In the matter of
Application seeking approval for Power Purchase from the West Bengal State Electricity Distribution Company Limited (WBSEDCL) by the Durgapur Projects Limited (DPL) as and when required.

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 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 submitted a petition before the Commission on 7th August, 2017 seeking approval for purchase of power from WBSEDCL since they have no long term power purchase arrangement as a licensee. In case of outage of DPL’s unit(s), WBSEDCL could not schedule required quantum of power and therefore DPL had to resort to short term power purchase either on short term open access basis from WBSEDCL or through bilateral arrangement or bidding through power exchange. DPL’s contention is that right of power purchase on long term basis from WBSEDCL is well covered under regulation 7.8.3 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended. A draft power purchase agreement executed with the consent of the Department of Power & NES, Government of West Bengal by and between DPL and WBSEDCL on 16.06.2017 has been submitted along with the petition for approval of the Commission.

SUBMISSION DURING HEARING

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

a) There is a Power Purchase Agreement between DPL and WBSEDCL for purchase of power by DPL from WBSEDCL executed on 16th June, 2017 for two (2) years at the rate mutually agreed after several rounds of correspondence between the Department of Power & NES, Government of West Bengal, WBSEDCL & DPL for finalization of purchase and sale of power by DPL from WBSEDCL. A number of meetings were held by the Department of Power & NES, Government of West Bengal with WBSEDCL, DPL & WBPDCL;

b) Earlier, tariff for purchase of power by DPL from WBSEDCL was single part tariff as approved by the West Bengal Electricity Regulatory Commission (in short the
'Commission') and also tariff for purchase of power by WBSEDCL from DPL was single part tariff;

c) To overcome the problem of backing down, DPL proposes to sell power to WBSEDCL in two part tariff. DPL applied before the Commission for a two part Tariff in respect of purchase of power by WBSEDCL from DPL;

d) The Commission directed vide memo no: WBERC / PTP-80 / 16-17 / 1039 dated 12/09/2016 that any amendment in the Power Purchase Agreement (PPA) requires to be settled mutually between the two parties and accordingly the amended PPA shall have to be signed by both the parties. The amended PPA, after signing by the parties, shall be submitted by WBSEDCL for approval of the Commission as per provision of West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended;

e) Finally, it was mutually decided that for Purchase of Power by WBSEDCL from DPL will be governed in two part tariff. The present energy charge is 203.51 P/KWH plus MVCA/MFCA as applicable and the capacity charge will be determined considering the total tariff to be the pool power cost of West Bengal Power Development Corporation Limited (WBPDCL) of the respective period (financial year), to ensure that the total of energy charge & capacity charge together does not exceed the pool cost of WBPDCL for the respective period (financial year);

f) Accordingly WBSEDCL will sell electricity to DPL at WBSEDCL's average pool power cost of the respective period including transmission charges, losses etc. Settled rate is Rs. 4.543/KWH for the period from April, 2017 to December, 2018;

g) As per the Directive of Government of West Bengal, decision was taken in the meeting held amongst WBSEDCL, WBPDCL and DPL on 16.03.2017 regarding purchase of power by WBSEDCL from DPL & sale of power by WBSEDCL to DPL alongwith other issues including purchase of coal for operationalising Units - 7 & 8 of DPL;
h) Finally Government has also given the approval through their letter no. No. 69 - PO / 0 / C-III /4M-06 /2017 dated 30.03.2017;

i) On 13th May, 2017 Board of WBSEDCL approved tariff and accordingly Power Purchase Agreement was executed on 16.06.2017 for purchase of power by DPL from WBSEDCL;

j) An application, for approval of Power Purchase Agreement (executed on 16.06.2017) for purchase of power by DPL from WBSEDCL for their licensed area (in Durgapur) for 02 years, was submitted by DPL;

k) From 01 April 17 to 31 December 2018 purchase of power by WBSEDCL from DPL is 676.15 MU and sale by WBSEDCL to DPL is 145.23 MU;

l) The Distribution business of DPL has been transferred to WBSEDCL w.e.f 01.01.2019 as per order no 328/PO/O/C-IV/1E-60/13 (Pt-VA) dated 26.12.2018 of Government of West Bengal, the rights of which now stand vested in WBSEDCL under the Transfer Scheme. As per order dated 26.12.2018 of Government of West Bengal, WBSEDCL and DPL shall execute a slump sale agreement on issuance of order mentioning asset & liability of distribution business of DPL as on 31.12.2018 and this agreement will be effective from 01.01.2019;

m) On the opinion of Monitoring & Implementation Committee on restructuring of DPL, the Department of Power & NES notified, with the concurrence of the Finance Department, vide letter no. 328/PO/O/C-IV/1E-60/13 (Pt-VA) dated 26.12.2018 that with effect from 01.01.2019 the entire distribution business and activities presently undertaken by DPL along with all associated assets and liabilities will be transferred to WBSEDCL via the mechanism of Slump Transaction of Assets subject to terms and conditions as agreed in the slump sale arrangement.

n) Accordingly, distribution function of DPL is taken over by WBSEDCL after getting concurrence of the Commission. Now there is no relevance for DPL to continue
with agreement relating to purchase of power by DPL from WBSEDCL, as DPL is no more a distribution licensee for Durgapur area. Settled rate is Rs. 4.543/KWH for the period from April’17 to December’18.

o) Now the 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. The order of Government of WB is awaited.

p) Regarding purchase of power by WBSEDCL from DPL upto 31.12.2018, it is already settled by the Commission vide letter no. WBERC/PPA-80/16- 17/3997 dated 16.05.2019. PPA for purchase of power by WBSEDCL from DPL after 01.01.2019 is under process.

q) WBSEDCL is of the opinion that as it is finalized and settled by the Government of West Bengal as on 01.01.2019 hence there is no scope of further view on the part of WBSEDCL.

Sri Parthapratim Roy, on behalf of DPL, submitted that distribution function of DPL has been taken over by WBSEDCL in pursuance of directions issued by the State Government and the Commission and therefore, he endorsed the views of WBSEDCL as above.

ORDER

Upon submission of the representative of WBSEDCL, the Commission observed that upto 31.12.2018 everything has been frozen and the distribution function, as a whole, of DPL has been transferred to WBSEDCL with effect from 01.01.2019 in consonance with the order of the Government of West Bengal. Therefore, there is no further scope for DPL to distribute power to its consumers within its licensed area, nor DPL has any requirement for any power to be purchased from WBSEDCL.

In view of the above, the Commission dismisses the petition submitted by DPL on 7th August, 2017 in case no. PPA-86/17-18 for approval of purchase of power from WBSEDCL on long term basis based on the Power Purchase Agreement executed on 16th June, 2017 by and between DPL and WBSEDCL.
Let a copy of this order be served upon DPL and WBSEDCL.

The petition is thus disposed of.

Sd/-
(DURGADAS GOSWAMI)
MEMBER

DATE: 13.06.2019

Sd/-
(SUTIRTRA BHATTACHARYYA)
CHAIRPERSON

(T. K. MUKHERJEE)
SECRETARY