

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION
BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA**

Case No. HERC/Petition No - 20 of 2023

Date of Hearing: 03.05.2023

Date of Order: 08.05.2023

In the Matter of

Petition under Section 86(1)(b) of the Electricity Act, 2003 read with Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 seeking approval of source and permission to schedule power for the procurement of 200 MW Hydro Power on medium term basis from Hydro Power Stations in Nepal during the months of June to October for a period of five (05) years starting from year 2023 till October 2027 at a tariff of Rs.5.45/kWh at delivery point of 400KV Muzaffarpur ISTS Substation of Dhalkebar-Muzaffarpur Cross-Border Transmission Line along with approval of draft PPA.

Petitioner

Haryana Power Purchase Centre

Respondent

NTPC Vidyut Vyapar Nigam Ltd.

Present on behalf of the Petitioner

1. Ms. Sonia Madan, Advocate
2. Ms. Aabha Yadav, XEN/HPPC
3. Sh. Rohit Kumar, AE/HPPC

Present on behalf of the Respondent

Sh. Prasanta Kanjilal, NVVN

Quorum

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

**Chairman
Member**

ORDER

Facts of the case

1. The present petition has been filed on 31.03.2023 by Haryana Power Purchase Centre for the procurement of 200 MW Hydro Power on medium term basis from Hydro Power Stations in Nepal during the months of June to October for a period of five (05) years starting from year 2023 till October 2027 at a tariff of Rs.5.45/kWh at delivery point of 400KV Muzaffarpur ISTS Substation of Dhalkebar-Muzaffarpur

Cross-Border Transmission Line along with approval of draft PPA.

2. The details of the petition filed is reproduced as under: -
- i. That the present petition is being filed by Haryana Power Purchase Centre (hereinafter referred to as "HPPC/ Petitioner" for the sake of brevity) through Chief Engineer, HPPC who is authorized to file the instant petition and is otherwise also well conversant with the facts of the case.
 - ii. That the HPPC has been constituted under orders of the Government of Haryana vide notification dated 11.04.2008, which acts as a single buyer model for performing the function of arranging power on behalf of distribution licensees (for brevity 'Discoms') of Haryana, i.e. Dakshin Haryana Bijli Vitran Nigam Limited (for brevity 'DHBVNL') and Uttar Haryana Bijli Vitran Nigam Limited (for brevity 'UHBVNL').
 - iii. That NTPC Vidyut Vyapar Nigam Ltd. (NVVN) is a wholly-owned subsidiary of National Trading Power Corporation Ltd. (NTPC) holding a Category 'I' power trading license as per the Central Electricity Regulatory Commission (Procedure, Terms, and Conditions for grant of trading license and other related matters) Regulations.
 - iv. That on 27.02.2023, a meeting was held between HPPC and NVVN in which NVVN offered to supply Hydro Power from Hydro Power Stations in Nepal during the months of June to October for a period of five (05) years starting from year 2023 till October 2027, at a tariff of Rs.5.45/kWh at delivery point of 400KV Muzaffarpur ISTS Substation of Dhalkebar-Muzaffarpur Cross-Border Transmission Line
 - v. That in furtherance to meeting held on 27.02.2023, NVVN vide email dated 06.03.2023 intimated that in case of Cross Border Power Supply, a time-period of 60 days starting from date of application by NVVN will be required for commencement of supply. Accordingly, it was requested that the requisite approvals may be obtained by the Petitioner at the earliest. A copy of email dated 06.03.2023 is appended with the petition.
 - vi. That subsequently a draft PPA was sent by NVVN to HPPC stipulating supply of Hydro Power in accordance with Government of India guidelines for import/export (Cross Border) of Electricity-2018 subject to the approval of Designated Authority(DA), i.e. the Government of India as per DA-CEA Approval Procedure dated 26.02.2021.
 - vii. That the terms and conditions of the draft PPA provided that the power will be available at a tariff of Rs. 5.45/kWh at delivery point of 400KV

Muzaffarpur ISTS Substation of Dhalkebar-Muzaffarpur Cross-Border Transmission Line. The landed cost of power will therefore, be around Rs. 6.02/kWh after including transmission cost of Rs. 0.57/kWh (approx.) if the same is scheduled under MTOA or Rs. 5.46/kWh if scheduled under STOA; same as the tariff of Kameng HEP of M/s NEEPCO. A copy of draft PPA is annexed with the petition.

