

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 524/MP/2020**

**Coram:**

**Shri P. K. Pujari, Chairperson**

**Shri I. S. Jha, Member**

**Shri P. K. Singh, Member**

**Date of Order: 17.9.2021**

**In the matter of:**

Petition under Section 79 of the Electricity Act, 2003 seeking relaxation of Orders passed by this Commission pursuant to directions issued by the Delhi Electricity Regulatory Commission.

**And in the matter of:**

BSES Yamuna Power Limited,  
Shakti Kiran Building,  
Karkardooma Delhi - 110092

**.....Petitioner**

**Versus**

Power Grid Corporation of India Limited,  
B-9, Qutab Institutional Area,  
Katwaria Sarai, New Delhi-110016

Pragati Power Corporation Limited IPGCL,  
Himadari, Raj Ghat Power House Office Complex,  
New Delhi - 110002

**.....Respondents**

**Parties Present:**

Shri Buddy Ranganadhan, Advocate, BYPL  
Shri Rahul Kinra, Advocate, BYPL  
Shri Utkarsh Singh, Advocate, BYPL  
Shri Anupam Varma, Advocate, BYPL  
Shri Sameer Singh, BYPL  
Shri Abhishek Srivastava, BYPL  
Shri J. Mazumdar, PGCIL  
Shri V. Srinivas, PGCIL  
Shri Arjun Malhotra, PGCIL

**ORDER**

The Petitioner, BSES Yamuna Power Limited, has filed the instant Petition under Section 79(1)(a), 79(1)(f) and Section 79(1)(k) of the Electricity Act, 2003 read



with Regulations 110 and 111 of the Central Electricity Regulatory commission (Conduct of Business) Regulations, 1999, and Regulations 54 and 55 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (in short, 'the 2014 Tariff Regulations'), seeking payment in instalments of the energy bills raised by the Respondents pursuant to the following tariff orders, passed by this Commission:

- a) Order dated 31.7.2019 in Review Petition No. 20/RP/2018, titled Power Grid Corporation of India Limited versus Rajasthan Rajya Vidyut Prasaran Nigam Limited and Ors.
- b) Order dated 17.12.2019 passed in Petition No. 363/TT/2018, titled Power Grid Corporation of India Limited versus Assam Electricity Grid Corporation Limited and Ors.
- c) Order dated 26.11.2019 in Petition No. 221/GT/2015, titled Pragati Power Corporation Limited versus BSES Yamuna Power Limited and Ors.

### **Background**

2. The Petitioner is a joint venture between Reliance Infrastructure with 51% shareholding and Delhi Power Company Limited (DPCL), a fully owned company of Government of National Capital Territory of Delhi with 49% shareholding. The Petitioner is a distribution licensee in terms of Section 14 of the Electricity Act, 2003 and is operating in Central and East Circles of the NCT of Delhi in terms of the distribution license granted by the Delhi Electricity Regulatory Commission (DERC).

3. Pursuant to the unbundling, restructuring and reform of the erstwhile Delhi Vidyut Board (DVB) and privatization of distribution of electricity in the NCT of Delhi, the Petitioner succeeded the respective undertaking for business of electricity distribution in its areas of supply with effect from 1.7.2002. From 1.7.2002 till 31.3.2007, the Delhi Transco Ltd. (DTL) was procuring for bulk supply of power in



the NCT of Delhi.

4. On 31.3.2007, DERC re-assigned all the existing PPAs from DTL to the distribution licensees operating in NCT of Delhi including the Petitioner as per the respective load profile of the distribution companies (Discoms).

5. The Petitioner executed Power Purchase Agreement (PPA) dated 13.8.2009, with Pragati Power Corporation Limited (PPCL) for procurement of power from Pragati-III Combined Cycle Power Station with installed capacity of 1371 MW (in short, Pragati-III), a gas fired combined cycle power plant. The NCT of Delhi was allocated 60.89% of 1371 MW from Pragati-III out of which the Petitioner's initial share was 27.24%. However, at present, the Petitioner has as an allocation of 247 MW i.e. (18%) out of 1371 MW.

6. The Commission passed an Order dated 31.7.2019 in Review Petition No. 20/RP/2018 seeking review of the Commission's order dated 22.2.2018 in Petition No. 13/TT/2017, filed by PGCIL. The Petitioner has already filed an Appeal (bearing Diary No. 2370 of 2019) before the Appellate Tribunal for Electricity (APTEL).

7. Also, the Commission vide Order dated 26.11.2019 in Petition No. 221/GT/2015 granted tariff for Pragati-III for the period 2014-19. Further, the Commission vide order dated 17.12.2019 passed an Order in Petition 363/TT/2018, filed by PGCIL for approval of Tariff for Transmission system associated with North East-Northern/ Western Inter Connector-I from COD till 31.03.2019.

