## Delhi Electricity Regulatory Commission

**Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017.**

F.11(2203)/DERC/2023-24/8013

**Petition No. 10/2024**

**And**

**Petition No. 41/2024**

**In the matter of:** **Petition under Section 62(4) of the Electricity Act, 2003 read with Regulation 134 of the Delhi Electricity Regulatory Commission (Terms and Conditions for determination of Tariff) Regulations 2017 and Regulation 30 of DERC (Business Plan) Regulations, 2023 and the Delhi Electricity Regulatory Commission (Conduct of Business) Regulations, 2001 for allowing the Petitioner to levy Power Purchase Cost Adjustment Charges ('PPAC') pertaining to the period commencing from October'2023 to December'2023 and January'2024 to March'2024 of the Financial Year 2023-24.**

**Tata Power Delhi Distribution Ltd.** **…Petitioner**

**Coram:**

**Hon'ble Shri Justice (Retd.) Jayant Nath, Chairperson**

**Appearance:**

**Mr. Buddy A. Ranganadhan, Adv., TPDDL**

**ORDER**

(Date of Order: 25.07.2024)

1. The instant Petitions have been filed by Tata Power Delhi Distribution Ltd. (TPDDL) seeking approval of the Commission to allow it to levy differential Power Purchase Cost Adjustment Charges (PPAC) pertaining to the following quarters of the FY 2023-24:

   (i) October'2023 to December'2023;

   (ii) January'2024 to March'2024

   in accordance with Section 62(4) of the Electricity Act, 2003 read with Regulation 134 of the Delhi Electricity Regulatory Commission (Terms and Conditions for determination of Tariff) Regulations, 2017 (Tariff Regulations 2017), along with Regulation 30 of Delhi Electricity Regulatory Commission (Business Plan) Regulations, 2023 ('Business Plan Regulations 2023').

2. In Petition No. 10 of 2024, the Petitioner has made the following prayers: -

a) To allow Petitioner to levy Power Purchase Adjustment Cost as per present Petition; and/or

b) To allow Petitioner to continue the levy of legitimate Power Purchase Cost Adjustment Charges of 29.13%, in terms of Order dated 03.01.2024 passed by the Commission in Petition No. 38 of 2023, for further period of three months i.e. from 01.09.2024 till 30.11.2024; and

c) To not to consider STOA credit charges in computation of PPAC of Q3 of FY 23-24.

3. In Petition No. 41 of 2024, the Petitioner has made the following prayers: -

a) To allow Petitioner to levy Power Purchase Adjustment Cost as per present Petition; and/or

b) To allow Petitioner to continue the levy of legitimate Power Purchase Cost Adjustment Charges of 29.13%, in terms of Order dated 03.01.2024 passed by the Commission in Petition No. 38 of 2023, for further period of three months i.e. from 01.11.2024 till 31.01.2025;

c) To allow Petitioner the balance cumulative PPAC to the tune of 17.09% which was not allowed vide earlier PPAC orders.

**PETITIONER'S SUBMISSIONS**

4. The Petitioner has submitted the following:

i. The Petitioner is a Distribution Licensee in terms of Section 14 of the Electricity Act, 2003 read with the Delhi Electricity Reforms Act, 2000(DERA 2000) and is operating in North, Northwest areas of Delhi in terms of the distribution license issued by the Commission.

ii. The Petitioner has been procuring electricity from various generation sources including renewable sources through utilizing the State and Central Transmission Network of the Transmission Licensees. The power is then supplied to the consumers at the applicable retail tariff determined/adopted by the Commission. The cost of long-term such power being procured from central generating stations and state generating stations is determined, after following the due process as prescribed under law, by the Central Electricity Regulatory Commission (CERC) and the Commission, respectively. The cost of such power procurement along with transmission of electricity comprises around 80% of the Annual Revenue Requirement (ARR) of the Petitioner.

iii. The Power Purchase Cost is an uncontrollable factor and beyond the control of the Petitioner and is dependent on various factors such as fuel prices, Imported Coal Blending, freight charges for fuel transportation, regulatory orders/directives (incentives, O&M costs, etc.), variation between demand and supply due to various macroeconomic factors and weather conditions, and such difficulties have been duly acknowledged by the Commission during past few years in respect of Tariff determination exercise. The factors such as fuel prices, freight charges for fuel transportation etc. have been statutorily recognized as uncontrollable factors. Hence, due to nature of such factors being unforeseeable, it becomes difficult to accurately estimate the power purchase costs at the time of annual tariff fixation.

