

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 218 of 2022

Petition of Nidar Utilities Panvel LLP for adoption of the Tariff and approval of the Power Purchase Agreement for the procurement of Non-solar (excluding wind energy) Renewable Power of 3 MW Round the Clock or as per availability on short-term basis for a period of 12 months i.e., from 1 February 2023 to 31 January 2024.

Coram

Sanjay Kumar, Chairperson
I. M. Bohari, Member
Mukesh Khullar, Member

Nidar Utilities Panvel LLP. (NUPLLP): Petitioner
Vindhyachal Hydro Power Pvt. Ltd. (VHPPL): Respondent

Appearance:

For Petitioner: Shri. Ghanshyam Thakkar (Rep)
For Respondent: Shri. Gaurav Talati (rep)

ORDER

Date: 16 January, 2023

1. Nidar Utilities Panvel LLP (NUPLLP) has filed this Case on 15 December, 2022 under Sections 63 of the Electricity Act, 2003 (**EA, 2003**) seeking adoption of the Tariff and approval of the Power Purchase Agreement (PPA) for the procurement of Non-solar (excluding wind energy) Renewable Power of 3 MW Round the Clock (RTC) or as per availability on short-term basis for a period of 12 months i.e., from 1 February 2023 to 31 January 2024.
2. **NUPLLP's main prayers are as under:**

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- a. *Adopt the tariff of Rs. 5.00/kWh at the Maharashtra State (STU) Periphery for the Short-Term procurement of 3.00 MW power as per availability (as per Table 7 above) for a period of 12 months starting from 1 February, 2023 to 31 January,*

2024, which is discovered through the competitive bidding u/s 63 of the Electricity Act, 2003.

- b. Approve the Short-Term PPA executed between Nidar Utilities Panvel LLP and M/s Vindhychal Hydro Power Private Limited (VHPPL) for supply of 3.00 MW power as per availability (as per Table 7 above and Annexure XII) for a period of 12 months starting from 1 February, 2023 to 31 January, 2024, at the Tariff of Rs. 5.00/kWh.
- c. Allow NUPLLP to initiate the process of Short-Term power procurement u/s 63 of the Electricity Act 2003 for the quantum of 3 MW RTC or higher quantum since the PPA with GMR ETL is ending in June 2023, for which NUPLLP will approach the Hon'ble Commission for adoption of tariff and approval of the PPA.
- d. Allow NUPLLP to initiate the process of Short-Term power procurement u/s 63 of the Electricity Act 2003 for the additional quantum, if required, which is over and above the quantum for which NUPLLP will approach the Hon'ble Commission for adoption of tariff and approval of the PPA.

.....”

3. NUPLLP in its Petition has stated as follows:

- 3.1 Nidar Utilities Panvel LLP (NUPLLP) is a deemed Distribution Licensees for the Panvel SEZ having its area of supply situated in Talegaon and Panshil village of Khalapur Taluka and Bhokarpada Village of Panvel Taluka in Raigad District.
- 3.2 The Commission vide Order dated 18 July, 2022 in Case No. 105 of 2022, had approved the Short-Term Power Purchase Agreement (PPA) executed between NUPLLP and GMR Energy Trading Ltd (GMR ETL) for 3 MW RTC supply for the period of 12 months starting from 1 July 2022 to 30 June 2023. This short term PPA with GMR ETL will be expiring on 30 June 2023.
- 3.3 NUPLLP's present RTC power requirement is around 3.50 MW, which is slightly higher than the approved PPA quantum of 3.00 MW in the PPA with GMR ETL and therefore presently, NUPLLP is procuring such additional power from the Power Exchange. The average RTC Market Clearing Price (MCP) for past six months from April 2022 to October 2022 is Rs. 6.19/kWh for DAM and Rs.6.88/kWh for G-DAM. In addition to the cost of power, there is an additional cost of around 70 paise/kWh considering losses, transmission charges and WRLDC fees etc. up-to STU periphery. Thus, considering the expected increase in load next year (around 4.25 MW by February 2023 and 5.50 MW by July 2023) along with the expiry of the current PPA with GMR ETL on 30 June 2023, NUPLLP is required to tie-up additional quantum of power.
- 3.4 The Commission in Order dated 18 July, 2022 in Case No. 105 of 2022 has also allowed NUPLLP to undertake additional Short-Term power procurement if the requirement of

power exceeds the Contracted Capacity.

