



Provided further that, in the event alternative power supply is due to shutdown of any two units of the power station, the energy charge (MEPn) billed for the alternative source of power supply shall not exceed the energy charge (MEPn) billed for the remaining functioning unit of the power station.

Provided further that, in the event alternative power supply is due to shutdown of all the units of the power station, the energy charge (MEPn) billed for the alternative source of power supply shall not exceed the average of energy charge (MEPn) billed in the preceding three (3) months when any of the units were under working condition."

8. That Article 18 of the aforesaid PPA dated 21.11.2008 deals with Miscellaneous Provisions and Clause 18.1 provides for Amendment in the PPA by a written agreement between the parties. The said Clause 18.1 of the PPA is being reproduced herein below:

"18.1 Amendment:

This agreement may only be amended or supplemented by a written agreement between the parties and after duly obtaining the approval of the Appropriate Commission, where necessary.'

9. The petitioners (DISCOMs) and the respondent, PPCGL has entered into the 1st Supplementary Power Purchase Agreement dated 23.12.2020 for amending the Power Purchase Agreement dated 21.11.2008. By means of the Supplementary PPA dated 23.12.2020 a new clause numbered as "Clause 4.10" under the article head Article 4 "Development of the Project" has been added to the Principal Agreement dated 21.11.2008.
10. Bara Thermal Power Project plays an important role to meet the power requirement of UP State as 1648 MW power is being supplied by this Thermal Power Project at levelized tariff of Rs. 3.02/KWh. Therefore, insertion of provision of power supplied from alternative source in case of scheduled outage or unscheduled maintenance, the procurer(s) could have continuous supply of the power at same tariff.

Record of Proceedings

11. The hearing held on 08.07.2021 was adjourned, with consent of the parties, due to the unavailability of the Member (Legal) in Quorum. During the next hearing on 03.08.21, the Commission to satisfy itself that the PPA amendment is in the interest of Discoms and consequently, the State Consumers, directed UPPCL to submit tariff schedule and a note on power procurement cost optimization achievable through this amendment to the PPA. With the above direction, the Commission concluded the hearing. The petitioners have
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submitted the requisite information vide affidavit dated 20.09.21 and Respondent has submitted the tariff schedule on 24.08.21.

Commission's Analysis and Decision

12. In terms of the PPA dated 21.11.2008, the Respondent is obligated to supply 90% of the installed capacity, which comes to net available capacity of 1648 MW after Auxiliary Consumption. The Respondent is entitled to recover full capacity charges based on the contracted capacity at normative availability of 85% and is eligible for incentive beyond 85% Availability and penalty for Availability being lower than 75%. The levelized tariff over term of the PPA, i.e. 25 years comes to Rs. 3.02 per unit comprising of escalable and non-escalable capacity charges and energy charges worked out at net heat rate of 2350 Kcal/Kwh.
13. The Petitioners and Respondent have sought approval of the Commission to SPPA dated 23.12.2020 incorporating provisions for alternate source of supply in case of scheduled outage and unscheduled maintenance of the Unit(s) to achieve normative availability to recover full fixed charges and avail power at economic rates. The clause 4.6, " **Alternative Source of Supply**" of Case-I standard provides such provision *for a maximum continuous duration of six (6) months or a maximum non continuous period of twelve (12) months during the Operating Period*. The DBFOO standard PPA clause 18.06 also has similar provision of "**Substitute supply**".
14. UPPCL vide affidavit dated 20.09.21 has submitted data of four months i.e. April to July'21 to show per unit saving as per the Merit Order Despatch as below:

Month	Cost for Power from PPGCL (Rs./kWh)	Actual Power Scheduled from such Stations limited to CC of PPGCL (MW)	Weighted Average Variable Cost of such other Stations (Rs./kWh)	Per Unit Saving (VC- Bara minus Total Cost of Other Stations) (Rs./kWh)
A	B	C	D	E=D-B
Apr-21	3.443	50.15	3.454	0.011
May-21	3.414	58.26	3.446	0.032
Jun-21	3.373	342.10	3.477	0.104
Jul-21	3.365	262.21	3.515	0.150

15. From the above table, UPPCL has contended that Procurer could have opted for power from PPGCL at tariff as provided in PPA for the months of May 2021 to Jul 2021 as the total cost of power from PPGCL is lesser than the Weighted average of Variable Charges of the stations for meeting the shortfall of Declared capacity viz-a-viz Contracted Capacity.



16. The Commission has analyzed the documents and submissions placed on record and has noted that:

- a. It would be beneficial to avail alternative source power from PPGCL project in terms of reliability as compared to Power Exchange(s) and cost which would be pegged at the same rates in the PPA dated 21.11.2008.
- b. Any additional burden on account of transmission and other incidental charges, including but not limited to application fees for open access, RLDC/SLDC charges over and above being payable under the said PPA in respect of the alternative source of power supply shall be borne by the Seller i.e. the Respondent.
- c. Availing alternative source of supply shall be at the discretion of UPPCL in the light of availability of power from other sources including open market. It would not be mandatory on part of the UPPCL to avail alternative source power.

Commission's View

17. **The Commission, in view of above and with the dual objective of economizing power purchase cost as well as reliability, approves the SPPA dated 23.12.2020 with following directions:**

- (i) **The Respondent / PPGCL shall supply from grid connected commissioned project fully compliant to the applicable approvals and Regulations and thus specify the details of the alternative source of power including ex-bus price and incidental transmission charges up to UPPCL's drawal point, while applying for procurer's consent as per the SPPA dated 23.12.2020.**
- (ii) **The supply of alternate source power from PPGCL shall be without any financial burden to UPPCL on account of transmission charges, RLDC/SLDC charges etc. over and above that being payable under the PPA.**
- (iii) ***The amended PPA has provision that capacity declared from alternative sources for which the consent has been provided by the Procurer(s) would also be considered for computation of availability (%) under the PPA. Therefore, the benefit in price of alternate source power vis-à-vis PPA rate, if any,***



subject to ceiling rate as per PPA, shall be shared with UPPCL in the ratio of 50:50.

- (iv) The provision regarding supply from alternate source power from PPGCL shall trigger in the event the availability of the power station is reduced on account of scheduled outage or unscheduled maintenance subject to normative availability of 85% as per PPA.
- (v) UPPCL can avail alternate source power from PPGCL for maximum continuous duration of six months or maximum non continuous period of 12 months during the operating period.
- (vi) This amendment to the SPPA dated 23.12.2020 shall be implemented for a period of two years i.e., FY 21-22 and FY 22-23. UPPCL, thereafter, can approach the Commission with the details of availed power and cost optimization under this amended provision for review by the Commission.

The Petition is disposed of in terms of above directions.

(Vinod Kumar Srivastava)
Member

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow

Date: 03.12.2021