
Petition No. 1623 of 2020
BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Date of Order: 06.10.2020

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Shri Kaushal Kishore Sharma, Member
Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

IN THE MATTER OF

Petition under Section 86 (1) (f) of the Electricity Act, 2003 read with Article 23 (d) of the Power Purchase Agreement dated 19.02.2018 seeking payment of invoices at the Average Power Purchase Cost at rate of 3.87/kWh in terms of Article 2.1 of the PPA and quashing of the Impugned email dated 28.08.2020 issued by UPPCL.

M/s DCM Shriram Limited,
Having their registered office at
2nd Floor, (West Wing), Worldmark 1,
Aerocity, New Delhi – 110 037

..... Petitioner

Uttar Pradesh Power Corporation Limited,
Through its Managing Director,
7th Floor, Shakti Bhawan, Ashok Marg,
Lucknow.

The following were present:

1. Shri Deepak Raizada, CE, UPPCL
2. Shri Venkatesh, Advocate, DCM Shriram Ltd.
3. Shri Anoop Singh, DCM Shriram Ltd.


ORDER

(Date of Hearing 23.09.2020)

1. The Petition has been filed by M/s DCM Sriram Ltd, the Petitioner, under Section 86 (1) (f) of the Electricity Act, 2003 read with Article 23 (d) of the Power Purchase Agreement dated 19.02.2018, seeking payment of invoices at the average power purchase cost (APPC) at the rate Rs. 3.87/unit in terms of Article 2.1 of the PPA. The APPC rate of Rs. 3.87/unit was approved by the Commission for the year 2017-18 in Petition No. 1203/2017 and batch. The Petitioner further, stated that UPPCL vide its email dated 28.08.2020 has directed the Petitioner to raise the invoices to arbitrary at APPC rate of Rs. 3.51/unit from July 2019 onwards.
2. The Petitioner has prayed as follows:
 - a. Admit the present petition;
 - b. Quash the impugned Email dated 28.08.2020;
 - c. Direct UPPCL to pay DCM at the APPC rate of Rs. 3.87/kWh as determined by the Hon'ble Commission for FY 2017-18;

INTERIM Prayer

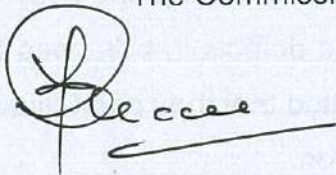
-
- a. Direct UPPCL to pay at APPC rate of Rs. 3.51/kWh till the pendency of the Petition for the period from July 2019 till date.
3. Shri Venkatesh, legal counsel of the Petitioner submitted that Petitioner's Project has three power plants- 15 MW, 21 MW and 3 MW based on Bagasse/Spent wash & Bagasse. Power from these three plants is evacuated through same transmission line. The Petitioner is raising bills to UPPCL on weighted average of power supplied from respective plant and their rates. As regards, 3 MW Plant, as per PPA, UPPCL is to purchase power at APPC of UPPCL for FY 2017-18 as determined by the Commission fixed for whole tenure of the PPA i.e. ten years. UPPCL has stopped processing of bills of other existing PPAs on the ground that APPC for FY 2017-18 is Rs. 3.51 per unit intimated vide email dated 28.08.2020. An amount of Rs. 52 Crs has been held up by UPPCL on this account.
4. Shri Deepak Raizada, representative of UPPCL submitted that the copy of the petition has not been served to them and also defects in bills need to be rectified in terms of the PPA. He further submitted that they need three-week time to file their counter affidavit to the Petition.
5. Shri Venkatesh, legal Counsel of the Petitioner argued that interim direction may be issued by the Commission for making payment at the rate of Rs. 3.51 per unit as intimated vide email dated 28.08.2020 of UPPCL. He further submitted that the payment can be released by UPPCL after the bills are revised by the petitioner subject to final settlement as per Commission's direction upon final decision in the matter.
6. The Commission observed that Commission's approval of the PPA dated 19.02.2018 shall be placed on record by the Petitioner. The Commission also observed that the details of Average Power Purchase Cost shall also be placed on record by UPPCL in terms of email dated 28.08.2020.
-



Upon specific query by the Commission regarding timeline for making payment, Shri Deepak Raizada submitted that the release of the payment by finance department is dependent on fund flow once the bills are verified.

7. The Commission keeping in view, the balance of equity, directed UPPCL to make payment to the Petitioner at agreed rate of Rs. 3.51/unit subject to revision of bills by the Petitioner. UPPCL shall endeavor to make payment as early as possible but not more than fifteen days after the verification of revised bills. The payment released by UPPCL shall be subject to final settlement in terms of the PPA and Commission's direction upon final hearing in the matter. The Commission also directed the Petitioner to serve a copy of the Petition to the Respondent, UPPCL to submit its reply within three week-time and Petitioner can file its rejoinder in two weeks thereafter.

The Commission fixed the next date of hearing on 04.11.2020.



(Vinod Kumar Srivastava)
Member



(Kaushal Kishore Sharma)
Member



(Raj Pratap Singh)
Chairman

Place: Lucknow

Dated: 06.10.2020