

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of permission under Electricity Act, 2003 for sale of the energy generated from WEGs to MP Power Trading Co. Ltd., and for fresh PPA for the balance period of 8 years for 5 Nos. of WEGs (Location No. 45, 50 to 53) of M/s Cepeco Industries Pvt. Ltd.

Petition No. 70/2011

ORDER

(Date of hearing 19th December, 2011)

(Date of order 10th January, 2012)

M/s Cepeco Industries Pvt. Ltd., - Petitioner
82, Mahaveer Nagar, Kanadia Road,
Indore – 452016.

V/s

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

M.P.Pashchim Kshetra Vidyut Vitaran Co. Ltd., - Respondent No. 2
Pologround, Indore.

Shri U.K.Sahasrabuddhe appeared on behalf of Petitioner.

Ms Parul Dangi, Legal Executive appeared on behalf of Respondent No. 1.

Shri Pavan Jain, ASE (Comm.) and Shri Anant Chaure, Law Officer appeared on behalf of Respondent No.2.

2. Petitioner M/s. CEPCO Industries Pvt. Ltd, Indore has filed the present petition under affidavit on 21.11.2011.

3. Petitioner is the owner of 5 Nos. Wind Electric Generators (WEGs) each of 225 kW capacity installed in the windfarm at Jamgodrani, Dist. Dewas at locations 45, 50 to 53 Hill-C. These WEGs were commissioned on 27.05.1998. The electricity generated by these WEGs was wheeled to the premises of M/s Kataria Wires Pvt. Ltd. who are HT consumer of the West Discom. Petitioner executed PPA on 17.05.2000, with the then MPEB for a period of 12 years, effective from date of commissioning i.e. 27.05.1998 for wheeling of power to third party. The said agreement expired on 26.05.2010. Thereafter, Petitioner filed a petition (registered as Petition No. 31/2010) before the Commission seeking permission for continuing the sale of energy to third

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party for the balance period of plant life. The Commission vide its order dated 28.06.2010 granted the permission for sale of power to third party.

4. Pursuant to the said order of the Commission, Petitioner submitted the PPA and wheeling agreement to the MP Tradeco, vide letter dated 18.12.2010. However, Respondent No.1 returned the same vide letter dated 04.02.2011, with the following remarks:

“It has been decided by the competent authority that power wheeling agreement shall only be signed with WEGs for wheeling power for consumption/sale to third party. Accordingly, MP Tradeco will not purchase surplus/excess/inadvertent flow of power injected into the system. A draft of revised power wheeling agreement is being sent separately for execution.”

5. Aggrieved with the response of Respondent No.1, Petitioner again filed a petition before the Commission on 23.03.2011. Subsequently, the Commission passed order dated 07.06.2011, directing Respondent No.1 to comply with the provisions of tariff order dated 14.05.2010, without demur. In compliance with the Commission's direction issued in the said order, Respondent No.1 vide letter dated 17.09.2011 agreed to execute the PPA with Petitioner as per the draft model PPA approved by the Commission. Consequently, Petitioner approached the third party M/s Kataria Wires Pvt. Ltd. for signing the PPA. On refusal of the third party to execute the PPA by the third party on account of delay in execution of PPA and reorganization in the third party's production set up etc., Petitioner wrote a letter dated 10.11.2011 to MP Tradeco. and expressed their willingness to sell the power generated and fed into the system but not wheeled to third party w.e.f. 27.05.2010 to MP Tradeco. at the rate of Rs. 2.87 per unit as per the tariff order. Petitioner has also requested MP Tradeco to execute PPA, accordingly. Petitioner has submitted that the response from Respondent No. 1 is still awaited.

6. Petitioner has prayed that M/s Cepco Industries Pvt. Ltd. may be allowed to sale the power generated and fed into the system by their WEGs w.e.f. 27.05.2010 and onwards to M.P. Power Trading Co. Ltd. The PPA should be signed for purchase of

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power at the rate of Rs. 2.87/- per unit as determined by the Commission in the Wind Power Tariff Order of November 2007 for the balance period of 8 years of the WEGs.

7. It is submitted that the Clause 12.21 of the present tariff order dated 14.05.2010 provides that, if a developer wants to terminate the third party agreement and is willing to sell the power to the utility, the utility may accept the request with permission of the Commission, provided the owner is willing to execute the PPA with the Licensee for the remaining period project life of 20 years. In the present case, Petitioner is seeking permission to sell the power that is generated from its WEGs to Respondent No.1 and to execute the PPA for the same from retrospective dated i.e. 27.05.2010 for the balance period of the agreement.

8. The case was listed for hearing on 20.12.2011 which was rescheduled to 19.12.2011.

9. During the hearing on 19.12.2011, Petitioner reiterated the contents of the petition. Respondent No. 1 submitted that Petitioner had to enter into an agreement with the third party for sale of all the energy generated from above said WEGs and Respondent No. 1 is required to purchase only inadvertent flow of power from above said WEGs which is a very small quantum of power. It was further submitted by Respondent that Petitioner vide letter dated 10.11.2011 informed that third party has declined to accept their WEG power and sign the agreement because of reorganization in the third party's production set up. Petitioner in this letter expressed their willingness to sell all power generated to Respondent No. 1 w.e.f. 1.7.2010 and onwards whereas in the instant petition Petitioner prayed to allow sale of power w.e.f. 27.5.2010. Therefore, both the requests of Petitioner are contradictory. It was also submitted by Respondent No. 1 that Commission vide order dated 10.3.2011 in petition no. 100/2010 held that Respondent No. 1 is not required to enter into retrospective agreement. Respondent therefore prayed to allow purchase of power from prospective date at the rate determined in tariff order dated 21.11.2007 and Respondent No. 1 should not be made

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to purchase all power injected into the grid by Petitioner w.e.f. 27.5.2010 and onwards. During the hearing, similar request was made by Respondent No. 2.

10. On hearing Petitioner and Respondents and considering the facts of the case, the Commission has noted that Petitioner in petition no. 22/2011 prayed to the Commission to ask Respondent No.1 to comply with the order dated 28.6.2010 issued in petition no. 31/2010 wherein agreement for power purchase and wheeling agreement for third party sale was required and surplus energy (inadvertent flow of energy) fed into the system by WEGs was to be procured by Respondent No. 1. Respondent No. 1 did not comply with the order. It was only on 17.09.2011 after another order of the Commission that Respondent No.1 agreed to execute the PPA. The Commission has also noted that Petitioner continued to inject power without the consent of Respondents w.e.f. 27.05.2010 onwards. Petitioner has applied to Respondent No. 1 on 10.11.2011 to purchase all injected power w.e.f. 01.07.2010 and in the Commission on 21.11.2011 to purchase all injected power w.e.f. 27.05.2010. The Commission, therefore, is of the view that Petitioner has defaulted on account of injection of power into the grid without consent/permission. However, considering the fact that Petitioner is a small renewable source generator and the mandate of Electricity Act, 2003 is to promote such sources of power, the Commission directs that Respondent No.1 shall purchase energy (supplied to grid but not adjusted against third party sale) during 27.05.2010 to 20.11.2011 at applicable rates as per tariff order dated 21.11.2007. The Commission further directs Respondent No. 1 to purchase all units available for sale from Petitioner w.e.f. 21.11.2011 as per provisions in applicable tariff order.

11. With the above directions, the Petition No. 70 of 2011 stands disposed of.

Ordered accordingly,

sd/-
(C.S.Sharma)
Member

sd/-
(Rakesh Sahni)
Chairman