ORDER
OF THE
WEST BENGAL ELECTRICITY REGULATORY COMMISSION
IN CASE NO. OA-224/15-16

IN REGARD TO THE APPLICATION SUBMITTED BY WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) FOR APPROVAL OF FIRST SUPPLEMENTARY AGREEMENT TO THE POWER PURCHASE AGREEMENT DATED 11.12.2010 EXECUTED BY AND BETWEEN BENGAL ENERGY LIMITED (BEL) AND WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) FOR PURCHASE OF ENTIRE POWER BY WBSEDCL FROM 40 MW COGENERATION PLANT OF BEL AS PER THE ORDER OF THE COMMISSION DATED 22.06.2016 AND IN TERMS OF REGULATION 7.4.1 OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS OF TARIFF) REGULATIONS, 2011, AS AMENDED.

PRESENT:
SRI SUTIRTHA BHATTACHARYYA, CHAIRPERSON
SRI DURGADAS GOSWAMI, MEMBER

DATE: 06.08.2018

Certified true Copy
Approval of first supplementary agreement to the power purchase agreement dated 11.12.2010 executed by and between Bengal Energy Limited (BEL) and West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of entire power by WBSEDCL from 40 MW cogeneration plant of BEL as per the order of the Commission dated 22.06.2016 and in terms of regulation 7.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended

Facts in brief:

1.0 West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL') has submitted an application on 24th March, 2017 for approval of First Supplementary Agreement to the power purchase agreement dated 11.12.2010 executed by and between Bengal Energy Limited (hereinafter referred to as 'BEL') and WBSEDCL for purchase of entire power by WBSEDCL from the 40 MW Cogeneration plant of BEL as per the order of the Commission dated 22.06.2016 and in terms of regulation 7.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended (in short the 'Tariff Regulations').

2.0 WBSEDCL in its petition has submitted that a power purchase agreement dated 11th December, 2010 was entered into by and between WBSEDCL and BEL and was valid till 16th March, 2017. As per the direction of the Commission in its order dated 22nd June, 2016, WBSEDCL and BEL have agreed to amend the Power Purchase Agreement dated 11th December, 2010 through First Supplementary Agreement. Accordingly, they have executed the First Supplementary Agreement which will remain operative till 16th March, 2022 and may be extended based on mutually agreed terms and conditions.

3.0 WBSEDCL has also stated the followings:

(i) This will meet the Renewable Purchase Obligation (RPO) target given by the Commission.

(ii) The tariff computed for the financial years 2014-15, 2015-16 and 2016-17 as per the agreed methodology in the First Supplementary Agreement is below the cap price for co-generation power as specified in West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Energy Sources) Regulations, 2013.

(iii) There is no transmission cost as the power station of BEL is directly connected with WBSEDCL system.
Approval of first supplementary agreement to the power purchase agreement dated 11.12.2010 executed by and between Bengal Energy Limited (BEL) and West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of entire power by WBSEDCL from 40 MW cogeneration plant of BEL as per the order of the Commission dated 22.06.2016 and in terms of regulation 7.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended.

(iv) It will provide a long-term solution to supply uninterrupted power to the prospective consumers of WBSEDCL, improve the reliability and economical purchase of power. This will also help mitigate the peak shortage, as far as possible.

4.0 The Commission observed that in the First Supplementary Agreement to PPA dated 11.12.2012, the conditions specified in clause (ii) of paragraph 11.0 (d) of the order of the Commission in Case No OA-202/14-15 dated 18.12.2015 has not been mentioned and directed WBSEDCL to submit their views/ clarification on the issue.

5.0 WBSEDCL vide letter dated 31.03.2018 submitted that they have adopted the Clause No. (ii) of paragraph 11.0(d) of the order of the Commission in Case No. OA-202/14-15 dated 18.12.2015 at the time of determination of tariff of different financial years FY 2014 – 15, FY 2015 – 16 and FY 2016 – 17 under Annexure – II and also considered the minimum threshold of 255 paise/kwh.

