

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present : Shri T K Jose, Chairman
Shri B Pradeep, Member
Adv. A.J Wilson, Member

OP No:49/2023

In the matter of : Petition under Regulation 78 of the KSERC (Terms and Conditions for Determination of Tariff) Regulations 2021 seeking approval for entering into short term power procurement arrangement with successful bidders as per the terms and conditions of the tender floated by KSEBL on 24.06.2023 through DEEP portal for meeting power shortage.

Petitioner : Kerala State Electricity Board Ltd

KSEBL represented by : Shri. Sajeev.G, Chief Engineer(Commercial &Tariff)
Shri M.P.Rajan, Dy CE, TRAC
Smt Latha. S.V, AEE, TRAC

Respondents : 1. Adani Enterprises
2. Tata Power Trading Company Ltd
3. PTC India Ltd
4. Jindal Power Ltd
5. GMR Energy Trading Ltd
6. NTPC Vidyut Vyapar Nigam Ltd (NVVNL)
7. Manikaran Power Ltd
8. Ambitious Power Trading Company Ltd

Date of hearing : 26.07.2023 at 11:00 AM

Venue : Hearing through Hybrid mode

Order dated 31.07.2023

1. Kerala State Electricity Board Ltd (hereinafter referred as KSEB Ltd or petitioner) on 20.07.2023, filed a petition before the Commission under Regulation 78 of the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, for the approval for entering into short-term power procurement arrangement with successful bidders as per the terms and conditions of the tender floated by KSEB Ltd on DEEP portal for meeting the power shortage from July 2023 to May-2024.

2. The summary of the petition filed by KSEB Ltd is given below.

- (1) The Commission vide the Order dated 10.05.2023 in petition OP No. 05/2021, has rejected the power supply agreements with the following four DBFOO contracts;
 - (i) PSA for 115 MW capacity (under Bid-1) with Jhabua Power Ltd.
 - (ii) PSA for 150 MW capacity (under Bid-2) with Jindal Power Ltd.
 - (iii) PSA for 100 MW capacity (under Bid-2) with Jhabua Power Ltd.
 - (iv) PSA for 100 MW capacity (under Bid-2) with Jindal India Thermal Power Ltd.

- (2) Subsequently, as requested by KSEB Ltd and to tide over the precarious power situation of the State, the Commission vide the Order dated 07.06.2023 has allowed to schedule power from the above unapproved contracts for a further period of 75 days., or till KSEB Ltd make alternate arrangement for procuring 500 MW on medium term basis as per the bidding guidelines notified by the MoP, Gol, whichever is earlier.

In the meanwhile, MoP, Gol has modified the Model Agreement for procurement of power for procuring medium term power. The Commission vide the Order dated 14.07.2023 had approved the draft Agreement and corrigendum containing clarifications for proceeding with the tender.

- (3) The SWAP power purchase of 472.15MU from February 2023 to May 2023 has to be returned from 16.06.2023 to 30.09.2023 and the quantum to be returned in lieu is 507.10 MU. Storage in all major reservoirs is low due to the delay in monsoon. The demand of the State has increased 5 to 6MU per day and the 300MW to 400MW during peak hours.

- (4) The month wise details of the anticipated power shortage from July 2023 to May-2024 is given in the Table below.

Table-1
Electricity shortage anticipated in the State from July-2023 to May-2023

Month	Power shortage in (MW)							Energy shortage in (MU)/day
	00:00 to 05:00	05:00 to 08:30	08:30 to 14:00	14:00 to 17:00	17:00 to 18:30	18:30 to 22:30	22:30 to 24:00	
July-23 (16.07.23 to 31.07.23)	-451	-468	-421	-514	-377	-410	-477	-10.43
Aug-23	-351	-418	-321	-477	-447	-421	-452	-9.23
Sep-23	-416	-411	-441	-441	-410	-517	-416	-10.34
Oct-23	-517	-499	-332	-444	-515	-517	-515	-10.83
Nov-23	-453	-555	-525	-469	-576	-623	-544	-12.37
Dec-23	-498	-514	-546	-538	-511	-674	-511	-12.83
Jan-24	-372	-413	-139	-341	-419	-406	-407	-7.74
Feb-24	-510	-479	-387	-455	-501	-627	-505	-11.46
Mar-24	-736	-638	-646	-616	-616	-1013	-898	-17.23

Apr-24	-1362	-742	-693	-774	-953	-1464	-1467	-24.50
May-24	-1385	-713	-564	-700	-749	-1344	-1298	-22.57

- (5) In order to meet a part of the anticipated power shortage, KSEBL floated the tender for short term power purchase of about 250 MW through DEEP portal on 24.06.2023 as per the guidelines of the MoP, for short-term Procurement of power by Distribution Licensees through Tariff based bidding process dated 30.03.2016 for managing the power deficit from 15.07.2023 to 31.05.2024.

Table-2
Bid quantum and duration as per the bid floated on 24.06.2023

Requisition No	Period		Required quantity (MW)	Duration (hrs)	Minimum Bid quantity MW
	From	To			
1	15.07.2023	31.07.2023	250	00:00 to 24:00	25
2	01.08.2023	31.08.2023	250	00:00 to 24:00	25
3	01.09.2023	30.09.2023	250	00:00 to 24:00	25
4	01.10.2023	31.10.2023	250	00:00 to 24:00	25
5	01.11.2023	30.11.2023	250	00:00 to 24:00	25
6	01.12.2023	31.12.2023	250	00:00 to 24:00	25
7	01.01.2024	31.01.2024	250	00:00 to 24:00	25
8	01.02.2024	29.02.2024	250	00:00 to 24:00	25
9	01.03.2024	31.03.2024	250	00:00 to 24:00	25
10	01.04.2024	30.04.2024	250	00:00 to 24:00	25
11	01.05.2024	31.05.2024	250	00:00 to 24:00	25

- (6) The time schedule specified in the tender for finalising the bid is given below.

