

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
**World Trade Centre, Centre No.1, 13<sup>th</sup> Floor, Cuffe Parade, Mumbai 400005.**  
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**Case No. 105 of 2022**

**Case of Nidar Utilities Panvel LLP for approval of Power Purchase Agreement and Adoption of Tariff determined through transparent bidding process for a Short-Term procurement of power up to 3 MW Round the clock for one year starting from 1 July, 2022 to 30 June, 2023**

Nidar Utilities Panvel LLP: -

Petitioner

Vs

GMR Energy Trading Ltd: -

Respondent

Appearance:-

For Petitioner: -

Shri. Ghansham Thakkar (Rep.)

For Respondent: -

Shri. Vijay Uniyal (Rep)

**Coram**

**Sanjay Kumar, Chairperson**

**Mukesh Khullar, Member**

**ORDER**

**Date: 18 July, 2022**

1. M/s Nidar Utilities Panvel LLP (**NUPLLP**) has filed the Petition on 3 June 2022 under Section 86(1) (b) read with Section 63 of the Electricity Act, 2003 (**EA, 2003**) seeking approval of Power Purchase Agreements (**PPA**) and Adoption of Tariff determined through transparent bidding process for a Short-Term procurement of power up to 3 MW Round the clock (**RTC**) for one year starting from 1 July, 2022 to 30 June, 2023.
2. **NUPLLP's in its Petition prayed for following:**
  - a. *Adopt the tariff of Rs. 4.90/kWh at the Maharashtra State (STU) Periphery for the Short-Term procurement of 3.00MW RTC power (as per the required quantum mentioned in Table 1 above) for a period of 12 months starting from 1 July 2022 to*

30 June 2023, which is discovered through the competitive bidding u/s 63 of the Electricity Act, 2003.

- b. Approve the proposed Short-Term PPA to be signed between Nidar Utilities Panvel LLP and M/s GMR Energy Trading Ltd. for the quantum mentioned in Table No.1 above for a period of 12 months starting from 1 July 2022 to 30 June 2023 at the Tariff of Rs. 4.90/kWh.
- c. Schedule an early hearing in the matter, as the power under this new PPA is to be scheduled from 1 July 2022.
- d. Allow NUPLLP to initiate the process of Short-Term power procurement u/s 63 of the Electricity Act 2003 for the additional quantum, if required, which is over and above the quantum mentioned in Table No.1 for which NUPLLP will approach the Hon'ble Commission for adoption of tariff and approval of the PPA.

**3. NUPLLP in its Petition has stated as follows:**

- 3.1 The Commission vide its Order in Case No. 128 of 2016 dated 10 February, 2017 has taken on record the Deemed Distribution Licensee status of NUPLLP and subsequently notified the Specific Conditions of Licence for NUPLLP on 25 May, 2017. NUPLLP commenced its operations as a Distribution Licensee with effect from 1 October 2018.
- 3.2 The Commission vide its Order in Case No. 94 of 2021, dated 7 September, 2021 had approved the Short-Term Power Purchase Agreement (PPA) executed between NUPLLP and M/s GMR Energy Trading Ltd (GMR ETL) for the maximum quantum up to 2.60 MW for the period of 9 months starting from 1 July, 2021 to 30 June, 2022.
- 3.3 NUPLLP's present RTC power requirement is around 3.00 MW, which is slightly higher than the maximum approved PPA quantum of 2.60 MW. Thus, considering that current PPA is expiring on 30 June, 2022 and seeing the increase in the power rates, as an interim power procurement arrangement, NUPLLP has intended to explore the Short-Term power procurement arrangements under Section 63 of the EA, 2003, in line with the Competitive Bidding Guidelines issued by Ministry of Power (MoP) Government of India (GoI) dated 30 March, 2016 and its amendments thereof.
- 3.4 NUPLLP had floated Request for Proposal (RfP) on 27 March, 2022 for procurement of Short-Term Power to procure such additional Power, however, since there were no interested Bidders, the same was cancelled, which was intimated to the Commission vide Letter dated 12 April, 2022.
- 3.5 On 21 May 2022 NUPLLP again floated RfP for procurement of the power under Short-Term arrangement up to 3.00 MW at the Maharashtra State Periphery on RTC basis for a period of 12 months i.e. from 1 July, 2022 to 30 June, 2023 in accordance with competitive bidding guidelines. NUPLLP vide its letter dated 19 May, 2022 had

intimated the Commission of exploring the Short-Term power procurement arrangement.

