

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 117 of 2009

In the matter of
Petition seeking approval of the Power Purchase Agreements of MSEDCL
with NTPC, SPV of UMPP and RGPPL

Shri V.P. Raja, Chairman
Shri S.B. Kulkarni, Member
Shri V L Sonavane, Member

ORDER

Dated: September 01, 2010

Maharashtra State Electricity Distribution Co. Ltd (MSEDCL) has submitted a Petition under affidavit, on March 12, 2010, under Regulation 24 of the MERC (Terms and Conditions of Tariff) Regulations 2005, seeking approval of the Power Purchase Agreements of MSEDCL with National Thermal Power Corporation (NTPC), Special Purpose Vehicle (SPV) of Ultra Mega Power Projects (UMPP) and Ratnagiri Gas and Power Pvt Ltd (RGPPL). The following are the main prayers of the Petitioners:

“Examine and approve the PPAs (tabulated above) for power purchase from

1. *National Thermal Power Corporation (NTPC);*
2. *SPV of UMPP*
3. *Ratnagiri Gas Power Pvt. Ltd. (RGPPL)”*

1. In its petition, MSEDCL has submitted as follows :
 - a) MSEDCL, NTPC and RGPPL being separate entities, MSEDCL is required to enter into Power Purchase Agreement for power purchase from the respective generating stations of NTPC and RGPPL



- b) NTPC and RGPPL are generating companies as defined under Section 2(28) of the Electricity Act 2003 and are Government of India undertakings.
- c) NTPC is establishing new coal based thermal power stations and MSEDCL desires to procure power from these stations.
- d) The allocation of power from the NTPC stations is decided by GOI/Competent authority in accordance with applicable guidelines and tariff determined by CERC under Section 79(1)(a) of the Electricity Act 2003
- e) Government of India has allocated power from the Ultra Mega Power Projects and created Special Purpose Vehicles (SPV) for development of the projects.
- f) The developer of the project is selected and the tariff is discovered by competitive bidding as per standard bidding guidelines of MoP under Case -2 and SPV is transferred to selected developer in case of UMPP
- g) RGPPL is Joint Venture company formed pursuant to the decision of the empowered group of ministers with equity participation of MSEDCL holding company, National Thermal Corporation (NTPC) and Gas Authority of India Ltd. (GAIL), both being Government of India undertakings

In term of Section 79(1)(a) of Electricity Act 2003, RGPPL will be subject to Regulatory control of CERC in regards to sale and supply of electricity generated at RGPPL

- h) MSEDCL entered into Long Term Power Purchase agreement for purchase of power from various power plants of NTPC, UMPP and RGPPL
- i) MERC (Terms and Conditions of Tariff) Regulations, 2005 clause 24.1 provides that every agreement or arrangement for Long Term Power procurement by a Distribution Licensee from a Generating Company or a licensee or from other source of supply, entered into after the date of notification of these Regulations shall come into effect only with the prior approval of the Commission
- j) MSEDCL and NTPC have signed PPA which is standard one and the same for all beneficiaries. The signed copies of the PPAs and the copies of PPAs executed with the SPVs of UMPPs are enclosed with the petition. Also a copy of the PPA executed with RGPPL is enclosed with the petition. The MSEDCL Board has accorded approvals of the PPAs executed with NTPC's proposed plant and SPV of UMPPs. The PPAs are submitted for the Commission's approval.



2. The Commission scheduled the hearing in the matter on April 7, 2010. The Consumer Representatives authorized under Section 94(3) of the Electricity Act 2003 were also invited to attend the hearing. During the said hearing, Shri. G.S. Trimukhe, C.E. and Shri. S.G. Metre, E.E. appeared on behalf of MSEDCL. Ms. Ashwini Chitnis appeared on behalf of Prayas Energy Group, who are one of the authorised Consumer Representatives groups in the State.
3. MSEDCL stated that it has prepared long term load projections and corresponding power procurement plans.
4. The Commission advised MSEDCL that the updated status regarding various power projects should be submitted by MSEDCL to the Commission periodically as a continuous process. Such updated information should accompany all the Petitions for approvals related to Power procurement.
5. Regarding various PPAs submitted by MSEDCL for approval, along with the present petition, the Commission's observations, MSEDCL's clarifications and, the directives issued by the Commission are as follows:

5.1 **PPA with NTPC:**

- (i) The Commission observed that in the PPAs with NTPC, submitted by MSEDCL for approval, neither the quantity of power nor the rates have been mentioned. MSEDCL informed that NTPC has recently intimated to MSEDCL the tentative Power supply allocation plan from these proposed thermal power plants. These values have not been entered in PPAs with NTPC. As these projects are under construction, the tariff petitions have also not been put up to CERC for approval, and the rates mentioned in the Petition by MSEDCL are only indicative.
- (ii) The Commission observed that the PPAs in the present condition are incomplete as the rates for power procurement are not entered. The Commission directed that the rates after finalisation should be entered into the respective PPAs so that these can be considered as complete; and only then MSEDCL should submit these PPAs to the Commission for approval.



5.2 **PPA with SPV of UMPPs:**

The Commission noted that the Commercial Operation Dates (CODs) of the three UMPPs would be between the years 2011 to 2015. The tariffs of power supply from the UMPPs have been finalised through transparent process under Section 63 of the Electricity Act, 2003.

The Commission directed that as these tariffs are approved by CERC, MSEDCL should submit the copies of the PPAs to MERC , subsequently

5.3 **PPA with RGPPL:**

The Commission observes that the Central Electricity Regulatory Commission had issued the tariff order for RGPPL on June 4, 2009 and RGPPL had appealed to the APTEL against the same. [Appeal No. 130 of 2009]. In this matter, APTEL had delivered an Interim Order on September 1, 2009, determining an ad-hoc tariff for RGPPL as an interim arrangement. The APTEL, in its interim Order as above, had also made it clear that

“this interim arrangement would apply only during the pendency of the Appeal and till the determination is taken place by the Commission with reference to the period of 01.04.2009 onwards.

“Accordingly, the same is ordered. As requested by the learned Counsel for the Central Commission, it is made clear that this interim arrangement through this interim order is subject to outcome of this Appeal before this Tribunal.”



In view of the above, the Commission directs that MSEDCL should await the final Order of APTEL and then submit the PPA for the Commission's approval with complete information.

With these directives, MSEDCL's Petition in Case 117 of 2009 is disposed off.

Sd/-
(V.L.Sonavane)
Member

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(V. P. Raja)
Chairman



(K.N. Khawarey)
Secretary, MERC