



Petition No. 1860 of 2022
BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Date of Order: 14.02.2023

PRESENT:

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

IN THE MATTER OF: Petition under Regulations 14, 15, and 59 of the UPERC (Conduct of Business) Regulations 2019, read with Regulations 7 and 24 of the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2019 read with Section 86(1)(b) of the Electricity Act, 2003 seeking approval of this Commission for the methodology being followed by UPPCL and entering into a Supplementary PPA for the purposes of bifurcation of the currently prescribed and applicable Single Part tariff into two part tariff comprising of fixed and variable charges in ratio of 50% each, in order to comply with the relevant provisions of the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2019 for various power plants in the State of Uttar Pradesh.

Uttar Pradesh Power Corporation Limited (UPPCL),
Through its Chief Engineer (PPA),
Shakti Bhawan, 14 Ashok Marg, Lucknow - 226001

..... Petitioner

Versus

- 1. Dhampur Sugar Mills Ltd (DSML),**
(Through its Managing Director),
Unit: Dhampur, Near Railway Station,
Dist.-Bijnor, Uttar Pradesh - 246761
- 2. Balrampur Chinni Mills Ltd (BCML),**
(Through its Managing Director),
Unit: Babhnan, FMC Fortuna, 2nd Floor, 234/3A,
AJC Bose Road, Kolkata
- 3. DCM Sriram Ltd (DSL),**
(Through its Managing Director),
Hariawan, Dist.-Hardoi, Uttar Pradesh-241404

..... Respondent(s)



The following were present:

1. Sh. Deepak Raizada, C.E(PPA), UPPCL
2. Sh. Srijan Singh, A.E, UPPCL
3. Sh. Divyanshu Bhatt, Advocate, UPPCL
4. Sh. Sandeep Agarwal, Unit Head, BCML
5. Sh. Pankaj Chaturvedi, BCML
6. Sh. A. K. Chitrakoot, GM, DSL

ORDER
(Date of Hearing 19.01.2023)

1. The UPPCL by way of instant Petition seeking approval of the Commission for the purposes of bifurcation of the currently applicable single part tariff into two-part tariff comprising of fixed and variable charges in ratio of 50% each for FY 2017-18, in order to comply with the relevant provisions of the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2019.
2. The Petitioner has made the following Prayers:
 - a) Admit the present Petition.
 - b) Approve the methodology of splitting the single part tariff into fixed and variable charges in the ratio of 50% each.
 - c) Allow the Petitioner to execute a Supplementary PPA with the
 - d) Respondents to incorporate a clause that permits the tariff for sale of power to be divided into fixed and variable charges split in the ratio of 50% each; and
 - e) Pass any further order(s) or direction(s) as this Commission may deem fit and proper in the facts and circumstances of the case.

Brief of the case:

3. The instant petition is aimed to highlight specific scenario that requires and acceptance by the Commission of the methodology being followed by UPPCL. UPPCL entered into PPA with the Respondents for supply of power from their respective Spent Wash and Bagasse ("SLOP") based generating plants. The details of the power procurement from the generators/respondents are as below:

Generator	Installed Capacity	PPA Date	Surplus power to UPPCL	Date of Order in Petition No.
DSML	7.47 MW	22.02.2018	3 MW	23.04.2018 & 1300/2018
BCML	6.76 MW	20.02.2018	5 MW	23.04.2018 & 1299/2018
DSL	6 MW	19.02.2018	3 MW	13.06.2018 & 1297/2018



4. The Commission vide order dated 23.04.2018 & 13.06.2018 had directed that power from such slop-based plants be sold at Average Power Purchase Cost (APPC) of FY 2017-18 for the next 10 years. Pertinently, the Commission, in its tariff orders for the Discoms, determines the APPC for the generators and prescribes Fixed and Variable components of the charges. However, in respect of FY 2017-18, such bifurcation has not been done in the tariff order for the Discoms. Therefore, the Petitioner had been paying the generators single part tariff at APPC of Rs. 3.51/kWh.
5. However, as per Regulation 18(v) and 18(vii) read with Regulation 24 Schedule 11 (A) and (B) of the UPERC CRE Regulations, 2019, there is a clear obligation on UPPCL to do the billing and payment of the energy supplied in terms of fixed charges and variable charges. Accordingly, UPPCL has been executing PPAs keeping in mind the splitting of tariff into two-part. The promulgation of the aforementioned Regulations has also necessitated the requirement of splitting the single part tariff computed on the basis of APPC of the aforementioned generators, into two-part tariff, which comprises of fixed charges and variable charges for the FY 2017-18.
6. This Commission vide its tariff orders for the discoms in the State of Uttar Pradesh, always prescribes and bifurcates APPC into fixed and variable charges. UPPCL, in line with the said orders, has been paying the SLOP-based generators, as enumerated hereinabove, the prescribed fixed and variable charges. The difficulty has arisen for UPPCL that on one hand the Commission has not bifurcated APPC for the FY 2017-18, due to which the Petitioner had to pay the Respondents single part tariff. However, on the other hand, UPPCL also needs to comply with the Regulations of this Commission requiring it to do the billing and payment of the energy supplied in terms of fixed charges and variable charges.
7. In view of the above, UPPCL has provisionally resorted to bifurcating the APPC of Rs. 3.51/kWh into fixed and variable components in the ratio of 50% each, of its own accord. UPPCL has provisionally adopted a methodology of making the payments to the Respondents by splitting the single part tariff into fixed and variable charges in the ratio of 50% each. The communications dated 07.04.2021 in this regard were sent to various Respondents seeking their consent for splitting the single part tariff be into fixed and variable charges in the ratio of 50% each.