iv. The very purpose of providing PPAC is to timely compensate the Petitioner/Distribution Licensee for the increase in the costs for the particular periods in a year to keep its financial liquidity intact. In practice, a generator has to make payments for the fuel. Any increase in the fuel prices will have to be compensated, else the generator will not be in a position to procure enough fuel to generate power. Consequently, the Distribution Licensee who procures power from the generators, in turn has to immediately bear and pay the increased costs to the generator. If the Distribution Licensee is not compensated at the time, its liquidity gets severely impacted. Any deferral in compensation to the Distribution Licensee on account of additional power purchase expenditure also results in interest cost (carrying cost) for which the Distribution Licensee will have to ultimately resort to funding through short-term loans. Such a measure is not in the interest of the consumers as there is an additional burden in terms of higher tariff and carrying cost on the consumers. Therefore, timely and regular pass through of variations in Power Purchase Cost is not only imperative for optimum financial management of the Distribution Licensee but is also imperative from the consumers' standpoint.

v. The Commission has already clearly defined the framework for PPAC including the mechanism, frequency, formulation, process of approval, recovery as well as adjustment, if any required in terms of the Tariff Regulations, 2017.

vi. Based on the audited Power Purchase Cost and records, the Petitioner has calculated the differential PPAC percentage for the (i)) October' 2023 to

December' 2023; and (ii) January' 2024 to March' 2024 in line with the PPAC methodology specified by the Commission, which are as under:

| S.No. | Petition No. | Period | PPAC computed by DISCOM as per Commission approved methodology |
|---|---|---|---|
| 1. | 10/2024 (Q3) | October' 2023 to December' 2023 | 16.29% |
| 2. | 41/2024 (Q4) | January' 2024 to March' 2024 | 12.79% |

vii. Earlier, the Commission had considered PPAC @ 8.50% in the Tariff Order dated 30.09.2021, equivalent to Rs. 626.57/- Crore for meeting the Revenue Gap arising in the ARR for FY 21-22 for the Petitioner. The relevant Table is reproduced herein below for reference:

**Table 4. 72: Commission Approved: Revenue (Gap) for FY 2021-22 (Rs. Cr.)**

| Sr. No. | Particulars | Amount |
|---|---|---|
| 1 | Aggregate Revenue Requirement (ARR) | 6939.44 |
| 2 | Add: Carrying Costs for FY 2021-22 | 92.25 |
| 3 | Add: PPAC Cost Subsumed | 13.69 |
| 4 | **Revised ARR (1+2+3)** | **7045.38** |
| 5 | Revenue at Revised Tariff | 6443.76 |
| 6 | Add: Revenue from PPAC | 626.57 |
| 7 | **Total Revenue (5+6)** | **7070.33** |
| 8 | **Revenue (Gap)/Surplus (7-4)** | **24.95** |

viii. The Commission has utilized the entire PPAC @ 8.50% to meet the fixed cost recovery forming part of ARR for FY 21-22. Therefore, the actual PPAC required by the Petitioner for recovering the Power Purchase Cost for Q3 is 24.79% (i.e., 16.29% + 8.50% PPAC) and Q4 is 21.29% (i.e., 12.79% + 8.50% PPAC). In the event the Commission considers extending the current PPAC @ 29.13%, as allowed by the Commission vide Order dated 03.01.2024 passed in Petition No. 38/2023, as alternatively prayed herein, then the said 8.50% *ad hoc* PPAC will not be additionally required to be sought by Petitioner as the aforesaid PPAC levy includes the *adhoc* PPAC as the said extension will contribute to early liquidation of revenue gap which is in consumer interest.

ix. The Commission vide its Order dated 21.07.2023 directed the distribution companies not to levy any other PPAC unless specifically approved by the Commission. Thus, in line with the Order dated 21.07.2023, the Petitioner did not levy the provisional PPAC of 8.75% till Q2 of FY 2023-24. The Commission vide Order dated 03.01.2024 passed in petition No. 38/2023, withdrew the Order dated 21.07.2023 and allowed the Petitioner to levy PPAC of 8.75% in terms of Regulation 30(4) of the Business Plan Regulations, 2023.

x. The fact of levying of 8.75% PPAC for Q3 and Q4 PPAC of FY 2023-24 on the consumers pertaining to said period of FY 2023-24 from the next billing cycle for the next three months, has been duly informed to the Commission by way of communication No. TPDDL/REGULATORY/2023-24/PMG/388 dated 19.01.2024 and communication No. TPDDL/REGULATORY/2023-24/PMG/26 dated 18.04.2024, respectively. The said details were also uploaded on the website of the Petitioner on 19.01.2024 and 18.04.2024 as required by the Commission Regulations/Orders.

