

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2183 of 2023.

In the Matter of:

Petition for approval of Short-Term Power Purchase arrangement for sourcing of power to cater to the demand of its Licensee Areas in Gujarat under Section 63 of the Electricity Act, 2003 read with the provisions of the Guidelines for Power Procurement by distribution Licensees issued by the Commission for the period from 16.01.2023 to 31.07.2023.

Petitioner : Torrent Power Limited,
Represented By : Mr. Chetan Bundela, Mr. Jignesh Langalia & Mr. Rahul Dubey

CORAM:

Anil Mukim, Chairman

Mehul M. Gandhi, Member

S. R. Pandey, Member

Date: 17/02/2023.

ORDER

1. This Petition has been filed by the Petitioner M/s Torrent Power Limited in its capacity as distribution licensee in Gujarat seeking approval of Short Term Power Purchase arrangement for sourcing power as detailed in the Petition and adopt the tariff for sourcing of power to cater the demand of its Licensee areas in Gujarat under Section 63 of the Electricity Act, 2003 read with the provisions of the Guidelines for Power Procurement by Distribution licensee issued by the Commission. The Petitioner has detailed revised quantum of power in MW with respective tariff to be procured from different bidders for the period from 16.01.2023 to 31.07.2023 in the Petition.
2. The facts mentioned in the Petition, in brief, are as under:

- 2.1. The Petitioner Torrent Power Limited (TPL) is a company incorporated under the provisions of the Companies Act, 1956 and has long term power purchase arrangement with AMGEN, SUGEN, UNOSUGEN and Renewables, duly approved by the Commission in order to cater to the demand of its consumers in the license areas. It also procures power from power exchange / other bilateral arrangements to meet with requirement. Accordingly, the Petitioner has been monitoring and reviewing the demand and supply position based on continuous developments to cater to the demand of its consumers.
- 2.2. It is stated that power exchange has recently witnessed sharp increase in prices *inter alia*, due to deficit in generation along with uncertainty in clearance of volume. Additionally, for the coal-based stations, cost of imported coal still remains higher. Due to deficit in power supply, the power was not available in the Exchange even at Ceiling Price. Considering all these uncertainties, the Petitioner has waited for opportune time and tied up power to ensure availability of power while ensuring competitiveness of rate in the prevailing market conditions. Accordingly, in order to cater to the demand of its consumers during the period from 01.01.2023 to 30.06.2023, the Petitioner planned to procure day power (i.e., from 0900 hours to 2400 hours) and Round-the-Clock (RTC) power (i.e., from 0000 hours to 2400 hours) through short term bidding process. The Petitioner had also indicated that it may decide to procure modified quantum depending upon its requirement and offers received.
- 2.3. The Petitioner has made following deviations from the MoP bidding guidelines in the bidding documents filed i.e., RFP & PPA for availing better terms and flexibility to reduce the overall cost of power procurement which have been approved by the Commission vide its Order dated 24.04.2017 in Petition No. 1636 of 2017:
- Take or Pay Penalty: The penalty for “take or pay” and “supply or pay” shall be Rs. 2 per unit.
 - Take or Pay Quantum: The minimum quantity for “take or pay” and “supply or pay” shall be 80%.

- 2.4. The Petitioner published a tender notice on 15.11.2022 for procurement of power from 01.01.2023 to 31.03.2023 on short term basis through e-tendering and on Reverse Auction basis in the following newspapers:
- Business Standard (All India Edition)
 - Mint (All India Edition)
- 2.5. The bidders were required to bid on website of MSTC www.mstcecommerce.com (DEEP Portal) and last date for submission of offers was 19.11.2022. Bids from nineteen (19) bidders were received at IPO stage and e-reverse auction was conducted on MSTC's portal on 28.11.2022. Since the rate discovered in e-Reverse Auction were on higher side, the Petitioner TPL asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum for the period from 01.01.2023 to 31.03.2023. Based on revised offer from M/s. PTC India Ltd., Manikaran Power Ltd., Tata Power Trading Company Ltd. and GMR Energy Trading Ltd. Since the revised rate and quantum is found competitive, the Standing Committee recommended to issue "Letter of Award" (LOA).
- 2.6. Meanwhile, the Petitioner had also issued another tender notice on 04.10.2022 for procurement of power from 01.04.2023 to 30.06.2023 on short term basis through e-tendering and on Reverse Auction basis in the following newspapers:
- Business Standard (All India Edition)
 - Mint (All India Edition)
- 2.7. The bidders were required to bid on website of MSTC www.mstcecommerce.com (DEEP Portal) and last date for submission of offers was 10.10.2022. Bids from six (06) bidders were received at IPO stage and e-reverse auction was conducted on MSTC's portal on 19.10.2022. Since the rates discovered in e-Reverse Auction were on higher side, the Petitioner TPL asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum for the period from 01.04.2023 to 30.06.2023. Based on revised offer received from M/s. PTC India Ltd. on 23.11.2022, power offered from two sources i.e. Jaypee Nigre and Jaypee Bina by M/s PTC in revised offer was conditional in nature. Further, since the other bidder i.e. Manikaran Power Ltd. sought some time to submit the revised offers, the Petitioner requested the Committee to proceed with evaluation of the revised offer received from M/s PTC India Limited on 23.11.2022 considering the requirement of power. Pending the

