



**TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
HYDERABAD.
5th Floor, Singareni Bhavan Lakdikapul Hyderabad 500004**

O. P. No. 6 of 2019

Dated: 21.12.2019

Present

Sri. T. Sriranga Rao, Chairman
Sri. M.D. Manohar Raju, Member Technical
Sri. Bandaru Krishnaiah, Member Finance

Between:

1. Southern Power Distribution Company of Telangana Ltd.,
6-1-50, Mint Compound, Hyderabad, Telangana – 500063
 2. Northern Power Distribution Company of Telangana Ltd.,
H.No. 2-5-31/2, Corporate Office, Vidyut Bhavan,
Nakkalgutta, Warangal – 506001
- Petitioners.

AND

1. M/s. PTC India Ltd., 2nd Floor, NBCC Towers, 15,
Bikaji Cama Place, New Delhi – 110 066.
 2. M/s. RKM Powergen Pvt. Ltd., 14,
Dr. Giriappa Road, T. Nagar, Chennai – 600 017.
- Respondents.

This petition came up for hearing on 21.12.2019. Sri. Y. Rama Rao, Standing Counsel for the petitioners appeared, Sri Ravi Shankar, AVP alongwith Sri. Harish Savan, E. D. for the respondent No.1 and Sri. Mohan Menon, representative of the respondent No.2 appeared on 21.12.2019. This petition having stood over for consideration to this day, the Commission passed the following:

ORDER

M/s. Southern Power Distribution Company of Telangana Limited (TSSPDCL) and M/s. Northern Power Distribution Company of Telangana Limited (TSNPDCL) being TSDISCOMs (petitioners) have filed a petition under section 86 (1) (b) read

with section 63 of Electricity Act, 2003 (Act, 2003) seeking approval of the tariff discovered through competitive bidding in respect of procurement through Power Trading Corporation of India Limited (PTC).

2. The petitioners stated that with the enactment of Andhra Pradesh Reorganization Act, 2014 (Central Act No. 6 of 2014), the Telangana state has been carved out from the undivided Andhra Pradesh State as the 29th state of the Republic of India on 02.06.2014. On account of state bifurcation, the 2 districts, Ananthapur and Kurnool have been delinked from APCPDCL and merged with APSPDCL in accordance with the provisions of Central Act No 6 of 2014 vide G.O. Ms. No. 24, dated 29.05.2014, consequently the name of Central Power Distribution Company of Andhra Pradesh Limited has been changed to TSSPDCL and Northern Power Distribution Company of Andhra Pradesh Limited to TSNPDCL

3. The petitioners stated that pursuant to the enactment of the Central Act No. 6 of 2014 notified by Government of India (GoI) on 01.03.2014, the erstwhile Commission of the undivided state of Andhra Pradesh has issued Regulation No. 3 of 2014 (Reorganization) Regulation, 2014 on 26.05.2014. Clause 3 of the said regulation is extracted below:

“All the notified regulations as well as their supplementary regulations / amendments, rules, orders, proceedings, guidelines, memos, notifications, other instruments issued immediately before 2nd June, 2014 by the APERC for conduct of business and other matters shall fully & completely apply to the whole of the states of Telangana and Andhra Pradesh and shall similarly apply in relation to all matters falling within the jurisdiction of the Commission until they are altered, repealed or amended by the respective State Electricity Regulatory Commissions.”

In accordance with the above regulation, all the regulations framed by erstwhile APERC shall continue to apply to the State of Telangana. Subsequently Commission vide Telangana Official Gazzette has issued its first regulation, Regulation No. 1 of 2014 on 10.12.2014 (Adoption of previously subsisting Regulations, Decisions, Directions or orders, Licenses and practice of directions). Clause 2 of the said regulation reads thus:

“All regulations, decisions, directions or orders along with all the licences and practice directions issued by the erstwhile Andhra Pradesh Electricity Regulatory Commission (Regulatory Commission for States of Andhra Pradesh and Telangana) in existence as on the date of the constitution of the Telangana State Electricity Regulatory Commission and in force, shall mutatis – mutandis apply in relation to the stakeholders in electricity in the State of Telangana including the Commission and shall continue to have effect they are until duly altered, repealed or amended by any of the Regulation by the Commission with effect from the date of notification as per notification issued by the Government of Telangana in G.O. Ms. No. 3 Energy (Budget) Department, dated 26.07.2014 constituting the Commission.”

The Commission pursuant to the applicable provisions of the Andhra Pradesh Electricity Reform Act, 1998, and the Electricity Act, 2003, has been vested with important functions towards implementation of the reform of the power sector in Telangana.

4. The petitioner stated that the present petition is being filed by the TSDISCOMs under section 63 (adoption of tariff) read with section 86 (1) (b) of Act, 2003 seeking approval of the Commission for payment of tariff of Rs. 4.24 / KWH, which was discovered through competitive bidding (DEEP E – Bidding Portal) process, in addition to the trading margin of Rs. 0.05 / Kwh for procurement of 550 MW power for a staggered period of 6 months (i.e., February, March, April & July, August, September) in a year for 3 years under the Pilot Power Supply Agreement dated 27.10.2018 entered between TSDISCOMs and the aggregator PTC, through the generator M/s RKM Powergen which had participated in the bidding under the Pilot Scheme – I for stressed thermal assets notified by Ministry of Power (MoP), Gol.