- 3.6 NUPLLP uploaded RfP on DEEP Portal on 21 May, 2022 without any deviations for the procurement of 3.00 MW RTC power for the period starting from 1 July, 2022 to 30 June, 2023. One corrigendum was issued thereafter through E Bidding platform
- 3.7 NUPLLP received single bid of GMR ETL having source of power from Birla Carbon India Pvt Ltd on 27 May, 2022. The Bid was then technically evaluated by the Tender Evaluation Committee (TEC) which qualified the Single Bidder for participating in e-Reverse Auction (e-RA) on 30 May, 2022
- 3.8 Initial Price Offer (IPO) quoted by the Bidder was Rs 5.15 per unit and the final Price discovered after e-Reverse Auction was Rs. 5.00 per unit. NUPLLP has carried out the negotiations with GMR ETL and final negotiated rate is Rs 4.90 per unit.
- 3.9 Out of the total share of consumer mix, 95% of the consumer share belongs to a single HT – Industrial consumer, which is a Data Centre. Data Centres are one of the most power intensive consumers, who are also required to have reliable and RTC supply. NUPLLP has accepted the final negotiated Price of Rs. 4.90 per unit at Maharashtra State Transmission Periphery, in order to have a fixed Short-Term PPA. NUPLLP issued the LoA dated 1 June 2022 to GMR ETL and GMR ETL conveyed its unconditional acceptance of the LoA on 2 June, 2022.
- 3.10 Considering the present market scenario due to domestic coal shortage wherein the average RTC rates on the power exchanges from January 2022 to May 2022 is around Rs 6.93 per unit and considering the present power requirement of 3.00 MW, the rate of Rs 4.90 per unit (at Maharashtra STU Periphery) appears to be competitive.
- 3.11 The Commission had recently approved the Short-Term power procurement tariff at Rs. 5.12 per unit for BEST vide its Order in Case No. 46 of 2022 dated 6 April, 2022. Further, in the recent Short-Term Competitive bid of KRC Infrastructure, the IPO price of Rs. 6.80 per unit was discovered.
- 3.12 Thus, in view of aforementioned facts, it is requested to adopt the Tariff discovered through the competitive bidding and approve the PPA signed between NUPLLP and GMR ETL for the Short-Term procurement of 3.00 MW power on RTC basis for a period starting from 1 July, 2022 to 30 June, 2023.
- 3.13 Since there is no clarity on the projected load, thus there might be a case where during the Contract Period (1 July, 2022 to 30 June, 2023) the requirement of additional power could arise than the present requirement. In such case it is requested to allow NUPLLP to initiate process of Short-Term power procurement under Section 63 of the EA, 2003 for the additional quantum and NUPLLP and approach the Commission for adoption of tariff as per short term competitive bidding guidelines or procure the additional power

requirement from Green Day ahead market (G-DAM) to ensure its compliance of Renewable Purchase Obligations (RPO). It is also requested to allow procurement of Power through Power Exchange for such additional quantum requirement until the entire Competitive Bidding process is concluded with the approval of the Commission, in order to continue reliable supply to the NUPLLP's consumers.

**4. At the time of E-hearing held on 21 June, 2022**

4.1 Representative of the Petitioner gave overview of the process of competitive bidding that has been followed under Section 63 of Electricity Act 2003 and requested the Commission to adopt discovered tariff of Rs. 4.90 per unit at transmission periphery for supply of 3 MW power on short term basis for the period of 1 July, 2022 to 30 June, 2023. In reply to Commission's query, it was stated that Petitioner would undertake medium term power procurement once its demand reached a sizable level of at least 10 MW which is expected to be achieved by March 2023.

4.2 The Commission observed that in bidding process, only single bidder quoted the rate and the discovered rate was Rs. 4.90 per unit at transmission periphery which was much higher than the recently discovered rate for JNPT wherein same generator was involved. As per bidding guidelines, selection of single bidder requires consent of the Commission. Before granting such consent, the Commission felt that Petitioner should explore all the possibilities for reducing power procurement cost. Hence, the Commission advised the Petitioner as follows:

- a. Request its existing supplier to extend the existing PPA by a month so that Petitioner could complete the rebidding process.
- b. Request the successful bidder in present bidding process to reduce the quoted tariff at least to match the tariff quoted by it for JNPT at transmission periphery.

4.3 Considering the fact that existing PPA was expiring on 30 June 2022, the Petitioner was directed to complete above correspondence on priority and submit its outcome within a week.

