



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

No. F.11(1267)/DERC/2015-16/C.F.4936

**Petition No. 56/2015**

**In the matter of :** Seeking surrender of Power from IPGCL's Rajghat Thermal Power Station.

Tata Power Delhi Distribution Ltd.  
Through its Managing Director  
NDPL House,  
Hudson Lines, Kingsway Camp  
Delhi 110 009

.....**Petitioner**

**VERSUS**

Indraprastha Power Generation Co. Ltd.  
Through its Director (T)  
Rajghat Power House,  
Office Complex,  
New Delhi 110 002

....**Respondent**

**Coram: Sh Krishna Saini, Chairperson &  
Sh. B.P. Singh, Member**

**Appearance:**

1. Mr. Alok Shankar, Adv. TPDDL
2. Mr. Anand K. Ganeshan, Adv. IPGCL & PPCL
3. Mr. Anurag Bansal, TPDDL
4. Mr. Divyanshu Bhatt, TPDDL
5. Mr. Mithun Chakraborty, TPDDL
6. Mr. J.K. Sinha, TPDDL
7. Mr. Varun Sharma, TPDDL
8. Mr. Yuganshu Pathak, TPDDL
9. Mr. Vaibhav Chaudhary, TPDDL
10. Mr. Rajesh CHattarwal, IPGCL & PPCL
11. Mr. Amarjyoti, IPGCL & PPCL
12. Mr. R.K. Nagpal, IPGCL & PPCL

**INTERIM ORDER**

(Date of Hearing: 26.07.2016)

(Date of Order: 05.08.2016)

1. The instant petition has been filed by TPDDL for seeking Surrender of Power from IPGCL's Rajghat Thermal Power Station. The following prayers have been made in the petition:
  - a) Hold and declare that the Power Purchase Agreement (PPA) qua the Rajghat Power House (RPH) generating station has expired and RPH is not an approved source of Power for the Petitioner;
  - b) Hold and declare that the Petitioner is not liable to pay any capacity charge or fixed charge in relation to the RPH station's capacity;

- c) Observe and declare that the power procurement cost from RPH to the Petitioner is uneconomical;
  - d) Direct SLDC to discontinue scheduling of power from RPH with immediate effect.
- 2. The counsel for the petitioner submitted that the instant matter is regarding the refund of payment made by the petitioner to the Respondent on the cost of power from the RPH station of the Respondent even after the terms of PPA have expired.
- 3. The Commission *vide* its interim order dated 02.11.2015 in the present matter has observed that the issue raised in the instant petition has already been addressed in the latest tariff order dated 29.09.2015 and the generating company is supposed to comply with the orders of the Commission.
- 4. The Counsel for the Respondent submitted that it has filed Appeal no. 284 of 2015 along with Interlocutory Application No. 467 of 2015 seeking stay of the Impugned Order dated 29.09.2015 and the Hon'ble Appellate Tribunal for Electricity (APTEL) has, *vide* order dated 15.12.2015, stayed the Impugned Order dated 29.09.2015. Therefore, since the present issue has been raised in the Interlocutory Application No. 467 of 2015 the instant petition cannot be proceeded at this stage.
- 5. The Counsel for the Petitioner submitted that the Respondent in the Interlocutory Application No. 467 of 2015 has only requested for stay on the limited direction issued by the State Commission in Para 3.263 of the Order dated 29.09.2015 directing the Appellant/Respondent herein to refund an amount of Rs. 89.73 crore along with carrying cost of the Distribution Companies. However, the finding of this Commission relating to non-scheduling of power from the RPH Power station from May 2015 was not even challenged in the Interlocutory Application. Therefore, the stay is limited only to the findings in Para 3.263 of the Tariff Order regarding the refund amount and the statement made by the Respondent that the complete Tariff order dated 29.09.2015 has been stayed is incorrect.
- 6. Further, the Counsel for the Petitioner submitted that the Respondent had continued billing it with the fixed charges for the RPH station even after the expiry of the PPA, which has also been paid by the Petitioner and

therefore, it is entitled to recover the amount paid in excess to the Respondent after the expiry of the PPA.

7. The Counsel for the Respondent submitted that the entire capital cost of the plant has not been recovered till date as the Commission did not allow full depreciation and depreciation of the plant is calculated for the entire life of the plant. Therefore, the Respondent is entitled to recover capital cost even after expiry of PPA.
8. On the aforesaid submission of the Respondent that the Commission did not allow it to recover capital cost of the plant, the Commission observed the submission is incorrect and full depreciation had been allowed for recovery of the capital cost as per the prescribed rates as per the extant Regulations. Further, it is also observed that the RPH station has already been allowed more depreciation than what should have been allowed during the period from the establishment of this Commission till date. The Petitioner could not recover complete capital cost of the plant because of under recovery during DVB period.
9. On the issue of surrender of power from RPH station of the Respondent the Commission observed that the RPH station of the Respondent was commissioned in May, 1990 and the relevant PPA with the Petitioner got expired in May, 2015 therefore the Respondent cannot continue to bill the petitioner for the fixed cost for recovery of capital cost of the plant. In such a situation the Respondent is at liberty to enter into a fresh PPA with any other party so as to recover its capital cost.
10. As much as it is related to the prayer made by the Petitioner for refund of the amount paid by the Petitioner against the bills raised by the Respondent beyond May, 2015 for RPH Station, the proceeding shall take place after the disposal of the Appeal filed by the Respondent in APTEL against the Tariff Order dated 29.09.2015.
11. Ordered accordingly.

**Sd/-**  
(B.P. Singh)  
MEMBER

**Sd/-**  
(Krishna Saini)  
Chairperson