8. Pursuant to the aforesaid Orders, the Respondents have raised following bills:



Sr. No	Bill No	PGCIL	PPCL-III
1	PPCL/BYPL/Energy/2019-20/607		692105797
2	PPCL/BYPL/Energy/2019-20/710		692829791
3	PPCL/BYPL/Energy/2019-20/815		692467792
4	Power Grid/NR01/Comm/S.No-91302787	689132390	

9. The Petitioner vide letter dated 14.2.2020 informed DERC about the levy of Power Purchase Cost Adjustment Charges (PPAC) for the quarter representing October, November and December 2019 (Q3) and the fact that PPAC has been worked out as 15.10% for Q3. However, as per Regulations framed by DERC, there is a cap of 4.50% for the actual levy of PPAC in the bills of all the consumers from the Billing Cycle w.e.f. 15.2.2020 for a period of three months.

10. In response to the Petitioner's letter dated 14.2.2020, DERC vide letter dated 6.3.2020 informed the Petitioner and other Discoms of Delhi that DERC has requested this Commission to relax the time period for the payment of dues by Discoms, on account of orders passed by this Commission during Q3 pertaining to Pragati-III and PGCIL. Accordingly, DERC requested the distribution licensees to file a petition before this Commission requesting relaxation in time for the payment of dues on account of orders passed by this Commission.

11. Accordingly, the Petitioner has filed the present Petition with the following prayers:

*"a) Admit the Present Petition;*

*b) Relax Regulation 7 (8)(ia) of CERC (Terms and Conditions of Tariff) Regulations, 2014 and allow twelve (12) equal monthly instalments for the amounts payable to PPCL-III on account of the arrear bills raised pursuant to Order dated 26.11.2019 passed in Petition No. 221/GT/2015;*

*c) Allow six (6) monthly instalments for the amounts payable to PGCIL for bills raised pursuant to Order dated 31.07.2019 passed in Petition No. 20/RP/2018 in Petition 13/TT/2017 and Order dated 17.11.2019 passed in Petition No. 363/TT/2018; and*



d) *Pass such other orders and/or directions as may be deemed fit and necessary in the interests of justice.”*

### **Submissions of the Petitioner**

12. The Petitioner has mainly submitted as under :

a) DERC vide letter dated 6.3.2020 has directed the Petitioner to file petition before this Commission, inter alia, to seek directions for relaxation in the time period for payment of dues of the Respondents.

b) DERC in its letter dated 6.3.2020 has requested this Commission to approve a mechanism by virtue of which Discoms shall be liable to pay to the generation/ transmission utilities as follows:

i. For arrear bills pertaining to Pragati-III, the dues payable by Discoms may be in 12 equal monthly instalments.

ii. Similarly, for arrear bills pertaining to PGCIL, the dues payable by Discoms may be recovered in 6 equal monthly instalments.

c) Regulation 7(8)(ia) of the 2014 Tariff Regulations contemplates that recovery of differential in tariff is to be recovered in three instalments. As regards payments to be made to PGCIL, since the Regulations do not contemplate any instalments, there is no bar for this Commission to provide for the payment of any such differential, in instalments.

d) There is an additional impact of Rs. 277 crore during Q3 and Q4 of FY 2019-2020 on the power procurement costs of the Petitioner, on account of the arrear bills raised upon the Petitioner.

e) The Commission may exercise its power to relax enshrined under Regulations 54 of the 2014 Tariff Regulations to relax Regulation 7 (8)(ia) and consequently, allow twelve (12) equal monthly instalments for the amounts payable to Pragati-III on account of the arrear bills raised on the Petitioner pursuant to order dated 26.11.2019 in Petition No. 221/GT/2015 and six (6) monthly instalments for the amounts payable to PGCIL for bills raised pursuant to order dated 31.7.2019 passed in Review Petition No. 20/RP/2018 and order dated 17.11.2019 passed in Petition No. 363/TT/2018.



## **Analysis and Decision**

13. The Petitioner has submitted that the present petition has been filed pursuant to the direction dated 6.3.2020 of DERC to the Delhi Discoms, including the Petitioner, to file petitions before this Commission seeking relaxation in recovery of dues on account of the impact of order dated 17.12.2019 in Petition No. 363/TT/2018, order dated 31.7.2019 in Petition No. 20/RP/2018 and order dated 26.11.2019 in Petition No. 221/GT/2015, issued by this Commission in respect of the generating station of the Respondent No.2 and the transmission system of the Respondent No. 1.

14. The Petitioner has further submitted that said direction to the Delhi Discoms is in the backdrop of a communication dated 6.3.2020 by DERC requesting this Commission to consider the spread over of the time period for recovery of dues of the Delhi Discoms, due to huge impact of the tariff orders and in the interest of electricity consumers of Delhi.