revised offer from other bidder, the Standing Committee in its meeting dated 24.11.2022 recommended to issue “Letter of Award” (LOA) to the bidder M/s PTC India Ltd. with source as Jindal Power. Later, on 25.11.2022, the Petitioner also received revised offer from M/s Manikaran Power Ltd. Since the revised rate was found competitive, the Standing Committee recommended to issue “Letter of Award” (LOA) to M/s Manikaran Power Ltd also.

2.8. Thereafter, the Petitioner received revised offers from M/s PTC for Jaypee Nigre and Jaypee Bina on 08.12.2022, without any conditions and in turn, based on the request by the Petitioner and since offered capacity was within the quantum of RTC and Day Power, on overall basis, the Standing Committee recommended to issue “Letter of Award” (LOA) to M/s PTC for Jaypee Nigre and Jaypee Bina, as well.

2.9. The details of bidders to whom LOAs are issued by the Petitioner are as under:

Month	Time Slot	Bidder/Ref No.	Revised Volume and Rate	
			Quantity (MW)	Price (Rs./Unit)
16.01.2023 to 31.01.2023	0000 hours to 2400 hours	Manikaran Power Ltd/79173	100	5.71
		Manikaran Power Ltd/74144	15	5.65
		Tata Power Trading Company Ltd/74176	10	5.71
		PTC India Ltd/74488	150	5.71
01.02.2023 to 14.02.2023	0000 hours to 2400 hours	PTC India Ltd/74486	50	5.87
		PTC India Ltd/74485	50	5.87
		Tata Power Trading Company Limited/74176	10	5.86
		Manikaran Power Ltd/78172	25	5.80
		PTC India Limited/74493	10	5.87
		GMR Energy Trading Ltd/132261	30	5.75
15.02.2023 to 28.02.2023	0000 hours to 2400	PTC India Limited/74486	50	5.87
		PTC India Limited/74485	50	5.87

	hours	Manikaran Power Ltd/78172	25	5.80
		Tata Power Trading Company Limited/74176	10	5.86
		PTC India Limited/74493	10	5.87
		GMR Energy Trading Ltd/132261	30	5.75
01.03.2023 to 15.03.2023	0000 hours to 2400 hours	PTC India Limited/74485	50	6.38
		PTC India Limited/74493	10	6.38
		Manikaran Power Ltd/78172	25	6.38
		Tata Power Trading Company Limited/74176	10	6.38
		Manikaran Power Ltd/79173	55	6.50
16.01.2023 to 31.03.2023	0000 hours to 2400 hours	Tata Power Trading Company Limited/74176	10	6.49
		Manikaran Power Ltd/78172	25	6.38
		PTC India Limited/74493	10	6.49
		Manikaran Power Ltd/79173	100	6.49
		PTC India Ltd/74485	50	6.49
		PTC India Ltd/74488	150	6.50
01.04.2023 to 30.04.2023	00 hrs to 24 hrs	PTC India Ltd. /74493	200	7.96
		PTC India Ltd./ 74491	100	7.70
		PTC India Ltd./74494	50	7.70
		Manikaran Power Ltd./78172	25	7.50
		Manikaran Power Ltd./74144	25	7.50
01.05.2023 to 31.05.2023	00 hrs to 24 hrs	PTC India Ltd. /74493	200	7.96
		PTC India Ltd./74491	100	7.70
		PTC India Ltd./74494	50	7.70
		Manikaran Power Ltd./78172	25	7.50
		Manikaran Power Ltd./74144	25	7.50
01.06.2023 to 30.06.2023	00 hrs to 24 hrs	PTC India Ltd./74491	100	7.70
		PTC India Ltd./74494	50	7.70
		Manikaran Power Ltd./78172	25	7.50

		Manikaran Power Ltd./74144	25	7.50
		PTC India Ltd. /74493	200	7.38
01.07.2023 to 31.07.2023	00 hrs to 24 hrs	Manikaran Power Ltd./78172	25	7.50
		Manikaran Power Ltd./74144	25	7.50
		PTC India Ltd. /74493	200	7.38

2.10. It is submitted that the Standing Committee Certificate for compliance of MoP guidelines and the LOAs issued by the Petitioner to the successful bidders is filed with the Petition and the bidders have accepted the same, which is also filed. Accordingly, the Petitioner has requested the Commission to approve the power purchase arrangement and adopt the tariff as above during the period 16.01.2023 to 31.07.2023, through short term bidding process in accordance with the provisions of the Guidelines for Power Procurement by Distribution licensee issued by the Commission read with the provisions of Section 86(1)(b) of the Electricity Act, 2003.