Table-3
Time schedule specified in the tender for finalising the tender

Sl.	Event	Date
1	Publication of RfP/Activation of Event	24.06.2023
2	Last date for submission of queries if any	27.06.2023
3	Reply of queries	30.06.2023
4	Submission of RfP (on line digitally signed non financial technical Bid and IPOs)	05.07.2023; 02:00pm
5	Opening of non financial technical Bids	05.07.2023; 03:00pm
6	Clarification, if any, sought from Bidder(s)	06.07.2023
7	Evaluation of nonfinancial technical Bids	07.07.2023
8	Opening of IPOs (upto 1300 hrs)	10.07.2023; 11:00am to 01:00pm
9	Start of e-RA	10.07.2023; 01:00pm to 03:00pm

- (7) The technical bids were opened on 05.07.2023 at 03:00 pm. Twenty Nine bidders submitted the bids. All the bidders have accepted the terms

and conditions of the RfP dated 24.06.2023 floated by KSEBL and thereafter the original BGs against the required EMD were also received. The technical bids submitted were in line with terms and conditions of the RfP floated by KSEB Ltd and hence all the bids are accepted.

The Initial Price Offers submitted by the bidders were opened on 10.07.2023 at 11:00 am, followed by e-Reverse Auction (e-RA) at 1:00 pm. The e-RA concluded at 06:00 pm. On completion of the bid process, the rates discovered through bid process is given below.

Table-4
Details of the rates discovered bucket filling in DEEP portal

Details of short term tender floated on 24.06.2023					Bucket filling details of RA conducted on 10.07.2023					
Requisition	Period	Required Quantity (MW)	Duration	Min bid quantity (MW)	Bidder	Generator/ Trader	Quantity (MW)	Rate (Rs/k Wh)	Source	Type of Fuel
1	15.07.2023 to 31.07.2023	250	RTC	25	L1	Adani Enterprises Ltd	100	4.97	Adani power Ltd, Raipur	Coal
					L2	Tata Power Trading Company Limited	50	4.97	Adhunik Power & natural Resources Ltd, WB	Coal
					L3	JINDAL POWER LIMITED	100	5.22	Jindal Power Ltd, Chattisgarh	Coal
2	Aug-23	250	RTC	25	L1	Tata Power Trading Company Limited	50	5.23	Adhunik Power & natural Resources Ltd, WB	Coal
					L2	Adani Enterprises Ltd	100	5.23	Adani power Ltd, Raipur	Coal
					L3	Tata Power Trading Company Limited	45	5.23	NavaBharath Ventures Ltd, Odisha	Coal
					L4	PTC India Limited	25	5.23	NavaBharath Ventures Ltd, Odisha	Coal
					L5	JINDAL POWER LIMITED	30	5.45	Jindal Power Ltd, Chattisgarh	Coal
3	Sep-23	250	RTC	25	L1	Tata Power Trading Company Limited	75	5.38	Jindal India Thermal Power Ltd, Orissa	Coal
					L2	Tata Power Trading Company Limited	50	5.38	Adhunik Power & natural Resources Ltd, WB	Coal
					L3	Tata Power Trading Company Limited	45	5.39	NavaBharath Ventures Ltd, Odisha	Coal
					L4	JINDAL POWER LIMITED	80	5.42	Jindal Power Ltd, Chattisgarh	Coal
4	Oct-23	250	RTC	25	L1	Tata Power Trading Company Limited	100	5.12	Jindal India Thermal Power Ltd, Orissa	Coal

					L2	Tata Power Trading Company Limited	50	5.14	Prayagraj Power Generation Company Ltd, UP	Coal
					L3	PTC India Limited	25	5.6	NavaBharath Ventures Ltd,Odisha	Coal
					L4	Tata Power Trading Company Limited	45	5.7	NavaBharath Ventures Ltd,Odisha	Coal
5	Nov-23	250	RTC	25	L1	Tata Power Trading Company Limited	150	5.38	Jindal India Thermal Power Ltd,Orissa	Coal
					L2	GMR ENERGY TRADING LIMITED	25	5.38	Maadurga Thermal Power Company Ltd,Odisha	Coal
					L3	JINDAL POWER LIMITED	75	5.46	Jindal Power Ltd, Chattisgarh	Coal
6	Dec-23	250	RTC	25	L1	GMR ENERGY TRADING LIMITED	25	5.48	Maadurga Thermal Power Company Ltd,Odisha	Coal
					L2	Tata Power Trading Company Limited	150	5.48	Jindal India Thermal Power Ltd,Orissa	Coal
					L3	NTPC VIDYUT VYAPAR NIGAM LIMITED	75	5.5	Jaippee Nigree Super Thermal Power Plant, MP	Coal
7	Jan-24	250	RTC	25	L1	GMR ENERGY TRADING LIMITED	25	5.49	Maadurga Thermal Power Company Ltd,Odisha	Coal
					L2	NTPC VIDYUT VYAPAR NIGAM LIMITED	100	5.49	Jaippee Nigree Super Thermal Power Plant, MP	Coal
					L3	NTPC VIDYUT VYAPAR NIGAM LIMITED	50	5.49	Jaippee Binaa Super Thermal Power Plant, MP	Coal
					L4	OPG POWER GENERATION PVT LTD	75	5.6	OPG Power Generation Pvt Ltd,TN	Coal
8	Feb-24	250	RTC	25	L1	NTPC VIDYUT VYAPAR NIGAM LIMITED	100	5.58	Jaippee Nigree Super Thermal Power Plant, MP	Coal
					L2	NTPC VIDYUT VYAPAR NIGAM LIMITED	50	5.58	Jaippee Binaa Super Thermal Power Plant, MP	Coal
					L3	GMR ENERGY TRADING LIMITED	25	5.58	Maadurga Thermal Power Company Ltd,Odisha	Coal

