ORDER
OF THE
WEST BENGAL ELECTRICITY REGULATORY COMMISSION
IN CASE NO. WBERC/PPA-91/18-19

IN REGARD TO THE APPLICATION SUBMITTED BY WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) FOR APPROVAL OF POWER PURCHASE AGREEMENT EXECUTED ON 29.10.2018 BETWEEN PTC INDIA LIMITED (PTC) AND WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED (WBSEDCL) FOR PURCHASE OF 100 MW POWER FROM JHABUA POWER LIMITED FROM APPOINTED DATE FOR A PERIOD OF 3 (THREE) YEARS IN TERMS OF REGULATIONS 2.1.3, 7.4.1 AND 7.8.3 OF THE WEST BENGAL ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS OF TARIFF) REGULATIONS, 2011, AS AMENDED.

PRESENT:
SRI DURGADAS GOSWAMI, MEMBER
SRI MANOJIT MANDAL, MEMBER

DATE: 01.02.2019
In regard to the application submitted by West Bengal State Electricity Distribution Company Limited (WBSEDCL) for approval of Power Purchase Agreement executed on 29.10.2018 between PTC India Limited (PTC) and West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of 100 MW power from Jhabua Power Limited from appointed date for a period of 3 (three) years in terms of regulations 2.1.3, 7.4.1 and 7.8.3 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended.

<table>
<thead>
<tr>
<th>Noting by Office or Advocate</th>
<th>Sl. No.</th>
<th>Date</th>
<th>Office notes, reports orders or proceedings with signature</th>
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<tbody>
<tr>
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<td>ORDER</td>
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<td>1.0</td>
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<td>This is in regard to the application submitted by West Bengal State Electricity Distribution Company Limited (WBSEDCL) for approval of power purchase agreement (PPA) executed on 29.10.2018 between PTC India Limited (Aggregator) and West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of 100 MW power by WBSEDCL through Aggregator from Jhabua Power Limited for a period of three years in terms of regulation 2.1.3, 7.4.1 and 7.8.3 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended (in short 'Tariff Regulation'.)</td>
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<td>WBSEDCL submitted an application on 12.12.2018 for approval of purchase of 100 MW power through Aggregator from Jhabua Power Limited for a period of 3 years from appointed date and the Aggregator accepts the procurement contract and agrees to implement the same in accordance with the terms and conditions set forth therein.</td>
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<td>Gist of the application for approval of PPA inviting objections and suggestions from the stakeholders was published on 17.01.2019 in “The Times of India”, “The Telegraph” and “Ananda Bazar Patrika”. Subsequently WBSEDCL observed that there was certain omission of words from the approved gist of the Commission and accordingly published a corrigendum to the above publication in the respective newspapers on 23.01.2019. However, no comments /objections / suggestions was received within the scheduled...</td>
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In regard to the application submitted by West Bengal State Electricity Distribution Company Limited (WBSEDCL) for approval of Power Purchase Agreement executed on 29.10.2018 between PTC India Limited (PTC) and West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of 100 MW power from Jhabua Power Limited from appointed date for a period of 3 (three) years in terms of regulations 2.1.3, 7.4.1 and 7.8.3 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended.

4.0 In their application, WBSEDCL has stated that several coal based thermal power stations in the country, which are already commissioned, are in stress due to inadequate or no PPA. PFC Consulting Limited has been appointed as nodal agency by the Govt. of India for procurement of power on single tariff basis from these stressed assets through national level competitive bidding.

5.1 It was further submitted that it is in accordance with the pilot scheme notified by Ministry of Power, Government of India, for purchase of 2500 MW power from commissioned power plants through National level competitive bidding conducted by PFCCCL on DEEP portal for supply of power to state utilities by PTC India Limited as an Aggregator.

5.2 Accordingly, PFCCCL has invited proposal in accordance with the guidelines issued by the central government, under section 63 of the act vide notification no. 23/17/2013-R&R(Vol-IV) dated 10.04.2018 by its Request for Qualification dated 01.05.2018 (RFQ) and Request for Proposal dated 01.05.2018 (RFP) conducted by nodal agency through DEEP e-bidding portal.

5.0 It was also submitted that after evaluation of bids received, the Nodal Agency had accepted the Bid of Jhabua Power Limited as successful bidder and issued its LOA no. 03/Pilot Scheme/18/JPL/2 dated 12.10.2018.

