

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : Shri. Preman Dinaraj, Chairman
Adv. A.J Wilson, Member (Law)

OP No 44/2021

In the matter of : Petition seeking approval for procuring 270MW
RTC power on medium term basis, through PTC,
the Aggregator appointed by MoP under Pilot
Scheme II, for the period from January to June in a
year for three years with the date of
commencement of supply from 01.01.2022
onwards

Petitioner : Kerala State Electricity Board Limited
KSEB Ltd represented by : Smt. Latha S V, A EE
: Smt. Meena, AEE

Respondent 1 : PTC India Ltd (PTC),
PTC represented by : Sri Sunil Jaisawal
Sri Ravi Kishore

Respondent 2 : Jindal India Thermal Power Ltd (JITPL)
JITPL represented by : Sri Matrugupta Mishra, Advocate
Smt. Ritika Singhal, Advocate
Sri. Pulak Srivasthava, Dy General Manager

Date of the hearing : 28.09.2021

Order dated 07.10.2021

1. KSEB Ltd on 10.09.2021, filed a petition before the Commission for the approval for procuring 270MW RTC power on medium term basis, through PTC, the Aggregator appointed by MoP under Pilot Scheme II, for the period from January to June in a year for three years with the date of commencement of supply from 01-01-2022 onwards, by signing a Supplementary Agreement along with the PSA issued as per MoP guidelines.
2. Summary of the petition filed by KSEB Ltd is given below:

- (1) Ministry of Power (MoP), Government of India (GoI), vide notification dated 1st February 2019 had notified the Guidelines for procuring aggregated power of 2500MW under Pilot Scheme-II for three years under Medium Term. The guidelines are devised to facilitate procurement of aggregated power from the generating companies having coal-based power plants which are already commissioned and without having a PPA. PFC Consulting Limited (PFCCL) is the nodal agency and PTC is the Aggregator under the Scheme. As per the guidelines, the Aggregator will sign PPA with the successful bidder(s) and also sign back to back PSA with the DISCOMs.

MoP, GoI, has also issued the bidding documents comprising of (i) Bidding documents for Pilot Scheme-II, (ii) Draft PPA and (iii) Draft PSA, to be adopted by the Nodal agency for procurement of power from the power producers through a process of open and transparent competitive bidding through an electronic platform (DEEP e-Bidding Portal) based on offer of the lowest tariff.

The tariff consists of the Base Fixed Charge and the Base Variable Charge for Supply of Electricity (the "Tariff"). The Bidder shall quote a Tariff comprising of Base Fixed Charge and Base Variable Charge. Base Variable Charge shall comprise of the generating cost of electricity, the transmission charges and the transmission losses upto the Delivery Point. The Bid for the Project shall, therefore, comprise of the Base Fixed Charge and the Base Variable Charge and the Bidder seeking the lowest Tariff shall be the Selected Bidder.

Based on its Bid, a tariff shall be paid to the Supplier comprising of (a) a Fixed Charge, as per the provisions of Article 11 of the APPP-II, which shall be constant for the entire term of the PPA.

(b) Variable Charge, is liable to be increased for every Accounting Year following the Base Year so as to reflect 50% (fifty per cent) of the variation in WPI occurring between January 31 immediately preceding the Base Year and January 31 immediately preceding the Accounting Year for which such revision is undertaken. As per definitions "Base Year" means the Accounting Year in which the Bid was received;

In addition to the above, the DISCOM has to pay trading margin also to the aggregator. The trading margin to be paid by DISCOM to PTC is Rs 0.0173/kWh.

The inter-state transmission charges and losses from the delivery point upto the periphery of the DISCOM also has to be borne by the DISCOM.

- (2) PFCCL conducted tariff based competitive bidding in DEEP e bidding portal on 7.2.2020. The tariff derived through competitive bidding is Rs 3.26/unit at CTU interconnection point for the 2500MW power.