- 3.5 The Commission in its Order dated 7 September 2021 in Case No. 57 of 2021 had directed NUPLLP to fulfill its cumulative RPO shortfall till FY 2022-23 by March 2023. NUPLLP has already purchased Solar REC to meet its RPO target till July 2022. NUPLLP plans to procure such additional power from non-solar (excluding Wind Energy) source to meet the consumer demand on short term basis through tariff based competitive bidding process for procurement of up to 3 MW RTC or as per availability on short-term basis for a period of 12 months i.e., from 1 February 2023 to 31 January 2024.
- 3.6 The reason for excluding wind energy is the daily and seasonal variability in generation which may have a significant impact on the DSM charges as well as the balancing power requirement.
- 3.7 NUPLLP floated the Request for Proposal (RfP) on 16 November, 2022 for the procurement of non-solar (excluding wind energy) RE power of 3 MW RTC or as per availability on short-term basis for a period of 12 months i.e., from 1 February 2023 to 31 January 2024 in accordance with Short-Term Bidding Guidelines.
- 3.8 NUPLLP issued the Public Notice in the two Newspapers viz. The Indian Express (Delhi Edition) and Business Standard (Mumbai Edition) on 16 November 2022, for procurement of power under e-Tendering and e-RA process.
- 3.9 On 25 November 2022 only a Single Bid was received. The Technical Bid was opened on the same day. The Bid was technically evaluated by the Tender Evaluation Committee and was found technically qualified.
- 3.10 The Financial Bid of the Single technically qualified Bidder was opened on 1 December 2022. The Price Offer quoted by the Bidder is as under:

Sr. No.	Bids submitted online on MSTC Website	Source	Type	Initial Price Offered (Rs/kWh) with REC- Green attributes
1.	Vindhyachal Hydro Power Private Limited (VHPPL)	Small Hydro - Vajra Hydro power plant Dist. Thane, Maharashtra	Intra-State	5.00

- 3.11 The e- Reverse Auction was concluded on same day and the final Price was discovered at Rs. 5.00/kWh.
- 3.12 The Bidder (VHPPL) has also submitted the 3-year generation data from November 2019 to October 2022 as per Clause 5.1 (g) of the RfP. After analyzing the power generation data of last year, it has been observed that there is consistent power generation in 15 min time block during the day and the month for a large part of the year i.e., from mid-October to mid-June – around 8 months. There is slight inconsistent generation from 15 June 2021 to 15 October 2021 i.e., for around 4 months which is mainly on account of the monsoon season. Since, there is no significant variability in generation on 15 min time block as well

as on daily /monthly basis, there will be negligible impact on the DSM charges payable/receivable by NUPLLP thus would not have any significant impact on the overall power purchase cost.

- 3.13 In view of its flat load curve, NUPLLP is looking for a power source which has a consistent generation for majority part of the year. Since the plant capacity is of 3 MW, the Annual CUF for last 3 years is in the range of ~ 58% to ~ 63%, which suits our power requirement. This procurement will help NUPLLP to meet the dual objective of not only meeting its cumulative RPO Compliance as per directions of the Commission but also to meet its additional demand in a cost-effective manner.
- 3.14 The price discovered at Rs.5.00/kWh through this Competitive Bidding is lowest as per the present market trends.
- 3.15 NUPLLP issued the LoA to VHPPL on 2 December, 2022, which is issued subject to the approval of the Commission. VHPPL has conveyed its unconditional acceptance of the LoA on 5 December 2022.
- 3.16 NUPLLP and VHPPL have executed the PPA on 7 December 2022 for the supply of 3 MW power as per availability at Rs.5.00/kWh (at Maharashtra STU Periphery) for the Contract Period of 1 February 2023 to 31 January 2024, which is subject to the approval of the Commission.
- 3.17 In view of above, NUPLLP requested the Commission to adopt the Tariff discovered through the competitive bidding and approve the PPA executed between NUPLLP and VHPPL for the Short-Term procurement of 3 MW power as per availability for a period of one year starting from 1 February 2023 to 31 January 2024.
- 3.18 NUPLLP further requested that, since there is no firm visibility on the projected load, there might be a case where there is requirement of additional power over and above the present requirement. In such case, NUPLLP will initiate process of Short-Term power procurement under Section 63 of the Electricity Act 2003 for the additional quantum and will approach the Commission for adoption of tariff as per Short Term Competitive Bidding Guidelines.

4. At the time of E-hearing held on 27 December, 2022:

- 4.1 NUPLLP reiterated the submission made in the Petition. NUPLLP stated that it conducted the competitive bidding process for the procurement of Non-solar (excluding wind energy) renewable power of 3 MW Round the Clock (RTC) or as per availability on short-term basis for a period of 12 months i.e., from 1 February 2023 to 31 January 2024 and requested the Commission to adopt the same.
- 4.2 The Commission enquired with the Petitioner about the CUF of the projects and whether NUPLLP had extended bid submission timelines in view of the receipt of single Bid. It was also enquired as to why has it not considered the option of re-bidding.

