



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110 017.

Ref: F.3(707)/Tariff/DERC/2023-24/7799/

Sub: Submission of Draft Public Notice by BRPL and BYPL for the True Up upto FY 2021-22 (BRPL Petition No. 71 of 2022 and BYPL Petition No. 70 of 2022) and ARR for FY 2023-24 (BRPL Petition No. 26 of 2023 and BYPL Petition No. 27 of 2023).

ORDER

(Date of Order: 05.07.2023)

1. This is with reference to BRPL letter No. RA/2023-24/01/A/109 dated 05.06.2023 and BYPL letter No. RA/BYPL/2023-24/63 dated 05.06.2023 on the subject cited above.
2. The Commission had issued DERC (Business Plan) Regulations, 2023, for the Control Period FY 2023-24 to FY 2025-26. Aggrieved by the said Regulations, BRPL & BYPL filed Writ Petitions W.P.(C) No. 6718 and 6719 of 2023 before the Hon'ble High Court of Delhi challenging certain Regulations.
3. The Petition No. 71 of 2022 & petition No. 26 of 2023 and Petition No. 70 of 2022 & 27 of 2023 had been filed by the BRPL and BYPL for True Up upto FY 2021-22 and determination of ARR for FY 2023-24, respectively. By Orders dated 21.01.2023 and 26.05.2023, this Commission has admitted the petition Nos. 70 of 2022 and 27 of 2023 of BRPL and BYPL. The Commission had admitted the petitions No. 26 and 27 of 2023 only with respect to the claim of BRPL and BYPL based on Business Plan Regulations, 2023.
4. Writ Petition Nos. 6718 and 6719 of 2023 were listed before the Hon'ble High Court of Delhi on 01.06.2023. The Hon'ble High Court vide its Order dated 01.06.2023 in the application seeking interim relief bearing C.M. No. 29560 of 2023 considering the statement by the Counsel for this Hon'ble Commission, has directed the Commission as under:

"Learned Counsel for the Respondent has also stated that the present Writ Petitioners shall be free to submit ARR based upon the extant Regulations of 2019 and the same shall be considered in accordance with law. It has also been brought to the notice of this Court that the same has already been submitted by the Petitioners in W.P.(C) 6618/2023 & 6719/2023 and, therefore, the Respondent shall consider the same in accordance with law.

The Petitioner in W.P.(C) 6724/2023 shall be free to submit a representation along with ARR based upon, the extant Regulations of 2019 and the same shall also be considered in accordance with law."

5. The Commission has considered the representation of the BRPL and BYPL for considering the ARR on the basis of The DERC (Business Plan) Regulations, 2019. The said representation requires the Commission to consider the ARR for the Regulations which have come to an end after notification of The DERC (Business Plan) Regulations, 2023.
6. The DERC (Business Plan) Regulations, 2019 were applicable only for the FY 2020-21, 2021-22, 2022-23. Sub-Regulation (2) of Regulation (1) of The DERC (Business Plan) Regulations, 2019 states as under:

“These Regulations shall remain in force for a period of 3 (three) years i.e. for FY 2020-21, FY 2021-22 and FY 2022-23, unless reviewed earlier”.
7. In terms of the provisions of the Electricity Act, 2003, subsequently The DERC (Business Plan) Regulations, 2023 have been notified for the process of fresh determination of the tariff. The DERC (Business Plan) Regulation, 2023 were issued after considering the inputs of all stakeholders including the comments received from DISCOMs as well as the Consumers. The same incorporates the concern of the Stakeholders while balancing out the interest of the Consumers.
8. The Commission has also gone through the provisions of The Electricity Act, 2003 and the regulations issued from time to time. The same do not provide or permit for initiating a parallel process of admitting dual ARR, one on basis of the Regulations in force and the other on the basis of the Regulations which have already lapsed.
9. Any admission of ARR on the basis of The DERC (Business Plan) Regulations, 2019 would result in dual process being issued for same tariff fixation. In case the representation made by the DISCOM would be accepted, the same would be required to be put in public domain resulting in two different ARR and two different process for the same tariff fixation. This would not only be contrary to the provisions of the Act but would lead to complete confusion in the minds of the stakeholders specially the Consumers.
10. Since The DERC (Business Plan) Regulations, 2023 are the basis for tariff determination exercise for FY 2023-24 and admission of the ARR on the basis of The DERC (Business Plan) Regulations, 2019 would neither be proper nor feasible.
11. In view of the above, the Commission considered the representation/ request of the BRPL and BYPL for considering the ARR on basis of The DERC (Business Plan) Regulations 2019, and has decided that the request of BRPL and BYPL cannot be acceded to. The representations for considering the ARR for FY 2023-24 in terms

of the norms and parameters as applicable under The DERC (Business Plan) Regulations, 2019 are therefore rejected.

12. However, this is subject to orders which may be passed by the Hon'ble Delhi High Court in W.P.(C) No. 6718 and 6719 of 2023 and other connected writ petitions.
13. Ordered accordingly.

Sd/-
(Dr. A.K. Ambast)
Member