

**KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM**

Present: Shri T.M. Manoharan, Chairman

Shri. K. Vikraman Nair, Member

Shri. S. Venugopal, Member

In the matter of : Adoption of tariff as per Section 63 for Purchase of 200 MW RTC power through traders from 01.03.2017 to 30.06.2017 on short term basis from M/s PTC India Ltd.

Petitioner : Kerala State Electricity Board Limited,
Pattom, Thiruvananthapuram – 4

No. 668/ F&T /2016 / KSERC

Order dated 1-06-2016

Background

1. KSEB Ltd, vide letter dated 14.3.2016 has requested before the Commission to permit KSEB Ltd to invite short term tender for the procurement of 250MW RTC power for the period from 01-03-2017 to 30-06-2017 to tide over the power deficit anticipated during the said period. The request of KSEB Ltd was based on the provisions of the 'Guidelines for Short-term (i.e., for a period less than or equal to one year) procurement of power' by distribution licensees through Tariff Based Bidding Process notified by the Central Government vide the resolution No. 23/25/2011-R&R dated 15th May 2012.
2. Duly considering the request of KSEB Ltd, the Commission, vide approval No 422/DD(Tech)/2016/KSERC/ dated 31.3.2016 granted in principle approval for inviting bids for procuring 250 MW on short-term basis from March-2017 to June-2017 with the following directives.
 - (i) *The in principle approval given is only for floating the tender and not for the purchase*
 - (ii) *The PPA shall be signed only after getting the approval of the Commission*

- (iii) *The projected deficit during the period from 01.03.2017 to 30.06.2017 is approximately 5.41 MU/day only. Normally, 2.0 MU per day can be managed through deviation settlement and 2.00 MU per day through power exchanges. K S E B Ltd. may decide the quantum of power to be contracted, considering the rates derived in the tender, the rates of deviation settlement and the rate in power exchange.*
- (iv) *A detailed month wise demand - supply position and projected shortage of energy/ demand during the period from 01.03.2017 to 30.06.2017 shall be made available to the Commission*
- (v) *The inter- state corridor availability and intra state transmission issues, if any, for availing import of power and steps taken to mitigate the same is to be reported*

3. KSEB Ltd, vide its letter No. KSEBL/TRAC/ Gen&PP/2016/2755 dated 22.04.2016 has filed a petition for adoption of tariff for procurement of 200MW RTC power on short-term basis from M/s PTC Ltd for the period from 01-03-2017 to 30-06-2017 as per Section 63 of the Electricity Act 2003. KSEB Ltd vide the petition has submitted that,

- (i) *The estimated month wise demand and supply position for the proposed procurement period (from 01.03.2017 to 30.06.2017) is submitted as follows.*

Source	Mar-17	Apr-17	May-17	Jun-17
Hydro (MW)	1786	1724	1768	1625
CGS (MW)	1528	1533	1533	1533
MTOA (MW)				
Maithon (MW)	117	117	117	117
JINDAL (MW)	159	159	159	159
LTA (MW)				
DVC (MW)	135	135	135	135
Maithon (MW)	135	135	135	135
Total availability (MW)	3860	3803	3847	3704
Demand (MW)	4100	4115	4169	4081
Deficit (-ve) (MW)	-240	-312	-322	-377

Against LTA application with commencement date from 01.12.2016 for 200 MW and 115 MW for the power from M/s. Jindal Power Limited and M/s. Jhabua Power Limited respectively contracted through DBFOO basis bidding, presently MTOA for 165 MW (159 MW at Kerala Periphery) alone is available during the above period. The matter of granting LTA from 01.12.2016 is pending before Hon'ble CERC under petition No. 249/MP/2015. The availability from upcoming Central

Generating Stations viz 1. Bhavini-Kalpakkam-PFBR (39 MW), 2.NTPC –Kudgi-TPS stage-1 (37MW) are also accounted in the above estimation. The availability is estimated based on the maintenance program followed by Central Generating Stations. In view of the ongoing litigation on the matter of corridor availability, no new allocation of LTA/ MTOA is factored in the above estimation.

