

**KERALA STATE ELECTRICITY REGULATORY COMMISSION**  
**THIRUVANANTHAPURAM**

**Present : Shri T K Jose, Chairman**  
**Shri B Pradeep, Member**  
**Adv. A.J Wilson, Member**

**OP No:22/2023**

In the matter of : Petition under Regulation 78 of the KSERC (Terms and Conditions for Determination of Tariff) Regulations 2021 seeking approval for entering into short term power procurement arrangement with NTPC Vidyut Vyapar Nigam Ltd(NVVNL) for the procurement of 50MW power from 19.00 to 23.00 hrs from 21-5-2023 to 31-5-2023 through DEEP portal for meeting power shortage.

Petitioner : Kerala State Electricity Board Limited (KSEBL)

KSEBL represented by : 1. Sri. Jayaraj, CE (Commercial & Tariff)  
2. Shri. Rajesh.D.S, DY CE, Commercial  
3. Smt. Latha.S.V, AEE,TRAC

Respondent : M/s NTPC Vidyut Vyapar Nigam Ltd (NVVNL), 1<sup>st</sup> Floor, Core-5, SCOPE Complex, Lodhi Road, New Delhi. 110003

Respondents represented by : Shri. Prasanta Kanjilal, (Manager- BD)

Date of the hearing : 17.05.2023

**Order dated 17.05.2023**

1. M/s Kerala State Electricity Board Ltd (hereinafter referred as petitioner or KSEB Ltd ) on 08.05.2023 had filed a petition before the Commission for the approval to adopt the tariff discovered in accordance with the Section 63 of the EA-2003 with M/s NTPC Vidyut Vyapar Nigam Ltd for the purchase of 50MW @9.26/unit for the period from 21.05.2023 to 31.05.2023 during the peak hours 19:00 hrs to 23:00 hrs.
2. The summary of the petition filed by KSEB Ltd is given below.
  - (i) The Commission vide the Order dated 19.10.2022 in petition OP No.58/2022 had approved to procure 200 MW through SWAP

arrangement from 01.05.2023 to 20.05.2023. On analysis of the peak demand and availability in the State in the month of May 2023 from 21.05.2023, it is expected to have a power shortage upto 480MW. The details are given below.

Particulars	1-5-2023 to 20-5-2023		21-5-2023 to 31-5-2023	
	18.30 to 22.30 hrs	22.30 to 24.00 hrs	18.30 to 22.30 hrs	22.30 to 24.00 hrs
Demand (MW)	4600	4300	4600	4300
Availability (MW)				
Hydro	1550	1397	1550	1397
CGS	1255	1255	1255	1255
LTA	1009	1009	1009	1009
MTOA	260	260	260	260
OA	30	0	30	0
Wind	20	20	20	20
SWAP	200	200	0	0
Total	4324	4141	4124	3941
Surplus(+)/ Deficit(-) in MW	<b>-276</b>	<b>-159</b>	<b>-476</b>	<b>-359</b>

- (ii) In order to meet the power shortage anticipated, KSEBL decided to invite short-term tender through DEEP portal and floated the tender on 28.03.2023 for procuring power as detailed below.

Requisition No	Period		Required quantity (MW)	Duration (hrs)	Minimum Bid quantity MW
	From	To			
1	01-05-2023	20-05-2023	100	19:00 to 23:00	25
2	21-05-2023	31-05-2023	200	19:00 to 23:00	25

- (iii) The timelines specified for the tendering process is detailed below.

Sl.	Event	Date
1	Publication of RFP/Activation of Event	28.03.2023
2	Last date for submission of queries if any	30.03.2023
3	Reply of queries	01.04.2023
4	Submission of RfP (on line digitally signed non financial technical Bid and IPOs)	13.04.2023; 02:00pm
5	Opening of non financial technical Bids	13.04.2023; 03:00pm
6	Clarifications, if any sought from bidder(s)	13.04.2023
7	Evaluation of nonfinancial technical Bids	13.04.2023
8	Opening of IPOs (upto 1300 hrs)	17.04.2023; 11:00am to 01:00pm
9	Start of e-RA	17.04.2023; 01:00pm to 03:00pm

