

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION**  
**SITE NO. 3, BLOCK B, SECTOR 18-A, MADHYA MARG, CHANDIGARH**

**Petition No. 28 of 2019**  
**Date of Order: 01.02.2021**

Approval of the Power Purchase Agreements (PPAs) and the Procurement Process of Punjab State Corporation Limited related to the procurement of power from the Coal/Gas based Conventional Generating Stations.

In the matter of: Punjab State Power Corporation Ltd.,  
The Mall, Patiala, Punjab  
.....Petitioner

Present: Ms. Kusumjit Sidhu, Chairperson  
Ms. Anjali Chandra, Member

**Order**

1. Punjab State Power Corporation Limited (PSPCL) has filed the present Petition for approval of its Power procurement on long term basis from the coal/gas based conventional generating stations in terms of Section 86 (1) (b) of the Electricity Act as read with applicable Rules and Regulations. The submissions made in the petition are summarized as under:

- (a) PSPCL is undertaking the generation and distribution of electricity in the state of Punjab and is a Distribution Licensee under the provisions of the Electricity Act 2003. It has been procuring power from various sources (apart from generating electricity itself at its generating station) to meet the power supply requirements for maintaining the distribution and retail

supply of electricity in the State of Punjab. PSPCL has long term power procurement agreement/ arrangements with various generating stations and the present Petition is being filed in respect of procurement of power from the Coal/Gas Based Generating stations

- (b) PSPCL has given list of 22 generating stations from which it is scheduling power alongwith details of the total capacity of the power stations, type of plant, share of PSPCL in the generating station, date on which the PPA was signed, duration of the PPAs, commercial operation date, the rate and the quantum of power procured including the scheduling of power from the said generating stations.
- (c) PSPCL submits that Anta GPS, Auraiya GPS, Dadri GPS, Singrauli, Rihand-I, Unchahar-I, Farakka (ER), Kahalgaon-I (ER), Rihand-II, Anta-II Rajasthan, Unchahar-II, Auriya-II UP, North Karanpura STPS, NCTPS-2C (Dadri II), Kahalgaon-II (ER), Barh STPS, Unchahar-III, Durgapur TPS, Raghunathpur, Bokaro, Barh-II, Maithon Power Project, Rihand-III, Tanda Stage-II, Singraulli-III, Meja, Bilhaur, Unchahar-IV & IGSTPP Jhajjar generation stations are owned by Central Govt. undertakings such as NTPC Limited and Damodar Valley Corporation.
- (d) The capacity allocated from the NTPC Generating Stations is by the Order of the Central Government i.e. the allocation of the capacity was decided by the Central Government in pursuance to the common

demand of a number of States to meet the base load requirement of the distribution licensee in the State.

- (e) In case of DVC plants, PSPCL share is as per the PPA signed between PSEB (now PSPCL) and DVC. Further, PSPCL has signed a supplementary agreement with DVC towards reduction in Fixed Cost by 20 Paisa/Unit in case of Durgapur STPS.
- (f) The Generating Stations i.e CGPL Mundra UMPP and Sasan UMPP (RPL) are Ultra Mega Power Projects of coastal Gujarat Power Limited and Sasan Power initiated by Power Finance Corporation of India Limited as Bid Process coordinator. The said two generating stations are selling electricity in more than one state and the tariff discovered through competitive bidding process has been adopted by an Order of the Central Commission.
- (g) In respect of the Pragati-III generating station of Govt. of NCT Delhi, the agreement for procurement of such power was entered into in the year 2008 and the tariff of this generating station is also determined by the Central Commission.
- (h) GVK, TSPL and NPL are independent Power Producers (IPPs) and the PPAs entered into with these generating companies have been approved by the Commission vide Order dated 06.03.2009 , 14.01.2009 and 14.07.2010.
- (i) PSPCL submits that the power purchase from the above generating stations being from the Central

Government Generating Stations and/or the Ultra Mega Power Projects or otherwise from the generating stations situated outside the state of Punjab, the tariff terms and conditions for the sale of electricity is determined by the Central Commission under the provisions of section 79 (1) (a) or (b) of the Electricity Act, 2003. Further, in regard to the generating stations whose tariff is determined by the Central Commission, Rule 8 of the Electricity Rules, 2005 provides as under.