- (3) The Aggregator PTC on 18.02.2020 requested KSEB Ltd to inform the requirement of power under the scheme. However due to the drastic reduction in demand due to the outbreak of Covid-19 pandemic, KSEB Ltd has not considered the request and informed PTC accordingly.
- (4) Meanwhile, the electricity demand of the State started slowly picking up consequent to the lifting of Covid-19 restrictions. On analyzing the 'Load Generation Balance (LGB) for the next three years, it is found that, there will be power deficit during summer months whereas there will be surplus power during monsoon months. Hence KSEB Ltd decided to negotiate with PTC for scheduling power for a period of six months from January to June in a year.

KSEB Ltd also submitted that, subsequent to the notification of the new CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2020, on 7-1-2021, the scheduling of power from Pilot scheme under STOA, will be beneficial as no transmission charges has to be paid for the power scheduled under STOA as per the new ISTS Regulations, 2020. Thus, the landed cost at Kerala Periphery will be the discovered tariff of Rs. 3.26/kwh plus the applicable trading margin of Rs0.0173/kwh and losses.

PTC explored the possibility as requested by KSEB Ltd. PTC, on 04.03.2021, informed that, one of the successful bidder M/s Jindal India Thermal Power Ltd (JITPL) who have offered 270MW capacity under Pilot Scheme-II agreed to supply power under the scheme for the period as proposed by KSEB Ltd from January to June every year for a period of three years. PTC/JITPL is also ready to supply power for additional months in case KSEB Ltd confirm the same before the execution of the PSA.

- (5) The details of the proposed power procurement are as follows:
 - (i) The delivery point of the power to be supplied through Pilot Scheme II is CTU interconnection point with the Power Station.
 - (ii) The discovered tariff at delivery point is Rs 3.26/kwh wherein Fixed Charge (FC) is Rs 1.63/kwh and Variable charge (VC) is Rs. 1.63/kwh.
 - (iii) The fixed cost shall remain constant for the entire contract period.
 - (iv) Variable cost shall be increased for every Accounting Year following the Base Year so as to reflect 50% (fifty per cent) of the variation in WPI occurring between January 31 immediately preceding the Base Year and January 31 immediately preceding the Accounting Year for which such revision is undertaken.
- (6) KSEB Ltd further submitted that, since the entire approved LTA quantum is not utilized by KSEBL during every month due to annual overhauling of generators and unscheduled shutdown, it is expected that there would be sufficient margin within the approved LTA quantum of KSEB Ltd to accommodate this power. Hence, no additional transmission charges would be required if the power scheduled through Medium Term basis is within the LTA granted to KSEB Ltd, by PGCIL.

- (7) KSEB Ltd also pointed out that, they are exploring the possibilities to come out of the PPAs of old CGS as per the guidelines notified by Ministry of Power vide MoP notification no. 23/23/2020-R&R dated 22-03-2021, wherein the DISCOMs can either continue or exit from the PPA after completion of the term of the PPA i.e., beyond 25 years or a period specified in the PPA and allow flexibility to the generators to sell power in any mode after State/DISCOM exit from PPA. Two CGSs, (i) Ramagundam STPS -I&II (KSEB Ltd allocation 245MW) and (ii) NLC Stage -I&II (KSEB Ltd allocation 153MW), with a total capacity of 398MW) already completed 25 years of operation after COD. The rate of power from these Stations at Kerala periphery comes to around Rs.4.00/unit, and will increase by another Rs.0.40/unit with the implementation of emission standards. If these PPAs are excluded from the Load Generation Balance (LGB), the power deficit will further increase by another 400MW.
- (8) The expected tariff at delivery point during 2021-22 would be Rs 3.32/unit (FC-Rs 1.63/unit and VC- Rs 1.68/unit after applying WPI as on date), plus trading margin of Rs 0.0173/unit. Further the inter-state transmission losses as approved by the RPCs also has to be borne by the DISCOMs. KSEB Ltd submitted that the rate is reasonable when compared with the existing contracts of KSEB Ltd.
- (9) Considering the above, KSEB Ltd decided to proceed with procuring 270MW RTC power offered by PTC under Pilot Scheme II for the period from Jan to June with the date of commencement of supply from 01-01-2022 onwards. As per the PSA, the contract period will start only from appointed date onwards i.e. date on which all the conditions precedents are waived or satisfied, prior to which approval from Hon'ble KSERC has to be obtained for the payment of the tariff discovered. Conditions precedent includes approval of KSERC for payment of Tariff.
- (10) PTC forwarded the draft PSA proposed to be executed between KSEB Ltd and PTC (Aggregator). PTC has also proposed to sign the PSA with KSEB Ltd without making any deviations from the Standard bidding document issued by PFCCL/MoP. The major modification required by KSEB Ltd for restricting the supply to a period 6 months in a year, without any liability for the remaining period, is agreed by PTC. Modifying this PSA to incorporate the requirement of KSEB Ltd can be construed as taking a deviation from MoP guidelines for Pilot Scheme II. The price (Tariff) also discovered in the DEEP portal without this deviation. In the MoP guidelines dated 17-01-2017 for the procurement of power for medium term on Finance Own Operate (FOO) basis, it is mentioned that any deviation from Model bidding Documents shall be made only with the prior Approval of Commission. Further it is observed that PFCCL has conducted the bidding procedure without taking any deviations from the SBDs. No specific instructions are observed in the draft PSA under Pilot Scheme II in respect of taking any deviation other than the customization of the document. Therefore, to incorporate the specific requirement of KSEB Ltd i.e. restricting the supply to a period 6 months in a year, without any liability for the remaining period, it was suggested that instead of modifying the terms and conditions of