Factual Back Ground:

5. The petitioners stated that the Gol, MoP, vide its letter dated 06.04.2018 introduced a pilot scheme to facilitate procurement of aggregated power of 2500 MW for three years covered under the medium term from generating companies having coal based power plants. Subsequently, Gol, MoP vide its resolution No. 23 / 17 / 2013 – R & R (Vol – IV), dated 10.04.2018 issued guidelines (guidelines) under

section 63 of the Act, 2003 for procurement of power under pilot scheme for medium term through PFC Consulting Limited as nodal agency and PTC India Limited as aggregator. The salient features of the guidelines are incorporated hereunder:

- a. The guidelines are applicable for procurement of power through tariff based competitive bidding to be conducted by PFC Consulting Limited (PFCCL) as nodal agency. In order to facilitate the procurement and supply of power between the successful bidders and the distribution licensees(s), PTC acting as the aggregator would sign pilot agreement for procurement of power (PAPP) for procurement of power with the successful bidder(s) and back to back Pilot Power Supply Agreement (PPSA) with the distribution licensees.
- b. PAPP and PPSA under these guidelines are applicable for a period of three years.
- c. The tariff shall comprise of fixed charges of Rs. one paisa / kWh and variable cost to be quoted by the bidders in accordance with the Standard Bidding Documents.
- d. For supply of power, the trading margin would be as approved by the appropriate Commission.
- e. The tariff determined through the DEEP e – Bidding portal based on the guidelines shall be adopted by the appropriate Commission as per the provisions of the Section 63 of the Act, 2003.
- f. Deviation if any from the model pilot bidding documents to be made by the nodal agency, aggregator or distribution licensees shall be made with prior approval of the appropriate Commission.

6. The petitioner stated that while so, the CMD / PTC India Limited, has addressed CMD / TSTRANSCO vide letter dated 10.04.2018, requesting to communicate in – principle consent of TSDISCOMs for purchase of power under the said scheme along with indicative power quantum (MW), on RTC basis, which request may be finalized after the tariff is discovered under the scheme. As per the guidelines, PFCCL issued bid for procurement of power on DEEP e – bidding portal under the pilot scheme on 01.05.2018. The bid of successful bidder(s) was opened on 06.07.2018 and RKM power emerged as lowest bidder (L – 1) with quoted tariff of Rs. 4.24 / KWH to supply 550 MW of power. L – 1 price was matched by total

capacity of 1900 MW only. In the bidding process, the tariff L1 price discovered is Rs. 4.24 / KWH corresponding to minimum off take of 55% and the DISCOMs were offered a discount of 1% of the applicable tariff for incremental 5% off take beyond 55% of the contracted capacity. Further, the tariff discovered is fixed for the entire three years duration of agreement without any escalation and there will be no fixed / capacity charge liability for non – off take period.

7. The petitioners stated that as lift irrigation loads was anticipated by Irrigation Department, Govt. of Telangana(GoTS) for the FY 2019 – 20 onwards in respect of prestigious schemes of Mission Bhagiratha & Kaleswaram Lift Irrigation Projects it was proposed to purchase 550 MW power from the above scheme for a staggered period of six months (July to September and February to April) in a year for all the three years from 2019 to 2021 based on the load profile of the TSDISCOMs. The aggregator, PTC has offered to supply 550 MW power to TSDISCOMs from M/s RKM Powergen located at Chhattisgarh (where back to back PPA exist between RKM Powergen and PTC India Ltd). Accordingly, power supply agreement and supplementary agreement were entered on 27.10.2018 for purchase of 550 MW RTC power for a staggered period of 6 months in a year for 3 years. PTC has signed back to back PAPP with generator RKM Powergen, located at Chhattisgarh on 26.10.2018.

8. The petitioners stated that pursuant to the execution of PSA between TSDISCOMs and M/s PTC, TSDISCOMs vide letters dated 04.10.2018, 02.11.2018, 28.12.2018 requested Commission for according in – principle approval to the PSA and supplementary agreement for procurement of 550 MW power on RTC bass for a staggered period of 6 months in a year for 3 years under medium term through the pilot scheme. Commission vide letter dated 30.11.2018 has directed to justify the need for purchase of 550 MW power for three years along with the expected loads, power availability and expected shortfall of power in three years. A presentation was made before Commission on 04.12.2018 and the revised demand forecast as directed by the Commission vide letter dated 13.12.2018. It is stated that the Commission vide letter dated 29.12.2018 has accorded 'in – principle approval' for the procurement of 550 MW power for 6 months period in a year for 3 years under pilot scheme of MoP, Gol, on the condition that the PSA submitted for consent would

be considered in respect of amendments and modifications, if any, which will be communicated separately after thorough examination as per the present in – principal approval is been accorded.

