ORDER

OF THE

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

IN CASE NO. WBERC/PPA-93 /18-19

IN REGARD TOTHE APPLICATION SUBMITTED BY WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) FOR APPROVAL OF POWER PURCHASE AGREEMENT EXECUTED ON 02.11.2018 BETWEEN M/S RASHMI ISPAT LIMITED (RIL) AND THE WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) FOR PURCHASE OF SURPLUS POWER BY WBSEDCL FROM WASTE GAS BASED CAPTIVE GENERATING PLANT (CGP) OF CAPACITY 12 MW OF RIL SITUATED AT JHARGRAM, DIST. JHARGRAM, FOR A CONTRACT PERIOD OF 25 (TWENTY FIVE) YEARS IN TERMS OF REGULATIONS 7.4.1 OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS OF TARIFF) REGULATIONS, 2011, AS AMENDED.

PRESENT:

SRI SUTIRTHA BHATTACHARYA, CHAIRPERSON

SRI DURGADAS GOSWAMI, MEMBER

DATE: 24.06.2019

Facts in brief:

1.0 This is in regard to the application submitted by the West Bengal State Electricity Distribution Company Limited (WBSEDCL) on 26.12.2018 for approval of power purchase agreement (PPA) executed on 02.11.2018 between Rashmi Ispat Limited (RIL)) and the West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of surplus power by WBSEDCL from RIL for a period of 25 (twenty five) years, in terms of regulations 7.4.1of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended (in short 'Tariff Regulation'.).

2.0 In their petition WBSEDCL submitted that RIL has set up a waste gas based Co-generating Plant of 12.00 MW capacity at Jhargram, Dist. Jhargram utilizing waste gas of its sponge iron producing plant located in the same premises.

3.0 WBSEDCL also submitted that RIL intends to sale the surplus power to WBSEDCL after meeting auxiliary consumption and captive use of electricity at factory premises and WBSEDCL is desirous to purchase such surplus power from RIL through execution of a Power Purchase Agreement (PPA).

4.0 Accordingly, as submitted by WBSEDCL, a PPA has been executed by and between RIL and WBSEDCL on 02.11.2018 for purchase of surplus power by WBSEDCL from RIL with mutually agreed terms and conditions. A copy of the said PPA has been submitted by WBSEDCL along with the application.

5.0 WBSEDCL further submitted that the PPA is valid for a period of 25 years effective from the date of approval of the Board of Directors of WBSEDCL and the Commission, whichever is later. The quantum of surplus energy to be purchased by WBSEDCL from RIL is envisaged to 28.38 MU with a variation of -20% and the point of interconnection is the 33kV bus of RIL bus.

6.0 WBSEDCL further submitted that the tariff of power during the first year of the operation shall be Rs. 2.22 per kWhcomprising of fixed cost as Rs. 0.90 per kWh and energy charge as Rs. 1.32 per kWh. It is also submitted that increase for each year on fuel cost has been allowed as per West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2013 (in short 'Renewable Energy Regulations, 2013'). However, the overall price shall not exceed the capped price for co-generation plant as per Renewable Regulations, 2013. WBSEDCL subsequently vide their letter dated 25.03.2019 requested to consider fixed cost as Rs. 1.32 per kWh and energy charge as Rs. 0.90 per kWh in line with the PPA.

7.0 Regarding need for procurement of power WBSEDCL submitted that as per the provisions of the Renewable Energy Regulations, 2013, it is regulatory obligation on the part of WBSEDCL to consume a certain quantum of electricity from cogeneration and renewable sources of energy as percentage of total consumption and that WBSEDCL is trying to fulfil such regulatory obligation by purchasing renewable power from RIL.

8.0 WBSEDCL also submitted that this purchase of power shall improve the voltage profile in Jhargram, Paschim Medinipore or continue to be relatively stabilized. Moreover, overall technical loss for supply of this power will be less as the power of RIL would be received from distributed generation mode.

9.0 From the projection submitted by WBSEDCL it is revealed that the financial impact for purchase of 28.38 MU of power from 12 MW power plant of RIL would be Rs. 6.30 Crore for the first year of operation considering tariff of 222 paise per kWh.

10.0 In view of above, WBSEDCL has prayed before the Commission to approve the Power Purchase Agreement dated 02.11.2018 executed by and between Rashmi Ispat Limitedand West Bengal State Electricity Distribution Company Limited for purchase of surplus power by WBSEDCL from RIL from waste gas based captive generating plant of capacity 12 MW of RIL for a period of 25 (twenty five) years in terms of regulations 7.4.1 of

the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended.

