



Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110 017.

No. F.11(2208)/DERC/2023-24/8028

Petition No. 14/2024

In the matter of: Petition u/S 86 read with section 63 of the Electricity Act, 2003 seeking adoption of tariff discovered through E-DEEP portal of MSTC/PFC as per MOP guidelines for purchase of power up to 200 MW from various traders/generators and for the approval of the agreements entered thereto in terms of the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 read with 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 dated 30th March, 2016 and amendment.

BSES Rajdhani Power Limited

.... Petitioner

Versus

Tata Power Trading Company Ltd. & Ors.

..Respondents

Coram:

Hon'ble Justice (Retd.) Jayant Nath, Chairperson

Appearance:

Mr. Buddy A Ranganadhan, Advocate, BRPL

Mr. Hasan Murtaza, Advocate, BRPL

Mr. Sameer Sharma, Advocate, BRPL

Mr. Ankit Sinha, Advocate, BRPL

ORDER

(Date of Order: 26.03.2024)

1. The Instant Petition has been filed seeking adoption of the tariff discovered by the Petitioner for procurement of Short-term power and the approval of the Letters of Intents (LOIs) dated 11.03.2024 issued to the Respondents, i.e. the successful bidders. In the said LOIs it was made clear that the LOIs were subject to the approval of the Commission and that upon such confirmation, they would be treated as binding Power Purchase Agreements entered into for procurement of power by the Petitioner from the Respondents.
2. The Petitioner has made the following prayers in its Petition:
 - a. Approve the procurement of power for Short Term Basis through Tariff Based Competitive bidding process to ensure availability of sufficient power during the summer season of 2024.;
 - b. Adopt the discovered weighted average tariff of Rs. 7.76/kwh, as the case may be, as per Table no.2 para no. (I) of the Instant Petition;

- c. Approve the Letters of Intent dated 11-03-2024 ("Annexure P-6 (Colly) of the Petition") issued to the Respondents and their respective confirmations received from the Respondents; under Section 63 of the Electricity Act, 2003 for procurement of power by the Petitioner from the Respondents and pass a suitable order in this regard;
 - d. Allow the Deviations from the Short-Term Guidelines as set out at Para 8 of the instant Petition
3. The Petitioner has submitted the following:
- i. On 30 March 2016, the Ministry of Power (hereinafter "the MoP") issued 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 (hereinafter "the MoP Guidelines"). As per the MoP Guidelines and more specifically under Clause 11.4 thereof, in case the quantum of power procured and tariff determined are within the blanket approval granted by the Commission in Annual Revenue Requirement (hereinafter "the ARR") of the respective year, then the same will be considered to have been adopted by the Commission. However, if that is not the case, the procurer (i.e., the Petitioner) is required to approach the Commission for adoption of tariff within 2 days of the signing of the PPA/LOI, which shall, in turn, communicate its decision within a period of 7 days from the date of submission of the Petition.
 - ii. On 31 January 2017, the Commission notified the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 (hereinafter "Tariff Regulations"). As per Regulation 152(c) of the Tariff Regulations, in case the Petitioner is desirous of entering into a short-term arrangement or agreement (other than trading through the Power Exchange) the Petitioner is mandated to follow a transparent bidding process in accordance with the extent guidelines issued by the MoP, i.e., the MoP Guidelines.
 - iii. In the ensuing financial year, i.e., FY 2024-2025, based on Delhi SLDC inputs, the Petitioner is anticipating a shortage of power in the summer season, i.e., from April'24 to September'24.
 - iv. The demand growth is reaching all time high on pan India basis, which poses a serious demand for availability of power. Further, for sake of reference, it pertinent to mention that even in the case of purchasing power from exchange is extremely difficult as Exchange clearance even during peak winter season is partial & rates are touching at its ceiling rates. Estimated

shortage of power for FY 2024-25 for the month of April 24 to September 24 as per SLDC projections are reproduced below;

Table 1: BRPL Power Supply Position for Summer's 24 based on SLDC Demand dated 20.02.24

Month	1 st fortnight					2 nd fortnight				
	00-03	03-09	09-12	12-18	18-24	00-03	03-09	09-12	12-18	18-24
April'24	301	514	579	464	211	-222	321	372	44	-135
May'24	-239	291	324	-65	-219	-613	-20	99	-442	-582
June'24	-432	143	281	-38	-307	-412	142	508	-125	-301
July'24	-404	91	354	-202	-355	-637	-3	56	-322	-546
Aug'24	-424	217	135	57	-344	-504	-159	43	-146	-401
Sep'24	-491	49	176	-80	-466	-480	51	73	-102	-391