- viii. That HPPC floated tender for procurement of 1000 MW for the period 01.04.2022 to 31.03.2025 in which the two bidders were shortlisted namely, M/s MB Power & M/s RKM Power Gen at tariff Rs. 5.70/kWh and Rs. 5.75/kWh respectively. Further, Power Finance Corporation has recently discovered weighted average tariff of Rs. 5.17/kWh at generator Bus-bar under tender for procurement of 4500 MW for a period of 5 years under SHAKTI scheme.
- ix. That the State of Haryana has experienced critical power deficit last year. Thermal plants across the country were grappling with a coal shortage as the power demand in the states increased, and difficulty was experienced in bridging the gap between demand and supply because of insufficient coal stocks at the thermal plants.
- x. As per the demand supply projections, the average deficit in the upcoming years is tabulated as under:

Case1: Considering power will be supplied through all contracted sources

Years	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
Yearly average deficit	144	71	-378	-805	-1328
Average deficit	-1156	-1224	-1840	-2360	-2648

Case2: Considering power will be supplied through all contracted sources except CGPL & FGPP

Years	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
Yearly average deficit	-605	-678	-1127	-1554	-2077
Average deficit	-1905	-1973	-1957	-1981	-2573

A copy of demand supply projections is annexed with the petition.

- xi. That Ministry of Power (MoP) vide circular dated 20.02.2023 had issued directions under Section 11 of the Electricity Act, 2003 to all imported coal based plants for use of blended coal for optimum generation. It has been mentioned therein that during year 2022-2023, India has touched it's all time highest electricity demand at about 215 GW. It has been forecasted that the

peak demand will reach up to 229 GW during April 2023. A copy of circular dated 20.02.2023 is annexed with the petition.

- xii. That for the current financial year i.e., FY 2023-24, the average deficit for the month of June 2023 to October 2023 is 2056 MW. Month-wise deficit is tabulated as under:

Month	Projected Peak Demand (in MW)	Normative Availability without CGPL & FGPP (in MW)	Short Term Arrangements (Banking, Dadri-I & NIT-102)	Actual Availability (in MW)	Surplus (+)/ Deficit (-) (in MW)
June'23	13360	9942	774	10716	-2644
July'23	13431	9960	1190	11150	-2281
Aug'23	12742	9960	1260	11220	-1522
Sept'23	12865	9354	1070	10424	-2440
Oct' 23	9730	8337	0	8337	-1393

- xiii. That in order to meet the deficit, HPPC has to procure power from the exchange at exorbitant cost. The details of power purchased through Exchange in the last FY 2022-23 are tabulated hereunder for ready reference of the Hon'ble Commission –

Month	Month wise Purchase of quantum during 2022-23		
	Quantum (LU)	Total Cost (Rs. in Lakh)	Landed cost (Rs/ kWh)
Apr	5619.37	62661.02	11.50
May	5478.38	43433.84	8.20
Jun	5109.66	36327.65	7.35
Jul	2006.17	12064.33	6.22
Aug	3330.85	20577.17	6.40
Sept	4078.20	28938.93	7.31
Oct	274.60	1193.24	4.49
Nov	607.34	3109.81	5.32
Dec	1809.56	11862.33	6.83
Jan	2667.41	22846.18	8.95
Feb	3012.94	22362.93	7.72
Total	33994.47	265377.44	8.08

- xiv. That HPPC floated tender for procurement of 750 MW RTC power during the months from 01.03.2023 to 15.10.2023 in which the rates discovered are tabulated as under:

Period	Name of Trader	Quantum	Revised Rate after reducing Transmission Charges @ 57 paisa(Rs/ unit)	Weighted Avg. Rate (Rs/ unit)
01-03-2023 to 31-03-2023	Manikaran Power Limited/VS Lignite Power Pvt. Limited	100	6.12	6.46
	Manikaran Power Ltd /Coastal Energen Private Limited	25	6.12	
	Tata Power Trading Company Limited/Jindal Power Limited (JPL)	300	6.12	
	PTC India Limited/JAYPEE NIGRIE Super Thermal Power Plant (JNSTPP)	100	7.42	

