

Sub: In the matter of review petition against the order dated 5th Feb., 2015 passed in SMP-27/2014 for determination of tariff for procurement of power from Biogas (Gobar Gas) based power projects in M.P.

ORDER

(Date of hearing: 28th April, 2015)

(Date of order: 30th April, 2015)

M/s RDM Care (India) Pvt. Ltd.,
2/12, West Patel Nagar,
New Delhi-110008

- Petitioner

Shri Malinder Singh, CEO of the company appeared on behalf of the petitioner.

2. The petitioner, M/s RDM Care (India) Limited has filed this petition seeking review of the tariff order dated 05.02.2015 passed by the Commission in SMP-27/2014 for procurement of power from Biogas (Gobar Gas) based power projects in Madhya Pradesh.

3. The petitioner has stated that the following facts have not been considered while deciding the tariff for procurement of power from biogas based power projects :

- (i) Capital cost: The petitioner has set up 1.2 MW Biogas based power plant at Pariyat, District Jabalpur. The MNRE has sanctioned the project at the total cost of Rs. 1312.95 lakhs. This capital cost was accepted by the MNRE after due appraisal of the project including financial prudence check. The petitioner paid a sum of Rs.51.03 Lakhs to the distribution licensee towards 33 kV line. The actual cost of the project at the time of commissioning on 25.08.2011 was Rs. 1588 Lakhs including the cost of evacuation and subsidy. The MNRE also sanctioned a financial assistance of Rs. 3.60 Crs. to the petitioner's company. Therefore, the actual cost of the aforesaid project is Rs. 10.23 Crs./MW net subsidy and inclusive of infrastructure cost. Hence, the capital cost of Rs. 8.50 Crs./MW which has been considered by the Commission for the existing projects is much lower than the actual.
- (ii) Cost of Fuel: The petitioner is using the mix of cattle dung (Dairy Solid Waste) and vegetables/fruits waste in the ratio of 90% and 10% respectively as fuel. The vegetables/fruits waste is required to accelerate Methane Generation and is very much essential for the project. Therefore, the cost of Cow Dung mixed with vegetables/fruits waste in the ratio of 90% and 10% respectively may be considered.
- (iii) Though the project was planned also to sell manure as by-product but practically there is no buyer for the dry manure. The petitioner is incurring expenditure towards labour and cartages for clearing the manure heap. The Commission may consider exemption of income from manure for 10 years.
- (iv) The petitioner is aggrieved by the Commission's order dated 05.02.2015. Hence, this petition.

4. In its petition, the petitioner prayed the Commission to consider review of tariff order dated 05.02.2015 for procurement of power from biogas based power projects in Madhya Pradesh.

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5. The matter was heard on 28.04.2015. During the motion hearing, the petitioner reiterated the contents of the petition. He has also stated that:

- (a) As per CERC guidelines in SMP no. SM/354/2013 dated 15.05.2014, the tariff for Biogas power projects should be Rs. 7.40 per unit.
- (b) The Punjab State Electricity Regulatory Commission fixed tariff at Rs.6.67 per unit as per Petition no. 37 of 2013 (Suo-Motu).

In view of the above, the petitioner requested the Commission for revising the tariff for procurement of power from biogas based power projects.

6. Having heard the petitioner and on considering its written submissions, the Commission has noted that:

- (a) By order dated 05.02.2015, the Commission had issued a generic tariff order for procurement of power from various biogas based power projects. It would not be prudent to consider the actual cost of the specific project.
- (b) As indicated in the petition, the capital cost of Rs. 13.13 Crs. was accepted by the MNRE after due appraisal of the project including financial prudence check. The petitioner also paid a sum of Rs.51.03 Lakhs to the distribution licensee towards cost of infrastructure. Therefore, the total expenditure works out to Rs. 13.64 Crs. After deducting the amount of subsidy of Rs. 3.60 Crs., the net amount works out to Rs. 10.04 Crs. for 1.2 MW project. Thus, per MW cost works out to Rs. 8.37 Crs. The Commission allowed capital cost of Rs.8.50 Crs./MW, which is more than the allowable capital cost.
- (c) In the tariff order dated 05.02.2015, the Commission has already mentioned that the biogas based power projects can very well perform by using only Cow Dung as a fuel. Therefore, the cost of Cow Dung mixed with vegetables/fruits waste cannot be considered.
- (d) The problem associated with the income from manure, is its proper marketing. For generic tariff determination, this cannot be considered.
- (e) The CERC has specified the base price of biomass as a fuel for aforesaid projects at Rs.1176.54 per MT, which cannot be made applicable to the power plant run on Cattle Dung. The petitioner himself submitted the cost of fuel (Cattle Dung) at Rs. 175 per MT.
- (f) Every State Electricity Regulatory Commission determines the tariff considering the State specific factors also. Hence, fixing the tariff in line with other States is not tenable.

All the aforesaid factors have already been considered by the Commission while determining the tariff for procurement of power from biogas based power projects.

7. The Commission further noted that for filing a review petition, the provisions of the Order 47 Rule1 of the Code of Civil Procedure, 1908 are applicable, which provides that:

“ (1) Any person considering himself aggrieved—

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*
- (b) by a decree or order from which no appeal is allowed, or*

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(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.”

As already noted in para-6 of this order, the petitioner could not produce any new and important matter or evidence for consideration of the Commission. Also, the petitioner could not establish either any error apparent on the face of the record or any other sufficient reason on the basis of which the review of the tariff order dated 05.02.2015 could be considered. As such, this review petition is ill-conceived and, therefore, not maintainable and is dismissed.

Ordered accordingly.

(Alok Gupta)
Member

(A.B.Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman