



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

No. F.11 (2009)/DERC/2022-23/7492

**Petition No. 44/2022**

In the matter of : **Petition under Section 86 of the Electricity Act, 2003 read with Regulation 45 of DERC (Comprehensive Conduct of Business) Regulations, 2001 seeking approval of Supplementary Power Purchase Agreement dated 15.06.2022 entered between the Petitioner and NHPC Limited for Bairasiul Hydro Generating Station.**

**BSES Yamuna Power Limited**

**....Petitioner**

**Versus**

**NHPC Limited**

**....Respondent**

**Coram:**

**Hon'ble Justice (Retd.) Jayant Nath, Chairperson**

**Hon'ble Sh. Ram Naresh Singh, Member**

**Hon'ble Sh. Surender Babbar, Member**

**Appearance:**

- 1. Mr. Buddy Ranganadhan, Advocate, Petitioner**
- 2. Mr. Dushyant Manocha, Advocate, Petitioner**

**ORDER**

(Date of Order: 21.01.2025)

1. The instant Petition has been filed by BSES Yamuna Power Ltd. ("BYPL") seeking approval of Supplementary Power Purchase Agreement (SPPA) dated 15.06.2022 entered between the Petitioner and NHPC Limited for Bairasiul Hydro Generating Station. The Petitioner has made, *inter alia*, the following prayer in its Petition:

- a. To approve the Supplementary Power Purchase Agreement dated 15.06.2022 between BSES Yamuna Power Limited and NHPC for Bairasiul Hydro Power Station and as annexed with the present Petition as Annexure – P/10.

**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 ("hereinafter "the 2003 Act") having its area of supply in Central and East Delhi. In discharge of its functions under the 2003 Act and the Distribution license granted by the Commission, the Petitioner is required to procure power from various sources in order to meet with its universal service obligations under Section 43 of the 2003 Act for providing uninterrupted,

reliable power supply to the consumers at large, as well as the various obligations imposed on the Petitioner licensee under the Electricity Supply Code and Standards of Performance. Under the provisions of the 2003 Act and the extant Regulations made thereunder, the Petitioner is determined to ensure round the clock uninterrupted supply of power on a sustainable basis.

- ii. The commercial operations of NHPC's Bairasiul Power Station began on 01.04.1982. Post unbundling, the Commission vide its Order dated 31.03.2007 re-allocated and reassigned the then existing Power Purchase Agreements of the erstwhile Delhi Vidyut Board (hereinafter "DVB"). These included the Power Purchase Agreements which DVB had with NHPC including for the following Power Stations:
  - a. Bairasiul Power Station, Distt. Chamba, Himachal Pradesh
  - b. Salal Power Station, J&K
  - c. Tanakpur Power Station, Distt. Champawat, Uttarakhand
  - d. Chamera Power Station, Himachal Pradesh
  - e. Uri Power Station, Distt. Baramulla, J&K
  - f. Sewa Power Station, Distt. Kathua, J&K
  - g. Chamera Power Station, Himachal Pradesh
- iii. Based on the then existing Power Purchase Agreements between NHPC and DVB, which stood allocated to the Petitioner, it was obtaining power from NHPC from 2007 till 2017 which was duly accounted for in each year's Tariff Order passed by the Commission.
- iv. Thereafter, the Petitioner vide its letter dated 21.01.2016 requested the Commission to approve the extension / renewal of the Power Purchase Agreement(s) for various NHPC Power Stations.
- v. In response to the aforesaid, the Commission vide its letter dated 11.02.2016 granted its approval to extend the term of *inter alia* the Bairasiul Power Station on the then existing terms and conditions and for a period extending till 35 years from the COD of the Power Station.
- vi. In furtherance of the above, on 08.08.2017 the Petitioner, as a bulk consumer, entered into a Power Purchase Agreement with NHPC for various Power Stations of NHPC including the Bairasiul Power Station. In accordance with the Commission's directive, Clause 15 of the said Power Purchase Agreement provided that the same would remain in force for 35 years from the date of commercial operations of the last Unit. However, since by that time, 35 years of Bairasiul Power Station had already lapsed, it was agreed that the parties would enter into a Supplementary Power Purchase Agreement for extension.