- (ii) The deficit situation from March-2017 onwards is mainly due to the expiry of the Power Purchase Agreement (PPA) for procuring 397 MW RTC power, i.e., 100 MW from M/s. PTC India Limited and 297 MW from M/s. NVVN for the period from March-2014 to February-2017, at the tariff arrived through Case-1 bid route under Section 63 of the Electricity Act 2003.*
- (iii) At present the entire Available Transfer Capacity (ATC) between NEW Grid and SR is allotted among LTA and MTOA applicants by CTU. However, the ongoing MTOA is granted against corridor reserved for target region beneficiaries and the same on expiry will be released only against MTOA applicants as per the position taken by CTU. The only corridor getting vacant in the time from March-2017 is the MTOA for 397 MW of M/s. NVVN and PTC India Limited contracted by KSEB Ltd.*
- (iv) Accordingly, to utilize the opportunity of the vacating corridor, KSEB Limited has invited tenders for the purchase of up to 200 MW RTC power from any sources on firm and short term basis for the period 00:00 to 24:00 hrs (RTC) from 01.03.2017 to 30.06.2017 with due date for submission as 28.03.2016, which was further extended up to 29.03.2016, based on the request from the prospective bidders citing consecutive bank holidays prior to 28.03.2016. The bid documents were processed strictly based on the guidelines notified by the Govt. of India in compliance with the section 63 of the Electricity Act -2003.*
- (v) Six bidders have participated and sixteen offers were received within the stipulated time. Bidders had offered power from sources in Southern Region, Eastern Region, Western Region as well as Northern Region. The offered quantum varied from 25 MW to 200 MW and were sufficient to meet the requirement as per the tender notification. It was observed that no major deviations in tender conditions were sought by anyone of the bidders.*
- (vi) The rate offered by M/s. PTC India Ltd, from Jindal Power Ltd. – Jindal Steel Power Ltd, Chhattisgarh is found to be the lowest one and the offered quantum was 200 MW RTC power and is sufficient to meet the*

requirement of KSEB Ltd. after considering power through day ahead market. The rate offered by the LI bidder is Rs.3.08 per kWh at delivery point and the rate at Kerala periphery is Rs.3.406/kWh.

- (vii) KSEB has decided to bridge the balance deficit, if any, after considering the 200 MW offer by opportunistic exploitation of power exchanges and Deviation Settlement Mechanisms (DSM). It may also be noted that the average rate in the power exchange for the southern region (S2) during March -2016 was Rs.3.55/kWh and it shows an upward trend during summer months. Also Hon'ble Central Commission is in the process of further limiting drawal under DSM and already issued a draft regulation on 23.10.2015 in this regard. Thus it is prudent to consider only a limited quantum of power through these sources.
- (viii) KSEB Limited has issued Letter of Intent (LoI) on 30.03.2016 to the lowest quoted firm ie.to M/s. PTC India Limited for the procurement of 200 MW RTC power at a rate of Rs. 3.08 per kWh (at delivery point) for the period from 01.03.2017 to 30.06.2017.
- (ix) The medium term open access for 397 MW RTC power, i.e., 100 MW from M/s PTC India Limited and 297 MW from M/s NVVN will expire by February 2017. In order to claim the corridor getting vacated from the expiry of the MTOA, effective from 01.03.2017, application for fresh MTOA has to be preferred with the CTU before 31.03.2016, with duly executed PPA. In case execution of PPA gets delayed, KSEB will lose its opportunity for getting open access for the proposed power. Under the above circumstances, to grab the opportunity for applying for Medium Term Open Access (MTOA) before 31.03.2016, KSEB has to complete all the formalities for procurement process including execution of PPA before the stipulated date. Thus KSEB Limited, in anticipation of approval from the Hon'ble Commission, has completed process including preferring an application for open access (by the seller) before the CTU by 31.03.2016. It is clearly specified in the Letter of Intent (LoI) that the acceptance of the offer is subject to the approval of the Hon'ble Commission.
- (x) Considering the facts and reasons submitted above, KSEBL humbly requests before the Hon'ble Commission to adopt the tariff as per section-63 of the Electricity Act-2003, for procuring 200 MW RTC Power from M/s. PTC India Limited for the period from 01.03.2017 to 30.06.2017 at a rate of Rs.3.08 per kWh at delivery point on short term basis. It is also prayed before the Hon'ble Commission to kindly

condone the bonafide action of KSEB Limited in executing the PPA prior to obtaining approval of the Hon'ble Commission, in view of the expeditious action required for applying for the open access within the stipulated time

