

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 60/MP/2021 along with IA No.12/2021

Subject : Petition under Sections 60, 61, 79(1)(f), 86(1)(e) and 29(5) of the Electricity Act, 2003 read with Regulation 17 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 seeking adjudication of dispute with NTPC Limited and Northern Regional Load Despatch Centre.

Petitioner : BSES Yamuna Power Limited (BYPL)

Respondents : NTPC Limited (NTPC) and Anr.

Petition No. 65/MP/2021 along with Diary No.47/2021

Subject : Petition under Sections 60, 61, 79(1)(f), 86(1)(e) and 29(5) of the Electricity Act, 2003 read with Regulation 17 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 seeking adjudication of dispute with NTPC Limited and Northern Regional Load Despatch Centre.

Petitioner : BSES Rajdhani Power Limited (BRPL)

Respondents : NTPC Limited (NTPC) and Anr.

Date of Hearing : 19.3.2021

Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member
Shri Prakash S. Mhaske, Member (ex-officio)

Parties Present : Shri Amit Kapur, Advocate, BYPL and BRPL
Ms. Poorva Saigal, Advocate, NTPC

Record of Proceedings

The matters were mentioned today by the learned counsel for the Petitioners through video conferencing.

2. Learned counsel for the Petitioners submitted that the instant Petitions have been filed by the Petitioners, BSES Yamuna Power Limited (BYPL) and BSES Rajdhani Power Limited (BRPL), *inter alia*, seeking adjudication of dispute with NTPC and Northern Regional Load Despatch Centre (in short 'NRLDC') with regard to supply of power from Stage-I of National Capital Thermal Power Station at Dadri (in short, 'the generating station'). Learned counsel submitted the following:

(a) The generating station has completed its useful life of 25 years on 30.11.2020 and by virtue of operation of Regulation 17 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 ('Tariff Regulations'), the Power Purchase Agreement



('PPA') would lapse on 1.12.2020 unless there is a mutually agreed arrangement to extend the supply from the generating station is in place.

(b) Despite there being no such mutually agreed arrangement to extend the supply, NTPC has continued to raise the invoices on the Petitioners towards deemed generation and the Petitioners are forced to pay approximately Rs.33 crore (Rs. 30 crore for BYPL and Rs. 3 crore for BRPL) every month despite no power being scheduled from the generating station by the Petitioners.

(c) NRLDC has also refused to stop scheduling and despatch of electricity from the generating station to the Petitioners even when the contract/PPA in respect of the said generating station has expired.

(d) The Petitioners have filed the IAs seeking interim reliefs seeking restraining NTPC from taking any coercive actions including invocation of LC/ imposition of regulation of power/ levy of late payment surcharge for the non-payment of invoices and restraining the NTPC from raising any further bills on the Petitioners during the pendency of the Petitions.

(e) Keeping in view the above background and the 31st March, 2021 being the next due date of the further such invoice of NTPC, it was requested that the Petitions along with IAs be listed at the earliest.

3. Learned counsel for the Respondent, NTPC submitted that a Supplemental PPA (in short, 'SPPA') has been entered into between the Petitioners and NTPC, which is valid and subsisting, and in terms of which, the PPA continues to remain valid between the parties beyond the useful life of the generating station till the Government of India allocations subsist or as per the Commission's Tariff Regulations. Learned counsel sought liberty to file the reply in the Petitions.

4. In rebuttal, the learned counsel for the Petitioners submitted that any SPPA cannot override the provisions of the Commission's Tariff Regulations. In this regard, the reliance was placed on the judgment of Hon'ble Supreme Court dated 15.3.2010 in the case of PTC India Ltd. v. Central Electricity Regulatory Commission and Ors. in Civil Appeal No. 3902 of 2006.

5. After hearing the learned counsels for the Petitioners and the Respondent, NTPC, the Commission directed the Respondents to file its reply to the Petitions including on IAs by 16.4.2021 with advance copy to the Petitioners, who may file their rejoinders, if any, by 9.5.2021.

6. The Petitions along with the IAs shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Legal)**