

DELHI ELECTRICITY REGULATORY COMMISSION

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017.

No. F.11(748)/DERC/2011-12/

Application/Petition No. 67 & 68/2011

In the matter of: Regulation/Diversion of Power Supply relating to BSES Rajdhani Power Limited (BRPL) for Non-payment and Non-maintenance of Letter of Credit & Show Cause Notice U/s 24 of the Electricity Act, 2003.

AND

In the matter of:

BSES Rajdhani Power Limited
Through its : **CEO**
BSES Bhawan, Nehru Place,
New Delhi-110019.

BSES Yamuna Power Limited
Shakti Kiran Building,
Karkardooma
Delhi 110 032

Coram:

Sh. Shyam Wadhera, Member & Sh. J.P. Singh, Member.

Appearance:

1. Mr. Amit Kapur Adv. BRPL & BYPL ;
2. Mr. V.P. Singh, Adv. BRPL & BYPL;
3. Ms. Dipika Kalita, Adv. BRPL & BYPL;
4. Mr. Anupam Varma, Adv. BRPL & BYPL;
5. Mr. Nikhil Sharma, Adv. BRPL & BYPL;
6. Ms. Tarunima Vijra, Adv. BRPL & BYPL;
7. Mr. Gopal Saxena, CEO, BRPL;
8. Mr. Prashant Dua, , BRPL;
9. Mr. Deepak Shankar, VP, BRPL;
10. Mr. Ajay Kumar, VP, BRPL;
11. Mr. Raj Arora, BRPL;
12. Mr. Sunil Shori, V.P. BRPL
13. Mr. Rajeev Gupta, BRPL
14. Mr. Harish Diwan, BRPL
15. Mr. S.C. Sharma, HOD BYPL ;
16. Mr. Sushil Agarwal, CFO, BYPL
17. Mr. Sai Krishna DGM, BYPL
18. Mr. Haridas, Sr. Manager, BYPL
19. Ms. Surbhi Sharma, Adv. Govt. of NCT of Delhi;
20. Mr. Mithlesh Kumar, AGM Power Grid;
21. Mr. Vineet Srivastava, CM (Comml.) Power Grid
22. Mr. Ravinder Raina , CE (Comml), NHPC;
23. Mr. Manoj Kr. Jha, DM (Comml) NHPC;
24. Mr. Vivek Narayan Sharma, Adv. DTL
25. Mr. Bhupender Nath, GM (Comml.)
26. Mr. S.Mohari, DGM(Comml.) DTL
27. Mr. N.K. Sharma, Manager, DTL
28. Mr. V.Venugopal , DGM, SLDC.
29. Mr. Sanjeev Kumar, AM (SO) SLDC

30. Mr. R.K. Agarwal, GM (Elect.) SJVNL
31. Ms. Sonia Dogra, Dy. Manager, SJVNL
32. Mr. Sarosh M. Siddiqui, Sr. Manager, Comml. THDC,
33. Mr. P.K. Ray, Dir. (T) PPCL/IPGCL
34. Mr. R.K. Jain, GM (Comml.) IPGCL/PPCL
35. Mr. R.K. Yadav, Manager (Comml) IPGCL/PPCL
36. Mr. Sanjay Kr. Sharma, AM (Comml.) IPGCL/PPCL
37. Mr. Vivek Singla, Sr. General Manager, NDPL

ORDER

(Date of Hearing: 20.12.2011)

(Date of Order: 20.12.2011)

1. Mr. Amit Kapur, Learned Counsel of BRPL and BYPL while referring to para 14 of the Commission's Order dated 13-12-11, detailed the various steps taken by the two companies with regard to tie up of the loan funds from IDBI Bank and Power Finance Corporation.
2. Mr. Kapur also referred to letter No. HO.PAD/BYPL/367 dated 16-12-2011 from IDBI Bank and letter No. 24425 dated 14-12-2011 from the Power Finance Corporation seeking further clarifications/additional commitments with reference to the Commission's letter dated 2-12-11.
3. Mr. Kapur further referred to the additional submissions made by the BRPL and BYPL today and pleaded that the primary reason for the present financial crisis is their inability to get a cost reflective tariff from the Commission, as a result of which huge regulatory gaps have been created.
4. Ms. Surbhi Sharma, Learned Counsel appearing on behalf of the Govt. of NCT of Delhi submitted letter No. F.11(138)/2011/Power/4661 dated 20-12-11 and views of the Govt. of NCT of Delhi which reiterates that for reasons already given in their letter dated 12.12.2011 they have rejected the request of the BSES Companies for advising DPCL for infusion of any funds to support the loan application pending with IDBI Bank.
5. In conclusion, the Govt. of NCT of Delhi state as follows:-

"In view of the above, DERC may consider appointing an Administrator under Section 24 of the Electricity Act, 2003 in view of the following reasons apart from the reasons which have already been mentioned in our earlier submissions:

 - a) *For violation of PPAs with various power utilities of Centre and State Governments. Further, BSES did not submit any alternative financing plan as per their letter dated 20-12-2011*
 - b) *Being persistently at default in complying the instructions of DERC as they could not come out with any schedule of payments or could make payment to various power utilities of Centre and State Governments as per the order of DERC.*

- c) *Sufficient time and reasonable opportunity was given by DERC as well as by Govt. of NCT of Delhi in spite of which BRPL & BYPL could not take any concrete steps to prevent the regulation by Power Grid and SJVNL and also not taking any steps for preventing an impending regulation by NTPC to the extent of 2/3rd of Delhi power requirements.*
- d) *The letter of BYPL dated 20-12-2011 did not change the views/stringent stipulation of Rlnfra, which is the promoter company of BSES, as stipulated in their letter dated 6-12-2011. Accordingly, Govt. of NCT of Delhi has rejected the request of BYPL dated 20-12-2011 for reconsideration and advising DPCL for infusion of funds."*
6. The Commission has carefully considered the above submissions of both distribution companies as well as the Govt. of NCT of Delhi. The Commission observes that consumers of Delhi are faced with a clear possibility of significant regulation of power supply w.e.f. 07-1-2012 and that infusion of additional funds to meet the outstanding liabilities of central and state sector agencies would be the crucial factor for averting this crisis.
7. The Commission further observes that Govt. of NCT of Delhi has declined to support the financing plan proposed by the two distribution companies by way of its proportional share of additional promoters funds in respect of Rs.5100 crores loan proposed to be availed from IDBI Bank.
8. The Commission is of the considered view that the key issue in resolving the present crisis would be raising adequate funds to discharge the above outstanding liabilities, before the Commission explores other options including appointment of an Administrator as envisaged under Section 24 of the Electricity Act, 2003.
9. The Commission would, therefore, like the views of Govt. of NCT of Delhi on whether, in what manner and under what conditions they would be willing to induct or support the raising of additional funds for meeting the above liabilities.
10. Accordingly, the Govt. of NCT of Delhi may give their detailed response on or before the next date of hearing regarding the infusion of funds for preventing the impending power regulation w.e.f. 07-1-2012. In view of the urgency, the matter will now be heard on 22-12-11 at 3-00 PM.
11. Ordered accordingly.

Sd/-
(J.P. Singh)
Member

Sd/-
(Shyam Wadhera)
Member