



THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Petition No. 2064 of 2024

QUORUM

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

Hon'ble Shri Sanjay Kumar Singh, Member

IN THE MATTER OF

Petition for the adoption of the Tariff and approval of the Power Purchase Agreement (PPA) based on the tariff determined under Competitive Bidding process under Section 63 of the Electricity Act, 2003, as per 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' issued by the Ministry of Power, Government of India (GoI), dated 30 March 2016 and its amendments thereof, for the procurement of upto 6.00 MW Round the Clock (RTC) power for a period of 7 months i.e. from 1 April, 2024 to 31 October, 2024 and in principle approval of purchase/sale of deficit/surplus power in Real Time Market and Day Ahead basis for its Load Management.

AND

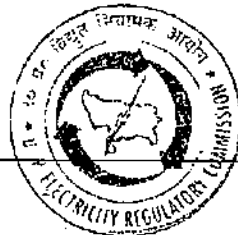
IN THE MATTER OF

NIDP Developers Pvt. Ltd., 12th Floor, Knowledge Park,
Hiranandani Business Park, Powai, Mumbai -400076

..... Petitioner

FOLLOWING WERE PRESENT

1. Shri Kunal Vohra, CEO-Power, NIDP
2. Shri Shafi Sonde, VP- Projects, NIDP
3. Shri Saurabh Gupta, Head Regulatory & Power Purchase, NIDP
4. Shri Pramod Burle, Dy. Manager, NIDP



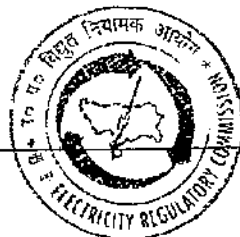


ORDER

(DATE OF HEARING: 12.03.2024)

1. The Petitioner has filed Instant Petition seeking adoption of the tariff of Rs. 6.56/kWh, discovered through the competitive bidding under section 63 of the Electricity Act, 2003, for short term procurement of power ranging in quantum from 4.00 MW to 6.00 MW and approval of the PPA dated 19.02.2024 executed between NIDP Developers Pvt. Ltd. and Tata Power Trading Company Ltd. for the quantum mentioned above. Further, Petitioner has also sought in principle approval of purchase/sale of deficit/surplus power in Real Time Market and Day Ahead basis. The prayers of the Petitioner are as follows:
 - a) Adopt the tariff of Rs. 6.56/kWh at the Uttar Pradesh State (STU) Periphery for the Short-Term procurement of power from 4.00 MW to 6.00 MW (as per the required quantum month-wise mentioned in Table 5 above) for a period of 7 months starting from 1 April, 2024 to 31 October 2024, which is discovered through the competitive bidding u/s 63 of the Electricity Act, 2003.
 - b) Approve the Short-Term PPA executed between NIDP Developers Pvt. Ltd. and M/s Tata Power Trading Company Ltd. for the quantum mentioned in Table No.5 above for a period of 7 months starting from 1 April, 2024 to 31 October 2024 at the Tariff of Rs. 6.56/kWh.
 - c) Allow the Petitioner to purchase/sell any deficit/surplus power through power exchange for its daily load management through a Trading Licensee on payment of Trading Margin.
 - d) Allow NIDP to initiate the process of Short-Term power procurement u/s 63 of the Electricity Act 2003 for the additional quantum, if required, which is over and above the quantum mentioned in Table No.5 above for which the Petitioner will approach the Hon'ble Commission for adoption of tariff and approval of the PPA.

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- e) Allow the Petitioner to procure Power through Power Exchange for such additional quantum over and above the quantum mentioned in Table No.5 until the entire Competitive Bidding process is concluded with the approval of the Hon'ble Commission, in order to continue reliability of supply to its consumers.
- f) Schedule an early hearing in the matter, as the power under this PPA is to be scheduled from 1 April, 2024.
- g) Take up the matter for urgent hearing given the short timeframe available for commencement of distribution operations.
- h) Pass any other or further Order/ Order (s) as it may deem fit and necessary for the proper and effective adjudication of the present matter

Background as submitted by Petitioner:

2. The Petitioner is primarily engaged in the business of developing and managing data centres, infrastructure facilities and other allied business activities. Petitioner is developing a hyperscale DC Park at Greater Noida. The Commission, vide its Order dated 19.06.2023 granted Distribution License (License No. 1 of 2023) to the Petitioner for carrying out the business of distribution of electricity in the Area of Data Centre Park situated at Plot No. 7, Knowledge Park – V, Greater Noida, Uttar Pradesh. Further, the Commission vide Order dated 9 February 2024 in Petition No. 2052 of 2023 has approved the procurement of power in FY 2024-25, through short term bidding route as per the guidelines of the Government of India.
3. The Petitioner floated a RFP No. NIDP DEVELOPERS PRIVATE LIMITED/Short/23-24/ET/199 dated 13 January, 2024 for procurement of the power under short term arrangement, in accordance with the e-Tendering and e-Reverse Auction (e-RA) process laid under 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' issued by the Ministry of Power, dated 30 March 2016 and amendments thereof through Discovery of Efficient Electricity Price (DEEP) Portal.