Assumption's

- a. Demand as per SLDC mail dated 08.12.2023.
 - b. Long term availability as per SLDC mail dated 08.12.2023.
 - c. Replant availability as per BRPL system operation mail dated 11.12.2023.
 - d. Forward Banking return during Sumer's 24 is considered.
 - e. Considered Bilateral purchase after DERC Order dated 31.01.2024.
 - f. Delhi Station revised as per DERC Order dated 20.01.2024 & 31.01.2024.
- v. With reference to Summer Preparedness Meeting held with the Commission on 28.02.2024, following actions are required to be taken by Power Utilities of Delhi:
- "BRPL to ensure Power tie-up arrangements for meeting anticipated shortages upto 1002 MW for the period Apr'24 to Sep '24."*
- vi. In view of the foregoing and to avoid any power availability issue/ shortage of power in the ensuing FY 2024-25, the Petitioner has decided to procure short term power by way of a tariff based competitive bidding process and in accordance with the MoP Guidelines. To this end, the Petitioner invited bids by way of Tender No. Head (PMG)/BRPL/E Tender/2023-24/249 dated 15.02.2024 for procurement of up to 500 MW of power for the period 16th April 2024 to 30th September 2024.
 - vii. The Petitioner has floated tender for the period 16th Apr'24 to 30 Sep'24 specifically for Slot-wise purchase up to 500 MW. (0-3 Hrs and 14-24 Hrs) along

with RTC power of up to 200 MW. But, no bid received for 14:00- 24:00 Hrs and only 9% clearance for 00-03:00 Hrs slot.

- viii. The Petitioner has evaluated the quoted bids, and analysed the bid prices. However, the Petitioner has excluded the high price bids and optimised the bid process. Rest of the price discovered through bidding is in line and competitive with the earlier discovered prices of other utilities in recent tenders. Thereafter, the Committee approved to issue LOI to the Respondents on the basis of the bid process evaluation according to the provisions of the RfP document. The Tabular representation of the quantum arrived of the successful bidder from the Petitioner's Tender is produced below:

Table-2: Trader Wise Summary (e-RA dated 29.02.2024 against tender no.249)

Sl.No	Trader/Utility	Slots	Month	Quantum MU's)	Power Purchase Cost (Rs Cr)	Weighted Avg. (Rs.kWh)
1	TPTCL	RTC	June to July	91	72.96	8.00
2	GMRETL	RTC	June to July	55	41.86	7.58
3	Instinct	RTC	June to July	56	41.22	7.39
4	PTC	RTC	June to July	37	28.12	7.68
5	APPCPL	00:00-03:00	June to Sep	15	12.56	8.58
				253	197	7.76

- ix. The MoP Guidelines require approval of the Commission in case the quantum and rate of power exceed the figures approved in the ARR for the concerned year. However, while the procurement is scheduled for FY 2024-2025, as on date, there is no ARR Order passed by the Commission for FY 2024-2025. Therefore, by way of abundant caution, the Petitioner is filing the present Petition and for the purposes of the same, the Petitioner is relying on the findings of the tariff order dated 30 September 2021 wherein the Commission passed approved the ARR for FY 2021-22 (hereinafter "the Tariff Order").
- x. As per the Tariff Order, the Commission approved the following quantum and rates for the procurement of short-term power:

"4.95 In view of above, the Commission has considered Rs. 2.82/kWh from above table, which is Average Rate of FY 2020-21 as ShortTerm Purchase & Sale, wherever applicable, for FY2021-22."

- xi. The Petitioner is also seeking certain deviations from the bidding guidelines, which deviations are listed below and similar deviations had already been allowed by the Commission vide order dated 20.01.2024 in Petition No. 55/ 2023 filed by the Petitioner herein and in a similar case filed by TPDDL being Petition No. 47/2023 vide order dated 15.12.2023.

Table No.5: Deviation from (Timetable for short-term Procurement bid process and activities afterwards) of the Revised Guidelines dated 30.03.2016

S.NO	Event	Elapsed time from Zero Date	Revised Time from Zero Date	Justification
1.	Publication of RfP/ Activation of Event	Zero Date	No Revision	-
2.	Submission of RfP (on line digitally signed non-financial technical Bid and IPOs	4 days	25 days / 10 Days*	To increase the competitiveness and responsiveness to the tender based on experience of the Petitioner in the previous bidding exercises.
3.	Opening of non-financial technical Bids	5 days	25 days/ 14 Days*	To increase the competitiveness and responsiveness to the tender based on experience of the Petitioner in the previous bidding exercises
4.	Clarification, if any, sought from Bidder(s)	6 days	26 days/ 5 Days*	To increase the competitiveness and responsiveness to the tender based on experience of the Petitioner in the previous bidding exercises.
5.	In case of no clarification, evaluation of non-financial technical Bids (if e-BG is generally available to the Bidders, then the time may be taken as 5 days and subsequent adjustment be made in the remaining	7 days	Not Applicable as clarification has been issued	

	events). (In case of clarification sought, the Procurer may allow upto 7 days to the Bidder(s) and subsequent adjustment be made in the			
6.	Opening of IPOs (upto 1300 hrs) and start of eRA	8 days	27 days /14 Days*	To increase the competitiveness and responsiveness to the tender based on experience of the Petitioner in the previous bidding exercises
7.	Issuance of LOA and submission of signed LOA.	9 days	Issuance of LOA and submission of signed LOA will be after approval by the Commission	To provide operation flexibility to the Petitioner and to make room for exigencies/delays, if any.
8.	Signing of PPA	10 days	LOA will be issued to selected bidders. No separate PPA will be signed by the Petitioner in this regard.	LoA is to be treated as a binding contract. To this effect, the Petitioner has included Clause 15 in the RfP/tender document read with Clarification dated 02.11.2023

