

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 213 of 2023

Case of Nidar Utilities Panvel LLP for adoption of the Tariff and approval of the Power Purchase Agreement for the procurement of non-solar (excluding wind energy) Renewable Power of 3 MW Round the Clock or as per availability on short-term basis for a period of 12 months i.e., from 1 February 2024 to 31 January 2025.

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

Nidar Utilities Panvel LLP. (NUPLLP): ----- Petitioner

Vindhyachal Hydro Power Pvt. Ltd. (VHPPL): ----- Respondent

Appearance:

For Petitioner: Shri. Ghanshyam Thakkar (Rep)

For Respondent: Shri. Gaurav Talati (Rep)

ORDER

Date: 6 March 2024

1. Nidar Utilities Panvel LLP (NUPLLP) has filed this Case on 3 November, 2023 under Sections 63 of the Electricity Act, 2003 (EA, 2003) seeking adoption of the Tariff and approval of the Power Purchase Agreement (PPA) for procurement of Non-solar (excluding wind energy) Renewable Power of 3 MW Round the Clock (RTC) or as per availability on short-term basis for a period of 12 months i.e., from 1 February 2024 to 31 January 2025.

2. NUPLLP's main prayers are as under:

- a) Adopt the tariff of Rs. 5.00/kWh at the Maharashtra State (STU) Periphery for the Short-Term procurement of 3.00 MW power as per availability for a period of 12 months starting from 1 February 2024 to 31 January 2025, which is discovered through the competitive bidding w/s 63 of the Electricity Act, 2003.*

- b) Approve the Short-Term PPA executed between Nidar Utilities Panvel LLP and M/s Vindhyaachal Hydro Power Private Limited (VHPPL) for supply of 3.00 MW power as per availability for a period of 12 months starting from 1 February 2024 to 31 January 2025, at the Tariff of Rs. 5.00/kWh.
- c) Allow NUPLLP to initiate the process of Short-Term power procurement u/s 63 of the Electricity Act 2003 for base quantum of 3 MW since the PPA with GMR ETL is ending in June 2024 and for the additional quantum, if required, which is over and above the present quantum 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 Nidar Utilities Panvel LLP (NUPLLP) is a deemed Distribution Licensees for the Panvel SEZ having its area of supply situated in Talegaon and Panshil village of Khalapur Tehsil and Bhokarpada Village of Panvel Tehsil in Raigad District.
- 3.2 To meet its consumer's power requirement of 5.5 MW, NUPLLP has signed two short term PPAs as follows:
- a) Short-Term PPA with VHPPL for 3 MW power as per availability for a period of 12 months from 1 February 2023 to 31 January 2024. The Commission vide its Order dated 16 January 2023 in Case No. 218 of 2022 has approved the PPA.
- b) The Short-Term PPA with M/s GMR Energy Trading Ltd (“GMR ETL”) for 3 MW RTC supply for the period of 12 (twelve) months from 1 July 2023 to 30 June 2024. The Commission vide its Order dated 29 March 2023 in Case No. 9 of 2023 has approved the PPA.
- 3.3 Since the current PPA with VHPPL is expiring on 31 January 2024, to meet base load RTC requirement of 5.5 MW, NUPLLP is required to tie-up for the base quantum to meet the present load starting from February 2024.
- 3.4 For procurement of power, NUPLLP floated the Request for Proposal (“RfP”) on 12 September 2023 in accordance with the e-Tendering and e-Reverse Auction (e-RA) process laid under the ‘Guidelines for Short-Term Procurement of Power by Distribution Licensees through TBCB process’ issued by the MoP GoI dated 30 March 2016 (“Short-Term Bidding Guidelines”) and amendments thereof. The details of RfP are as follows:

Req. No.	Period	Time Block (hrs.)	Non-Solar (excluding Wind Energy) power (MW)	Minimum Bid Quantum (MW)	Delivery point
1	01/02/2024 to 31/01/2025	RTC or as per availability	3	2	Maharashtra STU Periphery

- 3.5 NUPLLP has issued the Public Notice in the two Newspapers viz. The Indian Express (Delhi Edition) and Business Standard (Mumbai Edition) on 12 September 2023, for procurement of power under e-Tendering and e-RA process.
- 3.6 In response to the Public Notice, on 25 September 2023 only a Single Bid was received from VHPPL. Technical Bid was opened on the same day. The details of the Bid received is as follows:

Sr. No.	Bids submitted online on MSTC Website	Source	Type
1.	Vindhyachal Hydro Power Private Limited (“VHPPL”)	Small Hydro - Vajra Hydro power plant Dist. Thane, Maharashtra	Intra-State

- 3.7 The Bid was technically evaluated by the Tender Evaluation Committee (“TEC”). Post examining the Bid Documents, the TEC technically qualified VHPPL for participating in the Financial /Price Bid opening followed by e-Reverse Auction (e-RA), which was scheduled on 4 October 2023.
- 3.8 On 4 October 2023 at 11:00 hrs, the Financial/Price Bid of the technically qualified VHPPL was opened. Initial Price Offered (Rs/kWh) by VHPPL was Rs. 5.00 /kWh. The e-RA was activated on the same day at 13:00 Hrs and e-RA event was concluded at 15:00 hrs. The final Price was discovered at Rs. 5.00/kWh.
- 3.9 Rate of power purchase from VHPPL i.e. Rs. 5.00/kWh is much lower than the rates discovered through competitive bidding process for short term procurement as approved by the Commission in the past.
- 3.10 Considering the aforesaid discovered rate of Rs. 5 /kWh, TEC recommended the issuance of the Letter of Award (LoA) to VHPPL subject to approval of the Commission since only Single Bidder has participated in the tender. On 5 October 2023, NUPLLP issued the LoA to VHPPL subject to the approval by the Commission. VHPPL has conveyed its unconditional acceptance of the LoA on 9 October 2023. Accordingly, NUPLLP and VHPPL executed the PPA on 11 October 2023 subject to the approval of the Commission.
- 3.11 There is a possibility that projected load may reach @ 7 MW by March 2024 end and there might be a case where there is requirement of additional power over and above the present requirement. Further, the existing PPA of 3 MW with GMRETL is ending in June 2024. In such case, NUPLLP will initiate process of Short-Term power procurement u/s 63 of the EA 2003 for the additional quantum based on the demand of Power starting April 2024 with existing PPA ending in June 2024, and will approach the Commission for adoption of tariff. NUPLLP 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, to meet the demand and continue to supply reliable power to its consumers.

4. At the time of E-hearing held on 30 January 2024:

- 4.1 NUPLLP reiterated the submission made in the Petition. NUPLLP stated that it has conducted the competitive bidding process for the procurement of non-solar (excluding wind energy) renewable power of 3 MW RTC or as per availability on short-term basis from 1 February 2024 to 31 January 2025 and requested the Commission to adopt the same.
 - 4.2 The Commission enquired with the Petitioner about details of the publication of notice in the newspapers for procurement of power and whether NUPLLP had extended bid submission timelines in view of the receipt of single Bid. It was also enquired as to why the Petitioner has not considered the option of re-bidding as only a single bidder participated. The Commission also raised the query as to why the Petitioner is not opting for procurement of power on long term basis instead of repeated short-term procurement.
 - 4.3 In reply to the queries of the Commission, representative of NUPLLP submitted that the notice was published in The Indian Express (Delhi Edition) and Business Standard (Mumbai Edition) newspapers on 12 September 2023. He further submitted that the offer received from the bidder was competitive considering the current market trend and secondly, the Generation profile of VHPPL was matching with the load profile of the NUPLLP. He further justified that since green power is made available at competitive rate and the hydro power being more reliable the Petitioner chose to go ahead with single Bid.
 - 4.4 The Petitioner also stated that the existing PPA with VHPPL is valid up to 31 January 2024 and hence requested to allow the power procurement as per the rates derived through competitive bidding for 12 months.
 - 4.5 The Commission stated that it can approve the prayer of the Petitioner to procure the power from VHPPL on short term basis from 1 February 2024 to 31 January 2024 subject to Petitioner filing undertaking within (7) days to opt for long term power procurement for meeting its future power requirement.
 - 4.6 The representative of the Respondent stated that it has no say in the matter.
5. As directed at the hearing, the Petitioner in its reply dated 31 January 2024 submitted as follows:
 - 5.1 As per the Commission's directions at the hearing, the Petitioner would initiate the process of procurement of power for the base load quantum through medium/long term PPA. It will immediately initiate the activities such as:
 - (i) Preparation of power procurement plan and filing of the Petition for approval of the Commission.
 - (ii) Floating of Tender for Medium/Long Term PPA.
 - (iii) Preparation/Filing of Petition for approval of medium/long term PPA before the Commission.

- (iv) Application for medium / long term Open Access before Maharashtra State Load Dispatch Centre and approval of the same

5.2 The Commission at the hearing has also enquired about tie-up for renewable Power with SECI having a lower rate than that proposed by NUPLLP. In this regard NUPLLP submitted as follows:

- a. 90% of the load of the Petitioner is being consumed by Data Centre HT – Industrial consumer. Data Centers are the one of the most power intensive consumers, who are also required to have reliable and RTC supply.
- b. Lower rates discovered in tenders issued by SECI are either for solar or solar & wind (Hybrid) for higher capacities. Since the power requirement of the Petitioner is 3 MW, RTC in nature, the combination of Wind & Solar will not generate much power during the morning peak of 7.30 hrs. to 10.00 hrs. and evening 17.00 hrs. to 22.00 hrs. Also, wind energy has a high degree of daily and seasonal variability (mainly from May to September) in generation which may have a significant impact on the DSM charges payable by NUPLLP. Further, at such low load levels, it will also be difficult to manage the variability associated with wind from an operational perspective.
- c. The CUF envisaged in SECI's contracts is much lower than power being supplied from the Respondent. The power availability from VHPPL's 3 MW plant is almost 15 MU with an annual CUF of 60%. Generation profile of VHPPL coupled with high CUF aligns with the load curve of NUPLLP.

Commission's Analysis and Ruling:

- 6. The Commission notes that NUPLLP is seeking approval for the following:
 - a. To adopt the tariff of Rs. 5/kWh at the Maharashtra STU Periphery and approve the Short-Term PPA with VHPPL for 3 MW power as per availability for a period of 12 months starting from 1 February 2024 to 31 January 2025, which is discovered through competitive bidding.
 - b. The existing PPA with GMR ETL ends in June 2024 and there is a possibility of an increase in demand up to 7 MW. Hence, NUPLLP sought permission to initiate the process of Short-Term power procurement under Section 63 of the Electricity Act 2003 for the quantum based on the demand of power starting from April 2024.
 - c. NUPLLP also sought permission for procurement of Power through Power Exchange for such additional quantum requirement until the entire Competitive Bidding process is concluded.
- 7. The Commission notes that to meet the demand of 5.5 MW, NUPLLP has an existing PPA with VHPPL of 3 MW valid up to 31 January 2024 and a Short-Term PPA of 3 MW with GMR ETL valid up to 30 June 2024. As existing PPA with VHPPL is expiring on 31 January 2024, NUPLLP's proposal to procure 3 MW RTC power for maintaining continuity of power

supply to its consumers is consistent with demand-supply scenario.

8. The Commission notes that NUPLLP published notice in the two Newspapers viz. The Indian Express (Delhi Edition) and Business Standard (Mumbai Edition) on 12 September 2023, and floated e-Tender through MSTC's DEEP Portal as per Standard Bidding Guidelines. The Commission further observes that NUPLLP has formulated technical evaluation committee to conduct the e-bidding as per Guidelines.
9. The Commission notes that a single bidder i.e. VHPPL participated and was qualified in the bidding process and subsequently in the e-Reverse Auction process. Post E-Reverse Auction process conducted on 4 October 2023 rate of Rs. 5.00/kWh at Maharashtra State Transmission periphery was discovered from the single bidder.
10. 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.”

...

