

DELHI ELECTRICITY REGULATORY COMMISSION
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi-110017.

F.11(561)/DERC/2010-11/

Petition No.18/2010

In the matter of:

Petition for adoption of Tariff and approval of energy purchase entered between Timarpur Okhla Waste Management Company Private Limited and BSES Rajdhani Power Limited, for purchase of 16 MW of Power by BSES on Long-term basis from power station to be set up at Okhla.

And

In the matter of:

Timarpur Okhla Waste Management Company Pvt. Ltd.
28, Shivaji Marg,
New Delhi – 110 015.

...Petitioner

M/s. BSES Rajdhani Power Ltd.,
Through its: **CEO**
BSES Bhawan, Nehru Place,
New Delhi – 110 019.

General Manager,
State Load Dispatch Centre
33kV Grid S/Station,
SLDC Building, Minto Road,
Behind Zakir Hussain College
New Delhi-110 002.

Delhi Transco Limited,
Shakti Sadan, Kotla Road,
New Delhi – 110 002.

Coram:

Sh. Shyam Wadhera, Member & Sh. S.R. Sethi, Member.

Appearance:

1. Sh. Neelesh Gupta, AGM(Proj.), TOWMCL;
2. Sh. Pradeep Mittal, GM(Proj.), TOWMCL;
3. Sh. Amit Bajpai, VP(Finance), TOWMCL;
4. Sh. Atul Sharma, Advocate, TOWMCL;
5. Ms. Milanka Chaudhury, Advocate, TOWMCL;
6. Sh. Abhishek Sharma, Advocate, TOWMCL;
7. Ms. Prachi Jain, AM(Regulatory);
8. Sh. Ajay Kumar, Addl. V. P., BRPL;
9. Sh. Sanjay Srivastav, Asst. V. P., BRPL;
10. Sh. Sachin Datta, Advocate, DERC;
11. Ms. Gayatri Verma, Advocate, DERC.

ORDER

(Date of Hearing: 06.01.2011)

(Date of Order: 20.01.2011)

1. The Petition No. 37/2007 was filed before the Commission on 22.1.2007 under the provisions of the Electricity Act, 2003 by the Timarpur–Okhla Waste Management Company (Private) Limited (TOWMCL), hereinafter called the Petitioner for determination of tariff for sale of power generated by the integrated waste management complex plant to be set up at Okhla, Delhi by utilizing the municipal solid waste generated in the city of Delhi as basic input. The waste is to be supplied by the Municipal Corporation of Delhi (MCD) and New Delhi Municipal Council (NDMC). The project has been conceptualized as an integrated project which is expected to offer an unique and integrated solution for management of solid waste of the city of Delhi. The prospective developer was proposed to be selected through competitive bidding process.
2. The Petition was heard in the Commission and subsequent Orders dated 17.08.2007, 08.11.2007 & 31.03.2008 were passed by this Commission which shall be integral part of this Order. The Commission vide its order dated 17.08.2007 examined the RFP, Standard Bidding Document of TOWMCL and stipulated certain conditions while floating the tender. The Commission vide its order dated 08.11.2007 further specified certain conditions to amend the Bid Documents due to consequences of new facts brought before the Commission by NDMC & MCD.
3. This present Petition No. 18/2010 has been filed on 11.05.2010 by TOWMCL in accordance with directions of the Commission vide its Interim Order no. F.3(164)/Tariff/DERC dated 31.03.2008, in Petition no. 37/2007. The directions of the Commission to the Petitioner viz. Timarpur Okhla Waste Management Company Pvt. Ltd. (TOWMCL) as given in clause 21 of the said Interim Order, are reproduced below:

"21. The Commission further directs the M/s. NDWPCL to provide certificate of conformity of the bidding process according to clause 6.2 of the guidelines issued by the Central Government. Further, the procurer has to make public bid document indicating all the components of the tariff quoted by all the bidders after signing the PP A or PPA becoming effective whichever is later. The Commission will adopt the tariff in terms of Section 63 of the Act after receiving the signed PPA or PPA becoming effective whichever is later. The Commission will adopt the tariff in terms of Section 63 of the Act after receiving signed PPA along with certificate by the Evaluation Committee. This interim order will become part of the order to be issued by the Commission on adoption of tariff in terms of Section 63 of the Act."

4. The Petitioner vide present Petition no. 18/2010 has prayed as under:
- (i) Adopt the tariff of first year of Rs. 2.49 and levelised tariff of Rs. 2.833 and approve the Energy Purchase Agreement (EPA) executed between TOWMCL, the Petitioner and BRPL as per the terms and conditions as specified in this agreement.
 - (ii) A hearing may be granted to the Petitioner in the matter to enable it to explain its position further and place all available material on record before any decision is taken in pursuance of this Petition;
 - (iii) Any other relief this Hon'ble Commission deems fit and suitable in the facts and circumstances of this case,
5. In this Petition dated 11.05.2010, the Petitioner has made the following submissions:
- (i) It has executed the Energy Purchase Agreement (EPA) with M/s. BRPL on 20.01.2010 in mutual agreement;
 - (ii) It has already submitted Certificate of Conformity of the bidding process according to clause 6.2 of guidelines issued by the Central Government with the Petition for Tariff Adoption submitted on 04.02.2008 to the Commission;
 - (iii) Consequent to the Competitive Bidding process, Jindal Urban Infrastructure Limited (JUIL) was selected as the successful bidder and TOWMCL was transferred to JUIL. JUIL has quoted the first year tariff of Rs. 2.49 and levelised tariff of Rs. 2.833 to undertake and implement the project of converting municipal waste to generate 16 MW of power;
 - (iv) The Petitioner applied to the Commission for captive consumption of power vide representation letter dated 19.08.2008 in response to which the Commission conveyed that the said matter should have been referred to the NDWPCL/Procurer (BRPL). Accordingly TOWMCL obtained "no objection" from IEWMCL (erstwhile NDWPCL) for captive consumption, which was communicated to the Commission vide letter of (erstwhile NDWPCL) vide letter dated 29.06.2009. The letter states "Our Company has no objection if the Commission allows captive use of power generated from the project".