- (iv) The RfP for the short-term procurement was published in the official website of KSEBL and public notice was also issued in leading dailies as per MoP guidelines.
- (v) The technical bid was opened on 13.04.2023. The Initial Price Offers (IPO) submitted by the bidders were opened on 17.04.2023 at 11:00 am, followed by e-Reverse auction at 1:00 pm. The e-RA concluded at 03:00 pm. On completion of the bid process the following rates were discovered in DEEP portal:

Period	Duration (hrs)	Bid Qtm (MW)	Offered Qtm (MW)	Price discovered (Rs/ kWh)	Trader/ Generator
01.05.2023 to 20.05.2023	19 to 23	100	50	12	Manikaran power Ltd
21.05.2023 to 31.05.2023	19 to 23	200	50	9.26	NTPC Vidyut Vyapar Nigam Ltd
			50	12	Manikaran power Ltd

- (vi) The Standing Committee constituted by KSEB Ltd for the bid evaluation in its meeting held on 18.04.2023 observed the following.
- Participation was lesser than expected and only 2 bids were received against the two requisitions for power purchase and the total required quantum was not satisfied through bucket filling.
  - The present market rate for peak power from 19:00 hrs to 23:00 hrs in S3 region is Rs.10/kWh. The price quoted by one of the bidder M/s. Manikaran Power Ltd is Rs.12/kWh for each requisition which is high when compared to the prevailing market rates in S3 region and hence the bid submitted by the bidder M/s. Manikaran Power Ltd need not be considered.
  - Since the peak demand is increasing than the forecasted on day to day basis, the bid submitted by M/s.NTPC Vidyut Vyapar Nigam Ltd at a tariff rate of Rs.9.26/kWh for 50 MW power during 19:00 hrs to 23:00 hrs from 21.05.2023 to 31.05.2023 can be accepted as the rate quoted by the bidder, which is aligned with the prevailing market rates in S3 region.
  - The balance power deficit during peak hours of May 2023 can be met by purchasing power from Day Ahead Market where the ceiling tariff rate is Rs.10/kWh. But, as availability of power in Day Ahead Market cannot be confirmed.
  - Since the price discovered in DEEP portal for the bid quoted by the bidder M/s.NTPC Vidyut Vyapar Nigam Ltd for the supply of power for 19 :00 hrs to 23:00 hrs from 21.05.2023 to 31.05.2023 is reasonable, when compared to the prevailing market rates, the

Standing Committee recommended the purchase from M/s.NTPC Vidyut Vyapar Nigam Ltd (NVVN) at the rate of Rs.9.26/kWh.

- (vii) KSEB Ltd further submitted that, the bid validity period of the tender is 30 days from the date of e- Reverse Auction i.e. up to 16-05-2023. Within this time frame LoA has to be issued to the successful bidder M/s.NTPC Vidyut Vyapar Nigam Ltd, and PPA has also to be executed after obtaining the approval of the Commission. The power flow as per the bid is to commence from 21.05.2023.
- (viii) Hence KSEB Ltd is requested to grant approval for issuing Letter of Award to the successful L1 bidder, namely NTPC Vidyut Vyapar Nigam Ltd (NVVNL) for procurement of power for 19 :00 hrs to 23:00 hrs from 21.05.2023 to 31.05.2023 is at the rate of Rs.9.26/kWh as shown below.

Period	Duration (Hrs)	Quantum (MW) on firm basis	Rate at Delivery Point i.e. Kerala Periphery	Source of Power
21.05.2023 to 31.05.2023	19:00 hrs to 23:00 hrs	50	Rs. 9.26/- (Rupees Nine and Twenty Six paise Only) per kWh	IL & FS Tamil Nadu Power Company Ltd, Tamil Nadu in the SR

3. The Commission admitted the petition as OP No. 22/2023. The hearing of the petition was held on 17.05.2023 at the office of the Commission through Hybrid mode. Sri. Jayaraj, Chief Engineer (Commercial and Tariff), Shri. Rajesh D.S, Deputy Chief Engineer (Commercial) and Smt Latha S.V, AEE, TRAC, appeared before the Commission on behalf of the KSEB Ltd. The Officers of the SLDC and the representatives of M/s NVVNL are participated through online mode. The summary of the deliberations during the hearing is given below;

- (1) M/s KSEB Ltd briefly explained the demand/ supply position during the period from 21.05.2023 to 31.05.2023 and further submitted that the KSEB Ltd is expected to have a power shortage up to 476 MW during the peak hours from 17:00 hrs to 23:00 hrs.

