



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017.

F.11(2222)/DERC/2024-25/8108

Petition No. 30/2024

In the matter of: **Petition under Section 62, Section 86(1)(b) and 86(1)(e) of EA 2003, read with Regulation 45 of the DERC Comprehensive (Conduct of Business) Regulations, 2001 seeking approval of the Draft Power Purchase Agreement between Nuclear Power Corporation of India Limited and BSES Yamuna Power Limited for Rajasthan Atomic Power Station Unit-5 & 6 for 14 MW of Nuclear Power.**

BSES Yamuna Power Ltd.

....Petitioner

Vs.

Nuclear Power Corporation Ltd.

...Respondent

Coram:

**Justice (Retd.) Jayant Nath, Chairperson
Sh. Ram Naresh Singh, Member
Sh. Surender Babbar, Member**

Appearance:

- 1. Mr. Buddy A Ranganadhan, Advocate, Petitioner.**
- 2. Mr. Dushyant Manocha, Advocate, Petitioner**
- 3. Mr. Brian Moses, Advocate, Petitioner**
- 4. Ms. Kashish Chhabra, Advocate, Petitioner**

ORDER

(Date of Order: 04.02.2025)

1. The instant Petition dated 01.05.2024 has been filed by BSES Yamuna Power Ltd. ("BYPL") for seeking approval of the Draft Power Purchase Agreement, (placed as Annexure 'L'), between Nuclear Power Corporation of India Limited and BSES Yamuna Power Ltd. for Rajasthan Atomic Power Station Unit 5&6 for 14MW of Nuclear Power. The Petitioner has made the following prayer:
 - a. To approve the Draft Power Purchase Agreement ("Draft PPA") for 14MW of nuclear power between Nuclear Power Corporation of India Limited ("NPCIL") and the Petitioner from the Rajasthan Atomic Power Station Unit 5&6 ("RAPS-5&6") for a period of 15 years.

Petitioner's Submissions

2. The Petitioner has submitted the following:

- i. The Petitioner is a distribution licensee under the provisions of the Electricity Act, 2003 ("EA 2003") having its area of supply in South East, North East & Central Delhi.
- ii. The Petitioner is filing the present Petition in terms of the communication dated 19.04.2020 of the Commission and is seeking *inter alia* the approval of the Draft PPA for 14 MW between the Respondent, i.e., NPCIL and the Petitioner from the RAPS-5&6.
- iii. NPCIL has set up nuclear power plants within the country in general and within the northern region in particular, including the station at RAPS-5&6 at Rawatbhata near Kota, Rajasthan, designed for an installed nominal capacity of 400 MWe, consisting of two units each of 220MWe. The first unit of the two units of the Power Station has been declared commercial since 04.02.2010 and the second unit has been declared commercial since 31.03.2010.
- iv. That on 27.04.2005, DTL entered into PPA with NPCIL for supply of power to NCT of Delhi for a period of 15 years, i.e, till 26.04.2020. The Commission on 31.03.2007 passed Order for reassigning the PPAs in various Generating Stations including that of RAPS-5&6 with effect from 01.04.2007. The Commission while re-assigning the PPA to the Petitioner, BRPL and TPDDL also issued *inter-alia* the following directions:

"...

ii) All existing PPAs (with the exception of Badarpur TPS, NCR Dadri TPS, IPGCL and the PPCL both existing and future capacities) shall be allocated amongst the three Distribution Companies, namely, the NDPL, BRPL and BYPL in a ratio which would be in proportion to the energy drawn by them from the date of unbundling to February 2007. For the NCR Dadri TPS, IPGCL and the PPCL, only 85% of the capacities shall be allocated amongst the three Discoms on the same principle. Insofar as Badarpur is concerned, only 85% of the capacity left after allocating to the NDMC and the MES would be allocated between the three Discoms, again on similar lines. The capacity allotted to each of the Distribution Companies arrived at on the basis of this principle is annexed along with this Order.

...

vi) With the allocation arrangements discussed above, the allocations made from individual stations shall be effective during the period 1.04.2007 to 31.03.2011.".....

