



**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Petition No. 2138 of 2024

QUORUM

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Sanjay Kumar Singh, Member

IN THE MATTER OF

Petition for the adoption of Tariff and approval of Power Purchase Agreement (PPA) based Competitive Bidding process under Section 63 of the Electricity Act, 2003, as per the 'Guidelines for Short-Term Procurement of Power by Distribution Licensees through Tariff based bidding process' issued by the Ministry of Power (MoP), Government of India, dated 30.03.2016 and its amendments thereof, for the procurement of 5 MW Round the Clock (RTC) Renewable power for a period of 4.5 months i.e., from 01.12.2024 to 15.04.2025 and in principle approval of purchase of deficit power from Power Exchanges for its Load Management.

AND

IN THE MATTER OF

NIDP Developers Pvt. Ltd. (NIDP)

12th Floor, Knowledge Park, Hiranandani Business Park,
Powai, Mumbai -400076.

..... Petitioner

FOLLOWING WERE PRESENT

1. Shri Saurabh Gupta, Head-Regulatory, NIDP
2. Shri Shafi Sonde, VP-Operations, NIDP

ORDER

(DATE OF HEARING: 19.11.2024)

1. The Petitioner, NIDP, has filed the captioned case for approval for procurement of 5MW Bagasse-based power on short-term basis for the period from 01.12.2024 to 15.04.2025 under the PPA dated 24.10.2024 procured through tariff based competitive bidding process conducted on DEEP portal.



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2. The prayer(s) of the Petitioner are as follows:

- (a) Adopt the tariff of Rs. 5.45/kWh at the Uttar Pradesh State (STU) periphery for the short-term procurement of 5MW Renewable power on RTC basis (as per Table 6) for a period of 4.5 months starting from 1 December 2024 to 15 April 2025, which is discovered through the competitive bidding u/s 63 of the Electricity Act, 2003.
- (b) Approve the short-term PPA executed between NIDP Developers Pvt. Ltd. and M/s DCM Shriram Limited for the quantum mentioned in Table No. 6 for a period of 4.5 months starting from 1 December 2024 to 15 April 2025 at the Tariff of Rs. 5.45/kWh.
- (c) Allow the Petitioner to purchase power to bridge the deficit through power exchanges for its load management through a Trading Licensee on payment of Trading Margin.
- (d) Allow NIDP 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 mentioned in Table No. 6 for which the Petitioner will approach the Commission for adoption of tariff and approval of the PPA.
- (e) Allow the Petitioner to procure Power through Power Exchanges for such additional quantum over and above the quantum mentioned in Table No. 6 until the entire Competitive Bidding process is concluded with the approval of the Commission, in order to continue reliability of supply to its consumers.
- (f) Schedule an early hearing in the matter, as the power under this PPA is to be scheduled from 1 December 2024.
- (g) Take up the matter for urgent hearing given the short timeframe available for approval of Open Access Application for the month of December 2024.
- (h) Pass any other or further Order/Order(s) as it may deem fit and necessary for the proper and effective adjudication of the present matter.

3. Background of the case as submitted by Petitioner.

- a) The Petitioner is a company under the Companies Act, 2013 and is primarily engaged in the business of developing and managing data centres, infrastructure facilities and other allied business activities including the distribution of electricity within its data centre. On 20.06.2023, the Commission issued Distribution License

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(License No. 1 of 2023) to the Petitioner for carrying out the business of distribution of electricity within its data centre. Further, the Commission vide its Order dated 09.02.2024 in Petition No. 2052/2023 approved the power procurement for FY 2024-25 through short-term bidding route as per the guidelines of the Government of India.

- b) NIDP had executed a PPA dated 19.02.2024 with Tata Power Trading Company Ltd. for the period from 01.04.2024 to 31.10.2024, wherein the source generator was M/s. Prayagraj Power Generation Company Ltd. The Commission vide its Order dated 19.03.2024 in Petition No. 2064/2024 had approved the said PPA dated 19.02.2024. The tenure of said PPA ended on 31.10.2024.
- c) At present, RTC power requirement within the Area of Supply is around 5MW. Thus, Petitioner has intended to explore the short-term power procurement as per Section 63 of the Electricity Act, 2003. Accordingly, the Petitioner floated a Request for Proposal (RFP) No. NIDP DEVELOPERS PRIVATE LIMITED/Short/24-25/ET/131 dated 08.10.2024 for procurement of RTC Renewable Energy (excluding Solar & Wind energy) through TBCB process to procure 5MW at U.P. State periphery for a period of 4.5 months i.e., from 01.12.2024 to 15.04.2025, in accordance with the MoP Guidelines dated 30.03.2016 & its amendments thereof.
- d) The RFP was made available to the Bidders through the e-Bidding platform viz. 'DEEP' Portal in accordance with the referred short-term Bidding Guidelines issued by the Ministry of Power without any deviations. The intent to purchase Firm Renewable Energy was to meet RPO targets as per UPERC (Promotion of Green Energy through Renewable Purchase Obligation) (First Amendment) Regulations, 2019. Timelines of the entire e-bidding process stipulated in the RFP dated 08.10.2024 are as under:

S. No.	Event	Event Schedule
1.	Publication of the Request for Proposal (RfP)/Activation of the Event	08.10.2024 at 11:00 Hrs.
2.	Submission of RfP (Online Digitally signed Non-Financial Technical Bid and IPOs)	15.10.2024 by 14:00 Hrs.
3.	Opening of Non-Financial Technical Bids	15.10.2024 at 16:00 Hrs.
4.	Clarification, if any, sought from Bidder(s)	16.10.2024 by 17:00 Hrs.
5.	In case of no clarification, evaluation of Non-Financial Technical Bids	17.10.2024 at 12:00 Hrs.
6.	Opening of Initial Price Offers (IPOs)	18.10.2024 up to 10:00 Hrs.
7.	Start of e-Reverse Auction (e-RA)	18.10.2024 at 12:00 Hrs.
8.	Issuance of Letter of Award to Successful Bidder	19.10.2024





S. No.	Event	Event Schedule
9.	Submission of Signed LoA by the Bidder	22.10.2024 by 16:00 Hrs.
10.	Signing of PPA	24.10.2024
11.	Submission of Application for Open Access	As per Open Access Procedure/Regulations
12.	Approval and Obtaining UPSIDC consent by the Seller/Purchaser	
13.	Opening of the Letter of Credit (LC)	Prior to supply of Power

e) As per short-term bidding Guidelines, Petitioner issued Public Notice in two Newspapers viz. 'The Indian Express' (Delhi Edition) and 'Business Standard' (Mumbai Edition) on 08.10.2024. The Petitioner issued a Corrigendum dated 15.10.2024 in response to the Bid extension's request received from the probable Bidders. Post examining the Bid documents submitted by two Bidders, Tender Evaluation Committee (TEC) technically qualified both the Bidders for participating in the Financial /IPO Bid opening followed by e-Reverse Auction. On 18.10.2024 at 10:00 hrs., Financial Bid of both the technically qualified Bidders were opened, wherein Initial Price Offer (IPO) quoted by the Bidders were as under:

Sl. No.	Bidders	Initial Price Offered (Rs./kWh)	Bid Quantity (MW)
1.	M/s. DCM Shriram Ltd.	5.45	5.00
2.	M/s. Kreate Energy (I) Pvt. Ltd.	7.00	5.00

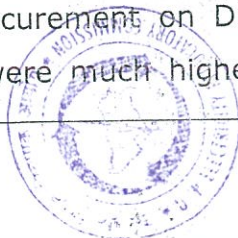
f) The scheduled e-RA was activated on the same day i.e., 18.10.2024 at 12:00 hrs. The details of the final Price Bid after e-RA are provided as under.

Sl. No.	Bidders	Initial Price Offered (Rs./kWh)	Bid Quantity (MW)
1.	M/s. DCM Shriram Ltd.	5.45	5.00
2.	M/s. Kreate Energy (I) Pvt. Ltd.	7.00	5.00

g) A rate negotiation was then initiated by the Petitioner through its letter dated 18.10.2024 to DCM Shriram Limited (DCMSL). Thereafter, DCMSL in its response letter dated 19.10.2024 kept its price of Rs. 5.45/kWh as final. Thus, based on TEC recommendation, Petitioner issued LoA dated 19.10.2024 to DCMSL. On 21.10.2024, DCMSL conveyed its unconditional acceptance to the LoA. Thereafter, Petitioner and DCMSL have executed the PPA dated 22.10.2024, subject to the approval of the Commission.

h) During the bid evaluation, TEC also examined price discovered by other utilities for their Short-Term power procurement on DEEP Portal and found that price bids received by other utilities were much higher as compared to the final price bid

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received by the Petitioner. The identified source of DCMSL is its 7.5MW Bagasse-based power Plant (i.e., Sugar Unit- Ajbapur, District Lakhimpur Kheri, Uttar Pradesh). Procurement of such RTC Bagasse-based power plant matches with NIDP's load curve requirement. Further, procuring such Renewable power would also help Petitioner to meet RPO targets without incurring any additional expenses.