Analysis and Decision of the Commission

4. The present petition is for adoption of tariff as per section-63 of the Electricity Act-2003, for procuring 200 MW RTC power from M/s. PTC India Limited for the period from 01.03.2017 to 30.06.2017 at a rate of Rs.3.08 per kWh at delivery point on short term basis and also to condone the bonafide action of KSEB Limited in executing the PPA prior to obtaining approval of the Hon'ble Commission, in view of the expeditious action required for applying for the open access within the stipulated time. The rate of contracted power reported was Rs 3.08 per unit at delivery point.
5. The Commission vide its letter dated 31-03-2016 has granted in principle approval for floating tender for procuring 250 MW on short-term basis from March-2017 to June 2017, with the directives as stated in para 2.
6. As directed by the Commission, KSEB Ltd has submitted the monthwise demand and supply position in MW during the period from March-2017 to June 2017 and it shows that, there will be a capacity shortage of 242MW to 377 MW. However, KSEB Ltd has not submitted the monthwise details of the energy demand and availability. Since the tariff derived through the bidding process is single part tariff as Rs/unit for the scheduled energy, and also there is a penalty/ compensation clause @20% of the tariff derived through bidding route for the energy schedule less than 85% of the contracted capacity, the KSEB Ltd has to appraise the energy demand and availability and to submit the same before the Commission for appraising the risk if any on payment of compensation without any penalty. However, KSEB Ltd has failed to provide the same. However, KSEB Ltd has invited tenders only for 200 MW power through short-term contract instead of 250 MW initially intended to be procured.
7. As per the details submitted, the bidding process was done as per the bidding guidelines notified by the Central Government vide the resolution No. 23/25/2011-R&R dated 15th May 2012 for short-term (i.e., for a period less than or equal to one year) procurement of Power by Distribution Licensees through Tariff based bidding process.
8. Though the Commission has directed KSEB Ltd that, the PPA shall be signed only after getting approval of the Commission, the same was signed on 31-03-2016, to grab the opportunity for applying Medium Term Open Access (MTOA)

with the signed PPA for availing the open access likely to be available from March-2017 onwards in view of the expiry of MTOA for 397 MW granted to KSEB Ltd upto February-2017.

- (i) The Commission has examined the submission of KSEB Ltd in this regard. As per Central Electricity Regulatory Commission (Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters) Regulations, 2009, MTOA is defined as

2 (1) (n) "medium-term open access" means the right to use the inter- State transmission system for a period exceeding 3 months but not exceeding 3 years;

- (ii) Also, as per Clause 9.3 of the approved procedure for Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters;

The start date of MTOA can be any day of the month however, it shall not be earlier than 5 months and later than 1 year from the last day of the month in which application has been made

- (iii) Clause 14 approved procedure for Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters deals with the time line for processing of application.

14. TIME LINES FOR MTOA

14.1. The start date of MTOA shall not be earlier than 5 months and later than 1 year from the last day of the month in which application has been made.

14.2. All applications shall be processed on first-come-first-served basis provided that the applications received during a month shall be construed to have come together on the last day of the month. For all the applications received during a month (1st month), CTU shall carry out the studies and circulate the results to the concerned STUs / RLDCs for seeking their comments by 15th day of the 2nd month. The comments on the studies shall be received upto 25th of the 2nd month. After reviewing the comments, the decision on grant of MTOA shall be intimated to the applicant as well as to concerned RLDCs/STUs by the 10th day of the 3rd month. The intimation shall be provisional and shall be applicable only after signing of necessary agreements and submission of requisite BG

14.3. Provided that while processing applications for MTOA received during a month, those seeking access for a longer time shall have a higher priority.