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4. The details of month wise quantum of power required and minimum Bid quantity as per the said RFP is as under:

Requisition No.	Contract Period		Slot/ Time (Hrs.)		Quantum (MW)*	Min. Bid Quantity (MW)	Delivery Point
	From	To	From	To			
1	01-04-24	31-05-24	00.00	To 24.00	4.0	4.0	Uttar Pradesh STU Periphery
	01-06-24	31-07-24	00.00	To 24.00	5.0	5.0	Uttar Pradesh STU Periphery
	01-08-24	31-10-24	00.00	To 24.00	6.0	6.0	Uttar Pradesh STU Periphery

5. The bidding process was carried out as per provisions contained in 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' issued by the Ministry of Power, Government of India (GoI), dated 30 March 2016 ('Short-Term Bidding Guidelines').
6. As per the Short-Term bidding guidelines, the Petitioner issued the Public Notice in two Newspapers i.e. Indian Express (Delhi Edition) and Business Standard (Mumbai Edition) on 13 January 2024, for procurement of power under e-Tendering and e-RA process. After conclusion of bidding process, the Tender Evaluation Committee (TEC) technically qualified the single bidder (Tata Power Trading Company Limited). On 6 February 2024, the Financial/Price Bid of the technically qualified single bidder was opened, where the Bidder had quoted Rs. 6.99/kWh as Initial Price Offer (IPO). After that e-RA was conducted and price of Rs.6.75/kWh was discovered.
7. The Petitioner initiated a rate negotiation on the e-RA discovered Price. TPTCL, vide Letter No.: TPTCL-TPTCLM-BIL-NIDP-RY-FY24-BTD-0001 dated 9 February 2024, communicated the final negotiated Price of Rs. 6.56/kWh. On 12 February 2024, the Petitioner issued the Letter of Award (LoA) to TPTCL, subject to approval of the Commission. TPTCL conveyed its unconditional acceptance to the LoA on 13 February 2024. Thereafter, the Petitioner and TPTCL have executed the PPA dated 19 February 2024 subject to the approval of the Commission. The final quantum of power and Tariff details as per the said PPA are provided as under:

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Requisition No.	Contract Period		Slot/ Time (Hrs.)		Quantum (MW)	Price (Rs./kW h)	Delivery Point
	From	To	From	To			
1.**	01-04-2024	31-05-2024	00.00	To 24.00	4.00	6.56	Uttar Pradesh STU Periphery
	01-06-2024	31-07-2024	00.00	To 24.00	5.00		
	01-08-2024	31-10-2024	00.00	To 24.00	6.00		

*The actual Schedule shall be intimated by NIDP and may vary based on the actual demand requirement."

8. During bid evaluation, the Committee also examined price discovered by other utilities in the State for their short-term power procurement on Deep Portal and observed that the price bids received by UPCL, UPPCL and NPCL are much higher as compared to the final price bid received by the Petitioner. Summary of price discovered by UPCL, UPPCL and NPCL for short-term procurement on Deep Portal is as under:

Sr.No	Particulars	Period	Quantum in MW	Tariff Range (Rs./kWh)
1	UPCL/Short/23-24/RA/128	From 01.11.2023 to 31.03.2024 (RTC Power)	150 MW to 250 MW	6.48 to 8.01
2	PFC Consulting Limited/Short/23-24/RA/207 for UPPCL	From 01.04.2024 to 30.09.2024 (RTC & Peak Power)	750 MW to 1900 MW	9.68 to 12.00
3	Noida Power Company Limited/Short/23-24/RA/178	01.05.2024 to 30.09.2024 (RTC Power)	70 to 150 MW	6.60 to 10.21

9. There is variation in demand on daily/monthly basis due to various reasons including seasonal variation, variation in temperature, humidity, holidays etc.. Therefore, it is essential for the Petitioner to manage the demand and supply for every time block on daily basis, which it may do either by selling the power in case of surplus due to lower demand or purchase additional power, if demand is higher in case of short term procurement. Such variation in demand (shortfall/surplus) would be handled through Power Exchange.