11.0 Gist of the application for approval of PPA inviting objections and suggestions from the stakeholders was published on 27.02.2019 in "The Times of India", "The Telegraph" and "Ananda Bazar Patrika". However, no comments /objections / suggestions were received within the scheduled date.

Point of determination

12.0 Clause (b) of sub-section (1) of section 86 of the Electricity Act 2003 (hereinafter refereed as "the Act") inter-alia specifies that, while discharging its function the State Commission shall regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State. At the same time clause (e) of sub-section (1) of section 86 of the Act 2003 further specified to promote co-generation and generation of electricity from renewable sources.

13.0 Accordingly, WBERC has specified a Renewable & Cogeneration Purchase obligation (RPO) in the West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations 2013 [hereinafter termed as "RE Regulations"]. Regulation 16.3 of the RE Regulation specified the points those are at least to be incorporated in the PPA and 16.4 of the RE Regulations inter-alia directs to submit the PPA, as agreed and signed, to the Commission for approval so that such purchasing price will be approved under section 86(1)(b) of the Act.

14.0 Further provision of prior approval of Power Purchase Agreement (PPA) has also been specified in the Tariff Regulations notified by the Commission. The extent of review of the PPA as specified in regulation 7.4.2 of the Tariff Regulations is produced below:

"7.4.2 *The Commission shall review an application for approval of power purchase agreement / arrangement for a period exceeding one year having regard to thefollowing factors, as appropriate.*

(a) Requirement for power procurement;

(b) Adherence to a transparent process of bidding in accordance with guidelines issued by the Central Government;

(c) Adherence to the tariff determined by the Central Electricity Regulatory Commission for the purchase of power from Central generating company;

(d) Adherence to the agreed tariff for purchase of energy from international sources;

(e) Adherence to policy approved by the Commission for purchase of power from captive and non-conventional sources;

(f) Availability (or expected availability) of capacity in the Intra-State transmission system for evacuation and supply of power procured under the agreement / arrangement;

(g) Adherence to Purchase of power from any source, other than those mentioned from (a) to (e) above in pursuance to different provisions of these regulations;

(h) Need to promote cogeneration and generation of electricity from renewable sources of energy."

15.0 In the instant petition for approval of PPA WBSEDCL has submitted that, the it will help them to fulfill their RPO and the tariff has been mutually agreed in terms of RE Regulations. Hence considering the provisions of regulation 7.4.2 of Tariff Regulations read with regulation 16.3 and 16.4 of the RE Regulations the followings are required to be reviewed:

(i) Requirement of purchase of cogeneration power in line with clause (a) & (h) of regulation 7.4.2 of the Tariff Regulations read with RPO requirement under RE regulations;

(ii) Admissibility of the price of power in line with clause (e) of regulation 7.4.2 of the Tariff Regulations read with relevant provisions of RE Regulations;

(iii) Availability of capacity in the Intra-State transmission system for evacuation and supply of power in line with clause (f) of regulation 7.4.2 of the Tariff Regulations;

Observations of the Commission:

16.0 From the quarterly RPO status submitted by WBSEDCL it is observed that WBSEDCL at the end of 3rd quarter of FY 2018-19 has achieved the solar RPO as 0.44% with a total of 3.45% against the RPO target of solar 0.40% and total 7.00%. It shows that there is a considerable gap in fulfilling non-solar RPO target. It is further observed WBSEDCL could not able to fulfil its RPO target during the FY 2017-18. This purchasing 28.38 MU from the waste gas based captive generation plant of RIL will help to reduce the.

17.0 The interconnection point has been decided as 33kV bus bar of RIL and the power will directly be delivered to the WBSEDCL system. Hence there is no involvement of intra-state transmission system in evacuation of such power.

18.0 Two-part tariff consists of fixed charge and energy charge as per the provisions of the Renewable Energy Regulations, 2013 has been mutually agreed upon by the parties. For the first year of operation the tariff will be Rs. 2.22/kWh having energy charge of Rs. 0.90 /kWh and fixed cost of Rs 1.32/kWh. It is also proposed that the instant PPA is having the provision of allowing an increase in energy charge annually by the finding the lowest out of the following two parameters:

a) Annually 5% over the energy charge of the previous year;

b) Applying increase in whole sale price index for coal at the start of the year on the energy charge at the start of the previous year. Such wholesale price index shall be taken from the declaration of Ministry of Commerce & Industry of Government of India.

It is also specified that the fixed charge component is fixed. It is also mentioned that, there will be no escalation in 2019-20 i.e. the energy charge during 2018-19 and 2019-20 will be same.