*“8. Tariffs of generating companies under section 79. - The tariff determined by the Central Commission for generating companies under clause (a) or (b) of subsection (1) of section 79 of the Act shall not be subject to re-determination by the State Commission in exercise of functions under clauses (a) or (b) of sub-section (1) of section 86 of the Act and subject to the above the State Commission may determine whether a Distribution Licensee in the State should enter into Power Purchase Agreement or procurement process with such generating companies based on the tariff determined by the Central Commission.”*

- (j) PSPCL submits that the Meja Generating Station is owned by Meja Urja Nigam Private Ltd, (MUNPL) a joint venture of NTPC Limited & Uttar Pradesh Rajya Vidyut Utpadan Nigam Ltd. The PPA for Meja TPS Stage-I was signed between MUNPL and PSPCL in 29.12.2010. The project Meja TPS stage-I consists of 2\*660 MW units. Unit-I has been commissioned on 30.04.2019. As per Ministry of Power, Government of India letter dated 05.10.2010 a quantum of 48 MW has

been allocated to PSPCL. Accordingly, 24.02 MW has been allocated to PSPCL from unit-I of Meja TPS stage-I and power is being scheduled from the same w.e.f. 30.04.2019. MUNPL has filed a tariff petition in CERC for determination of tariff. As per the tariff petition, per unit cost of energy is around Rs. 5.461 (Fixed Cost: 2.66 Rs./kWh and Variable Cost: 2.801 Rs./kWh approx.) at the normative availability of 85%. The Petition is pending before the Central Commission for determination of tariff. Further, the Government of Punjab on behalf of PSPCL has taken up the matter with Ministry of Power, GoI regarding reallocation of Punjab's share of power in Meja stage-I to other needy states. Therefore PSPCL is seeking conditional approval of the PPA entered in to with MUNPL subject to re-allocation by the Central Government.

- (k) That the procurement of power from these generating stations has been consistently mentioned in the tariff petition filed by PSPCL on a year to year basis in regard to the quantum of power to be procured and PSPCL has also disclosed in the truing up petition the actual quantum of purchase from the generating stations, the quantum of tariff paid to the generating stations. The same has been approved by the Commission from time to time in the various tariff orders. The above is consistent with the requirements of Rule 8 of the Electricity Rules, 2005 read with section 86 (1) (b) of the Electricity Act for approving the procurement of power from these generating

stations.

(l) In case of new generating stations whose tariff is determined by the Central Commission, as per the provisions of the Electricity Act, 2003, the generating companies, will be filing a petition for determination of tariff in respect of these generating stations/generating units nearer the day of the commissioning of the generating units. PSPCL will thereafter file the necessary application under section 86 (1) (b) of the Electricity Act, 2003 read with Rule 8 of the Electricity Rules, 2005 before the Commission at the appropriate stage.

(m) PSPCL had entered into a memorandum of understanding dated 04.03.2008 with Maithon Power Project. However, PSPCL has not scheduled any power from this generating station and has not filed any application in regard to the approval for procurement of power.

2. The Petition was admitted for hearing vide order dated 18.03.2020 and PSPCL was directed vide order dated 22.07.2020 to submit certain information. In response to thereof, PSPCL vide memo Nos. 5465 dated 28.07.2020 and 5625 dated 24.08.2020 submitted the additional information as under:

(a) PSPCL submits that prior to the enactment of the PSERC (Conduct of Business) Regulations 2005, there was no requirement for PSPCL to get a specific approval from the Commission in respect of its power

procurement. Therefore, only the PPAs entered into after 07.03.2005 i.e. the enactment of PSERC (Conduct of business) Regulations, 2005 are subject to the approval of the Commission.

