# Delhi Electricity Regulatory Commission

**Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017.**

F.11(2119)/DERC/2023-24/7808

**Petition No. 31/2023**

**In the matter of:** **Petition under section 62(4) of the Electricity Act, 2003 read with Regulation 134 of the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations 2017 read with the Delhi Electricity Regulatory Commission (Conduct of Business) Regulation 2001, seeking to allow Petitioner to levy Differential Power Purchase Cost Adjustment Charges (PPAC) during the period July' 2023 to March' 2024.**

**BSES Yamuna Power Ltd.** **…Petitioner**

**Coram:**
**Hon'ble Dr. A. K. Ambasht, Member**

**Appearance:**
1. Mr. Buddy A. Ranganadhan, Adv. BYPL
2. Mr. Dushyant Manocha, Adv. BYPL

**ORDER**

(Date of Order: 22.06.2023)

1. The instant Petition has been filed by BSES Yamuna Power Ltd. (BYPL) claiming Power Purchase Cost Adjustment (hereinafter called PPAC) before the Commission in terms of Section 62 (4) of the Electricity Act, 2003 read with Regulation 134 of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 (hereinafter called "Tariff Regulations 2017"), Regulations 30 of the DERC (Business Plan) Regulations, 2019 with other extant Regulations etc. The Petitioner has made the following prayer;

   a) declare and allow the levy of PPAC at 45.64% from July, 2023 till March, 2024;

2. The Petitioner has submitted the following;

   a) The Petitioner herein has been procuring electricity from various generation sources, including renewable sources through utilization of State and Central transmission network of Transmission Licensees. The power is then supplied to the consumers at the applicable retail tariff determined by this Commission. The cost of long-term power being procured from central generating stations and State generating stations is determined, after following the due process as prescribed under law, by the Central Electricity Regulatory Commission (hereinafter "Central Commission / CERC") and this Commission respectively. The cost of such power procurement along with transmission of electricity comprises around 80% of the Aggregate Revenue Requirement (hereinafter "ARR") of the Petitioner.

b) That the power purchase cost is an uncontrollable factor and beyond the control of the Petitioner and is dependent on various factors such as fuel prices, freight charges for fuel transportation, regulatory orders/directives, variation between demand and supply due to various factors and weather conditions. It is noteworthy that the factors such as fuel prices, freight charges for fuel transportation etc. have been statutorily recognized as uncontrollable factors. Hence, due to nature of such factors being unforeseeable and uncontrollable, it becomes difficult to accurately estimate the power purchase costs at the time of annual tariff fixation.

c) That the very purpose of providing PPAC is to timely compensate the Petitioner/ Distribution Licensee for the increase in contemporaneous power purchase costs for the particular period in the year to keep its financial liquidity intact. In practice, a generator has to make payment for the fuel arrangements. Any increase in the fuel price will have to be accommodated in early payments to generators in the interest of operation of the plant. Consequently, the Distribution Licensee who procures power from the generators, in turn, has to immediately bear and pay the increased costs to the generator. If the Distribution Licensee is not contemporaneously allowed the recovery of additional costs on account of variation in power purchase costs including pertaining to fuel, other factors in reasonable time, its liquidity gets severely impacted.

d) That any deferral in allowing PPAC to the Distribution Licensee on account of additional power purchase expenditure, also results in accrual of additional burden in form of interest cost (carrying cost), which as the Distribution Licensee will have to ultimately resort to funding through short-term loans. Such a measure is not in the interest of the consumers as there is an additional burden in terms of higher tariff on the consumers. Therefore, timely and regular pass through of variations in power purchase cost is not only imperative for optimum financial management of the Distribution Licensee but is also imperative from the consumers' standpoint.

e) The Commission, acknowledging the importance of timely compensating the Distribution Licensee, introduced the concept of PPAC. The mechanism for levying the same, for the period in question, has been specified in Regulation 30 of the Business Plan Regulations, 2019 as well as Regulation 134 of the Tariff Regulations, 2017.

f) That based on the audited accounts and records of the Petitioner, the Petitioner has calculated the proposed PPAC percentage in line with the PPAC methodology specified by this Commission. The PPAC, for Q4 of FY 2022-23, based on all the bills has been calculated and amounts to 21.32%.

