

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

No. F.11(1788)/DERC/2020-21

Petition No. 23/2020

In the matter of: Petition for seeking reassigning the allocation of Power amongst the distribution licensees out of the overall power portfolio allocated to the National Capital Territory of Delhi and bringing parity in allocation of power amongst the distribution licensees of the State.

Tata Power Delhi Distribution Ltd.

.... Petitioner

Vs.

BSES Rajdhani Power Ltd. & Ors.

.... Respondents

Coram:

Hon'ble Sh. Justice S. S. Chauhan, Chairperson

Hon'ble Sh. A.K. Singhal, Member

Hon'ble Dr. A. K. Ambasht, Member

ORDER

(Date of Order:13.11.2020)

1. The aforesaid Petition has been filed by Tata Power Delhi Distribution Limited (TPDDL) for re-assigning the allocation of power amongst the distribution licensees, the petitioner and the arrayed Respondents, out of the overall power portfolio allocated to the NCT of Delhi by Ministry of Power, GOI.
2. The petitioner has prayed to re-assign the allocated quantum of Sasan UMPP, Rihand – III and Salal HEP to the petitioner as assigned prior to Order of this Commission dated 27.03.2018 was given effect to and make the same applicable effective immediately.
3. The Petitioner has submitted that:
 - a. It has filed the present petition to bring parity in amongst the three distribution companies in relation to assignment of cheaper sources of power. The petitioner has invoked regulatory jurisdiction of the commission u/s 86 (1)(b) of the Act to regulate the power procurement arrangement and the assignment of the allocated power in a manner that the petitioner and its consumers are not prejudiced against the incentives being availed by the Respondents and its consumers.

- b. Presently, the assignment of PPAs is failing to achieve the intended purpose which was that the PPAs are assigned between the petitioner and respondents in such a manner that the pooled cost of power is same across the three distribution companies and that the consumers of one distribution company are not prejudiced as against the incentives/benefits being received by the consumers of another distribution company.
- c. The Commission has assigned the PPAs and the percentage of offtake under those PPAs between the Petitioner and Respondents. However, the PPAs which allowed procurement of cheaper power and earlier were assigned in favour of the Petitioner herein, have now been assigned to the Respondents. Such assignment causes grave prejudice to the consumers of the Petitioner and accordingly it is in this background that the petitioner herein has initiated the present proceedings.
- d. In light of the policy directions issued by the GNCTD the responsibility for power procurement/bulk supply for the first 5 years i.e. from 2002-2007, was vested with the Delhi Transco Limited. The Commission vide order dated 31.03.2007 directed the petitioner and respondents to procure and arrange power. The Commission also undertook the reassignment of PPA entered into by DTL. As per the re-assignment, the Petitioner were assigned power on similar terms and conditions as entered into by DTL or its predecessors. Since, the validity of the Policy directions was till March 2007 on 28.06.2006, the GNCTD issued another set of Policy directions this Commission, equipping and vesting this Commission with the powers to assign the allocated power of the State between the distribution companies. Accordingly, on 31.03.2007, the Commission reassigned the PPAs. These directions were made effective from 01.04.2007 till 31.03.2011. As the said assignment of power, the approved allocations from individual stations are as under:

Sl No.	DISCOM	%Allocation
1	BRPL	43.58
2	BYPL	27.24
3	TPDDL	29.18

- e. However, in 2013 BYPL approached the Commission seeking it to consider suitable re-allocation of power in the State amongst the three distribution companies. The Commission during the proceedings observed that earlier the PPAs were allocated in a ratio which was in proportion to average energy drawn by the utilities from the date of unbundling to February 2007. Considering the Actual Energy

Sales/Consumptions of the three distribution companies since FY 2007-08 to FY 2011-12 and the change in consumer mix, this Commission found it appropriate to reassign the PPAs amongst the three distribution companies as per the then prevailing average drawn energy. Accordingly, the Commission vide Order dated 27.02.2014 re-assigned the PPAs as follows:

Sl No.	DISCOM	%Allocation
1	BRPL	43.92
2	BYPL	25.40
3	TPDDL	30.68

- f. The Commission further directed that in case of availability of surplus power, the distribution company may submit their demand supply analysis along with the proposal for surrender of expensive power out of their allocation for consideration of this Commission. The PPAs were made effective from 01.04.2014 and shall remain in force till amended or modified by a subsequent order of this Commission.
- g. The petitioner approached the Commission vide its letter dated 10.05.2019 seeking for its expedient intervention explaining that due to revised allocation of power from Sasan UMPP, Rihand-III and Salal HEP, around 146 MW of cheaper power available to the petitioner was allocated to the Respondents Distribution companies. In energy terms the said reallocation translates into around 1000 Mus on an annual basis at a weighted average total cost of around Rs. 1.70 per unit. Due to such re-allocation of power, an adverse financial impact to the tune of Rs. 185 Crores resulting into an increase of around Rs. 0.19 per unit in the power purchase cost has been suffered by the petitioner and therefore prejudices the consumers of the petitioner. As per the intention proclaimed under the policy directions issued by the GNCTD, the allocation of the PPAs were to happen between the petitioner and the respondents on the basis of average energy drawl i.e. energy consumption patterns of the three distribution companies. However, the allocation vide the order dated 27.03.2018 and 03.04.2019, the basic principles and the intended purpose of allocation of power between the three distribution companies appears to be deviated from this Commission.

