

Sub: In the matter of application seeking clarification of order dated 02.09.2016 in Petition no. 33 of 2016 under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 40 of the MPERC (Conduct of Business) Regulations, 2004

ORDER

(Date of hearing: 18th April,2017)

(Date of order: 26th April,2017)

M/s CLP Wind Farms (India) Pvt. Ltd.,
15th Floor, Oberoi Commerz,
Off Western Express Highway,
Goregaon (East), Mumbai - 400063 - Petitioner

M.P. Power Management Co. Ltd.,
Block No. 11, 3rd Floor, Shakti Bhawan,
Rampur, Jabalpur- 482008 - Respondent

Shri Parinay Deep Shah, Advocate appeared on behalf of the petitioner.
Shri Manoj Dubey, Advisor (Law) appeared on behalf of the respondent.

2. The petitioner, M/s CLP Wind Farms (India) Pvt. Ltd. has filed this petition under Sections 94(1)(f) of the Electricity Act, 2003 read with Regulation 40 of the MPERC (Conduct of Business) Regulations, 2004 seeking clarification of order dated 02.09.2016 in Petition No. 33 of 2016. In its petition, the petitioner mainly prayed the Commission to:

- (i) Clarify that the direction in the Final Order to make the payment of outstanding invoices to the Petitioner in terms of the provisions of the PPAs/tariff orders includes direction to pay Late Payment Surcharge;
- (ii) Clarify the meaning of the term “suitable arrangements” as directions to the Respondent to start an irrevocable letter of credit as payment security;
- (iii) Clarify that the Respondent will be required to comply with the Final Order within a period stipulated by the Commission.

3. The case was listed for motion hearing on 24.01.2017. During the motion hearing, the petitioner restated the contents of the petition. The Commission admitted the petition for hearing and fixed the next date of hearing for 21.02.2017 which was adjourned to 21.03.2017 on the request of the respondent.

4. During the hearing on 21.03.2017, the petitioner submitted that the respondent has not complied with any of the directions issued by the Commission in the order dated 02.09.2016 in Petition No. 33 of 2016. During the hearing, the respondent sought adjournment and requested some time to file the response. The Commission allowed one week's time to file the reply. But, the respondent has not filed any response till date. The Commission took the non-compliance of the directions of the Commission seriously and gave one more opportunity to the respondent to furnish reply by 10.04.2017. The next date of

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hearing was fixed for 18.04.2017. The respondent filed the reply with a copy to the petitioner.

5. During the hearing on 18.04.2017, the respondent restated the contents of the petition and submitted that the respondent, in its reply has neither submitted any time line nor submitted the arrangements made for the payment of dues. Also, the respondent has not submitted any schedule for payment.

6. During the hearing, the respondent submitted that the petition is purely for want of clarification of the provisions of the tariff order/PPA and, therefore, any order other than that of the tariff order could be passed. If the petitioner is still not comfortable with the payment criteria of the respondent, he can seek termination of the PPA and opt for sale of power to third party. Also, the mode of payment through Letter of Credit or Bank Guarantee is not specified in the tariff order. The respondent further requested the Commission for not to compel on schedule of payment.

7. Having heard the petitioner and the respondent and on considering their written submissions, the Commission is of the view that the provisions of the tariff order/PPA are very clear and no further clarifications on the issues raised by the petitioner are required.

8. In view of the above, the petition no. 60/2016 stands disposed of.

Ordered accordingly.

(Alok Gupta)
Member

(A.B.Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman