

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 227 of 2023

Case of Laxmipati Balaji Supply Chain Management Limited for seeking consent for execution of Power Purchase Agreement and Adoption of Tariff for Short-Term procurement of power of 1 MW RTC from 00:00 to 24:00 hours for a period of one year from 1 February 2024, to 31 January 2025, for its FTWZ and IT/ITES SEZ at Village Sai, Tal. Panvel, Raigad.

Case No. 228 of 2023

Interlocutory Application of Laxmipati Balaji Supply Chain Management Limited for Impleadment of Respondent, M/s Manikaran Power Limited in Case No 227 of 2023.

Coram

Sanjay Kumar, Chairperson
Anand M. Limaye, Member
Surendra J. Biyani, Member

Laxmipati Balaji Supply Chain Management Limited (LBSCML) : Petitioner
V/s
Manikaran Power Limited (MPL) : Respondent

Appearance

For the Petitioner : Mr. Palaniappan Meyyappan (Rep.)
For the Respondent : Mr. Akansha Sharma (Rep.)

ORDER

Date: 01 February 2024

1. The petitioner, Laxmipati Balaji Supply Chain Management Limited (LBSCML), has filed petition on 9 December 2023 in Case No. 227 of 2023 seeking consent for execution of Power Purchase Agreement (PPA) and Adoption of Tariff for Short-Term procurement of power of 1 MW RTC (00:00 to 24:00 hours) for a period of one year from 1 February 2024, to 31 January 2025, for its FTWZ and IT/ITES SEZ at Village Sai, Tal. Panvel, Raigad. Further it has also filed an Interlocutory Application as Case No 228 of 2023 for impleadment of Respondent, (M/s Manikaran Power Limited) under Case No 227 of 2023.
2. **LBSCML's main prayers are as under:**

Case No 227 of 2023

a. Approve the Power Procurement Plan to continue short-term power procurement till 31st January, 2025;

b. Adopt the tariff of Rs. 6.40/kWh discovered through competitive bidding for procurement of up to 1 MW RTC, for a period of one year from 1st February, 2024 to 31st January, 2025;

c. Provide consent for execution of the PPA between the Petitioner and Manikaran Power Limited for procurement of up to 1 MW RTC, for a period of one year from 1st February, 2024 to 31st January, 2025;

Case No 228 of 2023

The Hon'ble Commission may be pleased to implead M/s Manikaran Power Ltd., 301, 3rd Floor, D-21, Corporate Park, Sector-21, Dwarka, New Delhi 110077, as the Respondent in the matter, and provide the necessary relief at the earliest.

3. LBSCML in its Petition has stated as follows:

Under Case No. 227 of 2023:

3.1 The Petitioner, Laxmipati Balaji Supply Chain Management Limited (LBSCML) is a deemed Distribution Licensee in SEZ area at Sai Village, Tal. Panvel, District Raigad, Maharashtra. The Commission took on record LBSCML's status as deemed Distribution Licensee vide its Order in Case No. 275 of 2018 dated 17 December 2018. Further, the Commission has also notified the MERC (Specific Conditions of Distribution License applicable to Laxmipati Balaji Supply Chain Management Ltd. for FTWZ and IT/ITES SEZ at Village Sai, Tal. Panvel, Dist. Raigad) Regulations, 2019 on 27 February 2019.

3.2 The Commission vide its Order dated 6 February 2023 in Case No. 8 of 2023 has approved the short-term PPA of LBSCML with Manikaran Power Limited (MPL) for the period of 1 year from 1 February 2023 to 31 January 2024 and adopted the tariff of Rs. 5.20/kWh for supply of 1 MW power (0.5 MW Base Load RTC and 0.5 MW peak load from 9.00 to 23.00 Hrs except Sundays and Public holidays) from MPL.

3.3 Since LBSCML's current PPA would be expiring on 31 January 2024, it is required to enter the PPA for period beyond 31 January 2024. As regards the load, the same is yet to increase, which has been recognised by the Commission in the MTR Order dated 31 March 2023. Given the uncertainty of the demand and the prevalent higher rates of power in the market, LBSCML has considered it prudent to continue with the power procurement for the short-term period under the competitive bidding route as per Section 63 of the Electricity Act, 2003 (EA, 2003)

for 1 MW RTC (at LBSCML Periphery) for the one (1) year period from 1 February 2024 to 31 January 2025.

- 3.4 LBSCML issued a Public Notice in “Free Press Journal”, Mumbai and “Navshakti”, Mumbai newspapers on 6 November 2023 for procurement of power in line with the e-Tendering and e-Reverse Auction process as per the Standard Bidding Guidelines.
- 3.5 The Request for Participation (RFP) through Tender No. LBSCML/2023-24/PP/122 dated 02 November 2023 for procurement of power from 1 February 2024 to 31 January 2025 was issued through the Discovery of Efficient Electricity Price (DEEP) Portal on the website www.mssteecommerce.com in accordance with the Standard Bidding Guidelines, without any deviations. Subsequently, Corrigendum 1 of the RFP was also published on 16 November 2023 for extension of Bid Submission Date.
- 3.6 In accordance with Clause 3.1 of the Standard Bidding Guidelines, LBSCML appointed PFC Consulting Limited (PFCCL) as the Authorized Representative to conduct the e-bidding for procurement of power for Short-Term.
- 3.7 Only one interested Trader submitted the bid on DEEP Portal till 21 November 2023, even after extension of Bid Submission date from 17 November 2023 to 21 November 2023 for supply of the desired quantum of power. The bid was technically evaluated by the Standing Committee, which comprised one external member as per the Standard Bidding Guidelines and after examining the bid documents, the Standing Committee technically qualified the single bidder to participate in the price bid scheduled on 23 November 2023.
- 3.8 The Standing Committee also noted that in accordance with Para 7.1 of the Competitive Bidding Guidelines (Short term Power procurement) dated 30 March 2016, notified by the GoI under Section 63 of the EA, 2003, consent of the Commission is required by LBSCML to continue with selection of single bidder (MPL).
- 3.9 The necessary recommendation was forwarded to PFCCL for opening the price bid and conducting the Electronic-Reverse Auction process (E-RA). The following table shows the shortlisted bidder for e-RA Auction: (List of Technically Qualified Bidders)

Name of the Bidder	Source of Power	Status
Manikaran Power Limited (MPL)	Birla Carbon India Private Limited	Technically Qualified

- 3.10 Initial Price Offer received from the interested Bidders was as follows: (Initial Price Offer (IPO) Received from Bidders)

Name of the Bidder	Quantity Offered	Source of Power	Offer Price	Ranking
MPL	1 MW	Birla Carbon India Private Limited	6.40	L1

3.11 There was no change by the bidder in the e-RA session. Thus, the final bid price discovered after e-RA was Rs. 6.40/kWh offered by MPL.

3.12 Considering that the existing bilateral contract with MPL is Rs. 5.20/kWh, LBSCML vide its Letter dated 25 November 2023 informed MPL that the rate of Rs. 6.40/kWh was on the higher side and not feasible for LBSCML, as it would increase the retail supply tariff to the consumers. LBSCML requested MPL to lower the offer so that LBSCML could proceed with the LOA. In response, MPL through its Letter dated 01 December 2023, stated that it had discussed and negotiated with their source, i.e., BPL (Birla Carbon India Private Limited) for the same and they are not able to further reduce the E-RA discovered price and stated that the E-Reverse Auction discovered price of Rs. 6.40/kWh is the best price at Maharashtra periphery.

3.13 The recently discovered tariffs on the DEEP Portal by different Distribution Licensees are tabulated below:

Sr. No.	Particulars	Period	Timings	Quantum in (MW)	Discovered Tariff (Rs/kWh)
1	West Bengal State Electricity Distribution Company Limited	From 01.04.2024 to 31.04.2024	00:00 to 24:00	90	7.53
		From 01.05.2024 to 31.05.2024	00:00 to 24:00	90	7.53
		From 01.06.2024 to 30.06.2025	00:00 to 24:00	80	7.54
2	Torrent Power Limited	From 16.09.2023 to 30.09.2023	00:00 to 24:00	50	11.00
		From 01.10.2023 to 31.10.2023	00:00 to 24:00	100	8.96
		From 01.11.2023 to 30.10.2023	00:00 to 24:00	50	8.22
		From 01.12.2023 to 31.12.2023	00:00 to 24:00	50	8.02
		From 01.01.2024 to 01.01.2024	00:00 to 24:00	50	7.89
		From 01.02.2024 to 29.02.2024	00:00 to 24:00	50	8.44
		From 01.03.2024 to 31.03.2024	00:00 to 24:00	50	8.48

Sr. No.	Particulars	Period	Timings	Quantum in (MW)	Discovered Tariff (Rs/kWh)
3	RVUNL	From 01.09.2023 to 30.09.2023	00:00 to 24:00	50	8.99
		From 01.09.2023 to 30.09.2024	00:00 to 24:00	50	10.00
4	RVUNL	From 01.11.2023 to 30.11.2023	06:00 to 18:00	50	6.25
		From 01.12.2023 to 31.12.2023	06:00 to 18:00	50	6.34
		From 01.01.2024 to 31.01.2024	06:00 to 18:00	50	7.00
		From 01.02.2024 to 29.02.2024	06:00 to 18:00	50	7.03
5	GUVNL	From 16.08.2023 to 31.08.2024	00:00 to 24:00	50	5.98
		From 16.09.2023 to 30.09.2023	00:00 to 24:00	50	5.98
		From 01.10.2023 to 31.10.2023	00:00 to 24:00	50	5.58
		From 01.11.2023 to 30.10.2023	00:00 to 24:00	50	5.32
		From 01.12.2023 to 31.12.2023	00:00 to 24:00	50	5.29
6	Noida Power Company Limited	From 01.10.2023 to 31.03.2023	00:00 to 24:00	25	6.75
Average Discovered Tariff (Rs/kWh)					7.46

3.14 The tariff discovered by LBSCML is lower than the weighted average price as well as price discovered by most of the other Distribution Licensees on DEEP Portal.

3.15 The Weighted average Market Clearing Price on the Indian Energy Exchange (IEX) in the recent past are tabulated below:

Sr. No.	Month	Weighted MCP (Rs/kWh)
1	October	6.43
2	September	6.07
3	August	6.54

3.16 After considering the present market scenario, it is observed that the rates on the Power Exchanges were in the range of Rs. 6.07 per unit to Rs. 6.54 per unit at the time of bidding and also considering the very small quantum of power requirement, the rate of Rs 6.40 per unit discovered by LBSCML is market reflective.

- 3.17 As the revised price offered by MPL is competitive and in line with current market trends, the Standing Committee recommended issuing a Letter of Award (LoA) to MPL. LBSCML has issued the LoA dated 04 December 2023 to Manikaran Power Limited. MPL has conveyed its acceptance to the LOA. Hence, LBSCML requests the Commission to adopt the tariff and provide consent for execution of PPA between MPL and LBSCML.
- 3.18 The present Petition for adoption of tariff and consent for signing of PPA is being filed within 3 days of receiving the LoA duly accepted by the winning bidder. Accordingly, LBSCML prays to the Commission to adopt the competitively discovered tariff of Rs. 6.40/kWh for a period of one year, i.e., from 1 February 2024 to 31 January 2025 for power supply up to 1 MW RTC and provide consent to sign the PPA between LBSCML and Manikaran Power Limited.

Under Case No 228 of 2023:

- 3.19 LBSCML has inadvertently missed including the winning bidder, i.e., M/s Manikaran Power Ltd., as the Respondent in the main matter. Therefore, LBSCML filed this petition registered as Case No 228 of 2023 and requested the Commission to implead M/s Manikaran Power Ltd. as the Respondent.

4. At the E-hearing held on 02 January 2024:

- 4.1 LBSCML reiterated its submission mentioned in the petition and MPL has supported the petition.
- 4.2 During the hearing the Commission directed LBSCML to submit the details of newspapers in which public Notice was published and directed to submit the reasons for not opting for retendering after receiving a single bid.

5. LBSCML's additional submission dated 03 January 2024:

- 5.1 LBSCML stated that it has issued Public Notice in Free Press Journal and Navshakti newspapers on 06 November 2023 for procurement of power in line with the e-tendering and e-reverse Auction process as per the Standard Bidding Guidelines.
- 5.2 The RfP dated 02 November 2023 for procurement of power from 01.02.2024 to 31.01.2025 was also issued through the Discovery of Efficient Electricity Price (DEEP) portal in accordance with the Standard Bidding Guidelines. In accordance with the established procedure for e-tendering through DEEP portal, PFC Consulting Ltd. (PFCCCL) informed all registered bidders/ traders through personalised emails in order to ensure adequate publicity for the competitive bidding process.
- 5.3 Thus, the advertisements in the newspapers supplement the publicity provided by PFCCCL and are not the sole avenue for inviting bids. Hence, it is submitted that

LBSCML has ensured that adequate publicity has been provided for competitive bidding process.