**5. NUPLLP in its submission dated 23 June, 2022 has stated as follows:**

5.1 It had communicated the Commission's observation to the Seller through its letter dated 21 June, 2022 and for re-negotiating the PPA rate. Post deliberations, the Seller has now reduced the PPA rate from Rs. 4.90 per unit to Rs. 4.57 per unit for the same PPA tenure starting from 1 July, 2022 to 30 June, 2022 with the same terms and conditions of PPA in the referred RfP. The same was formally communicated to NUPLLP through the letter dated 23 June, 2022.

5.2 In view of the above reduction in tariff rate and seeing the present situation, where the existing PPA is expiring on 30 June, 2022 and with no other firm power purchase contract

in hand, it will be a challenge for NUPLLP to run its distribution operations from 1 July, 2022 onwards, NUPLLP requested the Commission to adopt such re-negotiated tariff.

5.3 Therefore, NUPLLP has made revised prayers as follows:

*a. To kindly approve and adopt the final re-negotiated PPA rate of Rs. 4.57/kWh for 3 MW RTC power starting from 1 July 2022 to 30 June, 2023*

*b. To allow the operationalization of the PPA with such revised rate from 1 July 2022;*

## 6. **At the time of E-hearing held on 28 June, 2022**

6.1 Representative of the NUPLLP stated that as advised by the Commission in first hearing in the matter, NUPLLP approached the generator with request to extend the existing PPA by a month, but generator has refused to do the same. The generator, however has agreed for renegotiation of tariff discovered in bidding process.

6.2 GMR ETL via communication dated 23 June, 2022 has reduced the tariff from Rs 4.90 per unit to Rs 4.57 per unit at Maharashtra Periphery. The negotiated tariff of Rs 4.57 per unit is around Rs. 4.50 per unit (Rs. 5.02 per unit at distribution periphery) adopted by the Commission in Jawaharlal Nehru Port Trust (JNPT) case. Therefore, considering the present market conditions and requirement of firm power to serve its load which is dominated by data centre, NUPLLP requested the Commission to adopt the renegotiated tariff for the period from 1 July, 2022 to 30 June, 2022.

## **Commission's Analysis and Ruling**

7. NUPLLP is deemed Distribution Licensee for SEZ area located at Panvel. The Commission vide Order dated 10 February, 2017 in Case No. 128 of 2016 has taken on record the Deemed Distribution Licensee status of NUPLLP and subsequently notified the Specific Conditions of Licence for NUPLLP on 25 May, 2017

8. Existing PPA at tariff of Rs 3.59 per unit for the period of 1 October, 2021 to 30 June, 2022 was adopted by the Commission vide its Order dated 7 September, 2021 in Case No. 94 of 2021.

9. NUPLLP has filed this Petition seeking approval for PPA and adoption of Tariff discovered through transparent bidding process for a Short-Term procurement of power up to 3 MW (RTC) for 1 year starting from 1 July, 2022 to 30 June, 2023.

10. The Commission notes that NUPLLP has projected slightly higher demand (up to 3 MW) than the existing PPA (Up to 2.6 MW). Being a deemed distribution Licensee, NUPLLP is having limited area of supply and hence it is in a better position to assess and project

its demand in consultation with its consumers. Therefore, the Commission accepts the demand of 3MW (RTC) projected by NUPLLP.

11. The Commission notes that NUPLLP published notice in the two Newspapers viz. The Indian Express (Delhi Edition) and Business Standard (Mumbai Edition) on 21 May 2022, and floated e-Tender through DEEP Portal as per Standard Bidding Guidelines without any deviation. The Commission further notes that NUPLLP have appointed PFCCL as the Authorised Representative to conduct the e-bidding as per Guidelines.
12. The Commission notes that single bidder participated and was qualified in the bidding process and subsequently in the e-Reverse Auction process. Post E-Reverse Auction process conducted on 30 May, 2022, rate of Rs. 5.00 per unit at Maharashtra State Transmission periphery was discovered from the single bidder. The rate was further negotiated to Rs 4.90 per unit.
13. The Commission notes that Para 7.1 of the Competitive Bidding Guidelines (Short Term Power Procurement) dated 30 March, 2016 notified by the Government of India under Section 63 of the Electricity Act, 2003, stipulates following remedy in case of single bidder:

*“To ensure competitiveness, the minimum number of Bidders should be at least two for each requisition. If the number of Bidders responding to the RfP is less than two, and Procurer still wants to continue with the selection process, the selection of that single Bidder may be done with the consent of the Appropriate Commission.”*

...

