

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA**

**Case No. HERC/Petition No. 17 of 2022**

**Date of Hearing : 27.04.2022**  
**Date of Order : 27.04.2022**

**In the Matter of**

**Petition under Section 86(1) (b) and Section 63 of the Electricity Act, 2003 for approval of source & tariff adoption by Hon'ble Commission for quantum of 500 MW power discovered in NIT-96/HPPC dated 21.03.2022 floated for procurement of 1000 MW RTC power on medium term basis for three years through tariff based competitive bidding guidelines issued by MoP, GOI.**

**Petitioner**

Haryana Power Purchase Centre, Panchkula (HPPC)

**Present on behalf of the petitioner**

1. Ms. Sonia Madan, Advocate on behalf of HPPC
2. Shri Randeep Singh, Chief Engineer, HPPC
3. Shri Pardeep Saini, SE, HPPC
4. Shri Gaurav Gupta, Xen., HPPC

**Present on behalf of the intervenors**

1. Shri Mridul Chakravarty, Advocate on behalf of M/s. RKM Powergen Pvt Ltd
2. Shri Dinesh Batra, Head – Commercial, M/s. MB Power Madhya Pradesh Ltd

**Quorum**

**Shri R.K. Pachnanda**  
**Shri Naresh Sardana**

**Chairman**  
**Member**

**ORDER**

**Brief background**

1. HPPC has filed the present petition, seeking approval of the source and adoption of tariff discovered through competitive bidding under section 63 of the Electricity Act, 2003, for procurement of 500 MW thermal power on short term basis for 3 years (150 MW and 350 MW power, for three years, from M/s. MB Power Madhya Pradesh Ltd and RKM Powergen Pvt Ltd, costing Rs. 5.7/kWh and Rs. 5.75/kWh, respectively, at the Haryana periphery).
2. HPPC has submitted as under:-
  - i) That the State of Haryana is experiencing deficient power supply on account of outage of several generating companies i.e. Adani Power, CGPL Mundra, FGPP & RGTPP-II.
  - ii) That the load sheet for last 7 days, i.e. from 13.04.2022 to 19.04.2022 depicts that the State is experiencing power deficit in almost all slots of the day.

- iii) That medium term tender was floated for procurement of 1000 MW power for three years (i.e. 15.04.2022 to 14.04.2025) on DEEP portal through PFCCL, (a Govt of India, Enterprise) & UHBVN, website by HPPC on 21.03.2022 strictly as per the standard bidding documents issued by the Ministry of Power and wide publicity was also carried through two no. leading newspapers.
- iv) That on the last date of submission of bid, i.e. 30.03.2022, only two bidders namely M/s MB power, Madhya Pradesh and M/s RKM Powergen Ltd, Chennai submitted their bids.
- v) That the technical bid (RFQ) was opened on the scheduled date i.e. 31.03.2022. Both the bidders were technically qualified. The brief technical details are as under:-

	<b>RKM Powergen Pvt Ltd</b>	<b>MB Power Madhya Pradesh Ltd</b>
Trader/Generator	Generator	Generator
Source of Power	thermal	thermal
Fuel	coal	coal
Name of Plant	Ucchpinda Thermal Power plant Chhattisgarh	ANUPPUR IPP, MP
Quantum offered(in MW)	350	150
Installed capacity(in MW)	1440MW (4 x 360MW)	1200 MW (2X600MW )
Networth (IN CR.)	4447.19	1704.74

- vi) The financial bid (RFP) was opened on scheduled date i.e. 04.03.2022, and details are as under:

<b>Details of Tariff</b>	<b>MB Power Madhya Pradesh Ltd</b>	<b>RKM Powergen Pvt Ltd</b>
Base Fixed cost (Rs/kWh)	2.9	2.52
Cost of Generation (Rs per KWH)	2.9	2.52
Cost of transmission charges (Rs per KWH)	0.55	0.53
Cost of transmission losses (Rs per KWH)	0.22	0.18
<b>Total</b>	<b>6.57</b>	<b>5.75</b>
Bid Quantity (MW)	150	350