- 4.3 The representative of NUPLLP submitted that the CUF of the hydro project is 58 to 63% and based on past data it has generated maximum 1.5 to 2 MW power. Considering existing PPA of 3 MW, such 1.5 to 2 MW power would be sufficient to meet its projected demand of 4.5 MW. He further submitted that the offer received from the bidder was competitive seeing the current market trend and secondly, the Generation profile of Vindhyachal Hydro Power Pvt. Ltd. is matching with the load profile of the NUPLLP. He further justified that since the green power is made available at competitive rate and the hydro power being more reliable the Petitioner chose to go ahead with single Bid.

Commission's Analysis and Ruling:

5. The Commission notes that in the present Petition, NUPLLP is seeking approval for the following:
- a. To adopt the tariff of Rs. 5 per unit at the Maharashtra STU Periphery and approve the Short-Term PPA with Vindhyachal Hydro Power Private Limited for 3 MW power as per availability for a period of 12 months starting from 1 February, 2023 to 31 January, 2024, which is discovered through the competitive bidding under Section 63 of the Electricity Act, 2003.
 - b. To allow NUPLLP to initiate the process of Short-Term power procurement under Section 63 of the Electricity Act 2003 for the quantum of 3 MW RTC or higher quantum since the PPA with GMR ETL is ending in June 2023, for which NUPLLP will approach the Commission for adoption of tariff and approval of the PPA.
 - c. Allow NUPLLP to initiate the process of Short-Term power procurement under Section 63 of the Electricity Act 2003 for the additional quantum, if required, which is over and above the quantum for which NUPLLP will approach the Commission for adoption of Tariff and approval of the PPA.
6. NUPLLP has existing PPA of 3 MW valid up to 30 June 2023. In the present Petition, NUPLLP has projected slightly higher demand (~4.25 MW by February 2023 and 5.50 MW by July 2023) than the existing PPA (up to 3 MW). In this regard, the Commission notes that being a deemed distribution Licensee, NUPLLP is having limited area of supply and hence it is in a better position to assess and project its demand in consultation with its consumers. Therefore, the Commission accepts the demand of (~4.25 MW by February 2023 and 5.50 MW by July 2023 (RTC)) projected by NUPLLP. With such demand projections, additional power procurement of 1.25 MW (by February) to 2.50 MW (by June 2023) i.e., till validity of existing PPA which is expiring in June 2023, is required. Thereafter, NUPLLP has to arrange for power up to 5.50 MW. Considering such scenario, proposed 3 MW power procurement seems to be consistent with demand-supply scenario.
7. The Commission notes that NUPLLP published notice in the two Newspapers viz. The Indian Express (Delhi Edition) and Business Standard (Mumbai Edition) on 16 November, 2022, and floated e-Tender through DEEP Portal as per Standard Bidding Guidelines without any deviation.

8. The Commission notes that single bidder participated and was qualified in the bidding process and subsequently in the e-Reverse Auction process. Post E-Reverse Auction process conducted on 1 December 2022, rate of Rs. 5.00 per unit at Maharashtra State Transmission periphery was discovered from the single bidder.
9. The Commission notes that Para 7.1 of the Competitive Bidding Guidelines (Short Term Power Procurement) dated 30 March, 2016 notified by the Government of India under Section 63 of the Electricity Act, 2003, stipulates following remedy in case of single bidder:

“To ensure competitiveness, the minimum number of Bidders should be at least two for each requisition. If the number of Bidders responding to the RfP is less than two, and Procurer still wants to continue with the selection process, the selection of that single Bidder may be done with the consent of the Appropriate Commission.”

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Above clause empowers the Commission to approve power procurement from single bidder after ensuring the competitiveness of quoted tariff.

10. The Commission notes that present rate discovered by NUPLLP through competitive bidding process i.e., Rs. 5.00 per unit is close to NUPLLP’s existing power procurement rate of Rs. 4.90 per unit. Further, to test the competitiveness of tariff discovered by NUPLLP in present bidding process, the Commission compared it with recently adopted tariff for SEZ based distribution licensees and other Distribution Licensees which are tabulated below:

