

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 338/AT/2023**

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

**Date of Order: 21<sup>st</sup> January, 2024**

**In the matter of**

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.

**And**

**In the matter of**

**1. Jindal India Thermal Power Limited,**

Habitat India, C-3, Qutub Institutional Area  
Katwaria Sarai,  
New Delhi - 110016

**2. Jindal Power Limited,**

1st Floor, Tower-A, Jindal Centre, Plot No.-2  
Sector-32, Gurgaon-122001

**3. SKS Power Generation Chhattisgarh Limited,**

Unit 201 & 207, Centre Point Premises Co. op Society,  
JB Nagar, Andheri-Kurla Road,  
Andheri-East, Mumbai-400059

**4. RKM Powergen Private Limited,**

14, Dr. Giriappa Road,  
T Nagar, Chennai-600017

**5. TRN Energy Private Limited,**

7th Floor, Office Tower  
Ambience Mall, NH – 8,  
Gurugram – 122 002, Haryana

**....Petitioners**

**Vs.**

**1. PFC Consulting Limited,**

First Floor "Urjanidhi"

1, Barakhamba Lane, Connaught Place,  
New Delhi 110 001.

**2. Madhya Pradesh Power Management Company Limited,**  
Block No. 11, Shakti Bhawan  
Jabalpur, Madhya Pradesh-482008

**3. New Delhi Municipal Corporation,**  
16th Floor, Palika Kendra  
Parliament Street, New Delhi-110001

**4. Principal Secretary, Power Development Department,**  
Jammu and Kashmir Power Development Department,  
JKPCL, SLDC Building,  
Gladni Grid Complex,  
Narwal, Jammu- 180006.

**5. Haryana Power Purchase Centre,**  
HPPC, 4th Floor,  
I.P. No. 3&4, Vidyut Sadan,  
Sector-14,  
Panchkula-134 109, Haryana

**...Respondents**

**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, PFCC  
Shri Anubhav Kansal, PFCC

**ORDER**

The Petitioners, Jindal India Thermal Power Limited, Jindal Power Limited, SKS Power Generation Chhattisgarh Limited, RKM Powergen Private Limited and TRN Energy Private Limited have jointly filed the present Petition under Section 63 of the Electricity Act, 2003 (“the Act”) for the adoption of the tariff of the thermal generating stations selected through competitive bidding process conducted by PFC Consulting Limited (Bid Process Coordinator) in terms of the *Guidelines for procurement of power on Finance, Own and Operate (FOO) basis under para B(v) of the SHAKTI*

Policy, dated 20.10.2022” (**‘the Guidelines’**) issued by the Ministry of Power’s (‘MoP’). The Petitioners have made the following prayers:

*“(a) Adopt the tariff of the Petitioners as reflected in their respective Letter of Awards issued by PFCCCL pursuant to the competitive bidding process conducted by PFCCCL; and*

*(b) Pass such other and further reliefs as this Commission deems just and proper in the nature and circumstances of the present case.”*

### **Submission of the Petitioner**

2. The Petitioner has mainly submitted as under:

(a) On 22.10.2017, the Ministry of Coal (MoC) issued a ‘Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India (SHAKTI Policy, 2017)’. Para (B)(v) of Shakti Policy, 2017 provides that power requirements for a group of States can be aggregated, and such procurement can be undertaken by an agency designated by the Ministry of Power or authorized by the States pursuant to the competitive bidding process. Further, coal linkage shall be earmarked for such agencies by pre-declaring the availability of coal linkage with a description, based on which the agency will undertake competitive bidding for long-term and medium-term procurement of power and recommend the grant of the linkage to the successful bidders.

(b) Subsequently, the Ministry of Power vide its Gazette Notification No. 23/03/2022-R&R, dated 20.10.2022 issued ‘Guidelines under Section 63 of the Act for the procurement of power on Finance, Own and Operate (FOO) basis under para B(v) of the SHAKTI Policy and nominated the PFC Consulting Limited (PFCCCL), as the Nodal Agency for the purpose of procurement of power.

(c) PFCCCL, acting in the capacity of a BPC on behalf of the Petitioners, issued a Request for Selection (‘RfS’) dated 15.5.2023. The RfS was amended on 29.5.2023, 16.6.2023 and 22.6.2023, whereby the ‘Schedule of Bidding Process’ i.e., the timeline for the submission and opening of bids, was revised. In terms of Corrigendum No. 3 dated 22.6.2023, the last date of the submission of

the bid (i.e., Bid Due Date) was revised to 30.6.2023, and the bids were scheduled to be opened on 7.7.2023.

(d) In response to the RfS, the Petitioners submitted their bids as under:

(i) On 21.6.2023, JITPL submitted a bid from Talcher field as a fuel source for the supply of 200 MW power from its 1200 MW (2 x 600 MW) Thermal Power Plant (TPP) at Odisha.

(ii) On 22.6.2023, JPL submitted a bid from IB – field as a fuel source for the supply of 300 MW power from its 3400 MW TPP at Chhattisgarh.

(iii) On 19.6.2023, SKS submitted a bid from IB – field as a fuel source for the supply of the 100 MW power from its 1200 MW TPP at Chhattisgarh.

(iv) On 15.6.2023, RKM submitted two bids from IB – field and Talcher field as fuel sources for the supply of the 300 MW (each) from its 1440 (4 x 360) MW TPP at Chhattisgarh.

(v) On 30.6.2023, TRN submitted a bid (vide cover letter dated 21.6.2023) from IB- field as a fuel source for the supply of 100 MW power from its 600 (2 x 300) MW TPP at Chhattisgarh.

(e) Subsequent to the opening of the bids, on 29.7.2023, PFCCCL issued LoAs to the Petitioners for the execution of the Power Purchase Agreements with their respective distribution licensees for the supply of the allocated power for a period of 5 years.

(f) In terms of Clause 4.8 of the RfS, the Petitioners have accepted the LoAs issued by PFCCCL. Further, in terms of the LoA and Clause 1.3 read with Clause 4.9 of the RfS, the Petitioners requested their respective distribution licensees to sign the Power Purchase Agreements.

(g) RKM Powergen and TRN Energy, vide their e-mails dated 4.8.2023, requested PFCCCL with a copy to the distribution licensees to expedite the process of approval from the Regulatory Commission and signing of the Power Purchase Agreements with the distribution licensees. JITPL, vide its

letter dated 7.8.2023, requested PFCCL to arrange a meeting with all the stakeholders involved in the Bidding Process to deliberate on the signing of the Power Purchase Agreements and adoption of tariff. JITPL issued a follow-up request to this letter on 5.9.2023.

(h) On 21.8.2023, NDMC wrote an e-mail to RKM Powergen and TRN Energy requesting to provide the tariff adoption Order from the CERC.

### **Hearing dated 28.11.2023**

3. The Petition was admitted on 28.11.2023, and notices were issued to the Respondents to file their replies. The Respondent, M. P. Power Management Company Limited, has filed its reply.

4. M. P. Power Management Company Limited (MPPMCL), vide its reply dated 6.12.2023, has submitted that MPPCL is in discussions with the Petitioner(s) to amend the PPA to the extent of waiver of clause of the PPA, namely, Article 13.1 of the draft PPA (the escrow guarantee and the Deed of Hypothecation), Article 9.1.2. (the Performance Security), Articles 9.1.2 and 19.3.2 (payment for normative availability by the utility upon termination of the PPA on its default) of the draft PPA, and the Petitioners have agreed to provide the above waiver. Subject to the approval of the PPA by MPERC and on the basis of mutual discussion, agreement and mutual waiver of said clauses, MPPMCL will execute the PPA(s) with the Petitioners. MPPMCL has prayed to adopt the tariff discovered through a competitive bidding process.

5. Vide Record of Proceedings for the hearing dated 28.11.2023, the Nodal Agency, PFCCL, was directed to file the following information:

(a) All the bid-related documents, including RfS & PPAs along with subsequent amendments thereto, and reports of the Evaluation Committee, etc.

(b) Confirmation to the effect that the Bid Process was conducted in accordance with the provisions of the Guidelines.

(c) Status of the PPAs and the timeline by which such PPAs will be executed.

(d) Minutes of the Meeting held with the Ministry of Power with regard to the adoption of tariff as referred to.

6. PFCCL, vide its affidavit dated 7.12.2023, submitted the information called for which has been dealt with in the succeeding paragraphs.

**Hearing dated 15.12.2023**

7. During the course of the hearing, the learned counsel appearing on behalf of Respondent, MPPMCL, submitted that MPPMCL has already filed its reply in the matter, praying for the adoption of the tariff as discovered through the competitive bidding process. The 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 tariff by CERC. The learned counsel 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.

8. 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.

9. 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, he may file its rejoinder, within a week thereafter. However, no reply has been filed by the Respondents, except MPPMCL, despite a second opportunity.

10. After reserving the order, the learned counsel for MPPMCL mentioned the matter on 19.1.2024 and submitted that neither the Petitioners have sought in prayer relief of the adoption of tariff basis fixed and variable charge rates nor the LOA issued by BPC, PFCCIL had a mention of fixed and variable charges separately. Therefore, it has become impossible for MPPMCL, in the course of signing the PPA to adhere to the terms of Clauses 11.2 and 12.2 of the draft PPA mandatorily required to fill the fixed charge rate, which shall be revised annually to reflect 20% of the variation in WPI and variable charges separately and distinctly by the parties into at the time of the signing of the PPA.

11. In response, the learned counsel for the Petitioners submitted that PFCCL, vide its affidavit dated 7.12.2023, has placed on record the details of the bifurcation of fixed and variable charges. He further submitted that though the LOAs were issued to the distribution companies without bifurcation of fixed and variable charges, the bifurcation of the tariff was conveyed to them by the PFCCL vide subsequent email dated 4.8.2023.

12. The learned counsel for Respondent No.1, PFCCL, submitted that the PFCCL, vide its email dated 4.8.2024, has already submitted the information regarding the bifurcation of the tariff basis fixed charges and variable charges to all the distribution companies including MPPMCL. She further submitted that PFCCL vide its affidavit dated 7.12.2023, has placed on record the said information a copy of which has already been provided to all parties.

### **Analysis and Decision**

13. We now proceed to consider the prayer of the Petitioners as regards the adoption of tariff in respect of the thermal generating stations discovered pursuant to the competitive bid process carried out in terms of the Guidelines issued by the Ministry of Power, Government of India under Section 63 of the Act.

14. The Petitioners have submitted that as per Clause 4.1.2(c) of the Draft Power Purchase Agreement issued with the RfS, it was the obligation of the Distribution Licensees/Procurers to approach the Appropriate Commission for the adoption of tariff discovered through competitive bidding process under Section 63 of the Act. However, in terms of the communications shared between the New Delhi Municipal Corporation (NDMC) (one of the distribution licensees) and the BPC, on 4.11.2022, the PFCCL has clarified that a discussion was held with the Ministry of Power on the representation of the distribution licensees and the generators regarding the adoption of tariff. In the said meeting, the Secretary, Ministry of Power clarified that the successful bidder, namely, the generator, would file an application/petition for the adoption of tariff in the Appropriate Commission. Accordingly, the generators have jointly filed the present Petition.



15. Section 63 of the Act provides 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.”*

16. Thus, in terms of Section 63 of the Act, the Commission is required to adopt the tariff on being satisfied that the transparent process of bidding in accordance with the Guidelines issued by the Government of India under Section 63 of the Act has been followed in determination of such tariff.

17. On 22.10.2017, the Ministry of Coal (MoC) issued the ‘Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India (SHAKTI Policy, 2017)’. Para (B)(v) of Shakti Policy, 2017 provides that power requirements for a group of States can be aggregated, and such procurement can be undertaken by an agency designated by the Ministry of Power or authorized by the States pursuant to the competitive bidding process. Further, coal linkage shall be earmarked for such agencies by pre-declaring the availability of coal linkage with a description, based on which the agency will undertake the competitive bidding for long-term and medium-term procurement of power and recommend the grant of the linkage to the successful bidders.