- (b) PSPCL has given statement of the PPAs from which PSPCL is scheduling power along with the date of signing of the PPA, tariff provision, validity and applicable tariff along with the justification for procuring power as well as relevant extracts.
- (c) Insofar as the Central Public Sector Undertakings are concerned, the PPAs entered into are pursuant to the allocation done by the Central Government. The allocation of the Power to the beneficiaries by the Government of India in the Central Public Sector Generating Companies was being done as per the request and at the instance of the concerned State Governments who need the power. The State Governments act in consultation with the beneficiaries in the above process. Thus, the allocation of the power from the generating stations of the Central Power sector Utilities stands on a different footing. Such allocation by the Central Government is a process of equitable distribution of capacity available in the Central Public Sector Stations amongst various States and is in furtherance of meeting the power requirement of different States/State Utilities. This is done by the Central Government in order to enable the State Utilities to have a base load quantum of electricity for

energy security.

- (d) PSPCL has referred to the judgment dated 31.03.2017 passed by the Central Commission in Petition No. 182/MP/2015, where, in the case of another Distribution Licensee, Tata Power Delhi Distribution Company Limited, it was held that the parties are bound by the PPA unless the power stand re-allocated:

*“16. Ministry of Power has submitted its reply on merits in its affidavit dated 8.1.2016. The Ministry has stated that allocation of power from the Central Sector Generating Stations, which have been set up considering the long-term PPAs entered into by the procurers, is made at the instance of the State Governments/Procurers. According to the Ministry, the procurers are not entitled to unilaterally terminate the PPAs, except in accordance with the provisions thereof. The Ministry has pointed out that the purported cancellation or termination of the PPAs by the Petitioner on unilateral basis was not contemplated at the time of allocation of power by the Central Government. The cancellation or termination of the PPAs executed based on allocation of power made by the Central Government seriously affects the scheme of investment in the infrastructure such as power generation by Central Public Sector Units (CPSUs). The Ministry pointed out that investments made by the CPSUs are to be serviced and that when a procurer decides to unilaterally terminate the PPAs, the CPSUs are seriously prejudiced. According to the Ministry, the Petitioner as the procurer has a right to the allocated capacity under the PPAs at all times and correspondingly, has the obligation to pay the fixed charges for the power allocated even in case of non-scheduling of power of its own volition.....*



18. *Explaining the process of reallocation of power, the Ministry has stated that the Central Power Sector Units can approach it for reallocation to any other procurer in case the procurer to whom power has been allocated decides to surrender it at any time during the operation of the long-term PPA. It has been explained that release of the procurer from its obligations under the PPA would be subject to the Ministry being able to reallocate the power, fully or partially, to any other person and would be limited to the period for which reallocation fructifies. The Ministry has argued that the procurer who has surrendered power continues to be bound by the obligations incurred under the PPA till such time and to the extent other procurer undertakes to honour the obligations of the procurer surrendering power.....*

26..... *Seeking direction to the Central Government for reallocation of power in the petition filed by the Petitioner, a distribution licensee, is clearly outside the scope of clause (f) of subsection (1) of Section 79 of the Electricity Act. Therefore, relief on prayer (B) cannot be granted. However, the Petitioner is at liberty to approach the Ministry of Power, Government of India with its grievance for consideration and appropriate directions.”*

- (e) The nature and status of the Central Government allocation has also been recognized by the Central Commission in its Order dated 9.03.2017 in the case of Kanti Bijlee Utpadan Nigam Limited Vs Central Transmission Utility and Ors (Petition No. 20/MP/2017) as follows:

*“27..... Unless and until the allocation of power in favour of particular beneficiaries is rescinded by Ministry of Power, the PPAs shall subsist and the concerned beneficiaries shall be liable to comply with*

*the provisions of the PPAs including their obligations to sign the LTA Agreement and liability to pay the transmission charges. The beneficiaries do not have any option to unilaterally abandon the PPAs and their obligations thereunder”*