3. The matter was heard on 23.01.2023 and Mr. Chetan Bundela on behalf of the Petitioner, while reiterating the facts stated in para 2 above submitted that after the Reverse Auction conducted on MSTC's portal for tender notice published on 15.11.2022 inviting bids for period from 01.01.2023 to 31.03.2023 wherein nineteen bidders submitted their bids at IPO stage but the rates discovered were on higher side and therefore, the Petitioner asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Based on the revised offer from M/s. PTC India Ltd., M/s Manikaran Power Ltd., M/s Tata Power Trading Company Ltd., and M/s GMR Energy Trading Ltd. being found competitive, the Standing Committee recommended to issue "Letter of Award" (LOA) and accordingly, the Petitioner has issued the same. Thereafter, for tender published on 04.10.2022 for procurement of power during the period from 01.04.2023 to 30.06.2023, six bids were received and E-reverse auction conducted on MSTC portal on 19.10.2022. However, the rates discovered were on higher side and therefore, the Petitioner asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Accordingly, based on final offers received from bidders, the Petitioner approached the Standing Committee for bid evaluation with all the documents and as recommended by the said Committee to issue "Letter of Award" (LOA), the Petitioner has issued the same and accordingly, the Petitioner has

provided the details of bidders to whom LOAs are issued in tabular form in the Petition for the period from 16.01.2023 to 31.07.2023.

- 3.1. It is submitted that the Standing Committee Certificate for compliance of MoP guidelines and copies of LOAs issued to the successful bidders and acceptance by the bidders is filed by the Petitioner and requested the Commission to admit the Petition and approve the power purchase arrangement.
- 3.2. It is further submitted that since the tariff discovery in both E-Reverse Auctions were on higher side, the Petitioner asked the bidders to submit their best offer in terms of reduction in rate and increase in quantum and based on final offers received from bidders, the Petitioner approached the Bid Evaluation Committee with all the details. Referring to the details of bidders to whom LOAs are issued by the Petitioner in tabular form it is submitted that in January-2023, the tariff is ranging from Rs. 5.65 per unit to Rs. Rs. 5.71 per unit. Similarly, for other months the tariff range is as under:

Sr. No.	Month	Tariff Range
1	February-2023	Rs. 5.75 per unit to Rs. 5.87 per unit
2	March-2023	Rs. 6.38 per unit to Rs. 6.50 per unit
3	April-2023	Rs. 7.50 per unit to Rs. 7.96 per unit
4	May-2023	Rs. 7.50 per unit to Rs. 7.96 per unit
5	June-2023	Rs. 7.50 per unit to Rs. 7.70 per unit
6	July-2023	Rs. 7.38 per unit to Rs. 7.50 per unit

- 3.3. Referring to the Standing Committee Certificates, it is submitted that original rate and revised rate offered by bidders are already stated therein and based on final offers, the Petitioner approached the said Committee and it was recommended by the Committee to issue LOA(s) to the successful bidders.
- 3.4. It is submitted that the Petitioner having followed due diligence and based on the recommendations of the Standing Committee has issued 'Letter of Award(s)' to different bidders for varying quantum at relevant revised tariff for the period from 16.01.2023 to 31.07.2023. Moreover, in support of the tariff rates received, the Petitioner submitted that the clearing price for RTC power on power exchange is presently around Rs. 6.87 per unit. Even, in competitive bidding process carried out

by GUVNL the tariff offered is in range of Rs. 7.80 per unit. Thus, considering the prevailing market conditions, the Commission is requested to approve the short term power procurement arrangement of the Petitioner and adopt the tariff for the period from 16.01.2023 to 31.07.2023.

4. We have considered the submissions made by the Petitioner. The Petitioner has filed the present Petition seeking approval for Short Term Power purchase arrangement of day power and Round-the-Clock (RTC) power (i.e., from 0000 hours to 2400 hours) during the period 16.01.2023 to 31.07.2023 tied-up through competitive bidding process in order to cater the demand of its consumers in its licensees areas of Ahmedabad/Gandhinagar, Surat, Dahej SEZ and Dholera SIR. We also note that the Petitioner, being a distribution licensee, has the Universal Service Obligation to ensure uninterrupted electricity supply to the consumers within its license area as provided under Section 43 of the Electricity Act, 2003.

