Petition No – 1079,1080,1081,1082 and 1083 of 2016

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

**Date of Order: 4.02.16**

**Quorum**

Hon’ble Sri Desh Deepak Verma, Chairman

Hon’ble Sri Indu Bhushan Pandey, Member

Hon’ble Sri Suresh Kumar Aggarwal, Member

**IN THE MATTER OF:** Multi Year Tariff Petition for approval of Annual Revenue Requirement and determination of Tariff for FY 2014-15 to   
FY 2018-19 in respect of 2 X 45 MW Barkhera, Khambarkhera, Kundarkhi, Maqsoodpur and Utraula Thermal Power Project.

**AND**

**IN THE MATTER OF**

M/s Bajaj Energy Pvt. Ltd.

(Units- Barkhera, Khambarkhera, Maqsoodpur, Kundarkhi &Utraula)

B-10, Sector -3, Noida

Gautam Budh Nagar, (U.P.)

**---------------Petitioner**

UP Power Corporation Limited

(through its CMD)

7th Floor, Shakti Bhawan

14- Ashok Marg, Lucknow.

**--------------- Respondent**

**Order**

1. Bajaj Energy Private Limited (hereinafter ‘**BEPL**’ or the ‘**Petitioner**’) promoted by Bajaj Hindustan Limited (hereinafter ‘**BHL**’), has set up 450 MW coal fired Thermal Power Plants subsequent to an Memorandum of Understanding (hereinafter ‘**MoU**’) between Government of Uttar Pradesh (hereinafter ‘**GoUP**’) and BHL.
2. In terms of the MoU, the Petitioner has set up 2x45 MW units of coal fired power plants at Barkhera (District: Pilibhit), Khambarkhera (District: Lakhimpuri Kheri), Maqsoodapur (District: Shahjahanpur), Kundarkhi (District: Gonda), Utraula (District: Balrampur), of Uttar Pradesh (hereinafter collectively referred to as the ‘**Thermal Power Project**’).
3. The Petitioner and the Respondent had entered into a Power Purchase Agreement (hereinafter ‘**PPA**’) on 10.12.2010 for purchase of 90 % of the power from each of the aforementioned power stations pursuant to approval of the Commission vide its Order No- UPERC / SEC / D(G) / 2010-195 dated 07.12.2010 read with   
   Order No.- UPERC / Secy / D (G) /10- 192 dated 18.11.2010.
4. Subsequently, GoUP vide its Order No-456 dated 26.05.2011 approved for purchase of 100% power by the State Nominated Agency namely U.P. Power Corporation Limited (hereinafter ‘**UPPCL**’) and accordingly, the Petitioner entered into a Supplementary Power Purchase Agreement (hereinafter ‘**SPPA**’) dated 15.06.2011 with the Respondent for the sale of 100 % saleable power generated from the Power Station to the respondent at the power purchase rates to be determined by the Hon’ble UPERC.
5. The Petitioner had filed for grant of provisional tariff based on the estimated capital cost of Rs. 2,564 crore on October 2011 before the Commission bearing Petition Nos. 763, 764, 765, 766 and 767 of 2011. The Commission disposed the said Petition by its order dated 22.12.2011, wherein it allowed provisional tariff computed at 95% of the then incurred capital expenditure of Rs. 2,307 crore. The Commission had also directed the Petitioner to submit actual project completion cost to UPPCL for verification, who in turn, was required to submit the agreed costs to the Commission based on which final tariff shall be filed by BEPL as per the provisions of the Electricity Act, 2003 and UPERC (Terms and Conditions of Generation Tariff) Regulations, 2009.
6. Subsequently, the Petitioner filed Petition nos. 825 to 829 of 2012 for Approval of capital cost and determination of tariff for 2 x 45 MW coal based Thermal Power Stations situated at Barkhera, Khambarkhera, Maqsoodpur, Kundarkhi & Utraula. Since the agreed Capital Cost was not submitted, the Commission reiterated vide order dated 20.05.2013 that UPPCL and M/s Bajaj Energy Pvt. Ltd. will have to arrive on agreed/admitted capital cost without further delay. In this order, the Commission, regarding the capital cost of MoU route projects decided that:

*“Since there are many power projects for procurement of power for the Discoms under MoU with the GoUP and under PPA with UPPCL, it is necessary to evolve the mode so that the intent of the Act and the Regulations*

*may not be misunderstood. The reluctance shown by UPPCL in this matter, which has caused enough delay in initiating the process for prudence check of capital cost and subsequent determination of tariff by the Commission, hammer the requirement of making the agreed cost as an essential part of PPA.*

***Therefore, it is directed that for all MoU Route projects who are under PPA with UPPCL, the agreed ceiling capital cost shall be brought to the Commission for approval and the approved cost shall be a part of PPA. The actual capital cost, if it is equal to the approved ceiling capital cost, shall form the basis for prudence check and determination of tariff by the Commission. If the actual cost is lower then the lower cost would be taken and if it is higher then the additional cost would first be verified and agreed by UPPCL/GoUP then shall be taken up by the Commission for consideration and approval. The necessary changes to remove the ambiguity in the Regulations shall be made accordingly.”***

However, the Commission allowed plant wise revised fixed charges based on submissions of the parties. BEPL was further directed to file the Petitions for determination of final tariff afresh subsequently after submission of agreed Capital Cost.

1. After the commissioning of the plants, the Petitioner filed a Petition for approval of final capital cost as on COD, determination of final tariff, approval of additional capitalization and true up for the period from the COD up to 31.03.14 on 25.08.2015. In Petition no. 973 of 2014, BEPL submitted that the incurred capital cost of Rs.2569.80 Crs. has been scrutinized by UPPCL and both have arrived on an agreed project cost of Rs. 2511.82 Cr. Subsequently, an Expert Committee comprising Shri V. K. Garg, Ex-Chairman, JERC and Shri P.K. Agarwal, Ex Director (Technical) UPRVUNL was made by the Commission for verification and prudence check of the Capital Cost of the Project which submitted its report on 29.06.2015 in which they have verified the Capital Cost of Rs. 2497.97 Crs. The copy of report has been placed on the Commission’s website. The Petitioner also filed petition nos. 1036,1037,1038,1039 &1040 of 2015 for true-up. The Commission admitted the Petition on 7.01.2016 and fixed the Public Heraing on 9.2.16 at 11:30 hrs.
2. The Petitioner has now filed Petitions for approval of MYT tariff from FY 2014-15 to FY 2018-19 on 19.1.2016. As the petitions have been filed as per the regulations for tariff determination and the regulations say that the truing up exercise shall be carried out alongwith the tariff petitions, the Commission considers it appropriate to club all these tariff petitions with the capital cost and true-up petitions which have been admitted by the Commission vide order 7.1.2016. On scrutiny of the tariff petitions, the discrepancies in the submissions shall be issued as discrepancy notes in continuation to earlier two deficiency notes in true-up petitions.
3. In line with earlier decision, the Commission admits these tariff petitions subject to submission of all the information by the petitioner within 7 days and as per the direction of the Commission to the satisfaction of the Commission, in replies to deficiency notes raised by the Commission and directs the Petitioner to publish the application in abridged form in at least two newspapers within 3 days from the date of this order giving 15 days’ time for submission of suggestions and objections from all concerned.
4. Bajaj Energy shall publish the Public Notice within 3 days from the date of this order detailing the salient information and facts of the Petitions along with their website address, in at least two daily statewide circulated newspapers (One English and One Hindi) for two successive days inviting views / comments / suggestions / objections / representations (to be submitted to the Commission with a copy to Bajaj Energy ) within 15 days from the date of publication of the Public Notice(s) from all stakeholders and public at large. The Public Notice should also contain the year wise revenue requirement and per unit fixed cost. Bajaj Energy shall put all details on its internet website with intimation to the Commission, in PDF format before publication of public notice, showing detailed computations, the application made to the Commission along with all filings, information, particulars and documents.
5. The Commission reserves the right to seek any further information / clarifications as deemed necessary during the processing of these Petitions.
6. The Public Hearing shall be held on 29.2.2016 at 11:30 hrs.

(Suresh Kumar Aggarwal) (Indu Bhushan Pandey) (Desh Deepak Verma)

Member Member Chairman

Place: Lucknow

Dated: 4.2.16