ORDER

OF

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

IN CASE NO. WBERC/PPA-88 /18-19

IN REGARD TO AN APPLICATION FOR APPROVAL OF AMENDMENT NO. 1 TO THE PRINCIPAL POWER PURCHASE AGREEMENT (PPA) DATED 28.12.2010 AND 1ST SUPPLEMENTARY PPA DATED 06.04.2018 EXECUTED BY AND BETWEEN WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) AND HIRANMAYE ENERGY LIMITED [FORMERLY KNOWN AS INDIA POWER CORPORATION (HALDIA) LIMITED {IPC(H)L}] 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 DURGADAS GOSWAMI, MEMBER

DATE: 30.08.2019
In regard to an application for approval of Amendment No. 1 to the principal Power Purchase Agreement (PPA) dated 28.12.2010 and 1st supplementary PPA dated 06.04.2018 executed by and between West Bengal State Electricity Distribution Company Limited (WBSEDCL) and Hiranmaye Energy Limited [formerly known as India Power Corporation (Haldia) Limited {IPC(H)L}] 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 The West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL') submitted an application on 06th August, 2019 seeking approval of Amendment no. 1 to the Principal Power Purchase Agreement (PPA) dated 28.12.2010 and 1st Supplementary Agreement dated 06.04.2018 executed by and between WBSEDCL and Hiranmaye Energy Limited (in short 'HEL') [formerly known as India Power Corporation (Haldia) Limited] or purchase of 300 MW power by WBSEDCL from the 3 x 150 MW Thermal Power Station of HEL at Haldia in Purba Medinipur District of West Bengal in terms of regulation 7.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended (hereinafter referred to as the 'Tariff Regulations').

2.0 WBSEDCL submitted that, the Commission had approved the Power Purchase Agreement dated 28.12.2010 (hereinafter referred to as 'Principal Agreement') vide its order no. WBERC/PPA-22/10-11 dated 08.02.2011 and approved the 1st Supplementary Agreement dated 06.04.2018 vide its order dated 29.08.2018 in case no WBERC/PPA-88/18-19.

3.0 WBSEDCL also submitted that based on the approved principal agreement and supplementary agreement, HEL started scheduling of power since 10.11.2018.

4.0 WBSEDCL further submitted that pursuant to the SHAKTI Policy notified by Ministry of Coal, Government of India, Coal India Limited (CIL) had conducted the second round of Auction of coal linkage. HEL participated in that second round of auction of coal linkage and successfully got allocation of 15.02 lakh tons of coal per annum from Mahanadi Coalfields Limited (MCL). MCL issued two Letters of Intent (LOI) dated 16.07.2019 declaring the HEL as successful bidder and allocating the coal as aforesaid.

5.0 WBSEDCL along with the petition enclosed the letters submitted by HEL vide letter no. GP/HMEL/2019-20/WBSEDCL/2019-20/008/18 dated 17.07.2019 and letter no
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GP/HMEL/2019-20/WBSEDCL/2019-20/008/19 dated 22.07.2019, where HEL submitted that as per para 3.6.8 of the Scheme it is required to mutually amend the Principal PPA and 1st Supplementary PPA mentioning the tariff discount stream offered in the auction (7 paisa/unit) and the amount to be passed on as discount to the Buyer (WBSEDCL) computed with reference to the power generation from the corresponding linkage coal supplied and received under the SHAKTI Scheme. HEL in those letters also submitted that such amended PPA with due approval of the Commission is required to be submitted to CIL within 60 days from the date of issuance of LOI i.e. 16.07.2019 for execution of Fuel Supply Agreement with MCL.

6.0 Accordingly, WBSEDCL and HEL on 02.08.2019 has executed and signed an Amendment No. 1 to the Principal Agreement and the 1st Supplementary PPA and has submitted the said Amendment Agreement No. 1 before the Commission for approval.

7.0 In view of above, WBSEDCL has prayed before the Commission to approve the Amendment No. 1 to the Principal Agreement and 1st Supplementary PPA executed by and between HEL and WBSEDCL on 02.08.2019 in terms of regulation 7.4.1 of the Tariff Regulations.