4.1. The Petitioner has prayed to approve the arrangement for sourcing quantum of power for period from 16.01.2023 to 31.07.2023 from different bidders and sources at tariff/rate as stated in the Petition and table above through Short Term bidding process to cater the demand of its licensees areas in Gujarat. The Petitioner published tender notices inviting bids through e-tendering followed by E-Reverse auction basis and the bidders were required to bid on MSTC's website and accordingly it is stated by the Petitioner that tendering was undertaken through transparent e-bidding process on DEEP Portal and while in the cause title it is mentioned for approval under Section 63 of the Electricity Act, 2003 read with the provisions of the Guidelines for Power Procurement by the Distribution Licensee issued by the Commission vide Notification No. 02 of 2013 dated 14.08.2013; whereas in para-16 of the Petition it is requested for approval of the power purchase arrangement and adoption of the tariff as detailed in the Petition for supply of power, through short term bidding process in accordance with the provisions of the Guidelines for Power Procurement by Distribution licensee issued by the Commission read with the provisions of Section 86(1)(b) of the Electricity Act, 2003.

4.2. We note that the present Petition has been filed by the Petitioner under Section 63 for adoption of tariff discovered under the competitive process, hence it is necessary to refer the said Section which reads as under:

“.....

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.

.....”

As per above Section, whenever competitive bidding is conducted under Section 63 of the Electricity Act, 2003 in accordance with the guidelines issued by the Central Government, the tariff discovered under such bidding has to be adopted by the Commission.

- 4.3. Section 86 (1) (b) also empowers the Commission to regulate the electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured. Section 63 of the Act is regarding determination of tariff by bidding process to be adopted by the Commission if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government. It is, therefore, necessary to refer the relevant provisions of Section 86 (1) (b) as under:

“.....

Section 86. Functions of State Commission, --

(1): - The State Commission shall discharge the following function:

.....

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

.....”

The above Section provides the Commission has to regulate the power procurement of the Distribution Licensees, including the procurement process, the price at which electricity shall be purchased from the generating company or the

Licenseses or through other sources through agreement for purchase of power for distribution and supply within the State.

- 4.4. This Commission has also issued the 'Guidelines for Procurement of Power through Competitive Bidding' dated 14.08.2013. Clause 13, 14, 15 and 16 of the aforesaid Guidelines issued by the Commission are reproduced below:

“.....

13. Where the Distribution Licensee is to procure power on a short-term basis or there is a shortfall due to any reason whatsoever, or failure in the supply of electricity from any approved source of supply during the year, for any reason whatsoever, the licensee may enter in to a short-term arrangement or agreement for procurement of power through power exchanges or through a transparent process of open tendering and competitive bidding.

14. In case of procurement of power through competitive bidding, the Distribution Licensee shall initiate the process for short-term power procurement in accordance with the Ministry of Power's Guidelines for Short Term Procurement of Power by Distribution Licensees through Tariff based bidding process' notified by the Ministry of Power on 15/05/2012 and in force from time to time. As provided in the MoP Guidelines:

a) The bid documentation shall be prepared in accordance with the MoP guidelines and the approval of the GERC shall be obtained unless the bid documents are as per the standard bid documents issued by the Central Government.

b) Generally, no deviation shall be allowed from these Guidelines. However, if it is essential to have the deviation from these Guidelines, the same could be done with the prior approval of the GERC.

c) The Procurer(s) shall procure short-term power as per the plan approved by the GERC or appropriate body as may have been constituted for the purpose by the GERC. In such case the Distribution Licensees will intimate about the initiation of the procurement process to the GERC.

d) In case procurement of short-term power exceeds the approved annual short-term procurement plan, the Procurer(s) shall obtain prior approval

from the GERC or any appropriate body as may have been constituted for the purpose by the GERC.

15. For procurement on short-term basis, a single-stage bid process by inviting Request for Proposal (RFP) shall be adopted. Procurer or authorized representative shall prepare bid document in line with these Guidelines. The Procurer shall publish an RFP notice in at least two national newspapers and upload the same on company website to accord it wide publicity. The bidding shall necessarily be by way of competitive bidding.

16. The PPA shall be signed with the selected bidder(s) consequent to the selection process.

(a). After the conclusion of bid process, the Standing Committee constituted for evaluation of RFP bids shall provide appropriate certificate on conformity of the bid process evaluation to the provisions of the RFP document. The Procurer shall provide a certificate on the conformity of the bid process to these Guidelines to the GERC.

(b). If the quantum of power procured and tariff determined are within the overall approval granted by the GERC in Annual Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the GERC.

