.Power Trading Co. Ltd.
Shakti Bhawan, Rampur, Jabalpur. - Respondent No. 3

Shri Gajanan Yadav, General Manager and Shri Mukesh Acharya, CE (Elec.) appeared on behalf of Petitioner No.1 and 2, respectively.

Shri Gajra Mehta, CE (Comml.) and Shri P.K.Jain, Addl. SE appeared on behalf of Respondent No. 1.

Shri R.C.Chakraborty, appeared on behalf of Respondent No. 2.

Ms Parul Dangi, Legal Executive appeared on behalf of the Respondent No. 3.

2. The Petitioners have filed this petition under Section 86(1)(e) of the Electricity Act, 2003 read with Section 16 of the Madhya Pradesh Vidyut Sudhar Adhiniyam.

3. The Petitioner No. 1 has installed wind farm of 0.230 MW capacity on 31.03.2000, pursuant to the sanction by MP Urja Vikas Nigam Ltd. and erstwhile MPSEB. The Commission vide its order dated 06.10.2003 and 12.04.2004 in Petition No. 108 of 2003 and 22 & 28 of 2004,

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respectively granted permission for sale of power generated from the above wind farm for the period from 31.03.2002 to 05.10.2003 and for captive use during the period 06.10.2003 to 05.10.2008 at its factory premises (Dhar Automotives Pvt. Ltd.). The Power Purchase Agreement (PPA) dated 25.01.2006 and first supplementary agreement dated 06.08.2009 was executed between the Petitioner and erstwhile MPSEB for the period from 31.03.2000 to 05.10.2008. The project commenced its operation on 31.03.2000.

4. The Respondent No. 1 (West Discom) vide letter dated 15.02.2010, 27.03.2010 and 26.11.2010 directed the Petitioner to approach the Commission and Respondent No. 3 (MP Tradeco.) for approval for short/long term intra-State Open Access and renewal of PPA. Accordingly, the Petitioner No.1 made an application to Respondent No. 3 vide letter dated 15.12.2010 seeking permission for Long Term Open Access under MPERC (Terms and conditions for Intra State Open Access) Regulations, 2005.

5. The Petitioner No.1 desires to sell 100% power generated from its wind farm during the period from 06.10.2008 to the date of filing the petition. The Petitioner No. 2 had approached Petitioner No.1 to purchase 100% power generated from the aforesaid wind farm by way of wheeling for its unit having 1750 KVA contract demand at 33 KV for the balance period of plant life. The Petitioner No. 1 communicated its acceptance vide letter dated 10.12.2010.

6. The Petitioners have made the following prayers in the petition :

- (a) To renew and extend the period of PPA for the balance period of plant life i.e. for 12 years from 06.10.2008 as per plant life mentioned in the tariff order for procurement of power from wind electric generators i.e. 20 years.
- (b) The Petitioner No.1 be exempted from requirement of licence for the sale of power to MP Power Trading Co. Ltd. from 06.10.2008 to the date of filing of petition and sale of power to third party M/s Bestech Hospitalities Pvt. Ltd.
- (c) To permit Petitioner No.1 for sale of inadvertent flow of energy, if any, to MP Power Trading Co. at the rate of Rs. 2.87 per unit as specified and determined by the Commission in the tariff order dated 21.11.2007.
- (d) To direct Respondent No.1 to continue the wheeling of power during the period for granting permission by the Commission as well as execution of PPA and wheeling agreement.

7. The case was listed for motion hearing on 18.01.2011.

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8. During the motion hearing, the representative of the Petitioners submitted that the WEG of 0.23 MW capacity was commissioned on 31.03.2000. The Petitioner was granted permission to sell the power till 05.10.2008 under the PPA dated 25.01.2006 and supplementary agreement dated 06.08.2009. The Petitioner is also injecting power to the grid since 06.10.2008. However, the Petitioner has not claimed for the power injected during the period from 06.10.2008 till the filing of this petition. The Petitioner has further submitted that no adjustment has been claimed for captive use. The Petitioner also submitted that due to unavoidable circumstances, the Petitioner could not approach the Commission/MP Power Trading Co. Ltd. for execution of PPA for injection of power into the grid since 06.10.2008 onwards. The Petitioner requested to consider the energy injected from 06.10.2008 to the date of filing of petition i.e. 29.12.2010 as deemed sale to the MP Power Trading Co. Ltd. at the rate of Rs. 2.87 per unit in terms of tariff order dated 21.11.2007 and to allow third party sale to M/s Bestech Hospitalities Pvt. Ltd. since 30.12.2010 onwards. The case was listed for hearing on 02.02.2011 which was subsequently adjourned to 25.02.2011.

9. During the hearing, the representative of the Petitioners No. 1 and 2 submitted that the supplementary agreement for the period from 06.10.2003 to 05.10.2008 was received in 2009 and therefore due to some confusion, the Petitioners could not apply for renewal and extension of the period of PPA from 06.10.2008 onwards. They have further submitted that the Executive Engineer has taken readings for the period from 06.10.2008 onwards regarding injection of power by the WEG. They have, therefore, requested to permit the Petitioner No.1 for sale of inadvertent flow of energy to MP Power Trading Co. Ltd. (Respondent no.3) at the rate of Rs. 2.87 per unit as specified in the Tariff Order dated 21.11.2007. During the hearing, the representative of the Petitioner were asked whether they sought open access permission from Respondent No.2 for the period beyond 05.10.2008. The representative of the Petitioners could not submit proper reply.

10. During the hearing, the representative of Respondent No.1 was asked whether surplus power was actually injected into the grid and how they remained connected with the grid during the period from 06.10.2008 onwards.

11. During the hearing, the representative of Respondent No. 3 submitted that the petitioners have not approached either the Commission or the Respondents for getting permission for connectivity during the period from 06.10.2008 and as there is no agreement executed by the

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Petitioners with Respondent No.3, purchase of surplus energy for the period from 06.10.2008 should not be insisted.

12. On hearing the Respondents, the Commission asked the Respondent No.1 to submit within 2 weeks the details of metering and the power injected by the Petitioner w.e.f. 06.10.2008. The information on Net Units (Generation Details) w.e.f. 05.10.2008 to January 2011 is submitted through FAX on 08.03.2011 by the Executive Engineer (O&M), Dewas. From the above details, it is noted that lacs of units were injected into the grid during the above period. However, the same was done by the Petitioner No.1 without getting permission/approval of the competent authority.

13. On hearing the Petitioners and the Respondents, the Commission is of the view that although the Petitioner No.1 injected power into the grid during the period from 06.10.2008 onwards, it had neither obtained the required permissions from the concerned authorities including the Commission nor approached Respondent No.3 for sale of power. Under the above circumstances, the Commission is of the view that it would not be appropriate to direct the Respondents to enter into a retrospective agreement for purchase of power or to make payment of the power injected into the grid by the Petitioner No.1 without any agreement. However, the Commission grants permission to extend the period of PPA w.e.f. the date of submission of this petition i.e. 29.12.2010 or from the date of meter reading for December 2010, whichever is later to the balance period of project life i.e. 30.03.2020 on the same terms and conditions applicable at the time of commissioning.

14. With the above directions, the Petition No. 100/2010 stands disposed of.

Ordered accordingly,

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

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

(Rakesh Sahni)
Chairman