In order to meet the anticipated power shortage, KSEB Ltd has invited short term tender through DEEP portal on 28.03.2023 for procuring 100 MW power for the peak hour from 01.05.2023 to 20.05.2023, and 200 MW during peak hour from 21.05.2023 to 31.05.2023. The technical bid was opened on 13.04.2023, the IPO was opened on 17.04.2023, followed by e-RA concluded on the same date at 03:00 PM. Two (2) offers were received for supplying 50 MW power each only, during the period from 21.05.2023 to 31.05.2023. Out of it, the rate offered by one

of the trader M/s Manikaran Power Ltd is ₹12/unit for 50 MW peak power and the rate quoted by the other trader M/s NVVNL is ₹9.26/unit for 50 MW peak power

Since, the rate offered by M/s Manikaran Power Ltd is above the prevailing market rate of ₹10/unit, M/s KSEB Ltd decided to reject their offer. The rate offered by M/s NVVNL is in with the upper ceiling tariff of ₹10/unit, KSEB Ltd decided to accept the offer of M/s NVVNL. Considering the above, KSEB Ltd prayed before the Commission to adopt the tariff discovered in accordance with Section-63 of the EA-2003 with M/s NVVL for the purchase of 50 MW power.

(2) SLDC submitted the following, regarding on the various queries raised by the Commission during the hearing;

- KSEB Ltd expected to have a power shortage of 500-600 MW during the remaining days of May 2023. At present KSEB Ltd is procuring 500 to 600 MW through power exchanges mainly from Term Ahead Market (TAM).
- Regarding the coal stock position, it is submitted that, except Jhabua the coal stock position of all other stations is comfortable.
- Regarding the present level of wind power generation, it is clarified that, wind generation in Tamil Nadu and other Southern States are started and it may reach full potential by middle of June 2023. The power shortage in the Southern States may relieved to a great extend with the commencement of wind generation.
- SLDC Kerala further submitted that, they mainly relaying on Term Ahead Market rather than Day Ahead Market (DAM) and Real Time Market (RTM) in exchanges for meeting the power shortages.

It is further submitted that the power to be returned against the approved SWAP transaction should start from 16<sup>th</sup> of June 2023. If the monsoon is delayed KSEB Ltd may find difficulty in returning the SWAP power already availed.

(3) Shri. Prasanta Kanjilal, Manager- BD(NVVL) submitted that the 50 MW power offered is from IL & FS Tamil Nadu Power Company Ltd, they are using imported coal for the power generation.

### **Analysis and Decision of the Commission**

4. The Commission having examined in detail the petition filed by KSEB Ltd seeking approval to adopt the tariff discovered in accordance with the Section 63 of the EA-2003 with M/s NTPC Vidyut Vyapar Nigam Ltd for the purchase of 50MW @9.26/unit for the period from 21.05.2023 to 31.05.2023 during the peak hours 19:00 hrs to 23:00 hrs, as per the provisions of the Electricity Act, 2003

and KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021.

5. As per the Section 86(1)(b) of the Electricity Act, 2003 (Central Act 36 of 2003), regulating power purchase and procurement process of distribution licensees including the price at which electricity shall be procured through agreements and supply within the State, is one of the statutory functions of the State Electricity Regulatory Commissions. The relevant Section of the Electricity Act, 2003 is extracted below.

*“86 Functions of the State Commission.- (1) The State Commission shall discharge the following functions, namely:-*

*.....*

*(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;”.*

6. The Commission, in exercise of the powers conferred on it under Section 61 read with Section 181 of the Electricity Act, 2003 notified the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 (herein after referred as Tariff Regulations 2021). The Regulation 78 of the Tariff Regulations 2021, deals with ‘Short-term power procurement’. The relevant Regulation is extracted below.

