

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 211 of 2020

Case of Laxmipati Balaji Supply Chain Management Limited seeking approval of Power purchase agreement and Adoption of Tariff determined through transparent bidding process for procurement of Short-Term power up to 1 MW for one year starting from 1 December, 2020 to 30 November, 2021 for its Sector Specific SEZ and IT SEZ at Village Sai, Taluka Panvel, Dist. Raigad, Maharashtra

Coram
I.M.Bohari, Member
Mukesh Khullar, Member

Laxmipati Balaji Supply Chain Management LimitedPetitioner
Vs
Manikaran Power Limited Impleaded Respondent

Appearance

For Petitioner: - Shri Suhas Ambade (Rep)
For Respondent: - Shri. Nishant Singhal (Rep)

ORDER

Date: 23 November, 2020

1. Laxmipati Balaji Supply Chain Management Limited (**LBSCML**) has filed this Petition on 6 November, 2020 under Section 86(1)(b) read with Section 63 of the Electricity Act, 2003 (**EA**) seeking approval of Power purchase agreement (**PPA**) and Adoption of Tariff determined through transparent bidding process for procurement of Short-Term power up to 1 MW for one year starting from 1 December 2020 to 30 November 2021 for its Sector Specific SEZ and IT SEZ at Village Sai, Taluka Panvel, Dist. Raigad, Maharashtra.
2. **LBSCML's main prayers are as under:**

- a) *Adopt the tariff of INR 4.47 per unit at LBSCML Licensee Periphery discovered thorough competitive and transparent bidding process for procurement of power up*

to 1MW for the period of one year from 1st Dec, 2020 to 30th Nov, 2021, under section 63 of Electricity Act 2003;

b) Approve power purchase agreement executed between LBSCML and successful bidder Manikaran Power Limited;

3. LBSCML in its Petition has stated as follows:

3.1 Arshiya Limited, a company registered under the Companies Act, 1956 having its registered office at 302, Level 3, Ceejay House, Shivasagar Estate, Dr. Annie Besant Road, Worli, Mumbai 400018 has been notified as the Developer of the SEZ by the Ministry of Commerce & Industry (**Department of Commerce**) vide Notification No. S.O.1158 (E) dated 4 May 2009 for SEZ specific activities and vide notifications dated SO 757(E) dated 5 April, 2010; S.O 1800 dated 22 July, 2010 and S.O 2439 dated 27 July, 2011 additionally for developing Information Technology and Information Technology Enabled Services (IT & ITES SEZ) at Village Sai, Taluka:-Panvel, District:-Raigad, Maharashtra.

3.2 LBSCML, a company registered under the Companies Act 2013, having its registered office at the same premise as Arshiya Limited at 302, 3rd Floor, F-block, Ceejay House, Shivasagar Estate, Dr. Annie Besant Road, Worli, Mumbai 400018, has executed a Co-Developer agreement with Arshiya Limited on 31 August, 2018.

3.3 Ministry of Commerce and Industry, GoI vide its minutes of meeting of Board of Approval held on 24 September, 2018 has granted approval to LBSCML as Co-Developer of the said SEZ for installation, operation, and maintenance of utility services including distribution of electricity within the said Sector Specific SEZ and IT SEZ at Village Sai, Taluka Panvel, Dist. Raigad, Maharashtra

3.4 The Commission, vide its Order in Case No 275 of 2018 dated 17 December, 2018 declared LBSCML as a deemed Distribution Licensee and directed as under:

“17 The Commission notes that LBSCML while making the above request has not provided any specific timeframe for submission of Petition of PPA and/or ARR approval. LBSCML has envisaged completion of first phase of SEZ in FY 2019-20 with estimated demand of 20 to 50 MW and projected sale of 105 to 263 MU. Considering such projection, the Commission directs LBSCML to file its Petition for Power Purchase Agreement approval by 31 December, 2019.

3.5 The Commission has notified (Specific Conditions of Distribution Licence applicable to Laxmipati Balaji Supply Chain Management Ltd. for FTWZ and IT/ITES SEZ at Village Sai, Taluka Panvel, and Dist. Raigad) Regulations, 2019 dated 27 February 2019.

3.6 Initially, LBSCML had floated a tender on 17 August 2020 for procurement of Short-Term power upto 1MW for the period starting from 01 October 2020 to 30 September 2021 on National e-bidding (**DEEP**) web-portal. Even after extending the date of bid

submission, only one party had submitted the bid. Being single bidder, LBSCML filed petition before the Commission to give consent to continue the selection process with the single bidder. The Commission in its Order in Case No. 183 of 2020 rejected the prayer and directed LBSCML to undertake re-bidding for power requirement.

