WEST BENGAL ELECTRICITY REGULATORY COMMISSION

WEST BENGAL

Petition No. PPA-80/16-17

Date of hearing: 24th April, 2019

Time of hearing: 14.15 hours

Coram:

Shri Sutirtha Bhattacharya, Chairperson

Shri Durgadas Goswami, Member

In the matter of

Application regarding implementation of Long Term Power Purchase Agreement between The Durgapur Projects Limited (DPL) and West Bengal State Electricity Distribution Company Limited (WBSEDCL) and modification in tariff to allow fixed cost based on availability of unit for supply of power to WBSEDCL.

And

In the matter of

The Durgapur Projects Limited
Administrative Building
Durgapur 713 201
West Bengal

Petitioner

And

West Bengal State Electricity Distribution Company Limited,
Vidyut Bhawan
Block – DJ, Sector – II
Bidhannagar
Kolkata 700 091

Respondent

Representatives attended:

The Durgapur Projects Limited (DPL) [Petitioner]
1. Sri Pradip Kumar Mitra, GM (F&A),
2. Sri Parthapratim Roy, GM (Tech), I/C.
West Bengal State Electricity Distribution Company Limited (WBSEDCL)  
[Respondent]
1. Sri Rajeev Nandan Sinha, SE (E),
2. Sri Subrata Chowdhury, Sr. Manager (HR&A).

FACTS IN BRIEF

DPL has entered into a long term Power Purchase Agreement (PPA) on 4th December, 2012 with WBSEDCL for supply of the entire surplus power to WBSEDCL for a period of 25 years. As per the Article – 4 of the said PPA the entire surplus generation of DPL shall be supplied to WBSEDCL on day ahead basis as per agreed schedule and as per tariff approved by the Commission. DPL and WBSEDCL shall furnish their surplus power schedule and drawal schedule respectively in accordance with the Scheduling and Despatch Procedure specified by SLDC under State Grid Code with implementation of Intra-State Availability Based Tariff. As per the clause 7.1.1 of the PPA, energy charge at which WBSEDCL will procure electricity from DPL shall be determined by the Commission but it shall at least be 80% of the average cost of supply in respect of consumers of DPL that is being determined by the Commission for a concerned year. As per the clause 7.1.2, WBSEDCL shall be liable to pay Annual Performance Review (APR) adjustment and / or Fuel and Power Purchase Cost Adjustment (FPPCA) or adhoc FPPCA / MVCA and / or any other additional amount on the head of fuel and power purchase cost as and when declared by the Commission. After commercial operation of Units 7 & 8, DPL had surplus power to sell to WBSEDCL, but WBSEDCL denied purchasing the surplus power from DPL on the ground that their tariff is higher which resulted in keeping one of the two available units idle in absence of demand for power. DPL had to agree for sale of power to WBSEDCL on short term open access basis to realize the variable cost and keep the two units operational. The issue was taken up with the Power Department of the Government of West Bengal and the Special Secretary to the Government of West Bengal in the Department of Power & NES directed DPL to approach the Commission for praying for implementation of the Long Term Power
Purchase Agreement entered on 4th December, 2012 between DPL and WBSEDCL and allowing two-part tariff with separate fixed cost and variable cost components.

**SUBMISSION DURING HEARING**

DPL submitted that as per the order dated 31st December, 2018 of the Commission issued in line with the Notification No. 328/PO/O/C-IV/1E-60/13 (Pt-VA) dated 26.12.2017 of the Department of Power & NES, Government of West Bengal, DPL has been functioning as a generating company only with effect from 01.01.2019. Therefore, DPL has to sell its total ex-bus energy to WBSEDCL for which a long term PPA is required to be executed by and between DPL and WBSEDCL which is under process. Until the PPA is finalized and executed, DPL is unable to raise final bills against supply of energy in absence of any generation tariff determined by the Commission. DPL has been raising provisional monthly bill for sale of power to WBSEDCL at the rate of 389 paise per kWh – the declared pool power purchase cost of WBSEDCL from WBPDCL for the year 2017 – 2018 – with effect from 01.01.2019. Since DPL is not in a position to recover the full cost of generation, DPL may be allowed to submit ad-hoc tariff petition with effect from 01.01.2019 till the final tariff petition is disposed off. DPL will remain ready to submit the adhoc tariff petition within 30th April, 2019, if permitted.

Sri Rajeev Nandan Sinha, on behalf of WBSEDCL, submitted that –

a) There is a Power Purchase Agreement between DPL and WBSEDCL for purchase of surplus power from DPL by WBSEDCL;

b) The tariff for purchase of surplus power from DPL by WBSEDCL is on single part tariff basis;

c) DPL proposed to sell power on two part tariff basis;

d) The Commission directed vide letter dated 12.09.2016 that any amendment in the PPA has to be settled mutually and shall be signed by both WBSEDCL and DPL and the same shall be submitted by WBSEDCL to the Commission for approval;
e) It was mutually agreed that the tariff for sale of surplus power by DPL to WBSEDCL shall be on two part basis. Energy charge shall be 203.51 paise per kWh plus MVCA/MFCA as applicable and the capacity charge shall be determined considering the total tariff i.e., the pool power cost of WBPDCL of the respective financial year, to ensure that the total of energy charge and capacity charge together do not exceed the power cost of WBPDCL for the respective financial year;

f) The Government of West Bengal has also given the approval to the above mutually agreed tariff;

g) The Board of WBSEDCL approved the tariff clause of PPA on 13.05.2017 and accordingly 1st supplementary agreement to the PPA was executed on 16.06.2017 by and between WBSEDCL and DPL;

h) The 1st supplementary agreement to the PPA was placed before the Commission for approval of the commission vide letter dated 29.06.2017;

i) The Commission vide its letter dated 03.08.2017 informed WBSEDCL that the rate of capacity charge should be kept unaltered every month in a year and directed to amend the 1st supplementary agreement to PPA accordingly;

j) Mutually agreed terms and conditions between DPL and WBSEDCL could not be finalized;

k) In the meantime, by a Notification No. 328/PO/O/C-IV/1E-60/13 (Pt-VA) dated 26.12.2017 of the Department of Power & NES, Government of West Bengal, the entire distribution business and transmission business presently undertaken by DPL along with all associated assets and liabilities have been transferred to WBSEDCL and WBSETCL respectively, via the mechanism of slump transaction of assets subject to terms and conditions as agreed in the slump sale arrangement with effect from 01.01.2019;

l) Accordingly, distribution function of DPL was taken over by WBSEDCL after getting concurrence of the Commission;
m) Payables to and receivables from DPL till 31.12.2018 have been finalized which is to be part of the transfer scheme for takeover of distribution function of DPL.

ORDER

Upon hearing both the sides, the Commission observed that upto 31.12.2018 everything has been frozen and there is no scope for any change in tariff. Therefore, the Commission directed WBSEDCL and DPL to come up with a mutually agreed fresh Power Purchase Agreement and with the consent of the Government of West Bengal, before the Commission for approval for the period from 01.01.2019 and onwards.

Sd/-
(DURGADAS GOSWAMI)
MEMBER

Sd/-
(SUTIRTHA BHATTACHARYYA)
CHAIRPERSON

Certified true Copy

DATE: 16.05.2019

Sd/-
(T. K. MUKHERJEE)
SECRETARY