18. PFC Consulting Limited (Nodal Agency appointed by the Ministry of Power to conduct the bidding process for the procurement of power under the Guidelines) issued a Request for Selection (‘RfS’) dated 15.5.2023 inviting bids from the thermal generating stations for the procurement of aggregated power of 4500 MW on medium term basis (5 years) for a group of the States through e-tender on the DEEP Portal in terms of the Guidelines dated 20.10.2022.

19. The Guidelines issued under the provisions of Section 63 of the Act provide the framework to facilitate the procurement of power on a long-term and medium-term basis by the Nodal Agency through transparent bidding to meet the power requirement of a group of States with coal linkage as per para B(v) of the SHAKTI Policy.

20. The SHAKTI Policy, 2017, *inter alia*, envisages as under:

(a) As per clause B(i), CIL/SCCL may grant Coal linkages for the Central Government and State Government Gencos at the notified price of CIL/SCCL. Similarly, coal linkages may be granted for the JVs formed between or within the CPSUs and State Government/PSUs. The recommendations shall be made by the Ministry of Power.

(b) As per clause B (ii), CIL/SCCL may grant the coal linkages on the notified price on auction basis for the Power Producers/IPPs having already concluded long term PPAs (both under Sections 62 and 63 of the Act) based on domestic coal. Power Producers/IPPs, participating in auction will bid for discount on the tariff (in paise/unit). Bid Evaluation Criteria shall be the non-zero levelized value of the discount (applying a pre-notified discount rate) quoted by the bidders on the existing tariff for each year of the balance period of the PPA. Ministry of Coal, in consultation with the Ministry of Power, may work out a methodology on normative basis to be used in the bidding process for allocation of the coal linkages to IPPs with the PPAs.

(c) As per clause B (ii) (a), the discount by the generating companies would be adjusted from the gross amount of bill at the time of the billing, i.e., the original bill shall be raised as per the terms and conditions of the PPA and the discount would be reduced from the gross amount of the bill. The discount shall be computed with reference to the scheduled generation from the linkage coal supplied under this auction. This would be applicable to both the PPAs contracted under Section 62 as well as Section 63 of the Act.

(d) As per clause B(ii)(b), the PPA may be amended or supplemented mutually between the developer and the procurer to pass on the discount to the procurer and the approval of the Appropriate Commission obtained, as per the provisions of the PPA or the Regulations.

(e) As per clause B(ii)(c), the Fuel Supply Agreement shall be signed with the successful bidders after the terms and conditions for signing of the FSA are met and the Appropriate Commission has approved the amendment or supplement to the PPA.

(f) As per clause B(iii), CIL/SCCL may grant the future coal linkages on auction basis for the Power Producers/IPP's without the PPAs that are either commissioned or to be commissioned. All such Power Producers/IPP's may participate in this auction and bid for a premium above the notified price of the coal company. The methodology for the bidding of linkages shall be similar to the bidding methodology in the policy on the auction of linkages of the Non-Regulated Sector dated 15.2.2016. Coal drawal will be permitted only against valid long term and medium term PPA with the Discoms/State Designated Agencies (SDAs), which the successful bidder shall be required to procure and submit within two years of completion of the auction process.

(g) As per clause B(iii)(a), in the case of the commissioned capacities, FSA shall be signed with the successful bidders after completion of the auction process provided that the standard terms and conditions for signing of the FSA are met. In case of others, a Letter of Assurance (LoA) may be issued by CIL/SCCL to the successful bidder and the FSA shall be signed after commissioning of the unit and fulfilling other conditions of the LoA.

(h) As per clause B(iii) (b), if the Power Producer/IPP, does not start drawing the coal within two years of submission of the PPA, the FSA or the LoA, as the case may be, shall stand terminated.