					L4	Tata Power Trading Company Limited	45	5.75	Tata Power Haldia	Flue Gas
					L5	Adani Enterprises Ltd	30	5.82	Adani power Ltd, Raipur	Coal
9	Mar-24	250	RTC	25	L1	NTPC VIDYUT VYAPAR NIGAM LIMITED	100	6.13	Jaippee Nigree Super Thermal Power Plant, MP	Coal
					L2	NTPC VIDYUT VYAPAR NIGAM LIMITED	50	6.13	Jaippee Binaa Super Thermal Power Plant, MP	Coal
					L3	GMR ENERGY TRADING LIMITED	25	6.13	Maadurga Thermal Power Company Ltd, Odisha	Coal
					L4	Manikaran Power Limited	25	6.25	BLA Power Private Ltd, Unit-II, MP	Coal
					L5	Manikaran Power Limited	25	6.34	BLA Power Private Ltd, Unit-I, MP	Coal
10	Apr-24	250	RTC	25	L1	GMR ENERGY TRADING LIMITED	25	6.1	Maadurga Thermal Power Company Ltd, Odisha	Coal
					L2	NTPC VIDYUT VYAPAR NIGAM LIMITED	100	6.1	Jaippee Nigree Super Thermal Power Plant, MP	Coal
					L3	NTPC VIDYUT VYAPAR NIGAM LIMITED	50	6.1	Jaippee Binaa Super Thermal Power Plant, MP	Coal
					L4	Ambitious Power Trading Company Limited	75	6.24	Simhapuri Energy Ltd, AP	Imported coal
11	May-24	250	RTC	25	L1	GMR ENERGY TRADING LIMITED	25	6.12	Maadurga Thermal Power Company Ltd, Odisha	Coal
					L2	NTPC VIDYUT VYAPAR NIGAM LIMITED	100	6.12	Jaippee Nigree Super Thermal Power Plant, MP	Coal
					L3	NTPC VIDYUT VYAPAR NIGAM LIMITED	50	6.12	Jaippee Binaa Super Thermal Power Plant, MP	Coal
					L4	Ambitious Power Trading Company Limited	75	6.24	Simhapuri Energy Ltd, AP	Imported coal

- (8) KSEBL further submitted that, the standing committee constituted by KSEBL 1-04-2016, for evaluating the short term power procurement through DEEP e-bidding portal made the following observations on the bids submitted by the bidders,
- “(a) The requirement of power necessitated to meet power deficit from 15.07.2023 to 31.05.2024 was computed considering the return of SWAP power up to 30.09.2023, non scheduling of 100 MW RTC by unapproved DBFOO Generator M/s.Jindal India Thermal Power Ltd, non availability of 270 MW RTC under the Pilot Scheme-II from July 2023 to December 2023,the forecasted weak monsoon rainfalls and the increased demand in the forthcoming Summer of 2024*
 - (b) There was good participation in the tender since 29 bids were received against the eleven requisitions for power purchase from 15.07.2023 to 31.05.2024. However, the total required quantum was not satisfied through bucket filling for October 2023 (220MW) and March 2024 (225 MW).*
 - (c) The price discovered for the eleven requisitions (from July 2023 to May 2024) in DEEP portal are reasonable when compared to the power exchange market rates discovered during these months for the last year and this year.*
 - (d) In the recent bids invited by other states in DEEP portal during the period from October 2023, the price discovered is comparatively higher than the rates of this bid. The price discovered for this tender through bucket filling is comparable to the prevailing power exchange rates.*
 - (e) One of the reasons considered for inviting short term tender during July 2023 was the weak monsoon rainfalls. As against the anticipated weak monsoon rainfall, Kerala received better monsoon during July 2023.Hence against the tendered quantum of 250 MW during July 2023, it was suggested to purchase 150 MW.*
 - (f) As the Onam festival of 2023 is during the month of August, low power demand is expected during Onam holidays, and hence procurement of 220 MW RTC power is suggested in the place of 250 MW.*
 - (g) As per the previous year’s weather conditions, rains are forecasted during October 2023. Hence purchase of 150 MW RTC power is suggested.*
 - (h) The RTC power of 250 MW under Pilot Scheme-II for the upcoming year 2024 is to commence from 01.01.2024. Considering this it is suggested to procure 175 MW instead of 250 MW during January 2023.*
 - (i) Considering the situation of high demand and the forthcoming elections, the advance procurement of power for the summer period of 2024 at the rate discovered in this bid seems to be advantageous. Hence procurement of 250 MW RTC power from this short term tender may be considered for the remaining months from Feb 2024 to May 2024.”*
- (9) KSEB Ltd further submitted that, the price discovered in the bid from July 2023 to May 2024 is comparable to the prevailing power exchange market rates. Therefore, Board decided to issue Letter of Award (LoA) and execute PPA with the successful bidders as per the price discovered through bucket filling during the e-RA in the DEEP portal on 10.07.2023 as shown below, after obtaining the approval of Hon’ble KSERC.

