

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

No. F. 11(1026)/DERC/2013-14/

**Petition No. 46/2013**

**In the matter of:**                    **Petition under Section 86(1) (f) of the Electricity Act for adjudication of disputes between the Petitioner-Delhi Transco Limited, Transmission Licensee and the Respondent-BSES Rajdhani Power Limited – distribution licensee.**

Delhi Transco Limited  
Through its: General Manager  
(Comml. & Regulatory affairs)  
33KV Substation Building,  
I.P. Estate, New Delhi 110 002

....**Petitioner**

Vs.

BSES Rajdhani Power Limited  
BSES Bhawan,  
Nehru Place,  
New Delhi 110 019

...**Respondent**

**Petition No. 47/2013**

**In the matter of:**                    **Petition under Section 86(1) (f) of the Electricity Act for adjudication of disputes between the Petitioner-Delhi Transco Limited, Transmission Licensee and the Respondent-BSES Yamuna Power Limited – distribution licensee.**

Delhi Transco Limited  
Through its: General Manager  
(Comml. & Regulatory affairs)  
33KV Substation Building,  
I.P. Estate, New Delhi 110 002

....**Petitioner**

Vs.

BSES Yamuna Power Limited  
Shakti Kiran Building,  
Karkardooma  
Delhi 110 092

...**Respondent**

**Coram:**

**Sh. P. D. Sudhakar, Chairman,**  
**Sh. J. P. Singh, Member**

**Appearance:**

1. Ms. Swapna Seshadri, Adv. DTL
2. Ms. Kiran Saini, GM (C&RA)DTL
3. Mr. Naveen Goel, Manager, DTL
4. Mr. N.K. Sharma, Manager, DTL
5. Mr. S.P. Singh, Executive (Legal) DTL
6. Mr. Vikas Mangla, A.M. (F)DTL
7. Mr. Vishal Garg, A.M. (F) DTL
8. Mr. D.Das, DGM, DTL
9. Mr. A.K. Haddar, D(O)/DTL
10. Mr. P.K. Mallik, GM (Legal)DTL
11. Mr. Vishal Anand, Adv., BYPL
12. Mr. Gaurav Dudeja, Adv. BYPL
13. Mr. Aditya Pyasi, Head Regulatory, BYPL
14. Mr. Abhishek Srivastava, Manager, BYPL
15. Mr. S.P. Singh, Executive (legal)

## **ORDER**

(Date of Hearing: 19.11.2013)  
(Date of Order: 22.11.2013)

The petitioner, M/s DTL has entered into a Bulk Power Transmission Agreement (BPTA) with the respondent companies viz. BYPL and BRPL. The petitioner has filed the instant Petition against the respondents for alleged non-payment of wheeling charges, income tax and incentives since October, 2010. The Petitioner in its Petition has sought following relief against the Respondents:

- (i) Direct that the Respondent strictly follows the provisions of the BPTA and fulfill their due obligations under the BPTA;
- (ii) Direct that the Respondent makes the payment to the Petitioner of the outstanding amounts along with the applicable surcharge;
- (iii) Direct that the Respondent establishes the Letter of Credit in favour of the Petitioner to the extent of 105% of the average monthly billing;
- (iv) Direct that the Respondent will deposit all their receivables in an escrow account from which the payment will be released to the Petitioner.

2. Vide its order dated 05.11.2013, the Commission had asked the Petitioner to supply a copy of the Petition to the respondents and respondents were asked to file reply of the Petition. The respondents were further directed to pay the current dues for transmission charges to the Petitioner Company within a week from the date of the order.
3. The Petition was listed for further proceedings today i.e. 19.11.2013. The Counsel for Respondent sought further time to file a reply in the matter. The Counsel for the Petitioner sought intervention of the Commission as the respondents are not adhering to the orders of the Commission and have failed to pay current dues of the transmission charges as directed by the Commission.
4. The Commission observed that the present petitions are of a similar nature as had been filed by IPGCL and PPCL against the respondent companies. In this Petition the Petitioners basically argued that due to non-payment of past dues running into thousand of crores, they were unable to pay salaries of staff and purchase fuel for running the plants. Whereas 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.

5. The Commission while disposing of the Petition filed by IPGCL and PPCL has considered all relevant aspects i.e. Delhi should get quality electricity supply and also that distribution companies should continue to function in a manner which is not detrimental to the functioning of the govt. generation & transmission companies. The Commission had observed that the Govt. of Delhi which is the owner of DTL are 49% shareholders in the distribution companies i.e. BRPL and BYPL and also enjoy veto power in the Board and it was expected that the Boards of these companies will ensure that the interests of both the Government as well as the private operators in the distribution companies and the generation companies as well as DTL are protected so that they continue to function optimally till the cash flow in all the distribution companies improves, as an interim measure.
6. Keeping in view the aforesaid facts, The Commission, in the petitions filed by M/s IPGCL and M/s PPCL, had directed the Boards of both these companies, BYPL and BRPL, to Convene an emergency meeting and to 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. Functioning of these Committees is supposed to be reviewed at the Board level to ensure that priorities decided in the Empowered Committees are actually implemented.
7. As the Empowered Committees would look into all the aspects of revenue generation of BRPL & BYPL and its optimal utilization, the matter of payment of dues to M/s DTL, ipso-facto comes into the ambit of the said Empowered Committees. However, this order makes it more specific that the Empowered Committees would also look into the matter payment of dues to M/s DTL.
8. The Commission observed that there is no indication of constitution of the Empowered Committees as directed by the Commission vide its order dated 05.11.2013. Therefore, the Commission hereby directs that the Empowered Committees be constituted at the earliest and latest within two weeks from the date of this order. The Commission further directs the Respondents that they must continue to pay the current dues of the transmission charges to the Petitioner till the Empowered Committees meet and take a view on further application of cash flows being received by the DISCOMs

9. Constitution of the Empowered Committees would ensure that transparency emerges on the actual cash flow being received by the distribution companies and the mistrust between the Govt. and the private operators is removed. It will also ensure optimal utilization of the funds received by the distribution companies.
10. Therefore, Petition No. 46/2013 and 47/2013 stand disposed off, with the above directions.
8. Ordered accordingly.

Sd/-  
(J. P Singh)  
Member

Sd/-  
(P.D Sudhakar)  
Chairperson