



Petition No. 1807 of 2022

**BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Date of Order: 10.02.2022

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Shri Kaushal Kishore Sharma, Member
Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

IN THE MATTER OF

Petition under Regulations 14 and 15 of the Uttar Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations 2019, read with Section 86 (1) (b) of the Electricity Act, 2003 seeking approval of the Commission for the Supplementary Power Purchase Agreement (SPPA) dated 04.01.2022 entered into and executed between Uttar Pradesh Power Corporation Limited and Lalitpur Power Generation Company Limited.

U.P. Power Corporation Limited,
(Through Superintending Engineer, PPA-1)
Shakti Bhawan, 14- Ashok Marg, Lucknow.

..... **Petitioner**

Lalitpur Power Generation Ltd.,
TC-13, Vibhuti Khand,
Gomtinagar, Lucknow

..... **Respondent**

The following were present:

1. Shri Deepak Raizada, CE, PPA, UPPCL
2. Shri Divyanshu Bhatt, Advocate, UPPCL
3. Shri Aditya Mishra, LPGCL
4. Shri Upendra Prasad, LPGCL
5. Shri Sanjeev Kumar, LPGCL
6. Shri Amit Mittal, LPGCL
7. Shri S. K. Sharma, LPGCL
8. Shri Varun Gupta, LPGCL

**Order
(Date of Hearing: 08.02.2022)**

1. The Petitioner, Uttar Pradesh Power Corporation Limited ("UPPCL"), has filed this petition for approval of the Supplementary Power Purchase Agreement dated 04.01.2022 ("**SPPA dated 04.01.2022**") entered into and executed between the Petitioner and LPGCL (Respondent). The Petition has been filed in terms of

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Regulations 14 and 15 of the UPERC (Conduct of Business) Regulations 2019, read with Section 86(1)(b) of the Electricity Act, 2003 ("Act")

2. The Petitioner has prayed as follows:

- i. admit the present Petition;
- ii. Pass an order granting approval to the Supplementary power Purchase agreement dated 04.01.2022 entered into and executed between the Petitioner and LPGCL

Background

3. The Petitioner is a Licensee under Section 14 of the Act and undertakes the bulk purchase and sale of electricity primarily on behalf of the Distribution Licensees in the state of Uttar Pradesh. The Respondent, Lalitpur Power Generation Company Limited, is a generating company in terms of Section 2 (28) of the Act, and operates Lalitpur Thermal Power Station, a Super-critical Thermal power project with an installed capacity of 1980 MW (3 X 660 MW) located in villages Burogaon and Mirchwara, Tehsil Mehroni, in District Lalitpur, Uttar Pradesh ("Project").
4. The Project achieved its date of Commercial Operation ("COD") on 23.12.2016, when Unit III was declared to have achieved commissioning. LPGCL supplies all the electricity generated from the Project to the Petitioner under the Power Purchase Agreement dated 10.12.2010 ("PPA"), approved by the Commission vide order dated 18.11.2010 read with corrigendum dated 07.12.2010, supplemented with a Supplementary Power Purchase Agreement dated 21.09.2012, approved by the Commission vide order dated 03.11.2014, to purchase of 100% saleable Energy from the Project, in accordance with the Government of Uttar Pradesh Energy Policy, 2009 (as amended) which was issued by the Department of Energy, Government of Uttar Pradesh.
5. In terms of the PPA, specifically under Article 3.1.2 (ii), LPGCL had undertaken to obtain the long-term coal linkage from the standing Linkage Committee of Government of India within 18 months. However, despite its various attempts, LPGCL could not obtain the long-term coal linkage within the prescribed time limit and as extended from time to time. The relevant provision of the PPA, as approved by the Commission vide its Order dated 07.12.2010 is reproduced herein below for convenient perusal:

"Article 6.5:

Fuel:

The responsibility for arrangement of fuel shall be with the developer who shall procure the fuel under coal linkage granted to the Seller by the Central Government on the recommendations of GoUP. In case of any short supply, procurement of fuel indigenous/ imported preferably through long term