- v. The Petitioner's PPA with NPCIL was coming to end on 26.04.2020, during the COVID-19 pandemic. COVID-19 pandemic prompted the Governments to implement measures like lockdowns, travel restrictions, and social distancing to curb its spread. These measures, at the time, disrupted normal life patterns, directly impacting electricity consumption patterns, demand, and supply dynamics. Further, during the pandemic, industrial and commercial activities were significantly scaled back.
- vi. That accordingly, the Petitioner on 09.04.2020 and 11.04.2020, along with other DISCOMs, approached the Commission regarding the renewal of the PPA with NPCIL for RAPS-5&6.
- vii. That on 19.04.2020, the Commission responded vide its e-mail stating that considering various factors it was pleased to accord its in-principle approval for allocation of power from RAPS-5&6 at the existing terms and conditions beyond the expiry of existing PPA and directed the DISCOMs to file an appropriate petition.
- viii. That there was a lack of communication from NPCIL, as regular communication and administrative processes were impacted on account of the COVID-19 pandemic. Consequently, it was only on 02.08.2022 that NPCIL shared the revised Draft PPA in line with the latest approvals from its Board Committee.
- ix. That on 06.01.2023, the Petitioner after continuous deliberations, shared a revised version of the Draft PPA which was redrafted, in order to bring it in line with the changes in the Rules and Regulations applicable to PPAs.
- x. The Parties exchanged communications on open points. On 29.01.2024 NPCIL requested that a physical meeting be conducted on 07.02.2024 and 08.02.2024 at Rawatbhata.
- xi. That a meeting was held at Rawatbhata on 07.02.2024 between the officials of NPCIL and the Petitioner. The summary of the minutes of the meeting is as below:
 - a. The Petitioner highlighted that any deviations in the terms of the existing PPA would necessitate approval from the Commission.
 - b. NPCIL accepted the Petitioner's demand for including electronic mode as one of the accepted mode of payment. The same has been incorporated in the Draft PPA.

- c. NPCIL agreed to increase the number of days for raising a dispute from 3 to 10 days from invoice date in line with Praapti guidelines.
- d. The Petitioner agreed to incorporate LPS Rules, 2022 in the Draft PPA, since NPCIL stated that this rule was accepted by NPCIL's Board and approved by the Department of Atomic Energy (DAE, the Regulatory Authority for NPCIL) and any omission of the reference to these rules would require approval from both NPCIL Board and DAE. This process would take considerable time and the chances of the omission of reference to LPS Rules getting approved were bleak.
- e. With respect to presentation of monthly bills, NPCIL agreed to replace the words "at the end of each calander month for energy supplied to BYPL from the Power Station on the basis of the REA....." With "for immediate preceding month for energy supplied to BYPL from the Power Station on the basis of the REA...."
- xii. That pursuant to the meeting held as mentioned above, the Petitioner and NPCIL have agreed to the terms of the Draft PPA proposed to entered into, which is largely in line with the existing terms and conditions of the expired PPA with certain deviations making the Draft PPA more commercially viable and bringing it line with the current market practices. These deviations include:

S.No.	Earlier PPA with DTL	Draft PPA
1.		Clause 2.3: Allocation of power from any other power plant of NPCIL from time to time out of its unallocated power shall stand allocated as per terms and conditions of this agreement except Tariff. The Tariff applicable for the unallocated power shall be the Tariff Notified/Provisional Tariff for that power plant from time to time.
2.	Clause 7.3: In the event of any additional investment made with the approval of DAE towards the modification of the power station's facilities to meet the safety requirements, the tariff will be revised as per notification issued by the Government of India. However, in case of any additional investments towards modifications/improvement of operational efficiency, the DTL/bulk Power Beneficiaries shall be consulted and informed.	Deleted
3. Clause 8.1.1: Such bills shall be in accordance with the Tariff rates in force. If there are no Tariff rates in	Clause 7.3: Pending the Notification of the tariff or any other such imposition by DAE, the bill shall be