- vii) The e-reverse auction was held on 05.04.2022. The rate discovered after e-reverse auction, is placed as below:-

Generator	Base fixed charge (Rs/kWh)	Cost of Generation (Rs per KWH)	Cost of transmission charges (Rs per KWH)	Cost of transmission losses (Rs per KWH)	Bid Quantity (MW)	Tariff at Haryana Periphery (Rs/Kwh)
MB POWER	2.48	2.48	0.55	0.19	150.0	5.7
RKM POWER GEN LTD	2.52	2.52	0.53	0.18	350.0	5.75

- viii) HPPC floated the short-term tender for procurement of 750 MW power through DEEP portal for the period from May to Oct' 2022 and the weighted average rates discovered is as under:-

Month	Quantum in MW approved by HERC	Quantum in MW accepted by Bidders	Average weighted rate discovered at Haryana periphery (Rs./Kwh)
MAY	650	300	5.18

JUNE	750	400	5.11
JULY	730	400	4.83
AUGUST	750	420	4.90
SEPTEMBER	750	510	5.04
OCTOBER	450	150	5.47

- ix) That HPPC floated another short-term tender (NIT-98) for procurement of 750 MW power through DEEP portal for the period from April to Oct' 2022. In this regard only one single bidder i.e. M/s Dhariwal infrastructure Ltd. was eligible having a quantum of 50 MW. Thus, from the above two tenders, it is evident that there is very less power available with generators, which are willing to sell power in short term tenders and bidders are willing to sell their power in the power exchange due to wind fall gain/exorbitant high price.
- x) That, presently the rates in IEX are higher than the corresponding period of last year. However, CERC vide order dated 01.04.2022 has capped the Market Clearing Price (MCP) as Rs. 12/kWh. Knowing the fact that power exchange prices are high during the summer/paddy season and if HPPC buys deficit quantum through exchange during that period, there is likelihood of getting the power at exorbitant price or getting clearance of partial power / no power at all, thereby leading to unreliable supply in peak season. This may result in large scale power cuts for the consumers of Haryana.
- xi) The following prayers have been made:-
- a. To approve the source and tariff adoption for procurement of 500 MW RTC power on medium term basis for three years at a tariff discovered through transparent process of competitive bidding (NIT-93) under Section 63 of the Electricity Act, 2003.
  - b. Allow HPPC to issue LOA for purchase of 500 MW RTC power from 15.04.2022 to 14.04.2025 to MB power & RKM Powergen Pvt. Ltd.
  - c. To approve draft PPA as per standard bidding guidelines of MoP/GOI to be signed with the said bidders.
  - d. Pass such further order or order(s) as may be deemed necessary and fit in the circumstances of the case.

### **Proceedings in the Case**

3. The petition was hosted on the website of the Commission for inviting objections / comments from the general public / stakeholders. A public notice, regarding the same, was also issued by the Commission in two newspapers viz. Punjab Kesri and Hindustan Times, dated 13.04.2022 as well as on the website of the Commission, inviting comments from stakeholders, by 20.04.2022. However, no comments were received in the Commission.

4. The case was heard on 27.04.2022 as scheduled. The representatives of the generators concerned in the present petition i.e. M/s. RKM Powergen Pvt Ltd., M/s. MB Power Madhya Pradesh Ltd. and Sh. Vikrant Katyal (interveners), were present in the hearing.