- (f) That the said issue was also raised before the Competition Commission of India in the context of NTPC Generating Stations and the validity of the long term PPAs was upheld by the Competition Commission of India on the ground that the tariff determination by the Central Commission and the remedy to surrender the allocated power sufficiently protects the interests of the consumers. Reference may be made to the judgment dated 12.10.2017 of the Competition Commission of India in Case No 20 of 2017 in the case of Tata Power Delhi Distribution Limited v NTPC Limited:

*“32. In view of the foregoing, the Commission is of the opinion that even if it is assumed that the OP was in a dominant position in the relevant market as identified by the Informant, a prima facie case of abuse of dominance in terms of the provisions of Section 4(2)(a)(i) of the Act is not made out in the instant matter because, firstly, the Informant has entered into the PPAs with the OP being fully aware of the terms of the PPAs including the long term obligation stipulate thereunder; secondly, there is a rational basis for binding the Informant and other procurers in the long term PPAs as the generating companies invest in establishing the generating stations based on allocation and the PPAs entered into with the parties (which are to be served through period agreed upon); and lastly, the Informant and other procurers have the option to approach the Central Government for reallocation of power allocated to them.”*

- (g) Insofar as the Central Public Sector Undertakings; Rihand-III, Unchahar-IV and Unallocated Power from NTPC & Indra Gandhi Super Thermal Power Station Jhajjar are concerned, the PPAs entered into are pursuant to the allocation done by the Central Government. Therefore, PSPCL is a deemed allottee of the power from the Central Public Sector Units by the decision of the Central Government. The Central Government retains the power to allot the surrendered capacity by any procurer, as and when the Central Government is able to firm an allocation of such capacity to any other procurer and till then, the existing allottee is bound by and is required to implement the terms of the PPA. Thus, there is no discretion with the Procurer to terminate/avoid the procurement of electricity allocated to them by the Central Government.
- (h) That unallocated power regarding Unchahar- IV, NTPC unallocated power and Indra Gandhi Super Thermal Power Station, Jhajjar was requisitioned by PSPCL from time to time and was allocated by the Central Govt. for a short term period.
- (i) The CGPL Mundra UMPP and Sasan UMPP generating stations are the first set of Ultra Mega Power Projects of Coastal Gujarat Power Limited and Sasan Power initiated by Power Finance Corporation of India Limited as bid process coordinator and the tariff was determined in pursuance of a tariff based competitive process. The competitive bid process was initiated on behalf of the

procurers including PSPCL and the PPAs have been entered into in pursuance thereof.

- (j) PSPCL has given the details of tariff as well as circumstances leading to the signing of th PPAs with DVC.
- (k) That the Central Govt. had allocated power to Punjab State Electricity Board from the Anta, Auraiya and Dadri Gas Power Stations of NTPC alongwith the Singrauli, Rihand-I and Unchahar –I Power stations of NTPC and Bulk Power Supply agreement (BPSA) dated 31.01.1994 was entered into with NTPC. Clause 5 is the tariff provision in the BPSA providing for the binding nature of the Central Govt. tariff notifications which subsequently came to be subsituted with the tariff determination done by the Central Commission. Therefore, so long as PSPCL continued to off take power from any of the 6 generating stations enumerated in the BPSA, the terms of the BPSA would continue to be valid and operative between the parties. PSPCL cannot be selective in its application of the BPSA, namely to continue to take power from the thermal Generating station and terminate the BPSA in respect of the Gas Power Stations. However, the gas plants are scheduled as per Merit Order. The total rate pertaining to plants under the BPSA for FY 2019-20 is Rs. 2.94/Kwh (estimated) which is less than the average power purchase cost of PSPCL approved by the Commission for FY 2018-19 (true-up) i.e. Rs. 4.35/Kwh.

3. In the hearing dated 26.08.2020, the Commission observed that, the justification of entering into PPA viz-a-viz power requirement with respect to each PPA alongwith reasonability of the tariff as required by the Commission was not provided in the reply submitted by PSPCL. The Commission vide Order dated 01.09.2020 directed PSPCL to provide the same within three weeks.