10. Further, considering that the volume to be traded on the Power Exchange would be low, it would be more economical to tie up with a trader and pay a trading margin

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instead for handling such operations on Power Exchange. Therefore, the Commission is requested to allow the Petitioner to appoint a Trading Licensee and allow trading margin to be recovered in the ARR subject to prudence check by the Commission.

Record of Proceedings:

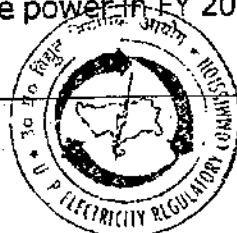
11. The matter was heard on 12.03.24. During the course of hearing, Sh. Saurabh Gupta, Representative of the Petitioner submitted that instant Petition has been filed for seeking adoption of the tariff of Rs. 6.56/kWh for procurement of power from 4.00 MW to 6.00 MW pursuant to RFP dated 13 January, 2024 and approval of the PPA dated 19.02.2024 executed between NIDP Developers Pvt. Ltd. and Tata Power Trading Company Ltd. Further, Sh. Gupta also stated that the final price in the bid of the Petitioner, received from TPTCL, is lower than the price discovered by other utilities in the State for their short-term power procurement on Deep Portal.
12. Sh. Gupta, further contended that there may be a variation in the load growth projected by the Petitioner and it would result in some amount of surplus power available with the Petitioner. In such a scenario, the Petitioner may be allowed to sale surplus power in the exchange. On a query of the Commission regarding quantum of surplus power, Sh. Gupta responded that surplus power up to 10% of the contracted quantum may be available with the Petitioner from June 2024 onwards. In response to another query of the Commission w.r.t carrying out the sale/purchase of surplus/deficit power through a Trading Licensee, Sh. Gupta submitted that it would be more economical to tie up with Trader and pay a trading margin instead for handling such operations on Power Exchange, which would require the Petitioner to become member of Power Exchange and to incur Membership Fees/Security Deposit/Annual Subscription Fee and additional manpower cost.

Commission's View

13. The Commission vide its Order dated 09.02.2024 in Petition No. 2052/2023, on the prayer of NIDP, allowed NIDP to purchase power in FY 2024 - 25, through short

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term bidding route as per the Guidelines of the Government of India. The relevant extract of the said Order is reproduced as under:

- "8. The Commission is of the view that since there is a very short period left in commencement of operations by the Petitioner, it is not possible to initiate the procurement process as per the guidelines of Ministry of Power, Government of India for procuring power for the month of March, 2024. In regard to procurement of power from FY 2024-25, the Commission is of the view that the business of Data Centers is at a very nascent stage, as present, only one data center building is in operation. The remaining buildings are still in development phase. So, the concerns are there not only from the perspective of consumption pattern but also from the angle of load growth in the area of Petitioner. Hence, there is uncertainty with respect to load that will come up in future, which will depend on business proliferation in the data center as well as development of infrastructure amongst other factors.*
- 9. In view of this, the Commission allows procurement of power in FY 2024.25, through short term bidding route as per the guidelines of the Government of India. The Petitioner must ensure that the power purchase price is within the limits to make its distribution business (as per UPERC MYT Regulations, 2019) viable at the tariffs being charged by the Petitioners. The Petitioner should also ensure that the approval of Commission is sought before commencement of schedule of short-term power."*
14. The Petitioner has confirmed that discovery of tariff has been carried out through transparent process of bidding and in accordance with the Guidelines issued by the Ministry of Power, Government of India. The Commission has noted that only single bidder was qualified for participating in the e-Reverse Auction, however, the final price in the bid of the Petitioner, received from TPTCL, is lower than the price discovered by other utilities in the state for their short-term bid during the period similar to the contract period of the Petitioner.
15. **Therefore, in view of the above, the Commission adopts the tariff of Rs. 6.56/kWh for procurement of power from 4.00 MW to 6.00 MW for period from 1 April, 2024 to 31 October 2024 and approves the PPA dated 19.02.2024 for procurement of power by NIDP Developers Pvt. Ltd. from Tata Power Trading Company Ltd. Further, keeping in view the variation**

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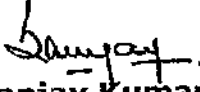
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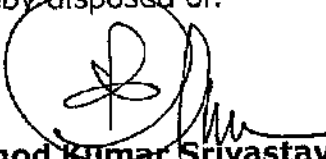




in load growth in the area of the Petitioner, the Commission allows the Petitioner to sell surplus power up to 10% of the contracted quantum from June 2024 onwards in the power exchange through Trading Licensee.

Accordingly, the Petition is hereby disposed of.


(Sanjay Kumar Singh)
Member


(Vinod Kumar Srivastava)
Member (Law)


(Arvind Kumar)
Chairman

Place: Lucknow

Dated: 19.03.2024