- 3.7 Pursuant to the direction from the Commission, LBSCML has undertaken the re-bidding process for procurement of Short -Term power up to 1MW RTC (0.5 MW Base Load RTC and 0.5 MW peak load from 9.00 to 23.00 Hrs except Sundays and Public holidays) and floated tender on DEEP Portal on 08 October, 2020 at LBSCML Licensee periphery for the period starting from 1 December 2020 to 30 November 2021 through its authorized representative PFC Consulting Limited (PFCCL).
- 3.8 LBSCML has followed the guidelines for Short-Term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process (Standard Bidding Guidelines) issued by Ministry of Power (**MoP**), Government of India (**GoI**) dated 30 March 2016 in the entire bid process. There are no deviations from the guidelines.
- 3.9 In accordance with Para 6.2 of the Standard Bidding Guidelines, tender notice was published in national daily newspapers namely Business Standards (Mumbai), Business Standard (Delhi), Financial Express (Mumbai) and Financial Express (Delhi) in the edition of 08 October 2020. The tender notice was also published on company website for wide publicity.
- 3.10 Last date of submission of bid was 15 October 2020, however considering prospective bidders further extended bid deadline to 21 October, 2020, for which a Corrigendum to the Request for proposal (**RFP**) document was issued by LBSCML on 14 October, 2020.
- 3.11 In response to the tender, four generator/traders have submitted their bid offer. The bids from all the four bidders were evaluated technically by the Standing Committee formed for the purpose of evaluation of bid as mandated in Para 7.2 of Standard Guidelines.
- 3.12 The Initial Price Offer (**IPO**) at LBSCML Licensee Periphery submitted by the bidders is as under

Price Header	Maharashtra State Electricity Distribution Co Ltd	Kreate Energy (I) Private Limited	JSW Energy Limited	Manikaran power limited
Bid Price- Rs/unit	5.66	5.29	5.31	4.81

- 3.13 E-Reverse Auction (E-RA) was carried out on 27 October 2020 by PFCCL on DEEP web portal. The final discovered price post E-RA is as under:

Bidder	Qty offered	Source of generation	Offer Price	
JSW Energy Ltd	1MW	JSW Plant in Maharashtra	4.54	L3
Manikaran Power Limited	1MW	Birla Carbon, dist Raigad, Maharashtra	4.47	L1
MSEDCL	1MW	State Pool power	5.66	H1
Kreate Energy (I) Pvt Ltd	1MW	EDCL, Karnataka	4.48	L2

3.14 The price discovered is at LBSCML licensee Periphery i.e. 22 kV T<>D interconnection point, inclusive of transmission losses, transmission charges and MSLDC charges.

3.15 The price discovered through transparent bid process is in line with the current market trend and Standing Committee post evaluation of financial bids, recommended to declare Manikaran Power Limited (**MPL**) as successful bidder.

3.16 LBSCML issued Letter of Award (**LOA**) to MPL vide letter dated 28 October 2020 which was accorded by MPL vide letter dated 29 October 2020. LBSCML has signed PPA with MPL on dated 06 November 2020.

3.17 It is requested to adopt the tariff of Rs 4.47/- per unit at LBSCML periphery discovered through competitive and transparent bid process for procurement of Short-Term power for the period of one year from 1 December 2020 to 30 November 2021 under Section 63 of EA and to approve PPA signed with successful bidder MPL.

4. At the time of E-hearing held on 11 November 2020, LBSCML reiterated its submission mentioned in the Petition. MPL has stated that it has no objection to supply power at the discovered rate.

Commission's Analysis and Ruling

5. The Commission has taken on record the Deemed Distribution Licensee status of LBSCML vide its Order in Case No 275 of 2018 dated 17 December, 2018 for the Sector Specific SEZ and Information Technology (IT) SEZ being developed by Arshiya Limited at Village Sai, Taluka Panvel, Dist. Raigad, Maharashtra. The Commission has notified specific conditions of licences Regulations applicable to LBSCML on 27 February 2019.