Above clause empowers the Commission to approve power procurement from single bidder after ensuring the competitiveness of quoted tariff.

14. The Commission notes that present rate discovered by NUPLLP through competitive bidding process i.e. Rs. 4.90 per unit is much higher than NUPLLP’s existing power procurement rate of Rs. 3.59 per unit and is also more than Rs 4.50 per unit which has been recently adopted for other SEZ (JNPT). The Commission in first hearing in the matter advised NUPLLP to explore the possibility of reducing the tariff by renegotiating with successful bidder, as per para 4.2 (a) and (b) above. In response, successful bidder has offered renegotiated tariff of Rs. 4.57 per unit.
15. To test the competitiveness of tariff discovered by NUPLLP in present bidding process, the Commission compared it with recently adopted tariff for SEZ based distribution licensees which are tabulated below:

Sr No	Particulars	Approved Quantum in MW	*Adopted Rate in Rs/ kWh
1	Eon Kharadi Infra Pvt. Ltd. (SEZ Phase I) (Case No 34 of 2022)	6 MW (RTC)	Rs 5.05/kWh at Distribution periphery

Sr No	Particulars	Approved Quantum in MW	*Adopted Rate in Rs/ kWh
2	Jawaharlal Nehru Port Trust Ltd (Case No 90 of 2022)	1 MW	Rs 5.02/kWh at Distribution periphery

*\*Above discovered tariff is at Distribution periphery which is around Rs. 4.50 per unit at transmission periphery.*

16. The Commission notes that though the current rates being discovered on DEEP portal are varying in the range of Rs 6.35 per unit to Rs 12 per unit, the same cannot be treated as a benchmark for discovered tariff since the same is attributed to the present scenario. Though the power rates are dynamic, considering the discovered rates at para 15 above (during which time also, the rates were varying between Rs 6.00 and Rs 12.00 per unit), the present negotiated rate of Rs 4.57 per unit seems reasonable and reflective of current market situation.
17. The Commission notes that NUPLLP has taken efforts by floating the RfP two times on DEEP portal well in advance before the expiry of the existing contract and has further negotiated the rates discovered on DEEP portal with the generator to match with the currently adopted rates and in line with the current market conditions
18. Section 63 of the EA mandates the Commission to adopt the tariff if such tariff has been discovered through transparent process of bidding in accordance with the guidelines issued by the Central Government.
19. In view of the foregoing, the Commission notes that tariff discovered and further negotiated by NUPLLP fulfils mandate and requirements for adoption as set out in Section 63 of the EA, 2003. Accordingly, the Commission adopts following tariff for NUPLLP for the period of 1 July, 2022 to 30 June, 2023

Type of Load	Name of Bidder	Source of Power	Tariff per unit
Upto 3 MW (RTC)	GMR Energy Trading Ltd	Birla Carbon India Private Limited Intra-State	4.57

20. The Commission notes that PPA submitted along with petition is in line with Standard Bidding documents issued by MoP. Accordingly, the Commission approves PPAs to be signed with GMR ETL at the rate and for the quantum mentioned in above table. NUPLLP shall submit copy of final PPAs for records of the Commission.
21. NUPLLP has also requested the Commission to allow undertaking additional short term power procurement if power demand exceeds the contracted quantum. In this regard, the Commission notes that as a Distribution Licensee, NUPLLP is mandated to fulfil electricity demand of its consumers. Hence, in case its demand increases beyond the contracted capacity, it is free to procure such additional power through fresh short term bidding process or through power exchanges by the way of optimising its power purchase costs and subject to the provisions of the MYT Regulations and may approach the Commission for adoption of tariff, if required as per law.

22. Hence, following Order.

**ORDER**

1. Case No 105 of 2022 is allowed.
2. Under Section 63 of the Electricity Act, 2003, the Commission adopts Short Term Power Procurement for the period of 1 July, 2022 to 30 June, 2023 by Nidar Utilities Panvel LLP as stated in paras 19 and 20 above.
3. Accordingly, PPA initiated with successful bidder is approved with the tariff rate of Rs. 4.57 at Maharashtra State Periphery. Nidar Utilities Panvel LLP, to submit copies of Final PPAs to the Commission for records.

Sd/-  
(Mukesh Khullar)  
Member

Sd/-  
(Sanjay Kumar)  
Chairperson