- vii. In the meantime, the CERC vide its Order dated 03.06.2016 in Petition No. 76/MP/2015 approved the Renovation and Maintenance proposal of NHPC for life extension of the Bairasiul Power Station by 25 years with effect from 01.04.2021.
- viii. That on 16.08.2016, 'in principle' approval for extension of Bairasiul Power Station was provided by the Commission for the rest of their useful lives.
- ix. Based on above developments, the useful life of the Bairasiul Power Station was further extended by 25 years from COD of R&M, a fact which was also acknowledged by the Commission as noted in its Tariff Order dated 31.07.2019:

*"CERC in its Order dated 03.06.2016 has approved the Renovation and Modernisation (R&M) proposal of Bairasiul Power Station. Accordingly, Bairasiul is under R&M for the period from FY 2017-18 to FY 2020-21. Accordingly, the Commission has allowed only O&M expenses and interest on loan as a part of AFC for FY 2019-20"*

- x. Based on above, the Petitioner vide letter dated 02.08.2018 intimated NHPC about the extension of PPA of the Bairasiul Power Station for 25 years and the Petitioner gave its 'in principle' consent for further extension, subject to approvals from the Commission. NHPC vide its letter dated 20.05.2022 shared with the Petitioner a draft Supplementary PPA. The last unit of the Bairasiul Power Station achieved its COD on 31.08.2021 post the R&M works.
- xi. The Petitioner and NHPC entered into the Supplementary PPA on 15.06.2022, wherein:
  - a. The parties agreed to extend the term of their PPA by 25 years keeping the other terms constant;
  - b. The effective extended term of the PPA agreed to be 31.08.2021 till 30.08.2046;
  - c. The Parties agreed to extend the term of their PPA for the intervening period of 01.04.2017 to 30.08.2021.
- xii. The Petitioner vide its letter dated 22.06.2022 approached the Commission seeking approval of Supplementary PPA for a further period of 25 years. The Commission vide letter dated 14.07.2022 informed the Petitioner to file a Petition before the Commission for approval of said Supplementary PPA.
- xiii. The Petitioner has entered into the Supplementary PPA after obtaining "in principle" approval of the Commission, in fact the power from this station has also been recognized in the Tariff Order dated 31.07.2019. Further, the same

is merely an extension of the earlier PPA dated 08.08.2017 which was entered into by the Petitioner pursuant to directions of the Commission.

- xiv. The procurement of the power under consideration is highly competitive as compared to the readily available sources in the market and is for a long term period. Being a Central Station, the tariff would be as determined by the CERC, which has, vide its order dated 03.06.2016, approved the life extension of the Bairasiul Power Station by 25 years with effect from 01.04.2021 and which now stands extended till 30.08.2046.