Period	Name of Trader	Quantum	Revised Rate after reducing Transmission Charges @ 57 paisa(Rs/ unit)	Weighted Avg. Rate (Rs/ unit)
	PTC India Limited/JAYPEE BINA Thermal Power Plant (JBTPP)	50	7.42	
	Total Quantum	575		
01-06-2023 to 30-06-2023	Tata Power Trading Company Limited/Jindal Power Limited (JPL)	300	7.20	7.20
	PTC India Limited/JAYPEE BINA Thermal Power Plant (JBTPP)	50	7.20	
	PTC India Limited/JAYPEE	100	7.20	
	NIGRIE Super Thermal Power Plant (JNSTPP)			
	Total Quantum	450		
01-07-2023 to 31-07-2023	Tata Power Trading Company Limited/Jindal Power Limited (JPL)	300	6.70	6.76
	PTC India Limited/JAYPEE BINA Thermal Power Plant (JBTPP)	50	6.70	
	PTC India Limited/JAYPEE NIGRIE Super Thermal Power Plant (JNSTPP)	100	6.70	
	Instinct Infra And Power Ltd/Anuppur Thermal Power Project,	100	6.98	
	Sembcorp Energy India Limited/SEIL own plant	25	6.997	
	Total Quantum	575		
01-08-2023 to 31-08-2023	Manikaran Power Ltd /Coastal Energen Private Limited	50	6.77	6.71
	Instinct Infra And Power Ltd/Anuppur Thermal Power Project, M P	100	6.77	
	Tata Power Trading Company Limited/Jindal Power Limited (JPL)	300	6.67	
	PTC India Limited/JAYPEE BINA Thermal Power Plant (JBTPP)	50	6.67	
	PTC India Limited/JAYPEE NIGRIE Super Thermal Power Plant (JNSTPP)	100	6.67	
	Sembcorp Energy India Limited/SEIL own plant	25	7.017	
	Total Quantum	625		
01-09-2023 to 30-09-2023	Tata Power Trading Company Limited /Jindal India Thermal Power Limited (JITPL)	200	6.91	6.94
	Manikaran Power Ltd /Coastal Energen Private Limited	50	6.91	
	Instinct Infra And Power Ltd/Anuppur Thermal Power Project	100	6.91	
	Tata Power Trading Company Limited/Jindal Power Limited (JPL)	300	6.81	
	Sembcorp Energy India Limited/SEIL own plant	25	7.457	
	PTC India Limited/JAYPEE NIGRIE Super Thermal Power Plant (JNSTPP)	75	7.43	
	Total Quantum	750		
Weighted Average Rate				6.80

The above-mentioned quantum has been approved by HERC vide order dated 17.02.2023. A copy of order dated 17.02.2023 is annexed with the petition.

- xv. That HPPC has floated another tender for procurement of 750 MW RTC power during the months from 01.05.2023 to 15.10.2023 in which the following rates (excluding Transmission charges of 57 paisa) are discovered:

Period	Name of Trader	Name of Trader	Quantum	Rate Discoved (Rs/ unit)	Weighted Avg. Rate (Rs/ unit)
01-05-2023 to 31-05-2023	Tata Power Trading Company Limited	Nava Bharat Venture Limited, IPP, Odisha	25	9.430	10.18
	Tata Power Trading Company Limited	Nava Bharat Venture Limited, CPP, Odisha	25	9.430	
	Tata Power Trading Company Limited	Govt. of Himachal Pradesh	50	9.430	
	Sembcorp Energy India Limited	Sembcorp Energy India Ltd (SEIL), AP	25	10.920	
	PTC India Limited	DB Power Limited, Chhatisgarh	25	12.430	
	Total Quantum		150		
01-06-2023 to 30-06-2023	NTPC Vidyut Vyapar Nigam Limited	IL&FS Tamil Nadu Power Co. Ltd.	140	8.390	8.51
	Tata Power Trading Company Limited	Nava Bharat Venture Limited, CPP, Odisha	50	8.390	
	Sembcorp Energy India Limited	Sembcorp Energy India Ltd (SEIL), AP	70	8.390	
	PTC India Limited	DB Power Limited, Chhatisgarh	50	8.390	
	Tata Power Trading Company Limited	Govt. of Himachal Pradesh	50	8.430	
	Adani Enterprises Limited	Mahan Energen Limited (MEL)	200	8.510	
	PTC India Limited	JSW Energy Limited Karnataka	100	8.930	
	Total Quantum		660		
01-07-2023 to 31-07-2023	Adani Enterprises Limited	Mahan Energen Limited (MEL)	200	7.410	7.46
	PTC India Limited	Simhapuri Energy Limited, AP	150	7.410	
	Manikaran Power Limited	Dhariwal Infrastructure Limited	50	7.410	
	Tata Power Trading Company Limited	Nava Bharat Venture Limited, CPP, Odisha	25	7.410	
	Tata Power Trading Company Limited	Nava Bharat Venture Limited, IPP, Odisha	45	7.410	
	Sembcorp Energy India Limited	Sembcorp Energy India Ltd (SEIL), AP	70	7.410	
	PTC India Limited	DB Power Limited, Chhatisgarh	50	7.410	
	NTPC Vidyut Vyapar Nigam Limited	Adhunik Power & Natural Resources Ltd.	50	7.410	
	Ambitious Power Trading Company Limited	Jindal Power Ltd (JPL)	50	7.450	
	Maharastra State electricity Distribution Co. Ltd.	MSEDCL's Pool Power	60	8.010	
Total Quantum		750			
01-08-2023 to 31-08-2023	Ambitious Power Trading Company Limited	Jindal Power Ltd (JPL)	100	7.400	7.47
	Sembcorp Energy India Limited	Sembcorp Energy India Ltd (SEIL), AP	70	7.400	
	Manikaran Power Limited	Dhariwal Infrastructure Limited	50	7.400	
	PTC India Limited	Simhapuri Energy Limited, AP	150	7.400	
	Adani Enterprises Limited	Mahan Energen Limited (MEL)	200	7.400	
	NTPC Vidyut Vyapar Nigam Limited	Adhunik Power & Natural Resources Ltd.	50	7.400	
	Tata Power Trading Company Limited	Nava Bharat Venture Limited, IPP, Odisha	45	7.400	
	Maharastra State electricity Distribution Co. Ltd.	MSEDCL's Pool Power	85	8.010	
Total Quantum		750			
01-09-2023 to	Ambitious Power Trading Company Limited	Jindal Power Ltd (JPL)	100	7.930	8.00