(i) In terms of clause B(iv), Coal linkages may also be earmarked for fresh PPAs, by pre-declaring the availability of coal linkage with description, to the States. The States may indicate these linkages to the Discoms/SDAs:

(I) The States/Discoms may, based on such linkages, undertake tariff based competitive bidding for long-term and medium-term procurement of power as per the guidelines issued by the Ministry of Power and may recommend grant of these linkages to the successful bidders. In case of the commissioned capacities, FSA shall be signed with the successful bidder after completion of the auction process. In case of the likely to be commissioned capacities, a Letter of Assurance may be issued by CIL/SCCL to the successful bidder and the FSA shall be signed on commissioning of the unit. The successful bidder shall be required to meet the conditions specified in the Letter of Assurance and the FSA. The existing FSA/LoA holders may also participate in the competitive bidding for the PPA and, if successful, shall surrender proportionate quantity of the FSA/LoA for the corresponding tenure; or

II. The States/Discoms may recommend grant of the earmarked linkages to capacities that are covered under exceptions and proviso clauses of para 5.2 of the Tariff Policy dated 28.01.2016. A Letter of Assurance may be issued by CIL/SCCL to such capacities and the FSA shall be signed on commissioning of the unit Provided (a) the priority between (iv) I and (iv) II above will be decided by the State Government concerned considering its public interest and based on its requirements. (b) the quantity remaining unutilized for 2 years continuously shall lapse. Detailed policy guidelines for sub para (iv) shall be formulated by the Ministry of Power

(j) Power requirement of group of the States can also be aggregated and procurement of such aggregated power can be made by an agency designated by the Ministry of Power or authorized by such States on the basis of tariff-based competitive bidding. Coal linkages will be earmarked for such agencies by pre-declaring the availability of coal linkage with description, based on which such agency will undertake tariff based competitive bidding for long-term and medium-term procurement of power and recommend grant of these linkages to the successful bidders. The methodology in this regard shall be formulated by the Ministry of Power.

(k) Linkages shall be granted for full normative quantity to Special Purpose Vehicle (SPV) incorporated by the nominated agency for setting up the Ultra Mega Power Projects (UMPP) under the Central Government initiative through the tariff based competitive bidding under the guidelines for determination of tariff, on the recommendation of the Ministry of Power.

(l) The Ministry of Coal, in consultation with the Ministry of Power, may, subject to the availability of coal and the condition that such supply does not adversely impact the availability of coal for plants based on domestic coal, formulate a detailed methodology of a transparent bidding process for allocating the coal linkages to IPPs, having PPAs based on imported coal, with full pass through of cost saving to the consumers. Further, the successful bidder would not be allowed to claim any upward revision in the tariff on account of such coal linkages.

21. The Guidelines dated 20.10.2022, in turn, provide the framework to facilitate the procurement of power on a long-term and medium-term basis to meet the power requirement of a group of the States with coal linkage as per para B(v) of the SHAKTI Policy and lay down the detailed provisions relating to the bidding process, tariff structure, bid evaluation, allocation of capacity to the various States, and the adoption of tariff, etc. The main silent features of the Guidelines are as under:

(a) Date of commencement of supply under the contract shall not be less than 120 days for medium term contract and not less than 1460 days for long term contract.

(b) The Nodal Agency, PFC Consulting Limited designated by the Ministry of Power for the purpose of procurement of power under para B(v) of SHAKTI Policy shall aggregate the requirement of power of a group of the States for medium term or long-term basis in terms of the quantum (MW) and duration (period) including the date of commencement for the supply of power. The Nodal Agency may also initiate procurement of long term or medium-term

power for group of the States based on broad demand assessment on the basis of consultation with the States.

(c) The Ministry of Power shall send the request for coal requirement along with duration and estimated date of commencement of coal supply to the Ministry of Coal for further consideration.

(d) The Nodal Agency shall invite bids from the generating companies (hereinafter referred to as the bidders) and shall request them to quote Base Fixed Charge, Base Variable Charge (Fuel cost component and Fuel transportation component) separately for one or more sources of coal identified to meet the aggregate requirement of power indicated by the Nodal Agency.

(e) The Nodal Agency may specify a minimum capacity allowed to be offered by a bidder.

