

DELHI ELECTRICITY REGULATORY COMMISSION
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017.

No. F.11(1394)/DERC/2016-17

PETITION NO.27/2016

- In the matter of:**
- (1) Petition for execution of PPA by the Discoms of Delhi with the petitioner;**
 - (2) Petition for determination of Generation Tariff in respect of MSWtE Project at Bawana; and**
 - (3) Petition for directions for synchronization of the power plant of the petitioner**

And

In The Matter of:

M/s. Delhi MSW Solutions Limited (DMSL)
6-3-1089/G/10&11, Gulmohar Avenue,
Raj Bhavan road, Somajiguda
Hyderabad-500082, Andhra Pradesh

Through: Mr. IYPE George
Sector 5, Pocket N-1,
Behind Pragati Power Plant,
Bawana Industrial Area, New Delhi

....Petitioner

-Versus-

- 1. Tata Power Delhi Distribution Ltd.
Through its: **Managing Director**
33Kv Sub Station Building,
Hudson Lane,
Delhi 110 009,
- 2. BSES Rajdhani Power Limited
Through its: **CEO**
BSES Bhawan, Nehru Place,
New Delhi-110019.
- 3. BSES Yamuna Power Ltd.
Through its: **CEO**
Shakti Kiran Building,
Karkardooma
New Delhi – 110092.
- 4. The Secretary
New Delhi Municipal Council
Palika Kendra, Sansad Marg
New Delhi 100001
- 5. Delhi Transco Limited
Shakti Sadan, Kotla Road,
New Delhi 110002

6. State Load Despatch Centre, Delhi
Shakti Sadan, Kotla Road,
New Delhi- 110002
7. Chief Engineer (Utilities)
CWE, MES, Kotwali Road,
Delhi Cantt,
New Delhi 110011

...Respondents

Coram: Sh. Krishna Saini, Chairperson
Sh. B.P. Singh, Member

Appearance:

1. Mr. Hemant Singh, Advocate, DMSW
2. Mr. Hasan Murtaza, Advocate, BRPL and BYPL
3. Mr. DBSSR Sastry, Associate Vice President, DMSW
4. Mr. D.V. S.R. Rao, Sr. Manager, DMSW
5. Mr. Lalit Chaturvedi, Sr. Manager, DMSW
6. Mr. Pradeep Kurma, NDMC
7. Mr. Yuganshu Pathak, TPDDL
8. Mr. Mithun Chakraborty, TPDDL
9. Ms. Nayantara Pande, TPDDL

INTERIM ORDER

(Date of Hearing : 29.04.2016)

(Date of Order : 29.04.2016)

1. The Instant Petition has been filed by M/s Delhi MSW Solutions Limited (DMSL) pursuant to the direction of the National Green Tribunal. The Tribunal vide its order dated 04.04.2016 has directed this Commission to determine the generation Tariff of the Petitioner's MSW Plant for the purpose of sale to the Delhi Distribution. The petitioner was also directed to file an appropriate petition before the Commission.
2. In the Petition M/s DMSL has made the following prayer;
 - "i. Direct the Respondent Licensees to execute Power Purchase Agreement(s) with the Petitioner, in terms of the National Tariff Policy dated 28.01.2016 read with the letter dated 23.02.2016(DERC's) for the capacity of the power plant;
 - ii. Determine the tariff payable by the distribution licensees for sale of electricity from the Petitioner's power plant;
 - iii. In the interim direct as follows;
 - (a) Direct the Respondent Nos. 5 and 6 to synchronize the power plant of the petitioner with the Delhi STU grid.

(b) Pass order for provisional tariff to be payable by the Respondent licensees, effective from the date of synchronization till final tariff is determined."

3. The Petition was listed for a hearing on 29.04.2016, which was attended by the counsels and representative of the Petitioner as well as of the Respondents No.1, 2, 3 and 4. However, no appearances were made for Respondents No.5 and 6 namely, DTL and SLDC.
4. The Petitioner has made following submissions before the Commission;
 - a. That the erstwhile MCD invited the competitive proposal for implementation of integrated Municipal Solid Waste Processing and Engineered Sanitary Landfill Facility at Delhi and it had participated in the bidding process and has been selected as successful bidder. The Petitioner has signed concessional agreement with the North Delhi Municipal Corporation for Door-to-Door collection, Transfer, Transportation, developing and integrated Municipal Solid Waste Processing Facility, which includes generation of Power, and Engineered Sanitary Landfill Facility as per MSW (Management & Handling) Rules 2000 on long terms Build, Own and Transfer (BOT) basis on July 17, 2009.
 - b. That as per the amended National Tariff Policy dated 28.01.2016, the electricity generated from waste to energy power plants shall compulsorily be procured by the distribution licensees at the tariff determined by the appropriate Commission. Therefore, the Petitioner had made a representation vide a letter dated 03.02.2016 to the Commission for determination of tariff of its Power Plant as well as for execution of Power Purchase Agreement with the Respondent No. 1 TPDDL.
 - c. That the Commission vide its letter dated 23.02.2016 directed the petitioner to file a petition before the Commission seeking determination of tariff along with a signed PPA for approval.
 - d. That in the mean time certain proceedings relating to waste-to-energy power plant were initiated before the Hon'ble National Green Tribunal in OP No. 22(THC) of 2013, wherein the Petitioner was also arrayed as a

Party and the Hon'ble National Green Tribunal vide its judgment dated 04.04.2016 directed the Petitioner to file an appropriate petition for Tariff determination before the Commission.

