



Madhya Pradesh Electricity Regulatory Commission

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In the matter of applicability of Section 16 of M.P. Vidyut Sudhar Adhiniyam, 2000 to Wind Generators

Petition No. 117/04

ORDER

Dated 26th July, 2005.

M/s. Windgen (India) Ltd. - Petitioner
17, Sansad Marg,
Allahabad Bank Building,
New Delhi.
V/s.
M.P. State Electricity Board, Jabalpur - Respondent

Shri R. Ramanujam, Consultant appears on behalf of the Petitioner.

Shri C.K. Dixit, Additional S.E., MPSEB appears for the Board.

Shri Bhuvanesh Kumar Patel, S.E. of MP Urja Vikas Nigam Ltd appears for the Energy Deptt. GoMO.

2. The petition is in the matter of applicability of Section 16 of M.P. Vidyut Sudhar Adhiniyam, 2000 to Generators.

3. Petitioner submits that wind generators are governed by the Notification of GoMP dated 26/09/94, which a 2% wheeling charges and stipulates that MPSEB will purchase the power generated through non-conventional source Rs. 2.25 per unit. MPSEB was bound by the direction of the State Government Notification dated 26/09/94. Petitioner further submits that bulk of the wind generators were set up prior to enforcement of M.P. Vidyut Sudhar Adhiniyam, and thus wind generators did not require any approval of the Commission.

4. The petitioner in its additional submissions states that the energy produced by petitioner's WEG of 225 KW is delivered to the power system of MPSEB without discontinuity and the Board had also allowed for sale of energy by WEG to the third party for which a PPA could not be signed. A PPA with MPSEB was signed for the sale of electricity to MPSEB with effect from the date vide Commission's order dated 14/08/02. MPSEB has not paid an amount of Rs. 29,23,079/- (@ Rs. 2.25 per unit after allowing 2% wheeling charges) to the petitioner for the energy produced delivered to the Board from 30/03/96 till 14/08/02. Therefore the petitioner prays to the Commission to grant permission for the energy delivered to MPSEB during the period from 30/03/96 to 14/08/02 to be treated as deemed sale to MPSEB and to be paid for by MPSEB.

5. The Respondent Board submitted that no Power Purchase Agreement has been executed between the petitioner M/s. Avanti LPG (India) Ltd., Pithampur and the Board and no request for cancellation of NOC, issued by the Board under Indian Electricity Act 1910 for sale of power to third party i.e. M/s. Avanti LPG (India), has been made by the petitioner. The wheeled energy, which is not consumed by the wheeled power consumer, is an inadvertent flow in the system of the Board, which serves no useful meaning to the Board; therefore the petitioner cannot shift their financial liability on the Board. The case is time barred. The respondent therefore requests the Commission not to consider the revision in its order dated 14/08/02 in Petition no. 160/02.

6. The petitioner states that it does not want sanction for retrospective sale of energy but only wants the payment for the energy wheeled in the Board's system.

7. The Commission however desires to know the views of the Government on the points whether petitioner is entitled to receive payment from the Respondent MPSEB (now MPSEB) for inadvertent flow of power in Board's grid as per provisions of notifications dated 26/09/94 irrespective of the fact that petitioner failed to execute PPA with the Board.

8. During the course of hearing today, the representative of the Energy Deptt. submits that the policy of the Government issued vide notification dated 26.09.94 providing various incentives (except commercial tax related incentives, which were later withdrawn) is still in force. The basic purpose of the said policy is to promote generation of power from conventional energy sources. The policy dated 26.9.94 is very clear and unambiguous in its terms. It stipulates that the power generated may be utilized for self use or it can be sold to MPSEB or to a third party. There is no other alternative available for the generator in respect of disposal of its power. It also stipulates that power generated from conventional energy sources will be purchased by MPSEB at Rs. 2.25/unit. M/s Wind Gen installed 2x225 KW

generators on 30.3.96 after obtaining permission from MPEB and the electricity generated from it is fed into Board's from 30.3.96.

9. It is also submitted by the representatives of Energy Deptt. that it is only the contractual commercial arrange between the seller (Wind Gen) and purchaser (MPSEB) that could not materialize. Since it is not denied by MPSEB power generated by Wind Gen has been fed into its grid, GOMP considers it appropriate that MPSEB should pay fo amount of energy fed into its grid at a mutually negotiated rate. The rate could be either the average rate at which M purchased power during the period or the rate fixed by the Commission such that the rate is not more than the stipulated in the GOMP policy dated 26.9.94.

10. Commission heard the parties and takes the view that there is no mechanism with the Commission to en payment by another person who is a purchaser. This matter concerns the Board and the concerned party. Commi directs that if any energy of the petitioner has inadvertently flown into MPSEB's system it may be treated as deemed The Commission agrees with the Energy Deptt. reply and directs the petitioner and Board to collect a copy o submission of GOMP. Commission also directs the Respondent Board to make payment to the petitioner for the powe into Board's system, during the period mentioned in para 4 above, as per the reply submitted on behalf of GoMP. Wit directions mentioned above Commission decides to close the case.

Ordered accordingly.

(R.Natarajan)
Member (Econ.)

(D.Roybardhan)
Member (Engg.)

(P.K.Mehrotra)
Chairman