COMMISSION ANALYSIS

4. After the Policy Direction period, the responsibility for power procurement/bulk supply erstwhile entrusted with the Delhi Transco Limited was divested and the DISCOMs of Delhi were directed to procure and arrange power. Accordingly, vide

order dated 31.03.2007 the PPAs were allocated amongst the DISCOMs of Delhi in a ratio which was in proportion to average energy drawn by the utilities from the date of unbundling till Feb. 2007. However, in the year 2014, on realising the fact that the consumption pattern of the DISCOMs have gone a change and there is a need to shuffle the power allocation, the Commission vide order dated 27.02.2014 reallocated the power on the basis of current average energy drawn to DISCOMs. The relevant extract of the order is reproduced below:

"5. The Commission noticed that consumption pattern of the DISCOMs have changed since the reassignment of PPAs from 1st April, 2007 which was passed on average consumption pattern of the DISCOMs for FY 2002-2007.

6. The Commission has observed that there has always been revenue deficit for BYPL. In the year FY 2012-13, the Commission has projected a revenue deficit of Rs. 40.47 Crore for BYPL whereas Commission has projected a surplus of Rs. 290.55 Crore for BRPL and Rs. 391.57 Crore for TPDDL. Such revenue loss to BYPL is higher on account of higher surplus energy than other DISCOMs. BYPL's energy drawal has gone down over the years as industrial and commercial establishments have re-allocated. The said revenue deficit of BYPL has been broadly on two factors, the adverse consumer mix and the higher cost of power purchase for BYPL compared to other DISCOMs BYPL has adverse load-mix pre-dominantly domestic consumers with relatively low contribution from high value non-domestic industrial and commercial consumers.

7. The Commission further observed that earlier the PPAs were allocated in a ratio which was in proportion to average energy drawn by utilities from the date of unbundling to February, 2007. Since, the consumption has now changed due to change in consumer mix, it is appropriate for reassignment of PPAs among Delhi Distribution Licensees as per current energy drawn."

5. In the year 2018, it was noticed that Delhi as whole has power surplus during April, 2018 to September, 2018 whereas during few hours of certain fortnights there is shortage of power in individual DISCOMs. Keeping in view the above scenario and after due deliberation with the DISCOMs and SLDC, the Commission vide order dated 27.03.2018 reallocated the power amongst the DISCOMs. The relevant extract of the order is reproduced.

"4. In the meeting, DISCOMs have agreed to manage deficit of power in specific slots among themselves by trading through Inter DISCOM Transfer

(IDT) and assured that there would not be shortage of power during summers of FY 2018-19 considering BTPS till July, 2018."

XX XX XX XX XX

7. It was also clarified that proviso to regulation 121(4) the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 enables the Commission in reassigning the allocation of power amongst the distribution licensees out of the overall power portfolio allocated to the National Capital Territory of Delhi by Ministry of Power, Government of India to adjust the gap in power purchase cost. "

6. From the above, it is evidently clear that the Commission, in the best interest of DISCOMs as well as consumers of entire Delhi has been reallocating the power amongst the DISCOMs of Delhi.
7. As already stated that the consumer mix and consumption pattern of DISCOMs may require a differential treatment keeping in view their peculiar condition. Moreover, the NCT of Delhi is considered as a single entity despite different DISCOMs distribution electricity in their area of supply, the tariff has to be uniform and in this regard to strike a balance, reallocation of power from one DISCOM to another on the basis of their peculiar condition becomes necessary.
8. The Petitioner has not brought any new fact. Its primary submissions are that the reallocation of power is financially detrimental to it and reallocation of power should be done on the basis of average energy drawn by the DISCOMs. As already stated reallocation of power is made keeping in view the relative conditions of the different DISCOMs, which may result in benefit to one DISCOM on detriment to the other. These facts are not new, which require reconsideration by the Commission for making reallocation of power. Therefore, the Petitioner has been unable to demonstrate grounds or reasons for review before the Commission, therefore, a review of the order dated 27.03.2018 is not warranted.
9. In view of the above the Review Petition is dismissed.

Sd/-
(A.K. Ambasht)
Member

Sd/-
(A.K. Singhal)
Member

Sd/-
(Justice S. S. Chauhan)
Chairperson