Sr No	Particulars	Period	Quantum in MW	Average tariff (Rs per unit)
1	Eon Kharadi Infra Pvt. Ltd. (SEZ Phase I) (Case No 34 of 2022)	1.03.2022 to 28.02.2023	6 MW RTC	5.05
2	Jawaharlal Nehru Port Trust Ltd (Case No 90 of 2022)	1.07.2022 to 30.06.2023	1 MW	5.02
3	KRC Discoms (Case No 177 of 2022 dated 28 October 2022)	01.11.2022 to 31.10.2023	8 MW RTC	6.35
4	KRC Discoms (Case No 177 of 2022 dated 28 October 2022)	01.11.2022 to 28.02.2023	4 MW Peak	7.95
5	BEST Undertaking (Case No 151 of 2022 dated 24 August 2022)	01.08.2022 to 15.12.2022	20-80 MW	7.72
6	MSEDCL (Case No 148 of 2022 dated 30 August 2022)	1.10.2022 to 31.03.2023	100-400 MW	7.44
7	TPC-D (Case No 165 of 2022)	1.10.2022 to 31.10.2022	75MW	7.54

11. The Commission notes that the rates being discovered on DEEP portal are varying hugely in the range of Rs 6.35 per unit to Rs 12 per unit. Though the power rates are dynamic, considering the discovered rates at para 10 above (during which time also, the rates were varying between Rs 6.35 and Rs 7.95 per unit), the present discovered rate of Rs 5.00 per unit seems reasonable and reflective specially of the current market situation.
12. The Commission notes the submission of NUPLLP that the CUF of the successful bidder (VHPPL) is 58 to 63% and the generation profile of successful bidder i.e., Vindhyachal

Hydro Power Pvt. Ltd. is matching with the load profile of the NUPLLP. As green power is being made available at such competitive rate, NUPLLP has chosen to go ahead with single Bid.

13. The Commission notes that procuring such Hydro power with such high CUF of 58 to 63% and that too matching with its load curve requirement has multiple advantages to the NUPLLP. On one hand it is procuring RE power but not subjected to variability in generation. Also, such RE power would help NUPLLP to meet its cumulative RPO targets without incurring any additional expenses.
14. Section 63 of the Electricity Act, 2003 mandates the Commission to adopt the Tariff if such tariff has been discovered through transparent process of bidding in accordance with the guidelines issued by the Central Government.
15. In view of the foregoing, the Commission notes that tariff discovered and further negotiated by NUPLLP fulfills mandate and requirements for adoption as set out in Section 63 of the EA, 2003. Accordingly, the Commission adopts following tariff for NUPLLP for the period of 12 months i.e., from 1 February 2023 to 31 January 2024.

Name of Bider	Source	Load	Tariff (Rs/kWh) with REC-Green attributes
Vindhyachal Hydro Power Private Limited (VHPPL)	Small Hydro - Vajra Hydro power plant Dist. Thane, Maharashtra	3 MW (RTC or as per availability on short-term basis)	5.00

16. The Commission notes that PPA signed on 7 December, 2022 between NUPLLP and VHPPL is submitted along with Petition and is in line with the Guidelines. Accordingly, the Commission approves PPA which is signed between NUPLLP and VHPPL at the rate and for the quantum mentioned in above table.
17. NUPLLP has also requested for allowing initiation of additional short term power procurement for 3 MW once existing PPA with GMR ET is expired in June 2023. In this regard, the Commission notes that in present Petition, NUPLLP has projected demand of 4.5 MW in July 2023. Although 3 MW hydro power procurement is allowed in present matter, with CUF of 58 to 63%, effective power availability is around 1.5 to 2 MW. Hence, balance 3 MW power is to be tied-up. Hence, the Commission allows NUPLLP to initiate 3 MW short term power procurement as per competitive bidding guidelines for the period starting from 1 July 2023.
18. NUPLLP has also requested the Commission to allow undertaking additional short term power procurement if power demand exceeds the contracted quantum. In this regard, the Commission notes that as a Distribution Licensee, NUPLLP is mandated to fulfill electricity demand of its consumers. Hence, in case its demand increases beyond the contracted capacity, it is at liberty to procure such additional power through fresh short term bidding

process or through power exchanges by way of optimizing its power purchase costs and subject to the provisions of the MYT Regulations and may approach the Commission for adoption of tariff, if required as per law.

19. Hence, following Order:

ORDER

1. **Case No. 218 of 2022 is allowed.**
2. **Under Section 63 of the Electricity Act, 2003, the Commission adopts Short Term Power Procurement for the period of 1 February, 2023 to 31 January, 2024 by Nidar Utilities Panvel LLP as stated in paras 15 above.**
3. **Accordingly, PPA initiated with successful bidder is approved with the tariff rate of Rs. 5.00 at Maharashtra State Periphery. Nidar Utilities Panvel LLP, to submit copies of Final PPA to the Commission for records.**

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member

Sd/-
(Sanjay Kumar)
Chairperson

