



BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW
Petition No.1265/2017

(Date of Order: 01.05.2018)

PRESENT:

1. Hon'ble Sri Suresh Kumar Agarwal, Chairman
2. Hon'ble Sri Kaushal Kishore Sharma, Member

IN THE MATTER OF: Scheduling of bagasse based power at tariff decided by the Commission and payment of outstanding bills.

Petitioners :

M/s Superior Foods Grans Pvt. Ltd.
Plant at Block Unn,
Tehsil-Unn
Distt – Shamli (U.P.)

Respondent:

1. The Chairman, UP Power Corporation Limited.
7th Floor, Shakti Bhawan,
14 Ashok Marg, Lucknow
Varanasi.
2. Director,
State Load Dispatch Centre,
Shakti Bhawan, 14 Ashok Marg,
Lucknow-226001
3. Chief Engineer (PPA)
U.P. Power Corporation Ltd.
14th Floor, Shakti Bhawan Extension,
14-Ashok Marg,
Lucknow



In the Presence of

1. Sri Rahul Srivastava, Advocate, UPSLDC,
2. Sri DD. Chopra, Advocate, UPPCL
3. Sri Rajiv Srivastava, Ad. UPPCL
4. Sri P. Shukla, SE, UPSLDC
5. Sri M.K. Gupta, EE, UPSLDC
6. Sri A.K. Srivastava, A.E. UPSLDC
7. Sri L. Dsouza

ORDER (Date of hearing 25.04.2018)

M/s Superior Foods Grains Pvt. Ltd. have filed a Petition No.1265 of 2017 under Section 86(1)(e) and 86(1) (f) and other relevant provisions of Electricity Act 2003 along with an application for interim relief.

2. In this petition the Petitioner has stated that the Respondent No.2 (UPSLDC) did not give scheduling of contracted capacity to the Petitioner w.e.f. 1.7.2017 and verbally conveyed that UPPCL who is the procurer of power had decided not to purchase power from bagasse and biomass sources. The Petitioner has stated that they have been able to obtain the copy of the letter dated 8.9.2017 written by Chief Engineer PPA to Director, UPSLDC in which it has been mentioned that UPPCL has decided to procure renewable energy based generation from the generators who are ready to supply energy at Rs.5.56 per unit. The Petitioner has stated that the supply from its plant is governed by the provisions of PPA duly approved by the Commission.

3. The Petitioner has further stated that the Commission has treated captive and Co-gen stations as 'must run' in its order dated 21.06.2016. The Petitioner has prayed to the Commission that respondent no.2 (UPSLDC) should be directed to immediately schedule the contracted capacity from the Petitioner's Bagasse Based Generating Plant as per the terms of PPA and restrain Respondents from fixing tariff at Rs.5.56 per unit.

4. On this petition, UPPCL has filed its counter affidavit on 5.12.2017. In their Counter Affidavit the responded UPPCL has agreed that in the order dated 21.6.2016 on the Merit Order Dispatch, it has been held that till the RPO obligations of UPPCL are fulfilled, the bio mass and co-gen power stations were in the status of 'must run'. The Respondents have mentioned that the responsibility of the State is to ensure as much power to the consumers in State as possible at reasonable rates. They have stated that the issue of meeting the RPO, also being extremely important and cannot be equated to



availability of supply that too at higher tariff. The result would be that generation from renewable sources has to logically follow the trend of development in conventional generation rather than being a parallel and simultaneous growth.

5. This case was earlier heard on 19.12.17 and the Commission had recorded the views of both the parties in its order dated 27.12.2017. The Commission gave an opportunity to UPPCL to make further submissions on the issues raised by the Petitioner.

6. UPPCL did not make any additional submission but Director, UPSLDC filed an affidavit on 24.4.2018 in which they have mentioned that in this case the UPPCL being the buyer has constituted a Committee, headed by Director Commercial, UPPCL for Power Procurement Management which has conducted a meeting on 01.07.2017 in which it was decided that Zero Scheduling of Co-generation plant will continue till further decision, based on the RPO obligation data. This decision was communicated to UPSLDC on 01.07.2017. UPSLDC acted as advised by UPPCL and stopped giving schedule to the Petitioner. Director, UPSLDC further stated that they have only complied with the instruction of the buyer/Distribution company i.e. UPPCL.

7. The matter was heard again on 25.4.2018. The representatives of UPPCL and UPSLDC reiterated the same stand as they have filed in their respective affidavits. Here the issue before the Commission is that when the Commission has issued an MOD order in 2016 and has kept the renewable source generation in the category of 'must run'. The earlier petition of UPPCL seeking changes in compliance with the RPO has been rejected by the Commission. Now if UPPCL has failed to meet the RPO obligations then how they can be permitted to stop scheduling of power from Biomass and Cogen power plants. As far as reduction in the rates is concerned the Commission has no objection if both the parties agree to reduce the rates but in the absence of mutual consent on reduction of rates, the Commission is not in a position to force the generators to reduce the rate as it will amount to tempering with the PPA. The Commission is of the view that as far as the rates are concerned the sanctity of the PPA has got to be maintained unless both the parties agree on other alternative rates. The Commission has clarified this stand in various other similar petitions also. If both the parties agree on alternative rate then there has to be a supplementary PPA to formulize the new rate.

8. After hearing both the parties and seeing the contents of documents filed with the Commission the Commission directs that the provisions of PPA and orders relating to MOD should be adhered to by both the parties. However both the parties are free to re-negotiate the rates.



9. The Petition no.1265/2017 is accordingly disposed of.

(Kaushal Kishore Sharma)
Member

(Suresh Kumar Agarwal)
Chairman

Place: Lucknow
Dated: 01.05.2018