

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

BHOPAL

Sub: Filing of Merged Petition under Section 86(1) of the Electricity Act 2003 read with Regulation 4.22 of MPERC (Power Purchase and Procurement Process) Regulations, 2023 {RG-19(II) of 2023} dt. 17th February 2023 for approval of Capacity addition to the extent of power from 3150 MW Solar, 3200 MW Wind, 500 MW Pump Storage and 227 MW new upcoming Hydro Projects developed by National Hydroelectric Power Corporation (NHPC) and Procurement of additional quantum and power purchase agreement for medium- term power for five years from FY 2023-24.

Petition No. 51 of 2023

ORDER

(Hearing through video conferencing)

(Date of Hearing: 7th November 2023)

(Date of Order: 10th November 2023)

Managing Director,

Madhya Pradesh Power Management Company Ltd.,
Bhawan, PO Vidyut Nagar,
Rampur, Jabalpur, 482008

- Petitioner(s)

Vs.

- 1. Madhya Pradesh Urja Vikas Nigam Ltd.,**
Urja Bhawan, Link Road No. 2 Shivaji Nagar,
Bhopal, Madhya Pradesh, 462016
- 2. Solar Energy Corporation of India,**
A Wing D-3 District Centre, Saket,
New Delhi, 110017
- 3. NTPC Renewable Energy Ltd.,**
NTPC Bhawan, SCOPE Complex,
7 Institutional Area, Lodhi Road, South Delhi,
Delhi, India, 110003
- 4. Power Grid Corporation India Limited,**
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi-110016
- 5. MP Power Transmission Company Limited,**
Block No. 2, Shakti Bhawan, Rampur, Jabalpur
- 6. PFC Consulting Limited,**
First Floor, Urja Nidhi, 1, Barakhamba Lane,
Connaught Place, New Delhi - 110 001

- Respondent(s)

Shri Dheeraj Muniya, GM appeared on behalf of the petitioner.

Shri Anubhav Kansal appeared on behalf of the respondent no. 6

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The petitioner Madhya Pradesh Power Management Company Ltd., Jabalpur, has filed the subject petition Under Section 86(1) of the Electricity Act 2003 read with Regulation 4.22 of MPERC (Power Purchase and Procurement Process) Regulations, 2023 {RG-19(II) of 2023} dt. 17th February 2023. Petitioner had also filed an Interlocutory Application on 26.10.23 for urgent listing of Petition No. 51 of 2023 for grant of in-principle approval for capacity addition of 378.24 MW for procurement of medium-term power through Power Finance Corporation Consulting Limited (PFCCCL) from the bidders selected through competitive bidding process under Shakti (B) (V) policy of the Ministry of Power.

2. It is noted that in addition to medium term requirement of 378.24 MW power, petitioner is also seeking capacity addition approval for 3150 MW Solar Capacity (including Kusum -A & Kusum-C), 3200 MW Wind Capacity and 227 MW Hydal Capacity for fulfillment of RPO trajectory notified by the Commission. Approval for capacity addition of Pump Storage of 500 MW and RE RTC of 650 MW has also been requested. The Pump Storage and RE RTC shall utilize the Wind and Solar power from the above requisitioned Wind & Solar capacities.
3. Petition was admitted on 31.10.2023 and the petitioner was directed to serve copy of petition to the Respondent no. 1 to 3, within one week and respondents were directed to file their response in 15 days thereafter.
4. At the hearing held on 07.11.2023, matter regarding grant of in-principle approval for capacity addition of 378.24 MW on medium term basis to meet out the rabi season demand of State in ensuing season and onwards was taken up. The Commission will examine the capacity addition approval for 3150 MW Solar Capacity (including Kusum -A & Kusum-C), 3200 MW Wind Capacity, 227 MW Hydal Capacity and 500 MW Pump Storage/ 650 MW RE RTC Capacities separately after receipt of comments from concerned respondents and hearing them.
5. At the hearing held on 07.11.2023, petitioner reiterated their request for grant of in-principle approval for 378.24 MW power on medium term basis for 5 years. Petitioner informed that MP STU in their written submission has intimated that adequate transmission corridor in ISTS/ MP system is available for wheeling 378.24 MW power. On being asked by the Commission about having all required approvals from appropriate authorities at Company / Government level, petitioner confirmed that due approvals in this regard have already been obtained. During hearing, respondent no. 6 i.e. PFCCCL stated that the bidding has been conducted by them as per the guidelines laid down by the Central Government and that they do not have any objections to the prayer made by the petitioner.

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6. Commission directed respondent no. 6 to make written submission in the matter upto 10.11.2023.
7. Petitioner has submitted detailed computation of demand forecast and availability for the period from FY 2023-24 to 2031-32 to show the power deficit in peak load during non-solar hours. The peak demand forecast and peak availability including capacity proposed in this petition as computed by the petitioner is as follows: -

FY	23-24	24-25	25-26	26-27	27-28	28-29	29-30	30-31	31-32
Peak Availability in MW	14945	14973	14968	15703	17389	18192	18180	18170	18852
Peal Load in MW	16032	17150	18058	19162	20055	21187	21981	22753	23544
Peak Deficit in MW	-1087	-2177	-3090	-3459	-2666	-2995	-3801	-4583	-4692

8. Petitioner has also submitted that in computation of peak availability, they have considered all possible banking arrangements and also the proposed capacity addition including 378.24 MW power for medium term, 3150 MW Solar Capacity (including Kusum -A & Kusum-C), 3200 MW Wind Capacity and 227 MW Hydal Capacity. It is noted by the Commission that even after considering all the proposed capacities, there shall still remain power deficit during peak periods from FY 2023-24 till FY 2031-32. Petitioner has further submitted that most of the time, the medium-term power of 378.24 MW shall be scheduled fully and only for short durations when full capacity could not be scheduled due to load variations, such surplus power shall either be banked or sold on energy exchanges.
9. Commission noted that the petitioner vide its affidavit dated 06.11.2023 has also made following additional submissions: -
 - (i) That they had conveyed its conditional consent to PFCCCL vide its letter dated 14.08.2023, for procurement of 378.24 MW Medium Term Power (5 years) from Thermal Power Stations of successful bidders selected through competitive bidding process under para-B (v) of SHAKTI Policy, 2017 conducted by PFCCCL to address the following issues;
 - (i) Escrow Agreement
 - (ii) LC made by LPS rule
 - (iii) Execution of default Escrow Agreement

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- (iv) Providing performance security to supplier
 - (v) Exemption of bidder from usage of imported coal by generator
 - (vi) Incorporation of clause that PPA shall be terminated without any liability in case MPERC does not allow such procurement
 - (vii) Payment of normative availability by utility consequent upon termination of PPA on its default.
- (ii) PFCCL vide its email dated 21st August 2023, intimated that the terms and conditions mentioned in bidding documents will be as per SBD of MoP, Govt. of India, which cannot be changed after the bidding.
- (iii) Subsequently, Petitioner requested the participating generators for waiver on certain conditions vide its letter dated 31-08-2023 on following terms of the PPA;
- a. Providing of Escrow guarantee and deed of Hypothecation as required in clause 13.1 of draft PPA.
 - b. Providing performance Security as per clause 9.1.2
 - c. Regarding payment for normative availability by utility upon termination of PPA on its default as per clause 9.1.2 and 19.3.2 of PPA.
- (iv) Response of Generators was as under:

Sl. No.	Names of Bidders	ISSUES		
		Escrow Agreement and Deed of Hypothecation	Providing Performance Security Payment	Payment of normative availability by utility consequent to termination of contract
1	Jindal Power Limited	Agreed for waiver	Agreed, if MPPMCL also waives this condition of taking Performance Guarantee from Bidder	Not Agreed
2	M B Power	Agreed for waiver	Agreed, if MPPMCL also waives this condition of taking Performance Guarantee	Not Agreed

			from Bidder	
3	RKM Powergen Pvt. Ltd.	Agreed for waiver	Consent for waiver of providing Performance Guarantee should be from both side, hence not acceptable	Should be from both side, hence not acceptable
4	Jindal India Thermal Power Limited	Agreed for waiver	Agreed, if MPPMCL also waives this condition of taking Performance Guarantee from Bidder	Not Agreed
5	TRN Energy Private Limited	Agreed for waiver	Not Agreed	Not Agreed
6	SKS Power Generation Chhattisgarh Ltd	Agreed for waiver	Agreed, if MPPMCL also waives this condition of taking Performance Guarantee from Bidder	Not Agreed
7	D B Power Limited	Not Agreed	Not Agreed	Not Agreed

(v) That, in view of the above, six generators, have agreed to waive the conditions of Escrow Guarantee and Deed of Hypothecation. Accordingly, the PPA is proposed to be executed after deleting the respective clauses of Escrow Guarantee and Deed of Hypothecation with the respective six generators.