the draft PSA, a supplementary agreement may be executed between KSEB Ltd and PTC (the Aggregator). The draft PSA and draft supplementary agreement prepared for the same are enclosed with the petition.

- (11) Taking into consideration, the requirement of power by KSEB Ltd in the coming years and the reasonable rate, clubbed with the consent to provide power as per their requirement, KSEB Ltd has requested for the approval of the Commission for procuring 270MW RTC power on medium term basis, through PTC, the Aggregator appointed by MoP under Pilot Scheme II, for the period from January to June in a year for three years with the date of commencement of supply from 01-01-2022 onwards by signing a supplementary agreement along with the PSA issued as per the MoP guidelines.
- (12) It is further submitted that since commencement of supply of power is scheduled from 01-01-2022, open access application for drawing power has to be made at least 3 months prior to the start date of supply of power for advance scheduling in case of short-term open access, as per the Regulations of CERC. The open access application is valid only if it is accompanied by PPA. Hence KSEB Ltd requested for early hearing and approval to proceed with the procurement.

3. The Commission admitted the petition as OP 44/2021. Hearing of the petition was held on 28.09.2021 through video conference. Smt. Latha S V, AEE presented the petition on behalf of KSEB Ltd. Sri Matrugupta Mishra, Advocate presented the matter on behalf of the Jindal India Thermal Power Ltd and Sri Ravi Kishore, and Sunil Jaisawal represented PTC India Ltd (PTC). The summary of the deliberations during the hearing is given below:

- (1) KSEB Ltd submitted that, the MoP, Gol, notified the guidelines for medium term power procurement Pilot Scheme II on 30th January 2019 along with bidding documents. PFC Consulting Ltd (PFCCL) is the nodal agency and PTC is appointed as the aggregator.

As per the bidding guidelines, the tariff consists of two parts (i) Fixed charge (FC) and (ii) Variable charges (VC). The FC shall remain constant for the entire term of the PSA for three years. During the PPA period, the base VC shall be subject to increase to reflect 50% variation in WPI between 31st January of the immediately preceding base year and 31st January immediately preceding the accounting year for which such revision is undertaken.

PFCCL conducted the tariff based competitive bidding in DEEP e-portal on 07.02.2020. The tariff discovered at CTU interconnection point is Rs 3.26/unit, comprises the FC @Rs 1.63/unit and VC @Rs 1.63/unit. The trading margin claimed by PTC is Rs 0.0173/unit.