xi. The Commission vide its Order dated 03.01.2024 in Petition No. 38 of 2023 filed by the Petitioner allowing the Petitioner to levy PPAC pertaining to the period commencing from April 2023 to June 2023 (Q1) of the Financial Year 2023-24 allowed the Petitioner to further extend the levying of the ongoing PPAC of 29.13% till 31.05.2024, as against the Commission's earlier Order dated 07.06.2023 wherein the validity was till 06.03.2024.

xii. Earlier the Petitioner had also filed a Petition bearing No. 01/2024 before the Commission to for levy of PPAC for Q2 of FY 2023-24 has sought to continue the levy of 29.13% of PPAC for further three months i.e. 01.06.2024 to 31.08.2024. However, the Commission vide its Order dated 08.03.2024 in Petition No. 01 of 2024 allowed the Petitioner to levy PPAC of 29.13% for a period of two months only i.e. 01.06.2024 to 31.07.2024. Therefore, to eliminate any gap in levy of differential PPAC for the month of August 2024, which has inadvertently occurred vide to the aforesaid Order dated 08.03.2024 in Petition No. 01/2024 allowing PPAC for 2 months, the Petitioner requested the Commission vide its letter No. TPDDL/Regulatory/2024-25-03/65 to consider the prayer in Petition No. 10/2024 i.e. PPAC Petition for Q3 of FY 2023-24, for seeking continuation of levy of 29.13% differential PPAC effective from 01.08.2024 till 31.10.2024 or such further period as deemed fit by the Commission.

xiii. The Petitioner's case is further strengthened by the fact that the Power purchase costs constitute 80% of the ARR of the Petitioner. In such a scenario, if there is a significant time lag in recovery of the actual power purchase cost, it would act as an impediment to the Petitioner in discharging its statutory functions enshrined under the Act. Further, the unrecovered amount shall also have carrying cost impact during the true up process for FY 2023-24.

xiv. The Commission while computing the PPAC for Q1 of FY 2023-24 had considered the credit of Short Term Open Access ('STOA') charges while computing the PPAC for the Petitioner, which was later modified as: -

(a) The Commission in its Order dated 07.06.2023 had observed that vide email dated 07.04.2022, it had directed the Distribution Companies to not consider the refund of STOA Transmission charges in the computation of PPAC. The Commission in its Order dated 16.12.2022 in Petition No. 31 of 2022 filed by the Petitioner for seeking approval of the Levy Differential Charges pertaining to the period commencing from January'2022 and ending in March'2022 of FY 2021-22, has specifically observed and clarified that the STOA credit has been erroneously considered in the computation.

(b) The inclusion of STOA credit in computation of PPAC is against the detailed formula for PPAC devised by the Commission as per Regulation 135 of the Tariff Regulations 2017 read with Regulation 30 of the Business Plan Regulations 2023. Therefore, in light of the aforesaid, the Commission is requested not to include STOA credit charges in computation of PPAC as prayed herein.

(c) The Petitioner is merely seeking allowance of the legitimate costs incurred by it towards variation in actual power purchase costs vis-à-vis approved base power purchase and transmission costs. The calculations for PPAC furnished by the Petitioner are strictly in compliance with the methodology.

xv. Due to non-issuance of Tariff Order since FY 2021-22, the Petitioner is not able to recover the incremental cost of power purchase from short term and medium term sources. On the basis of Actual Power Purchase Cost from (i) October'23 to December'23 and (ii) January'24 to March'24, there is under-recovery of Rs. 435.28 crore and Rs. 451.24 Crore, respectively of power purchase cost from all sources.

xvi. Under-recovery of legitimate expenses may result in prejudicing the rights and interest accrued in favour of the Petitioner by virtue of the regulations and orders issued by the Commission. Further, *under-recovery* of legitimate expenses in a time bound manner, may also result in the Petitioner herein being forced to resort to short-term loans/other means of finances, which will consequently increase the carrying cost for such period. Such a measure is not in the interest of the consumers as there is an additional burden in terms of higher tariff on the consumers. Therefore, timely and regular pass through of variations in power purchase cost is not only imperative for optimum financial management of the Distribution Licensee but is also imperative from a consumer standpoint.

**Commission Analysis**

5. TPDDL vide their above-mentioned Petitions, has submitted the PPAC computation for the Q3 & Q4 of FY 2023-24, summarized as follows:

| Quarter | PPAC Computed by DISCOM as per DERC Regulation | PPAC claimed by DISCOM |
|---|---|---|
| Q3 FY 2023-24 | 16.29% | 16.04%<br>(16.29%+8.50%*-8.75%**) |
| Q4 FY 2023-24 | 12.79% | 12.54%<br>(12.79%+8.50%*-8.75%**) |

*Note: * PPAC @ 8.50% allowed by Commission vide Tariff Order dated 30/09/2021 for meeting the Revenue gap.*
*** Suo-moto levy of PPAC as per clause 30(4) of DERC (Business Plan) Regulations, 2023.*

6. TPDDL in the Petitions submitted differential PPAC of Q3 & Q4 of FY 2023-24 of 16.04% & 12.54%, respectively. Further, TPDDL prayed to continue the existing PPAC of 29.13%. The Commission vide its Interim Orders dated 07/06/2024 & 02/07/2024, admitted the above-mentioned PPAC Petitions. Post admittance, Tariff Division of the Commission conducted a prudence check of PPAC Petition with TPDDL on 04/07/2024 & 05/07/2024.

