

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 93/MP/2022

- Subject : Petition under section 79(1)(f) of the Electricity Act, 2003 read with Regulation 27 of the CERC (Conduct of Business) Regulations, 1999 and Regulation 56 of the CERC (Terms and Conditions of Tariff) Regulations, 2019 seeking directions to allow pass through in the generation tariff, of interest levied on electricity duty and energy development cess paid by the petitioner in respect of energy supplied from its generating stations.
- Petitioner : NHDC Limited
- Respondents : MPPMCL and 2 others
- Date of Hearing : **19.1.2023**
- Coram : Shri I.S Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member
- Parties Present : Ms. Suparna Srivastava, Advocate, NHDCL
Shri Tushar Mathur, Advocate, NHDCL
Ms. Aastha Jain, Advocate, NHDCL
Shri Naresh K. Chellani, NHDCL
Shri Anurag Seth, NHDCL
Shri Ashish Jain, NHDCL
Shri Ravi Sharma, Advocate, MPPMCL

Record of Proceedings

Case was called out for virtual hearing.

2. During the hearing, the learned counsel for the Petitioner mainly submitted as under:
- (a) The Petitioner is supplying 100% power to the State of MP under the central sector allocation. The PPA executed by the parties, provides for all taxes, duties, surcharges etc. to pass through in tariff. In the year 2005, the State Government directed the Petitioner to deposit Electricity Duty (ED) under the Madhya Pradesh Electricity Duty Act, 1949 and Energy Development Cess (EDC) under the Madhya Pradesh Upkar Adhiniyam, 1981, on the energy supplied under the PPA. Despite clarification given by the Petitioner for exemption under the said laws, the demand for payment of ED and EDC was reiterated.
- (b) On 23.1.2014, the Petitioner was informed by Respondent No. 3 that ED and EDC are to be paid by the Petitioner. However, this payment will have no financial impact on the Petitioner as it will get pass through in tariff.



- (c) The Petitioner had paid ED and EDC expeditiously, after obtaining details of the dues from the Respondents. After 4 months of making payment of ED and EDC, the Petitioner was asked to pay the interest on late payment of ED and EDC.
- (d) The Petitioner took up the matter with Respondent No. 3 and also with the Secretary, MOP, GOI. The Secretary, MOP, GOI wrote to Respondent No. 3 stating that considering the circumstances, the payment of interest does not arise and it should be waived. However, the State Government of MP reiterated for payment of interest.
- (e) The Petitioner had approached the Hon'ble High Court of MP and the State Government submitted before the Hon'ble High Court, that they will try for an out of court settlement. The Petitioner wrote to the Chief Secretary, MP Government and a meeting was convened with all stakeholders. However, the Hon'ble High Court was informed that nothing substantive was decided in the meeting.
- (f) The Hon'ble High Court disposed of the matter and directed the Petitioner to make a representation to the Chief Secretary, MP Government. The Chief Secretary, convened another meeting and it was decided in the meeting that the Petitioner should pay the interest and approach this Commission for directions, regarding pass through of the interest levied, in tariff.
- (g) The Petitioner, paid the entire amount, including the additional demand raised, with interest. Accordingly, the amounts paid may be allowed as a pass through in tariff.
3. The learned counsel for the Respondent MPPMCL sought time to file written submissions along with the list of dates, in the matter, which was permitted. The Petitioner shall, if required, file its response to the same, if any new facts are brought on record by the Respondent.
4. The Commission, also directed the filing of the following additional information (not exceeding two pages), after serving copy to the other, on or before **21.2.2023**:
- (a) The Petitioner shall submit a brief chronology of events leading to the payment of the amounts to the MP Government;
- (b) The Respondent MPPMCL shall, in its written submissions, file details with regard to the default in payments by the Petitioner and as to why the said amounts should not be allowed as a pass through in tariff.
5. Matter remains Part-heard and shall be listed for hearing on **16.3.2023**. Parties shall ensure that the submissions shall be filed within the due dates mentioned

By order of the Commission

Sd/-
(B. Sreekumar)
Joint Chief (Law)