(vi) That, the generator - M/s. D B Power Limited, vide its letter dated 25-10-2023 has not agreed to provide waiver on any of the tender conditions and therefore the PPA is proposed to be executed as per the tender conditions.

10. Commission has noted that the Respondent No. 5, MP Power Transmission Co. Limited, vide its affidavit has made following submissions: -

(i) That, the petitioner Madhya Pradesh Power Management Co. Ltd. (MPPMCL) has filed the subject petition under Section 86 (1) Electricity Act 2003 for grant of in principle approval for capacity addition of 378.24 MW for procurement of medium-term power from Power Finance Corporation Consulting Limited (PFCCCL) from the bidders selected through competitive bidding process under Shakti (B) (V) policy of Ministry of Power.

(ii) That, Hon'ble MPERC vide daily order dated 31.10.2023 noted that petitioner has conveyed its conditional consent to PFCCCL for procurement of 378.24 MW power on medium term basis for which views of PFCCCL is required to be taken on record. Commission has further noted that since the power is required urgently for the ensuing rabi season, adequacy of transmission corridor has to be ensured for which MPPTCL and PGCIL should be made parties.

(iii) That, Hon'ble commission vide daily order dated 31.10.2023 directed MPPTCL as respondent to submit their response regarding adequacy of transmission corridor for handling the quantum of 378.24 MW power through MP system.

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- (iv) That, the Available Transfer Capability (ATC) as determined by Grid India / WRLDC for the year 2023-24 is 11885 MW.
 - (v) That, the CTUIL has granted the General Network Access (GNA) for the MP State of 10587.16 MW including MPPMCL share of 10255.157 MW and WCR share of 332.003 MW.
 - (vi) That, the margin of 1297.84 MW is available in the Available Transfer Capability (ATC) over and above sanctioned GNA of 10587.16 MW by CTUIL.
 - (vii) That, the additional power of 378.24 MW to be procured by MPPMCL is within the available capacity margin of 1297.84 MW therefore the same can be availed through the existing ISTS/ MP system.
 - (viii) That, with the development of planned ISTS / Intra-State transmission works in the State, the Available Transfer Capability (ATC) of the system will be increased over the years to meet out the system requirement.
 - (ix) In view of submission made above, the adequate transmission corridor in ISTS/ MP system is available for procurement of 378.24 MW power on medium term basis from FY 2023-24 by the petitioner (MPPMCL) to meet the load requirement of State.
11. None appeared on behalf of the respondent no. 4 i.e., PGCIL but petitioner has forwarded a copy of mail received from them on 3rd Nov 23 stating that POWERGRID is made as a Respondent in the petition, however, POWERGRID, as a transmission licensee, does not have any role in the matter as the petition matter pertains to availability of transmission corridor & providing transmission access which are being dealt by CTUIL. As per affidavit of Respondent No. 5, Commission has noted that margin of 1297.84 MW is available in the ATC over and above GNA sanctioned by CTUIL.
12. Respondent No. 6 i.e. PFCCL through its letter dated 07.11.2023 has submitted that Ministry of Power (MoP) vide OM no 23/03/2022 - R&R dated October 25, 2022 has issued the Guidelines for procurement of power on Finance, Own and Operate (FOO) basis under para B (v) of the SHAKTI Policy and PFCCL has been designated as the Nodal Agency by MoP for conducting the bid process. PFCCL conducted the bidding as per the Guidelines issued by MoP and no deviation has been taken from the Guidelines and Draft Power Purchase Agreement notified by Ministry of Power. The LoAs have been issued to the successful bidders for a quantum of 1560.25 MW at weightage average Tariff of Rs 5.30/kWh. The coal is to be allocated from Talcher and IB valley mines of MCL. Further, PFCCL has No Objection

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regarding procurement of 378.24 MW power by MPPMCL under SHAKTI B (v) as per Guidelines and Draft Power Purchase Agreement issued by Ministry of Power.