### **Commission Analysis**

3. The instant Petition has been filed by the Petitioner, BSES Yamuna Power Ltd. ("BYPL") under Section 86 of the Electricity Act, 2003 read with Regulation 45 of DERC (Comprehensive Conduct of Business) Regulations, 2001 seeking approval of the Supplementary Power Purchase Agreement (SPPA) dated 15.06.2022 entered into between the Petitioner and NHPC Limited for Bairasiul Hydro Generating Station.
4. The chronology of events leading to filing of the instant petition is as under:-
  - a. The Commission vide its Order dated 31.03.2007 re-allocated and reassigned the then existing Power Purchase Agreements of the erstwhile Delhi Vidyut Board including the PPA which DVB had with NHPC, *inter alia*, for the Bairasiul Power Station.
  - b. The Petitioner, vide its letter dated 21.01.2016, requested the Commission to approve the extension / renewal of the Power Purchase Agreement(s) for various NHPC Power Stations.
  - c. In response to the above, the Commission vide its letter dated 11.02.2016 granted its approval to extend the PPA of various NHPC Power Stations, including the Bairasiul Power Station, on the then existing terms and conditions and for a period extending till 35 years from the COD of the Power Station.
  - d. Thereafter, in response to NHPC's request, the Commission, vide letter dated 16.08.2016, granted 'in principle' approval for renewal of PPAs pertaining to 06 Power Stations of NHPC, including Bairasiul Power Station, for the rest of their respective useful lives.
  - e. CERC vide its Order dated 03.06.2016 in Petition No.76/MP/2015 approved the Renovation and Maintenance proposal of NHPC for life extension of Bairasiul Power Station by 25 years with effect from 01.04.2021. As such, the useful life of Bairasiul Power Station was further extended by 25 years from COD of R&M.
  - f. A Power Purchase Agreement (PPA) dated 08.08.2017 was entered into by the Petitioner with NHPC for various Power Stations of NHPC including

Bairasiul Power Station. Clause 15 of the said PPA dated 08.08.2017 provided that the same would remain in force for 35 years from the date of commercial operations of the last Unit. However, since by that time, 35 years had already lapsed in respect of Bairasiul Power Station from the date of its commercial operation, i.e., 01.04.1982, the parties agreed to enter into a Supplementary Power Purchase Agreement for extension pursuant to directions of the Commission.

- g. Supplementary Power Purchase Agreement (SPPA) dated 15.06.2022 was entered into between the Petitioner and NHPC Limited for the Bairasiul Power Station.

- 5. Vide instant petition, the Petitioner has sought approval of the SPPA dated 15.06.2022 entered into between the petitioner and NHPC, wherein, following has been agreed between the parties:

*"A. To continue the sale and purchase of the power from Bairasiul Power Station of NHPC beyond its expiry date 31.03.2017 as per Clause 15.0 of PPA signed on 8<sup>th</sup> August, 2017, for intervening period, i.e., from 01.04.2017 to completion date of R&M Works of the last unit, i.e., 30.08.2021 and thereafter for a period of 25 years from the date COD after completion of R&M works of the last unit, i.e., 31.08.2021 of Bairasiul Power Station of NHPC which comes to 30.08.2046 as specified by CERC/Gol as per the necessary approval granted by Hon'ble DERC."*

- 6. It is observed that since the last unit of the Bairasiul Power Station achieved its COD on 31.08.2021 post the R&M works, hence, as per the terms of Clause 15 of the PPA dated 08.08.2017, the parties, vide aforesaid SPPA dated 15.06.2022, mutually agreed to extend the term of their PPA for the intervening period of 01.04.2017 to 30.08.2021 and also to extend the term of their PPA by 25 years w.e.f. 31.08.2021 to 30.08.2046 on the similar terms and conditions.

- 7. It is further observed that the SPPA dated 15.06.2022 entered into between the Petitioner and NHPC Limited for the Bairasiul Power Station is merely an extension of the PPA dated 08.08.2017, on the already approved terms and conditions, which fact is also established from the contents of the SPPA, which expressly provides:

*"C. Except the Extension of the validity of the PPA in respect of Bairasiul Power Station of NHPC, all other terms and conditions of the said PPA dated 8<sup>th</sup> August, 2017 shall remain unchanged and binding on the parties hereto. The supplementary Agreement shall be an integral part of the above said PPA."*

8. In view of the above, the Supplementary Power Purchase Agreement (SPPA) dated 15.06.2022 executed between the Petitioner and NHPC for the Bairasiul Hydro Power Station, as annexed with the present Petition as Annexure – P/10, is hereby approved.
9. Ordered Accordingly.

**Sd/-  
(Surender Babbar)  
Member**

**Sd/-  
(Ram Naresh Singh)  
Member**

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