6.0 It was submitted that the Aggregator PTC India Limited and WBSEDCL entered into a Power Purchase Agreement dated 29.10.2018 for purchase of power from Jhabua Power
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Limited, a power generating station, through Aggregator that would dedicate a contracted capacity of 100 MW for production of utility and supply thereof to WBSEDCL on Finance, Own and Operate (the “FOO”) basis.

7.0 WBSEDCL submitted that PTC India Limited (Aggregator) has signed Pilot Agreement for Procurement of Power (PAPP) with Jhabua Power Limited (“Supplier”) for procurement of 100 MW thermal powers under Pilot Scheme @ Rs.4.24/KWH. The Aggregator has been permitted to purchase power from the Supplier and sell it to WBSEDCL @ Rs.4.24/KWH along with an additional trading margin of Rs.0.05/KWH (“Tariff”). WBSEDCL shall pay lump sum Tariff to PTC for supply of power and tariff will not change throughout the Contract period.

8.0 WBSEDCL submitted that as per the recent planning of Load Generation Balance Report it is observed that there will be shortfall ranging from 731 MW to 1199 MW over the span of five years i.e. from 2019-2020 to 2023-2024 as per the power scenario of WBSEDCL in respect of the projected availability vis-a-vis system demand of WBSEDCL considering reduction of actual sent out generation with respect to their commitment for the aforesaid period. WBSEDCL has submitted a graph showing power position scenario of West Bengal upto FY-25 showing the year wise projected highest shortage per year in this respect.

9.0 WBSEDCL also submitted that under above circumstances to meet their demand, they had no other option but to purchase the deficit power at exorbitant high rates on the exchange platform even up to Rs. 18.00 per kwh.
In regard to the application submitted by West Bengal State Electricity Distribution Company Limited (WBSEDCL) for approval of Power Purchase Agreement executed on 29.10.2018 between PTC India Limited (PTC) and West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of 100 MW power from Jhabua Power Limited from appointed date for a period of 3 (three) years in terms of regulations 2.1.3, 7.4.1 and 7.8.3 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended.

10.0 It is further submitted by WBSEDCL that with an objective to procure power in the Short Term mode through competitive bidding on the ‘DEEP’ portal, it was observed from the recently concluded tender event WBSEDCL/PTP/e-NIT/02/2018 dated 15.09.2018, that not only bids for the entire requisitioned quantum were not received, but the prices discovered were abnormally high, to the extent up to Rs. 7.25/- per kwh for RTC Power during the period from March 2019 to June 2019.

11.0 Accordingly, as submitted by WBSEDCL, a Power Purchase Agreement (mentioned as Pilot Power Supply Agreement by PTC India Limited) dated 29.10.2018 has been executed by and between the Aggregator & WBSEDCL for purchase of 100 MW power by WBSEDCL through Aggregator from the Seller Jhabua Power Limited, a power generating station, for a period of three years commencing from the appointed date on mutually agreed basis which has been mutually agreed by WBSEDCL and the Aggregator. The detailed PPA has been submitted by WBSEDCL along with their application.

12.0 From the projection submitted by WBSEDCL it is revealed that a total amount of Rs. 31943.50 lakh including the trading margin will be the cost for purchase of 744.60 MU of power during each year.

13.0 In view of above, WBSEDCL has prayed before the Commission to approve the Power Purchase Agreement (mentioned as Pilot Power Supply Agreement by PTC India Limited) dated 29.10.2018 executed by and between PTC India Limited (PTC) & West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of
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100 MW power by WBSEDCL through PTC India Limited (Aggregator) from Jhabua Power Limited, a power generating station, for a period of three years commencing from the appointed date on mutually agreed basis in terms of regulations 2.1.3, 7.4.1 and 7.8.3 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended.