#### **Commission's Analysis and order**

5. The Commission heard, at length, the learned counsel M/s Sonia Madan along with Shri Randeep Singh Chief Engineer / HPPC, present on behalf of the petitioner, as well as Shri Dinesh Batra, Head Business development & Commercial MB Power (Madhya Pradesh) limited and Shri Mridul Chakravarty, learned counsel appearing on behalf of M/s. RKM Powergen Pvt Ltd i.e. the two successful bidders in the NIT-96 / HPPC dated 21.03.2022 floated by the petitioner herein.
6. At the outset, the learned counsel M/s Madan as well as the CE/HPPC brought to the notice of this Commission that there is an acute shortage of power arising out of non-availability of power from generators like Adani Power Limited (Mundra), CGPL, RGTPS Unit-II and FGPP (Faridabad). They argued at length that there is an acute shortage of coal supply to the power plants including imported coal and further, the cost of imported coal has increased manifold. The pan India imbalance in supply and demand of power is reflected in the Short Term / Day Ahead Market, wherein in all time block's price of electricity is hovering at the ceiling level and the volume cleared is just about a fraction of the buy bids. Thus, on the one hand supply is constrained while on the other hand demand has witnessed a sharp spike. Consequently, in order to balance the two ends and to ensure un-interrupted power supply to the consumers of Discoms, it has been prayed that this Hon'ble Commission may approve the source as well as adopt the tariff discovered through a transparent process of bidding in line with the provisions of Section 63 of the Electricity Act, 2003.
7. Upon hearing the submissions of the parties, this Commission observes that it is the duty of the HPPC/Discoms to continuously monitor and assess demand and supply position of electricity and keep taking required action/steps at regular intervals to avoid any sharp mismatch. However, the Discoms for quite sometimes now were having surplus power resulting in stranded PPAs and paying Fixed Charges, wherever applicable, without drawing the entire contracted capacity. The situation continued till the time of filing of the MYT Petition for the FY 2022-23 on which this Commission issued order dated 30<sup>th</sup> March, 2022. Even at that time Adani Power Limited and CGPL were not supplying power, 600 MW Unit- 2 of RGTPS (HPGCL) was not available and given the non-availability of

APM gas FGPP (Faridabad NTPC) was not being scheduled. However, HPPC/Discoms did not take any steps to prevent the current shortage.

8. While on one hand the Discoms are pleading urgency in seeking approval for power procurement, on the other hand on four different occasions i.e. i) 750 MW power procurement valid up to 16.03.2022 ii) 7.5 MW Orbit Resorts valid up to 31.03.2022 iii) 75 MW J&K State Power iv. 728.68 MW Dadri (NTPC) power, HPPC/Discoms approached this Commission seeking approval of source and tariff at the eleventh hour for urgent disposal of the matter. The Commission further observes that HPPC / Discoms, as per their own admission, were also not able to ensure that the entire quantum of power approved by the Commission materialized.
9. On the issue of demand – supply mismatch and trading losses due to un-economic dispatch of surplus, the Commission in almost all its ARR / Tariff order since the commissioning of two Units of 300 MW at Yamunanagar, two Units of 600 MW each RGTPS, CLP Jhajjar under Case – 2 bidding and Adani Power, CGPL under Case-1 bidding, has been impressing upon / directing and advising the HPPC / Discoms to manage their power procurement efficiently so as not to pass on the trading losses to the electricity consumers due to its poor power procurement plan.
10. The Commission, in its order dated 9.04.2021 (PRO-63 of 2021) observed, “...**the Discoms must gear up their power purchase procurement planning and strengthen its trading activities for disposal of surplus power. It would be appropriate for the licensee to closely monitor, on daily basis, the surplus capacity, which could neither be backed down nor sold off even at variable cost and is therefore leading to trading losses. The Discoms must fine tune their projection models and ensure that surplus energy available is disposed of in a cost-effective manner**”.
11. Further, in the MYT order dated 30<sup>th</sup> march, 2020, the Commission observed that, “**the Discoms have proposed to garner revenue from inter-state sale of power for the FY 2021-22 on the basis of the average variable power purchase cost**”. It needs to be noted that average variable cost of power is substantially lower than the cost of power to the Discoms at its periphery. Hence, for each unit of power sold in the inter-state space, the Discoms would be incurring trading losses.
12. Additionally, on a query raised in the hearing by the Commission regarding disposal of the proposed power between the months of November to March, as the power proposed to be procured is round the clock for three years, the learned counsel Ms. Madan replied that the surplus power during the winter months will be banked. It is commercially

imprudent for Discoms not to back down expensive power source (like in the instant case). Rather the Discoms should back down such expensive power and instead bank cheaper power available from existing cheaper power sources. In addition, wheeling losses in such banking transactions shall also be borne by the HPPC / Discoms. The Commission, in its MYT order of the Discoms dated 30 March, 2022, took on record the submissions of the Discoms that they were able to bank 950.05 MUs of power at an effective rate of Rs. 3.92 / Units i.e. lower than the bulk supply cost at the Discoms periphery. Thus, any such banking of expensive power shall unnecessarily burden consumers on account of discom's avoidable commercial imprudence.