g) That previously, on March 8, 2022, this Commission issued a letter continuing the then PPAC till September, 2022, on a provisional basis. This letter was issued in response to the Petitioner's letter of February 21, 2022 seeking continuance of the then PPAC beyond March 31, 2022 due to substantial arrears of Central Generating stations and deteriorating financial position of the DISCOMs. Thereafter, during May, 2022 – June, 2022 the Petitioner issued several letters to the Commission brining certain developments to the notice of the Commission which had a direct impact on the Petitioner's power purchase cost.

h) In response to the aforesaid, on June 10, 2022, this Commission allowed additional PPAC of 6% to the Petitioner, over and above of what was then being levied. Further, the Commission vide Order dated August 31, 2022, considered it prudent to continue the PPAC applicable as on August 31, 2022 till further order(s).

i) Further, the Commission vide order dated March 16, 2023 agreed that various Short-term Power Purchase and Medium-term Power Purchase cost approved by the Commission for FY 2022-23, have not been factored in the ongoing Tariff Order dated September 30, 2021. It is further submitted that the current scenario on account of impact of blending of imported coal and high-cost Short-term Power Purchase for maintaining 24x7 supply of power to the consumers of Delhi in coming summer months is not accounted in current applicable tariff.

j) That the Commission had considered PPAC @ 7.43% in the Tariff Order dated September 30, 2021, equivalent to INR 512 Cr for meeting the Revenue Gap arising in the ARR for FY 2021-22 for the Petitioner. The relevant table is reproduced herein below for reference:

Table 4. 71: Summary of Projected ARR, Revenue at revised tariff, net Revenue Gap / Surplus for FY 2021-22

| Sr. No | Particulars | Amount (Rs. Cr.) |
|---|---|---|
| A | ARR | 4461.43 |
| B | Carrying Cost for FY 2021-22 | 280.15 |
| C | PPAC Cost Subsumed | 18.4 |
| D | Revised ARR | 4759.98 |
| E | Revenue at Revised Tariff | 4259.4 |
| F | Revenue from PPAC | 512.14 |
| G | Total Revenue | 4771.54 |
| H | Revenue (Gap)/ Surplus | 11.56 |

k) That the entire PPAC @ 7.43% has been utilized to meet the fixed cost recovery forming part of ARR for FY 2021-22. Therefore, the actual PPAC required for the Petitioner to recover Power Purchase Cost for FY 2022-23 is 28.77% (i.e., 21.34% + 7.43% PPAC). However, there are certain circumstances, as detailed below, which require consideration of this Commission to spread this 28.77% in a manner and method which may allow the Petitioner to recover this differential in a meaningful manner. These circumstances are as under:

(i) Given that Q1 of FY 2023-24 is already nearing an end, the Petitioner may be permitted to recover differential in the remaining months of FY 2023-23, i.e., from July, 2023 till March, 2024;

(ii) Further, given the decrease in demand on account of weather variations, even in the nine-month period, as aforesaid, it may not be possible for the Petitioner to recover the differential PPAC. Therefore, the percentage may be modulated accordingly to ensure that there is effective recovery.

l) In light of the aforesaid factors, the PPAC works out to 45.64% to be recovered over the remaining quarters for FY 2023-24. It is further submitted that on the basis of Actual Power Purchase Cost from April, 2022 till March, 2023 there is under recovery of Rs. 134 crore of power purchase cost after considering the recovery from allowed PPAC. The calculation of under recovery of power purchase cost is already provided to the Commission vide the Petitioner's letter of May 30, 2023.

m) The Petitioner herein submits that this Commission has the 'Power of Relaxation' under Regulation 172 of the Tariff Regulations 2017 and the

Business Plan Regulations, which ought to be exercised in the present case for allowing levy of PPAC and recovery of power purchase cost in accordance with the intent of the extant regulatory framework. As explained above, power purchase costs, being uncontrollable and volatile in nature, cannot be accurately estimated at the time of annual tariff fixation. It is beyond the control of Distribution Licensees and depends on various unpredictable factors such as Price of Fuel (Coal /Gas), Railway/ Road Freight, installation of new transmission lines, weather conditions etc. This coupled with the fact that power purchase cost amounts for 70-80% of the ARR of the Petitioner. In such a scenario, if there is a significant time lag in recovery of the actual power purchase cost, it would restrict the ability of the Petitioner in discharging its statutory functions as enshrined under the Act, which is also against the public interest.

n) The Petitioner's case is further strengthened by the fact that the power purchase costs constitute around 80% of the ARR of the Petitioner. In such a scenario, if there is a significant time lag in recovery of the actual power purchase cost, it would restrict the ability of the Petitioner in discharging its statutory functions as enshrined under the 2003 Act. Hence, this unrecovered amount shall have unwarranted carrying cost impact during the true-up process for FY 2022- 23.

