



THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Petition No.1258/2017, 1259/2017, 1260/2017, 1261/2017 & 1262/2017

PRESENT:

Hon'ble Sri Suresh Kumar Agarwal, Chairman

IN THE MATTER OF : Petition under section 86 (1) (f) and other relevant provisions of the Electricity Act 2003 read with the provisions of Power Purchase Agreement dated 10.12.2010 and other relevant regulations

Petitioner:

M/s Bajaj Energy Limited
(Formerly Bajaj Energy Private Limited)
Registered Office
B-10, Sector-3
Noida-201302

Respondents:

1. U.P. Power Corporation Ltd.
Shakti Bhawan,
14, Ashok Marg,
Lucknow-226 001 (U.P.)
Through its Managing Director
2. Pashchimancal Vidyut Vitran Nigam Ltd.,
Hydle Inspection House, Hydle Colony
Victoria Park, Meerut
Through its Managing Director
3. Poorvancahl Vidyut Vitran Nigam Ltd
DLW, Bhikapur, Varanasi
Through its Managing Director

4. Madhyanchal Vidyut Vitran Nigam Ltd.
4-A, Gokhale Marg, Lucknow
Through its Managing Director
5. Dakshinanchal Vidyut Vitran Nigam Ltd.
Urja Bhawan, 220KV U.P. Sansthan
Bypass Road, Agra
Through its Managing Director

In the presence of:

1. Sri Raghvendra Singh, Advocate General
2. Sri Altaf Mansoor, Advocate, UPPCL
3. Sri V.P. Srivastava, CE (PPA), UPPCL
4. Sri I.M. Kaushal, CGM (F), UPPCL
5. Sri Naeem Khan, EE (PPA), UPPCL
6. Sri H. Aslam, EE, UPPCL
7. Sri Amarjeet Singh Singh Rakhra, Advocate, UPPCL/Discoms
8. Sri D.D. Chopra, Advocate for Petitioner
9. Sri H.S. Halke, Counsel, Bajaj Energy Ltd.
10. Sri Upendra Prasad, Advocate for Petitioner
11. Sri S.N.M. Tripathi, Director, BEL
12. Sri Amredra Tripathi, Sr. Manager, Bajaj Energy

ORDER
(Date of hearing 10.11.2017)

M/s Bajaj Energy Limited has filed petition no.1258/2017, 1259/2017, 1260/2017, 1261/2017 & 1262/2017 regarding termination of PPA of their 5 Power Plants situated at various locations of Uttar Pradesh. These petitions were listed for hearing on 09.11.2017.

2- When the proceedings of the Commission started on 9.11.2017 Sri Raghvendra Singh, Advocate General, U.P. appearing on behalf of UP Power Corporation Limited (UPPCL) raised a preliminary objection that the affidavits filed with the petitions are not as per the prescribed format of UPERC, therefore, these petitions are defective and could not be heard on 9.11.2017. Sri D.D. Chopra,



Counsel of the Petitioner admitted that there were certain shortcomings in the affidavits but assured the Commission that he will file the revised affidavits on 9.11.2017 itself, but the Advocate General did not yield to the request of the Counsel for the petitioner for hearing the matter on 9.11.2017.

3. The Commission directed the counsel of the petitioner to revise the affidavits as per the regulations on 9.11.2017 and listed the case for hearing on 10.11.2017 at 11:30AM.

4. As per the order of the Commission the matter was heard again on 10.11.2017. Sri Raghvendra Singh, Advocate General, U.P. appearing on behalf of UPPCL raised an issue that the petitioner has submitted an application for taking fresh affidavit on record and also an application to accept the correction of some typographical errors. Therefore, the petitioner should file an amended petition since there is no provision of taking the corrected petition on record. The petitioner's counsel Sri D.D. Chopra clarified that they have not amended the contents of the petition but have corrected some typographical errors therefore there is no need of filing an amended petition. The Commission observed that correction of some typographical error does not require filing of amended petition therefore the matter can be heard.

5. The Advocate General, U.P. requested that since the corrected affidavit has been filed now, therefore they should be given time for filing their written arguments. The Commission decided that the petitioner counsel can argue their case today and the respondent can be given time to file their written arguments and the Respondent can also take into account the petitioners arguments in their written arguments.

6. The petitioner's counsel Sri D.D. Chopra argued that there is no provision in the PPA which allows the termination of PPA and exit notice dated 8.7.2017 is arbitrary, without jurisdiction and does not have the approval of UPERC. He also stressed that this exit notice has resulted into shutting up of five power plants which are idle after this exit notice. The petitioner is not able to meet its regular expenses and has come to the verge of default to its lenders. He requested the Commission to grant stay on operation of aforesaid exit notice.

7. The Commission asked the petitioner that while this matter was in Hon'ble High Court, on the directions of Hon'ble High Court the petitioner had approached



UPPCL and had offered to implement a mechanism to reduce the variable cost of the project but the matter could not be resolved between both the parties.

8. The Commission stressed that besides the legal issues in this matter the Commission has to consider the public interest also and the petitioner has to cooperate in the efforts to reduce the variable cost so that the energy from the plant could be scheduled and the average cost goes down. The petitioner assured that they are open to consider this option. Sri S.N.M. Tripathi an officer of the petitioner pointed out that for reduction in the cost, both the parties have to make efforts. He gave an example that at present the coal for the plant is being supplied by Central Coalfields Limited and under the coal swapping policy of Government of India, if these plants are supplied coal from Northern Coalfield Limited, the variable cost of these power plants can be reduced by about Rs. 0.35 per unit. This is a significant information submitted by the petitioner. He also pointed out that the State Government is levying a forest cess on road transportation of the coal for the plants. If the State Government withdraws the forest cess on transportation of coal, further reduction of cost of Rs.0.08 can be achieved.

8. it appeared from the arguments that there is a scope for reduction in cost of the power supplied from these power plants and the grievance of the respondents regarding higher tariff of these power can be resolved.

9. Since the Advocate General, U.P. did not want to argue the case, therefore the Commission allowed time upto 14.11.2017 to the respondent to file their written arguments with a copy to the petitioner.

10. The case is listed for hearing on 14.11.2017 at 11:30AM.

(Suresh Kumar Agarwal)
Chairman

Place: Lucknow
Dated: 10.11.2017