

DELHI ELECTRICITY REGULATORY COMMISSION

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

Petition No. 01/2008

In the matter of: Review of reassignment Order of DERC dated 31.03.2007 of Power Purchase Agreement to the Distribution Licensees including the Deemed Licensees in National Capital Territory of Delhi.

AND

In the matter of:

Military Engineering Services
CWE (Utilities)
Delhi Cantt.
New Delhi – 110 010.

...Petitioner

Vs.

1. Secretary (Power)
Govt. of NCT of Delhi,
Delhi Secretariat, I.P. Estate,
New Delhi.
2. Chief Executive Officer,
BSES Rajdhani Power Limited
BSES Bhawan,
Nehru Place,
Delhi-110019.
3. Chief Executive Officer,
BSES Yamuna Power Limited
Shakti Kiran Building,
Karkardooma,
Delhi-110092.
4. Chief Executive Officer,
North Delhi Power Limited,
Sub-Station Building, Hudson Lines,
Kingsway Camp, Delhi-110009
5. Managing Director
Pragati Power Corporation Ltd. (PPCL),
Himadari, Rajghat Power House,
New Delhi-110002.
6. Chairman-cum-Managing Director
Delhi Transco Limited
Shakti Sadan, Kotla Road,
New Delhi-110002.

...Respondents

Coram:

Sh. Berjinder Singh, Chairman & Sh. K. Venugopal, Member.

Appearance:

1. Sh. Raj Kumar, SE(E), NDMC;
2. Sh. Madan Pal, AE(E), NDMC;
3. Ms. Seema Meena, JE(E), NDMC;
4. Sh. Anurag Bansal, Sr. Executive, NDPL;
5. Sh. Ashish Kr. Dutt, Manager, NDPL;
6. Sh. Ramesh Narayanan, VP, BSES;
7. Sh. Sanjay, Manager;
8. Sh. Sunil Kakkar, Manager, BRPL;
9. Col. G. K. Pandita, CWE(U), MES;
10. Sh. Akhilesh Mishra, GE (U) E/S.

ORDER

(Date of Hearing: 20.03.2008)

(Date of Order: 16.05.2008)

1. In the present case, the Commission has initiated suo-moto action and issued notice to MES on 07.03.2008 for reviewing its Reassignment Order dated 31.03.2007.
2. The gist of the case is that the Commission had issued an Order dated 31.03.2007 on the issue of reassignment of PPAs and made the following observations/directions, particularly in respect of NDMC and MES:
 - (i) "The NDMC and the MES would be allocated a capacity of 350 MW and 50 MW, respectively from the Badarpur TPS. Though the Commission visualises pitfalls in allocating capacity only from a single power station, the Commission has gone along with what was submitted by these two Licensees when consultations took place on the 30th of March 2007.
 - (ii) All existing PPAs (with the exception of Badarpur TPS, NCR Dadri TPS, IPGCL and the PPCL both existing and future capacities) shall be allocated amongst the three Distribution Companies, namely, the NDPL, BRPL and BYPL in a ratio which would be in proportion to the energy drawn by them from the date of unbundling to February 2007. For the NCR Dadri TPS, IPGCL and the PPCL, only 85% of the capacities shall be allocated amongst the three DISCOMs on the same principle. In so far as Badarpur is concerned, only 85% of the capacity left after allocating to the NDMC and the MES would be allocated between the three DISCOMs, again on similar lines. The capacity allotted to each of the Distribution Companies arrived at on the basis of this principle is annexed along with this Order.

(iii) 15% of the capacity of NCR Dadri TPS, IPGCL and PPCL and the balance of what is left from the Badarpur TPS after allocating to the NDMC and the MES would be treated as unallocated share, analogous to what is done in the Central sector in respect of the Central Public Sector Undertakings (CPSUs). This unallocated share of 15% would be at the disposal of the Government of NCT of Delhi and may be allotted by the Government to the Distribution Company(ies) whose consumers are likely to face a relatively higher retail tariff on account of this exercise of reassignment of PPAs. The cost of power from these plants are regulated and are lower than the cost at which power would be procured through bilateral arrangements and also through UI at present. In case no allocation from the unallocated capacity is done within the specified time frame, such unallocated capacity shall revert back to the three DISCOMs in the same ratio in which the capacity allocation was done. The Government may also use this unallocated share to meet any contingency or force-majeure condition that may arise in any particular geographical area in the NCT of Delhi.

