



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

No. F. 11(719)DERC/2011-12/

**Petition No. 51/2011**

**In the matter of :**    **Petition U/s 86(1)(f) of the Electricity Act for adjudication on disputes between the Petitioner – Pragati Power Corporation Ltd., generating company and the Respondents – BSES Rajdhani Power Ltd. and BSES Yamuna Power Ltd. – distribution licensees.**

Pragati Power Corporation Ltd.,  
Himadri,  
Rajghat Power House Complex,  
New Delhi – 110 002

..... Petitioner

**VERSUS**

1.     BSES Rajdhani Power Limited  
       BSES Bhawan, Nehru Place,  
       New Delhi- 110 019
2.     BSES Yamuna Power Limited  
       Shakti Kiran Building,  
       Karkardooma,  
       Delhi-110 092

.....Respondent

**Petition No. 52/2011**

**In the matter of :**    **Petition U/s 86(1)(f) of the Electricity Act for adjudication on disputes between the Petitioner – Indraprastha Power Generation Co. Ltd., generating company and the Respondents – BSES Rajdhani Power Ltd. and BSES Yamuna Power Ltd. – distribution licensees.**

Indraprastha Power Generation Co. Ltd.,  
Himadri,  
Rajghat Power House Complex,  
New Delhi – 110 002

.....Petitioner

**VERSUS**

1.     BSES Rajdhani Power Limited  
       BSES Bhawan, Nehru Place,  
       New Delhi- 110 019
2.     BSES Yamuna Power Limited  
       Shakti Kiran Building,  
       Karkardooma,  
       Delhi-110 092

.....Respondent

**Coram: Sh. P.D. Sudhakar, Chairperson,**  
**Sh. Shyam Wadhera, Member and**  
**Sh. J.P. Singh, Member.**

**Appearance:**

1.     Shri Jagdish Kumar, IPGCL,PPCL
2.     Shri R.K. Yadav, IPGCL,PPCL
3.     Shri Rajesh Chatterwal, IPGCL,PPCL
4.     Shri Rakesh Sehgal, IPGCL,PPCL
5.     Shri Amit Kapoor, Adv. BRPL, BYPL

6. Shri Gaurav Dudeja, Adv. BRPL, BYPL
7. Shri Vishal Anand, Adv, BRPL, BYPL
8. Shri Rajeev Choudhary, Head(Regulatory), BRPL
9. Ms. Megha Bajpayi, BRPL
10. Shri Gaurav Gupta, BRPL
11. Shri Gurmeet Singh, BRPL
12. Shri Sunil Aggarwal, BYPL
13. Shri Abhishek Shrivastav, BYPL

**ORDER**

(Date of Hearing: 29.10.2013)

(Date of Order: 05.11.2013)

The Commission has heard the Counsels for IPGCL and PPCL as well as MD of DTL on behalf of the Petitioners and the Counsel for the respondents BRPL and BYPL. The Petitioners basically state that due to non-payment of past dues running into Rs. 2,794.00 crore (approx), they are unable to pay salaries of staff and purchase fuel for running the plants. The Respondents on the other hand pleaded helplessness on many accounts primarily citing the inadequacy of cash inflows on account of which they are finding it difficult to meet their obligations for payment to the Petitioners. The Respondents also stated that due to the level of regulatory assets and in the absence of a detailed plan for recovery of these assets on a year to year basis being specified by the Commission, the banks have expressed their inability to advance further loans to carry on the operations.

2. The Petitioners have pleaded for approval for setting up of a Trust & Retention Account to be managed by an independent agency so that clarity emerges on the revenue/cash inflows being received by the distribution companies and the utilization of these funds. The Respondents on the other hand have cited many obstacles in setting up of a T&R Account and state that their accounts are open for inspection and the cash crunch faced by them is evident from their audited balance sheets.
3. The Commission is conscious of its duty of ensuring that Delhi gets quality electricity supply and also ensuring that distribution companies continue to function in a manner which is not detrimental to the functioning of the govt. generation & transmission companies. We have observed that the Govt. of Delhi which is the owner of the IPGCL, PPCL and DTL are 49% shareholders in the distribution companies i.e. BRPL and BYPL and also enjoy veto power in the Board. Instead of adopting an adversarial position before this Commission, we would imagine that the issue of receipt of revenues and the application of funds would have been discussed at length in the Board Meetings which are chaired by the Chief Secretary and where senior functionaries of the Delhi Govt. i.e. Power Secretary and Finance Secretary are also Members. It appears that no such exercise has been done. Since it is in the interest of both the Govt. as well as the private operators that the distribution companies, the generation companies as well as DTL continue to function optimally till the cash flow in all the distribution companies improves, as an interim measure, we are of the firm opinion that a win-win situation can be created whereby mutual trust increases and there is more transparency regarding the receipt of revenue and its application.
4. We would therefore direct that the Boards of both these companies, BYPL and BRPL, may convene emergency meetings and set up Empowered Committees (one for each

DISCOM) comprising of two or three representatives each from the private operators as well as the Govt. These Committees may be chaired by an eminent professional or a civil servant acceptable to both the Govt. and the private operators. Just as the Delhi Power Procurement Group meets on a fortnightly basis to assess the power purchase needs of the DISCOMs, in a similar fashion at the outset the Empowered Committee may meet every 15 days to assess inflow of funds in the past 15 days and then decide the priorities for utilization/application of these funds so as to meet the objective of keeping the power generation companies and DTL functional even as distribution companies discharge their basic responsibilities towards repayment of bank interest, employees' wages etc. The Boards of the respective Companies may decide on the terms of reference for the functioning of the Committees. We are of the opinion that such a Committee comprising of seasoned professionals can arrive at a consensus on the way forward after assessing the receipt of funds and decide the priorities for utilization/application of funds in the light of competing claims of creditors. In such a situation, this approach will not only help to optimize utilization of revenue received but also remove the distrust which appears to be there presently among the Govt. agencies and the private operators. Hence, instead of setting up a T&R Account, we feel that the ends of justice would be met by setting up Empowered Committees as above, which should start meeting after every 15 days at the outset in the manner of functioning of the Delhi Power Procurement Group.

5. We expect that the functioning of these Committees will be reviewed at the Board level to ensure that priorities decided in the Empowered Committees are actually implemented.
6. Our endeavor is to ensure that transparency emerges on the actual cash flows being received by the distribution companies and the mistrust between the Govt. and the private operators is removed as the Empowered Committee will be functioning with the intention of optimally utilizing the funds received by the Distribution Companies.
7. Therefore, Petition No. 51/2011 and 52/2011 stand disposed off, with the above directions.
8. Ordered accordingly.

Sd/-  
(J. P Singh)  
Member

Sd/-  
(Shyam Wadhera)  
Member

Sd/-  
(P.D Sudhakar)  
Chairperson