

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.338/AT/2023

Subject : Petition under Section 63 read with Section 79 of the Electricity Act, 2003 for adoption of tariff of thermal generating stations selected through competitive bidding process conducted by PFC Consulting Ltd. under Ministry of Power's Guidelines for procurement of power on Finance, Own and Operate basis issued under Para B(v) of the SHAKTI Policy, 2017.

Date of Hearing : **15.12.2023**

Coram : Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : Jindal India Thermal Power Ltd. (JITPL) and 4 Ors.

Respondents : PFC Consulting Limited (PFCCL) and 4 Ors.

Parties Present : Shri Vishrov Mukherjee, Advocate, JITPL
Shri Pratyush Singh, Advocate, JITPL
Ms. Anamika Rana, Advocate, JITPL
Shri Ravi Sharma, Advocate, MPPMCL
Ms. Priyadarshini, Advocate, PFCCL
Shri Anubhav Kansal, PFCCL

Record of Proceedings

At the outset, the learned counsel for the Petitioners submitted that, in compliance with the direction of the Commission issued vide Record of Proceedings for the hearing dated 28.11.2023, Respondent No.1, PFCCL, has filed an affidavit placing on record the bid-related details/documents including the Minutes of Meeting held with the Ministry of Power in regard to the adoption of tariff. Learned counsel further submitted that, insofar as the distribution licensees are concerned, only Respondent No.2, Madhya Pradesh Power Management Company Limited (MPPCL), has filed its reply in the matter.

2. Learned counsel appearing on behalf of the Respondent, MPPMCL, submitted that the Respondent has already filed its reply in the matter, praying for the adoption of the tariff as discovered through the competitive bidding process. Learned counsel submitted that the Madhya Pradesh Electricity Regulatory Commission, vide its order dated 10.11.2023 in Case No. 51/2023, has also accorded in-principle approval for the procurement of 378.24 MW power on a medium term basis and has further indicated that the approval of the power purchase/supply agreement to be executed with the generators will be after the adoption of tariffs by this Commission. Learned counsel also added that the Respondent is in discussion with the Petitioners to amend the PPAs to the extent of waiver of certain clauses of the PPAs, namely, (i) providing of an Escrow Guarantee and Deed of Hypothecation (Article13.1), (ii) Performance

Security (Article 9.1.2), (iii) Payment for normative Availability by Utility upon termination of the PPA on its default (Articles 9.1.2 and 19.3.2).

3. In response, the learned counsel for the Petitioners submitted that waiver of certain clauses of the PPAs is a matter *inter-se* between the concerned generating company and the Respondent, MPPMCL, and may not have any relevance to present adoption proceedings.

4. Learned counsel for the Respondent, PFCCL, submitted that the Respondent has already filed its affidavit in the matter, placing on record all the relevant bid details/documents. The representative of PFCCL also submitted that in respect of the Power Department, J & K, the Joint Electricity Regulatory Commission J& K and Ladakh have recently granted in-principle approval to the procurement of power.

5. Considering the submissions made by the learned counsel and the representative of the parties, the Commission permitted all the Respondents another opportunity, to file their respective replies, if any, within two weeks with a copy to the Petitioner, ho may file its rejoinder, within one week thereafter.

6. Subject to the above, the Commission reserved the matter for order.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)