

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 165 of 2022

Case filed by Tata Power Company Limited (Distribution) seeking approval for Short term Power Purchase through competitive bidding for the month of October 2022.

AND

Interlocutory Application No. 22 of 2022 in Case No. 165 of 2022

Interlocutory Application filed by Tata Power Company Limited (Distribution) seeking urgent and early hearing of the captioned matter

Coram

**Sanjay Kumar, Chairperson
I. M. Bohari, Member
Mukesh Khullar, Member**

Tata Power Company Limited (Distribution): -

Petitioner

Appearance

For Petitioner:

Shri Prashant Kumar (Rep.)

ORDER

Dated: 30 September, 2022

1. Tata Power Company Limited (Distribution) (**TPC-D**) has filed this Petition on 26 August, 2022 under Section 86 (1)(b) of the Electricity Act, 2003 (**EA, 2003**) read with Regulations 92 & 94 of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 for adoption of tariff for procurement of 75 MW Round The Clock (**RTC**) power on Short-term basis for October, 2022 through Tariff Based Competitive Bidding Guidelines issued by the Ministry of Power (**MoP**), Government of India (**GOI**) dated 30 March, 2016 and the amendments thereof.
2. TPC-D has also filed Interlocutory Application (IA) No 22 of 2022 dated 26 August, 2022 under Section 94 (2) of EA, 2003 seeking urgent and early hearing of the captioned matter.

3. **TPC-D's main prayers in the Petition are as follows:**

- a. *Approve the Short term power purchase to meet the demand of Petitioner and to optimize the power purchase cost for October 2022;*

4. **TPC-D's prayer under IA are as follows:**

- a. *Allow the present application, thereby holding urgent listing and hearing of the captioned Petition before 09.09.2022;*

5. **TPC-D in its Petition has stated as follows:**

- 5.1. As per Regulation 22 of Multi Year Tariff Regulations, 2019, the Distribution Licensee may undertake additional power procurement during the year, over and above the power procurement plan for the Control Period approved by the Commission.
- 5.2. The Commission had approved the rate of Rs. 3.56 per unit for short-term power procurement for TPC-D in the MYT Order dated 30 March 2020. The rate discovered under competitive bidding i.e. Rs 7.54 per unit is more than the rate considered in MYT Order and hence TPC – D has requested for adoption.
- 5.3. TPC-D is likely to have a shortfall in the range of @ 50 to 100 MW for October, 2022. In order to meet the shortfall TPC-D has carried out competitive bidding process on Discovery of Efficient Electricity Price (DEEP) portal as per the MoP guidelines.
- 5.4. Mittal Processors Private Limited, Tata Power Trading Company Limited, Manikaran Power Limited participated in the said bid and offered the quantum of 25 MW at the rate ranging from Rs. 8.99per unit to Rs.10.49per unit for October 2022. Subsequently, the reverse auction was carried out and the result of the reverse auction is as follows:-

Sr No	Name of Bidder	Quantity in MW	Rate in Rs/ kWh
1	Mittal Processors Private Limited	25	8.99
2	Tata Power Trading Company Limited	25	8.99
3	Manikaran Power Limited	25	10.49

- 5.5. As the rates were on higher side, TPC-D requested the bidders to submit revised offers, if any. The revised rates received from the bidders are as follows

Sr No	Name of Bidder	Quantity in MW (RTC)	Rate in Rs/ kWh
1	Mittal Processors Private Limited	25	7.54
2	Tata Power Trading Company Limited	50	7.54

- 5.6. To ensure power availability for the month of October and considering that the rates offered after the negotiation are in line with the recently discovered short term rates by other entities and the discovered rates are lower than the variable cost of Trombay Unit 5 and Unit 8, TPC-D proposes to procure the power from Mittal Processors Private