13. It is noted by the Commission that the petitioner has submitted that they will enter into formalities with all the generators as per mutually agreed agreements. Commission also noted that the adequate ATC is available for wheeling of 378.24 MW power to MP from the participating generating stations in the bidding of PFCCL and that PFCCL generally has no objection regarding procurement of 378.24 MW power by MPPMCL under SHAKTI B (v) as mentioned in foregoing paragraph. Commission has also noted that petitioner has confirmed having obtained all required approvals at company/Government level in the matter. It is also noted by the Commission that the Petitioner has also included procurement of Medium Term Power (5 years) from Thermal Power Stations of successful bidders selected through tariff based competitive bidding process under para-B (v) of SHAKTI Policy, 2017 conducted by PFCCL filed with five years rolling plan submitted vide letter no. 167 dtd. 05.09.2023.
14. The commission also noted that Ministry of Power, Government of India vide letter no. 06/01/2023-RCM dtd. 3rd July 2023 directed Discoms of all states to make arrangements for deficit power to ensure 10 hours uninterrupted power supply for agriculture purpose in Rabi Season and 24X7 uninterrupted power supply to all other consumers.
15. From the submissions of Petitioner and Respondents and also keeping in view the directions of Ministry of Power, Government of India, Commission is convinced regarding the petitioner's requirement of 378.24 MW power which the petitioner intends to procure through PFCCL on medium term basis. Commission also noted that the power purchase rates for procurement of 378.24 MW have been discovered through tariff based competitive bidding conducted by PFCCL under Shakti (B) (V) policy of the Ministry of power, tariff of which shall be adopted by Hon'ble Central Electricity Regulatory Commission. Petitioner has informed that out of 7 successful bidders, 6 have already filed petitions for adoption of tariff before CERC and remaining 1 generator is under process of filing similar petition before CERC.
16. In view of the above observations, following order is passed by the Commission: -
 - i. Commission hereby accords in-principle approval for capacity addition of 378.24 MW to petitioner on medium term basis for a period of 5 years from financial year 2023-24 onwards for procurement of power from the selected generators in the bidding conducted by PFCCL under para-B (v) of SHAKTI Policy, 2017. The discovered tariff as may be adopted by Hon'ble Central Electricity Regulatory

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Commission and the terms and conditions thereof shall be applicable for said procurement of power.

- ii.** Petitioner is directed to approach this Commission for approval of power purchase/ supply agreement to be executed with participating generators promptly after the discovered tariff in the bidding conducted by PFCCL is adopted by CERC in terms of regulation 4.24 of the MPERC (Power Purchase and Procurement Process) Regulations, 2023.
- iii.** Petitioner is further directed to ensure that the contracted capacity of 378.24 MW is used judiciously in optimum manner and in the event, full capacity is not scheduled due to load variation of the Discoms, balance power should either be sold on power exchanges or be utilised in banking with other states. Petitioner should also make effective use of PushP and HP-DAM portal for disposal of surplus power.
- iv.** As per clause 6.1 of the MPERC (Power Purchase and Procurement Process) Regulations, 2023, monthly/weekly/day-ahead/intraday power procurements/sale by the Licensees and generator schedule should be made available on the websites of petitioner who is handling power procurement on behalf of the distribution licensees and SLDC within 30 days of such procurements/sale with ease of access to the current as well as archived data.
- v.** If there is a shortage during peak hours even after the procurement of this medium-term power the petitioners are directed to take suitable measure to ensure that no load shedding takes place.
- vi.** The Managing Director of MPPMCL is directed to review the status of surplus power not been disposed of on monthly basis. Detailed statement of overall surplus power not disposed of by the petitioner by way of sale/ banking should be furnished to the Commission at the time of true up alongwith specific reasons thereof.

17. The case is listed for hearing on other matters on 05.12.2023.

(Prashant Chaturvedi)
Member

(Gopal Srivastava)
Member (Law)

(S.P.S. Parihar)
Chairman