Table-5
Details of the bidders selected after the bidding process

Requisition	Period	Total Quantum (MW)	Bidder	Generator/ Trader	Quantum (MW) on firm basis	Rate (Rs/ kWh)	Source	Type of Fuel
1	15.07.2023 to	150	L1	Adani Enterprises Ltd	100	4.97	Adani power Ltd, Raipur	Coal
	31.07.2023		L2	Tata Power Trading Company Limited	50	4.97	Adhunik Power & natural Resources Ltd, WB	Coal
2	Aug-23	220	L1	Tata Power Trading Company Limited	50	5.23	Adhunik Power & natural Resources Ltd, WB	Coal
			L2	Adani Enterprises Ltd	100	5.23	Adani power Ltd, Raipur	Coal
			L3	Tata Power Trading Company Limited	45	5.23	NavaBharath Ventures Ltd, Odisha	Coal
			L4	PTC India Limited	25	5.23	NavaBharath Ventures Ltd, Odisha	Coal
3	Sep-23	250	L1	Tata Power Trading Company Limited	75	5.38	Jindal India Thermal Power Ltd, Orissa	Coal
			L2	Tata Power Trading Company Limited	50	5.38	Adhunik Power & natural Resources Ltd, WB	Coal
			L3	Tata Power Trading Company Limited	45	5.39	NavaBharath Ventures Ltd, Odisha	Coal
			L4	JINDAL POWER LIMITED	80	5.42	Jindal Power Ltd, Chattisgarh	Coal
4	Oct-23	150	L1	Tata Power Trading Company Limited	100	5.12	Jindal India Thermal Power Ltd, Orissa	Coal
			L2	Tata Power Trading Company Limited	50	5.14	Prayagraj Power Generation Company Ltd, UP	Coal
5	Nov-23	250	L1	Tata Power Trading Company Limited	150	5.38	Jindal India Thermal Power Ltd, Orissa	Coal
			L2	GMR ENERGY TRADING LIMITED	25	5.38	Maadurga Thermal Power Company Ltd, Odisha	Coal

			L3	JINDAL POWER LIMITED	75	5.46	Jindal Power Ltd, Chattisgarh	Coal
6	Dec-23	250	L1	GMR ENERGY TRADING LIMITED	25	5.48	Maadurga Thermal Power Company Ltd, Odisha	Coal
			L2	Tata Power Trading Company Limited	150	5.48	Jindal India Thermal Power Ltd, Orissa	Coal
			L3	NTPC VIDYUT VYAPAR NIGAM LIMITED	75	5.5	Jaippee Nigree Super Thermal Power Plant, MP	Coal
			L1	GMR ENERGY TRADING LIMITED	25	5.49	Maadurga Thermal Power Company Ltd, Odisha	Coal
7	Jan-24	175	L2	NTPC VIDYUT VYAPAR NIGAM LIMITED	100	5.49	Jaippee Nigree Super Thermal Power Plant, MP	Coal
			L3	NTPC VIDYUT VYAPAR NIGAM LIMITED	50	5.49	Jaippee Binaa Super Thermal Power Plant, MP	Coal
			L1	NTPC VIDYUT VYAPAR NIGAM LIMITED	100	5.58	Jaippee Nigree Super Thermal Power Plant, MP	Coal
8	Feb-24	250	L2	NTPC VIDYUT VYAPAR NIGAM LIMITED	50	5.58	Jaippee Binaa Super Thermal Power Plant, MP	Coal
			L3	GMR ENERGY TRADING LIMITED	25	5.58	Maadurga Thermal Power Company Ltd, Odisha	Coal
			L4	Tata Power Trading Company Limited	45	5.75	Tata Power Haldia	Flue Gas
			L5	Adani Enterprises Ltd	30	5.82	Adani power Ltd,	Coal
							Raipur	
9	Mar-24	225	L1	NTPC VIDYUT VYAPAR NIGAM LIMITED	100	6.13	Jaippee Nigree Super Thermal Power Plant, MP	Coal

			L2	NTPC VIDYUT VYAPAR NIGAM LIMITED	50	6.13	Jaippee Binaa Super Thermal Power Plant, MP	Coal
			L3	GMR ENERGY TRADING LIMITED	25	6.13	Maadurga Thermal Power Company Ltd,Odisha	Coal
			L4	Manikaran Power Limited	25	6.25	BLA Power Private Ltd,Unit-II,MP	Coal
			L5	Manikaran Power Limited	25	6.34	BLA Power Private Ltd,Unit-I,MP	Coal
10	Apr-24	250	L1	GMR ENERGY TRADING LIMITED	25	6.1	Maadurga Thermal Power Company Ltd,Odisha	Coal
			L2	NTPC VIDYUT VYAPAR NIGAM LIMITED	100	6.1	Jaippee Nigree Super Thermal Power Plant, MP	Coal
			L3	NTPC VIDYUT VYAPAR NIGAM LIMITED	50	6.1	Jaippee Binaa Super Thermal Power Plant, MP	Coal
			L4	Ambitious Power Trading Company Limited	75	6.24	Simhapuri Energy ltd, AP	Imported coal
11	May-24	250	L1	GMR ENERGY TRADING LIMITED	25	6.12	Maadurga Thermal Power Company Ltd,Odisha	Coal
			L2	NTPC VIDYUT VYAPAR NIGAM LIMITED	100	6.12	Jaippee Nigree Super Thermal Power Plant, MP	Coal
			L3	NTPC VIDYUT VYAPAR NIGAM LIMITED	50	6.12	Jaippee Binaa Super Thermal Power Plant, MP	Coal
			L4	Ambitious Power Trading Company Limited	75	6.24	Simhapuri Energy ltd, AP	Imported coal

- (10) KSEB Ltd further submitted that, the bid validity period of the tender is 30 days from the date of e Reverse Auction i.e. up to 09-08-2023. As per the RfP, within this time frame LoA has to be issued and PPA to be executed with the successful bidders of the tender after obtaining the approval of Hon'ble KSERC. Hence KSEB Ltd requested that approval

may kindly be granted for issuing Letter of Award to the successful bidders, as per Table-5 above, and to execute PPAs with these successful bidders as per the terms and conditions of the already approved Standard RfP floated by KSEBL on 24.06.2023.

