



**Delhi Electricity Regulatory Commission**  
**Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.**

No. F.11(1985)/DERC/2022-23/7394

**Petition No. 27/2022**

In the matter of : **Petition under Section 86(1)(b) of Electricity Act, 2003 seeking approval the Commission for purchase of electricity under Short term.**

**BSES Rajdhani Power Limited**

**.... Petitioner**

**Versus**

**Manikaran Power Ltd. & Ors.**

**..Respondents**

**Coram:**

**Hon'ble Shri Justice Shabihul Hasnain 'Shastri', Chairperson**  
**Hon'ble Dr. A. K. Ambasht, Member**

**Appearance:**

1. Mr. Buddy A Ranganathan, Advocate, BRPL
2. Mr. Hasan Murtaza, Advocate, BRPL

**ORDER**

(Date of Order: 11.05.2022)

1. The Instant Petition has been filed seeking approval of the Commission for purchase of electricity under Short term.
2. The Petitioner has made the following prayers in its Petition:  
  
B) Approve the procurement of power from the Respondent at weighted average tariff as per the below

S. No.	Period	Duration (Hrs)	Quantum (MW)	Tariff at BRPL Periphery (Rs./KWh)
1	Initial 10 days from Start Date of Supply in May 2022	00:00 – 24:00	200	9.42
2	Remaining days in May 2022 after initial 10 days of supply in May 2022	00:00 – 24:00	200	9.63

3	1st June'22 – 15th July'22	00:00 – 24:00	200	Determination of tariff based on actual coal cost which shall be made available by 15th May 2022.
---	-------------------------------	------------------	-----	---

3. The Petitioner submits the following:

- a. On 30<sup>th</sup> March 2016, the Ministry of Power (hereinafter “the MoP”) issued 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 (hereinafter “the MoP Guidelines”). As per the MoP Guidelines and more specifically under Clause 11.4 thereof, in case the quantum of power procured and tariff determined are within the blanket approval granted by the Appropriate Commission (i.e., this Commission) in Annual Revenue Requirement (hereinafter “the ARR”) of the respective year, then the same will be considered to have been adopted by the Appropriate Commission. However, if that is not the case, the procurer (i.e. the Petitioner) is required to approach the Appropriate Commission for adoption of tariff within 2 days of the signing of the PPA/LOI, which shall, in turn, communicate its decision within a period of 7 days from the date of submission of the Petition.
- b. On 31<sup>st</sup> January 2017, this Commission notified the DERC (Terms and Conditions for Determination of Tariff) Regulations, 2017 (hereinafter “Tariff Regulations”). As per Regulation 152(c) of the Tariff Regulations, in case the Petitioner is desirous of entering into a short-term arrangement or agreement (other than trading through the Power Exchange) the Petitioner is mandated to follow a transparent bidding process in accordance with the extant guidelines issued by the MoP, i.e., the MoP Guidelines.
- c. In the ensuing financial year, i.e., FY 2022-2023, anticipating a shortage of power, especially in the summer months, the Petitioner decided to procure short term power by way of a transparent bidding process and in accordance with the MoP Guidelines. To this end, the Petitioner invited bids by way of Tender No. Head (PMG)/BRPL/E Tender/2021-22/1198 dated 14<sup>th</sup> February 2022 for procurement of upto 350 MW of power for the period 1<sup>st</sup> April 2022 to 30<sup>th</sup> September 2022 (hereinafter “the Tender”).
- d. The Petitioner received several bids from various entities with bids ranging from 40 MW to 350 MW.

- e. The Petitioner evaluated the quoted bids and analysed the bid prices. The price discovered through bidding were in line with the earlier discovered prices of other utilities in recent tenders. Thereafter, the Standing Committee issued certification on conformity of the bid process evaluation according to the provisions of the RfP document.
- f. As noted above, the MoP Guidelines require approvals of the Appropriate Commission in case the quantum and rate of power exceed the figures approved in the ARR for the concerned year. However, while the procurement is scheduled for FY 2022-2023, as on date, there is no ARR Order passed by this Commission for FY 2022-2023. Therefore, by way of abundant caution, the Petitioner filed Petition No. 21 of 2022 before this Commission and for the purposes of the same, the Petitioner relied upon the findings of the tariff order dated 30<sup>th</sup> September 2021 wherein this Commission approved the ARR for FY 2021-22 (hereinafter "the Tariff Order").
4. The rate approved in the Tariff Order was less than the rate discovered by the Petitioner in the tendering process and therefore, in light of Clause 11 of the MoP Guidelines, the Petitioner filed Petition No. 21 of 2022 seeking approval of this Commission.
5. This Commission vide its final order dated 13.04.2022 in Petition No. 21 of 2022 was pleased to grant approval to the bidding process and the Letters of Intent dated 11.04.2022 issued to the successful bidders by the Petitioner.
6. In the order dated 13.04.2022, this Commission recognized that the prices discovered by the Petitioner were competitive and less than the average IEX prices for the period 11.03.2022 – 11.04.2022 which were in the range of Rs.10.55-10.97/ kWh.
7. Subsequent to the passing of the said order dated 13.04.2022 by this Commission, one of the traders i.e. the Respondent herein was unable to accept the LOI issued by the Petitioner due to various factors including but not limited to the emergent crisis arising out of the shortage of coal. The Petitioner shall be taking appropriate steps against the Respondent in accordance with the provisions of the LOI issued to the Respondent.
8. The emergent crisis arising out of the shortage of coal resulted in skyrocketing of prices of electricity to the extent that this Commission took steps to ensure 24X7 supply of power to consumers of Delhi. This Commission vide its letter dated