In all other cases, the Procurer(s) shall submit a petition to the GERC for adoption of tariff within two days from the date of signing of PPA. The GERC should communicate the decision within seven days from the date of submission of petition.”

As per Clause 13 of the aforesaid guidelines, when the Distribution Licensee needs to procure the power to meet the demand of the consumers on the short-term basis, the Distribution Licensee may do so through energy exchange or through transparent process of open tendering and competitive bidding.

Clause 14 of the aforesaid Guidelines provides that in case of procurement of power through the competitive bidding, the Distribution Licensee shall initiate the process for Short-Term Power Procurement in accordance with the Guidelines for Short-Term Procurement of Power by the Distribution Licensee through tariff-based

bidding process notified by the Ministry of Power, Government of India on 15th May, 2012. According to the Petitioner, the bid documents are as per the MoP guidelines consist of the deviations earlier approved by the Commission. Thus, the bid documents are in accordance with the MoP guidelines.

Sub-clause (b) of Clause 14 of the aforesaid Guidelines provides that whenever there is any deviation from these Guidelines, the same could be done with prior approval of the Commission. Further, sub-clause (c) of the Clause 14 of the aforesaid Guidelines provides that the procurer shall procure the short-term power as per the plan approved by the Commission.

Clause 15 of the said Guidelines provides that for Procurement of Power on short-term basis a single stage bid process by inviting Request for Proposal (RFP) shall be adopted. Further, it is also provided that the procurer/distribution licensee shall publish an RFP notice in at least 2 national newspapers and upload the same on the company's website to accord wide publicity. The bidding shall necessarily be by way of competitive bidding.

Sub-Clause (a) of Clause 16 of the aforesaid Guidelines provides that the Standing Committee needs to be constituted for evaluation of RFP bids who shall provide appropriate certificate on conformity of the bid process evaluation to the provisions of RFP document and conformity of the bid process to these guidelines to the Commission.

Sub-Clause (b) of Clause 16 of the aforesaid Guidelines provides that if the quantum of power procured and tariff determined are within the overall approval granted by the Commission in the Aggregate Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the Commission.

- 4.5. Thus, it is apparent from the provisions of above referred Sections/Clauses that the Petition filed by the Petitioner is within the purview of the jurisdiction of this Commission and accordingly, in terms of the powers vested under the Electricity Act, 2003 and Regulations framed thereunder, the Commission decides to admit the present Petition.

- 4.6. The Petitioner had published first tender notice in Business Standard (All India Edition) and Mint newspaper (All India Edition) on 04.10.2022 for Tender No. Torrent Power Limited/Short/22-23/ET/170 and Torrent Power Limited/Short/22-23/RA/164 dated 03.10.2022 for procurement of day power (i.e., from 0900 hours to 2400 hours) and Round-the-Clock (RTC) power (i.e., from 0000 hours to 2400 hours) on short term basis for the period from 01.04.2023 to 30.06.2023 inviting bids through transparent e-bidding Reverse Auction process on DEEP Portal, whereby the bidders were required to submit their bid/offers on MSTC website and last date for submission of same was 10.10.2022 while also stating reference of above Tender No. Torrent Power Limited/Short/22-23/ET/170 and Torrent Power Limited/Short/22-23/RA/164 dated 03.10.2022 in aforesaid notice.
- 4.7. Thereafter, the Petitioner published second tender notice on 15.11.2022 in Business Standard (All India Edition) and Mint newspaper (All India Edition) for procurement of power on short term basis inviting bids through transparent e-bidding Reverse Auction process on DEEP Portal vide Tender No. Torrent Power Limited/Short/22-23/ET/184 and Torrent Power Limited/Short/22-23/RA/178 dated 14.11.2022, whereby; the bidders were required to submit their bid/offers on MSTC website and last date for submission of same was 19.11.2022.
- 4.8. Thus, the tender notices as stated above were issued by the Petitioner in 2 (two) newspapers which is in compliance with Clause 15 of the Guidelines for Procurement of Power issued by the Commission.
- 4.9. The Petitioner has filed the RFP dated 03.10.2022 and draft PPA whereby bids were invited for supply of power with delivery point as GETCO periphery for its license areas of Gujarat for following quantity and duration vide its Tender No. Torrent Power Limited/Short/22-23/ET/170 and Torrent Power Limited/Short/22-23/RA/164 dated 03.10.2022:

Requisition	Period	Time slot	Total Quantum* (MW)	Minimum Quantum (MW) to be offered by seller
1	01-04-2023 to 30-04-2023	0000 hours to 2400 hours	200	10
2	01-04-2023	0900 hours	250	10

	to 30-04-2023	to 2400 hours		
3	01-05-2022 to 31-05-2023	0000 hours to 2400 hours	200	10
4	01-05-2023 to 31-05-2023	0900 hours to 2400 hours	250	10
5	01-06-2023 to 30-09-2023	0900 hours to 2400 hours	200	10
6	01-06-2023 to 30-09-2023	0900 hours to 2400 hours	250	10