6. At the e-hearing held on 13 September, 2022

- 6.1 TPC-D briefly gave overview of the Petition and stated that as the rate discovered through competitive bidding for short term power procurement for the month of October, 2022 is more than the rate approved by the Commission in TPC-D's MYT Tariff Order, TPC-D has approached the Commission for adoption of Tariff.
- 6.2 The Commission asked TPC-D to clarify why the proposal for power procurement is only for the month of October, 2022, when the bid floated on DEEP portal is for longer period from 15 July, 2022 to 30 June, 2023 and how TPC-D has managed the demand for the months of July, 2022 to September, 2022. Further whether the tender would remain live for future procurement or TPC-D would float fresh tender for the same.
- 6.3 The Commission further asked TPC-D to clarify whether green shoe option was made available to both bidders.
- 6.4 The Commission directed TPC-D to file additional submission within 3 days on these issues as it was not a part of the Petition.

7. TPC-D in its additional submission dated 14 September, 2022 has stated as follows:-

- 7.1 TPC-D had issued the single bid for the short-term power purchase on 26 June, 2022 for the period from 15 July, 2022 to 30 June, 2023, with different monthly quantum based on the estimated shortfall. The bidders responded with different rates and quantum on monthly basis. Since the rates discovered in the reverse auction were higher compared to the prevailing market rates, TPC-D did not issue Letter of Award to the concerned bidder for the period from July, 2022 to June 2023 except for the month of October 2022. TPC-D has planned to procure additional power requirement, if any, during these periods through other mode of procurement available under short term power purchase including power exchanges. The average rate of short-term power purchase for the month of July, 2022 and August, 2022 was Rs. 5.07 per unit and Rs. 5.63 per unit respectively, which is much lower than the rates discovered through the competitive bidding process (Rs 9.09/kWh for August, 2022). Considering this, although the bid was for a longer period, with a view to optimize power purchase cost, TPC – D has approached the Commission only for the requirement of October, 2022.
- 7.2 Bid for October, 22 was for 100 MW with green shoe quantum of 25 MW. Post the bidding and reverse auction, following tariff is discovered:

Sr No	Name of Bidder	Quantity in MW	Rate in Rs/ kWh
1	Mittal Processors Private Limited	25	8.99
2	Tata Power Trading Company Limited	25	8.99
3	Manikaran Power Limited	25	10.49
4	Tata Power Trading Company Limited	25	12.00

TPC-D requested all the bidders for negotiation vide its email dated 16 July, 2022 due to a higher price discovered during the reverse auction and had also requested for increasing

the quantum as the bid had the green shoe option. Post the negotiations, offer of 50 MW was received at the negotiated rate of Rs. 7.54 per unit from Tata Power Trading Company Limited (Source PGCIL) and Mittal Processor retained the quantum at 25 MW but at the negotiated rate of Rs. 7.54 per unit. For the balance requirement of 25 MW, the rate offered by the bidders were significantly higher to the tune of Rs. 10 per unit+. Therefore, based on the rate discovered after reverse auction and negotiation, TPC-D has issued LOA to the successful bidders for the quantum of 75 MW against the bid of 100 MW subject to the approval of the Commission.

- 7.3 Present tender will be closed after the issue of final LOA based on the adoption of rate for the month of October, 2022 by the Commission in the present proceeding. In case any future requirement of additional power procurement under short term, TPC- D shall issue fresh tender to purchase the power through short term sources.

Commission's Analysis and Rulings:

8. TPC-D has filed the present Petition for adoption of tariff discovered through competitive bidding for short term power procurement for the month of October, 2022 under Section 63 read with Section 86 (1) (b) of EA, 2003.
9. TPC-D in its Petition has cited the Commission's ruling in MYT Order which stipulates that if tariff discovered through competitive bidding is higher than blanket rate approved in tariff Order, then TPC-D needs to approach the Commission for adoption of such tariff. In present Petition, tariff discovered is Rs 7.54 per unit which is over and above the rate of Rs 3.56 per unit as approved in MYT Order for short term procurement and hence TPC-D has requested for adoption of tariff.
10. Considering the submissions made in the matter, the Commission frames following issues for its considerations:
 - a. Provisions under which Short Term Power procurement of Distribution Licensee requires approval of the Commission.
 - b. Whether the quantum of additional short term power procurement proposed by TPC-D is justified?
 - c. Whether the discovered tariff is consistent with the market trend?

