

**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 : **Approval of PPA for the purchase of additional 150MW of power from M/s Maithon Power Ltd. with KSEB Ltd**

Petitioner : **Kerala State Electricity Board Limited,
Pattom, Thiruvananthapuram - 4**

272/F&T/2016/KSERC

Order dated 17 -06-2016

Background

1. K S E B Ltd. has in its petition dated 15.2.2016 requested to approve the PPA it has entered into with M/s Maithon Power Ltd. on 29.6.2015 for the procurement of 150 MW power for 25 years from June 2016 onwards for which the Commission vide order dated 08-07-2015 in OP No. 23 of 2015 granted permission to KSEB Ltd for the procurement of additional 150 MW RTC power from M/s Maithon Power Ltd.
2. K S E B Ltd. in its petition submitted that, the PPA with M/s Maithon Power Ltd, for additional purchase of 150 MW from June 2016 for a period of 25 years has been executed on 29.6.2015. K S E B Ltd. submitted as follows:
 1. *Hon'ble Commission vide letter dated 28.03.2014 has given in principle approval for procuring 250 MW from M/s. Damodar Valley Corporation (DVC) for a period of 30 years at the tariff determined by Hon'ble Central Electricity Regulatory Commission (CERC). Accordingly, KSEBL had entered in to long term PPA with M/s DVC on 24th April-2014 for*

procuring 250 MW on long term basis. Copy of the order is attached as Annexure-1

2. *M/s DVC has offered power from their two Thermal stations.*
 - (i) *100 MW from coal fired Mejia Thermal Power Station (MTPS) Unit 7 & 8 of with installed capacity of 2 x 500 MW.*
 - (ii) *150 MW from coal fired Reghunathpur Thermal Power Station (RTPS) Unit 1 and 2 with installed capacity of 2x600 MW.*

Out of the above, the 7th unit of MTPS started Commercial Operation on 2-08-2011 and 8th unit on 16-08-2012.

3. *As per the information provided by M/s. DVC at the time of signing the PPA, the Reghunathpur Thermal Power Station (RTPS) was tentatively scheduled for commissioning by March-2015. Later, M/s. DVC vide their letter dated 31st March 2015 has communicated that, though the COD of the Mejia TPS (unit 7 & 8) has already been declared, the commissioning of the Reghunathpur Thermal Power Station (RTPS) was badly delayed and further delay cannot be ruled out. Further, the capital cost and the tariff for the RTPS may be much higher than expected due to the delay in commissioning (time and cost overrun). Considering the above, M/s DVC has offered 150 MW from any one of the already commissioned plants including Durgapur Steel TPS and Koderma TPS instead of M/s Reghunathpur Thermal Power Station (RTPS).*
4. *In the meantime, M/s. MPL vide their letter dated 11-06-2015 has communicated that; an additional quantum of 150 MW is available with them from February-2016 onwards for supply on long term basis at the tariff rate determined by CERC. This additional quantum will be released from February-2016 by way of surrendering 150 MW by one of the beneficiaries of M/s. MPL out of the total tie-up of 300 MW with them on permanent basis. A copy of the communication from M/s. Maithon Power Ltd is marked as Annexure-2.*
5. *KSEB Limited had earlier entered in to a Power Purchase Agreement with M/s. Maithon Power Limited on 30.12.2013 for procuring 150 MW RTC power for 30 years. Hon'ble Commission has granted in principle approval for this procurement vide Letter No. 2158/ C.Engg/ Maithon/2013/1398 dated 26.12.2013. The Power Grid Corporation India Limited (PGCIL), the CTU, vide letter dated 15.12.2015, has permitted the operationalisation of full quantum (140.5 MW after deducting*

auxiliary consumption) of LTA w.e.f. 16.12.2015 for evacuation of power from Maithon Right Blank Power Project (MRBTPP) in Jharkand to Kerala. Accordingly, the power has been availed by Kerala w.e.f. 17.12.2015 and the energy scheduled during December 2015 was 48.60 MU and that for January - 2016 was 84.07MU. The tariff for the power supplied as per the invoices is Rs. 3.310/kWh at generator bus.