6.0 The Commission considering the additional information/ clarifications/ documents submitted by WBSEDCL admitted the petition and directed WBSEDCL to publish the gist of their petition as approved by the Commission in newspapers widely circulated in his area of operation. WBSEDCL accordingly published the gist of the petition in (i) Sangbad Pratidin, (ii) Sanmarg, (iii) Bartaman and (iv) Times of India on 12.06.2018 inviting suggestions and objections on their petition latest by 25.06.2018. No suggestion and objection have been received by the Commission within the stipulated time-period.

Observations of the Commission:

7.0 In paragraph 12 of the order of the Commission in Case No OA-202/14-15 dated 18.12.2015 it was directed to enter into new supplementary PPA for amendment of clause 6.1(ii) of the existing PPA in line with the guidelines provided in paragraph 11.0(d) of the said order. The guidelines are produced below:
Approval of first supplementary agreement to the power purchase agreement dated 11.12.2010 executed by and between Bengal Energy Limited (BEL) and West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of entire power by WBSEDCL from 40 MW cogeneration plant of BEL as per the order of the Commission dated 22.06.2016 and in terms of regulation 7.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended

“(i) tariff of one-third energy shall be 255 paisa/kWh till 09.08.2015 and from 10.08.2015 the tariff shall be revised subject to capping price as per New Regulations;

(ii) From 01.04.2014 the tariff of two-third energy will have to be as per present methodology without considering weighted average UI price subject to condition that such price shall not be less than 255 paisa/kWh but it shall not exceed the cap price as per New Regulations. In absence of weighted average UI price there shall not be replacement of it through deviation settlement charges by any means. This means that the paragraph (a) of the clause 6.1(ii) of the existing PPA is to be simply not considered while determining the tariff of two-third energy for any year. Accordingly, the PPA is to be amended by simply deletion of such paragraph with having an effect from 01.04.2014. Such effective date is considered on the basis of the fact that in the preceding financial year of 2013-14 the UI mechanism has been abolished from 06.01.2014 and thus the weighted average UI price of 2013-14 cannot be considered for tariff determination of two-third energy for 2014-15 due to distortion imbibed in such weighted average UI price of 2013-14 as UI price is available for part of that year of 2013-14 only;”

8.0 The Commission after careful analysis of the petition and subsequent clarification made by WBSEDCL vide their letter dated 31.03.2018 observes that price of one-third energy has been revised at a rate 303 paisa/kwh from 10.08.2015 and in respect of two-third energy the provision of weighted average price of UI has been deleted, but setting minimum price of 255 paisa/kwh for two-third of energy has not been explicitly mentioned in the First supplementary PPA, though in their calculation in Annexure -II they have shown their intention. Commission is of the view that it should have been written in language in the PPA, not in calculation only.
Approval of first supplementary agreement to the power purchase agreement dated 11.12.2010 executed by and between Bengal Energy Limited (BEL) and West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of entire power by WBSEDCL from 40 MW cogeneration plant of BEL as per the order of the Commission dated 22.06.2016 and in terms of regulation 7.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended

9.0 Commission also observes that price of one-third energy at 303 paisa/kwh and overall tariff considering both one-third and two-third at 320 paisa/kwh is within the capped price of 334 paisa/kwh as per West Bengal Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Energy Sources) Regulations, 2013.

Order:

10.0 Considering the above the Commission accordingly approves the First Supplementary Agreement dated 17.03.2017 to the principal Power Purchase Agreement dated 11.12.2010 and allows WBSEDCL to purchase 40 MW power from cogeneration plant of BEL on mutually agreed tariff as per the methodology mentioned in the First Supplementary Agreement. Any revision to this power purchase agreement is subject to the provisions of Tariff Regulations.

11.0 The Commission also directs WBSEDCL to incorporate the provision of setting the minimum price of 255 paisa/kwh for determining tariff of two-third energy in writing in the PPA with all other terms and conditions unaltered and submit a copy of the same before the Commission within three months.

12.0 BEL and WBSEDCL shall comply with the provisions of the applicable law regarding scheduling, dispatching and accounting.

13.0 The petition is thus disposed of. Let a copy of the order be served upon WBSEDCL and BEL.

Certified true Copy

Sd/-
(DURGADAS GOSWAMI)
MEMBER

Sd/-
(SUTIRTHA BHATTACHARYA)
CHAIRPERSON

T. K. MUKHERJEE)
SECRETARY

West Bengal Electricity Regulatory Commission