(iv) If the allocation results in any excess capacity in the hands of any of the Distribution Companies/Agency at any time, such excess capacity shall be offered to other Distribution Utilities in Delhi at the first instance and only if such spare capacity cannot be absorbed within Delhi, it shall be offered to others. Necessary arrangements for this purpose shall be evolved in the Power Procurement Group constituted by the Government of NCT of Delhi.

(v) All transactions for sale/banking of surplus power shall be done by a transparent competitive bidding process. Necessary procedure for the same shall be prepared by the interested stakeholders and submitted to the Commission for approval.

(vi) With the allocation arrangements discussed above, the allocations made from individual stations shall be effective during the period 1.04.2007 to 31.03.2011."

3. The Commission in the above directions had categorically stated that if the allocation results in any excess capacity in the hands of any distribution company/agency at any time, such excess capacity has to be offered to other distribution utilities in Delhi at the first instance. The

object of such direction was to meet the demand of the consumers residing in the area of other DISCOMs. Therefore, the Commission, keeping in view the overall interest of the consumers as well as the electricity sector as a whole in NCT of Delhi, vide its order dated 07.03.2008 decided to carve out 15% of the allocated quota of 350 MW and declared it as unallocated share from the allocation of NDMC. The Commission, in the same Order, also clarified that the total allocation of NDMC will not be reduced from 350 MW and as and when the NDMC needs more power, it would be made available but, for that NDMC will have to approach the Govt. of NCT of Delhi for allocation of Power out of the unallocated share of 15%. In fact, this arrangement facilitates NDMC to procure power even over and above 350 MW if they so need at some point of time.

4. The Commission while keeping the same principle and objective in view, decided to initiate suo-moto action in respect of MES as well, and issued them notice to explain as to why the same principle may not be applied in case of MES as the data available with the SLDC for the last nearly 8-10 months, revealed that MES also has not consumed the total allocated capacity of 50 MW at any point of time in the last 8-10 months.
5. The matter was listed for hearing on 20.03.2008 where the representatives of NDPL, BYPL, BRPL, NDMC, SLDC and MES were present.
6. Col. G. K. Pandita, who represented the MES before the Commission, submitted that the apportionment of 50 MW of power was done in favour of MES after a lot of deliberation at the level of Ministry of Defence, after obtaining the approval of Ministry of Power, Govt. of India. He further submitted that fluctuating prevailing load should not be made the basis for reallocation of power.
7. Col. Pandita further submitted that the Order of DERC dated 31.03.2007 wherein, the direction was issued to the MES that surplus power would first go to other DISCOMs, is being followed in letter and spirit and surplus power is being offered to other DISCOMs through SLDC. Therefore, there is no need for reapportionment/reallocation of power in respect of MES. He further submitted that since the allocation of power to MES has been done by Ministry of Power in consultation with Ministry of Defence, no change can be affected without the concurrence of the said Ministries.

8. On the other hand, the representatives of the DISCOMs submitted that the allocated capacity of 50 MW in respect of MES was never exhausted at any point of time in last 8-10 months. Its consumption always remained much lower than its allocated share of 50 MW.
9. The Commission desired to know from Col. Pandita if the MES was prepared to surrender all its surplus unused capacity out of its allocated power of 50 MW to the DISCOMs through out the year. Col. Pandita requested the Commission to grant sometime to seek instructions from the appropriate authority in the MES as well as the Ministry of Defence, in this matter.
10. In view of the above, the Commission allowed the request of Col. Pandita with a direction to file the written submissions, clarifying the stand of MES/Ministry of Defence in the matter, within 6 weeks from the date of this Order.
11. Ordered accordingly.

Sd/-
(K. Venugopal)
Member

Sd/-
(Berjinder Singh)
Chairman