

Sub: In the matter of petition under Section 86(1)(b)&(e) of the Electricity Act,2003 in the matter of billing of kWh consumption made for frequent start up of Wind Electric Generators (WEGs) in the windfarms

ORDER

(Date of hearing: 18th October,2016)

(Date of order: 25th October,2016)

M/s M.P. Windfarms Limited,
Energy Tower,
64, B-Sector, Kasturba Nagar,
Bhopal – 462 023

- Petitioner

M.P. Paschim Kshetra Vidyut Vitaran Co. Ltd.,
GPH Compound, Pologround, Indore

- Respondent No.1

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

- Respondent No.2

Shri R. Ramanujam and Shri H.D. Motiramani appeared on behalf of the petitioner.
Shri Pavan Kumar Jain, ASE and Shri Anant Chaure, Law Officer appeared on behalf of the respondent no.1.
Shri Manoj Dubey, Advisor (Law) appeared on behalf of the respondent no.2.

2. The petitioner, M/s M.P. Windfarms Limited, Bhopal has filed this petition under Section 86(1)(b)&(e) of the Electricity Act,2003 in the matter of billing of kWh consumption EGs in the windfarms. In its petition, the petitioner prayed that the Commission may direct the respondents as follows:

- (i) Not to deviate from the provisions of the agreements in force
- (ii) To withdraw the electricity bills for kWh consumption issued in the name of the petitioner from November,2015 onwards till July,2016.
- (iii) Not to issue bills for kWh consumption made for start up of WEGs in the Windfarm in future as the PPA provides for adjustment of this consumption against kWh export.
- (iv) To accept the bills of WEG owners for sale of energy from their WEGs and arrange for timely payment of these bills.

3. The case was listed for motion hearing on 20.09.2016. During the motion hearing, the petitioner restated the contents of the petition. The petition was admitted by the Commission and the next date of hearing was fixed for 18.10.2016. The respondents have filed the written submissions.

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4. During the hearing on 18.10.2016, the respondent no.1 quoted the decisions of the Hon'ble Supreme Court and stated that the provisions of the relevant Regulations framed by the Commission shall be made applicable irrespective of any agreement in force.

5. During the hearing, the respondent no.2 stated that the present petition suffers *res-judicata* and cannot be entertained again on the same issue which has already been decided by the Commission vide order dated 05.07.2016 in Petition no. 20 of 2016. He has also stated that the petitioner cannot be billed as per tariff schedule HV-7 in view of the factual and legal matrix. He has further stated that the billing shall be done as per the provisions of the relevant Regulations framed by the Commission.

6. Having heard the petitioner and the respondents and on considering their written submissions, the Commission is of the view that the Clause 10 of MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (Revision-I) Regulations, 2010 shall be applicable in the event of drawing of power by the petitioner during shut down of the plant or during other emergencies. During the shut down or emergency periods, the plant requires power for repairs and maintenance purposes, for which the petitioner shall have to avail power and would be billed at temporary supply tariff as specified in the aforesaid Regulations. If the power is required by the petitioner for synchronisation of WEGs frequently, the same cannot be considered under drawl of power during shut down or emergency periods and the provisions of the aforesaid Regulations shall not apply and, therefore, shall be billed as per the provisions of tariff schedule HV-7. The Commission, therefore, directs the respondents to take action accordingly as mentioned above and revise the impugned bills from November, 2015 if found necessary. The Commission also directs the respondent no. 2 to make the payment of bills to the petitioner for sale of energy from its WEGs as per the terms and conditions of the applicable tariff orders/PPAs after adjusting the revised bills. The respondents are also directed to report compliance by 15.11.2016.

Ordered accordingly.

(Alok Gupta)
Member

(A.B.Bajpai)
Member

(Dr. Dev Raj Birdi)
Chairman