6. Earlier, through its Petition in Case No. 183 of 2020, LBSCML had approached the Commission seeking adoption of tariff of Rs. 5.29/kWh discovered through competitive bidding for procurement of power of 1 MW. The Commission vide its Order dated 26 September 2020 rejected the prayer considering only single bid received during that process and rate discovered was not market reflective. Accordingly, the Commission directed LBSCML to undertake re-bidding. Relevant extract of the same is as under:

“As only one bidder had participated in the process and the proposed rate of Rs. 5.29/kWh is higher than the recently adopted rates by this Commission and is also not reflective of current market rates, the Commission cannot give consent to

proceed with selection of single bidder as a successful bidder. Consequently, the Commission rejects the prayer of petitioner for adoption of tariff. The Commission directs LBSCML to undertake re-bidding of its power requirement. Till that period, present arrangement of consumer being supplied by MSEDC shall be continued.”

7. In the same Order dated 26 September 2020 Commission had also suggested to the LBSCML as follow:

“14. Notwithstanding above, the Commission notes that every distribution licensee is expected to optimise its power procurement cost. Financial Prudence undertaken by the Distribution Licensees in these regards is subject to verification at the time of true-up process. Relevant clause related to prudence to be undertaken with reference to power procurement stipulated in MYT Regulations, 2019 is reproduced below:

“23.4 The financial prudence with respect to revenue expenditure shall be assessed in terms of the following parameters:

.....

(c) transparent method of power procurement, with the objective of optimising the power purchase expenses, as specified in Regulations 19, 20, 21, and 22:

(d) optimum purchase of power considering factors such as requirement of power, Merit Order Despatch, potential for earning additional net revenue based on the differential between the rate for purchase of power from different sources and the market rate for sale of surplus power, if any:”

Above provisions of MYT Regulations, 2019 are equally applicable to SEZs which are deemed Distribution Licensees under the Electricity Act, 2003 and planning to operationalise its Distribution License. The Commission notes that there are several operational SEZs in Maharashtra but all of them have not come forward to act as Distribution Licensee. Even if they are not procuring power due to varied reasons, they are required to comply with their mandate of providing reliable and continuous supply to units under SEZ in co-ordination with local distribution licensee, further all units under these SEZs are consumer of local Distribution Licensee. Once, SEZ is acting as a Distribution Licensee, there is a reasonable expectation that it will be supplying electricity competitively compared to the incumbent Distribution Licensee since the SEZ's are insulated from providing any cross-subsidy in tariff. However, during initial period of operations, limited consumer load causes sunk cost of distribution system being loaded on limited sales and thereby increasing Average Cost of Supply. Therefore, providing electricity at lower tariff to its consumer can be achieved only if power procurement rate is reasonable. Further, as stated earlier in this Order, any power procurement includes fixed fees to be paid to RLDC/SLDC, transmission charges and losses etc to be borne by the procurer and these charges could increase effective rate of power procurement if quantum to be procured is much smaller. The Commission is concerned about the fact that due to various reasons (including a very low demand) some SEZs are not able to carry out their obligations as a Distribution

Licensee. The Distribution Licensees need to address the issues of their consumers while ensuring financial prudence. Merely stating that the low demand is resulting in higher cost of supply may not be the appropriate thing. This is true for some other SEZs also. Hence, the Commission advises SEZs to consider starting their operation as independent Distribution Licensee only when they are in a position to comply with all the Provisions of the MYT Regulations. They could review their position based on the expected load and after ensuring that the power procurement rates are reasonable/competitive and are also reflective of market trends.

15. The Commission also notes that licence area of SEZ is not exclusive to it but incumbent Distribution Licensee is parallel licensee in that area. Hence, consumers in SEZ have option to take supply from SEZ or incumbent Distribution Licensee. Therefore after the rebidding for the power procurement as has been directed by the Commission in Para 13 above, while operationalizing distribution licence or during operation also, SEZ shall keep its consumers informed about its electricity tariff vis-à-vis tariff of other parallel distribution licensee so that consumer can take informed decision for sourcing their power requirement. The Commission also notes even if the present pandemic period is not considered, that while it approves the demand forecast and power procurement by relying on estimations of SEZs, in reality such load growth is not getting materialized and consumers are subjected to higher rate of FAC as fixed cost burden of already tied up power purchase contracts is loaded on limited sales. All these facts are defeating the objective of operationalizing deemed distribution licensee status of SEZ for reducing the electricity cost. The Commission is concerned about such situations which is ultimately leading to increased tariff to SEZ consumers. Therefore, the Commission may undertake a study to assess the performance of operationalized SEZs as deemed Distribution Licensee.” [emphasis added]