	force in any period, the Bulk Power Beneficiaries shall pay in accordance with the latest valid notified Tariff rates.	paid at provisional tariff that would be indicated by NPCIL.
4.	Clause 8.1: The DTL shall pay to NPCIL all bills for energy supplied to it by the Power Station as well as the bills for the interest charges, if any, levied, through a Letter of Credit (LC) as per Clauses 8.2.1, 8.2.2, and 8.2.3 below on presentation of such bills by the Power Plant, in accordance with various provisions of this Agreement. The procedure for assessment of supply of energy shall be as laid down in the memorandum of instructions appended as Annexure-A to this Agreement and referred to in clause 5.0 of this agreement.	Clause 9.1: The BYPL shall pay to NPCIL all bills for energy supplied to it by the Power Station as well as the bills for the interest charges, if any, levied, through a Letter of Credit (LC), Standby Letter of Credit (SBLC), Direct Pay Letter of Credit (DPLC), Bank Guarantee (BG), Standby Bank Guarantee (SBG), or any payment security mechanism as notified by MoP/GOI time to time as per Clauses 10.1, 10.2, 10.3, and 10.4 below on presentation of such bills by the Power Plant, in accordance with various provisions of this Agreement. The procedure for assessment of supply of energy be as laid down in the memorandum of instructions appended as Annexure-A to this Agreement and referred to in Clause 5.0
5.	Clause 8.1.1: NPCIL shall present the bills at the end of each calendar month for energy supplied to DTL from the Power Station on the basis of the Regional Energy Account issued by NREB. The date of presentation of the bill shall be the sixth day from the date of the issue of the bill.	Clause 9.2: NPCIL shall present the bills electronically by email or address as given at Clause 18.0 for the immediate preceding month for energy supplied to BYPL from the Power Station on the basis of the Regional Energy Account issued by NRPC/Delhi SLDC or any designated authority in line with the applicable codes/directions. The date of presentation of the bill shall be the date of e-bill delivered through email.
6.	Clause 7.5.2 The total amount of such taxes/duties/cess etc. payable by NPCIL to the authorities concerned in any month on account of the said taxes/duties/cess etc. as referred to above shall be borne and additionally paid by the DTL to NPCIL and the same shall be charged in the monthly bills raised by NPCIL in proportion of energy drawl by DTL from NPCIL. Clause 8.1.3 The monthly bill for the power station shall be aggregate charges in accordance with the provisions of the agreement. If for certain reasons some of the charges cannot be included in the main monthly bills, the power stations will raise supplementary bill(s) for such amounts.	Clause 9.4: The monthly bill for the Power Station shall reflect tariff along with statutory taxes, levies such as decommissioning, self-insurance and nuclear liability fund, and other applicable charges in accordance with the provisions of the Agreement. If for certain reasons, some of the charges cannot be included in the main monthly bills, the Power Station will raise supplementary bill(s) for such amounts.
7.		Clause 9.5: If the amount of the bill is more than the amount of Letter of Credit (LC), Standby Letter of Credit (SBLC), Direct Pay Letter of Credit

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WASH HANDS REGULARLY

MAINTAIN SOCIAL DISTANCING

		(DPLC), Bank Guarantee (BG), or Standby Bank Guarantee (SBG), NPCIL will prepare two bills, out of which one bill for one amount equal to the amount of approved Trade finance instruments and the second bill for the balance amount of direct payment to be made by the Beneficiaries on or before the last day of the month in which the bill is raised.
8.	Clause:8.1.6 In the event of any error in the bills coming to the notice of DTL, it shall within 30 days of the date of presentation of the relevant invoice, communicate the same to NPCIL in writing, stating the error noticed and the full reasons/data of error, provided, however, that non-acceptance of the tariff determined/approved by DAE shall not be the valid ground for the dispute.	Clause 9.8: In the event of any error in the bills coming to the notice of BYPL, it shall within ten (10) days of the date of presentation of the relevant invoice, communicate the same to NPCIL in writing, stating the error noticed and the full reasons/data of error, provided, however, that non-acceptance of the tariff determined/approved by DAE shall not be the ground for withholding payments. Non-payment of such bills beyond the due date would attract delayed payment charges as per the provisions of this Agreement.
9.	Clause 8.1.7: If bill amounts are not realized in the NPCIL account, the bill amount not received would be payable with an interest @ zero point zero four one percent (0.041%) per day (i.e. 15% per annum compounded quarterly) from the last day of the month following the month in which the bill is raised by the NPCIL.	Clause 9.9: BYPL shall pay the entire bill in respect of which an error is noticed in accordance with Clauses 7.0 and 8.0 in full. The Power Plant will modify the bill, if found necessary, in consultation with NRPC and shall refund any amount overcharged with an interest calculated as per MoP notification dated 3/6/2022, interest calculated @ 0.049% per day (18% p.a.) for late payment surcharge specified in Clause 12 from the date of receipt of the amount to the date of refund to the BYPL.
10.	Clause 8.2.1: DTL shall also open an irrevocable revolving LC, in favor of NPCIL & maintained by DTL at a branch of the State Bank of India or any Nationalized Bank, as may be mutually agreed. The LC shall be established prior to the commencement of power supply from the Power Stations. The LC shall be established for an amount equal to 105% of the average of monthly energy bills of the immediately preceding six months excluding the periods of planned shutdown. The Power stations will inform to the DTL the amount of LC, which is required to be opened as per the above guidelines.	Clause 10.1: The payment of all bills shall be made by the BYPL preferably through Trade Finance Instrument [Letter of Credit (LC), Standby Letter of Credit (SBLC), Direct Pay Letter of Credit (DPLC), Bank Guarantee (BG), Standby Bank Guarantee (SBG)] or any payment security mechanism as notified by MoP/GOI time to time including advance cash payment in case no Trade Finance Instrument is established. The aforesaid instrument to be opened in favor of NPCIL and maintained by BYPL at a branch of the State Bank of India or any Nationalized Bank, as may be mutually agreed. The Trade Finance Instrument shall be established prior to the commencement of power supply from the Power Station. The Trade Finance Instrument shall be established for an amount equal to

