

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub:- In the matter of petition regarding wrong interpretation of open Access Regulations.

ORDER

(Date of hearing 16th December, 2009)

(Date of Order 23rd December, 2009)

Jaiprakash Associates Ltd.,
Post Office Jaypee Nagar,
District Rewa (M.P.) - Petitioner

V/s

M.P.Power Trading Co. Ltd.,
Shakti Bhawan, Vidyut Nagar,
Jabalpur. (MP Tradeco.) - Respondent No. 1

State Load Dispatch Centre
M.P.Power Transmissin Co. Ltd.,
Jabalpur. (SLDC) - Respondent No. 2

Shri P.L.Nene, Advisor appeared on behalf of the Petitioner.

Shri A.B.Bajpai, CGM (Comm.) and Shri R.A.Sharma, EE (LD) appeared on behalf of the Respondent No. 1.

Shri K.K.Parbhakar, SE (ABT & OA) appeared on behalf of the Respondent No.2.

2. The petition is in the matter of wrong interpretation of open access regulation.

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3. The Petitioner has cement manufacturing units located in JP Nagar, Dist. Rewa. In the cement unit, there are captive power plants both coal-based and diesel based.

4. In the context of acute power shortage in MP and specially during 23.00 hrs. to 6.00 hrs, the Respondent No. 1, MP Tradeco. placed the order dated 25.04.2008 with the petitioner to supply infirm power to the Respondent No. 1 and issued amendments dated 29.04.2008, 01.05.2008 and 04.05.2008.

5. The order contained Clause (f) which is as under :

(f) you shall have to apply for short term open Access to the Executive Director (SLDC) MPPTCL, Jabalpur for short term open access facility before commencement of supply as per MPERC (terms and conditions for Intra State Open Access in MP) Regulations, 2005.

6. The petitioner has filed the petition and submitted that the Clause (f) introduced was not consistent with the provisions of Section 9 of Electricity Act, 2003 and MPERC (Terms and conditions for Intra State Open Access in Madhya Pradesh) Regulations, 2005. The open access consumer is already defined in the above Regulations.

7. The petitioner has further submitted that from the above it is evident that MP Power Trading Co. which is a Licensee cannot be an open access consumer. Therefore, the Petitioner prayed that the Commission may declare Clause (f) of the order for supply of power as null & void. The Commission had directed to fix the date of hearing on 16.12.2009.

8. During the hearing on 16.12.2009, the representative of the Petitioner submitted that the Petitioner does not require permission for open access in view

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of MPERC (Terms and conditions for Intra State open access in MP) Regulations, 2005 because the Petitioner is not an open access customer.

9. During the hearing, the representative of Respondent No. 1 submitted that MP Tradeco is a Licensee and may be an open access customer and therefore, the prayer of the Petitioner to declare Clause (f) of the LoI dated 25.04.2008 as null and void may be rejected and the petition may be dismissed.

10. During the hearing, the representative of the Respondent No.2 submitted that as per Clause 2(49) of the Electricity Act, 2003 “Person” shall include any company or body corporate or association or body of individual whether incorporated or not or an artificial juridical person and therefore the Power Trading Company can be an open access customer. Therefore, the contention of the Petitioner that MP Tradeco. cannot be an open access customer is not correct.

11. The Commission is aware that the Respondent No. 1 is procuring power from various generating sources such as MP Generating Co. Ltd., private IPPs, CPPs, etc. The Commission asked the Respondent No. 1 to clarify whether such requirement of open access permission has been imposed in those cases also. The Respondent replied that they have not imposed any such condition.

12. As per Clause 2.1 of the aforesaid Regulations on Intra State Open Access-
“Open Access customer means a person permitted under these regulations to receive supply of electricity from another person other than the distribution Licensee of the area of supply, or a generating company (including captive generating plant) or a Licensee, who has availed or intends to avail of open access.”

13. As per Section 3.2 of the Electricity Act, 2003 –

“Such open access shall be available for use by an open access customer

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on payment of such charges as may be determined by the Commission in accordance with the regulations framed for the purpose.”

14. On hearing the Petitioner and the Respondents, the Commission is of the view that MP Power Trading Co. cannot be considered as an open access customer in view of Clause 2.1 of the Regulations on Intra State Open Access because MP Power Trading Co. is receiving power supply on behalf of Distribution Licensees from various sources of generation to meet the demand. As such MP Power Trading Co. is not required to pay open access charges in terms of Clause 3.2 of the aforesaid Regulations. The Commission has, therefore, directed that the Petitioner is not required to obtain short-term open access from SLDC as mentioned by the Respondent No. 1 under Clause (f) of its Order dated 25.04.2008.

15. With the above directions, the Petition No. 62/2009 stands disposed off.

Ordered accordingly,

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

(Dr. J.L. Bose)
Chairman