Period	Name of Trader	Name of Trader	Quantum	Rate Discovered (Rs/unit)	Weighted Avg. Rate (Rs/unit)
30-09-2023	Manikaran Power Limited	Dhariwal Infrastructure Limited	50	7.930	
	Adani Enterprises Limited	Mahan Energen Limited (MEL)	200	7.930	
	NTPC Vidyut Vyapar Nigam Limited	Adhunik Power & Natural Resources Ltd.	50	7.930	
	Sembcorp Energy India Limited	Sembcorp Energy India Ltd (SEIL), AP	50	7.930	
	Tata Power Trading Company Limited	Nava Bharat Venture Limited, IPP, Odisha	45	7.930	
	NTPC Vidyut Vyapar Nigam Limited	IL&FS Tamil Nadu Power Co. Ltd.	255	8.130	
	Total Quantum		750		
01-10-2023 to 15-10-2023	Ambitious Power Trading Company Limited	Jindal Power Ltd (JPL)	200	7.930	8.01
	PTC India Limited	Simhapuri Energy Limited, AP	150	7.930	
	NTPC Vidyut Vyapar Nigam Limited	Adhunik Power & Natural Resources Ltd.	50	7.930	
	Tata Power Trading Company Limited	Nava Bharat Venture Limited, IPP, Odisha	45	7.930	
	NTPC Vidyut Vyapar Nigam Limited	IL&FS Tamil Nadu Power Co. Ltd.	305	8.130	
	Total Quantum		750		
Weighted Average Rate					7.96

- xvi. That from the above tables of the rate discovered in short term tender, it is anticipated that the rates in summer seasons in Exchanges & short term will likely to be on higher side. As such, the power from Cross-Border will help to offset the procurement from Exchange & short term in the peak season of coming years.
- xvii. That the hydro power offered by NVVN will be supplied round the clock during peak demand in the summer months. Considering the uncertainty in supply of coal to thermal power plant, hydro power will help meet the power deficit in the State of Haryana.
- xviii. That considering the foregoing, the hydro power procurement from NVVN will help the Petitioner to combat the ongoing deficit at a feasible tariff based on the evaluation of the cost of power available in the exchange and the rates discovered in the current short term tender.
- xix. That the Petitioner-HPPC is making constant efforts to arrange a reliable and feasible power supply. Considering the position of power deficit in the State, growing requirement of power, and the unreliability of procurement of thermal power under Long term PPA, HPPC considers that the sourcing of hydro power through NVVN will be in the overall interest of all concerned including consumer of Discom's.
- xx. Prayer: The petitioner prayed as under:

- a. Grant source approval for procurement of 200 MW Cross Border Hydro Power on medium term basis from NVVN for the months of June to October every year for a period of five years i.e., till October 2027 at a tariff of Rs.5.45/kW at delivery point of 400KV Muzaffarpur ISTS Substation of Dhalkebar-Muzaffarpur Cross-Border Transmission Line.
- b. Grant approval to schedule power from NVVN w.e.f. 01.06.2023;
- c. Grant approval to draft PPA to be executed between HPPC and NVVN; and
- d. Pass any other order(s) and or direction(s), which the Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

Proceedings of the Case:

3. The case was first heard on 26.04.2023, wherein upon hearing the parties, the Commission vide its Interim Order observed that trading margin of Rs. 0.07/kWh appears to be on the higher side. The trading margin i.e. upto 7 paise/unit is subject to negotiation between the parties. Hence, the Commission directs the parties to negotiate the trading margin and reduce the same to 50% or below. The matter was listed for hearing on 03.05.2023.