The demand of power in the State is increasing after the post Covid 19 pandemic. The anticipated peak shortage is around 200 to 500 MW

during January to June in coming years. However, there will be power surplus during monsoon months. Hence, KSEB Ltd intimated PTC on 17.02.2021, the requirement of power on medium term basis for the months of January to June for three years from 2022 onwards, without any obligation for balance six months. PTC intimated to KSEB Ltd on 04.03.2021 that, one of the bidder M/s JITPL offered 270MW power as per the requirement of KSEB Ltd.

KSEB Ltd further clarified that, this power can be transmitted through the ISTS within the LTA granted to KSEB Ltd, so that there will not be any additional transmission charges for this medium term procurement.

The proposed procurement is summarized below.

- 270 MW RTC Power from JITPL through PTC
- Period of supply from January to June for three years starting from 01.01.2022.
- No obligation for purchase for balance months.
- In addition to the PSA as per the bidding guidelines, a supplementary agreement is proposed to be signed with PTC to incorporate KSEB Ltd's requirements.
- Proposed to procure the power through short term open access basis and there will not be any transmission charges for transmitting electricity from CTU interconnection point of the generator to Kerala periphery.

- (2) PTC during the hearing clarified that, the escalation on variable cost is strictly as provided in the model bidding documents published by MoP, GoI. PTC also submitted that, they shall submit the sample calculation of the variation in variable cost as per the bidding documents based on WPI.

4. Sri Sunil Jaisawal, PTC, vide e -mail dated 29.09.2021, submitted the estimated tariff calculation for FY 2021-22 under Piolet Scheme-II considering WPI, subject to provisions of PSA, as follows.

Bid/Reverse Auction Date	Feb 07, 2020		
Base Year	AY 2019-20		
AY	Accounting Year		
	WPI	Variation in WPI	
WPI as on 31.01.2019	119.2	Base	
WPI as on 31.01.2020	123.4	3.5%	
WPI as on 31.01.2021	126.5	6.1%	
Applicable Tariff at CTU Interconnection point of the Power Station	AY 19-20	AY 20-21	AY 21-22

Fixed Charge (Rs/unit)	1.63	1.63	1.63
Variable Charge (Rs/unit)	1.63	1.66	1.68
Applicable Tariff	3.26	3.29	3.31

Analysis and Decision of the Commission

5. The Commission, examined the petition filed by KSEB Ltd as per the provisions of the Electricity Act, 2003, KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2018, and other documents and records placed before the Commission during the deliberations of the subject petition, hereby decide as follows.
6. KSEB Ltd, filed the instant petition dated 09.09.2021, for getting approval for procuring 270MW RTC power on medium term basis, through PTC, the Aggregator appointed by MoP under Pilot Scheme II, for the period from January to June in a year for three years with the date of commencement of supply from 01.01.2022 onwards. The Commission examined the petition in detail and noted the following.
 - (1) Ministry of Power, Government of India, vide the resolution dated 1st February 2019 has notified the guidelines for Procurement of aggregated power of 2500 MW under Piolet Scheme-II for three years (covered under Medium term) facilitated by PFC Consulting Limited as the Nodal Agency and through an Aggregator. MoP, vide the letter No.. 23/78/2017-R&R dated 30.01.2019 issued the bidding documents comprising of (i) Bidding Document for Piolet Scheme II, (ii) Draft Agreement for procurement of power under Piolet Scheme-II (APPP-II), and Draft Power Supply Agreement under Piolet scheme-II (PSAP-II) collectively the "Bidding Document". The scheme envisaged to facilitate procurement of aggregated power of 2500MW for the period of 3 (three) years covered under Medium term from the generating companies having coal based power plants which are already commissioned without having a power purchase agreement for the quantum of power the Bidder is willing to bid.
 - (2) As per the details placed before the Commission, the nodal agency of the Scheme, M/s PFC Consulting Limited (PFCCL) conducted tariff based competitive bidding in DEEP e-bidding portal on 7.2.2020. The tariff derived through competitive bidding is Rs 3.26/unit at CTU interconnection point for the 2500MW power. The tariff consists of, the fixed charge (FC) of Rs 1.63/unit and variable charge of Rs 1.63/unit.
 - (3) The Commission also noted that, as per the Article 11.6 of the Model PSA (same provision also in Article 11.6 of the Model PPA) provides for increase in variable charge in subsequent years linked to the Whole Sale Price Index, which is extracted below.