15. One more contention of the Petitioner is that for PGCIL, there is no specific provision in the 2014 Tariff Regulations which provides for the manner in which the recoveries are to be made in terms of the orders passed by the Commission, i.e., as to the number of instalments for payments of arrears.

16. The matter was listed for hearing on admission on 21.5.2021. During the hearing, the Commission observed that the issue involved in the present Petition is squarely covered by the Commission`s decision dated 30.7.2020 in Petition No. 329/MP/2020 filed by Tata Power Delhi Distribution Limited, whereby an identical issue has been dealt with by this Commission.



17. Pursuant to the direction dated 6.3.2020 of DERC to the Delhi Discoms seeking relaxation in the recovery of dues on account of the impact of the tariff orders, Tata Power Delhi Distribution Limited had filed the Petition No. 329/MP/2020 before this Commission. While disposing of the Petition, the Commission observed as under:

*“..... 17. It is pertinent to note that Regulation 7(8) (i-a) was notified after stakeholder consultations, including the Consumer group, namely, the United Resident of Delhi. Also, the submission of the Petitioner that the appropriation of the amounts already paid/payable in terms of the aforesaid tariff orders of the Respondents in six or twelve instalments, by relaxation of Regulation 7(8)(i-a) is in the greater interests of the consumers, is misplaced. The Petitioner should be well aware that the appropriation of the amounts paid/payable in extended instalments would also be subject to carrying cost and the same will result in heavy burden to the consumers of Delhi. Therefore, the extension of the payment period by six or 12 instalments, would not, in our view, be in the interest of consumers of Delhi. Also, the inclusion of the amounts already paid by Petitioner, in the apportionment by instalments would result in the concluded tariff orders of the Respondents being unsettled, due to adjustments on account of subsequent retail tariff. This according to us, would not only set a bad precedent, but will also not be feasible, by efflux of time. The Petitioner is advised to approach and seek the indulgence of DERC for recovery of PPAC in a staggered manner, to avoid any tariff shock to the consumers. Accordingly, the prayer of the Petitioner for extension of the instalment period for payment of amounts to the Respondents, in relaxation of Regulation 7(8)(i-a) of the 2014 Tariff Regulations is not entertained.*

*18. One more submission of the Petitioner is that in case of differential payments of Respondent 1 (PGCIL), the Billing, Collection and Disbursement Procedure, 2011 ('Procedure 2011') does not contemplate payment by installments and hence there is no bar for the Commission to relax the period of installment payments (i.e. 6 installments). This submission of the Petitioner is misconceived. The Billing, Collection and Disbursement Procedure, 2011 are pursuant to and in line with the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 and admittedly does not govern the differential tariff payments. The differential tariff payments in respect of both the generating companies and transmission licensees are, however, governed by Regulation 7(8)(i-a) of the 2014 Tariff Regulations, which provide for the recovery or refund of tariff in three equal monthly installments. Moreover, clause 1.3 of the said Procedure, 2011 provides that in case of any conflict in interpretations between these procedures and the Regulations/Orders of Commission, the latter will prevail. Accordingly, the submission of the Petitioner for extension of the instalment period on this count, for payment of dues of the Respondent PGCIL is rejected.”*

18. In the above order, the Commission came to a finding that appropriation of the amounts paid/ payable in extended instalments would be subject to carrying cost and the same will result in heavy burden to the consumers of Delhi. Therefore, the extension of the payment period by 6 (six) or twelve (12) instalments is not in the



interest of consumers of Delhi. The Commission advised the Petitioner to approach and seek the indulgence of DERC for recovery of PPAC in a staggered manner, to avoid any tariff shock to the consumers. Accordingly, the Commission did not entertain prayer of TPDDL for relaxation of Regulation 7(8)(ia) of the 2014 Tariff Regulations and extension of the instalment period for payment of amounts. With regard to the contention of the Petitioner that for PGCIL, there is no specific provision in the 2014 Tariff Regulations which provides for manner in which the recoveries are to be made in terms of the Orders passed by the Commission, the Commission observed that the differential tariff payments in respect of both the generating companies and transmission licensees are governed by Regulation 7(8)(ia) of the 2014 Tariff Regulations, which provide for the recovery or refund of tariff in three equal monthly instalments and accordingly rejected the submission of the Petitioner for extension of the instalment period on this count.

19. In line with order dated 30.7.2020 in Petition No. 329/MP/2020, the Petitioner in the present Petition is also advised to approach and seek the indulgence of DERC for recovery of PPAC in a staggered manner to avoid any tariff shock to the consumers.

20. Based on the above discussion, we hold that the present Petition is not maintainable and is accordingly disposed of at the admission stage.

21. Petition No. 524/MP/2020 is disposed of in terms of the above.

**Sd/-**  
**(P. K. Singh)**  
**Member**

**Sd/-**  
**(I. S. Jha)**  
**Member**

**Sd/-**  
**(P. K. Pujari)**  
**Chairperson**

