

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

Petition No. 78/2004, 79/2004 & 80/2004

North Delhi Power Ltd.
Through it's **CEO**
Grid Sub- Station Building,
Hudson Lines, Kingsway Camp,
Delhi.

.....Petitioner No.1

BSES Yamuna Power Ltd.
Through it's **CEO**
BSES Bhawan, Nehru Place,
New Delhi-110019.

.....Petitioner No.2

BSES Rajdhani Power Ltd.
Through it's **CEO**
BSES Bhawan, Nehru Place,
New Delhi-110019.

.....Petitioner No.3

Versus

Delhi Power Company Ltd.
Through it's **CMD,**
Shakti Sadan, Kotla Marg,
New Delhi-110002.

.....Respondent

Coram :

Sh. K. Venugopal, Member & Sh. R. Krishnamoorthy, Member.

Appearance :

1. Sh. Amit Kapur, Advocate, BRPL & BYPL.
2. Sh. R.C. Mehta, BSES.
3. Sh. R. Natrajan, BSES.
4. Sh. A. Mukhopadhyay, BSES.
5. Sh. Rajeev C., Add. Manager, BSES.
6. Sh. S. Wadhwa, CFO.
7. Sh. R.C. Kher, GM/Col./NDPL.
8. Sh. Inder Mohan Singh, Dy. C.S., NDPL.
9. Sh. Puneet Munjal, S.M.(F), NDPL.
10. Sh. Pankaj Kumar, NDPL.
11. Sh. G. Bedi, Advocate.
12. Sh. A.K. Nagpal, DPCL.
13. Sh. Sumeet Pushkaran, DPCL.
14. Sh. M.P. Agarwal, DTL/DPCL.

....Contd.

ORDER

(Date of Hearing: 02 .03.2005)

(Date of Order: 15 .03.2005)

1. Since the issues in matter are similar in nature, three petitions filed by M/s BRPL, BYPL and NDPL are heard together. Sh. Amit Kapur, Advocate, appeared on behalf of BRPL and BYPL while Sh. Sunil Wadhwa, Company Secretary, CFO appeared for the NDPL.

2. Learned Counsel Shri Amit Kapur, appearing for BRPL and BYPL, submitted that under Section 47(4) of Electricity Act, 2003, the licensees are obliged to pay interest on Consumer Security Deposits. It is submitted that as per the Transfer Scheme, as provided under the respective Schedules, the licensees have been given only Rs. 8 crore and Rs.11 crore for BYPL and BRPL, respectively and Rs.10 crore for NDPL for the Consumer Security Deposit and a sum of Rs.170 crore is still lying with the Respondent. It is argued that the Licensees would not be in a position to provide interest on the funds, which is not in their possession and are lying with the Respondent. Under such a situation, it is difficult for the licensees to fulfil their obligations under the Act.

3. Sh. Sunil Wadhwa, appearing on behalf of NDPL, has submitted that Schedule G, of the Transfer Scheme, describes the assets and liabilities transferred to the Holding Co. It is clearly mentioned that all liabilities of the erstwhile Board including all the contingent liabilities other than those specifically included in Schedules B, C, D, E, & F, are the liabilities of the Holding Co. The Consumer Security Deposit over and above Rs.10 crore also stands transferred as a liability of the Holding Co. It is added that since the matter directly concerns the Annual Revenue Requirements of the Licensee and the determination of its tariff, the Commission has full powers to intervene in the matter.

4. Sh. G. Bedi, Advocate, for the Respondent submitted that in case the prayers made by the Petitioners are allowed, it would amount to re-opening and rewriting of the Transfer Scheme and also changing the Opening Bid. The Opening Bid forms the base of the Transfer Scheme and if it is altered at this stage then all the terms and conditions of the bid would have to be re-looked into and there can be serious objections by other bidders who have participated in the bidding process. It is submitted

that the privatisation of the erstwhile DVB was a one-time package and that DVB's assets and liabilities were transferred to the Petitioners as a going concern. It was not contemplated to change the Transfer Scheme at a later stage. The petitioners were aware of all details of the Transfer Scheme at the time of bidding and they have no liberty to ask for anything beyond the Transfer Scheme at this stage. Further, it is added that the liability imposed on the Distribution Companies under the Electricity Act, 2003, cannot be made applicable on the Respondent retrospectively. It is further submitted by the Respondent that the Commission is not vested with the jurisdiction to entertain the present petition, as it is not within the domain of the Commission to either alter or re-write the Transfer Scheme or the Policy Directions.

5. Learned Counsel Shri Amit Kapur, appearing for the Petitioners 2 & 3 prayed that they may be given an opportunity to file a re-joinder to the reply of the Respondent and try to establish that this Commission has powers to intervene in this matter since it pertains to its functions of determining the retail tariff of the Petitioner. Shri Sunil Wadhwa, for Petitioner No. 1 also prayed that the issue is well within the power of the Commission and agreed with the views of the Learned Counsel for Petitioners 2 & 3.

6. Let the Petitioner file his rejoinder within two weeks from date of issue of this Order and serve a copy of the same on the Respondent.

7. The matter would be posted for further hearing after such filings.

Sd/-
(K. Venugopal)
Member

Sd/-
(R. Krishnamoorthy)
Member