13. Moreover, the Discoms had also filed a proposal for ToD / Night time concessional tariff to dispose of surplus power, which was approved by this Commission for the current financial year @ Rs. 4.25/kVAh for HT Consumers on 11/33 kV and Rs. 3.75/kVAh for HT Consumers on 66 KV and above, which is much lower than the rate at which 500 MW has been proposed to be purchased i.e. @ Rs. 6.75/Rs. 5.7 per unit.
14. This Commission notes that HPGCL has taken a specific stand in its report dated 18 April 2022 that its Unit No. 2 at Khedar Power Plant is expected to be in operation within 15 days from the receipt of spare parts from China. Also, we have noted the minutes of the meeting dated 13.4.2022 held under the Chairmanship of the Hon'ble Minister of Power and NRE, Govt. of India on 12.04.2022. It was decided in this meeting that imported Coal based (ICB) plants (including CGPL, Adani Power Mundra Ltd.) would be operationalized using imported Coal.
15. It appears from the above that the present shortage is likely to get resolved. The petitioner has stressed that the urgency to procure power is very immediate. However, from the pleadings made by RKM Powergen in its IA No. 9 of 2022 and oral submission made by Shri Mridul Chakravarty, learned counsel appearing on behalf of M/s. RKM Powergen Pvt Ltd. that they are not in a position to supply power immediately and will take about 30-45 days after signing of FSA as per terms and conditions of the bid. Hence, as per the terms of the reference bid supply of power can commence only within a period of 90 days. Thus, it is not understood as to how procurement of 350 MW power from RKM would come to the rescue of discoms in addressing the present immediate shortage.
16. On the contrary, the position taken by MB Power in its affidavit dated 27.04.2022 is reasonable and helping resolution of the State immediate shortage. MP Power is ready to supply 150 MW power within 7 days of execution of PPA execution.

17. In addition, Shri Dinesh Batra, Head-Business Development & Commercial of MB Power (Madhya Pradesh) Limited, on a query from the Commission regarding short term open access, has assured this Commission that there is no congestion in the WR-NR corridor. Hence, power flow will not be curtailed. He further submitted that if for any reason they are not able to deliver power at the Haryana periphery, no liability in terms of fixed cost or SToA shall be claimed from the beneficiaries i.e. HPPC / Discoms.
18. Considering the above, as a special case in public interest, the Commission hereby accords its approval for procurement of power on an urgent basis from MB power at the tariff discovered. The Commission also approves procurement of power from RKM at the tariff discovered subject to the condition that HPPC/Discoms shall negotiate with RKM to supply power urgently so that the same can be used for ameliorating the current shortage. The above approvals for procurement of power from MP Power and RKM is given for a three years period starting from April to October, each year. It is between April to October each year, that demand for power in the State is at the highest. For the balance of the year, i.e. November to March, there is surplus power and even the generators with low variable costs are backed down.
19. The Commission is of a considered opinion that the above shall not only resolve the looming shortage but will also avoid unnecessary financial burden on the consumers.
20. However, this Commission advises the HPPC/Discoms to monitor and plan power procurement more efficiently and effectively. The HPPC/Discoms should approach the Commission well in advance for any power procurement needs.

In terms of the above order, the present petition as well as the IA filed in the matter is disposed of.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 27.04.2022.

Date: 27.04.2022  
Place: Panchkula

(Naresh Sardana)  
Member

(R.K. Pachnanda)  
Chairman