*“78. Short-term power procurement.–*

*(1) The distribution business/ licensee may, if it considers necessary undertake additional short-term power procurement to overcome any short term deficiency in power requirement during the financial year, as per the short term power procurement plan approved by the Commission, in accordance with this Regulation.*

*(2) Where there has been an anticipated shortfall or failure in the supply of electricity from any approved source of supply during the financial year, the distribution business/ licensee may enter into an agreement for additional short-term procurement of power: Provided that, if the total power purchase cost for any quarter including such shortterm power procurement exceeds by five percent the power purchase cost approved by the Commission for the respective quarter, the distribution business/ licensee shall have to obtain approval of the Commission by filing a petition.*

*(3) The distribution business/ licensee may enter into a short-term power procurement agreement or arrangement under the following circumstances subject to the ceiling tariff approved by the Commission for this purpose: -*

- (i) where the distribution business/ licensee is able to source new short-term source of supply from which power can be procured at a tariff that reduces its approved total power procurement cost;*
- (ii) when faced with emergency conditions that threaten the stability of the distribution system or when formally directed to do so by the State Load Despatch Centre to prevent grid failure;*
- (iii) where the tariff for power procured under such agreement or arrangement is in accordance with the guidelines for short-term procurement of power by distribution licensees through tariff-based bidding process issued by the Central Government;*

- (iv) *when there is a contingency situation and power purchase price is within the ceiling price as prescribed by the Commission in the distribution licensee's ARR&ERC;*
- (v) *procurement of short-term power through power-exchange; and*
- (vi) *Procurement by way of exchange of energy under 'banking' transactions:*

*Provided that prior approval of the Commission and the ceiling rate; shall not be applicable to the short term purchases under clause (ii).*

*Provided further that prior approval of the Commission is not required for short term purchases under clause (v) above, so long as the average rate is within the ceiling rate.*

*(4) The Commission may stipulate the ceiling quantum and ceiling rate for purchase of power from short-term sources.*

*(5) As far as practicable, approval for all power purchases must be sought in advance. Where it is not practicable due to any contingency situation, the distribution licensee shall within fifteen days from the date of entering into an agreement or arrangement for short-term power procurement shall file a petition for approval of the Commission by filing full details of such agreement or arrangement, including quantum, tariff calculations, duration, supplier details, method for supplier selection, circumstances necessitating such a purchase and such other details as the Commission may require to assess that the conditions specified in this Regulation have been complied with:*

*Provided that where the Commission has reasonable grounds to believe that the agreement or arrangement entered into by the distribution business/ licensee does not meet the criteria specified in this Regulation, the Commission may disallow all such transactions from the annual revenue requirements, the net increase in the cost of power on account of such procurement apart from any other action that the Commission may initiate as per law against the distribution licensee."*

7. The Ministry of Power, Government of India, under the provisions of Section 63 of the Electricity Act, 2003, notified the '*Guidelines for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process*' vide the notification dated 30.03.2016.
8. The Commission has appraised the petition filed by KSEB Ltd in detail as per the provisions of the Electricity Act, 2003, Tariff Regulations, 2021 and also as per the provisions of the guidelines notified by the Ministry of Power, Gol, and noted the following.
  - (i) As extracted under paragraph 8 above, the Regulation 78 of the Tariff Regulations, 2021, KSEB Ltd can undertake additional short-term power procurement during the financial year, over and above the power procurement plan approved by the Commission to meet its increase in electricity demand.
  - (ii) The Commission vide the Order dated 19.10.2022 in Petition Op No. 58/2022 had approved the following SWAP transactions to meet the summer demand of the State.