*contract or on spot-purchase / short-term contract / E-auction basis from domestic and/or international suppliers /traders shall be within or from outside India. The Seller shall obtain the prior consent of Lead Procurer about procurement of coal from any source other than coal linkage. In case the permission is not granted by the Lead Procurer within seven (7) working days from the date of receiving the application, it would be considered as deemed permission and if rejected then it would be considered as procurer's inability to procure which would make conditions of clause 4.4.3 of the agreed PPA applicable **and loss of availability due to rejected fuel quantity shall be taken into account while computing availability and fixed charges.**"*

6. Subsequently, the Ministry of Coal ("**MoC**") had introduced a new transparent coal allocation policy for the Power sector dated 22.05.2017 named as SHAKTI (Scheme for Harnessing and Allocating Koayala Transparently in India) Policy ("**SHAKTI Policy**"). Under the Policy, CIL may grant coal linkages on notified price on auction basis to Independent Power Producers ("**IPPs**") that already have executed power purchase agreements. IPPs were required to bid for a discount on tariff (in paisa/kWh) to ascertain the non-levelized value of discount on the existing tariff for each year of the balance period of their respective power purchase agreements.
7. LPGCL was identified to be the successful bidder under the said SHAKTI Policy and secured 5.6398 MTPA long term coal linkage through auction under SHAKTI B(ii) Policy – Round 1. A weighted average discount of Paise 3.25 per unit was offered in the variable cost of the energy supplied. Supplementary Power Purchase Agreement dated 06.01.2018 was entered between the Petitioner and LPGCL ("**SPPA 2**") and approved by the Commission vide its order dated 12.01.2018 in Petition No. 1278 of 2018.
8. Further, LPGCL had secured 1.4807 MTPA long term coal linkage through auction dated 11.05.2020 under SHAKTI B(ii) Policy – Round 3 auction from Northern Coalfields Limited ("NCL") a subsidiary of ("CIL"). Accordingly, Supplementary Power Purchase Agreement ("**SPPA 3**") was signed between the Petitioner and LPGCL on 10.08.2020, which was approved by the Commission on 10.09.2020 in Petition No. 1614 of 2020. Accordingly, Fuel Supply Agreements ("**FSA**") was executed on 19.09.2020 between LPGCL and Northern Coalfields Limited ("NCL").
9. The above quantum of coal that was given to LPGCL was not enough for it to generate the electricity commensurate to the full capacity of the Project. LPGCL still required more coal to generate electricity up to its installed capacity, which it was constrained to procure from open market.
10. Now, under the same SHAKTI Policy and in accordance with the scheme document dated 09.09.2021, CIL conducted a fourth round of auction of coal linkages for IPPs, under SHAKTI B(ii) on the Electronic Platform ("**Auction**"), in the following sequence:



- i. Initial Price Offer (IPO)
- ii. Subsequent Price Offer (SPO)

11. LPGCL being eligible to participate, participated in fourth (4th) round of Auction for securing the balance coal linkage, wherein LPGCL had submitted IPO on 28.09.2021 and SPO on 29.09.2021. LPGCL again emerged successful bidder and was allocated a quantum of 11,87,100 tonnes of G-10 grade coal from NCL based on a levelized discount of Paise 10/kWh. Accordingly, Letter of Intent, dated 13.12.2021, was issued to LPGCL by NCL.

12. In terms of Clause 3.6.8 of the Scheme Document, as well as the LOI dated 13.12.2021, LPGCL is required to submit documents as specified in Annexure X of the scheme document within 60 days from the issuance of the LOI. Among the required documents, Clause 3.6.8.1, read with Annexure X of the scheme document, S.No. 9 prescribes the requirement of an Amended/Supplementary Power Purchase Agreement that has been duly approved by the Commission. The provision of these documents is a condition precedent, in terms of Clause 3.6.9, for the purposes of execution of an FSA with NCL for giving effect to the terms specified in LOI for the purposes of procurement of the allocated quantity coal by LPGCL. In this regard, the relevant clause of the Scheme Document has been reproduced herein below for convenient perusal:

"3.6.8 Submissions by Provisional Successful Bidder(s)