“11.6.4 The Parties agree that the generating cost component of Base Variable Charge specified in Clause 11.6.2 shall be increased for every Accounting Year following the Base Year so as to reflect 50% (fifty per cent) of the variation in WPI occurring between January 31 immediately preceding the Base Year and January 31 immediately preceding the Accounting Year for which such revision is undertaken. For the avoidance of doubt and by way of illustration, if (a) the Base Variable Charge specified hereinabove is assumed as 80 paise (eighty paise) and (b) WPI between the two aforesaid dates, the latter being 1 (one) year after the first such date, increases by 5% (five per cent), the Variable Charge in the Accounting Year following the first Accounting Year shall be 82 paise (eighty two paise)”.

As per the calculation submitted by the PTC on 29.09.2021, the base variable charge of Rs 1.63/unit derived in the bid dated 7th February 2020 is likely to be increased to Rs 1.68/unit in the current FY 2021-22, i.e., an increase of 5 paise per unit due to the variation in WPI during the last two years.

- (4) In addition to the Fixed Charge and Variable Charges, the Aggregator M/s PTC claimed the trading margin @ Rs 0.0173/unit.
 - (5) As per the details of the Load Generation Balance submitted by KSEB Ltd, the licensee expects to have peak shortage of about 200MW to 500MW and energy shortage of about 1.7MU/day to 16MU/day during the months of January to June in the forthcoming years from 2021-22 to 2023-24. However, KSEB Ltd expected to have power surplus during monsoon months. Considering the monthly variation in electricity demand and supply, KSEB Ltd explored the possibility to tie up power only during the high demand months of January to June for next three years from 01.01.2022 onwards, and without any liability for procurement of power in other months.
 - (6) The aggregator PTC offered 270MW power through one of the bidder M/s Jindal India Thermal Power Ltd in Pilot Scheme-II, to supply power to KSEB Ltd as per the requirement from January to June for three years from 01.01.2022 onwards. The bidder also agree that, there shall not be any liability on KSEB Ltd to purchase power during the remaining months.
 - (7) KSEB Ltd also clarified during the hearing that, once the power is tied up, it is proposed to transmit from the CTU inter connection point of the generator to Kerala periphery through ISTS by availing short-term open access, by availing the margin in the Long Term Access (LTA) granted by PGCIL to KSEB Ltd. Hence there will not be any transmission charges payable as per the prevailing CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2020 for the proposed power procurement.
7. The Commission examined the proposal of KSEB Ltd in detail. The Commission is aware of the increase in the electricity demand of the State during summer months and surplus power situation during the low demand

monsoon months. Hence, the Commission agree with the proposal of KSEB Ltd to limit the proposed procurement of power to the high demand months of January to June for the next three years from 1st January 2022 onwards. The Commission is also of the view that, the rate of Rs 3.26/unit derived through the bidding done by the PFCCL is found to be competitive, for the supply of power for the limited period of six months from January to June for next three years with no liability for the other months. The trading margin claimed by the aggregator PTC @Rs 0.0173/unit is also found to be reasonable when compared to the trading margin claimed by SECI and other similar agencies engaged in trading. KSEB Ltd also clarified that, since this power is proposed to be transmitted on short-term basis by utilizing the transmission trading capacity available in the LTA granted to KSEB Ltd by PGCIL, there will not be any transmission charges for the transmission of power under this transaction.

Considering all these aspects in detail, the Commission has decided to approve the proposed power purchase of 270MW RTC power on medium term basis through PTC, the aggregator appointed under Pilot Scheme-II, for the period from January to June in a year for three years with the date of commencement of supply from 01.01.2022 onwards.