(f) To ensure competitiveness, the minimum number of qualified bidders against each source shall be at least two. If, in case of a particular source, it is found that only one bidder has offered the bid, the Nodal Agency may cancel the bidding process for such source and shall proceed with selection of the bidders for other sources.

(g) The Nodal Agency shall call for the bids adopting a single stage bidding process to be conducted through the electronic mode (DEEP e-bidding Portal).

(h) The bidding documents including the combined RfQ & RfP (Request for Selection-RfS) and the draft PPA shall be prepared by the Nodal Agency in consonance with these Guidelines. The quantum, quality and source of coal shall be specified in the RfS.

(i) The Nodal Agency shall publish the RfS notice on the DEEP e-Bidding Portal, and website of the Ministry of Power along with its own website and one leading newspaper (Pan India), to accord wide publicity.

(j) The Nodal Agency shall provide the opportunity for pre-bid conference to the prospective bidders, and shall provide written interpretation of the bid documents to any bidder which shall also be made available to all other bidders. All the concerned parties shall rely solely on the written communication. Any clarification or revision to the bidding documents shall be uploaded on the DEEP e-Bidding portal and website of the Nodal Agency for the adequate information. In the event of the issuance of any revision or amendment of the bidding documents, the bidders shall be provided a period of at least 7 (seven) days there from, for submission of the bids.

(k) The Nodal Agency shall constitute a committee for evaluation of the bids (Evaluation Committee), with at least three members, including at least one member with expertise in the financial matters and bid evaluation.

(l) The financial bid shall be rejected if it contains any deviation from the requirements specified in the bid documents.

(m) The tariff determined based on these Guidelines and the Model Bidding Documents issued in consonance with these Guidelines shall be adopted by the Appropriate Commission in pursuance of the provisions of Section 63 of the Act.

(n) Any deviation from the Model Bidding Documents shall be made by the Nodal Agency only with the prior approval of the Ministry of Power, Government of India. Provided that any project specific modifications expressly permitted in the Model Bidding Documents shall not be construed as deviations from the Model Bidding Documents.

22. In terms of the provisions of Section 63 of the Act, we have to examine whether the process as per the provisions of the Guidelines has been followed in the present case for arriving at the lowest tariff and for the selection of the successful bidder(s).

23. The Ministry of Power vide OM No. 23.3.2022 - R&R dated 19.12.2022 had notified the draft PPA and the amendments thereof on 12.5.2023. PFCCL, acting in the capacity of a BPC, on behalf of the Petitioner, issued a Request for Selection ('RfS') dated 15.5.2023 for the procurement of aggregated power of 4500 MW on a medium-term basis for a group of the States through e-tender on DEEP Portal in terms of the Guidelines dated 20.10.2022 along with the draft Power Purchase Agreement. The RfS dated 15.5.2023 was amended on 29.5.2023, 16.6.2023 and 22.6.2023, whereby the 'Schedule of Bidding Process', i.e., timeline for submission and opening of the bids were revised. In terms of Corrigendum No. 3 dated 22.6.2023, the last date of the bid submission (i.e., Bid Due Date) was revised to 30.6.2023, and the bids were scheduled to be opened on 7.7.2023. In response to the RfS, the nine bidders, namely, TRN Energy Private Limited, MB Power (Madhya Pradesh) Limited, DB Power Limited, RKM Powergen Private Limited, OPG Power Generation Pvt Limited, SKS Power Generation (Chhattisgarh) Limited, Jindal India Thermal Power Limited and Nava Bharat Energy India Limited submitted their respective bids which were evaluated for responsiveness check, compliance to submission requirements, and technical capacity requirements. The bids of all the bidders were found in order as per the RfS and declared as technically qualified.

