



Delhi Electricity Regulatory Commission

ViniyamakBhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017.

F.11(2144)/DERC/2023-24/7897

Petition No. 41/2023

In the matter of : **Petition under Section 86(1)(b) of the Electricity Act, 2003 read with Regulation 36 and 37 of the Delhi Electricity Regulatory Commission (Business Plan) Regulations, 2023 seeking approval of the banking of power on short term basis.**

TATA Power Delhi Distribution Limited

.... Petitioner

Coram:

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

Appearance:

Shri Venkatesh, Adv., for the Petitioner

ORDER

(Date of Order: 09.11.2023)

1. The instant Petition has been filed by TPDDL seeking approval of the Commission for entering into banking agreement with Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) for offtake of power up to 150 MW in the month of March, 2024 (both on Round to Clock (RTC) & slot wise basis) and return of the same power in July-August 2024 on RTC Basis at a premium of 103%.
2. The Petitioner has made the following prayers:
 - a. Allow export of power in March'2024 through mix of long term sources and power exchange to enable the Petitioner to export 150MW of the power in the month of March, 2024 and return of the same quantum of power in July-August at a premium of 103%.
 - b. Approve banking arrangement proposed herein keeping into consideration the principle of revenue neutrality and allow the same normative absolute cost i.e., quantum equating the amounts for both legs of export and import of power undertaken through the proposed banking arrangement with MSEDCL.

WEAR FACE MASK

WASH HANDS REGULARLY

MAINTAIN SOCIAL DISTANCING

Petitioner Submissions

3. The Petitioner has stated that aggrieved by the disallowance, basis of the letter dated 16.11.2018 and other issues emanating out of the Tariff Order dated 30.09.2021, the Petitioner filed an Appeal bearing Appeal No. 334 of 2021 against the Tariff Order dated 30.09.2021 applicable as on date. On 20.10.2022, the Petitioner filed the Interim Application bearing No. IA No. 1766 of 2022 in Appeal No. 334 of 2021 seeking suspension of the operation of letter dated 16.11.2018 issued by the Commission with directions to this Commission to follow the methodology to compute banking transactions as prescribed in Regulation 121 of the Tariff Regulations 2017 for the upcoming control period, rather than the letter dated 16.11.2018. The Hon'ble APTEL on 23rd March 2023 granted interim suspension of the letter dated 16.11.2018 for the appellant.
4. On 10.04.2023, in exercise of power conferred under Section 181 read with Section 61 and Section 86(1)(b) of the Act, the Commission issued the BPR 2023 in accordance with Regulations 2(13), 2(24), 3 and 4 of the Tariff Regulations 2017. As per the Regulation 1(2) of the Business Plan Regulations 2019, the Regulations were valid for the control period of Three (3) Years i.e. for FY 2023-24, FY 2024-24, and FY 2025-26.
5. As per Regulation 29(3) of the BPR 2023, the normative cost of banking transactions shall be weighted average rate of variable cost of all long-term sources for the financial year under true-up. Regulation 29(3) of the BPR2023 is reproduced hereunder:

“3) The normative cost of banking transactions, while Truing-up the Power Purchase Cost, shall be Weighted Average Rate of VariableCost of all long term sources for the Financial Year under True-up.”
6. On 17.05.2023, aggrieved by the Regulation 29(3) and other Regulations of the BPR 2023, the Petitioner has filed a Writ Petition bearing W.P.(C)No. 6724 of 2023 before the Hon'ble Delhi High Court seeking a Writ Order(s) or direction(s) in the nature of Certiorari to set aside the Regulations including the Regulation 29(3). The said Writ Petition is pending adjudication before the Hon'ble Delhi High Court.

Issuance of the tender for the banking of up to 300MW Round the Clock/Slot Wise Power

7. On 10.08.2023, the Petitioner issued a tender for the banking of power up to 300 MW on RTC/Slot wise basis for the period 01.11.2023 to 30.09.2024 and issued a further clarification dated 07/08/2023 and a corrigendum dated 06.09.2023 and 15.9.2023. Under the banking arrangement, the power to be supplied by the Petitioner during the period 01.11.2023 to 31.03.2024 and the power to be returned to the Petitioner during the period 16.04.2024 to 30.09.2024. The same was informed to Chairperson of Delhi Power Procurement Group(DPPG) and the Commission vide letter dated 11.08.2023 along with copy of the tender document and newspaper advertisement.
8. On 15.09.2023, the bids were opened for the tender and MSEDCLsubmitted its bid to offtake the power up to 150 MW in the month of March 2024 (both on RTC & Slot wise basis) and to return the same in the months of July 2024 & Aug 2024 on RTC basis at a premium of 103%.
9. The proposed arrangement between MSEDCL and the Petitioner, no trading margin will be applicable as proposed arrangement will be facilitated through a direct banking mechanism i.e, without any intermediary trader. By entering into the proposed arrangement, the Petitioner would be able to avoid the expensive power purchase from the power exchange during high demand season. The Regulation 29(3) of BPR 2023 prescribes that the normative cost of Banking transactions, while truing-up the Power Purchase Cost, shall be weighted Average of variable cost of all long-term sources for the Financial Year under True up. Notably, this Regulation is confined to only one Financial Year, however, proposed arrangement involves two Financial Year, i.e, the proposed transaction extended to the export of the power of the month of the March 2024 and import of the power is in the month of July-August 2024.
10. If the normative cost of the proposed banking transaction is computed as per the Regulation 29 (3) of the BPR2023, then it will not only cause financial prejudice to the Petitioner and the end consumers but also the revenue neutrality would not be maintained as the export and import of power banking transactions in the proposed banking arrangement would take place in two different Financial Years.