29.04.2022 passed certain directions granting "Relaxation in Directives due to Current Power Crisis".

9. Similarly, the Central Electricity Regulatory Commission also passed directions directing the power exchanges to re-design, with immediate effect, the bidding software, in such a way that members could submit the bids in day ahead market in the price range of Rs. 0/kWh to 12/kWh, thus capping the price for trading at Rs. 12/kWh. Even at that price, the CERC recognized that the buy bids were much more than the sell bids.
10. The Petitioner therefore in order to avoid any disruption in power supply bilaterally negotiated with the Respondent and the Respondent has offered supply of electricity at the following rates:

S. No.	Period	Duration (Hrs)	Quantum (MW)	Tariff at BRPL Periphery (Rs./KWh)
1	Initial 10 days from Start Date of Supply in May 2022	00:00 – 24:00	200	9.42
2	Remaining days in May 2022 after initial 10 days of supply in May 2022	00:00 – 24:00	200	9.63
3	1st June'22 – 15th July'22	00:00 – 24:00	200	Determination of tariff based on actual coal cost which shall be made available by 15th May 2022.

11. In terms of the offer letter, the Respondent has offered supply of 200 MW electricity from the seller i.e. M/s ILFS (ILFS Tamil Nadu Power Company Limited) for the period 10.05.2022 – 15.07.2022 on the basis that the price of coal shall be a pass through in the tariff. The offer is further subject to the condition that the offer shall be considered for the entire period offered by the Respondent.
12. It is submitted that the present emergent situation arising out of the shortage in coal corresponding to the increased demand is unprecedented and is akin to force majeure.

13. The rates offered by the Respondent are competitive and are much lower than the power currently available at the exchange. Moreover, the rates such negotiated are much lower than those recently approved even by this Commission for Tata Power Delhi Distribution Limited.

**Commission Analysis**

14. A request vide letter dated 10.05.2022 has been made by the Counsel for the Petitioner "BRPL" to take up the matter for urgent listing on the ground of the ongoing scenario of power purchase. On their request, on 11.05.2022 the Special bench was constituted.
15. The Petitioner has submitted that the Commission vide its final order dated 13.04.2022 in Petition No. 21 of 2022 granted approval to the bidding process. The Letters of Intent dated 11.04.2022 had been issued to the successful bidders by the Petitioner.
16. The Petitioner has further submitted that the Respondent herein was unable to accept the LOI issued by the Petitioner due to various factors including but not limited to the emergent crisis arising out of the shortage of coal. The Petitioner shall be taking appropriate steps against the Respondent in accordance with the provisions of the LOI issued to the Respondent.
17. In order to avoid any disruption in power supply the Petitioner bilaterally negotiated with the Respondent and the Respondent has offered supply of electricity at the following rates:

S. No.	Period	Duration (Hrs)	Quantum (MW)	Tariff at BRPL Periphery (Rs./KWh)
1	Initial 10 days from Start Date of Supply in May 2022	00:00 – 24:00	200	9.42
2	Remaining days in May 2022 after initial 10 days of supply in May 2022	00:00 – 24:00	200	9.63
3	1st June'22 – 15th July'22	00:00 – 24:00	200	Determination of tariff based on actual coal cost

				which shall be made available by 15th May 2022.
--	--	--	--	---

18. From the above details it is observed that considering the current market prices at an abnormal high rates prevailing power crisis. The Commission approves the weighted average tariff mentioned in Para B of the prayer clause of the Petition concerned. However, if this arrangement fails, it shall be the sole responsibility of the Petitioner to procure & supply power to its consumers at the Tariff discovered in the said bidding process.
19. Ordered accordingly.

**Sd/-**  
**(Dr. A.K. Ambasht)**  
**Member**

**Sd/-**  
**(Justice Shabihul Hasnain 'Shastri')**  
**Chairperson**