(a) PSPCL vide its letter dated 28.09.2020, while reiterating its earlier submissions, submitted that in response to the question raised in the Lok Sabha regarding the allocation of power from CPSUs, it was clarified by the Minister of Power as under:

*“Power from Central Generating Stations to beneficiary States/Union Territories is allocated in accordance with formula for allocation of power being treated as guidelines from April, 2000. As per these guidelines, allocation of power is made to the States/UTs in two parts, namely firm allocation of 85% and 15% unallocated power for allocation by Government of India for meeting short term requirement to bridge their deficit. The firm allocation includes allocation of 12% free power to the project States and 1% for local area development in case of Hydro Power Stations and 10% (not free) power to the home State in case of Thermal and Nuclear Power Stations. The balance 72%/75% power is distributed amongst the States / UTs of the region in accordance with the pattern of central plan assistance and energy consumption during the previous five years, both factors having equal weightage. Central plan assistance is determined in accordance with the Gadgil formula, in which population of the states is also taken into consideration. State-wise details of allocation from Central Generating Stations are enclosed at Annex.*

.....

*Wherever firm allocation of power has already been done, it may be reallocated to some other State in case power is surrendered by the State owning the share. However, the unallocated power of Central Generating Stations (CGS) is allocated / revised by the Central Government from time to time to the beneficiary States, generally keeping in view, factors like emergent and seasonal nature of the requirement, relative power supply position, utilization of existing generation and other power sources, operational and payment performance of the States/UTs of the region.”*

PSPCL is an allottee of the power from the Central Public Sector Units by the decision of the Central Government and is bound to avail the said power. The Central Government retains the power to allot the capacity surrendered by any procurer to another procurer and till then, the existing allottee of the share in the Generating Station is bound by and is required to implement the terms & conditions of the PPA. Thus, there is no discretion with the Procurer to unilaterally terminate/avoid the procurement of electricity allocated to them by the Central Government. In the facts and circumstances of the matter, the Commission may approve the PPAs and procurement of electricity from the generating stations listed with a cumulative contracted capacity of 2000.77 MW.

4. During the hearing on 30.09.2020, the Commission observed that information submitted by PSPCL in additional affidavit is still incomplete with reference to the justification of entering into PPAs vis-à-vis power requirement with respect to each PPA. Accordingly vide Order dated 06.10.2020, PSPCL was directed to submit the complete information. Upon submission of requisite detail by PSPCL vide letter dated

03.11.2020, the final hearing was held on 11.11.2020 and the order was reserved.

## 5. Findings and Decision of the Commission

The Commission has examined the submissions made by PSPCL in the petition, information submitted during the course of hearings and has heard the counsel for PSPCL. PSPCL vide memo No. 5848 dated 28.09.2020 filed the details of Thermal/Gas plants PPAs entered/renewed after 07.03.2005 i.e. after the notification of the PSERC Conduct of Business Regulations 2005 with a prayer to approve the same with a cumulative contracted capacity of 2000.77 MW. The detail of the same along with the normative cost for FY 2019-20 is tabulated below:

**Table: 1**

Sr. No.	Thermal Power Station	PSPCL share (MW)	Date of signing of PPA	Expiry date of PPA	Date of scheduling	Applicable price with normative FC for FY 2019-20
1	Durgapur TPS (DVC)	200 (1000)	07.11.2006 (Supplementary Agreement signed on 01.08.2019)	04.03.2038	27.07.2012	4.44
2.	Raghunathpur TPS (DVC)	300 (1200)	07.11.2006	30.03.2041	15.07.2016	4.61
3.	Bokaro TPS (DVC)	200 (500)	07.11.2006	22.02.2042	26.03.2018	4.39
4.	CGPL Mundra UMPP (Tata Power)	475 (4000)	22.04.2007	07.03.2037/ 30.07/2037/ 27.10.2037/ 21.01.2038/ 22.03.2038	07.03.2012/ 30.07.2012/ 27.10.2012/ 21.01.2013/ 22.03.2013	2.62
5.	Sasan UMPP (RPL)	558 (3960)	07.08.2007	27.05.2039/ 27.12.2038/ 16.08.2038/ 12.04.2039/ 26.12.2039/ 27.03.2040	27.05.2014/ 27.12.2013/ 16.08.2013/ 12.04.2014/ 26.12.2014/ 27.03.2015	1.32
6.	Pragati Gas – III (Govt of NCT of Delhi)	137.10 (1371)	24.09.2008	26.12.2026	27.12.2011	4.82
7.	Rihand – III (NTPC)	82.67 (1000)	23.10.2008	26.03.2039	19.11.2012 / 27.03.2014	2.79
8.	Meja (Meja Urja Nigam Limited)	48 (1320)	29.12.2010	29.04.2044	30.04.2019	5.53