14.0 Upon receipt of the application and going through the same, the Commission vide its letter no. WBERC/PPA-91/18-19/3539 dated 30th January, 2019 directed WBSEDCL to send additional clarification / documents on the following:

a) to confirm whether the tariff determined is as per the guidelines issued by the Central Government under Section 63 of the Electricity Act, 2003 and if there was any deviation from the said guideline and if so, whether the same was approved by the Commission.

b) to submit the basis of their demand assumption for peak as well as base load and submit the source-wise breakup of the projected contracted purchase to access the requirement of round the clock purchase of power.

c) to clarify the apparent contradiction in paragraph 5.6 and 11.4.2 of the Agreement relating to payment of GST.

d) In paragraph 9.4 there is a concept of Escrow Account for securing payment upon occurrence of
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Aggregator default. The relevance of which may be clarified in view of the clauses mentioned in Article 9 on Performance Security.

e) to clarify whether the trading margin of Rs. 0.05 per kWh is standard in nature as charged by PTC as Aggregator in such arrangement to all utilities or it is specific to WBSEDCL. If it is specific, whether any negotiation was carried out on the same.

f) to submit the related documents of issuance of Letter of Selection of Jhabua Power Limited issued under LOA No. 03/Pilot Scheme/18/JPL/2 dated 12.10.2018.

15.0 In reply, WBSEDCL has submitted the clarifications and documents vide their letter no. PTP/SERC/452 dated 31\textsuperscript{st} January, 2019, wherein WBSEDCL also enclosed a copy of letter from PTC India (Aggregator) vide no. C/PTC/M&TFG/WBSEDCL/4999 dated 30.01.2019. WBSEDCL’s reply read with enclosed letter of PTC specifies that—

a) The competitive bidding was done as per the guidelines issued by the Central Government.

b) WBSEDCL has projected the demand for FY-20 to FY-24 considering growth rate of 4.43%, the CAGR between FY-15 & FY-17, and accordingly projected the demand for FY-20 as 6856 MW. WBSEDCL has considered 900 MW from PPSP and 40 MW from other hydro units based on the past record for determination of net shortfall. WBSEDCL further stated that they propose to procure
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round the clock power and any seasonal surplus will be utilized for pumping / banking / sale in the market.

c) It is mentioned that tariff is inclusive of all taxes in respect of supply of electricity up to the delivery point. Currently there is no GST for supply of electricity and in case GST, if applicable in future days it will be over and above the tariff and will be paid by the Aggregator / Supplier and Utility will reimburse the same.

d) It is mentioned that the word escrow is mainly in relation to opening of Letter of Credit from the default escrow bank. The escrow account word is used notionally but not in relation to any escrow arrangement.

e) It is submitted that same trading margin (Rs. 0.05 per kWh) is charged for all the utilities uniformly procuring power under the scheme.

f) A copy of the LOA dated 12.10.2018 to Jhabua Power Limited issued by PFCCL (nodal agency) has been submitted.

16.0 The Commission, from the MOMs of SLCF meetings issued by SLDC, observed that the average peak demand for 2017 – 18 was 5759 MW. Considering the CAGR for FY-15 to FY-17 of 4.43%, as submitted by WBSEDCL, the average peak demand for 2019 – 20 comes to 6280 MW. Now considering 5% spinning reserve and 5% cold reserve as per provisions of Schedule – II of the Tariff Regulations, it comes to 6908 MW. Accordingly, the projected requirement of 6856 MW of WBSEDCL is considered.
In regard to the application submitted by West Bengal State Electricity Distribution Company Limited (WBSEDCL) for approval of Power Purchase Agreement executed on 29.10.2018 between PTC India Limited (PTC) and West Bengal State Electricity Distribution Company Limited (WBSEDCL) for purchase of 100 MW power from Jhabua Power Limited from appointed date for a period of 3 (three) years in terms of regulations 2.1.3, 7.4.1 and 7.8.3 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended.

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<th>17.0</th>
<th>The Commission after considering the above facts and to ensure reliable and quality power supply in the State approves the Power Purchase Agreement for purchase of 100 MW each year through PTC India Limited (Aggregator) from Jhabua Power Limited (seller) for a period of 3 years effective from appointed date on mutually agreed basis as per the following rate in terms of regulations 2.1.3, 7.4.1 and 7.8.3 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011 as amended:</th>
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<td>a)</td>
<td>Tariff – Rs. 4.24 per kWh at ex-bus with no escalation through National level competitive bidding conducted by PFCCL on DEEP Portal.</td>
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<td>b)</td>
<td>Trading margin payable to PTC : Rs. 0.05 per kWh.</td>
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18.0 The petition is thus disposed of. Let a copy of the order be served upon WBSEDCL.

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Sd/- x x x

(MANOJIT MANDAL)
MEMBER

(DURGADAS GOSWAMI)
MEMBER

Dated : 01.02.2019

West Bengal Electricity Regulatory Commission