8. In accordance with the above suggestions of the Commission, LBSCML has undertaken the re-bidding and floated tender on DEEP on 8 October 2020 for procurement of Short-Term Power up to 1MW at its periphery for the period starting from 1 December 2020 to 30 November 2021.
9. The Commission observes that LBSCML has published Notice on 08 October 2020 in Business Standard (Mumbai), Business Standard (Delhi), Financial Express (Mumbai) and Financial Express (Delhi) and floated e-Tender/Bidding Document (including RFQ and RFP) through DEEP Portal as per Standard Bidding Guidelines without any deviation. It is also observed that, in accordance with Clause 3.1 of the Standard Bidding Guidelines, LBSCML has appointed PFCCCL as the Authorised Representative to conduct the E-bidding for procurement of Short- Term power. The Commission notes that the last date for submission of bid was 15 October 2020 which was extended to 21 October 2020 for attracting more bidders.
10. The Commission notes that after extending the bid submission deadline, four bidders have participated in the bid. LBSCML has carried out the e- Bidding and E-RA on 27

October 2020 and discovered the lowest price of Rs 4.47/- per unit up to 1 MW load. Details of the same are given as follows:

Type of Load	Name of the bidder	Source	Price offered in Rs/kWh
1MW (0.5 MW Base Load RTC and 0.5 MW peak load from 9.00 to 23.00 Hrs except Sundays and Public holidays)	Manikaran Power Limited	Birla Carbon, dist Raigad, Maharashtra	4.47
	JSW Energy Ltd	JSW Plant in Maharashtra	4.54
	Kreate Energy (I) Pvt Ltd	EDCL, Karnataka	4.48
	MSEDCL	State Pool power	5.66

11. The Commission notes that LBSCML has carried out the process of procurement of Short-Term Power in accordance with Competitive Bidding Guidelines of Central Government. Further, discovered rate of LBSCML is at 22 kV interconnection point i.e. inclusive of transmission losses, transmission charges and MSLDC charges and if these charges are added to the recently discovered rate for one year tenure at Maharashtra Periphery then the price discovered by LBSCML in present bidding process though marginally higher, considering the limited quantum of power the same is being considered for adoption.
12. The Commission also notes that its direction to LBSCML for undertaking rebidding vide its Order dated 26 September 2020 instead of adopting then discovered rate of Rs. 5.29/kWh has ultimately resulted in reduction in discovered tariff of Rs. 4.47/kWh. Thus, consumers would be benefiting because of lowered power purchase expenses to the extent of Rs. 0.82/kWh (Rs 5.29 to Rs4.47).
13. Section 63 of the EA mandates the Commission to adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.
14. In view of the foregoing, the Commission notes that Power Procurement rate discovered by LBSCML fulfils mandates and requirements for adoption as set out in Section 63 of the EA, the Commission adopts the Power Procurement rate of Rs. 4.47/kWh for supply of 1 MW power (0.5 MW Base Load RTC and 0.5 MW peak load from 9.00 to 23.00 Hrs except Sundays and Public holidays) for the period of 1 year from 01 December 2020 to 30 November 2021.
15. The Commission notes that LBSCML issued LOA to MPL vide its letter dated 28 October 2020 which was accepted by MPL vide its letter dated 29 October 2020. LBSCML has signed PPA with MPL on 06 November 2020. The Commission also notes that PPA is in line with Standard Bidding documents issued by MoP. Accordingly, the Commission accords approval to PPA between LBSCML and MPL for procurement of Short -Term power up to 1 MW. LBSCML shall submit copy of final PPAs for records of the Commission.

16. Further, LBSCML shall comply with Commission's direction in para 15 of the Order dated 26 September 2020 (reproduced at para 7 above) regarding informing its consumer about electricity tariff of other parallel licensee in the same area so that consumer takes considered decision of taking electricity supply from any of available Distribution Licensee.
17. Hence following Order

ORDER

- 1. Case No 172 of 2020 is allowed.**
- 2. Under Section 63 of the Electricity Act, 2003, the Commission adopts Short Term Power Procurement for the period of 1 December 2020 to 30 November 2021 by Laxmipati Balaji Supply Chain Management Limited for its Sector Specific SEZ and IT SEZ at Village Sai, Taluka Panvel, Dist. Raigad, Maharashtra as stated in para 12 above.**
- 3. Accordingly, PPA signed with successful bidder is approved. Laxmipati Balaji Supply Chain Management Limited, to submit copy of Final PPA to the Commission for records.**

Sd/-

(Mukesh Khullar)

Member

Sd/-

(I.M. Bohari)

Member



(Abhijit Deshpande)
Secretary