- i) Based on the present load requirement of around 5 MW, the Petitioner has tied up 5MW power, however, in case of marginal increase in demand of 1 to 2MW, the Petitioner intends to procure power from Power Exchanges. Thus, any deficit power has been contemplated to be procured through Power Exchange on Day Ahead/Real Time Market/Term Ahead Market as the case may be.
- j) The balancing quantum of power requirement over and above of 5MW would be small. To meet this small quantum of balancing power, Petitioner has two options through which such power could be procured i.e., one through power trader by paying trading margin and secondly directly from the Power Exchanges by becoming member of the Power Exchange. However, to become member of Power Exchanges, Petitioner would have to incur membership Fees/Security Deposit and Annual Subscription Fees which will cost around Rs. 65 Lakh on Indian Energy Exchange Ltd. Further, the Petitioner would require at least 4 specialized manpower for handling such purchase/sale of power through Power Exchanges along with dedicated system with connectivity etc. which would significantly add to the O&M cost. Considering that the volume to be traded on the Power Exchanges will be low, the Petitioner believes that it would be more economical /prudent and in consumer interest to tie up with Trader and pay a trading margin till the Petitioner's demand increases substantially. Therefore, the Commission has been required to allow the Petitioner to appoint a Trading Licensee for purchase /sale of power and allow such trading margin to be recovered in the ARR subject to prudence check by the Commission.

Record of Proceedings.

4. During the hearing, Sh. Saurav Gupta on behalf of NIDP submitted that instant Petition is for approval of short-term procurement of 5 MW bagasse-based power at a tariff of Rs. 5.45/kWh discovered under TBCB process on DEEP portal. He further stated that the discovered tariff in the instant bid is economical as compared to the recent bid results. On specific query of the Commission regarding trading margin for the Trader, Sh. Gupta responded that for short term power contracts, trading margin





of 1 – 2 paise are being charged by the trader over and above the power exchange tariff.

Commission's View

5. The Commission vide its Order dated 09.02.2024 in Petition No. 2052/2023, on the prayer of NIDP, allowed NIDP to purchase power in FY2024-25, through short-term bidding route as per the Guidelines of the Government of India. The relevant extract of the said Order is reproduced as under:

"8. The Commission is of the view that since there is a very short period left in commencement of operations by the Petitioner, it is not possible to initiate the procurement process as per the guidelines of Ministry of Power, Government of India for procuring power for the month of March, 2024. In regard to procurement of power from FY 2024-25, the Commission is of the view that the business of Data Centers is at a very nascent stage, as present, only one data center building is in operation. The remaining buildings are still in development phase. So, the concerns are there not only from the perspective of consumption pattern but also from the angle of load growth in the area of Petitioner. Hence, there is uncertainty with respect to load that will come up in future, which will depend on business proliferation in the data center as well as development of infrastructure amongst other factors.

9. In view of this, the Commission allows procurement of power in FY 2024.25, through short term bidding route as per the guidelines of the Government of India. The Petitioner must ensure that the power purchase price is within the limits to make its distribution business (as per UPERC MYT Regulations, 2019) viable at the tariffs being charged by the Petitioners. The Petitioner should also ensure that the approval of Commission is sought before commencement of schedule of short-term power."

6. In the instant case, Petitioner has confirmed that discovery of tariff has been carried out through transparent competitive bidding process and in accordance with the Guidelines dated 30.03.2016 issued by the Ministry of Power, Government of India without any deviation. The Commission has noted that the final L1 price bid received from DCM Shriram Ltd. after the e-RA, is lower than the recent price discovered by other utilities on DEEP portal. Further, this bagasse-based power would also help the Petitioner to meet its RPO targets.

7. Section 63 of the Electricity Act, 2003, states that the Commission shall adopt the tariff arrived through transparent process of bidding in accordance with guidelines issued by Central Government. The said provision is reproduced below:

"Section 63 (Determination of tariff by bidding process): Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government."



8. Therefore, in view of above, the Commission adopts the tariff of Rs. 5.45/kWh for procurement of 5MW bagasse based RTC power from 01.12.2024 to 15.04.2025 and approves the PPA dated 22.10.2024 for procurement of power by NIDP Developers Pvt. Ltd. from DCM Shriram Ltd. Further, regarding deficit power over and above 5MW quantum, if any, the Commission allows the Petitioner to explore power exchange route through a Trading Licensee with a trading margin ceiling of 2 paise/unit, as acknowledged during the hearing.

Accordingly, the Petition stands disposed of in terms of the above.

(Sanjay Kumar Singh)
Member



(Arvind Kumar)
Chairman

Place: Lucknow

Dated: 22.11.2024