		105% of the average of monthly energy bills of the immediately preceding twelve months excluding the periods of planned shutdown, to be reviewed every six months in January & July. The Power Plant will inform to the BYPL the amount of Trade Finance Instrument required to be opened as per above guidelines.
11.	Clause 8.2.2 : The LC shall be valid for a minimum period of one year at all times without any limitation or restriction with regard to the manner and dates when bills(s) can be presented to the Bank by NPCIL. DTL shall ensure that LC as above remains valid at all times during the entire/extended validity of this Agreement. The bills so presented by NPCIL to the bank shall be promptly paid on their presentation. All the LC charges shall be borne by the DTL.	Clause 10.2: The aforesaid Instrument shall be valid for a minimum period of one year at all times without any limitation or restriction with regard to the manner and dates when bills(s) can be presented to the Bank by NPCIL. Beneficiaries shall ensure that Trade finance instruments as above remain valid at all times during the entire/extended validity of this Agreement. All the Trade finance instruments charges shall be borne by the BYPL.
12.		Clause 10.4: Orders and circulars issued by GOI or any other agency such as MoP, CERC, CEA etc. from time to time, and offering better payment security mechanism shall also be applicable.
13.	Clause 8.3.1: 2.5% (two and a half percent) only (excluding duties, levies, etc.) on the amount of the bill negotiated through the LC on presentation of the bills by the NPCIL to Bank.	Clause 11.1: NPCIL shall allow a rebate as per Table-1 below, on the amount of the bill negotiated through the approved Trade Finance Instrument on presentation of the bills by the NPCIL to Bank or paid through other means by BYPL and realized within the last day of the calendar month in which the date of issue of the bill is recorded as per Clause 9.2 above or adjustment against advance deposited with NPCIL through electronic mode before supply of energy to the Beneficiaries. NPCIL shall not allow any rebate where the bill amounts are realized in the NPCIL account subsequently, in the following month to the month in which the date of issue of the bills is recorded, as mentioned under Clause 9.2 or in absence of an approved instrument of requisite value if paid through any other means except adjustment against advance deposited by beneficiary before purchase of electricity.
14.	Clause 8.4.1: Bill amounts are not realized in the NPCIL account, the bill amount not received would be payable with an interest @ zero point zero four one percent (0.041%) per day (i.e. 15% per annum	Clause 12: If Trade finance instrument is opened for any amount lower than calculated as per Clause 10.1 above or though the Trade finance instrument is opened and bill amounts are not

