

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, C-Block, Shivalik, Malviya Nagar, New Delhi-110 017

No. F.9(46)/DERC/2006-07/

Dated : 04.04.2007
Petition No. 11/2007

**In the matter of : Sale of 400 MW Surplus Power during Off-Peak hours
to U.P. Power Corporation Limited.**

ORDER

On the 31st of March 2007, this Commission through an Order allocated the existing Power Purchase Agreements (PPAs) between the five Distribution Companies in Delhi, including the New Delhi Municipal Council (NDMC) and Military Engineering Services (MES). The allocation was based on certain principles which, inter-alia, included the following :-

- i) 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.

- ii) 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.

2. The Commission has received a letter from BSES Rajdhani Power Limited on the 4th April of 2007, which has been sent on behalf of the Delhi Power Procurement Group, submitting that the U.P. Power Corporation Limited (UPPCL) has offered to purchase power to the tune of 400 MW for 6 (six) hours during Off Peak hours between 00.00 hours to 09.00 hours from 2nd April 2007 to 30th April 2007. It is further submitted that in the discussions between the Delhi Power Procurement Group and the UPPCL, it was agreed that the rate for the surplus power would be Rs.6.65 on the Delhi periphery for a quantum upto 400 MW.

3. The BSES Rajdhani Power Limited have stated in their letter that in the minutes of the meeting issued on 20th of March, 2007 regarding the meeting of the Coordination Forum, this Commission had stated that no clearance/approval of the DERC is required for undertaking short-term bidding process for a period less than one year. However, in para 16(v) of the Commission's Order of 31st March 2007 on the subject of reassignment of PPAs, it has been directed that all transactions for sale/banking of the surplus power shall be done by a transparent competitive bidding process and that the necessary procedure for the same shall be prepared by the interested stakeholders and submitted to the Commission for approval.

4. Since the Order of the Commission on reassignment of PPAs was given only recently i.e. on 31st March 2007, the procedures as directed in para 16(v) are yet to be formulated by the stakeholders. In the meantime, since another Utility has approached the Delhi Power Procurement Group for sale of surplus power, the Commission has decided to treat this letter from the BSES Rajdhani Power Limited as a Petition and has dealt with the matter accordingly.

5. It may be stated in the Commission's Order of 31st March, 2007 reassigning the PPAs to the successor Distribution Companies, what has been directed in para 16 of the said Order relates to all transactions relating to sale/Banking of surplus power. However, in the minutes of the meeting issued by the Commission through its communication dated 20th March of 2007, the issue in question was only purchase of power for which the Commission had stated that for short-term bidding process for a period of less than one year, no clearance/approval is required in accordance with first proviso to Section 61 of Electricity Act 2003. The Commission, therefore, reiterates that on matters regarding sale of electricity, all transactions shall be done through a transparent competitive bidding process and that the necessary procedure for the same shall be prepared by the interested stakeholders and submitted to the Commission for approval.

6. The Commission has taken note of the Petition filed by the BSES Rajdhani Power Limited on behalf of the Distribution Companies/Agencies in Delhi, namely, BSES Rajdhani Power Limited,

BSES Yamuna Power Limited, North Delhi Power Limited, New Delhi Municipal Council and Military Engineering Services. It is observed from the Petition that a neighbouring State of Delhi i.e. Uttar Pradesh is in dire need of power. The Commission is aware of the fact that in order to meet the summer time load in the NCT of Delhi, the Delhi Transco Limited on behalf of the Distribution Utilities in Delhi has contracted for round-the-clock power from other States at market driven rates. However, given the load curve of Delhi, there is going to be a surplus in the night hours which, if not sold to anybody else, would have to be given up for which only UI charges would be earned. This would be detrimental to the interests of the consumers of Delhi since on one hand they would be buying power at rates which exceeds Rs.7 per unit, the earnings from UI would be much less and would be a function of the prevailing grid frequency. Keeping the interests of consumers of Delhi in mind, the Commission approves this present proposal which has been submitted by the BSES Rajdhani Power Limited on behalf of the Delhi Power Procurement Group.

7. While giving the approval, the Commission is conscious of the fact that the Appellate Tribunal for Electricity (ATE) had issued an Order on 22nd December of 2006 in Petition No. 1/2005, wherein the Hon'ble Tribunal had issued directions to all State Electricity Regulatory Commissions to fix the Trade Margin in terms of provisions of Electricity Act, 2003. The Hon'ble Tribunal had also directed that the Generators can sell power directly to the Trader and other intermediaries at a mutually agreed price that should not exceed the base price plus 4%

insofar as sale of electricity by Generators to the Trader or intermediaries is concerned, where the base price will be determined by the Appropriate Commission. The Commission has examined this Order of the Appellate Tribunal for Electricity and is of the opinion that the facts of the case in respect of GRIDCO are materially different as compared to the present proposal of BRPL. In the case of GRIDCO, it was pointed out that power was being traded when 80% of the households in the villages of the State were not electrified. In the case of Delhi, it is actually the surplus power during certain off-peak hours of the day which will be traded instead of dispatching it as UI. This would benefit the consumers of Delhi to lower their high power purchase cost. The aforesaid Order of the ATE was contested by various parties in the Hon'ble Supreme Court of India, wherein the Apex Court has granted a Stay on the operation of Order of the ATE dated 22nd December 2006. In view of the Stay given by the Hon'ble Supreme Court, there would be no fetters on the Distributors or the Generators to trade in electricity with Trading Margins as directed by the ATE in its Order dated 22nd December 2006. All the Distribution Companies/Agencies shall comply with the laws of the land and final decisions of the Appellate Tribunal for Electricity/Hon'ble Supreme Court of India.

8. The approval of this Commission on the proposal put-forth by the BRPL is also subject to the following :-

- (i) The State Load Dispatch Centre will oversee the entire operations of this particular transaction. Quantum of surplus power to each of the participating entities in this

transaction shall be finalized by the SLDC to enable sharing of the sale proceeds.

- (ii) This arrangement shall be resorted to only if surplus power is available with each of the Distribution Companies/Agencies and no load-shedding shall be resorted to on account of this transaction in their respective areas.
- (iii) The BSES Rajdhani Power Limited will function as a nodal agency for this transaction and will ensure that adequate Payment Security Mechanism is arranged with the UPPCL for this transaction and that payments to be made to participating members of the Delhi Power Procurement Group are made within 24 hours of receipt of payment from UPPCL.
- (iv) The Distribution Companies will immediately act on para 16(v) of the Order of the Commission dated 31st March 2007 and forward to the Commission the procedure to be followed for transactions for sale/banking of surplus power.
- (v) This approval cannot be used as a precedence in future.

Sd/-

(K. Venugopal)
Member

Sd/-

(Berjinder Singh)
Chairman