



ORDER
OF
WEST BENGAL ELECTRICITY REGULATORY COMMISSION

IN THE MATTER OF

CASE NO. OA-221/15-16
CASE NO. OA-222/15-16
CASE NO. OA-272/18-19
AND
CASE NO. OA-273/18-19

IN RE THE APPLICATIONS SUBMITTED BY -

- 1) INDIA POWER CORPORATION LIMITED (ERSTWHILE DPSC LIMITED) ON 3.11.2015 BEARING CASE NO. OA-221/15-16;
- 2) DAMODAR VALLEY CORPORATION (DVC) ON 18.11.2015 BEARING CASE NO. OA-222/15-16;
- 3) INDIA POWER CORPORATION LIMITED (IPCL) ON 26.04.2018 BEARING CASE NO. OA-272/18-19; AND
- 4) WEST BENGAL ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) ON 15.05.2018 BEARING CASE NO. OA-273/18-19 -
SEEKING DIRECTION IN ORDER TO RESOLVE THE ISSUE OF ENERGY COST FOR SUPPLY OF ENERGY IN RADIAL MODE BY DVC AT DIFFERENT RADIAL OFF-TAKE POINTS OF WBSEDCL AND IPCL.

PRESENT:

SRI RABINDRA NATH SEN, CHAIRPERSON
SRI AMITAVA BISWAS, MEMBER
SIR DURGADAS GOSWAMI, MEMBER

DATE: 05.07.2018



In Re the applications submitted by 1) India Power Corporation Limited (Erstwhile DPSC LIMITED) on 3.11.2015 bearing case no. OA-221/15-16, 2) Damodar Valley Corporation (DVC) on 18.11.2015 bearing case no. OA-222/15-16, 3) India Power Corporation Limited (IPCL) on 26.04.2018 bearing case no. OA-272/18-19 and West Bengal Electricity Distribution Company Limited (WBSEDCL) on 15.05.2018 bearing case no. OA-273/18-19 seeking direction in order to resolve the issue of energy cost for supply of energy in radial mode by DVC at different radial off-take points of WBSEDCL and IPCL.



Noting by Office or Advocate	Sl. No.	Date	Office notes, reports orders or proceedings with signature
			<p style="text-align: center;"><u>ORDER</u></p> <p>05.07.2018</p> <p>1.0 In the tariff order dated 25.05.2015 for the years 2014 – 2015 and 2015 – 2016 in respect of Damodar Valley Corporation (DVC), the Commission has determined the tariff for retail sale of energy by DVC to their consumers excluding the sale to distribution licensees within the supply area of DVC in the State of West Bengal. The Commission has also passed the tariff orders for the years 2014 – 2015 and 2015 – 2016 in respect of India Power Corporation Limited (IPCL) (erstwhile DPSC Limited) and West Bengal Electricity Distribution Company Limited (WBSEDCL) on 21.07.2016 (amendment on 17.02.2017) and 04.03.2015 respectively determining the price for power purchase from DVC by the respective licensees. The dispute stated to be arisen between DVC and IPCL jointly with WBSEDCL in the context that DVC is billing both IPCL and WBSEDCL at a tariff determined for retail sale to its consumers without giving any cognizance to the status of both IPCL and WBSEDCL as distribution licensees, as a result of which a huge extra amount is becoming liable to be paid to DVC by IPCL and WBSEDCL.</p> <p>2.0 In this context, IPCL has filed petitions on 03.11.2015 and 26.04.2018 before the Commission praying for declaration to the effect that the retail tariff determined by the</p>



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			<p>Commission for the distribution business of DVC is not applicable to IPCL as a distribution licensee for purchase of power from DVC. They have also prayed before the Commission to declare the invoice raised by DVC at retail consumer tariff as erroneous and illegal and to direct DVC to revise erroneous bills and raise bills upon the petitioner as per the cost of generation as generator supplying at the agreed periphery of the petitioner. The petitions submitted by IPCL have been admitted by the Commission and numbered as OA-221/15-16 and OA/272/18-19.</p> <p>3.0 Similarly, WBSEDCL has also filed a petition on 15.05.2018 praying before the Commission to pass an order for not imposing retail tariff determined for the consumers of DVC in the tariff order dated 25.05.2015 on the bulk sale of power to WBSEDCL as a licensee by DVC in respect of 11 off-take points. They have also prayed before the Commission to pass an order to revise the sale bills of DVC for 11 number radial off-take points since June, 2015 as per the power purchase price approved by the Commission in the order dated 28.09.2015 or any power purchase rate determined by the Commission for such drawal of power through radial off-take points by WBSEDCL from DVC. The petition has been admitted by the Commission and numbered as OA-273/18-19.</p> <p>4.0 DVC in their petition submitted on 18.11.2015 prayed before the Commission to admit the petition considering the radial mode of power supply to WBSEDCL and IPCL (erstwhile DPSC Limited) as per subsisting PPA and pass necessary directions on WBSEDCL and IPCL to accept</p>
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			<p>the retail tariff as determined by the Commission vide orders dated 25.05.2015 and 24.08.2015. The petition has been admitted by the Commission and numbered as OA-222/15-16.</p> <p>5.0 Upon perusal of the above four petitions filed by IPCL, WBSEDCL and DVC, the Commission observed that the petitions are linked each other. Therefore, the Commission decided to adjudicate the petitions altogether instead of separately.</p> <p>6.0 Accordingly, the Commission called for a hearing upon serving of notice vide reference no. WBERC/OA-272/18-19/2272 dated 8th June, 2018 to WBSEDCL, DVC and IPCL, fixing the date of hearing on 19th June, 2018 at 3.00 PM. However, the time of the hearing was subsequently rescheduled to 1.00 PM vide letter dated 13th June, 2018.</p> <p>7.0 In the hearing on 19.06.2018, Smt. Sonal Sinha, Ld. Counsel of DVC along with other officers of DVC were present with due authorization. Shri Rajeev Nandan Sinha, SE(E) and Sri Chanchal Biswas, SE(E) were present on behalf of WBSEDCL with due authorization. Shri Sakya Singha Chaudhuri, Ld. Counsel of IPCL along with other officers of IPCL were also present with due authorization.</p> <p>8.0 During hearing all the representatives of WBSEDCL, DVC and IPCL submitted that they have not received the petitions of others, in absence of which they are unable to make any comments. However, the representatives of all the petitioners have briefly submitted their contentions</p>
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which are given below seriatim:

