



(Pet. Nos. 830, 833, 838, 839, 840, 842, 845, 859 of 2012 and 897 of 2013)

BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Date of Order : 20.03.2014

IN THE MATTER OF: Approval of Draft Supplementary Power Purchase Agreements (SPPAs), under MoU as per GoUP Energy Policy 2009, of the coal based thermal power projects who shall be supplying electricity to State Discoms.

U.P. Power Corporation Ltd.,
(through its Chairman)
7th Floor, Shakti Bhawan,
14, Ashok Marg, Lucknow.

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AND

1. Bajaj Energy Pvt. Limited, B-10, Sector -3, Noida, Gautam Budh Nagar
2. Lalitpur Power Generation Company Ltd., B 2/335 Vishal Khand II, Gomti Nagar, Lucknow – 226 010
3. Himavat Power Pvt. Limited, 397, Udyog Vihar, Phase-3, Gurgaon 122 016
4. Lanco Anpara Power Limited, 411/9, River Side Apartment, New Hyderabad, Lucknow
5. Parekh Aluminex Limited, 601, Auto Commerce House, Kennedy Bridge, Nana Chowk, Mumbai
6. Welspun Energy Limited, Welspun House, 7th Floor, Kamla City, Senapati Bapat Marg, Lower Parel (W), Mumbai -13
7. Creative Thermolite Power Limited, 155 Somdutta Chamber –II, 9 Bhikaji Camma Place, New Delhi - 66
8. Unitech Machines Limited, U.M. House, Plot No. 35-P, Sector -44, Gurgaon
9. Torrent Power Limited, Torrent House off Ashram Road, Ahmedabad – 380009

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The following were present:

1. Sri S. K. Sinha, S.E. (PPA), UPPCL
2. Sri Rama Shankar Awasthi
3. Sri Jagdish Agarwal, V.P.(Legal) Welspun Energy
4. Sri Ravi Verma V.P. (Corp) Welspun Energy.
5. Sri Avinash Kumar, Sr. Executive, Welspun Energy
6. Sri. Parvez Mohd., Consultant , Creative Thermolite Power Pvt. Ltd.
7. Sri B.S. Danbona, Consultant, Creative Thermolite Power Pvt. Ltd.
8. Sri. Harnish Patel, V.P., Torrent Power
9. Sri Awadhesh Kumar Verma, President, UP Rajya Vidyut Upbhokta Parishad
10. Sri. Santosh Kr. Singh, Sr. Mgr., Parekh Aluminex Ltd.
11. Sri Lalit Kumar , CEO, Trishakti Power Pvt. Ltd.
12. Sri S.N.M. Tripathi, Director, Lalitpur Power Generation Co. Ltd., BEPL
13. Sri Amrendra, Manager (Corp. Affaire) BEPL
14. Sri. G. P. Mishra, Asst. Manager (Adm. & Liason), Lanco / Himavat Power Ltd.
15. Sri Varun Gupta, Manager, BEPL
16. Sri Rajiv Srivastava, Advocate, UPPCL
17. Sri Suraj Das Guru, DGM (Legal), Himavat and Lanco Anpara
18. Sri. M.N. Murthy, Sr. G.M., Himavat Power
19. Sri. B.L. Jangir, W.T.D., Himavat Power
20. Sri R.B. Singh, CEO, UM Power Ltd.
21. Sri Brajesh, Dy. Manager, UM Power Ltd.

Order

(Date of Public Hearing 12.2.2014)

1. The draft Power Purchase Agreements (PPAs) entered under the GoUP Energy Policy, 2009 for MoU Projects to add the power generation capacity in Uttar Pradesh have been approved by the Commission after conducting due public hearing on 26.10.10. Further, the operating norms and parameters have been approved vide order dated 27.7.2011 subsequent to the public hearing dt 20.5.2011. The norms and parameters approved by the Commission have been notified through the UPERC (Terms and Conditions of Generation Tariff) (First Amendment) Regulations, 2012. As per the MoUs, 18 months were allowed for completion of project preparatory activities and so the bank guarantee was valid till 18 months from the date of signing of MoU. Since the developers could not complete the project preparatory activities within due



timeframe, GoUP extended the validity vide order dated 8.6.2012 for further 18 months. Draft Supplementary PPAs have been filed by UPPCL for approval of the Commission.