6. As per the latest CERC orders, the average tariff of the Majia power plant is Rs. 3.93 per unit at generator bus that for Durgapur Steel TPS it is about Rs 4.04 per unit at generator bus and the tariff for Koderma TPS is about Rs. 4.12 per unit at generator bus. After considering transmission charges and losses, the average tariff from Mejia, Durgapur Steel plant and Koderma plants are Rs. 4.35/unit, Rs. 4.47 per unit and Rs. 4.55 per unit respectively. It may please be noted that, tariff of the alternate power stations of M/s. DVC is much higher than the tariff of the additional quantum of 150 MW of power offered by M/s. MPL, which is about Rs.3.252 at MPL Ex-bus periphery (based on normative values) and Rs 3.68 per unit only at KSEBL periphery.
7. Kerala State Electricity Board (KSEB) vide its letter dated 23.06.2015 has requested before the Hon'ble Commission to grant approval for procuring an additional quantum of 150 MW from M/s Maithon Power Limited at CERC approved tariff from June 2016 instead of 150MW from M/s.DVC from their Regunathpur thermal power station (RTPS).
8. Hon'ble Commission vide letter No. 500/C.Engg/DVC/2014 dated 28.03.2014 has directed KSEB Limited to file the matter as a petition. Accordingly KSEB Limited has filed the matter as a petition before Hon'ble Commission on 29.06.2015. Hon'ble Commission has admitted the petition as O.P. No. 23 of 2015 and permission is granted to KSEB Limited via order dated 08.07.2015 for the procurement of 150 MW power from M/s. Maithon Power Limited from June 2016 subjected to the following conditions
 - i) KSEB Limited shall take all necessary and sufficient steps to ensure that the additional purchase of 150 MW power from M/s. Maithon Power Ltd. shall not entail in any payment of penalty or penal charges to M/s.DVC on account of the existing Power Purchase Agreement and
 - ii) The purchase of power as per this proposal is in lieu of the power for which KSEB Limited had entered into agreement with M/s.DVC.

9. *Accordingly, KSEB Limited has executed power purchase Agreement with M/s. Maithon Power Limited for the additional power procurement to the tune of 150MW from June 2016 for a period of 25 years.*
10. *Meanwhile, to maintain the priority of LTA application made for 233.75 MW based on the PPA for 250MW from M/s.DVC in view of the change in quantum, KSEB Limited has sought revising LTA quantum as 141.5 MW in accordance with the CERC (Grant of connectivity, long-term access, medium term open access in inter- state transmission and related matters), 2010. The revision of LTA will entail the reduction of power procurement from M/s. DVC's Reghunathpur TPS from 150MW to 50MW Regulations.*
11. *Hon'ble Commission vide order OP No. 32/2015 dated 21.01.2015 has approved the prayer of KSEB Limited to reduce the contracted capacity from Regunathpur power plant of DVC from 150MW to 50 MW.*
12. *Simultaneously to ensure availability of power under the PPA with M/s. MPL, KSEB Limited has made an MTOA application as well as an LTOA application for 140.5 MW. Based on these applications, Power Grid Corporation of India Limited, the CTU has granted MTOA for 122 MW to KSEB Limited, for the power from M/s. MPL w.e.f.01.06.2016 to 31.05.2019 subject to the following:*
 - a) *Commissioning of Narendra -Kolhapur 765 kV DC Line ((charged at 400kV) and Aurangabad -Sholapur 765 kV DC Line.*
 - b) *Commissioning of Mysore- Kozhikode 400 kV DC Line and Gootty-Madhugiri -Yelahanka 400 kV DC along with LILO of Nelmangala-Hoodi 400 kV SC Line.*
 - c) *Enhancement of import capability of Kerala with network reconfiguration as agreed in the meeting held on 13.08.2015*
13. *It is expected that MTOA for 122 MW will get operationalised from June 2016.The LTA application made to CTU is under process and operationalisation of LTA is likely to be linked with commissioning of additional transmission system which are under execution. In view of the expiry of 319 MW allocations by Ministry of Power from Jhajjar and 300MW STOA from M/s. Simhapuri, the flow of power under MTOA from M/s.MPL from June 2016 onwards would be beneficial.*

14. *As per clause 3.2 (viii) of the PPA entered with M/s.MPL, based on the order of the Hon'ble Commission in OP No.23 of 2015 dated 08.07.2015, the buyer (KSEBL) shall have got the PPA approved by the Hon'ble Commission, which is a condition precedent to the contract and has to be satisfied within twelve months from the effective date ie. 29.06.2015, the date of signing the PPA. Copy of power purchase agreement executed between KSEBL and M/s. Maithon Power Limited is attached as Annexure-3 to this petition.*

