

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of filing of the Long Term Power Purchase application for the distribution & retail supply business under power purchase principles laid down in “the MPERC (Power purchase and procurement process) Regulations, 2004 revision 1, 2006{RG-19(1) of 2006}.

ORDER

(Date of hearing 14.05.2013)

Date of order 17.05.2013

M.P. Madhya Kshetra Vidyut Vitaran Co. Ltd., Bhopal

M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore

M.P. Power Management Co. Ltd., Jabalpur

Petitioners

1. Shri R.K. Khatri, SE (Comm.) and Shri Pawan Kumar Jain, ASE (Comm.) appeared on behalf of M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore. Mrs. Sapna Jain, AGM (Comm.) appeared on behalf of M.P. Madhya Kshetra Vidyut Vitaran Co. Ltd., Bhopal. Ms. Ranjitha Ramachandran, Advocate appeared on behalf of the petitioners.

2. Brief facts of the petition are given as under:

The subject petition has been filed jointly by the petitioners. The petitioners had executed distribution franchisee agreements for Gwalior town and Ujjain City on 10.05.2012 with franchisees for a period of 15 years. The petitioners have submitted that in order to increase the reliability of available energy for maintaining 24 hours supply in the franchisee area, the franchisees had submitted their demand forecast for meeting the energy requirements. As per this forecast, additional requirement over and above minimum guaranteed power has been projected. Accordingly, the petitioners intend to procure additional power on behalf of the franchisees through competitive bidding for the long term. The petitioners have also submitted that cost implications, if any, of such power procurement would be submitted in the ARR petition for the corresponding financial year. In any given year, the cost of such procurement shall be less than the marginal cost of procurement by MPPMC, so that such procurement does not adversely affect the average cost of supply and also the tariff for the consumers of the licensees in any given year. Further, in any given year, the cost of such procurement shall be less than the updated input rate quoted by the franchisee in the franchise agreements. The procurement process shall follow Standard Bidding document. In case any reliability charge is imposed on account of supplying reliable power to the franchisee area, it should be divided between Discoms and franchisee in the ratio of the input energy supplied by

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- each to the franchisee area. Tri-partite agreement between franchisee, the Company and the sole bulk procurer of power MP Power Management Company shall be proposed in the petition for the said procurement. Such procurement shall form part of filing of annual revenue requirement before the Commission in the respective year. In light of the above submission, petitioners have requested the Commission to consider and approve its prayer for adoption of rates arrived at after competitive bidding for long term power procurement for the additional requirement as projected by the franchisees.
3. Vide order dated 20.03.2013, the Commission enquired from the petitioners as to how the additional requirement for procurement of power gets established and whether it is in excess of the requirement projected in the ARR of the distribution licensees. 24 hours supply is expected to be provided in the near future to the entire state. Do the licensees envisage that they would not be supplying 24 hours power to the areas assigned to the franchisees? Or, do they envisage that supply to areas not under franchisee agreement will be less than for 24 hours? The Commission sought to know whether ARR petition of the licensees for FY 2013-14 projects power requirement for the entire state and whether this forecast leaves any gap for the cities/ towns for which franchisees have been appointed?. Besides, the petition does not specify the quantum, period and basis for request of procurement of additional power.
 4. The additional submission made by the petitioners on 18.03.13 was perused. The petitioners have submitted some data of forecast for power requirement made by their franchisees for the franchisee areas. This forecast depicts some additional requirement over and above committed power by the petitioners for the franchisee areas as per their agreements. The petitioners have further submitted that they have taken into consideration the requirement of power for franchisee areas also in their ARR and no gap or deficit is left uncovered. As provided in the tariff order, some quantum of power is required to be procured through medium term (MTPP) and short term purchases (STPP). Therefore, they intend to go in for bidding for long term power to get cheaper rates instead of MTPP or STPP. They have also submitted that the rates discovered through such bidding shall have to be less than the franchisees' updated input rate and shall not adversely affect the average cost of supply as determined in the retail supply tariff order. They have prayed that approval to procure power on long term competitive bidding may be granted by the Commission.
 5. Having perused the submission made by the petitioners in the main petition and the additional submission, the Commission is of the opinion that there is no substance in the prayer made in the petition. The intent obvious in the main petition is to procure power

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only for franchisee areas to ensure reliability of supply. This is not commensurate with the overall goals and objectives of the Electricity Act, 2003. The petitioners must strive to ensure equitable and reliable supply to all consumers in their entire area of operation and not seek to limit themselves to the franchisee areas only. The petitioners have not been able to establish any additional requirement of power for franchisee areas and, on the contrary, have stated that the requirement projected in tariff petition by them is inclusive of the requirement of the franchisee areas. The argument further advanced by them is that they wish to procure power through competitive bidding for long term power to obviate purchases through MTPP and STPP. However, provisions made in the tariff order for such purchases do not get limited to franchisee areas only. The power purchase requirement admitted in the tariff order is for the entire area of the petitioners and so is the requirement admitted through the purchases from MTPP and STPP. Section 63 of the Electricity Act provides that “the Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government”. Therefore, the petitioners’ attempt in seeking to confirm the provision which is a mandate of the Act is neither comprehensible nor appreciated by the Commission. If the petitioners wish to purchase long term power through competitive bidding to get cheaper rates instead of MTPP or STPP, the Commission is not averse to it. However, the petitioners need to approach the Commission only if they intend to deviate from the terms and conditions laid down in the Standard Bidding Guidelines and not otherwise. No such case has been made out in the petition. The petitioners, however, ought to follow relevant guidelines/ regulations for such purchases.

6. The Commission further observes that the quantum of purchase of power either through long term or short term sources is required to be duly justified. The quantum of power that is procured to meet the losses above prescribed normative levels may not get pass through in the tariff/ true-up. The tariff order for FY 2013-14 takes into account the projected requirement of power after admitting the sales as filed on expected 24 hours supply to all areas of the state. The requirement therefore could change in actual scenario only if the supply mix changes or sales undergo a change. Such a situation is duly taken care of at the time of true up of the ARR. At paragraph 3.21 of retail supply tariff order for FY 2013-14, the Commission has directed the petitioners that “*they should not unduly restrict supply to any category of consumers during the tariff period. In the event that the actual requirement of supply of power is in excess of the quantum admitted by the Commission for sale or power procurement projections in this tariff Order or due to*

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paucity of generation from the sources identified in this Order, the petitioners shall take immediate steps to arrange the supply of required power from all available sources including medium or short term purchase. The petitioners shall have to make all possible efforts to provide adequate supply at all times to all the categories of the consumers of the state. However, the Discoms while procuring such power shall ensure compliance with the requirements of the relevant Regulations and guidelines keeping a check on the distribution losses in the network”. Therefore seeking any separate generic approval for power purchase, that too only for the franchisee areas, is not understood.

7. The Commission cannot recognize franchisee as a separate entity in view of the seventh proviso under section 14 of the Electricity Act.
8. In view of the foregoing, counsel for the petitioners sought to withdraw the petition. The Commission accepted the request of the counsel. The petition is disposed of as withdrawn.

Ordered accordingly

Sd/-

(Alok Gupta)
Member

Sd/-

(A. B. Bajpai)
Member

Sd/-

(Rakesh Sahni)
Chairman

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