5.4 As regards the reasons for not opting for retendering after receiving single bid it is submitted that the discovered rate of Rs. 6.40 / unit, received through single bid is competitive vis-à-vis the prevalent market rates. LBSCML also faced the time constraints as the power flow under the new PPA must flow with effect from 1st February 2024. Therefore, LBSCML did not have sufficient time for undertaking a fresh tendering process. Further, though retendering was not done LBSCML extended the bid submission dated from 17 November 2023 to 21 November 2023. For subsequent bids the petitioner will initiate the competitive bidding process sufficiently in advance.

Commission's Analysis and Ruling:

6. The Petitioner, LBSCML is a deemed Distribution Licensee in SEZ area and the Commission took on record LBSCML's status as deemed Distribution Licensee vide its Order in Case No. 275 of 2018 dated 17 December 2018. Further, the Commission has also notified the MERC (Specific Conditions of Distribution License applicable to Laxmipati Balaji Supply Chain Management Ltd. for FTWZ and IT/ITES SEZ at Village Sai, Tal. Panvel, Dist. Raigad) Regulations, 2019 on 27 February 2019.
7. The Commission notes that LBSCML has filed this petition seeking:
 - (i) Approval of its power procurement plan to continue short-term power procurement till 31 January, 2025.
 - (ii) Adoption of the competitively discovered tariff of Rs. 6.40/kWh for a period of one year, i.e., from 1 February 2024 to 31 January 2025 for power supply up to 1 MW RTC, and
 - (iii) Approval/consent to sign the PPA with the Respondent, Manikaran Power Limited the sole winning bidder under this matter.

The Commission's ruling on above issues is given in subsequent paragraphs.

8. Issue I- Approval for Short term power procurement Plan:

8.1 In the past, the Commission vide its Order dated 06.02.2023 in Case No. 8 of 2023 has approved the short-term PPA of LBSCML with MPL for the period of 1 year from 1 February 2023 to 31 January 2024 and adopted the tariff of Rs. 5.20/kWh for supply of 1 MW power (0.5 MW Base Load RTC and 0.5 MW peak load from 9.00 to 23.00 Hrs except Sundays and Public holidays) for purchase of power from MPL.

8.2 The Commission notes that LBSCML’s current PPA would be expiring on January 31, 2024, it is required to enter the PPA for period beyond January 31, 2024. As regards the load i.e. 1 MW, the Commission notes LBSCML’s submission that the same is yet to increase, which has been recognised by the Commission in the Tariff Order dated 31 March 2023 in Case No 220 of 2022. The Commission in Tariff Order has approved power purchase quantum and rate as follows:

Table 96 : Power Purchase for FY 2023-24 and FY 2024-25, approved by the Commission (Rs. Crore)

Particulars	Source	Petition		Approved in this Order	
		FY 2023-24	FY 2024-25	FY 2023-24	FY 2024-25
Power Purchase Quantum (MU)	Manikaran Power Limited/ New Short-term Source	5.10	6.63	5.10	6.63
	Solar Purchase	0.00	0.00	0.00	0.00
	Non-Solar Purchase	0.00	0.00	0.00	0.00
	Total	5.10	6.63	5.10	6.63
Power Purchase Cost (Rs. Crore)	New Short-term Source	2.55	3.31	2.65	3.45
	Solar Purchase	0.00	0.00	0.00	0.00
	Non-Solar Purchase	0.00	0.00	0.00	0.00
	Solar RECs	0.05	0.09	0.05	0.09
	Non-Solar RECs	0.06	0.08	0.06	0.08
	Total	2.66	3.48	2.76	3.61
Power Purchase Rate (Rs/kWh)	New Short-term Source	5.00	5.00	5.20	5.20
	Solar Purchase	-	-	-	-
	Non-Solar Purchase	-	-	-	-
	Solar RECs	1.00	1.00	1.00	1.00
	Non-Solar RECs	1.00	1.00	1.00	1.00
	Total	5.22	5.25	5.42	5.45

8.3 Thus, in tariff Order, the Commission has already allowed LBSCML to procure power on short-term basis. LBSCML’s present power procurement plan is in accordance with above said Tariff Order and hence the Commission allows the same.

9. Issue II & III – Adoption of Tariff and approval for signing of PPA:

9.1 The Commission notes that LBSCML has undertaken procurement of Short-Term Power of 1 MW for the period of 1 February 2024 to 31 January 2025 as per competitive bidding guidelines notified by the Central Government under Section 63 of the EA, 2003 without taking any deviation in bidding conditions.

