



BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Petition No.1265/2017

PRESENT:

1. Hon'ble Sri Suresh Kumar Agarwal, Chairman

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 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)
UP Power Corporation Ltd.
14th Floor, Shakti Bhawan Extension,
14-Ashok Marg,
Lucknow

In the Presence of

1. Sri R.K. Saxena, Chief Engineer, UPPCL
2. Sri Rahul Srivastava, Advocate, UPSLDC,

3. Sri DD. Chopra, Advocate, UPPCL
4. Sri Rajiv Srivastava, Ad. UPPCL
5. Sri Zahir Ahmad, SE, UPSLDC
6. Sri A.K. Srivastava, A.E. UPSLDC

ORDER

(Date of hearing 19.12.2017)

The Petitioner, M/s Superior Foods Grains Pvt. Ltd., has filed a petition no.1265 of 2017 alongwith 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 33 MW capacity commissioned in January 2016. Out of this capacity they sell surplus 24MW power during season and 28 MW during off season as per terms and conditions detailed in the PPA dated 25.7.2015.

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 with tariff upto 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.

4. The Respondent No.1, UPPCL has filed the counter affidavit dated 01.12.2017. In this counter affidavit they have stated that they had earlier filed a petition before the Commission on 23.12.2015 by referring the clause-4 of UPERC, RPO Regulations 2010 in which they had sought certain relaxations in meeting their RPO obligations. Further they have stated that as per the policy decision of the State Government they have been asked not to pay more than Rs.5.56 per unit for power purchased from bagasse and bio mass based generating stations. They have also stated that clause 17 of the Power Purchase Agreement is to be viewed in the context of policy decision taken by State Government to uniformly reduce the cost of power purchased by UPPCL so that the



policy of the State Government to supply power to all at affordable tariffs could become a reality.

5. In brief, UPPCL has taken aground that the tariff of bagasse based and bio mass generating stations is higher and under the 'Power for All Scheme' they have to reduce the power purchase cost, therefore, they have asked the bagasse and bio mass generators to reduce the power purchase cost to Rs.5.56 per unit.

6. At the time of hearing it was clarified to UPPCL that the Commission has already disposed of their petition dated 23.12.2015 and as per this decision the RPO obligations are to be fulfilled by UPPCL. As far as State Government policy decision to reduce the tariff of bagasse and bio-mass generators is concerned, such a policy decisions could be enforced prospectively and cannot be applied on the existing PPAs unless the generator himself is willing to renegotiate the rates.

7. In the hearing Chief Engineer (PPA), UPPCL stated that they have not seen the order passed by the Commission on their petition dated 23.12.2015, therefore they will file additional submissions after going through this order. However, the Petitioner can supply power at the rate of Rs.5.56 per unit subject to final decision of the Commission in this matter. UPPCL was granted 15 days time to make their additional submissions and also submit their plan to meet the RPO obligations.

8. The matter will be listed again on receipt of submissions of UPPCL.

(Suresh Kumar Agarwal)
Chairman

Place: Lucknow
Dated:27.12.2017