3. The Commission admitted the petition as OP No. 49/2023. The hearing of the petition was held on 26.07.2023 at the office of the Commission through Hybrid mode. Sri. Sajeev. G, Chief Engineer (Commercial & Tariff), Sri. M.P. Rajan, Deputy Chief Engineer (TRAC) and Smt. Latha AEE, TRAC, appeared before the Commission on behalf of the KSEB Ltd. The Officers of the SLDC and the representatives of the respondents participated through online mode. The summary of the deliberations during the hearing is given below.

- (1) KSEB Ltd briefly explained the demand/ supply position during the period from 16.07.2023 to 31.05.2024 and submitted that KSEB Ltd is expected to have an electricity shortage in the range of 350 to 400MW even during the off-peak hours of the monsoon months. The monsoon in the State during the year so far is far below the average rain fall expected. Consequent to the failure of monsoon, the storage position of the Idukki reservoir is just 30% of the total storage.

Considering the increase in demand, reduction in power availability from its hydel plants due to failure of monsoon, swap return to be effected from 16th June 2023 and anticipated reduction in power availability from the unapproved DBFOO contracts, KSEB Ltd has proposed to procure 250MW RTC power on short term basis from 16.07.2023 to 31.05.2024.

The tender for short term power purchase was floated through DEEP portal on 24.06.2023 as per the guidelines notified by the MoP for short-term procurement of power by distribution licensees through tariff based bidding process dated 30.03.2016. Technical bid was opened on 05.07.2023. Twenty nine bidders participated in the bidding process. The initial price offers were opened on 10.07.2023 followed by e-Reverse Auction. The bucket filling was followed for arranging the required quantum among the bidders as envisaged in the bidding guidelines.

The bid evaluation committee proposed to procure 150MW in July-2023, 220 MW in August 2023, 150 MW in October-2023, 175MW in January 2024, 225 MW in March 2024, 250MW in the months of September-2023, November 2023, December 2023, February 2024, April and May 2024 from among the successful bidders, as detailed.

KSEB Ltd also submitted that, the bid validity period is only 30 days from the date of e-Reverse Auction, i.e., the bid validity expires on 09.08.2023. As per the RfP, LoA has to be issued and PPA has to be executed with the successful bidders within the time limit with the approval of the Commission. Hence KSEB Ltd requested to grant approval to issue LoA to the successful bidders as detailed in Table-5 of this Order.

- (2) All the respondents except TPTCL submitted during the hearing that, they are ready to supply the power through this short term contract at the rates quoted from the sources specified in the tender.
- (3) However, Tata Power Trading Company Limited (TPTCL) during the hearing submitted that, they are the L2 for supplying power in the month of October-2023 and offered to supply 50MW @Rs 5.14/unit, and the source of supply is from the generator 'Prayagraj Power Generation Company Limited ("PPGCL"). However, the generator communicated that they could supply power @Rs 6.14 per unit only.

Accordingly, TPTCL, arranged power through another generator M/s JITPL to supply 50 MW RTC Power at delivery point, i.e. Kerala State Periphery at the submitted Tariff of Rs. 5.14 for the month of October 2023 in terms of the RfS dated 24.06.2023.

- (4) The Commission during the hearing has directed the respondent TPTCL to submit the proposal through an additional affidavit and also directed the petitioner KSEB Ltd to submit their comments on the same.
4. As per the directions of the Commission during the hearing held on 26.07.2023, the respondent M/s TPTCL submitted the affidavit on the same day itself stating the change in the source of supply during the month of October 2023 for supplying 50 MW RTC power at the quoted tariff of Rs 5.14/unit.

On this issue, the petitioner KSEB Ltd vide the affidavit dated 27.07.2023 has submitted the following;

"KSEBL has done procurement by following all processes and the procurement is subject to the approval of Hon'ble Commission. The successful bidder is M/s.Tata Power Trading Company Limited and the bid discovered rate for him has not changed and as agreement for short term power procurement is being executed with the trader ie; M/s. Tata Power Trading Company Limited, the change of source for supplying 50 MW RTC power at the rate of Rs.5.14/kWh during October 2023 at this stage of the tender is not an issue and is not violating any clauses of RfP. It is requested that Hon'ble Commission may kindly examine the above and issue appropriate orders."

Analysis and Decision

5. The Commission has examined in detail the petition filed by KSEB Ltd for the approval for entering into short-term power procurement arrangement with successful bidders as per the terms and conditions of the tender floated by KSEB Ltd on 24.06.2023 through DEEP portal for meeting the power shortage from July 2023 to May-2024 as per the provisions of the Electricity Act, 2003 and KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021.

6. As per the Section 86(1)(b) of the Electricity Act, 2003 (Central Act 36 of 2003), regulating power purchase and procurement process of distribution licensees including the price at which electricity shall be procured through agreements and supply within the State, is one of the statutory functions of the State Electricity Regulatory Commissions. The relevant Section of the Electricity Act, 2003 is extracted below.

“86 Functions of the State Commission.- (1) The State Commission shall discharge the following functions, namely:-

.....

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;”.