- (v) EPA was subsequently executed on 20 January 2010, under which the BRPL has right to purchase 50% of the ex bus energy generated in the project (after deducting auxiliary consumption of 22%).

BRPL refused to allow the possible use of BRPL sub-station in the event of the Petitioner deciding to use the entire power for captive/third party sale, by inserting a clause in the EPA to effect the disconnection of the Waste Treatment plant. TOWMCL has agreed to this clause due to its requirement of signed EPA and subsequent submission to the Commission.

- (vi) TOWMCL subsequently approached the Commission through a Petition dated 21.08.2009 for grant of Open Access and Permission for captive consumption from its Waste to Energy Plant. The Commission, vide its letter dated 23.10.2009, communicated to the Petitioner that the Commission is not vested with powers to adjudicate upon matters relating to grant of open access & permission for captive consumption of the power generated from its waste to Energy Plant located at Okhla; and advised the Petitioner to take recourse before the appropriate forum.

Pursuant to the above said communication, the Petitioner, during the period November 2009 to January 2010 sought permission for open access from DTL for connectivity at 220/66KV Sarita Vihar substation at 66KV level. DTL vide letter dated 14.01.2011 informed that the open access to transmission system of DTL is subject to-

- a) Distribution/Transmission losses if any to be borne by TOWMCL.
- b) Resolution of metering and other commercial arrangement.
- c) Maintaining synchronization with the system.
- d) Providing all the connection details by TOWMCL.
- e) Clearance from PGCIL, Maharashtra STU and other agencies.

6. The matter was again listed for hearing on 26.07.2010 in the Commission, wherein Commission directed to furnish the copy of Bid document, RFQ alongwith draft model EPA for long term power procurement on affidavit.

7. The Petitioner on affidavit furnished the following documents;

- a) Affidavit in relation to submission of additional documents in support of the Petition.
- b) Affidavit by way of clarifications sought by the Hon'ble Commission.

- c) Copy of Standard RFQ for long term power procurement under Case 2 alongwith Addendum-I to the Bid document, Addendum-II & Addendum-III and other relevant documents.
8. The next hearing of the case was on 06.01.2011. The Petitioner relied upon the documents submitted with Affidavit vide their letter dated 20.8.2010 therewith enclosing the copy of additional supporting documents alongwith EPA signed by BRPL. The representative on behalf of BRPL submitted that the EPA was executed with TOWMCL on 20th day of January 2010 and agreed upon the quantum of power; terms & conditions laid upon in Energy Purchase Agreement and abide by it.
9. The Commission enquired about the usage of surplus power generated in addition to the allocated share of BRPL. The Petitioner replied that the power shall be used for captive purpose or surplus shall be sold to 3rd party.
10. The Commission has considered the Petition submitted by TOWMCL and subsequent arguments, EPA duly signed by BRPL & TOWMCL dated 20.01.2010 wherein, BRPL has agreed to purchase 50% of ex-bus energy (after plant's auxiliary consumption of upto 22%) from 16 MW capacity plant on monthly basis, for the entire period of contract for its consumption from this plant.
11. The Commission observed that Petitioner has submitted the certificate of conformity of bidding process accordingly to clause 6.2 of the guidelines issued by the Central Government. Considering the Tariff in terms of Section 63 of the Act and facts and figures/documents placed before the Commission, the Commission accord its approval for the said EPA subject to compliance of the under-mentioned direction.
- (i) EPA shall be modified to the extent that minimum 50% of Generation on daily basis subject to 60 MUs per year shall be supplied to BRPL by TOWMCL.
 - (ii) The tariff of first year of Rs. 2.49/kWh and levelised tariff of Rs. 2.833 shall continue to prevail.
 - (iii) Both the parties shall abide by the terms and conditions of LOI and EPA.
 - (iv) The evacuation of power shall take place as per the provisions of IEGC, Delhi Grid Code and satisfaction of State Load Despatch Center (SLDC, Delhi).

- (v) After supplying the allocated energy to BRPL, if there is any surplus energy generated from the plant, the TOWMCL shall be entitled to use remaining energy for captive purpose/to be sold to the Third Party, after obtaining open access from SLDC, Delhi and other Agencies as applicable.
- (vi) This order shall be integral part of earlier interim orders issued in Petition No. 37/2007.

12. The present Petition of TOWMCL hereby stand disposed off as settled.

13. Ordered accordingly.

Sd/-
(Subhash R. Sethi)
Member

Sd/-
(Shyam Wadhera)
Member