(* TPL may decide to procure modified quantum depending upon its requirement and offers received)

4.10. Subsequently, the Petitioner had also published tender notice on 15.11.2022 and has filed the relevant RFP dated 14.11.2022 and draft PPA, whereby bids were invited for supply of power with delivery point as GETCO periphery for its license areas of Gujarat for following quantity and duration vide Tender No. Torrent Power Limited/Short/22-23/ET/184 and Torrent Power Limited/Short/22-23/RA/178 dated 14.11.2022:

Requisition	Period	Time slot	Total Quantum* (MW)	Minimum Quantum (MW) to be offered by seller
1	01-01-2023 to 15-01-2023	0000 hours to 2400 hours	100	10
2	01-01-2023 to 15-01-2023	0700 hours to 2200 hours	100	10
3	16-01-2023 to 31-01-2023	0000 hours to 2400 hours	150	10
4	16-01-2023 to 31-01-2023	0700 hours to 2200 hours	100	10
5	01-02-2023 to 14-02-2023	0000 hours to 2400 hours	150	10
6	01-02-2023 to 14-02-2023	0700 hours to 2200 hours	100	10
7	15-02-2023 to 28-02-2023	0000 hours to 2400 hours	150	10

8	15-02-2023 to 28-02-2023	0700 hours to 2200 hours	100	10
9	01-03-2023 to 15-03-2023	0000 hours to 2400 hours	150	10
10	01-03-2023 to 15-03-2023	0700 hours to 2200 hours	100	10
11	16-03-2023 to 31-03-2023	0000 hours to 2400 hours	200	10
12	16-03-2023 to 31-03-2023	0700 hours to 2200 hours	100	10

(* TPL may decide to procure modified quantum depending upon its requirement and offers received)

- 4.11. Under the above second tender notice published on 15.11.2022, the Petitioner received bids from nineteen (19) bidders at IPO stage and e-reverse auction was conducted on MSTC's portal on 28.11.2022. Since the rates discovered in e-Reverse Auction were on higher side, the Petitioner TPL asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Based on final offers received from bidders, the Petitioner approached the Committee with all the details and in turn the Committee recommended to issue "Letter of Award" (LOA) to M/s. PTC India Ltd., Manikaran Power Ltd., Tata Power Trading Company Ltd., and GMR Energy Trading Ltd. since the revised rate and quantum is found competitive.
- 4.12. Under the first tender notice published on 04.10.2022, the Petitioner had received bids from six (6) bidders at IPO stage and e-reverse auction was conducted on MSTC's portal on 19.10.2022. Since the rates discovered in e-Reverse Auction were on higher side, the Petitioner TPL asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum for the period from 01.04.2023 to 01.07.2023. Based on revised offers received from bidders, it was noticed that bid submitted by M/s. PTC India Ltd. on 23.11.2022 was conditional in nature from two sources i.e. Jaypee Nigre and Jaypee Bina. Further, since the other bidder i.e. Manikaran Power Ltd. had sought some time to submit the revised offers, the Petitioner requested the Standing Committee to proceed with evaluation of the revised offer received from M/s PTC India Limited on 23.11.2022, considering the requirement of power. Pending the revised offer from other bidder, the Standing Committee in its meeting dated 24.11.2022 recommended to issue "Letter of Award"

(LOA) to the bidder M/s PTC India Ltd. with source of power as Jindal Power. Later, on 25.11.2022, the Petitioner also received revised offer from M/s Manikaran Power Ltd. Since the revised rate was found competitive, the Standing Committee recommended to issue “Letter of Award” (LOA) to M/s Manikaran Power Ltd also. Thereafter, the Petitioner received revised offers from M/s PTC India Ltd. with source of power from Jaypee Nigre and Jaypee Bina on 08.12.2022, without any conditions and in turn, based on the request by the Petitioner and since offered capacity was within the quantum of RTC and Day Power, on overall basis, the Standing Committee recommended to issue “Letter of Award” (LOA) to M/s PTC for Jaypee Nigre and Jaypee Bina, as well.