7. During the Prudence check session, it was observed that despite lower imported Coal Blending, the PPAC is on the higher side. It was also observed that huge arrears were raised by Generating Plants during the Quarter. Based on the observation, Tariff Division sought information like CERC Orders resulting in arrears,

Status of refund from Sasan UMPP, etc. vide email dated 05/07/2024. In reply, TPDDL vide its email dated 09/07/2024, submitted the required information.

8. Based on above, the following is observed:

a) In these Quarters, due to various CERC Orders, arrears of approx. Rs. 57 Crore was paid to Generating Plants and Central Transmission Utility. The summary of major arears is as follows:

| **Power Plants** | **Amount (Rs. Cr.)** | **Remarks** |
|---|---|---|
| Aravali Jhajjar | 25.92 | CERC Order dated 19/10/2023- True-up Order for FY 2014-19 |
| Dadri 2 | 2.95 | CERC Order dated 25/10/2023- True-up Order for FY 2014-19 |
| Sewa-II | 2.01 | CERC Order dated 17/08/2023- True-up Order for FY 2014-19 & Tariff for FY 2019-24 |
| Rihand STPS 3 | 5.74 | CERC Order dated 13/11/2023- True-up Order for FY 2014-19 |
| Uri | 3.35 | CERC Order dated 30/11/2023- Additional Income tax |
| Uri-II | 6.19 | CERC Order dated 27/11/2023- True-up Order for FY 2014-19 & Tariff for FY 2019-24 |
| Chamera-II | 7.45 | CERC Order dated 6/01/2024- Tariff for FY 2019-24 |
| PGCIL non POC Bill | 3.15 | CERC Order dated 14/11/2023- Tariff for FY 2019-24 in respect of Fiber Optic Communication System |
| **Total** | **56.76** | |

b) In most of the Coal-based Power Plants, the ECR of Generating Plants have increased significantly.

c) TPDDL received the refund of Rs. 5.62 Crore in Q3 FY 2023-24 from Sasan UMPP against Bill of water intake system. Further, in Q3 & Q4 FY 2023-24, TPDDL also got STOA refund and refund from DTL against the Security Constrained Economic Dispatch (SCED), the same has also been considered while computing the PPAC for the Q3 & Q4 FY 2023-24.

d) After Prudence check, the PPAC is computed as follows:

| **Quarter** | **PPAC submitted by DISCOM** | **PPAC computed by Tariff Division*** |
|---|---|---|
| Q3 FY 2023-24 | 16.04% | 13.72% |
| Q4 FY 2023-24 | 12.54% | 11.57% |

**As per DERC PPAC formula*

9. The Commission allows the PPAC for Q3 & Q4 FY 2023-24 as follows:

| Sr. No. | Description | PPAC Claimed | PPAC Allowed |
|---|---|---|---|
| A | Q3 FY 2023-24 | 16.04% | 13.47% (13.72%+8.50%*-8.75%**) |
| B | Q4 FY 2023-24 | 12.54% | 14.11% (11.57%+8.50%*-8.75%**+2.79%#) |
| C | Total PPAC to be recovered C= A+B | | 27.58% |

*Note: * PPAC @ 8.50% allowed by Commission vide Tariff Order dated 30/09/2021 for meeting the Revenue gap.*
*** Suo-moto levy of PPAC as per clause 30(4) of DERC (Business Plan) Regulations, 2023.*
*#Under-recovery of Q2 FY 2023-24.*

10. Presently, ongoing PPAC is 29.13%, which is applicable till 31/07/2024. PPAC of Q3 & Q4 FY 2023-24 to be recovered works out to 27.58%. In view of this, the Petitioner is allowed to recover PPAC of 27.58% for 3 months beyond 31/07/2024 i.e., from 1/08/2024 to 31/10/2024. The Surplus/deficit, if any, will be allowed on verification of Power Purchase Cost and Transmission Bills, in True-up of relevant Financial Year subject to prudence check.

11. Ordered Accordingly.

**Sd/-**
**(Justice (Retd.) Jayant Nath)**
**Chairperson**