	compounded quarterly) from the last day of the month following the month in which bill is raised by the NPCIL.	realized in the NPCIL account, the outstanding amount would be payable with an interest as per MoP Rules for Late Payment Surcharge from the last day of the month following the month in which the bill is raised by the NPCIL. The same shall be applicable in case of advance deposit. Also no rebate will be admissible on such amount. Notwithstanding the above, the provisions of the present Agreement shall not be applicable on any dues under the past agreement.
15.	Clause 9.0: The Agreement shall come into effect from the date of signing of the agreement shall continue to remain in force for a period of 15 years thereafter. In case, DTL continues to get power from the Power Plant after expiry of this agreement without further renewal or formal extension thereof, all the provisions of this Agreement shall continue to operate till this agreement is formally renewed, extended or replaced.	Clause 14: The Agreement shall come into effect from the date of its signing and shall continue to remain in force for a period of 15 years from the date of signing of the Agreement. In case, BYPL continues to get power from the Power Plant after expiry of this agreement without further renewal or formal extension thereof, all the provisions of this Agreement shall continue to operate till this Agreement is formally renewed, extended or replaced.
16.	Clause 11.0: The parties shall ensure compliance of the terms of this Agreement. However, no party shall be liable for any claims for any loss, damage or compensation whatsoever arising out of failure to carry out the terms of this Agreement, the extent that such failure is due to force majeure events such as war, rebellion, mutiny, civil commotion, riot, strike, lockout, fire, explosion, tempest, flood, lighting, earthquake or other forces, accident or any cause beyond the reasonable control of any party, or act of God or due to any restraint or regulation of the State or Central Government. But any party claiming the benefit of this clause shall satisfy the other party of the existence of such an event and give written notice within 30 days to the other party to this effect. Generation/drawl of power shall be started as soon as practicable by the parties concerned after such eventuality has come to an end or ceased to exist.	Clause 16: The parties shall ensure compliance of the terms of this Agreement. However, no party shall be liable for any claims for any loss, damage or compensation whatsoever arising out of failure to carry out the terms of this Agreement, the extent that such failure is due to force majeure events such as war, rebellion, mutiny, civil commotion, riot, strike, lockout, fire, explosion, tempest, flood, lighting, earthquake or other forces, accident or any cause beyond the reasonable control of any party, or act of God or due to any restraint or regulation of the State or Central Government. But any party claiming the benefit of this clause shall satisfy the other party of the existence of such an event and give written notice within 30 days to the other party to this effect. Generation/drawl of power shall be started as soon as practicable by the parties concerned after such eventuality has come to an end or ceased to exist.

- xiii. That even as per the demand-supply analysis, since the earlier PPA has come to an end, the present Draft PPA will help in meeting the load profile of the Petitioner as per the Power Supply Deficit scenario at a reasonable cost on a long-term basis.

- xiv. That the nuclear energy is reliable and clean which, in turn, benefits the consumer as well.
- xv. NPCIL supplies power at a very competitive tariff, i.e. FY 2022-23 for RAPP Rs. 3.92/kWh. Moreover, the tariff is single part tariff against the long term tariff of Rs. 4.43/kWh from other long term sources in FY 2022-23. Further, the power from nuclear source is base load and should not be considered with RE power which has peaking and intermittent power.

Commission Analysis

3. The instant Petition has been filed by BSES Yamuna Power Ltd for seeking approval of the Draft Power Purchase Agreement ("Draft PPA") entered into by the Petitioner with Nuclear Power Corporation of India Limited for 14 MW of nuclear power from Rajasthan Atomic Power Station. (RAPS Units 5 & 6).
4. The mutually agreed instant Draft PPA is similar to the Original PPA dated 27.04.2005 except that certain amendments have been made therein in order to bring the same in conformity with the LPSC Rules, 2022 made by the Ministry of Power, Govt. of India. The Commission observes that the other deviations sought by parties in the draft PPA have been mutually agreed to and generally pertain to the aspects of presentation of bills, resolution of errors in the Bills and the mode of payments.
5. Considering the above facts and circumstances, the Commission grants approval to the Draft PPA, placed as Annexure 'L' to the Petition. As per the terms of the proposed Draft PPA, the Tariff shall be charged by the Respondent as per the Notification issued by the Department of Atomic Energy from time to time as per the provisions of the Atomic Energy Act, 1962. Once the PPA is signed by the Parties, the Petitioner shall file a copy thereof with the Commission for record.
6. Ordered accordingly.

Sd/-
(Surender Babbar)
Member

Sd/-
(Ram Naresh Singh)
Member

Sd/-
(Justice (Retd.) Jayant Nath)
Chairperson