9.	Unchahar – IV (NTPC)	UA (500)	16.12.2011	Till allocation of Power by Gol	30.09.2017	3.29
10.	NTPC UA (NTPC)	UA	16.12.2011		-	2.46
11.	IGSTPP Jhajjar (Aravali Power Company Limited)	UA (1500)	06.05.2013		05.03.2011/ 21.04.2012/ 26.04.2013	4.99 (FY 2018-19)
<b>Total</b>		<b>2000.77</b>				

**5.1** The Commission refers to the Electricity Act, 2003, which specifies as under:

**Section 86(1)(b) of the Electricity Act, 2003**

*86. Functions of State Commission-*

*(1) The State Commission shall discharge the following functions, namely:-*

*(a) .....*

*(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;*

**As per the above provision, the Commission is mandated to regulate electricity purchase and procurement process of the distribution licensee including the price at which electricity shall be procured from the generating companies or from other sources through agreements for distribution and supply of Electricity in the State. Accordingly, the Commission specified the provisions for regulating the Power Purchase and procurement process of the Licensee in the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations 2005, notified on 7.03.2005. The relevant provisions are reproduced here under:**



*“46. Power Procurement and Purchase*

*(1) In accordance with the provisions of the Act and the licence conditions, every Distribution Licensee shall purchase and procure electricity required for the Licensed Business of the Distribution Licensee in an economical and efficient manner and under a transparent power purchase and procurement process and generally based on the principles of purchase of electricity at the least cost.*

*(2) .....*

*(3) The Commission may, from time to time, issue guidelines, practice directions and orders governing the short term purchases and long term purchases which the Distribution Licensee can undertake for the purpose of the Licensed Business.*

*(4) a. The Distribution Licensee shall satisfy the Commission as to the need for additional power procurement on a long term basis*

*b. The Distribution Licensee shall not enter into a binding or enforceable contractual commitment of such long term power purchase till the Commission by a general or special order approves the procurement of electricity by the Distribution Licensee.*

*(5) Unless otherwise approved by the Commission by a general or special order, a long term power purchase or procurement by the Distribution Licensee shall be done through a competitive procurement process approved by the Commission.*

*(6) (a) The Distribution Licensee shall satisfy the Commission that the electricity procured under long term power purchase otherwise than through a competitive bidding process or any short term power purchase is economical in the prevalent circumstances and that the Distribution Licensee has made prudent and best efforts to minimise the cost of purchase.*

*(b) The Commission may not permit any such long term purchase if the manner or method proposed for such procurement of electricity is not conducive to the objective of least cost purchase or for any other reason the purchase is not economical or efficient.*

*.....”*

**The Commission further prepared a comprehensive Regulation, the Punjab State Electricity Regulatory Commission (Power Purchase and Procurement Process of Licensee) Regulations 2012 notified on 23.10.2012. The relevant provisions are given below:**

*“10 Criterion for Power Purchases*

*(i) The Distribution Licensee(s) shall effect power purchase or enter into long term or short-term power purchase agreements or arrangements in accordance with the Power Procurement Plan approved by the Commission;*

*(ii) While effecting power purchase, the Distribution Licensee(s) shall adhere to the principle of least cost plan (least financial cost to the Distribution Licensee), the ultimate objective being to make available secure and reliable power supply at economically viable tariffs to all consumers while satisfying power supply planning and security standards.*