7. The Commission, in exercise of the powers conferred on it under Section 61 read with Section 181 of the Electricity Act, 2003 notified the KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 (herein after referred as Tariff Regulations 2021). The Regulation 78 of the Tariff Regulations 2021, deals with ‘Short-term power procurement’. The relevant Regulation is extracted below.

“78. Short-term power procurement.–

(1) The distribution business/ licensee may, if it considers necessary undertake additional short-term power procurement to overcome any short term deficiency in power requirement during the financial year, as per the short term power procurement plan approved by the Commission, in accordance with this Regulation.

(2) Where there has been an anticipated shortfall or failure in the supply of electricity from any approved source of supply during the financial year, the distribution business/ licensee may enter into an agreement for additional short-term procurement of power: Provided that, if the total power purchase cost for any quarter including such shortterm power procurement exceeds by five percent the power purchase cost approved by the Commission for the respective quarter, the distribution business/ licensee shall have to obtain approval of the Commission by filing a petition.

(3) The distribution business/ licensee may enter into a short-term power procurement agreement or arrangement under the following circumstances subject to the ceiling tariff approved by the Commission for this purpose: -

- (i) where the distribution business/ licensee is able to source new short-term source of supply from which power can be procured at a tariff that reduces its approved total power procurement cost;*
- (ii) when faced with emergency conditions that threaten the stability of the distribution system or when formally directed to do so by the State Load Despatch Centre to prevent grid failure;*
- (iii) where the tariff for power procured under such agreement or arrangement is in accordance with the guidelines for short-term procurement of power by distribution licensees through tariff-based bidding process issued by the Central Government;*
- (iv) when there is a contingency situation and power purchase price is within the ceiling price as prescribed by the Commission in the distribution licensee’s ARR&ERC;*

(v) *procurement of short-term power through power-exchange; and*

(vi) *Procurement by way of exchange of energy under 'banking' transactions:*

Provided that prior approval of the Commission and the ceiling rate; shall not be applicable to the short term purchases under clause (ii).

Provided further that prior approval of the Commission is not required for short term purchases under clause (v) above, so long as the average rate is within the ceiling rate.

(4) The Commission may stipulate the ceiling quantum and ceiling rate for purchase of power from short-term sources.

(5) As far as practicable, approval for all power purchases must be sought in advance. Where it is not practicable due to any contingency situation, the distribution licensee shall within fifteen days from the date of entering into an agreement or arrangement for short-term power procurement shall file a petition for approval of the Commission by filing full details of such agreement or arrangement, including quantum, tariff calculations, duration, supplier details, method for supplier selection, circumstances necessitating such a purchase and such other details as the Commission may require to assess that the conditions specified in this Regulation have been complied with:

Provided that where the Commission has reasonable grounds to believe that the agreement or arrangement entered into by the distribution business/ licensee does not meet the criteria specified in this Regulation, the Commission may disallow all such transactions from the annual revenue requirements, the net increase in the cost of power on account of such procurement apart from any other action that the Commission may initiate as per law against the distribution licensee."

8. The Ministry of Power, Government of India, under the provisions of Section 63 of the Electricity Act, 2003, notified 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*' vide the notification dated 30.03.2016.
9. The Commission has appraised the petition filed by KSEB Ltd in detail as per the provisions of the Electricity Act, 2003, Tariff Regulations, 2021 and also as per the provisions of the guidelines notified by the Ministry of Power, Gol, and noted the following.
 - (i) As extracted under paragraph 8 above, the Regulation 78 of the Tariff Regulations, 2021, KSEB Ltd can undertake additional short-term power procurement during the financial year, over and above the power procurement plan approved by the Commission to meet its increase in electricity demand.
 - (ii) The Commission has also appraised in detail the electricity demand, supply availability from 16.07.2023 to 31.05.2024. The Commission has also examined electricity shortage estimated by KSEB Ltd during the same period from 16.07.2023 to 31.05.2023. The Commission has also noted the failure of monsoon in the State during current year. Due to the failure of the monsoon, the inflow into the reservoirs is less by 30% of the anticipated inflow during the same period. The hot humid climate due to the failure of monsoon has resulted in the increase of electricity

demand in the State than anticipated. The interim arrangement for procuring power from the unapproved DBOO contracts may be expired latest by 20.08.2023.

- (iii) As detailed under paragraph 2(5) of this Order, the tender for procuring 250MW from 16.07.2023 to 31.05.2024 on short term basis was floated through DEEP portal on 24.06.2023. The technical bid was opened on 05.07.2023. Twenty nine bidders participated in the bidding process. The initial price offers were opened on 10.07.2023 followed by e-Reverse Auction. The bucket filling was followed for arranging the required quantum among the bidders as envisaged in the bidding guidelines.
 - (iv) The Commission has also noted the tariff for short-term procurement as per the tender as detailed under Table-4 of this Order. The tariff discovered through bidding in the month of August-2023 is from Rs 5.23/unit to Rs 5.43/unit, the tariff quoted for the month of September 2023 is from Rs 5.38/unit to Rs 5.42/unit, the tariff for the month of October 2023 is from Rs 5.12/unit to Rs 5.70/unit, the tariff for November-2023 is Rs 5.38/unit to Rs 5.46/unit, December-2023 is Rs 5.48/unit to Rs 5.50/unit, January 2024 is Rs 5.49/unit to Rs 5.60/unit, February-2024 is in the range of Rs 5.58/unit to Rs 5.82/unit, March 2024 is Rs 6.13/unit to Rs 6.34/unit, April-2024 is Rs 6.10/unit to Rs 6.24/unit, May 2024 is in the range of Rs 6.12/unit to Rs 6.24/unit.
 - (v) The Commission has also noted the recommendation of the bid evaluation committee constituted by KSEB Ltd for the procurement of short-term power through this bid as detailed below.
 - 150MW in July-2023,
 - 220 MW in August 2023,
 - 150 MW in October-2023,
 - 175MW in January 2024,
 - 225 MW in March 2024,
 - 250MW in the months of September-2023, November 2023, December 2023, February 2024, April and May 2024.
10. The Commission has also examined the procedure followed by KSEB Ltd for selecting the bidders through DEEP portal for the procurement of power on short-term basis from July 2023 to May-2024. The Ministry of Power, Government of India vide the notification dated 30.03.2016, notified the guidelines for short-term Procurement of Power by Distribution Licensees through Tariff based bidding process. The paragraph-5 of the bidding guidelines specifies the tariff structure to be quoted by the bidders, which is extracted below for ready reference.

