

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

Petition No. 04 of 2023
Date of Order: 11.05.2023

Petition under Section 86 (1) (b) of the Electricity Act, 2003 read with Punjab State Electricity Regulatory Commission (Power Purchase and Procurement Process of Licensees) Regulations, 2012; Regulation 46 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, Punjab State Electricity Regulatory Commission (Renewable Purchase Obligation and its compliance) Regulations, 2022 and other applicable Regulations for approval of the Procurement Process of PSPCL in respect of M/s Om Sons Marketing Pvt. Ltd.

AND

In the Matter of: Punjab State Power Corporation Limited, The Mall, Patiala,
Punjab-147001.

.....Petitioner

Versus

1. M/s Om Sons Marketing Pvt. Ltd., Village: Sangat Kalan, Tehsil: Bathinda, Distt. Bathinda, Punjab-110026.
2. Punjab Energy Development Agency, Solar Passive Complex, 1 & 2, Sector-33 D, Chandigarh- 160020.

.....Respondents

Commission: Sh. Viswajeet Khanna, Chairperson
Sh. Paramjeet Singh, Member

PSPCL: Ms. Poorva Saigal, Advocate

PEDA: Sh. Munish Thakur, Advocate

M/s Om Sons: None

ORDER

1. Punjab State Power Corporation Limited (PSPCL) has filed the present petition seeking approval of procurement of upto 3 MW power from the 9 MW Biomass based Co-generation Plant of M/s Om Sons Marketing Pvt Ltd (M/s Om Sons). The submissions of PSPCL are summarized as under:
 - 1.1 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 is mandated to procure power from Renewable Energy Sources as per the provisions of Section 86(1)(e) of the Electricity Act, 2003 read with Punjab State Electricity Regulatory Commission (Renewable Purchase Obligation and its compliance) Regulations, 2022. Further, Section 86(1)(b) of the Electricity Act 2003 provides that the State Commission shall regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured for distribution and supply within the State.
 - 1.2 PSPCL is proposing to enter into a PPA with M/s Om Sons an alcohol beverage/bottling company and a sister concern of M/s Malbros International Pvt. Ltd., who is setting up a 9 MW Co-generation Plant using Rice Husk/Cotton Stalk/Rice Straw (to meet its in-house power demand) at Village Sangat Kalan, Tehsil Bathinda, District Bathinda, Punjab. The total load demand of its Distillery Plant is approximately 5.1 MW with an Auxiliary requirement of about 0.9 MW.
 - 1.3 On 22.09.2022, M/s Om Sons offered to sell upto 3 MW of surplus power to PSPCL at the same tariff, terms and conditions as offered by PSPCL to M/s Malbros. As per the DPR of project, surplus power from

the power plant of M/s Om Sons will be evacuated to the PSPCL's 66KV grid substation at Sangat Kalan, at 11 KV voltage through an independent feeder and the same will also be used to draw power from PSPCL to meet emergency load and start up power in case of outage of co-generation power plant. The cost of said line/ independent feeder will be incurred by the M/s Om Sons.

1.4 On 10.10.2022, PSPCL has conveyed its consent to M/s Om Sons, as under:

"PSPCL has considered the matter and decided for consent to purchase surplus power up to 3 MW from 9MW Co-gen Power Plant (being established) at Village-Sangat Kalan, Tehsil-Bathinda, Distt.- Bathinda (Punjab) at the Fixed Tariff of Rs. 3.50/kWh without escalation for the tenure of 5 years, on the following terms and conditions:-

- 1. The firm will not take any planned outage/shutdown in the summer/paddy season i.e. from May to October, during the period mentioned above.*
- 2. The quantum of power supplied during summer/paddy season (i.e. from May to October) will be considered as benchmark power for each and every year. It should be ensured that the power supplied to the Grid during winter (i.e. from November to April) shall not exceed power supplied during summer/paddy season. In case excess power is injected into the Grid during winter season then overall settlement will be done at the end of April every year, so as to keep equal power in both the seasons, treating the extra power supplied during winter season as inadvertent flow of power thus no payment will be made for such dumped power.*

3. In case the firm wants to surrender the PPA early or in between the five years, they can surrender the PPA after giving the 3 months' notice to PSPCL.

The above consent is further subject to fulfilment of the mandatory and statutory terms and conditions as per NRSE policy, 2012.”