**13. Power Purchase Arrangements or Agreements**

*Any new long term power purchase arrangement or agreement and amendments to existing PPA entered into by Distribution Licensee(s), shall be subject to prior approval of the Commission under section 86 of the Act, in respect of:-*

*(i) Necessity;*

- (ii) *Reasonability of cost;*
- (iii) *Promoting efficiency, economy, equitability and competition ;*
- (iv) *Conformity with regulations for investment approval;*
- (v) *Conformity with requirements of quality, continuity and reliability of supply;*
- (vi) *Conformity with safety and environmental standards;*
- (vii) *Conformity with criterion of power purchase as laid down by the Commission;*
- (viii) *Conformity with policy directives of the State Government and policies issued by the Government of India viz. National Electricity Policy, Tariff Policy, long term and short term power procurement guidelines.”*

**The above provisions of the PSERC Regulations mandates that the long term power purchase arrangement of the distribution licensee shall be subject to the specific/prior approval of the Commission which shall be given considering the need/necessity and reasonability of cost with the objective of making available secure and reliable power supply at economically viable tariffs to the consumers.**

**5.2** PSPCL has averred that the procurement of power from the said generating stations have been consistently mentioned in the tariff petitions filed by PSPCL on a year to year basis. The same has been approved by the Commission from time to time in the various tariff orders and is consistent with the requirements of Rule 8 of the Electricity Rules, 2005 read with section 86 (1) (b) of the Electricity Act for approving the procurement of power from these generating stations by the

Commission.

The Commission observes that the said submission by PSPCL is divergent to the stand earlier taken by it in Petition No. 41 of 2018 stating that consideration of power procurement from a generating plant in the ARR of a particular year in the Tariff Order cannot be treated as an approval as per Section 86 (1) (b) of the Electricity Act, 2003 read with Rule 8 of the Electricity Rules, 2005.

The criterion for approval of Power Purchase and Procurement of the Distribution Licensee was first specified in the PSERC (Conduct of Business) Regulations, 2005 and then in the PSERC (Power Purchase and Procurement Process of Licensee) Regulations, 2012. Accordingly, for obtaining approval of its long term Power Purchase arrangement PSPCL was required to file a specific petition containing a clear and concise statement of the facts with material particulars justifying the need/necessity, reasonability of cost and economic viability of the same as per the provisions of these Regulations, as done now vide the instant petition.

The petition for ARR and determination of Tariff is dealt by the Commission under the relevant PSERC Tariff Regulations, which are distinct from the above referred 'Conduct of Business Regulations 2005' and 'Power Purchase & Procurement Process of Licensee Regulations 2012'. The information in respect power

**procurement submitted by the licensee in the ARR petition is considered only for the purpose of Energy balance and determination of cost of power for the consideration year, and cannot be considered as approval of the power procurement on long term basis as intended in Section 86(1)(b) of the Electricity Act read with Electricity Rule 8 and PSERC (Conduct and Business) Regulations 2005 or PSERC (Power Purchase and Procurement Process of Licensee) Regulations, 2012.**

**5.3** PSPCL has further averred that, in respect of the Central Generating Stations (CGSs) the PPAs entered into are pursuant to the allocation done by the Central Government. And, PSPCL being an allottee of the power from the CGSs by the decision of the Central Government is bound to avail the said power. PSPCL also referred to various judgments of the Hon'ble Courts regarding the liability to comply with the provisions of the PPAs including their obligations to sign the LTA Agreement and liability to pay the transmission charges.