“5. Tariff Structure

5.1. The Procurer based on its requirement may invite the bids on round the clock (RTC) basis or for different time slots. Procurer may also provide flexibility to the Bidder(s) to bid for a part of the tendered quantity, subject to a given minimum quantity. Bid capacity offered by the Bidder shall have to be constant for the entire contract period.

5.2. *The Bidder shall quote the single tariff at the Delivery Point upto three (3) decimals which shall include capacity charge, energy charge, trading margin (in case of Bidder being a Trader), applicable Point of Connection (POC) charges upto Delivery Point and all taxes, duties, cess etc. imposed by Central Govt. / State Govt. / Local bodies. Tariffs shall be designated in Indian Rupees only.*

5.3. *For inter-State transmission of power, state/regional periphery of the Procurer to be taken as Delivery Point. For intra-state transmission of power, inter-connection point of seller with STU/ CTU to be taken as Delivery Point.*

5.4. *For avoidance of doubt, Intra-state open access charges, transmission charges and losses along with POC injection charges and loss up to the POC interface are on Seller's account and POC drawl charges and losses along with intra-state open access, transmission charges and losses are on Procurer's account.*

5.5. *The tariff should be constant and there shall be no escalation during the contractual period. If Bids are invited for different time slots then tariff may be different for each time slot.*

5.6. *If the power is being supplied through alternate source, additional charges and losses if any, due to cancellation of existing corridor and booking of new corridor etc., shall be to the account of Bidders.*

As detailed above, the paragraph 5.6 of the bidding guidelines permits the bidders to supply from alternate sources if the situation warrants.

11. The Commission has also examined the request of the trader M/s Tata Power Trading Company Limited (TPTCL) to change the source of supply of 50MW during the month of October 2023 @Rs 5.14/unit from the generator M/s 'Prayagraj Power Generation Company Limited ("PPGCL") to M/s Jindal India Thermal Power Ltd (M/s JITPL).

KSEB Ltd, vide its affidavit dated 27.07.2023 has submitted that, the successful bidder was M/s TPTCL and the agreement with the short term procurement of 50MW RTC power @Rs 5.14/unit during the month of October 2023 is being executed with the successful bidder M/s TPTCL, the change of source of supply at this stage is not an issue for entering into contract since the trader M/s TPTCL has not changed the discovered rate.

The Commission has also noted that, as discussed in paragraph-10 above, the paragraph 5.6 of the bidding guidelines for short-term Procurement of Power by Distribution Licensees through Tariff based bidding process permits the bidders to supply from alternate sources if the situation warrants.

Considering these aspects in detail, the Commission permits the trader M/s TPTCL to change the source of supply from M/s PPGCL to M/s JITPL.

12. The Commission has also noted that, KSEB Ltd has proposed to purchase 150 MW RTC power in the month of July 2023 from 15.07.2023 to 31.07.2023. Since the July 2023 is almost over, the Commission decided not to approve the short term power procurement proposed for the month of July 2023.

13. After appraising the entire aspects in detail as discussed in the preceding paragraphs, the Commission has decided to approve the short term power procurement arrangements with the successful bidders for meeting the power requirement of the State from August 2023 to May 2024 as detailed below.

Table-6
Details of the approval granted to short-term power procurement from August-2023 to May-2024

Requisition	Period	Total Quantum (MW)	Bidder	Generator/ Trader	Quantum (MW) on firm basis	Rate (Rs/ kWh)	Source	Type of Fuel
1	Aug-23	220	L1	Tata Power Trading Company Ltd (TPTCL)	50	5.23	Adhunik Power & natural Resources Ltd,WB	Coal
			L2	Adani Enterprises Ltd	100	5.23	Adani power Ltd, Raipur	Coal
			L3	TPTCL	45	5.23	NavaBharath Ventures Ltd,Odisha	Coal
			L4	PTC India Limited	25	5.23	NavaBharath Ventures Ltd,Odisha	Coal
2	Sep-23	250	L1	TPTCL	75	5.38	JITPL, Odisha	Coal
			L2	TPTCL	50	5.38	Adhunik Power & natural Resources Ltd,WB	Coal
			L3	TPTCL	45	5.39	NavaBharath Ventures Ltd,Odisha	Coal
			L4	Jindal Power Ltd	80	5.42	JPL, Chattisgarh	Coal
3	Oct-23	150	L1	TPTCL	100	5.12	JITPL, Odisha	Coal
			L2	TPTCL	50	5.14	JITPL, Odisha	Coal
4	Nov-23	250	L1	TPTCL	150	5.38	JITPL, Odisha	Coal
			L2	GMR Energy Trading Ltd	25	5.38	Maadurga Thermal Power Company Ltd,Odisha	Coal
			L3	Jindal Power Ltd	75	5.46	JPL, Chattisgarh	Coal
5	Dec-23	250	L1	GMR Energy Trading Ltd	25	5.48	Maadurga Thermal Power Company Ltd,Odisha	Coal
			L2	TPTCL	150	5.48	JITPL, Odisha	Coal
			L3	NTPC Vidyut Vyapar Nigam Ltd (NVVN)	75	5.5	Jaippee Nigree Super Thermal Power Plant, MP	Coal