Commission Analysis

4. The instant Petition is filed for adoption of weighted average Tariff of Rs. 7.76/ kWh and approval of LOIs dated 11.03.2024 for procurement of power in the range of 200 MW from Respondents in the fortnights of April '24 and September '24. The Tariff discovered at DEEP-Portal is an e-Bidding and e-Reverse auction portal developed by MSTC/ PFC under initiative of MoP, GoI for procurement of Power on Short Term and Medium Term.
5. The salient features & General conditions of BRPL's Short Term Power Procurement Tender, as follows.
 - a) Delivery Point of Power shall be Northern Region(NR) periphery. Open Access Charges, Transmission Charges & Losses along with Point of

Connection (POC) charges & Losses, Scheduling Charges, Operating Charges, Application fee of respective Load Despatch Center upto the delivery point shall be borne by participating Generators/Traders.

b) Guideline No. 7.1 of MoP Guidelines dated 30/03/2016 mandates minimum participation of 2 bidders to ensure competitiveness.

However, it is observed that in the instant bidding process 9 nos. of Bidders participated in the tender and the Petitioner conducted the Reverse Auction on 29/02/2024.

c) The quantum for purchase of Short Term Power and discovered rates after e-reverse auction at DEEP Portal are mentioned at Annexure P-1 of instant Petition.

6. The Petitioner conducted e-Reverse Auction for Slot-wise Purchase of Power upto 500 MW i.e. 0-3 Hrs & 14-24 Hrs along with RTC Power of upto 200MW. However, no bids were received for Slot Wise Power Purchase i.e. 14-24 Hrs. The Bids were received only for upto 200 MW RTC Power and 9% clearance rate for 0-3 Hrs slot wise Power Purchase of upto 40 MW Power for June'24 to September'24.
7. The Weighted Average Rate of Rs. 7.76 /kWh discovered during E-Reverse Auction is in-line with prevailing market rates as stipulated at Table-3 & 4 of the instant Petition.
8. The Power Supply position for BRPL indicates Shortage of Power in majority of slots in Jun '24 & Jul '24, as follows:

BRPL Power Supply Position for Summer's 24										
Month	1 st fortnight					2 nd fortnight				
	0-3	3-9	9-12	12-18	18-24	0-3	3-9	9-12	12-18	18-24
Jun '24	-432	143	281	-38	-307	-412	142	508	-125	-301
Jul '24	-404	91	354	-202	-355	-637	-3	56	-322	-546
Aug '24	-424	217	135	57	-344	-504	-159	43	-146	-401
Sept'24	-491	49	176	-80	-466	-480	51	73	-102	-391

9. From above, it is noted that the Petitioner is Power Deficit in many slots of June'24 and July'24. There exists a deficit of upto 432 MW & 637 MW Power during peak hours of June'24 and July'24 respectively against which the Petitioner is procuring up to 200MW Short Term Round-the-Clock (RTC) Power along with upto 40 MW slot-wise Power i.e., 0-3 Hrs.
10. Further, it is noted that the Petitioner, BRPL, has sought approval of deviations as set out at Para-8 of the instant Petition. In order to expedite procurement process and reduce logistical redundancies, a deviation is sought by Petitioner on LOA issued to selected bidders would be construed as a binding contract between the Parties.

The said deviations are largely in line with deviations which were approved by the Commission in Petition No. 6/2023 for TPDDL vide Order dated 10.03.2023.

11. In view of above, the Commission grants approval of the following:

- a) procurement of upto 200 MW RTC Short Term Power for June '24 & July '24 & 0-3 Hrs a lot-wise Power Purchase of upto 40 MW Power for June'24 to Sept'24 at discovered Tariff, as mentioned at Annexure P-1 of instant Petition, subject to following:
 - i. The entire allocation of Power from Delhi State GENCOs shall be utilized prior to scheduling Short Term Power for June '24 & July '24;
 - ii. Loss on Sale of Surplus Power, if any, due to procurement of upto 200 MW RTC Short Term Power & upto 40 MW Slot wise purchase i.e. 0-3 Hrs will not be allowed as pass through in ARR.

However, if this arrangement fails, it shall be the sole responsibility of the Petitioner to procure & supply power to its consumers at the Tariff discovered in the said bidding process and additional liability, if any, for this quantum of Power, shall not be pass through in Aggregate Revenue Requirement (ARR) of FY 2024-25. This approval is further subject to condition that any surplus power available with BRPL during Summers of FY 2024-25 be first utilized within Delhi as required by other DISCOM under Inter DISCOM Transfer (IDT) mechanism and they must optimally schedule power from State GENCOs in Combined Cycle Mode, optimize purchase of Short Term Power and ensure 24x7 supply of Power; and

- b) The deviations as enumerated in para-8 of the Petition, are hereby approved.

12. Ordered accordingly.

Sd/-
Justice (Retd.) Jayant Nath
Chairperson