

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 141 OF 2025 & IA No. 821 OF 2025 & IA No. 822 OF 2025 &
IA No. 823 OF 2025

Dated: 16th May, 2025

Present : Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Ms. Seema Gupta, Technical Member (Electricity)

In the matter of:

BSES Rajdhani Power Ltd.

.... Appellant(s)

Versus

Delhi Electricity Regulatory Commission

.... Respondent(s)

Counsel on record for the Appellant(s) : Hasan Murtaza
Sameer Sharma
Ankit Kumar Sinha
for App. 1

Counsel on record for the Respondent(s) :
for Res. 1

ORDER

IA-821/2025
(For Urgent Listing)

The matter listed before us, having served its purpose, stands disposed of.

APL-141/2025, IA-822/2025 &
IA-823/2025

The Order under appeal is the order passed by the DERC in Petition No. 19 of 2025 dated 23.04.2025. The main contention urged by Shri Amit Kapur, Learned Counsel for the Appellant is that the said order is

impossible of compliance. Learned Counsel would state that the Appellant filed the Review Petition before the Commission contending that the order passed by it on 23.04.2025 was incapable of compliance; and orders which are impossible of compliance should ordinarily not be passed by a Regulator. Mr. Amit Kapur, Learned Counsel for the Appellant would fairly state that since the review petition was not being taken up, the Appellant submitted an application to withdraw the review petition on 09.05.2025 and filed the present appeal on the very same day.

By the order impugned in this appeal the DERC observed that, considering the demand-supply gap in the upcoming summers, it was important to consider this Petition, as denial of procurement of power may lead to load shedding, and therefore the Commission accorded approval to the Petitioner to procure 92.4 MU from Greenko. While so permitting the Appellant, the DERC imposed certain conditions supposedly in the interest of consumers and to optimize power purchase cost. The Appellant was called upon to try to procure power from the cheapest source available i.e., the Power Exchange or Greenko; the lower of the price discovered at IEX at N2 sub-region or the price offered by Greenko i.e., Rs.9.66/kWh (after considering rebate) at Regional Periphery during the true up of FY 2025-26 for the period from May 16, 2025 to July 31, 2025 in the time slots of 0000 hours- 0200 hours and 2000 hours- 2400 hours; however, if this arrangement fails, it shall be the sole responsibility of the Appellant to procure and supply power to its consumers at the said Tariff and additional liability, if any, for this quantum of power, shall not be pass through in the True-up of FY 2025-26.

The Appellant was advised to anticipate the shortage and initiate the process and procedure for procurement of power well in advance henceforth, so as not to present a *fait accompli* situation before the Commission such as in the instant case. The Commission also made it

clear that the instant Order shall not be treated as precedent for any purpose whatsoever in future and the Appellant had agreed to same during the course of hearing on 23.04.2025.

Mr. Amit Kapur, Learned Counsel for the Appellant would submit that the Appellant is required to schedule the power from Greenko day ahead in advance ie at 9.15 a.m. in terms of Regulation 49.1 of the Grid Code. The Appellant is required to schedule power from Greenko by 9.15 a.m., of the previous day under the temporary GNA; once they schedule power they are obligated to procure power from Greenko; on the other hand for procurement from IEX an application is required to be made by 10 a.m. of the previous day and the exchange furnishes information of the prices at which the Appellant can procure electricity from the exchange by 1 p.m.; it is impermissible for the Appellant to withdraw from short term procurement under GNA from Greenko and the consequences are that irrespective of procurement they are required to make payment to the Greenko for the quantum so scheduled; and therefore the impugned order is impossible to perform.

With a view to hear DERC, we requested Mr. Dhananjay Baijal, Learned Counsel who is appearing on behalf of the DERC in few other matters to inform the DERC of the order which we are now passing, and to make available a copy of the petition and annexures to enable DERC to respond to the allegations levelled in the appeal at the earlier.

Issue notice to the DERC returnable on 20.05.2025. Dasti notice is permitted. The said notice shall bear the next date of hearing.

Mr. Amit Kapur, Learned Counsel for the Appellant undertakes to effect service of notice on the DERC by e-mail today itself.

Post the matter on **20.05.2025.** The conditions imposed by the DERC in Para 8 of the impugned order shall remain stayed till Wednesday ie 21.05.2025.

(Seema Gupta)
Technical Member (Electricity)
mk/dk

(Justice Ramesh Ranganathan)
Chairperson