The Commission is addressing these issues in following paragraphs. However, before addressing these issues, the Commission likes to note discrepancies in submissions of TPC-D. In its Petition, TPC-D has submitted details of 3 bids received for supply of power in October 2022. But in subsequent submission dated 14 September 2022, TPC-D provided details of 4 bids. The Commission for the purpose of analysis has considered subsequent submissions, but would like to caution TPC-D to remain vigilant while making its submission and not to make factual errors in future Petitions that too on oath.

11. **Issue A: - Provisions under which Short Term Power procurement of Distribution Licensee requires approval of the Commission**

- 11.1 The Commission notes that MERC MYT Regulations, 2019 which is applicable for control period of FY 2020-21 to FY 2024-25, has following provisions related to the additional power procurement by Distribution Licensee

“ 22.1 The Distribution Licensee may undertake additional power procurement during the year, over and above the power procurement plan for the Control Period approved by the Commission, in accordance with this Regulation.

22.2 Where there has been an unanticipated increase in the demand for electricity or a shortfall or failure in the supply of electricity from any approved source of supply during the Year or when the sourcing of power from existing tied-up sources becomes costlier than other available alternative sources, the Distribution Licensee may enter into additional agreement or arrangement for procurement of power.

22.3 Any variation, during the first or second block of six months of a Year, in the quantum or cost of power procured, including from a source other than a previously approved source, that is expected to be in excess of five per cent of that approved by the Commission, shall require its prior approval:

Provided that the five per cent limit shall not apply to variation in the cost of power procured on account of changes in the price of fuel for own generation or the fixed or variable cost of power purchase that is allowed to be recovered in accordance with Regulation 10.”

Thus, in cases where there is an anticipated shortfall in fulfilling the demand and for optimising the power purchase cost, Licensee can procure additional power subject to the variation of excess of five percent in the quantum or cost of power procured during the first or second block of six months of a Year from the sources other than those approved by the Commission.

- 11.2 Ministry of Power's Guidelines dated 30 March 2016 notified under Section 63 of the Electricity Act 2003 for short-term procurement of power by Distribution Licensees through tariff-based bidding process stipulate as follows:

“ 11.4 If the quantum of power procured and tariff determined are within the blanket approval granted by the Appropriate Commission in Annual Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the Appropriate Commission.

In all other cases, the Procurer(s) shall submit a petition to the Appropriate Commission for adoption of tariff within 2 days from the date of signing of PPA. Appropriate Commission should communicate the decision within 7 days from the date of submission of petition.”

Thus, if the quantum of power procured and the tariff determined are not within the blanket approval specified by the Commission in ARR/ Tariff Order, Distribution Licensee needs to approach the Commission for approval of the additional power

procurement and to adopt the tariff discovered through competitive bidding process

- 11.3 The Commission in its MYT Tariff Order of TPC-D in Case No 326 of 2019 dated 30 March, 2020 has approved the short term power purchase stating as follows:-

The Commission has considered the power purchase from TPC-G and RE sources as detailed in the earlier paragraphs, and the remaining requirement has been considered from short-term sources. The Commission has taken procurement from short-term sources at Rs. 3.56 per unit, as approved in the provisional truing-up of FY 2019-20.

Vide Resolution dated 30 March, 2016, the MoP has issued Guidelines for short-term power procurement (beyond the stipulated minimum period) by Distribution Licensees through tariff-based bidding under Section 63 of the Electricity Act, 2003. In accordance with the Guidelines, TPC-D should procure all future short-term power only through the e-bidding portal. In accordance with the Guidelines, if the power procured and the Tariff determined are within the above blanket approval given by the Commission in the ARR of the respective years, it will be considered to have been adopted by the Commission. In all other cases, TPC-D shall submit a Petition to the Commission for adoption of tariff as required under the Guidelines.

Thus, the Commission has directed TPC-D to file a Petition for adoption of tariff if the rate discovered through competitive bidding for short term power procurement is more than Rs. 3.56 per unit approved in the MYT Tariff Order.