- (a) SWAP transaction through M/s Arunachal Pradesh Power Corporation Pvt Ltd
- 200 MW RTC power in the month of March 2023, which is to be returned from 16.06.2023 to 30.06.2023.
  - 200MW RTC power in the month of April 2023, which is to be returned from 01.07.2023 to 31.07.2023.
  - **200MW RTC power in the month of May 2023 (from, 01.05.2023 to 20.05.2023) which is to be returned from August 2023 to September 2023.**
- (b) SWAP transaction through M/s Kreate Energy (I) Pvt Ltd
- 50MW power in the month of February 2023 during 14:00 hrs to 22:00 hrs, which is to be returned from 16.06.2023 to 30.06.2023.
  - 50MW RTC power in the month of March 2023, which is to be returned from 01.07.2023 to 15.07.2023.
  - 50MW power in the month of March 2023, during 14:00 hrs to 23:00 hrs, which is to be returned from 01.07.2023 to 15.07.2023.
  - 75MW power in the month of February 2023, which is to be returned from 16.06.2023 to 15.07.2023.
- (iii) As detailed above, the SWAP transaction of 200MW approved by the Commission in the May-2023 was only upto the period from 01.05.2023 to 20.05.2023.
- (iv) KSEB Ltd submitted that, after detailed appraisal of the demand and supply availability for the month of May-2023, KSEB Ltd expected to have power shortage upto 480MW from 21.05.2023 to 31.05.2023. In order to meet the anticipated power shortage, KSEB Ltd had invited short-term tender through DEEP portal on 28.03.2023 as detailed under paragraph 2(ii) above with the time lines specified under paragraph 2(iii) of this Order. The tariff discovered in DEEP portal as per the Section 63 of the Electricity Act, 2003 is given under paragraph 2(v) above.
- As above, as against the required quantum of 200MW peak power, two bids for 50MW each is only received for supply of peak power from 21.05.2023 to 31.05.2023. Out of it, one of the bidder M/s Manikkaran Power Ltd offered to supply 50MW peak power @Rs 12.00/unit and another bidder M/s NTPC Vidhyut Vyapar Nigam Ltd offered to supply 50MW power @Rs 9.26/unit.
- (v) The standing committee for procurement of power constituted by the KSEB Ltd in its meeting held on 18.04.2023 recommended the following.



- (a) The tariff quoted by the trader M/s Manikaran Power Ltd is Rs 12.00/unit, which is high when compared to the prevailing market rates in the S3 region. Hence the Committee recommended to reject the offer of M/s Manikaran Power Ltd.
  - (b) Since the peak power is increasing on day to day basis, and the offer of M/s NVVNL for 50MW peak power @Rs 9.26/unit from 21.05.2023 to 31.05.2023 is aligned with the prevailing market rates, the offer of M/s NVVNL may be accepted.
  - (c) The Committee also recommended to meet the balance power deficit during peak hours by purchasing power from Day Ahead Market with maximum ceiling of Rs 10.00/unit.
- (vi) KSEB Ltd further submitted that, the bid validity of the tender is 30 days from the date of e-RA, i.e., upto 16.05.2023. Within the time limit, the LOA has to be issued to the successful bidder M/s NVVNL and PPA also has to be executed after obtaining the approval of the Commission. Hence KSEB Ltd requested grant approval for the adoption of tariff and to issue LoA to the successful bidder namely M/s NVVNL for procurement of 50 MW power for 19:00 hrs to 23:00 hrs from 21.05.2023 to 31.05.2023 at the rate of Rs 9.26/unit.
9. The Commission has also examined the procedure followed by KSEB Ltd for selecting the bidders through DEEP portal for the procurement of power on short-term basis in the month of May-2023 for the period from 21.05.2023 to 31.05.2023. The Ministry of Power, Government of India vide the notification dated 30.03.2016, notified the guidelines for short-term Procurement of Power by Distribution Licensees through Tariff based bidding process. The paragraph-5 of the bidding guidelines specifies the tariff structure to be quoted by the bidders, which is extracted below for ready reference.

*“5. Tariff Structure*

*5.1. The Procurer based on its requirement may invite the bids on round the clock (RTC) basis or for different time slots. Procurer may also provide flexibility to the Bidder(s) to bid for a part of the tendered quantity, subject to a given minimum quantity. Bid capacity offered by the Bidder shall have to be constant for the entire contract period.*

*5.2. The Bidder shall quote the single tariff at the Delivery Point upto three (3) decimals which shall include capacity charge, energy charge, trading margin (in case of Bidder being a Trader), applicable Point of Connection (POC) charges upto Delivery Point and all taxes, duties, cess etc. imposed by Central Govt. / State Govt. / Local bodies. Tariffs shall be designated in Indian Rupees only.*

*5.3. For inter-State transmission of power, state/regional periphery of the Procurer to be taken as Delivery Point. For intra-state transmission of power, inter-connection point of seller with STU/ CTU to be taken as Delivery Point.*

5.4. For avoidance of doubt, Intra-state open access charges, transmission charges and losses along with POC injection charges and loss up to the POC interface are on Seller's account and POC drawl charges and losses along with intra-state open access, transmission charges and losses are on Procurer's account.