9. The petitioners stated that M/s. South Eastern Coal Fields Limited (SECL) being the fuel supplier to the generator M/s. RKM Powergen vide letter dated 24.01.2019 has been insisting the generator for the approval of Commission for payment of tariff by TSDISCOMs to the aggregator / PTC for release of fuel linkage to M/s. RKM Powergen. After the issuance of the 'in principle approval dated 29.12.2018', the Hon'ble Chairman of TSERC has demitted his office on completion of the tenure on 09.01.2019. Subsequently, vide G.O. Ms. No. 16 dated 23.10.2019, the GoTS has appointed the Chairman and Members to the TSERC. The Hon'ble TSERC started functioning from 30.10.2019. As M/s. SECL insisted on approval of tariff by the Commission, the coal was not allocated and the power supply was not commenced to TSDISCOMs from the generator, M/s. RKM Powergen till date. After appointment of the Chairman and Members to the TSERC, PTC, vide letter dated 05.11.2019, has sought TSDISCOMs to arrange for approval of tariff by the Commission u/s 63 of Electricity Act, 2003 along with the trading margin of Rs. 0.05 / KWH as required under PPA / PSA.

10. The petitioners stated that as per the clause 4.1.2 & recital / preamble 'F' of PSA dated 27.10.2018 entered between PTC and TSDISCOMs, the TSDISCOMs shall obtain the approval of the commission for payment of tariff to the aggregator that is 4.24 / kWh discovered through competitive bidding conducted by the nodal agency / PFC under section 63 of the Act, 2003 along with an additional trading margin of Rs. 0.05 / KWH. In this regard a letter dated 11.11.2019 has been addressed to the Commission requesting for according the approval for payment of tariff of Rs. 4.24 / KWH as the tariff discovered in the bidding process and tariff to be adopted by the Commission u/s 63 of Act, 2003 in addition to the trading margin of Rs. 0.05 / KWH payable as per the PSA for supply of 550 MW power by the aggregator to TSDISCOMs for a staggered period of 6 months in a year for 3 years under Pilot Scheme – 1. In the aforesaid facts and circumstances, the applicants request that the Commission may be pleased to

“Issue necessary orders for adoption of tariff for procurement of power of 550 MW for staggered period of 6 months in a year for 3 years through M/s PTC India Limited with levelized tariff Rs. 4.24 / kWh along with an additional trading margin of Rs. 0.05 / kWh under Ministry of Power notified Pilot Scheme for procurement of aggregated power of 2500 MW for three years (under Medium Term) under section 63 of Electricity Act, 2003, and may also approve PSA.”

11. We have heard the counsel for the petitioners and the representatives of the respondents. We have also perused the material on record as also the material placed before us vide letter dated 10.12.2019 pursuant to our directions.

12. The counsel for the petitioners stated that the Commission had earlier accorded in-principle approval by letter dated 29.12.2018 for procurement of the capacity to meet the demand of the state. However, the Commission is now required to pass orders duly adopting the tariff discovered through bidding process. The Act, 2003 mandates the Commission to adopt the tariff if it is discovered through a transparent competitive bidding process. It is stated that there is an urgency for the petitioners to obtain approval of the procurement being sought to be made under the scheme notified by the Government of India in view of ensuing rise in demand due to various government schemes. Non-approval of the rate will cause irreparable loss to them.

13. It is also their contention that the tariff discovered through competitive bidding process has been adopted by the Central Electricity Regulatory Commission in the context of the procurement made by the 1st respondent for undertaking sale to the distribution companies. On the other hand, the representatives of the respondents have urged that unless the Commission accords its approval to the rate discovered, coal allocation etc. would not happen. The dead line for allocation of coal from April, 2020 would expiry on 23.12.2019. Therefore, the Commission may expeditiously pass necessary orders approving the rate discovered in the bidding process and also consent to PSA.

14. In view of the discussion in the foregoing paragraphs, we deem it appropriate to adopt the tariff of Rs. 4.24 ps. per KWH alongwith trading margin of Rs. 0.05 ps. per KWH. At this stage, we notice that several other Commissions have undertaken

approval of the tariff discovered by the 1st respondent under the Government of India scheme in terms of the guidelines specified by it under section 63 of the Act, 2003.

15. The Commission observes that the tariff has been discovered through a transparent process of bidding that is through national level competitive bidding conducted by PFCCL on DEEP portal as per guidelines dated 10.04.2018 issued by the Government of India vide notification No. 23 / 17 / 2013-R & R (Vol. IV).

16. Considering the above facts and to ensure quality and reliable supply, the Commission approves the PSA and adopts the tariff for procurement of 550 MW power under Ministry of Power notified pilot scheme for staggered period of 6 months in a year for 3 year through M/s. PTC Limited with tariff Rs.4.24/kWh along with trading margin of Rs.0.05 / KWH under section 63 of Electricity Act 2003. The petition is disposed of accordingly.

This order is corrected and signed on this the 21st day of December, 2019.

Sd/- (BANDARU KRISHNAIAH) MEMBER	Sd/- (M.D. MANOHAR RAJU) MEMBER	Sd/- (T.SRIRANGA RAO) CHAIRMAN
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