- a) Smt. Sonal Sinha, Ld. Counsel and Sri D. K. Aich, on behalf of DVC submitted that the tariff should not be unilaterally decided by the licensees. He has also submitted that IPCL and WBSEDCL should make payment as claimed by them and the matter relating to payment of bill as per the tariff determined by the Commission vide its order dated 25.05.2015 and 24.08.2015 for retail sale to its consumers should be settled by the Commission. In this context, the representative of DVC cited the reference of APTEL's order dated 10.05.2010. It is also submitted that due to non-payment of the energy bill as per their claim at consumer's tariff both by WBSEDCL and IPCL, there is huge accumulation of outstanding dues.
- b) Sri Rajib Nandan Sinha, on behalf of WBSEDCL submitted that the power purchase price admitted by the Commission in their tariff order at a pooled power station cost for supply of energy by DVC through radial mode at eleven different off-take points of WBSEDCL should be accepted by DVC. It is also submitted that after June, 2015, DVC claimed at consumers' tariff which is not acceptable to WBSEDCL. On 14.08.2015, the Commission approved the PPA for new two off-take points where it is mentioned that the tariff will be as per power purchase price approved by the Commission. The representative of WBSEDCL also mentioned that in order to resolve the dispute in billing of 11 nos. radial off-take points by DVC, a meeting was held on 03.10.2017 in the chamber of Principal



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			<p>Secretary, Department of Power & Non-Conventional Energy Sources, Government of West Bengal where the Chairman of DVC and CMD of WBSEDCL were present and it was decided that "as an interim measure, WBSEDCL may provisionally consider the cost of power purchase from DVC in the radial mode of supply as allowed by WBERC in the tariff order of WBSEDCL dated 04.03.2015 for the period 2014 – 2015 to 2016 – 2017 till settlement of the tariff dispute.</p> <p>c) Sri Sakya Singha Chaudhury, Ld. Counsel, on behalf of IPCL submitted that the definition of licensee is different from the definition of consumers as per the Electricity Act, 2003. The PPA between IPCL (erstwhile DPSC Limited) and DVC was executed in terms of provisions of the Electricity Act, 1910 and the consumer tariff was applicable to them. But, as per the provisions of the Electricity Act, 2003, the distribution licensee cannot be considered as consumer. The tariff for sale of energy between the licensees should be determined in terms of section 62(1)(a) and not 62(1)(d). It is also stated that the sale of energy between the licensees should be treated as intra-state trading and trader's margin should be allowed.</p> <p>9.0 Upon hearing the contentions of DVC, WBSEDCL and IPCL the Commission passed the followings:</p> <p>a) DVC, WBSEDCL and IPCL each shall send copies of their petition to other parties within 7 (seven) days.</p> <p>b) Affidavit in reply by each party on the petition of other parties shall be submitted to the Commission within 7</p>
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			<p>(seven) days from the date of receipt of the copies of the petitions with a copy to other parties.</p> <p>c) Written arguments, if any, shall be submitted to the Commission within one month from the date of receipt of the reply with a copy to other parties.</p> <p>d) The petitioners are also directed to submit copies of valid PPA between them, if any.</p> <p>e) Next hearing will be held on receipt of the complete submission by the parties as mentioned in (b), (c) and (d) above.</p> <p>10.0 Let a copy of the order be served upon WBSEDCL, DVC and IPCL.</p> <p style="text-align: center;"> Sd/- (DURGADAS GOSWAMI) MEMBER </p> <p style="text-align: center;"> Sd/- (AMITAVA BISWAS) MEMBER </p> <p style="text-align: center;"> Sd/- (R. N. SEN) CHAIRPERSON </p> <p>DATED : 05.07.2018</p> <p style="text-align: center;">  (T.K.MUKHERJEE) SECRETARY </p> <p style="text-align: center;">  </p> <p style="text-align: right; color: purple;">Certified true Copy</p>
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