- 4.13. We note that the Petitioner has submitted the tender bid documents (RFPs) dated 03.10.2022 & 14.11.2022 and draft PPAs along with the present Petition. We take cognizance of submission of the deviations with regard to ‘Take or Pay’ Penalty and ‘Take or Pay’ Quantum incorporated by the Petitioner in the draft PPAs at Article 5.2.3 which were approved by the Commission in the Order dated 24.04.2017 in Petition No. 1636 of 2017.
- 4.14. We further note that the Petitioner has constituted a Standing Committee as per Clause 7.2 of the 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 (MoP Guidelines) vide Notification No. 23/25/2011/-R&R (Vol-III) dated 30.03.2016 issued by Ministry of Power and subsequent amendments on 30.12.2016 & 21.02.2022. As per Clause 11.2 of the MoP Guidelines and Clause 16 (a) of the GERC Guidelines issued by the Commission as quoted above, the Standing Committee constituted for evaluation of bids is required to submit appropriate certificate on conformity of the bid process evaluation according to the provisions of the RFP document. Further, as per Clause 11.3 of the MoP Guidelines, the Procurer for the purpose of transparency is required to make the bids public by indicating the tariff quoted by all the Bidders, after signing of the PPA or PPA becoming effective, whichever is later and while doing so, only the name of the Successful Bidder(s) to be made public and tariffs quoted by other Bidders to be made public anonymously. The relevant provisions of the Guidelines of Ministry of Power and this Commission read as follows:

“

7. Bid submission and evaluation

.....

7.2 The Procurer shall constitute a Standing Committee for evaluation of the Bids.

.....

11. Contract award and conclusion:

.....

11.2. After the conclusion of bid process, the Standing Committee constituted for evaluation of RFP bids shall provide appropriate certification on conformity of the bid process evaluation according to the provisions of the RFP documents. The Procurer shall provide a certificate on the conformity of the bid process to these Guidelines to the Appropriate Commission.

11.3 For the purpose of transparency, the Procurer shall make the bids public by indicating the tariff quoted by all the Bidders, after signing of the PPA or PPA becoming effective, whichever is later. While doing so, only the name of the Successful Bidder(s) shall be made public and tariffs quoted by other Bidders shall be made public anonymously.

.....”

4.15. In compliance to above, we observe that the Petitioner has submitted the Standing Committee Certificates dated 24.11.2022, 26.11.2022, 08.12.2022, & 12.12.2022 along with the Petition on affidavit. It is certified in said certificates by the Standing Committee that the bid evaluation process is done according to the provisions of the RFP documents and the bidding process is in conformity with the guidelines for Short-Term power procurement issued by the Ministry of Power vide Notification No. 23/25/2011-R&R dated 30th March, 2016 in respect of aforesaid requirement of power. The said Standing Committee Certificates also state that the bids were invited for different periods, with different quantum and time slots for relevant period.

4.16. The relevant portion of the Standing Committee Certificate dated 12.12.2022 read as follows:

“Standing Committee Certificate

Standing Committee:

1. *Shri Kashyap Desai, Vice President*

Chairman

2. Shri Naimesh Shah, Vice President
3. Shri Mayank Gupta, Vice President

Member
Member

Background

Torrent Power Limited (TPL) decided to invite bids for supply of power for its license areas of Gujarat for following quantity and duration vide its tender no. Torrent Power Limited/Short/22-23/ET/184 dated 14th November, 2022:

Requisition	Period	Time slot (Hours)	Total Quantum (MW)	Minimum Quantum (MW) to be offered by seller
1	01-01-2023 to 15-01-2023	00 to 24	100	10
2	01-01-2023 to 15-01-2023	07 to 22	100	10
3	16-01-2023 to 31-01-2023	00 to 24	150	10
4	16-01-2023 to 31-01-2023	07 to 22	100	10
5	01-02-2023 to 14-02-2023	00 to 24	150	10
6	01-02-2023 to 14-02-2023	07 to 22	100	10
7	15-02-2023 to 28-02-2023	00 to 24	150	10
8	15-02-2023 to 28-02-2023	07 to 22	100	10
9	01-03-2023 to 15-03-2023	00 to 24	150	10
10	01-03-2023 to 15-03-2023	07 to 22	100	10
11	16-03-2023 to 31-03-2023	00 to 24	200	10
12	16-03-2023 to 31-03-2023	07 to 22	100	10

Publication of tender

TPL issued tender on DEEP portal of MSTC website on 14th November, 2022 and published the tender notice on 15th November, 2022 for procurement of Power on short term basis during 1st January, 2023 to 31st March, 2023 in the following newspapers:

1. Business Standard (All Edition-Eng.): Delhi, Lucknow, Chandigarh, Kolkata, Bhubaneswar, Mumbai, Pune, Ahmedabad, Chennai, Kochi, Bangalore, Hyderabad
2. Mint- All Edition: Ahmedabad, Mumbai, Delhi, Kolkata, Chennai, Bangalore, Hyderabad, (Chandigarh & Pune - Satellite editions)

Bid evaluation

Bids from 19 bidders were received at IPO stage. E-reverse auction was conducted on MSTC's portal on 28th November, 2022. The result of e-reverse auction is as under:

Sn	Period	Time Slot	Reques tioned Qty (MW)	Bidder/Ref. No.	Quantity (MW)	Price (Rs/kWh)
1	1 st Jan'23 to 15 th Jan'23	RTC	100	Manikaran Power Ltd/79173	100	5.73
2	1 st Jan'23 to 15 th Jan'23	0700 hrs to 2200 hrs	100	PTC India Ltd/74491	50	7.76
				PTC India Ltd/74489	50	7.76
3	16 th Jan'23 to 31 st Jan'23	RTC	150	Manikaran Power Ltd/79173	100	5.71
				Manikaran Power Ltd/74144	15	5.71
				Tata Power Trading Company Ltd/ 74176	10	5.71
				PTC India Ltd/74488	25	5.75
4	16 th Jan'23 to 31 st Jan'23	0700 hrs to 2200 hrs	100	PTC India Ltd/74491	50	7.76
				PTC India Ltd/74489	50	7.76
5	1 st Feb'23 to 14 th Feb'23	RTC	150	PTC India Ltd/74486	50	5.87
				PTC India Ltd/74485	50	5.87
				Tata Power Trading Company Ltd/74176	10	5.87
				Manikaran Power Ltd/78172	25	5.87
				PTC India Limited/74493	10	5.87
				GMR Energy Trading Ltd/132261	5	5.89
6	1 st Feb'23 to 14 th Feb'23	0700 hrs to 2200 hrs	100	PTC India Ltd/74491	50	8.28
				PTC India Ltd/74489	50	8.28
7	15 th Feb'23 to 28 th Feb'23	RTC	150	PTC India Limited/74486	50	5.87
				PTC India Limited/74485	50	5.87
				Manikaran Power Ltd/78172	25	5.87
				Tata Power Trading Company Ltd/74176	10	5.87
				PTC India Limited/74493	10	5.87
				GMR Energy Trading Ltd/132261	5	5.89
8	15 th Feb'23 to 28 th Feb'23	0700 hrs to 2200 hrs	100	PTC India Ltd/74491	50	8.28
				PTC India Ltd/74489	50	8.28
9	1 st Mar'23 to 15 th Mar'23	RTC	150	PTC India Limited/74485	50	6.38
				PTC India Limited/74493	10	6.38
				Manikaran Power Ltd/78172	25	6.38

Sn	Period	Time Slot	Requested Qty (MW)	Bidder/Ref. No.	Quantity (MW)	Price (Rs/kWh)
				Tata Power Trading Company Ltd/74176	10	6.38
				Manikaran Power Ltd/79173	55	6.50
10	1 st Mar'23 to 15 th Mar'23	0700 hrs to 2200 hrs	100	PTC India Ltd/74491	50	10.36
				PTC India Ltd/74489	50	10.36
11	16 th Mar'23 to 31 st Mar'23	RTC	200	Tata Power Trading Company Ltd/74176	10	6.49
				Manikaran Power Ltd/78172	25	6.49
				PTC India Limited/74493	10	6.49
				Manikaran Power Ltd/79173	100	6.49
				PTC India Ltd/74485	50	6.49
				PTC India Ltd/74488	5	6.71
12	16 th Mar'23 to 31 st Mar'23	0700 hrs to 2200 hrs	100	PTC India Ltd/74491	50	10.36
				PTC India Ltd/74489	50	10.36

Since the rate discovered in e-Reverse Auction were on higher side, TPL asked all bidders to submit their best offer in terms of reduction in rate and increase in quantum.

Outcome:

1. PTC (Jindal Power Limited/74488 RTC & 74489 Day power):

Month	Duration (hrs)	Quoted during RA		Revised offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 st Jan'23 to 15 th Jan'23	00 hrs to 24 hrs	50	5.75	100	5.73
16 th Jan'23 to 31 st Jan'23		50	5.75	150	5.71
1 st Feb'23 to 14 th Feb'23		50	6.11	150	5.87
15 th Feb'23 to 28 th Feb'23		50	6.11	150	5.87
1 st Mar'23 to 15 th Mar'23		50	6.71	150	6.38
16 th Mar'23 to 31 st Mar'23		50	6.71	150	6.50
1 st Jan'23 to 15 th Jan'23	07 to 22 hrs	50	7.76	100	7.46
16 th Jan'23 to 31 st Jan'23		50	7.76	100	7.46
1 st Feb'23 to 14 th Feb'23		50	8.28	100	7.78
15 th Feb'23 to 28 th Feb'23		50	8.28	100	7.78
1 st Mar'23 to 15 th Mar'23		50	10.36	100	9.86
16 th Mar'23 to 31 st Mar'23		50	10.36	100	9.86