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3.6.8.1 Submission of copy of each Amended PPA, along with the approval letter from the appropriate commission; and

*3.6.8.2 Submission of the documents specified in **Annexure X**, as applicable, to the relevant Subsidiary.*

3.6.9 Execution of the FSA

*3.6.9.1 Upon fulfilment of all the conditions set out in Clause 3.6.8 to the satisfaction of CIL/the relevant Subsidiary, the Provisional Successful Bidder shall be referred to as the "**Successful Bidder**" and the Provisional Allocated Quantity attributable for each Source, in respect of such Successful Bidder, shall be referred to as the "**Allocated Quantity**".*

13. The Petitioner and LPGCL have entered into and executed a Supplementary Power Purchase Agreement dated 04.01.2022 ("**SPPA dated 04.01.2022**"). The said SPPA dated 04.01.2022 makes the following amendment to the PPA:

"The seller shall provide year on year discount for the remaining term of PPA as per Schedule - 1 (attached), from the tariff in the monthly bills are described in aforesaid Para 'I' of this Agreement."



14. Para I of the SPPA dated 04.01.2022 is quoted herein below:

"I. Pursuant to SHAKTI policy, discount as given in Schedule - 1 would be adjusted from the gross amount of bill at the time of billing i.e. Original bill shall be raised as per the terms and conditions of PPA, and effective UPERC orders and Regulations. After that the discounts would be reduced from the gross amount of the bill. This discount shall be computed with reference to scheduled generation from linkage coal supplied under 4th round of SHAKTI B(ii) auction."

15. LPGCL is required to submit the SPPA dated 04.01.2022 along with the approval of the Commission to CIL for the purposes of execution of the FSA with CIL to be able to procure the allocated quantum of coal. Since the LOI was issued on 13.12.2021, the **period of 60 days expires on 11.02.2022.**

Record of Proceedings

16. LPGCL, the Respondent has filed reply dated 24.01.2021 that both the parties have signed the SPPA on 04.01.2022 and LPGCL agrees and accepts all the terms and conditions of SPPA out of free will. The Commission held the hearing on 08.02.2022 and after hearing the parties concluded the hearing.

Commission's Decision and Analysis

17. UPPCL has signed the SPPA dated 04.01.2022 with due approval of the Management. LPGCL has been allocated coal under Round 4 of "SHAKTI" policy as per following details:

S. No.	Subsidiary Name/ Source Grade/Mode	Details of LOI	Allocation (Tonnes per annum)	Levelized Discount value (Paisa/kWh)
Source 1	NCL/G10 Rail/Road/Captive	NCL/SGR/Mktg./21- 22/978 dated 13.12.2021	11,87.100	10.00

18. The Year-on-year discount of Paise 10 per unit is to be provided on scheduled generation from Linkage Coal supplied under 4th round of SHAKTI B(ii) auction for the remaining term of concluded PPA from the date of completion of the auction. The discount would be adjusted from the gross amount of bill at the time of billing, i.e., original bill shall be raised as per the terms and conditions of PPA, and effective Orders and Regulations of the Commission. This discount shall be in addition to any other discount/rebate in terms of the applicable provisions of the PPA/SPPA.

19. LPGCL has submitted reply dated 24.01.2021 stating that it agrees and accepts all the terms and conditions of SPPA out of free will. The execution of this SPPA will



allow the Respondent, Lalitpur Power Generation Company Limited (Respondent) to procure a quantum of 1.187100 MTPA Grade 10 coal, that will be in addition to previously existing 5.6398 MTPA and 1.480700 MTPA that has already been allocated to the Respondent. The additional coal under this linkage shall allow the Respondent to operate its power plant at an enhanced Plant Load factor, which would mean that they will be able to supply more electricity at optimized cost.

Commission's View:

20. In view of the above and pursuance of the records available on record, the Commission approves the SPPA dated 04.01.2022 executed between UPPCL and LPGCL under the scheme document dated 09.09.2021 of 4th round of "SHAKTI" Policy.

(Vinod Kumar Srivastava)
Member

Accordingly, the Petition is disposed of.

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow

Dated: 10.02.2022