1.5 The other salient aspects of the arrangement to be entered between M/s Om Sons (Generating Company) and PSPCL are as under:

a) The tariff of Rs. 3.50/kWh is based on the following undertakings by The Generating Company:

- (i) It shall not avail the benefit of Accelerated Depreciation as per Income Tax Act and.
- (ii) It has not availed any grant/subsidy from MNRE, GoI against any schemes for the project. In any case, if it is found at any later stage by PSPCL that the Firm has, in spite of giving the undertakings, has availed the benefits of any grant/subsidy from MNRE against any schemes for the project, PSPCL after due consultation with the Generator shall revise the Tariff as per applicable RE Regulations/Orders of the Commission and shall sign the amendment in PPA with the generator.
- (iii) Further, the CDM benefits availed, if any, by the Generating Company shall be shared between the parties.

b) The Generating Company shall use all reasonable efforts to give advance notice to the PSPCL and PSTCL's Load Despatch Centre to the extent possible of any unscheduled

outage and shall provide them with an estimate of duration and scope of such outage.

- c) In case the PPA is executed in the current winter season i.e., before 31.04.2023, then the next summer season i.e. May to October 2023, shall be considered as a benchmark for this year's winter also i.e. upto 31.04.2023. For the power injected into PSPCL Grid during the winter season mentioned above, PSPCL shall initially release payment at 75% of the PPA Tariff, subject to the condition that the entitlement of such sold energy will then be based on the energy account to be settled at the end of September 2023. PSPCL will release the balance 25% amount without any interest or recover the payment accrued to PSPCL against the excess energy injected into PSPCL Grid during the winter season upto 31.04.2023, treating such excess power as an inadvertent flow of power.

1.6 In the meanwhile, the Commission, vide Order dated 19.12.2022, in Petition No. 62 of 2022 has approved power procurement from the Cogeneration power plant of M/s Malbros at the terms and conditions mutually agreed between PSPCL and M/s Malbros. The relevant extracts from the Order dated 19.12.2022, *inter-alia*, reads as under:

“The Commission observes that the proposed fixed tariff of Rs. 3.50/kWh from the Biomass based Co-generation project of M/s Malbros is reasonable in term of the cost of the project and is thus approved for the next five years without escalation.”

1.7 The capacity sought to be contracted (upto 3 MW) from the co-generation Power Plant would help PSPCL fulfil its RPO targets as prescribed by the Commission.

1.8 In the facts and circumstances mentioned above, it is prayed to:

- (a) Declare that the procurement of electricity from M/s Om Sons Pvt. Ltd. (upto 3 MW) stands approved in the facts and circumstances mentioned hereinabove on the tariff, terms and conditions contained in the letter dated 10.10.2022/Draft PPA; and
- (b) Pass such further order or orders as the Commission may deem just and proper in the circumstances of the case.

2. After considering the averments made by the Petitioner, the petition was admitted vide Order dated 15.02.2023 with directions that notice be issued to the respondents to file their reply within two weeks. In the hearing held on 22.03.2023, PEDA appeared, however none appeared on behalf of Respondent No.1 (M/s Om Sons). Therefore, in the interest of natural justice, the matter was adjourned with directions that the respondents may file their respective replies within two weeks.
3. On 11.04.2023, M/s Om Sons vide Ref:- OSMPL/2023-24/69, while submitting that its co-generation project of 9 MW has already been commissioned on 3rd Sep., 2022 and it is in a position to supply up to 3 MW power to PSPCL, prayed for earliest approval of procurement of power upto 3 MW to the Petitioner from its 9 MW power plant as prayed in the Petition.
4. On 21.04.2023, PEDA submitted its reply stating as under:
 - a) M/s Om Sons has offered to sell its surplus power up to 3 MW from its cogeneration plant to PSPCL on the same terms and conditions as agreed with M/s. Malbros International Pvt. Ltd. M/s Om Sons had also approached PEDA vide letter dated. 23.09.2022 (received on

17.10.2022) with a request to sign implementation agreement (IA) and also submitted a copy of Detailed Project Report (DPR).