9.2 The Commission notes that LBSCML has issued Public Notice in Free Press Journal and Navshakti newspapers on 06.11.2023 for procurement of power in line with the e-tendering and e-reverse Auction process as per the Standard Bidding Guidelines. Further RfP dated 02.11. 2023 for procurement of power from 01.02.2024 to 31.01.2025 was also issued through the DEEP portal in accordance with the Standard Bidding Guidelines. LBSCML has also appointed PFC Consulting Ltd. (PFCCL) as Authorised Representative to conduct the e-bidding process who informed all registered bidders/ traders through personalised emails to ensure adequate publicity for the competitive bidding process. The Commission notes that the advertisements in the

newspapers as well as the publicity provided by PFCCL ensured that adequate publicity has been provided for competitive bidding process.

9.3 The Commission notes that single bidder has participated and was qualified in the bidding process and subsequently in the e-Reverse Auction process. Post E-Reverse Auction, Tariff of Rs. 6.40 per unit at Maharashtra State Transmission periphery was discovered from the single bidder MPL.

9.4 For justifying its decision to not opt for re-tendering after receiving single bid, LBSCML submitted that the discovered rate of Rs. 6.40 per unit, is competitive vis-à-vis the prevalent market rates. LBSCML also stated that it has faced the time constraints as the power flow under the new PPA has to flow with effect from 1 February 2024. Therefore, LBSCML did not have sufficient time for undertaking a fresh tendering process. The Commission also notes that though retendering was not done, LBSCML extended the bid submission dated from 17 November 2023 to 21 November 2023.

9.5 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 EA, 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.”
(Emphasis added)

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

9.6 The Commission also notes that LBSCML has carried out negotiations with the successful bidder, MPL however there is no reduction in discovered tariff of Rs 6.40 per unit.

9.7 It is pertinent to note that that the price of short-term power purchase discovered through competitive bidding by different Distribution Licensees across the country through the DEEP portal is ranging between Rs. 5.32/kWh to Rs. 11.00/kWh and the weighted average tariff is Rs. 7.46/ kWh. The Weighted average Market Clearing Price on the Indian Energy Exchange (IEX) were in the range of Rs. 6.07 per unit to Rs. 6.54 per unit at the time of bidding and considering the very small quantum of power requirement (1 MW), the rate of Rs 6.40 per unit discovered by LBSCML seems to be market reflective. Further, the Commission in its Order dated 27 September 2023 has adopted short term rate of Rs. 6.30 per unit for supply of power upto 1.5 MW on RTC basis for a year to JNPT SEZ. Tariff discovered in present matter is near to the tariff adopted vide Order dated 27 September 2023.

9.8 Section 63 of the EA, 2003 mandates the Commission to adopt the tariff if such tariff has been determined through a transparent process of bidding in accordance with the Competitive Bidding Guidelines issued by the Central Government.

*“Section 63. (Determination of tariff by bidding process):
Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”*

9.9 In view of the foregoing, the Commission notes that tariff discovered by LBSCML fulfils mandate and requirements for adoption as set out in Section 63 of the EA, 2003. Accordingly, the Commission adopts Power Procurement tariff of Rs. 6.40 per unit for supply of 1 MW (RTC) power to LBSCML for the period of 01.02.2024 to 31.01.2025 by MPL.

9.10 The Commission notes that LBSCML issued LoA to MPL vide its letter dated 4 December 2023 which was accepted by MPL. Accordingly, the Commission give consent for executing PPA with MPL for procurement of Short -Term power up to 1 MW as per the MoP Guidelines dated 31 March 2016 and its amendment dated 23 February 2022. LBSCML shall submit copy of final PPA for records of the Commission.

9.11 Having ruled as above, the Commission directs LBSCML to initiate next power procurement process well in advance so that issue of time constraint for re-tendering in case of single bidder or higher discovered tariff is avoided.

10. Hence, following Order:


ORDER

- 1. Petitions in Case No. 227 and 228 of 2023 are allowed.**
- 2. The Commission adopts the Short-Term Power Procurement for the period of 01.02.2024 to 31.01.2025 by Laxmipati Balaji Supply Chain Management Limited for its SEZ as stated in para 9.9 above.**
- 3. Laxmipati Balaji Supply Chain Management Limited, to submit copy of Final PPA to the Commission for records.**

Sd/-
(Surenndra J Biyani)
Member

Sd/-
(Anand M. Limaye)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Dr. Rajendra G. Ambekar)
Secretary