Records of Proceedings:

8. During the hearing dated 01.12.2022, the Commission directed UPPCL to share the impact analysis with Co-generators and file the draft SPPA clearly ascribing the commercial implication. On 18.01.2023, UPPCL filed its additional submission.
9. On hearing dated 19.01.2023, Sh. Divyanshu Bhatt, Counsel of UPPCL submitted that instant Petition is for splitting of Slop based power tariff into fixed and variable components in the ratio of 50:50. On specific query of the Commission, Sh. Bhatt



responded that it is only slop-based power and does not include any other power like bagasse-based etc. Further, Sh. Sandeep Agarwal, on behalf of BCML stated that they have no objection to the UPPCL's proposal since there are no commercial effects in the existing billing of BCML.

Commission's View:

10. The UPPCL by way of instant Petition seeking bifurcation of the currently applicable single part tariff into two-part tariff comprising of fixed and variable charges in ratio of 50% each for the Respondent(s) generating station.
11. The Commission while approving the PPAs dated 19.02.2018, 20.02.2018 & 22.02.2018 for the Respondent(s) generators held that the Tariff would be fixed at APPC for FY 2017-18 (with no deduction on account of transmission charges). Pursuant to confronting difficulties in implementation of CRE Regulations, UPPCL has provisionally bifurcated the APPC for FY 2017-18 i.e., Rs. 3.51/kWh into fixed and variable components in the ratio of 50% each, by splitting the single part tariff.
12. Regulation 18 of the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2019 regarding applicable methodology of tariff recovery is as below:

"18. Object

v. However, for projects whose tariff was governed by earlier Regulations, shall be as provided under these Regulations as per Schedule II.

vii. For recovery of full capacity charges for Biomass & Bagasse based plants, the PLF shall be 50%. Annual Fixed charges (AFC) for Bagasse and Biomass based plants, are provided in Schedule II- A and B respectively, of these Regulations. Recovery of capacity (fixed) charges below the level of targeted PLF shall be on pro rata basis. At zero PLF, no capacity charges shall be payable. The PLF of Biomass & Bagasse based plants shall be computed on the energy sold to the Distribution Licensee or energy scheduled by SLDC, whichever is lower.

Provided the payment of capacity charges shall be on monthly basis in proportion to the contracted capacity."

13. It is observed that Respondent(s)- DSML, BCML and DSL vide their letter dated 12.07.2021, 01.07.2021 and 12.04.2021 respectively, in response to the UPPCL's letter dated 07.04.2021 had given their consent to the proposal for splitting single part tariff based on APPC rate to fixed and variable rate in the ratio of 50% each.
14. The Commission vide its order dated 08.12.2022 in the matter directed UPPCL to share impact analysis with the Respondents and file draft SPPA clearly ascribing the commercial implication. Accordingly, UPPCL on 18.01.2023 has filed its affidavit wherein submitted that there would be no impact on the billing of the respective generators on account of variation on PLF of the respective generating plant as the



applicable tariff is not strictly linked to the recovery of cost of the plant. Further, UPPCL submitted that the actual PLF for FY 2021-22 for the respective Respondent generating plant are as below:

Sl. No.	Company/Plant	PFL for FY 2021-22
1.	DSML	24.7%
2.	BCML	29.89%
3.	DSL	32.94%

15. In view of the above discussion, the Commission, there being no commercial implications by splitting the single part tariff in to fixed and variable charges @50% each, and also been consented by the Respondent(s), allows UPPCL to bifurcate single part tariff (APPC-2017-18) into Fixed and Variable charges for the Respondents only. The draft Supplementary PPA as submitted is also approved for signing with direction to place a copy for record of the Commission.


(Vinod Kumar Srivastava)
Member


(Raj Pratap Singh)
Chairman

Place: Lucknow
Dated: 14.02.2023