- b) PSPCL has stated herein that they have consented to purchase the surplus power of M/s Om Sons on the terms and conditions (which are identical to those earlier offered to M/s. Malbros international Pvt. Ltd). Simultaneously, PSPCL also conveyed the acceptance of M/s Om Sons offer to PEDDA vide its letter dated 10.10.2022. M/s Om Sons had also confirmed vide its letter dated 28.12.2012 to PEDDA that they have agreed to sell surplus power upto 3 MW at a fixed tariff of Rs. 3.50/kWh without any escalation for the period of 5 years.
- c) That PEDDA will incorporate the provisions of the PPA in the IA to be executed by PEDDA with M/s. Om Sons Marketing Pvt. Limited as applicable. However, from scrutiny of the Detailed Project Report submitted by M/s. Om Sons Marketing Pvt. Limited and revised financial calculations submitted to PEDDA vide their letter dated. 08.02.2023 it is observed that the fuel to be used at the project is stated as mainly Rice straw/ Rice Husk and Cotton Stalk/ other biomass in small quantities as available. It is submitted that for use of rice/paddy straw, command area has to be reserved by PEDDA as per the notification No – 18/01/2021-PE/2510 dated. 19.08.2021 issued by Government of Punjab.
- d) Therefore, in view of the facts and circumstances narrated above, the Commission may grant approval of the purchase of upto 3 MW surplus renewable power from the 9 MW project of M/s. Om Sons Marketing Pvt. Limited on fixed tariff of Rs. 3.50 kWh for a tenure of 5 years as deemed fit, in the interests of justice

5. In the hearing held on 28.04.2023, the parties while reiterating their written submissions requested for an early approval to the said power purchase arrangement. After hearing the parties, the Commission reserved the Order.

6. Observations and Decision of the Commission

The Commission has examined the submissions made in the Petition as well as by the respondents M/s Om Sons and the PEDDA. The petition is for approval of PSPCL's power procurement process, under Section 86(1)(b) of the Electricity Act read with PSERC (Power Purchase and Procurement Process of Licensee) Regulations 2012.

6.1 The Commission refers to the relevant Section of the Electricity Act and PSERC Regulations framed under the powers conferred therein for regulating the Power Purchase and Procurement process of the Licensee, which specifies as under:

a) The Electricity Act, 2003

“86. Functions of State Commission:

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

.....

(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;

.....

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with

the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources...”

b) The Punjab State Electricity Regulatory Commission (Power Purchase and Procurement Process of Licensee) Regulations 2012:

“10 Criterion for Power Purchases

(i).....

(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;*

.....

(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.”*

Thus, for approval of electricity purchase and procurement process including the price at which electricity shall be procured from the generating companies for purchase of power for distribution and supply

within the State, the Commission is mandated to examine the same on the criteria of its “Necessity”, “Reasonability of Cost/Economical Viability of tariff” and “Conformity with the Govt. Policies”.

6.2 Accordingly, the Commission proceeds to analyse the same as hereunder:

a) **Necessity and Conformity with the Govt. Policies**

Upon specification of RPO targets by Ministry of Power, Gol, under the mandate given in the Tariff Policy, the Commission, as per the functions assigned under Section 86 (1) (e) of the Electricity Act, after following the due process, vide Notification dated 12.12.2022, has notified the PSERC (Renewable Purchase Obligation and its compliance) Regulations, 2022; specifying the progressive RPO targets starting from 27% for FY 2023-24 to 43% for FY 2029-30.

As such, PSPCL’s proposed arrangement for power purchase is in line with the requirement of Renewable Energy for fulfilment of its mandated RPO targets and thus fulfils the criteria of “Necessity/Conformity with the Govt. Policies.

b) **“Reasonability of Cost/Economical Viability of tariff”**

The Commission notes that, earlier, a similar power purchase arrangement of PSPCL for procurement of power from M/s Malbros at the same tariff has been approved, vide Order dated 19.12.2022 in Petition No. 62 of 2022, with the observation as under:

“4.2..The Commission observes that the proposed fixed tariff of Rs. 3.50/kWh from the Biomass based Co-generation project of M/s Malbros is reasonable in term of the cost of the project and is thus approved for the next five years without escalation.”

Thus, criteria of Reasonability of Cost/Economical Viability of tariff also stands fulfilled.

In view of the above, the Commission approves the proposed power purchase arrangement of PSPCL for procurement of surplus power up to 3 MW from the 9 MW Biomass based Co-generation project of M/s Om Sons Marketing Pvt. Ltd., at the fixed tariff of Rs. 3.50/kWh without escalation for a tenure of 5 years.

The petition is disposed of in terms of the above.

Sd/-

(Paramjeet Singh)
Member

Sd/-

(Viswajeet Khanna)
Chairperson

Chandigarh

Dated: 11.05.2023