- 11.4 As the discovered tariff i.e. 7.54 per unit is higher than that has been approved by the Commission in MYT Tariff Order, it fulfils the criteria specified in MYT Regulations, 2019 and in the MoP Guidelines dated 30 March, 2016. Hence, prior approval of the Commission is required for the proposed short term power procurement by TPC-D.

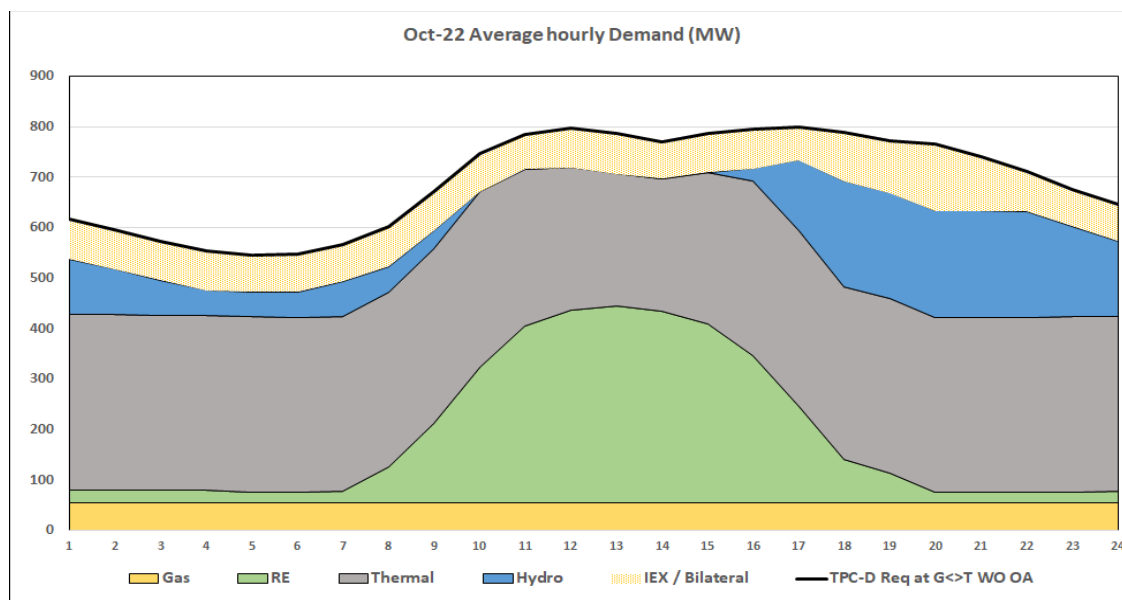
12. Issue B: - Whether the quantum of additional short-term power procurement proposed by TPC-D for October, 2022 is justified?

- 12.1 The Commission in MYT Order dated 30 March 2020 in Case No. 326 of 2019 has approved following power purchase quantum and rate:

Source	FY 20-21		FY 21-22		FY 22-23		FY 23-24		FY 24-25	
	Quantum (MU)	Tariff (Rs/ kWh)	Quantum (MU)	Tariff (Rs/ kWh)	Quantum (MU)	Tariff (Rs/ kWh)	Quantum (MU)	Tariff (Rs/ kWh)	Quantum (MU)	Tariff (Rs/ kWh)
TPC-G	3799.84	4.36	3843.70	4.45	3773.46	4.56	3788.23	4.66	3866.99	4.77
Non solar+ solar	373.85	6.59	373.85	5.85	881.26	3.66	1044.71	3.46	1253.46	3.34
Bilateral PP	687.31	3.56	813.67	3.56	574.63	3.56	625.80	3.56	603.47	3.56
Total	4861.01	5.16	5031.22	5.12	5229.35	4.99	5458.74	4.96	5723.92	4.95

The Commission has approved 574.63 MU as bilateral Power Purchase in MYT Order for FY 2022-23 which translate to around 77 MW at plant load factor of 85%. Proposed procurement of 75 MW is within such limit.