6	Jan-24	175	L1	GMR Energy Trading Ltd	25	5.49	Maadurga Thermal Power Company Ltd,Odisha	Coal
			L2	NVVN	100	5.49	Jaippee Nigree Super Thermal Power Plant, MP	Coal
			L3	NVVN	50	5.49	Jaippee Binaa Super Thermal Power Plant, MP	Coal
7	Feb-24	250	L1	NVVN	100	5.58	Jaippee Nigree Super Thermal Power Plant, MP	Coal
			L2	NVVN	50	5.58	Jaippee Binaa Super Thermal Power Plant, MP	Coal
			L3	GMR Energy Trading Ltd	25	5.58	Maadurga Thermal Power Company Ltd,Odisha	Coal
			L4	TPTCL	45	5.75	Tata Power Haldia	Flue Gas
			L5	Adani Enterprises Ltd	30	5.82	Adani power Ltd, Raipur	Coal
8	Mar-24	225	L1	NVVN	100	6.13	Jaippee Nigree Super Thermal Power Plant, MP	Coal
			L2	NVVN	50	6.13	Jaippee Binaa Super Thermal Power Plant, MP	Coal
			L3	GMR Energy Trading Ltd	25	6.13	Maadurga Thermal Power Company Ltd,Odisha	Coal
			L4	Manikaran Power Limited	25	6.25	BLA Power Private Ltd,Unit-II,MP	Coal
			L5	Manikaran Power Limited	25	6.34	BLA Power Private Ltd,Unit-I,MP	Coal
9	Apr-24	250	L1	GMR Energy Trading Ltd	25	6.1	Maadurga Thermal Power Company Ltd,Odisha	Coal

			L2	NVVN	100	6.1	Jaippee Nigree Super Thermal Power Plant, MP	Coal
			L3	NVVN	50	6.1	Jaippee Binaa Super Thermal Power Plant, MP	Coal
			L4	Ambitious Power Trading Company Limited	75	6.24	Simhapuri Energy Ltd, AP	Imported coal
10	May-24	250	L1	GMR Energy Trading Ltd	25	6.12	Maadurga Thermal Power Company Ltd, Odisha	Coal
			L2	NVVN	100	6.12	Jaippee Nigree Super Thermal Power Plant, MP	Coal
			L3	NVVN	50	6.12	Jaippee Binaa Super Thermal Power Plant, MP	Coal
			L4	Ambitious Power Trading Company Limited	75	6.24	Simhapuri Energy Ltd, AP	Imported coal

Order of the Commission

14. The Commission, after examining the petition filed by KSEB Ltd dated 20.07.2023 for the approval for entering into short-term power procurement arrangement with successful bidders as per the terms and conditions of the tender floated by KSEB Ltd on 24.06.2023 through DEEP portal for meeting the power shortage from July 2023 to May-2024 as per the provisions of the Electricity Act, 2003 and KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021 and other relevant guidelines and procedures, hereby orders the following;
- (1) Adopt the tariff discovered in accordance with Section 63 of the Electricity Act 2003 at the price discovered through e-RA in the DEEP portal for procurement of power from August 2023 to May-2024, as detailed in paragraph-13 above.
 - (2) Grant approval for entering into short term power procurement arrangement with the successful bidders for meeting the power requirement from August 2023 to May-2024 as detailed in the paragraph-13 above.
 - (3) The tariff shall be single part at the delivery point at Kerala periphery and include all charges such as capacity charge, energy charge, trading margin (if applicable), transmission charges upto the delivery point, and

all taxes, duties, cess etc. imposed by the Central Government, State Government, Local bodies etc.

The petition OP No.49/2023 is hereby disposed off. Ordered accordingly.

Sd/-
Adv. A J Wilson
Member

Sd/-
B Pradeep
Member

Sd/-
T K Jose
Chairman

Approved for issue

Sd/-
C R Satheeshchandran
Secretary

Annexure 1

List of participants attended the hearing held on 26.07.2023

1. Shri. Sajeev.G, Chief Engineer(Commercial & Tariff)
2. Shri M.P.Rajan, Dy CE, TRAC
3. Smt Latha. S.V, AEE, TRAC
4. Shri.Suresh.A, EE,TRAC
5. Smt. Getrude George, AEE, SO,KSEB Ltd
6. Shri. Akanksha Sharma, Manikaran Power Ltd
7. Shri. Anshul Rustagi, Manikaran Power Ltd
8. Shri. Sashi Bhushan, Sr Relationship Manager, PTC India Ltd
9. Shri. Arun Kumar, Head- Short Term Power Marketing, PTC
10. Shri. Sumit Sachdev, Chief – Marketing, TPTCL
11. Shri. Kundan Kumar, Head- Marketing, TPTCL
12. Smt. Sarika Jerath, Legal, TPTCL
13. Adv Venkatesh, TPTCL
14. Adv. Suhael Buttan, TPTCL
15. Shri. Ashish Panwar, GM, GMR Energy Trading Ltd
16. Shri Sujit Mukharjee, GMR Energy Trading Ltd
17. Shri. Ankit Rabadia, Manager, Adani Enterprises Ltd
18. Shri. Rajesh Maurya, Deputy Manager, Jindal Power Ltd
19. Shri Dhru Prakash, Ambitious Power Trading Company Ltd