15. *In view of the above, it is humbly prayed that the PPA entered between KSEB Limited and M/s.MPL for supply of additional 150 MW power from June 2016,in accordance with the order of the Hon'ble Commission in OP No. 23 of 2015 may kindly be approved.*

Analysis and Decision of the Commission

3. Based on the request of KSEB Ltd., the Commission vide its order dated 08-07-2015 in OP No. 23 of 2015 had granted permission for procuring 150 MW power from M/s Maithon Power Ltd, at the CERC determined tariff under Section-62 of the Electricity Act 2003, in lieu of the 150 MW power already contracted from Regunathpur power plant of DVC. Based on the approval granted by the Commission, KSEB Ltd entered in to Power Purchase Agreement with M/s Maithon Power Ltd, on 29th June 2015. The Central Transmission Utility has already granted conditional Medium Term Open Access (MTOA) for 122 MW out of 150 MW contracted from M/s Maithon Power Ltd. from 1.6.2016 to 31.5.2019. The LTA may be granted with the commissioning of the additional transmission system, which is under execution.
4. K S E B Ltd. entered in to Power Purchase Agreement with M/s Maithon Power Ltd, on 29th June 2015 for procuring 150MW from the date of signing the PPA and ending on the date which is thirty years from the date of CoD of the Station.
5. As per Article 3.2 (viii) of the PPA entered with M/s MPL, the buyer KSEB Ltd shall get the PPA approved by the Commission., which is a condition precedent to the contract and the same has to be satisfied within twelve months from the effective date 29.6.2015, i.e., from the date of signing the contract.
6. The Schedule-C of the PPA signed with M/s Maithon Power Ltd stipulate the Tariff applicable, which is extracted below.

Schedule-C of the PPA dated 29th June 2015

The Generation Tariff of MPL, which is payable by the buyer, shall be as determined by the CERC, in accordance with the CERC tariff regulations, 2014 and amended from time to time

7. As extracted above, the Schedule-C of the Power Purchase Agreement (PPA) clearly stipulate that, the tariff applicable for the project shall be as determined by the CERC. As per the Rule-8 of the Electricity Rules-2005 notified by the Central Government in exercise of the powers conferred by Section-176 of the Electricity Act-2003, the tariff determined by the Central Commission for generating companies under clause (a) or (b) of subsection (1) of the Act shall not be subject to redetermination by the State Commission in exercise of the functions under clause (a) or (b) of subsection (1) of Section 86 of the Act-2003. The Rule-8 of the Electricity Rules-2005 is extracted below for ready reference.

8. Tariffs of generating companies under section 79.- *The tariff determined by the Central Commission for generating companies under clause (a) or (b) of sub-section (1) of section 79 of the Act shall not be subject to re-determination by the State Commission in exercise of functions under clauses (a) or (b) of sub-section (1) of section 86 of the Act and subject to the above the State Commission may determine whether a Distribution Licensee in the State should enter into Power Purchase Agreement or procurement process with such generating companies based on the tariff determined by the Central Commission.*

8. Being an inter-state Generating Station, the authority for tariff determination of the Maithon Power Ltd is vested with CERC. Hence, the tariff determined by the CERC for the Maithon Power Ltd from time to time has to be adopted by the State Commission. However, as the power procurer from Maithon Power Ltd, KSEB Ltd shall actively participate in the deliberations of the Tariff determination process of M/s Maithon Power Ltd before CERC. A copy of the objections and comments of KSEB Ltd, on the tariff petitions filed/to be filed by M/s Maithon Power Ltd from time to time, before CERC shall be submitted to the Commission.

Orders of the Commission

9. In view of the facts and circumstances, the Commission here by approves the Power Purchase Agreement (PPA) dated 29-6-2015 for purchase of 150 MW power at CERC determined tariff for 30 years from the date of CoD of the station, entered by KSEB Ltd with M/s Maithon Power Ltd.
10. It is also ordered that, KSEB Ltd shall actively participate in the deliberations of the Tariff determination of M/s Maithon Power Ltd before CERC. K S E B Ltd. shall submit the following before the Commission:
- (i) A copy of the tariff order issued by CERC in respect of M/s Maithon Power Ltd.
 - (ii) A copy of the objections / comments filed by KSEB Ltd, in the tariff application of M/s Maithon Power Ltd before CERC
 - (iii) Codicil PPA if any executed between K S E B Ltd. and M/s Maithon Power Ltd, consequent to the revision of tariff by CERC

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