Banking of the power is a revenue neutral exercise

11. The entire concept of banking is directed towards achieving revenue neutrality and protecting the variable cost of the DISCOM during ARR determination. It is

premised upon the principle that the transaction would be 'revenue neutral' i.e., there would be no loss to the licensee in case of forward or reverse Banking of power. Regulation 121 of the Tariff Regulations, 2017 provides that the normative cost of Banking transaction would be considered at rate of average power purchase cost of the portfolio of the distribution licensee.

- 12. Regulation 121(3) prescribes that the normative cost of a banking transaction shall be at the rate of the APPC of the portfolio of the Distribution licensee, consequently, in ascertaining the rate of export as well as of power, APPC of the portfolio of the Distribution Licensee should be the criteria and there is no bar placed under the Regulations restricting the normative cost of particular year only, which would alter the normative figure at which power is exported/imported.
- 13. The petitioner also contended that the Short term sale purchase guidelines, 2011 issued by this Commission also provides mechanism for disposal of surplus power through bank transaction.
- 14. This Commission also in the tariff order dated 30.09.2021, has also recognized that Banking Transaction are revenue neutral in nature. The relevant part is extracted below;

'the Banking Transaction are revenue neutral in nature i.e, the variable cost considered for forward Banking & Reverse Banking leads to no impact in Power Purchase Cost since the Forward Banking & Reversed Banking transactions spill over to multiple years after considering the impact of Banking Return Ratio.'

Commission's Analysis

- 15. As contended by the Petitioner, it had issued tender for banking arrangement, of power up to 300 MW on RTC/Slot wise basis for the period 01.11.2023 to 30.09.2024. Under the banking arrangement, the power to be supplied by the Petitioner during the period 01.11.2023 to 31.03.2024 and the power to be returned to the Petitioner during the period 16.04.2024 to 30.09.2024. On 15.09.2023, the bids were opened for the tender and MSEDCL submitted its bid to offtake the power up to 150 MW in the month of Mar 2024 (both on RTC & Slot wise basis) and to return the same in the months of July 2024 & Aug 2024 on RTC basis at a premium of 103%. Under this arrangement with MSEDCL, the Petitioner is not liable to pay any trading margin as this is a direct banking and no trader is involved. The proposed arrangement will be facilitated through a direct banking mechanism i.e., without

any intermediary trader. The Rate of the Return i.e., 103% offered by MSEDCL to the Petitioner in the proposed arrangement is on the higher side.

- 16. During March, 2024 the power will be surplus and anticipated due to low demand. Therefore, the petitioner wishes to export the power which is to be returned to the Petitioner in July-August, 2024 which are peak months with high demand for electricity. The Petitioner will be able to procure cheaper power during the high demand season which will ultimately benefit the end consumer.
- 17. Further, the proposed arrangement in two financial years i.e. the transaction of export of the power will be done in the month of March 2024 and import of power will be done in the month of July-August'2024. The Commission has noted that the Petitioner has already approached to Chairperson, Delhi Power Procurement Group (DPPG) for the subject transaction.
- 18. The petitioner contended that the transaction would be revenue neutral i.e, there would be no loss to the licensee in case of forward or reverse Banking of power. The regulation 121 (3) prescribes that the normative cost of banking transaction shall be at the rate of the APPC of the portfolio of the Distribution Licensee, consequently, in ascertaining the rate of export as well as import of power, APPC of the portfolio of the Distribution Licensee should be the criteria and there is no bar placed under the Regulations restricting the normative cost to one particular year only, which would alter the normative figure at which power is exported/imported.
- 19. Regulation 121 of the DERC (terms and conditions for determination of tariff) Regulations of 2017 stipulates as follows:

“121. While approving the cost of power purchase, the Commission shall determine the quantum of power to be purchased considering:

- (1) Availability of Generating Stations which may be based on Load Generation Balance Report published by Central Electricity Authority (CEA) for relevant Financial Year;*
 - (2) Principles of merit order schedule and despatch based on the ranking of all approved sources of supply in the order of their variable cost of power purchase on monthly basis;*
 - (3) Normative cost of banking transaction at the rate of average power purchase cost of the portfolio of the distribution licensee;*
- ...”*

20. Further, Regulation 29(3) of Business Plan Regulations 2023, stipulates as under:
“3) The normative cost of banking transactions, while Truing-up the Power Purchase Cost, shall be Weighted Average Rate of Variable Cost of all long term sources for the Financial Year under True-up.”
21. Accordingly, the Commission grants *In-principle* approval to the Petitioner to the arrangement of export of power in March'2024 through long term sources only to enable the Petitioner to export 150MW of the power in the month of March, 2024 and return of the same quantum of power in July-August at a premium @103%.It does not grant approval to the Petitioner for Banking of Power through purchase of power from Power exchange.
22. The computation of Banking transactions is done by the Commission at the true up stage. Therefore, the revenue neutrality shall be duly considered by the Commission at the true up stage of the relevant year of these transactions.
23. Ordered accordingly.

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