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

11. The Commission notes that the rate discovered by NUPLLP through competitive bidding process i.e., Rs. 5.00/kWh is same as NUPLLP's existing power procurement from VHPPL for 1 February 2023 to 31 January 2024 (Case No. 218 of 2022). Further, 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 and other Distribution Licensees which are tabulated below:

Sr No	Particulars	Period	Quantum in MW	Average tariff (Rs per unit)
1.	Laxmipati Balaji Supply Chain Management Limited (Case No. 227/2023 Order dated 1 Feb 2024))	1 Feb 2024 to 31 Jan 2025	1 MW RTC	6.40
2.	MSEDCL (Case No. 190/2023 Order dated 22 Nov 2023)	1 Oct-23 to 31 Oct 2023 1Mar 2024 to 31May 2024	320 to 535 MW	7.60 to 7.90
3.	JNPT (Case No 153/2023 dated 27 Sep 2023)	1 Jun 2023 to 30 Jun 2024	Upto 1.5 MW	6.30
4.	BEST (Case No. 37/2023 Order dated 31 Mar 2023)	1 Apr 2023 to 31 Mar 2024	15 to 50 MW	7.46

12. As summarised in the above Table, the Commission notes that the rates discovered on DEEP portal are varying from Rs. 5.00 to Rs.7.90 per unit. Further, as per data from Power Exchange, the average RTC power rate for last six months is ranging from 5.45 to 5.80/kWh. Hence, considering the rate trend as summarised in the above Table and power exchange rates, the present discovered rate of Rs 5.00 per unit seems reasonable and reflective of the current market situation.
13. The Commission notes the submission of NUPLLP that the CUF of the successful bidder (VHPPL) is @ 60% and the generation profile of VHPPL is matching with the load profile of the NUPLLP. As green power is being made available at such a competitive rate, NUPLLP has chosen to go ahead with a single Bid.
14. Procuring Hydro power with high CUF of @ 60 % and that matching with its load curve requirement has multiple advantages to the NUPLLP. On one hand it is procuring RE power but not subjected to variability in generation. Also, such RE power would help NUPLLP to meet its cumulative RPO targets without incurring any additional expenses.
15. Section 63 of the Electricity Act, 2003 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.
16. In view of the foregoing, the Commission notes that tariff discovered by NUPLLP fulfills mandate and requirements for adoption as set out in Section 63 of the EA, 2003. Accordingly, the Commission adopts the following tariff for NUPLLP for the period of 12 months i.e., from 1 February 2024 to 31 January 2025.

Name of Bider	Source	Load	Tariff (Rs/kWh) with REC- Green attributes
Vindhyachal Hydro Power Private Limited (VHPPL)	Small Hydro - Vajra Hydro power plant Dist. Thane, Maharashtra	3 MW (RTC or as per availability on short-term basis)	5.00

17. The Commission notes that PPA signed on 11 October 2023 between NUPLLP and VHPPL is in line with the Guidelines. Accordingly, the Commission approves PPA signed between NUPLLP and VHPPL.
18. NUPLLP has also requested the Commission to allow 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 fulfill electricity demand of its consumers. Hence, in case its demand increases beyond the contracted capacity, it is at liberty to procure such additional power through fresh short term bidding process or through power exchanges by way of optimizing 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.

19. The Commission notes that the Petitioner in its additional submission agrees to initiate the process for procurement of long-term power for its future power requirement. Considering timeline stipulated and various activities to be completed for undertaking long term power procurement under competitive bidding guidelines, it would not be possible to contract long term power against short term PPA expiring in June 2024, hence NUPLLP is allowed to for short term power procurement against that PPA. Thereafter, NUPLLP shall ensure that it will initiate process for long term power procurement well in advance so that it can tied up its base load requirement through long term PPA.

20. Hence, following Order:


ORDER

- 1. The Petition in Case No. 213 of 2023 is allowed.**
- 2. Under Section 63 of the Electricity Act, 2003, the Commission adopts Short Term Power Procurement for the period of 1 February 2024 to 31 January 2025 by Nidar Utilities Panvel LLP as stated in para 16 above.**
- 3. Accordingly, PPA initiated with successful bidder is approved with the tariff of Rs. 5.00/kWh at Maharashtra State Periphery. Nidar Utilities Panvel LLP, to submit copies of Final PPA to office of the Commission for records.**
- 4. Nidar Utilities Panvel LLP to initiate process for long term power procurement well in advance so that it can tied up its base load requirement through long term PPA.**

Sd/-
(Surendra J. Biyani)
Member

Sd/-
(Anand M. Limaye)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Dr. Rajendra G. Ambekar)
Secretary