- 12.2 TPC-D in its Petition have shown graphical representation of the power available from the approved sources as per MYT Order and the projected demand in the month of October, 2022 as follows:



The Commission notes that above projections show power requirement of 50 MW to 100 MW from IEX/bilateral sources.

- 12.3 Thus, proposed power procurement of 75 MW for the month of October 2022 is within the power procurement level approved in MYT Order and is justified.

13. Issue C: - Whether the discovered tariff is consistent with the market trend?

- 13.1 The Commission notes that TPC-D has undertaken the short-term power procurement as per the competitive guidelines of MoP dated 30 March, 2016 by floating bid on DEEP portal on 26 June, 2022 and by publishing the advertisement in Indian Express and Business line dated 29 June, 2022.

- 13.2 Post E- reverse Auction dated 6 July, 2022, following tariff is discovered by the successful bidders.

Sr No	Name of Bidder	Quantity in MW	Rate in Rs/ kWh
1	Mittal Processors Private Limited	25	8.99
2	Tata Power Trading Company Limited	25	8.99
3	Manikaran Power Limited	25	10.49
4	Tata Power Trading Company Limited	25	12.00

As the rates were on higher side, TPC-D vide mail dated 16 July, 2022 requested the bidders to submit revised offers if any and also requested for increasing quantum under green shoe option stipulated in bid document. Accordingly, following revised rates and quantum is received from the bidders:

Sr No	Name of Bidder	Quantity in MW (RTC)	Rate in Rs/ kWh
1	Mittal Processors Private Limited	25	7.54
2	Tata Power Trading Company Ltd	50	7.54

- 13.3 In order to evaluate the market reflectiveness of the tariff discovered by TPC-D in the present Petition, the Commission notes recently adopted tariff of the other distribution licensees in Maharashtra as follows:

Sr No	Particulars	Period	Quantum in MW	Average tariff (Rs per unit)
1	BEST Undertaking (Case No 151 of 2022 dated 24 August, 2022)	01.08.2022 to 15.12.2022	20-80 MW	7.72
2	MSEDCL (Case No 148 of 2022 dated 30 August, 2022)	1.10.2022 to 31.03.2023	100-400 MW	7.44

The Commission notes that the discovered rate and further negotiated rate is in line with the tariffs recently adopted by the Commission. Further weighted average rate on DAM of Power Exchange is in the range of Rs 7.54 per unit and short-term power purchase rates are ranging from Rs 6.23 per unit to Rs. 12.00 per unit on DEEP Portal.

- 13.4 In view of above, the Commission notes that the rate discovered and negotiated afterwards is reflective of current market trend.
- 13.5 The Commission holds that TPC-D has followed the procedure stipulated under the competitive bidding guidelines dated 30 January, 2019. Further Section 63 of the EA, 2003 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.
- 13.6 In view of the foregoing, the Commission notes that Power Procurement rate discovered by TPC-D fulfils the mandate and requirements for adoption as set out in Section 63 of the EA, 2003. Accordingly, the Commission adopts following Power Procurement tariff for TPC-D for the month of October, 2022 as follows:

Sr No	Name of Bidder	Quantity in MW (RTC)	Rate in Rs/ kWh
1	Mittal Processors Private Limited	25	7.54
2	Tata Power Trading Company Ltd	50	7.54

14. Further the tariff discovered through competitive bidding in present Petition i.e Rs 7.54 per unit shall act as ceiling tariff for procurement of short-term power through competitive bidding process for FY 2022-23. Any tariff discovered below such ceiling shall be considered as deemed adopted as per provisions of competitive bidding guidelines notified by the Central Government for short-term power procurement.

15. Hence the following Order:

ORDER

1. The Case No. 165 of 2022 is allowed.
2. The Commission adopts short term power procurement proposal of The Tata Power Company Limited (Distribution) for October, 2022 as stated in Para 13.6 above, U/s 63 of the Electricity Act, 2003.
3. The Tata Power Company Limited (Distribution), to submit copies of Final PPAs to the Commission, for records.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I. M. Bohari)
Member

Sd/-
(Sanjay Kumar)
Chairperson