**The Commission observes that, the allocation by Central Government is based on the demand raised by States/Union Territories at the instance of their utilities. And, this allocation gets confirmed/implemented only on signing of the PPA by the beneficiary. Also, the liability as enjoined in the various judgments of the Hon'ble Courts referred by PSPCL comes into force only after signing of the PPA.**

**5.4 For the Power Purchase of Licensee pertaining to the period of 07.03.2005 onwards i.e. the date of notification of PSERC Regulations regarding the same, the Commission is to consider the grant of approval for power procurement on the criteria of its need/necessity and whether the same is economical or efficient in the prevalent circumstances.**

**5.4.1 The Commission observes that as per the information provided by PSPCL in the proceedings of the instant petition as well as petitions for true-up of FY 2018-19 (in petition for determination of ARR and Tariff for FY 2020-21) and true-up of FY 2019-20 (in recent petition for determination of ARR and Tariff for FY 2021-22), it has more than adequate generation capacity resulting in a scenario where power is surplus during a large period of the year. Further, with the increased mandate of RPO compliance, the surplus scenario will continue for some more time to come. Punjab being an agrarian State has maximum power demand during the 4 months (June to September) of the paddy season (12638 MW in 2018-19 and 13606 MW in FY 2019-20). During the remaining eight months of the year, the average peak demand hovers at about 55% of peak demand of the paddy season. This further reduces to almost 25% of the peak demand during the winter nights. With such a load pattern, PSPCL does not need to tie-up power for the full 12 months of the year on long-term basis for meeting**

the maximum peak demand. Obtaining power through long-term contracts only for the full 12 months of the year in general and Coal/Gas based generating stations in particular, would result in continuous surrender of energy during 8 months of the year. It would be desirable to meet the demand through a judicious mix of long term, medium term and short term contracts coupled with banking arrangements/ purchases through the power exchange.

5.4.2 Thus, in the given scenario, it would not be prudent for PSPCL to commit to procurement of power from the conventional Coal/Gas Thermal Power Stations (TPS) round the year on a long term basis. However, the Commission observes that the existing portfolio of generation capacity with the State includes Generating stations of 6254 MW capacity with variable costs in excess of Rs. 3/- per unit, out of which units having 1142 MW capacity have already completed their useful life of 25 yrs and are due for retirement. Since it is enjoined upon the Commission to ensure optimization of Power Purchase cost of the distribution licensee, the Commission decides as under:

- a) The power procurement of 1115.67 MW from the Generating Stations of Sasan UMPP (558MW), CGPL Mundra UMPP (475MW) and Rihand-III STPS (82.67MW) at the indicated total (normative fixed+ variable) per unit price for FY 2019-20 as Rs. 1.32, Rs. 2.62 and Rs. 2.79 respectively which is less

than the variable cost of Rs. 3 & more for almost the same capacity, shall be beneficial for substitution of power of existing stations/ vintage stations having higher variable cost. Thus, the Commission finds it prudent to approve the PSPCL's proposal of long term power procurement from these stations at the tariff determined by CERC, as per rule 8 of the Electricity Rules, 2005 for reducing the overall cost of power procurement by PSPCL. This would ultimately benefit the consumers of Punjab through lower tariffs.

- b) PSPCL's proposal of procurement of 885.10 MW on long term basis from projects namely Meja, Pragati-III and DVC's Raghunathpur, Durgapur & Bokaro Stations at the given per unit price of Rs. 5.53, Rs. 4.82, Rs. 4.61, Rs. 4.44 and Rs. 4.39 respectively, would not be an economical viable proposition, particularly so, when much cheaper power is available in the market. As such, it would not be in the interest of consumers of the Punjab if procurement from these Stations at the indicated rates is approved. Therefore, the Commission does not think it prudent to permit the same at the indicated prices. However, the Commission observes that in some of the PPAs with these Thermal power stations, a provision exists for review after a span of 5 years. Accordingly, PSPCL shall be at liberty to approach the Commission in



case it is able to renegotiate the prices to commercially viable levels.

- c) Regarding the approval of procurement of un-allocated power, PSPCL has submitted that it is being allocated by the Central Govt. for a short term period and can be withdrawn by Central Government to meet exigency in any other state. The Commission also observes that the same is not a firm allocation. Therefore, the allocation of the power from the un-allocated quota cannot be considered for approval by the Commission on long term basis.

The petition is disposed of accordingly.

Sd/-

(Anjuli Chandra)  
Member

Sd/-

(Kusumjit Sidhu)  
Chairperson

Chandigarh  
Dated: 01.02.2021