Observation of the Commission:

8.0 Ministry of Coal, Government of India vide its letter dated 22.05.2017 dealt with matters concerning "Signing of Fuel Supply Agreement (FSA) with Letter of Assurance (LOA) holders of Thermal Power Plants – Fading away of the existing LOA-FSA Regime and Introduction of a New More Transparent Coal Allocation Policy for Power Sector, 2017 – SHAKTI (Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India". Paragraph B(ii) of the SHAKTI Policy inter-alia provides that CIL/SCCL may grant coal linkages on notified price on auction basis for power producers /IPPs having already concluded long-term PPAs based on domestic coal. IPPs participating in auction will bid for discount on the tariff (in paisa/unit). Such discount would be adjusted from the gross amount of bill at the time of billing, i.e., the original bill shall be raised as per the terms

West Bengal Electricity Regulatory Commission
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and conditions of the PPA and the discount would be reduced from gross amount of the bill. The discount shall be computed with reference to the scheduled generation from linkage coal supplied under the auction.

9.0 Accordingly, CIL conducted auction of coal linkages as per paragraph B(ii) of the SHAKTI Policy first in September 2017 and then in March 2019. HEL had participated in the auction of coal linkage by CIL in March 2019, where HEL quoted a levelised discount of 7 paisa/kWh with a year on year tariff discount stream of 7 paisa/kWh for 24 years and selected as Provisional Successful Bidder for award of 15,02,300 Ton per annum of coal from MCL. WBSEDCL in support of their submission has enclosed the copies of two Letters of Intent (LOI) issued by MCL to HEL vide no MCL/SBP/COMM/GM(M&S)/2019-20/1093 dated 16.07.2019 and MCL/SBP/COMM/GM(M&S)/2019-20/1094 dated 16.07.2019 along with the petition.

10.0 Now as per requirement of paragraph (B)(ii)(b) and (B)(ii)(c) of the SHAKTI policy read with paragraph 3.6.8 of the Scheme document for auction, the PPA is required to be amended to pass on the discount to the procurer prior to signing of FSA. Accordingly, on 06.08.2019 WBSEDCL and HEL have executed the Amendment No. 1.

11.0 In the Amendment No. 1 both WBSEDCL and HEL have agreed to insert a Schedule namely 'Schedule A - Tariff Discount' specifying a formula for monthly energy bill after deducting the total discount amount for each month in line with the terms of coal auction under SHAKTI policy specified by Government of India with a year to year tariff discount of 7.00 paisa/kWh for 24 years.

12.0 The Commission observes that the amendment no 1 to the Principal Agreement dated 28.12.2010 and 1st Supplementary PPA dated 06.04.2018 proposes to incorporate a Schedule-A on Tariff Discount to the WBSEDCL in terms of coal auction under SHAKTI policy specified by Government of India and this discount will ultimately be passed on to the end consumers of WBSEDCL.
In regard to an application for approval of Amendment No. 1 to the principal Power Purchase Agreement (PPA) dated 28.12.2010 and 1st supplementary PPA dated 06.04.2018 executed by and between West Bengal State Electricity Distribution Company Limited (WBSEDCL) and Hiranmaye Energy Limited [formerly known as India Power Corporation (Haldia) Limited (IPC(H)L)] in terms of regulation 7.4.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended.

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13.0 The Commission, in terms of regulation 7.4.1 of the Tariff Regulations, after careful consideration of all the facts approve the Amendment No. 1 dated 02.08.2019 to the principal agreement dated 28.12.2010 and supplementary agreement dated 06.04.2018 and allows WBSEDCL to purchase 300 MW power from 3 x 150 MW Haldia Thermal Power Station of HEL on mutually agreed provisional tariff, pending determination of tariff through ARR by the Commission, with the applicable tariff discount of 7 paisa/kwh as specified in Schedule-A of the amended PPA pursuant to clause B(ii) of the SHAKTI Policy and the discount shall be computed with reference to scheduled generation from the linkage coal to the extent supplied through the SHAKTI Scheme and the benefit shall ultimately be passed on to the end consumers through tariff.

14.0 HEL & WBSEDCL shall comply with the provisions of the applicable law regarding scheduling and dispatching as per provisions of inter-State ABT, Grid Code etc.

15.0 HEL shall maintain all documents related to receipt of coal received from the auction and submit it along with the bills to WBSEDCL in order to substantiate the computation of discount adjustment.

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

sd/-

(DURGADAS GOSWAMI)
MEMBER

DATED: 30.08.2019

West Bengal Electricity Regulatory Commission