

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of refusal of signing of energy wheeling agreement (EWA) by MP Power Trading Co. and denial of payment inadvertent flow and inclusion of distribution utility as a party in EWA.

Petition No. 19/2011

ORDER

(Date of hearing 31st May, 2011)

(Date of order 6th June , 2011)

M/s Ruchi Soya Industries Ltd.,
408, Tulsiani Chambers,
Nariman Point,
Mumbai – 400021. - Petitioner

V/s

M.P.Power Trading Co. Ltd.,
Shakti Bhawan, Rampur, Jabalpur. - Respondent No. 1

M.P.Paschim Kshetra Vidyut Vitaran Co. Ltd.,
GPH Compound, Pologround, Indore. - Respondent No. 2

Shri Mahesh Vipradas, General Manager and Shri A.K.Tiwari, Manager appeared on behalf of the Petitioner.

A.B.Bajpai, CGM (Comm.) and Ms Parul Dangi, Legal Executive appeared on behalf of the Respondent No. 1.

Shri Sanjay Mohase and Shri P.K.Jain, ASE (Comm.) appeared on behalf of Respondent No. 2.

2. The Petitioner has filed the present petition seeking directives against the Respondent No.1 alleging non-compliance of Commission's order dated 14.05.2010 and Regulation 12 of MPERC (Cogeneration and Generation of electricity from renewable sources of energy) (Revision-I) Regulations, 2010.

3. The Petitioner is a developer of Wind Electric Generating plants and has installed WTGs of 65 MW capacity in the State of Madhya Pradesh. The Petitioner has submitted that EWA for 2 Nos. of 1.25 MW WTG commissioned in the year 2004-05 has expired on 29.06.2010. Consequently, the Petitioner has sent an application to Respondent for renewal of EWA for said WEG and has also applied for execution of

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fresh EWA for new wind power project with a capacity of 3x600 KW commissioned in the month of March, 2010. The details of the said projects are tabulated in para 6 of the present petition.

4. The Respondent vide its letter dated 20.11.2010 has informed that they will execute EWA for wheeling of power for captive issue only and had directed the Petitioner to implead West Discom as a party to the wheeling agreement. Draft EWA was sent to the Petitioner alongwith the aforesaid letter. The Petitioner has stated that said draft was not in accordance with the Commission's order dated 14.05.2010 as the clause relating the payment of inadvertent flow of power was not incorporated in the draft agreement. Subsequently, the Petitioner, after including the clause of payment of inadvertent flow of power submitted the EWA to the Respondent. The Respondent vide its letter dated 01.02.2011 returned the EWA stating that the same were not as per the draft EWA which was sent vide letter dated 20.11.2010.

5. The Petitioner has reiterated that the draft EWA, sent by the Respondent, did not include the payment clause for inadvertent flow of power, as per the order dated 14.05.2010. The Commission under Clause 12.22 of its tariff order dated 01.05.2010 has ruled that the inadvertent flow of power would be purchased by the Respondent at Rs. 2.95 per unit.

6. Further, as per Regulation 12.1 (vi) of MPERC (Cogeneration and Generation of electricity from Renewable Sources of Energy) Regulations, 2010 (Revision-I) the Respondent shall purchase the unadjusted energy at the rate determined by the Commission from time to time. The said Clause is extracted below :

“Provided that if a portion of banked power still remains un-adjusted at the end of Financial Year, then such remaining power would be construed as power purchased and the payment for the same will be made by the MP Power Trading Co. at the rate determined by the Commission from time to time for inadvertent flow of energy non-conventional source.”

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7. The Petitioner has further averred that the Respondent in its written reply, submitted in Petition No.1 of 2009 has agreed to purchase the surplus energy at the rate specified by the Commission. The said submission of the Respondent quoted in the order dated 19.02.2009 is reproduced below :

“The Respondent No.1 MP Tradeco has submitted his reply stating that they are ready to purchase surplus power, if any, at the rated approved by the Commission in its order dated 21.11.2007 subject to execution of fresh agreement by the petitioner with the MP Tradeco on the same terms and conditions as given in Tariff order dated 21.11.2007.”

8. The Petitioner has submitted that the Commission in the above order has granted permission to sell the surplus power at the rate specified in the wind tariff order dated 21.11.2007.

9. The Petitioner has prayed to the Commission as under :

- a. The Commission may issue necessary directions to M/s Power Trading Co. Ltd. to purchase the surplus/inadvertent energy at the rate specified by the Commission in its wind tariff order dated 14.05.2010.
- b. The Commission may issue necessary direction to M/s MP Power Trading Co. Ltd. to correct the draft EWA as per the directions of the Commission.

10. The case was listed for hearing on 24.04.2010 which as adjourned to 31.05.2011.

11. During the hearing on 31.05.2011, the representative of the Petitioner reiterated the requests made in the petition.

12. During the hearing, the representative of the Respondent No.1 submitted that :

- (i) The inadvertent flow in the system cannot be planned in advance to be allocated to any of the identified HT consumers.
- (ii) The possibility of gaming by the WEG developer for dumping such inadvertent flow of power cannot be ruled out.

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- (iii) As the inadvertent flow of energy comes into existence due to the default of third party therefore third party consumer can only be made responsible for consuming the wheeling energy. The Respondent may not be insisted upon to purchase any inadvertent flow of power appearing into existence in the grid due to default of third party.
- (iv) Suitable amendment in the tariff order dated 14.05.2010 may be made so that the Respondent is not required to purchase the so called inadvertent flow of energy.

13. The Respondent No. 2 submitted that they have no objection to issuing necessary directions by the Commission to the Petitioner as prayed in the petition.

14. On hearing the Petitioner and the Respondents, the Commission observed that the petition is filed under Section 86(1)(e) of the Electricity Act, 2003 which is not applicable in this case because this is a dispute between a Generating Company and the Licensee. The Commission further observed that the Respondent No.1 cannot act contrary to the provisions of the order of the Commission. If proper energy accounting is done by the Respondents, there is no possibility of gaming by the Petitioner. The Commission, therefore, directs that the petition is misplaced as it is not filed under the applicable Section of the Electricity Act, 2003. The Commission also directs the Respondent No.1 to ensure compliance of the provisions of tariff order dated 14.05.2010 without demur. The Commission also directed the Respondent No. 2 to submit the details of bills issued by them to the third party/captive consumers of their area in the last one year.

15. With the above directions, the Petition No. 19/2011 stands disposed of.

Ordered accordingly,

(C.S.Sharma)
Member (Eco.)

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

(Rakesh Sahni)
Chairman