



**BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Petition No.1266/2017

Date of Order : 13.06.2018

PRESENT:

Hon'ble Sri Suresh Kumar Agarwal, Chairman
Hob'ble Sri Kaushal Kishor Sharma, Member

IN THE MATTER OF : Application for Interim Relief and scheduling of bagasse based power at tariff as decided by the Commission and payment of outstanding bills.

Petitioners :

M/s Rana Power Limited,
Plant Village Raja Ka Sahaspur,
Tehsil – Billari
Distt – Moradabad, (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, Rana Power Limited

ORDER
(Date of hearing 25.04.2018)

The Petitioner, M/s Rana Power Limited, has filed a petition no.1266 of 2017 along with an application for interim relief under Sec 86 1(e) and 1 (f) of the Electricity Act 2003.

2. The Petitioner has stated that they are having a bagasse based generating plant of 27 MW capacity commissioned in November 2015. Out of this capacity they sell surplus 18 MW power during season and 23 MW during off season as per terms and conditions detailed in the PPA dated 22.06.2015.

3. The Petitioner has stated that UPSLDC has stopped scheduling the power from the Petitioner's plant on verbal instructions. The Petitioner has been informed by UPSLDC that UPPCL has decided to schedule power from bagasse and bio mass generators whose tariff is up to Rs. 5.56 per kwh and since the Petitioner's tariff is Rs.6.09 per Kwh therefore UPSLDC is unable to give schedule of supply to the Petitioner. The Petitioner has mentioned that this act of UPPCL and UPSLDC is in violation of provisions of the PPA entered into between both the parties and approved by the Commission. They have prayed for direction to respondent No.2 to immediately schedule the contracted capacity from the Petitioner's Bagasse based generating plant and restrain the respondents from fixing tariff at Rs.5.56 per unit. They have also prayed for full and immediate payment of outstanding bills of the Petitioner. In the application for interim relief also they have prayed for direction to respondent no.1 to continue to procure contracted capacity from the petitioner's plant.

3. On this petition, UPPCL has filed its counter affidavit on 01.12.2017. In their Counter Affidavit the respondent UPPCL has agreed that in the order dated 21.6.2016 relating to 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.

4. This case was earlier heard on 19.12.17 and the Commission had recorded the views of both the parties in its order dated 05.01.2018. The Commission gave an opportunity to UPPCL to make further submissions on the issues raised by the Petitioner.
5. UPPCL did not make any additional submission but Director, UPSLDC filed an affidavit on 23.4.2018 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 per the advice of 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.
6. 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 Co-gen 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 tampering 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 formalize the new rate.
7. 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 shall be adhered to by both the parties. However both the parties are free to re-negotiate the rates.

8. The Petition no.1266/2017 is accordingly disposed of.

(Kaushal Kishor Sharma)
Member

(Suresh Kumar Agarwal)
Chairman

Place: Lucknow
Dated: 13.06.2018