24. The financial bids of the above bidders were opened on 7.7.2023 on the DEEP portal. As per the provisions of the Guidelines, the following seven bidders were declared as successful bidders:

- (a) TRN Energy Private Limited
- (b) MB Power (Madhya Pradesh) Limited
- (c) D B Power Limited
- (d) Jindal Power Limited
- (e) RKM Powergen Private Limited
- (f) SKS Power Generation (Chhattisgarh) Limited
- (g) Jindal India Thermal Power Limited



25. On 29.7.2023, PFCCL issued the Letter of Awards (LoAs) to the Petitioners for the execution of the Power Purchase Agreements with their respective distribution licensees for the supply of the allocated power for a period of 5 years.

The details of the LoAs issued to the Petitioners are as under:

S.N	Petitioner	LOA	Name of Procurers	Quantum (MW)	Tariff (Rs./kWh) at Delivery Point	Coal Source
1.	JITPL	29.7.2023	MPPMCL	48.48	5.14	Talcher Field
			NDMC	30.30		
			JKPD	60.61		
			HPPC	60.61		
			<b>Total</b>	<b>200</b>		
2.	JPL	29.7.2023	MPPMCL	72.73	5.22	IB – Field
			NDMC	45.45		
			JKPD	90.91		
			HPPC	90.91		
			<b>Total</b>	<b>300</b>		
3.	SKS	29.7.2023	MPPMCL	24.24	5.2	IB – Field
			NDMC	15.15		
			JKPD	30.30		
			HPPC	30.30		
			<b>Total</b>	<b>100</b>		
4.	RKM	29.7.2023	MPPMCL	72.73	5.4	IB – Field
			NDMC	45.45		
			JKPD	90.91		
			HPPC	90.91		
			<b>Total</b>	<b>300</b>		
5.	RKM	29.7.2023	MPPMCL	72.73	5.49	Talcher Field
			NDMC	45.45		
			JKPD	90.91		
			HPPC	90.91		
			<b>Total</b>	<b>300</b>		
6.	TRN	29.7.2023	MPPMCL	24.24	5.202	IB – Field
			NDMC	15.15		
			JKPD	30.30		
			HPPC	30.30		
			<b>Total</b>	<b>100</b>		

26. The BPC, PFCCL, vide its affidavit dated 6.12.2023, has submitted that the entire bid process has been carried out in accordance with the provisions of the Guidelines for procurement of power on the Finance, Own and Operate (FOO) basis under para B (v) of the SHAKTI Policy and amendments thereof issued by the Ministry of Power. PFCCL has placed on record a copy of the draft PPA, RfS and copy of the evaluation report.

27. BPC has submitted that as per the available information as on 6.12.2023, the status of the execution of the PPA is as under:

S. No.	Successful Bidders	Haryana	NDMC	MP	J&K
1	Jindal India Thermal Power Limited	Executed	Under process	Will execute the PPA after the tariff is adopted by CERC	Executed
2	RKM Powergen Pvt. Limited	Under process			Under process
3	SKS Power Limited	Executed			Executed
4	TRN Energy Pvt. Limited	Under process			Under process
5	Jindal Power Limited	Executed			Under process
6	MB Power Limited	Under process			Under process
7	DB Power Limited	Under process			

28. The Respondent has requested to adopt the tariff discovered through a competitive bidding process. Considering the submissions of the Petitioners, Respondent and BPC, PFCCCL that the bidding has been conducted in terms of the Guidelines issued by the Ministry of Power, we adopt the tariff discovered through the competitive bidding process subject to the execution of the PPA with the distribution licensees.

29. The Respondent, MPPMCL, has submitted that subject to the approval of the PPA by MPERC and based on mutual discussion, agreement and mutual waiver of said clauses, MPPMCL will execute the PPA(s) with the Petitioners. *Per contra*, the Petitioners have submitted that waiver of certain clauses of the PPAs is a matter *inter-se* between the concerned generating company and the Respondent, MPPMCL. Since the present Petition has been filed by the Petitioners for the adoption of tariff discovered through the competitive bidding process, the contention raised by the Respondent, MPPMCL, is beyond the scope of the present Petition.

30. Petition No. 338/AT/2023 is disposed of in terms of the above.

Sd/-  
**(P.K. Singh)**  
Member

sd/-  
**(Arun Goyal)**  
Member

sd/-  
**(Jishnu Barua)**  
Chairperson