Commission's Order:

4. The case was next heard by the Commission on 03.05.2023 at 11:30 AM, as scheduled, in the court room.
5. The learned counsel appearing on behalf of the petitioner, Ms Sonia Madan, submitted that as directed by this Hon'ble Commission, a meeting was held with the respondent i.e. NVVN on 01.05.2023. The learned counsel submitted the minutes of the said meeting. The relevant part of the minutes of the meeting is as under:
"CEO, NVVN informed that M/s NVVN has not sold Kameng power with trading margin below 7 paise/unit wherever it has offered the said power on negotiation basis. CEO, NVVN further state that in the prevalent deficit power conditions, the power is available at a tariff much higher than the proposed tariff of NVVN. However, keeping in view the long association with Haryana, they have quoted their best price for the hydro powers i.e., Rs. 5.45/kWh. Further, M/s NVVN citing the

current power availability scenario in the power sector, expressed its inability to reduce the trading margin below 7 paise/unit.”

6. The Commission has perused the petition filed by HPPC and recorded its averments made in the case. It is noted that the petitioner herein is a nodal agency, notified by the Haryana Government for all matters related to power purchase and trading on behalf of the two distribution licensees viz UHBNL and DHBVNL. And the respondent is an Inter-State Trading Licensee and an electricity trader in terms of the provisions of Section 2(26) read with Section 14 of the Electricity Act, 2003.
7. Given the power deficit scenario in the country especially during the summer/paddy season in Haryana, prices of short-term power have witnessed a sustained upward bias over the past few years. In a bid to restrain the prices of short-term power and prevent traders from taking advantage of the situation to make super normal profits, CERC, empowered under Section 79 (1) (j) of the Electricity Act of 2003, imposed a trading margin cap of Paise 7/ kWh on each unit of electricity traded.
8. In this case, the trading margin is maximum i.e. 7 paise/unit and the petitioner did not raise any objection or reservation or condition either to the payment of trading margin or to the quantum of such trading margin. It is a well settled principle of construction of contract that the intentions of the parties have to be gathered from the surrounding circumstances and in an objective manner so that no party makes any windfall gains. In the past, while accepting additional 176 MW power from JSW (Karcham Wangtoo) through PTC, the trading margin was negotiated and brought down from 5 paise/unit (1-12 years) and 10 paise/unit (13-35 years) to 3.9 paise/unit for 35 years. Hence, it is not that the trading margin has not been negotiated earlier or cannot be negotiated. Therefore, the Commission directs HPPC to negotiate the trading margin, in future, before approaching this Commission for source approval and the same should not be more than 3.5 paise per unit.
9. Further, upon hearing the counsel, the Commission observes that considering the change in market conditions due to factors such as rise in prices of traded power, rising fuel costs and unavailability of linked coal/gas for generation of thermal and gas-based power, there is a need to procure competitive power at a feasible tariff.

The State of Haryana has experienced a critical power deficit situation and considering the coal shortage and the gap between demand-supply of power across the country. Considering the unreliability of thermal power under Long term PPA owing to non-availability of sufficient quantum of coal including extremely high landed cost of imported coal, hydro power will help meet the power deficit as well as

peak demand in Haryana. Thus, power procurement from NVVN will help combat the ongoing deficit at a feasible tariff based on the evaluation of the cost of power available in the exchange currently. It is noted that the hydro power offered by NVVN will be supplied round the clock with maximum generation during peak demand in the summer months.

10. **In view of the above discussions, the Commission grants source approval for procurement of 200 MW Cross Border Hydro Power on medium term basis from NVVN for the months of June to October every year for a period of five years i.e, till October 2027 at a tariff of Rs.5.45/kW at delivery point of 400KV Muzaffarpur ISTS Substation of Dhalkebar-Muzaffarpur Cross-Border Transmission Line. The Commission also grants approval to schedule power from NVVN w.e.f. 01.06.2023 and direct the parties to submit a signed copy of PPA executed between HPPC and NVVN within 15 days from the date of this order.**
11. The present petition is allowed.
Accordingly, ordered.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 08.05.2023.

Date: 08.05.2023
Place: Panchkula

(Naresh Sardana)
Member

(R.K. Pachnanda)
Chairman