3. **Commission's Analysis**

a. BYPL in its instant Petition has submitted the PPAC computation for FY 2022-23, and requested to allow the PPAC of 45.64%.

b. The Commission vide its Order dated 15/06/2023, admitted the said Petition and directed *"The Officers of BYPL will sit with the officers of the Commission on 20.06.2023 for the verification of the Power Purchase Bills"*

c. In line with Commission's Order dated 15/06/2023, the officers of the Commission conducted meeting with BYPL for prudence check of Power Purchase & Transmission Bills pertaining to Q1, Q2, Q3 & Q4 of FY 2022-23 on 20/06/2023 & 21/06/2023.

d. Submissions made by BYPL in the instant Petition have been scrutinized and major findings are as follows:

i. BYPL has considered Tehkhand WTE Power Plant in the PPAC for Q4 which has not been considered as it does not form part of the base cost approved in Tariff Order dated 30/09/2021.

ii. Further, the comparison of plants like Aravali, Maithon Power, Dadri-II, Mejia-7 and PPCL-III (Bawana) having major impact on increase of PPAC of DISCOMs, summarized in table below:

| Power Plant | Capacity (MW) | Share to DISCOMS (MW) | | | ECR approved in Tariff Order dated 30/09/2021 (Rs./kWh) | Actual ECR in FY 23 (Rs./kWh) average of months of relevant Quarter | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | BRPL | BYPL | TPDDL | | Q1 | Q2 | Q3 | Q4 |
| Aravalli | 1500 | 15 | 69 | 614 | 3.16 | 4.36 | 5.19 | 4.59 | 4.50 |
| MPL | 1050 | 0 | 0 | 281 | 2.50 | 2.62 | 2.81 | 2.72 | 2.84 |
| Dadri-II | 980 | 545 | 175 | 10 | 3.16 | 4.85 | 5.07 | 4.47 | 4.72 |
| MTPS-7 | 500 | 0 | 119 | 0 | 2.77 | 3.20 | 4.49 | 3.04 | 3.48 |
| Bawana | 1371 | 427 | 247 | 298 | 1.78 | 8.10 | 4.82 | 6.71 | 6.91 |

iii. The Commission had sought details from BYPL w.r.t. treatment of Short-term Open Access (STOA)credit received from DTL in PPAC computation for the period of FY 2017-18 to FY 2022-23 and BYPL vide its email dated 21/06/2023 submitted that till FY 2021-22 they have considered the credit of STOA in computation of PPAC. It is also noticed that in FY 2022-23, BYPL received STOA credit of Rs. 94.73 Crore.

iv. Since, PPAC computed is high in value on account of blending of Coal and increased Gas Prices, the Commission taking into consideration Section 61(d) of the Act allows credit on account of STOA received by DISCOMs from DTL in PPAC as follows:

| Sr. No. | Particulars | BYPL | |
|---|---|---|---|
| | | PPAC Claimed by BYPL | PPAC computed after considering credit of STOA |
| A | Q1 FY 23 | 19.21% | 18.71% |
| B | Q2 FY 23 | 22.26% | 15.78% |
| C | Q3 FY 23 | 22.56% | 15.92% |
| D | Q4 FY 23 | 21.32% | 14.67% |
| E | Average PPAC | 21.34% | 16.27% |
| F | Ongoing PPAC as per Commission Order dated 16/03/2023 applicable till 30/06/2023 | 22.18% | 22.18% |
| G | PPAC inbuilt in Revenue side in Tariff Order dated 30/09/2021 | 7.43% | 7.43% |
| H | PPAC allowed (E+G) | 28.77% | 23.70% |
| I | PPAC till next 9 months from date of issuance of Order (H*12/9) | 38.35% | 31.60% |
| J | PPAC required for 9 months in lieu of decrease in Demand | 45.64% | Not considered as there is no such provision in the Regulations |
| K | Differential PPAC | 23.46% (J-F) | 9.42% (I-F) |

4. The Petitioner shall levy additional 9.42% PPAC over and above the ongoing PPAC of 22.18% both PPAC having validity till nine months from the issuance of this Order.

5. The Surplus/deficit, if any, will be allowed with carrying cost, on verification of Power Purchase Cost and Transmission Bills, in True-up of relevant Financial Year subject to prudence check.

6. Ordered Accordingly.

Sd/-
**(Dr. A.K. Ambasht)**
**Member**