2. Vide order dated 23.1.2014 consequent to public hearing, the Commission observed as follows:

“Broadly it has been found that M/s Bajaj Energy is an operating project and M/s Lalitpur Power Generation Company has achieved all the clearances and financial closure. M/s Lalitpur Power Generation Company has considerable progress in work, although still has not acquired the fuel allotment from the GoI but as mentioned by UPPCL, it has fair chances to get the coal from GoI. Other projects neither have fuel allotment nor have made any significant progress in the work and so their commissioning is uncertain. Such uncertainty in the scheduled delivery of future requirement of electricity as per the projected demand is not desirable and defeats the basic intent of getting power quickly from generators through MoU route. In view of this, notices may be issued to Respondent no 3 to 9 namely Himavat Power Pvt. Limited, Lanco Anpara Power Limited, Parekh Aluminex Limited, Welspun Energy Limited, Creative Thermolite Power Limited, Unitech Machines Limited and Torrent Power Limited to explain as to why approval of their respective SPPAs should not be refused?”

The seven Respondents (No. 3 to 9) and UPPCL were required to file their submissions on affidavit regarding above before 31st January, 2014.

All these seven respondents have filed their submissions.

3. During the hearing, the Representative of Lalitpur Power Generation Company Ltd. (LPGCL) submitted that that they had already achieved their financial closure on 24.08.2011 and completed almost 75 % progress in site activities



with an investment of about Rs. 7700 Crs. He added that they have also entered into MoU with Mahanadi Coal Fields Ltd. for supply of coal for their two units on 23.12.2013.

4. At the outset, the Commission enquired that which are the companies who made sincere efforts since the last hearing?
5. The representative of Himavat Power / Lanco Anpara submitted that they have invested about Rs. 1350 crores on the preparatory activities of both the projects. He further stated that all the field studies have been concluded and they are about to finalize EPC contracts within two three weeks. The Commission considered that Lalitpur Power Generation Company Ltd., Himavat Power Pvt. Limited and Lanco Anpara Power Limited have made some recognizable progress albeit Himavat Power / Lanco Anpara are still to catch up the pace. They have also assured the issuance of EPC contract within 2-3 weeks.
6. The Representative of Welspun Energy submitted that they have acquired entire land for the project and obtained most of the statutory clearances required for the project. They have further submitted that they have submitted additional bank guarantee also.
7. The Representatives of Parekh Aluminex Limited and Creative Thermolite Power Limited submitted that they have acquired the land and most of the clearances required for the project. They added that their applications for coal linkage are being processed in the Government. The Representative of Unitech Machines Limited submitted that they are in process of acquiring land. During the hearing it was brought to the notice of the Commission that some developers are trying to acquire more land than required for the project. The Representatives could not answer satisfactorily on this issue. The Commission considered that the progress in these four projects have not been achieved in



comparison to above three. There may be some disputes regarding the excess acquirement of land also.

8. The Representative of Torrent Power Limited could not explain any substantial progress before or after the last hearing. The Commission showed its concern on such an irresponsible response. If the development in projects would not be attained as per the targeted dates, the result would be a big gap between demand and supply. The PPAs have been entered through MoU route for the purpose to mitigate this gap and such uncertainty would forfeit the purpose.
9. Hence, the Commission directed UPPCL to submit a report on each of these cases which must include the clarification regarding the dispute of excess land acquisition if any. The parties were also directed to file their replies. The matter is important so as to avoid any chance of excess acquirement of land for some other purposes with some other motives. The replies are to be filed within fifteen days.
10. The detailed order in the subject matter shall be passed at a further date which would also cover the decision of the Commission on following issues:
 - a. Fuel Supply Agreement.
 - b. Increase in quantum of supply under PPA.
 - c. Change of location of the project.
 - d. New commercial operation dates.
 - e. Environmental clearance.
 - f. Land availability.
 - g. Water availability.
 - h. Capital cost of the project. etc.

(Indu Bhushan Pandey)
Member

(Desh Deepak Verma)
Chairman

Place : Lucknow
Dated: 20.03.2014