8. The Commission also examined the draft Power Supply Agreement and the Supplementary Power Supply Agreement submitted by KSEB Ltd along with the petition, and noted the following.
 - (1) In the draft Power Supply Agreement submitted by KSEB Ltd, the parties to the Agreement, the PTC and KSEB Ltd has not proposed any change in the PSA published by the MoP, GoI as part of bidding documents of Pilot Scheme-II.
 - (2) The Commission also examined the Draft Supplementary Power Supply Agreement in detail. KSEB Ltd in the petition has submitted that, since the licensee proposed to offtake the power only for six months in a year from January to June instead of the 12 months as envisaged in the bidding documents of Pilot Scheme -II, this is a deviation in the bidding documents. Hence, KSEB Ltd requested to grant approval for signing the Supplementary Power Supply Agreement with the Aggregator.
 - (3) The Commission noted that, the paragraph 7 of the Guidelines notified by the MoP, GoI for the Pilot Scheme-II provided as follows.

*“Any deviation from the Bidding documents of Pilot Scheme-II during the bidding process shall be made by the Nodal Agency with the prior approval of the Central Government. **Any deviation from the Bidding Documents of Pilot Scheme-II after bidding process shall be made by the Nodal Agency, Aggregator or Distribution Licensee with the prior Approval of the Appropriate Commission”***

Since the Supplementary Power Supply Agreement proposed is to incorporate the requirement of KSEB Ltd, this is definitely a deviation to

the bidding documents of Pilot Scheme -II notified by the Central Government. Hence, the Supplementary Power Supply Agreement can be signed by the parties only with the prior approval of this Commission.

- (4) The main provisions of the Draft Supplementary Power Supply Agreement submitted by KSEB Ltd are the following.
- (i) Supply of power will commence from 01.01.2022 (para-1).
 - (ii) During the term of the PSA, the aggregator/ supplier supply power to the utility for six months from 1st January to 30th June for three years. Aggregator/ supplier shall not claim any compensation/ damage for non-off take of power by utility for remaining six months (para-2).
 - (iii) Aggregator/supplier has to apply for STOA on behalf of KSEB Ltd with the consent of KSEB Ltd. Fixed charge is not payable for the quantum of power not scheduled due to the transmission constraints. (Para-3)
 - (iv) All terms & conditions of Pilot Scheme II PSA shall be applicable for the off take period of six months (1st January to 30th June) for three years. (Para-4)
 - (v) Non off take period of 6 months (from 1st July to 31st December) shall be treated as 'No Obligation Period' for both the parties. (para-5)
 - (vi) The actual time duration of the contract period being six months, the clauses related to specific duration under Article 15 and 17 in the Pilot Scheme-II PSA shall be treated with respect to the actual supply period to KSEB Ltd. (Para-6)

It is also specified under para-10 that, the 'Terms and Conditions of PSAP-II shall be read together with this Supplementary Agreement and shall form an integral part of the Pilot Scheme II PSA.

The Commission hereby clarify that, the Draft Supplementary Power Supplementary Agreement shall form the integral part of the Pilot Scheme II PSA notified by MoP, GoI, as part of the Bidding documents of Pilot Scheme-II. With this observation the Commission decided to approve the Draft Supplementary Power Supply Agreement as submitted by KSEB Ltd.

Orders of the Commission

9. The Commission, after examining the petition filed by KSEB Ltd as per the provisions of the Electricity Act, 2003, KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2018, and other documents, hereby orders the following.

- (1) Grant approval for procuring 270 MW RTC power on medium term basis, through PTC, the Aggregator appointed by Ministry of Power, Government of India, under Pilot Scheme II of Central Government, for the period from January to June in a year for three years with the date of commencement of supply from 01-01-2022.
- (2) Approve the Draft Supplementary Power Supply Agreement to be signed with the Aggregator PTC under Pilot Scheme-II of Central Government with KSEB Ltd to incorporate the specific provisions related to the procurement of 270 MW RTC power under order (1) above. The Supplementary Power Supply Agreement shall form the integral part of the PSA to be signed with the Aggregator PTC as per the Model Bidding Document of Pilot Scheme-II.

The petition disposed off. Ordered accordingly.

Sd/-
Adv A J Wilson
Member (Law)

Sd/-
Preman Dinaraj
Chairman

Approved for issue

C R Satheeshchandran
Secretary (i/c)