It is further specified that the total tariff of electricity shall not exceed the capped price for co-generation plant as per RE Regulations.

19.0 In terms of clause (h) of section 61 read with clause (a) of sub-section (1) of section 62 of the Electricity Act 2003 the Commission has specified the source-wise price capping in the RE Regulations. It is observed that in clause (iv) of regulation 6.1 of the RE Regulations the price cap for co-generation plant has been specified as Rs 3.34 /kWh. The regulation inter-alia also specifies that purchaser may agree for a two-part price with a provision for allowing annual increase in energy charge annually by finding the lowest of the following three:

(i) Annually 5% over the energy charge of the previous year;

(ii) Applying escalation index for domestic coal fired power station at the start of a year on energy charge at the start of the previous year where such index is as per notification by CERC for Case – I bidding which were notified during the previous year.

(iii) Applying increase in whole sale price index for coal at the start of the year on the energy charge at the start of the previous year. Such wholesale price index shall be taken from the declaration of Ministry of Commerce & Industry of GOI."

20.0 While scrutinizing the application for PPA, Commission observes that the overall purchase price proposed in the petition is Rs. 2.22 / kWh which is within the capped tariff / price of

Rs. 3.34 /kWh. However, it is also observed that parameter (ii) as specified in regulation 6.1(iv) of the RE Regulations has not been mentioned in the PPA. Accordingly, WBSEDCL was directedto submit clarification on the matter as to why the parameter (ii), as given hereinabove, has not been considered in the PPA for escalation of energy charge.

21.0 Accordingly, WBSEDCL vide letter No. REG/SERC/34 dated 26.04.2019 and subsequent letter No. REG/SERC/54 dated 15.05.2019 inter-alia submitted that, the two-part tariff has been proposed as per provisions of RE Regulations and the fixed charge component was determined on the basis of principles as laid down in the Tariff Regulations. WBSEDCL also clarified that CERC has discontinued publication of escalation rate for Case – I bidding since 01.04.2014 vide CERC Order dated 21.02.2014 in case no. 002/SM/2014.Hence, they have agreed to review the energy charge component every year based on other two parameters as stipulated in regulation 6.1(iv) of the RE Regulations. WBSEDCL enclosed a copy of the said order of CERC. WBSEDCL also submitted a copy of resolution taken in 78th meeting of Board of Directors of WBSEDCL in this regard.

22.0 WBSEDCL vide letter reference no. PTP/SERC/90 dated 21.05.2019 submitted that in the PPA month-wise and time-wise quantum of supply could not be given as RIL will supply only surplus power. WBSEDCL also submitted a MOM between WBSEDCL and RIL specifying the operational, financial and other parameters considered for price determination. WBSEDCL also confirmed that these parameters will not vary in subsequent period of 15 years as per Regulation. While scrutinizing the MOM some typographical inaccuracies in relation to loan amount are found.

23.0 The Commission observes that WBSEDCL has purchased the surplus power from RIL from their gas based captive power plant at Jhargram, in terms of RE Regulations notified by the Commission and the price of such power is well within capped price specified in regulation 6.1(iv) of the RE Regulations.

Order:

24.0 The Commission after considering the above facts and its responsibility to promote Cogeneration and Renewable source of energy under clause (e) of sub-section (1) of section 86 of the Act approves the Power Purchase Agreement signed by and between the WBSEDCL and RIL for purchase of surplus power from waste gas based Captive Generating Plant of RIL at Jhargram, Dist. Jhargram for a period of 25 (twenty five) years on mutually agreed basis in terms of regulation 7.4.1 of the Tariff Regulations read with regulation 16.4 of the RERegulations. The tariff for first year of operation will be Rs. 2.22 per kWh comprising of fixed cost as Rs. 1.32 per kWh and energy charge as Rs. 0.90 per kWh with a provision for annual increase in energy charge as per the terms of the PPA.

25.0 The Commission also directs WBSEDCL to incorporate the minutes of the meeting held on 29.05.2018 between WBSEDCL and RIL, where the operational and financial parameters were fixed to determine the tariff, in the PPA with suitable corrections as noted in paragraph 22.0 above. WBSEDCL shall amend the PPA accordingly and submit a copy to the Commission within three months.

26.0 The petition is thus disposed of. Let a copy of the order be served upon WBSEDCL.

Sd/-

(DURGADAS GOSWAMI)
MEMBER

Sd/-

(SUTIRTHA BHATTACHARYA)
CHAIRPERSON

DATED: 24.06.2019

Sd/-

(T. K. MUKHERJEE)
SECRETARY