

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17

No. F.11(1534)/DERC/2017-18/5980

Petition No. 56/2017

In the matter of: **Petition under Section 86 (1)(b) and other provisions of the Electricity Act, 2003 for approval of bidding process, adoption of tariff of Municipal Waste based plant and approval of draft PPA.**

South Delhi Municipal Corporation

...Petitioner

VERSUS

Tata Power Delhi Distribution Ltd. & Ors.

...Respondents

Coram: Hon'ble Mr. Justice S S Chauhan, Chairperson

Appearance:

1. Ms. Swapna Seshadri, Adv. SDMC
2. Ms. Parichita Chowdhury, Adv. SDMC
3. Mr. Buddy Ranganadhan, BRPL & BYPL
4. Mr. Ashutosh Srivastava, Adv., TPDDL
5. Mr. Rahul Kinra, Adv. TPDDL
6. Mr. Mayank Garg, Adv. NDMC
7. Mr. Tushar Sannu, Adv. NDMC

ORDER

(Date of Hearing: 25.10.2018)

(Date of Order: 02.11.2018)

1. The instant Petition has been filed before the Commission for approval of bidding process, adoption of tariff of Municipal Solid Waste based plant and approval of draft PPA. The Petitioner has made the following prayer in the Petition:
 - (i) Adopt the levelised tariff of Rs. 5.129/kWh for sale of power from the project;
 - (ii) Approve the draft PPA; and
 - (iii) Direct the Distribution companies to sign the approved PPA with the successful bidder.
2. The Commission vide Interim Order dated 28.12.2017 has adopted the levelised tariff of Rs. 5.129 per unit as determined through bidding process and the parties were directed to negotiate the terms of PPA and submit draft signed PPA within four weeks.

3. It was brought to the notice of the Commission that there are certain issues which require reconciliation. Accordingly, the parties were given additional time to sort out the issues and agree on the terms of draft PPA.
4. The Counsel for the Petitioner submitted that the three DISCOMs viz. BRPL, BYPL and TPDDL have agreed to sign the PPA provided the Commission issues directions in respect of following three issues:
 - (i) Date of Commercial Operation;
 - (ii) Deviation from scheduled power; and
 - (iii) Billing on the basis of annual tariff.
5. The Counsel for the Respondents DISCOMs viz. BRPL, BYPL and TPDDL endorsed the submission of the petitioner and requested that apart from these three issues, the *inter se* proportion of procurement of power from this plant may also be decided on the basis of actual sale of energy to the consumers of respective licensee during the year.
6. Whereas, the Counsel for NDMC submitted that it would not be appropriate to sign PPA without the plant being operational i.e. commissioned and therefore, NDMC shall sign PPA once the Date of Commercial Operation (CoD) of the Plant is achieved.
7. It is observed that National Tariff Policy mandates that the entire power generated by Waste to Energy projects should be procured. The purpose of Waste to energy is to dispose off the waste and divert from dump with the objective of protecting environment. The plant is also "Must Run" and deemed to be scheduled. Ministry of Power *vide* press release dated 20.01.2016 has stated that in order to give boost to Swachh Bharat Mission, Government of India has made amendments to National Tariff Policy directing that the Discoms shall mandatorily procure 100% power produced from Waste-to-Energy plants and has excluded waste to energy from competitive bidding process and these amendments will benefit power consumers in multiple ways. Such plants would also aid the objectives of Swachh Bharat Mission as well as Namami Gange Mission through conversion of waste to energy, usage of sewage water for generation and in turn ensure that clean water is available for drinking and irrigation.
8. In view of the above, the argument preferred by the NDMC is not tenable in the instant case of procurement of power from a waste to energy plant.

In such power plants, where procurement of power is compulsory, it is always imperative to settle the terms of purchase through PPA, which ought to be signed before commissioning of the Plant and therefore, NDMC is directed to sign the PPA alongwith other DISCOMs, within a week.

9. On the three issue requiring intervention of the Commission, it is directed that;

(i) The date of commercial operation of the plant shall mean the date declared by the generating company after demonstrating 90% of the maximum continuous rating (MCR) or the installed capacity (IC) through a successful trial operation for a continuous period of 24 hours after advance notice of 7 days to the beneficiaries, if any, and in case the generating station as a whole, the Date of Commercial Operation of the last generating unit or block of the generating station.

(ii) For a period of maximum 2(two) year from the date of the commissioning of the project, there shall be no commercial/financial implication in the case of deviation from the scheduled power and the actual generation shall be treated as scheduled generation,

(iii) The approved levelised tariff of Rs. 5.129 per unit has been discovered by the Petitioner by taking into account the annual tariff of the plant quoted in the bid. However, the billing of energy during the year shall be done on the basis of respective annual tariff quoted in the bid.

(iv) On the basis of approved energy input as provided by SLDC during current year, the *inter se* proportion in percentage of procurement of power from the plant shall be as under:

DISCOMs	Approved Energy Input for FY 2016-17 (MU)	Percentage
BRPL	12564.16	41.72%
BYPL	7027.92	23.33%
TPDDL	9062.97	30.09%
NDMC	1464.36	4.86%
Total	30119.41	100.00%

10. The Respondent Discoms are directed to incorporate the aforesaid provisions in the PPA and submit the signed PPAs before the Commission within 4 weeks.
11. With the aforesaid directions the Petition is disposed of.

Sd/-
(Justice S S Chauhan)
Chairperson