5. The Petitioner admitted that the process of Tariff fixation is an elaborate process and may not be finalized in haste and therefore, the petitioner is requesting that at present the Discoms may be directed to execute PPAs as per the revised National Tariff Policy and the Respondents No.5 and 6 may be directed to synchronize the plant for power evacuation.
6. The Counsel for the Respondents NO.2 and 3 namely BRPL and BYPL submitted that they have not received the copy of the petition and sought 10 days time to file reply. The representative for Respondent No. 1 submitted that the petitioner has asked it to execute PPA for the entire power produced by the Petitioner's plant whereas as per the revised National Tariff Policy it should be in proportion to the power procurement by the Discoms of Delhi.
7. The matter was argued at length regarding admissibility of the petition. After hearing the parties, the Commission admits the Petition.
8. On the prayers of the petitioner, the Commission, on the basis of submissions by the parties, has following prayer- wise observations :
 - A.** Regarding the prayer of the Petitioner to direct respondent licensees to execute Power Purchase Agreement for procurement of power from the Petitioner's Plant, the Commission has already issued letter dated 23.02.2016 to the DISCOMs to comply with the amended provisions of the National Tariff Policy notified on 28.01.2016, whereby it is made compulsory for the distribution licensees to procure 100% power from produced from all the waste to energy plant in the state in the ratio of power procured by them from all sources. The relevant provision of the said policy is reproduced hereunder;

"6.4 Renewable sources of energy generation including Co-generation from renewable energy sources:

...

(ii) Distribution Licensee(s) shall compulsorily procure 100% power produced from all the Waste-to-Energy plants in the State, in the

ratio of their procurement of power from all sources including their own, at the tariff determined by the Appropriate Commission under Section 62 of the Act.”

In the State of Delhi percentage wise ratio of Power Procurement amongst the DISCOMs is given in the table below;

DISCOMs	Approved Energy Input for FY 2013-14 (MU)	Percentage
BRPL	11508.8	41.81%
BYPL	6577.38	23.90%
TPDDL	8039.94	29.21%
NDMC	1400.02	5.09%
Total	27526.14	100.00%

Keeping in view the provisions of the amended National Tariff Policy, the distribution licensees of Delhi are to execute Power Purchase Agreement for procurement of power from the waste to energy plant of the petitioner in the ratio indicated above. The Petitioner is required to provide draft PPAs to the DISCOMs for the purpose.

B. Regarding the prayer for determination of tariff u/s 62 of the Electricity Act 2003, the process has been initiated. It is an elaborate process which involves scrutiny of the petition and of financials of the project along with their admissibility. Comments of the Stakeholders are also to be taken into consideration for determination of the tariff as per the extant Regulations.

In respect of the request of the Counsel for the Respondents No.2 and 3 that they have not received a copy of the Petition and therefore 10 days time may be granted to them for filing its reply/submission, the Commission directed the Petitioner to serve the Petition to the Respondents within three days. Thereafter the reply is to be filed by the Respondent within ten days with an advance copy to the petitioner.

C. Regarding interim prayer to direct the respondents no. 5 & 6 namely DTL and SLDC to allow synchronization of power from the plant of the petitioner with the Delhi State Transmission Utility (STU) Grid, the Commission sought the status whether the system is ready for synchronization. The Petitioner submitted that its plant and the grid are

ready for synchronization. In the absence of representative of Respondents No. 5 and 6 viz. DTL or SLDC, the Commission asked the Petitioner whether it can provide a certificate or an affidavit in this regard. However, the Commission feels it appropriate to issue such directions to DTL & SLDC to allow synchronization of power from the plant of the petitioner with the STU Grid so that evacuation of power may take place. This is important particularly keeping in view the concern of the NGT and the fact that non operationalisation of MSW plants are bound to be environmental hazards as well as threats to the human life due to generation of hazardous gases and likely hood of fire at the MSW dumping sites.

D. On the issue of passing an order of provisional tariff, the Commission noted that usually billing of energy takes place after one month from the date of start of procurement of energy. As submitted by the Petitioner such procurement is likely to start not before middle of May, 2016. The requisite Order determining the tariff is likely to be passed by that time. Therefore, provisional tariff Order is not being contemplated at this juncture.

9. Considering the issue of environmental hazards caused by the Municipal Solid Waste, the Commission feels it imperative to set in motion the operationalization of the waste to energy plant of Delhi MSW at Bawana and on the basis of aforesaid deliberations, the Commission makes the following orders:

a. The Petitioner shall provide draft PPAs to the DISCOMs within 3 days from the date of order for procurement of power generated from the waste to energy project of the Petitioner at Bawana in the ratio as indicated below :-

Discoms	Approved Energy Input for FY 2013-14 (MU)	Percentage
BRPL	11508.8	41.81%
BYPL	6577.38	23.90%
TPDDL	8039.94	29.21%
NDMC	1400.02	5.09%
Total	27526.14	100.00%

b. All Distribution Licensees, within one week thereafter, shall execute Power Purchase Agreements;

- c. All the Distribution Licensees shall submit the Power Purchase Agreement for approval to the Commission within two weeks from the date of this Order;
 - d. The SLDC and DTL shall take all necessary measures to facilitate the petitioner for enabling evacuation and synchronization of its power plant with the Delhi STU grid; and
 - e. The Respondents should file their reply to the petition for tariff determination within two weeks.
10. With the above directions the matter is adjourned and the Petition is listed for hearing on 17.05.2016.

Sd/-
(B.P. Singh)
Member

Sd/-
(Krishna Saini)
Chairperson