



Madhya Pradesh Electricity Regulatory Commission

5th Floor, Metro Plaza, Arera Colony, Bittan Market, Bhopal 462 016

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Dated: August 04, 2007

Sub : In the matter of execution of Bulk Power Transmission Agreement with M.P. Power Transmission Company Ltd for supply of power to third party consumers from Birsinghpur Mini Hydel Project (2 x 1100 kW) of Ascent Hydro Project Limited consistent with provisions of agreement dated 26.07.1999 (the PPA) signed between MPSEB and Ascent Hydro Projects Limited

ORDER
Petition No. 33/2007
Passed on this day August 04, 2007

M/s Ascent Hydro Projects Ltd, Pune - Petitioner
Vs
M.P. Power Transmission Co.Ltd, Jabalpur - Respondent

Shri Shyam Vaidya, MD and Shri Ravi Arora, G.M appear on behalf of the Petitioner

Shri V.K. Pandya S.E. appears on behalf of the Respondent.

2. The Petitioner M/s Ascent Hydro Projects Ltd (AHPL) have submitted that they had signed an agreement on 26/7/1999 for purchase of power, wheeling, captive use, third party sale and setting up of Birsinghpur Mini Hydel project (2 x 1100 kW) with MPSEB. The agreement includes successors of MPSEB also. It is further submitted that the Energy Deptt., GoMP, Vide its order of 20/6/2002 had accorded permission to the Company to establish 2x1100 kW Birsinghpur Mini Hydel Project as per the permission and condition of the agreement executed between MPSEB and AHPL.

3. The Company has further informed that it had applied to MPPTCL for long-term open access for wheeling of power from their generating plant at Birsinghpur to third party (HT consumers situated at Pithampur and Ratlam) in the jurisdiction of MP Paschim K.V.V.V.C.L. Indore. In response, MPPTCL had already granted the approval for open access on 6/12/2006 and directed M/s AHPL to execute the bulk power transmission agreement as per the model agreement for transmission of power by non-conventional energy sources.

4. M/s AHPL have further submitted that in context of the relevant references of existing PPA the need for revision of the bulk power transmission agreement has arisen. The Company has approached to MPPTCL for incorporation of the modifications in the model bulk power transmission agreement and to jointly seek the Commission's approval. In response MPPTCL has informed vide its letter of 14/5/2007, that in MPPTCL's opinion there is no need to change the model draft agreement approved by the Commission and therefore, MPPTCL is unwilling to take any action in this regard. M/s AHPL have, therefore, filed the petition for seeking the appropriate directions from the Commission. The hearing was slated for 04/08/2007.

5. During the course of hearing today i.e. on 04/8/2007 the Respondent in its reply submitted that the Model Bulk Power Transmission Agreement (BPTA) for transmitting the power through Intra-State Transmission system and Bulk Power Wheeling Agreement (BPWA) for wheeling of power through distribution network of Discoms has been finalized by the Commission. It covers all the commercial, technical and legal aspects in accordance with prevailing Electricity Law, Regulations, Grid Codes for wheeling of power for intrastate open access in the State. Therefore, the reference of any other Agreement/PPA in Bulk Power Transmission agreement may not be allowed. The Respondent further requested to the Commission that in light of Clause No. 18.1 of the Model BPTA, the proposal of the petitioner to include reference of Old PPA may not be allowed.

6. The Commission has heard the arguments put-forth by both the parties. The Petitioner has informed that the existing agreement deals with sale, purchase, wheeling, banking, identification and change of WP consumers and inter-alia provides for sale of energy by the Petitioner to third party HT consumer by wheeling through Board's system by monthly allocation of units to the identified 3rd party consumers. The Commission has also observed that the model draft agreement of MOIL approved by the

Commission was sent to the Petitioner by the Respondent but the Petitioner has an existing agreement dated 26-07-1999 for wheeling, third party sale, captive use and purchase of power with MPSEB which is applicable to the successor companies of MPSEB also. The Commission has also observed that the existing PPA was executed before the notification of Commission's Regulation on Open Access namely "MPERC (Terms & Conditions for Intra State Open Access in MP) Regulation, 2006". The clause 4.3 of said regulation stipulates that "the existing consumers or generating companies including the non conventional energy sources availing open access under agreements or government policy on the date of coming into force of these regulations shall be entitled to continue to avail open access on such transmission and distribution system on the same terms and conditions, for the terms of the existing agreement or arrangement on payment of transmission charges, wheeling charges and other charges as may be determined by the Commission from time to time".

7. Considering the facts and circumstances mentioned above, the Commission directs that the agreement executed between M/s AHPL and MPSEB on 26/7/1999 still holds good. However, under the present provisions of law, if the transmission company insists for a fresh agreement, it should honour the provisions of the existing PPA.

With the above directions, the Commission decides to close this petition.

Ordered Accordingly.

Sd/-
(R.Natarajan)
Member (Econ.)

Sd/-
(D.Roybardhan)
Member (Engg.)

Sd/-
(Dr. J.L.Bose)
Chairman