Petition No. 1105 of 2016

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

**Date of Order : 22.12.2016**

**PRESENT:**

1. Hon’ble Sri Desh Deepak Verma, Chairman
2. Hon’ble Sri Suresh Kumar Agarwal, Member

**IN THE MATTER OF:** Clarification on the tariff policy notified by Ministry of power dated 28.01.2016

M/s Rosa Power Supply Company Limited

Administrative Block,

Hardoi Road, P.O. Rosar Kothi, Tehsil Sadar

Distt. Shahjahanpur. U.P. - 240401.

Local Office-

Rosa Power Supply Company Ltd.

520, F Block, Kasmanda House,

2 Park Road, Hazratganj,

Lucknow – 226001

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

AND

1. UP Power Corporation Limited

 (through its Chairman)

 7th Floor, Shakti Bhawan

 14- Ashok Marg, Lucknow.

1. Chief Engineer (PPA)

 UP Power Corporation Limited

 14th Floor, Shakti Bhawan Ext.

 14 Ashok Marg, Lucknow

**…………….Respondent**

The following were present:

1. Shri V. P. Srivastava, CE, UPPCL
2. Shri Amit kumar Srivastava, SE (PPA) , UPPCL
3. Shri Naeem Khan, EE (PPA), UPPCL
4. Shri Rajiv Srivastava, Advocate, UPPCL
5. Shri Sumeet Notani, GM, RPSCL
6. Shri Ambuj Shukla, Senior Manager, RPSCL

**ORDER**

**(Date of Hearing 29th November, 2016)**

1. Ministry of Power, GoI has issued Amended Tariff Policy on 28.01.2016. Clause 5.0 of the policy is as quoted below:

*“5.0 GENERAL APPROACH TO TARIFF*

*5.1 Introducing competition in different segments of the electricity industry is one of the key features of the Electricity Act, 2003. Competition will lead to significant benefits to consumers through reduction in capital costs and also efficiency of operations. It will also facilitate the price to be determined competitively. The Central Government has already issued detailed guidelines for tariff based bidding process for procurement of electricity by distribution licensees.*

*5.2 All future requirement of power should continue to be procured competitively by distribution licensees except in cases of expansion of existing projects or where there is a company owned or controlled by the State Government as an identified developer and where regulators will need to resort to tariff determination based on norms provided that expansion of generating capacity by private developers for this purpose would be restricted to one time addition of not more than 100% of the existing capacity.*

*Provided further that the Appropriate Commission, as defined in the Electricity Act, 2003, shall ensure that in case of expansion of such projects, the benefit of sharing of infrastructure of existing project and efficiency of new technology is passed on to consumers through tariff.*

*Provided also that the State Government can notify a policy to encourage investment in the State by allowing setting up of generating plants, including from renewable energy sources out of which a maximum of 35% of the installed capacity can be procured by the Distribution Licensees of that State for which the tariff may be determined under Section 62 of the Electricity Act, 2003.*

*Provided that notwithstanding the provision contained in para 5.11(j) of the policy, the tariff for such 35% of the installed capacity shall be determined by SERC.*

*However, the 15% of power outside long term PPAs allowed under para 5.7.1 of National Electricity Policy shall not be included in 35% allowed to be procured by Distribution Licensees of the State.”*

1. RPSCL has requested clarification/interpretation regarding clause 5.2 above. In their petition they have sought clarification on following:
2. *Whether private developer with existing capcity can set up expansion projects upto 100% of existing capacity?*
3. *Whether the expansion of entire 100% of installed capacity of existing project in Uttar Pradesh can be contracted with existing buyer i.e. Uttar Pradesh Power Corporation Limited or its subsidiary Discoms on the terms and conditions of tariff approved by the Hon’ble Commission under Section 62 of the Act?*
4. *Whether the Hon’ble Commission will consider to determine the tariff of the expansion capacity once an appropriate application is submitted before the commission?*
5. At the outset, the Commission enquired about admissibility of the petition which has been filed for clarification of a provision which has been made by Ministry of Power, GoI under Amended Tariff Policy dated 28.01.2016. Shri Sumeet Notani, GM, RPSCL, submitted that they have come to the Commission for clarification on above issues only to understand about the intent of the clause for expansion and tariff purposes as they are operating in the State as an IPP.
6. The Commission categorically expressed that although clause 5.2 of the tariff policy itself is clear but even though if there is any clarification required by the petitioner, it can be given by the competent body only. As far as this Commission is concerned, it makes its regulations under the provisions of the Act and if there is any ambiguity or confusion in application of the regulations then the Commission comes into picture to ensure its proper application.
7. In view of above, the petition is dismissed.

(Suresh Kumar Agarwal) (Desh Deepak Verma)

 Member Chairman

Place: Lucknow

Dated: 22.12.2016