14.4. Incomplete applications shall be rejected mentioning reason for rejections to the applicant.

- (iv) Clause 15.1 of the approved procedure for Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-State Transmission and related matters is reproduced below:

15.1. Documents to be submitted alongwith the application:

- *Duly filled in Application in specified format. Incomplete application shall be rejected.*
- *Proof of payment of Application fee*
- *Concurrence from SLDC / SLDCs as applicable.*
- *PPA or Sale-purchase agreement of power*
- *In case of generating station or consumer not already connected to grid, documentary evidence for completion of the connectivity showing that the same shall be completed before intending date of MTOA*

*** Note - Incomplete application shall be rejected.*

9. As detailed above, as per the clause 15.1 of the approved procedures for Grant of connectivity, Long-term Access and Medium-term Open Access (MTOA), the PPA/ Power sale agreement is one of the necessary document to be submitted along with the application for MTOA.
10. The MTOA already granted to KSEB Ltd for 397 MW is up to February 2017. On expiry of the period of this MTOA, the corridor will be available from March 2017 for the consideration of fresh application for MTOA. K S E B Ltd. can file application for MTOA before CTU, the corridor which will be free from March 2017 onwards. Further as per the cause 14.1 of the approved procedures for grant of connectivity, long-term access and medium-term open access, the MTOA can be applied one year in advance from the intended date of MTOA. Considering these facts, the Commission hereby approves the action of the KSEB Ltd in applying for MTOA after signing the PPA with the lowest bidder M/s PTC India Ltd for procuring 200 MW RTC power from 01-03-2017 to 30-06-2017, on the condition that liability if any to be incurred as compensation for not scheduling the contracted power shall not be allowed to be charged from consumers of the State.

11. Clause 10 of the 'Guidelines dated 15th May 2012, for short-term (i.e., for a period less than or equal to one year) procurement of power by distribution Licensees through Tariff based bidding process deals with contract award and conclusion, which is extracted below:

10. Contract award and conclusion

10.1. The PPA shall be signed with the Selected Bidder(s) consequent to the selection process.

10.2. After the conclusion of bid process, the Standing Committee constituted for evaluation of RfP bids shall provide appropriate certification on conformity of the bid process evaluation according to the provisions of the RfP document. The Procurer shall provide a certificate on the conformity of the bid process to these Guidelines to the Appropriate Commission.

10.3. For the purpose of transparency, the Procurer shall make the bids public by indicating the tariff quoted by all the Bidders, after signing of the PPA or PPA becoming effective, whichever is later. While doing so, only the name of the Successful Bidder(s) shall be made public and tariffs quoted by other Bidders shall be made public anonymously.

*10.4. If the quantum of power procured and **tariff** determined are within the blanket approval granted by the Appropriate Commission in Annual Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the Appropriate Commission.*

In all other cases, the Procurer(s) shall submit a petition to the Appropriate Commission for adoption of tariff within 2 days from the date of signing of PPA. Appropriate Commission should communicate the decision within 7 days from the date of submission of petition.

12. KSEB Ltd has submitted the minutes of the standing committee constituted to evaluate the bids received in the tender dated 19-3-2016 for the purchase of 200 MW RTC power on firm and short-term basis from 01-03-2017 to 30-06-2017. Further, KSEB Ltd has also submitted the details of the bid submitted by the lowest bidder and the tariff quoted by the other bidders.
13. The average rate for short-term power purchase approved by the Kerala State Electricity Regulatory Commission vide the order on ARR&ERC for the year 2014-15 is Rs 5 per unit at Kerala periphery. The rate offered by the successful lowest bidder is Rs 3.08 per kWh only at delivery point (Rs.3.406/kWh at Kerala periphery) for the period from March to May 2017, which is found to be reasonable.

Orders of the Commission

14. Considering the facts and circumstance as detailed above, the Commission adopts the tariff under Section 63 of the Electricity Act 2003 for the Purchase of 200 MW RTC power from M/s PTC Ltd, for the period from 01.03.2017 to 30.06.2017 on short term basis, as per guidelines for short-term (i.e., for a period less than or equal to one year) procurement of power by distribution licensees through Tariff based bidding process notified by the central government vide the resolution No. 23/25/2011-R&R dated 15th May 2012. Any liability likely to be incurred as compensation for not scheduling the contracted power from M/s PTC shall not be allowed to pass on to the consumers of the State.

Petition disposed of. Orders accordingly.

Sd/-
S. Venugopal
Member

Sd/-
K.Vikraman Nair
Member

Sd/-
T.M.Manoharan
Chairman

Approved for issue

Santhosh Kumar.K.B
Secretary