5.5. The tariff should be constant and there shall be no escalation during the contractual period. If Bids are invited for different time slots then tariff may be different for each time slot.

5.6. If the power is being supplied through alternate source, additional charges and losses if any, due to cancellation of existing corridor and booking of new corridor etc., shall be to the account of Bidders.”

10. The Commission noted that, KSEB Ltd has followed the guidelines notified by the Ministry of Power, Government of India vide the notification dated 30.03.2016 for the selection of bidders.
11. Considering the entire aspects in detail as above, the Commission, approves the short-term power procurements proposed by KSEB Ltd for meeting the peak power deficit during the month of May-2023 from 21.05.2023 to 31.05.2023 subject to the conditions specified in this order.

**Letter of Award to M/s NTPC Vidyut Vyapar Nigam Ltd**

Period	Duration (Hrs)	Quantum (MW) on firm basis	Rate at Delivery Point i.e. Kerala Periphery	Source of Power
21.05.2023 to 31.05.2023	19:00 hrs to 23:00 hrs	50	Rs. 9.26/- (Rupees Nine and Twenty Six paise Only) per kWh	IL & FS Tamil Nadu Power Company Ltd, Tamil Nadu in the SR

**Order of the Commission**

12. The Commission, after examining the petition filed by KSEB Ltd dated 08.05.2023 seeking approval to adopt the tariff discovered in accordance with the Section 63 of the EA-2003 with M/s NTPC Vidyut Vyapar Nigam Ltd for the purchase of 50MW @9.26/unit for the period from 21.05.2023 to 31.05.2023 during the peak hours 19:00 hrs to 23:00 hrs, as per the provisions of the Electricity Act, 2003 and KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 and other relevant guidelines and procedures, hereby orders the following;
  - (1) Adopt the tariff discovered in accordance with Section 63 of the Electricity Act 2003 at the price discovered through e-RA in the DEEP portal on 17.04.2023 as detailed in paragraph 11 above.

- (2) Grant approval for entering into short term power procurement arrangement with M/s NTPC Vidyut Vyapar Nigam Ltd for meeting the anticipated peak power shortages from 21.05.2023 to 31.05.2023 as detailed in the paragraph-11 above.
- (3) The tariff shall be single part at the delivery point at Kerala periphery and include all charges such as capacity charge, energy charge, trading margin (if applicable), transmission charges upto the delivery point, and all taxes, duties, cess etc. imposed by the Central Government, State Government, Local bodies etc.

The petition OP No. 22/2023 hereby disposed off. Ordered accordingly.

Sd/-  
**Adv. A J Wilson**  
**Member**

Sd/-  
**B Pradeep**  
**Member**

Sd/-  
**T K Jose**  
**Chairman**

Approved for issue

Sd/-  
**C R Satheeshchandran**  
**Secretary**

**List of stakeholders participated in the public hearing held on 17.05.2023**

1. Shri. Jayaraj, Chief Engineer (Commercial & Tariff)
2. Shri. Rajesh.D.S, DY CE, Commercial, KSEB Ltd
3. Shri. Viju Rajan John, Chief Engineer, Transmission System Operation
4. Smt. Kavitha.C.K, Dy CE, Transmission System Operation
5. Smt. Getrude.K.G, AEE, (Market Operation), SLDC
6. Shri Suresh Kumar, EE, Load Dispatch Centre
7. Shri. Manoj.G, EE, Commercial, KSEB Ltd
8. Shri. Suresh.A, EE,TRAC, KSEB Ltd
9. Smt. Latha.S.V, AEE,TRAC
10. Smt. Anitha, EE, Commercial, KSEB Ltd
11. Smt. Heeba.S, AEE, Commercial
12. Shri Varun Vimani, Executive-BD(NVVL)
13. Shri. Prasanta Kanjilal, Manager- BD(NVVL)