

# PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

**Petition No. 62 of 2022 and IA No. 26 of 2022**

**Date of Hearing: 07.12.2022**

**Date of Order: 19.12.2022**

Approval of the Power Purchase Agreements (PPAs) and Procurement Process of Punjab State Power Corporation Limited for the procurement of power from the (1) Shree Ganesh Edibles Private Limited (Paddy based Biomass Project-4 MW); (2) Malbros International Private Limited (Biomass Project -3 MW); and (3) Thind Power Private Limited (Mini Hydrel-2 MW)

AND

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

.....Petitioner

Versus

Shree Ganesh Edibles Private Limited and Others

.....Respondents

Commission: Sh. Viswajeet Khanna, Chairperson

Sh. Paramjeet Singh, Member

PSPCL: Ms. Poorva Saigal, Advocate

Sh. R.S Randhawa, CE/ARR&TR

Sh. Rajesh Jindal/DY.CE

Shree Ganesh: Ms. Meenakshi Gupta, Advocate

Malbros : None

Thind Power : None

PEDA : Sh. Aditya Grover, Advocate

## ORDER

1. Punjab State Power Corporation Limited (PSPCL) has filed the present petition under Section 86(1)(b) of the Electricity Act, PSERC

(Power Purchase and Procurement Process of Licensees) Regulations 2012, PSERC (Conduct of Business) Regulations 2005 and PSERC (RPO and its Compliance) Regulations, 2011 for approval of power procurement arrangement from the following three Renewable Energy Generating Stations:

### **1.1 M/s Shree Ganesh Edibles Pvt Ltd.**

It has been submitted that:

- a) M/s Shree Ganesh, a Solvent Extraction Plant at Village - Shahpur, Tehsil Amluh, District Fatehgarh Sahib (Punjab), is already having a PPA dated 25.01.2018 with PSPCL, for sale of surplus power from its 2.92 MW Biomass fuel-based Co-generation power project at tariff of Rs. 5.08/kWh (i.e. Rs. 2.57/kWh as levelized fixed charge and first year variable charge of Rs. 2.51/kWh with escalation of 5% per annum for 20 years from commissioning).
- b) In 2019, it further installed a new boiler of 15 MW capacity using Paddy Straw/Biomass as Fuel in order to meet its requirement of steam and electricity on account of commissioning of a processing facility for Cotton Seed Oil factory. On 18.04.2019, another IA dated 18.04.2019 was entered with PEDDA under NRSE Policy, 2012 for setting up of 15 MW Non-fossil fuel-based Co-generation Power Project on BOO basis to sell surplus power upto 12.5 MW from the said Cogeneration project to PSPCL as per the generic Tariff of Rs. 6.76 /kWh as notified by CERC for Non-fossil fuel Co-generation plants for FY 2019-20, as adopted by the Commission in its Order dated 13.09.2019. In the IA dated 18.04.2019, it was specified that the said project will be eligible

for the tariff notified by the Commission for Non-fossil fuel-based Co-generation Projects as applicable on the scheduled commissioning date. On 16.10.2019, the IA was amended to incorporate tariff of Rs. 7.64/kWh, notified by PSERC for Non-fossil fuel based Co-generation plants for FY 2019-20.

- c) On 18.07.2019, a Meeting was held between PSPCL and M/s Shree Ganesh; wherein PSPCL offered tariff of Rs. 5.25/kWh, however M/s Shree Ganesh sought a tariff of Rs.6.76/kWh (Generic Tariff notified by Central Commission). On 05.01.2020, M/s Shree Ganesh filed a Writ Petition (CWP No. 998 of 2020) before the High Court of Punjab & Haryana seeking directions for PSPCL to enter into a PPA in furtherance of the IA dated 18.04.2019.
- d) Thereafter, in the meeting held on 22.07.2022, M/s Shree Ganesh offered to sell power upto 4 MW (inclusive of 0.5 MW as per existing PPA dated 25.01.2018), through an 66 kV line from its new 15 MW Captive-cum-Co-generation Plant based on 100% Paddy Straw as fuel at Rs. 5.62/kWh at Fixed Tariff for 7 years, with the condition that the quantum of energy injected during the summer/paddy months at least equal to or more than the quantum injected in the winter months. In reply to thereof, on 18.08.2022, PSPCL conveyed its consent to purchase the said surplus power upto 4 MW from its 15 MW Co-generation Power Plant based on 100% Paddy Straw, at a fixed tariff of Rs. 5.00/kWh without escalation for the tenure of 5 years. On 26.08.2022, the above-mentioned Writ Petition was withdrawn/ dismissed as withdrawn with liberty to avail alternative remedies in accordance with law.

- e) Vide communication dated 02.09.2022, M/s Shree Ganesh agreed to PSPCL's offer of Rs. 5 per unit without escalation for a period of 5 years, with the submission that it cannot pass the Financial Assistance to be received from MNRE and CDM's (Carbon Credits). Later, on PSPCL's request to give the unconditional acceptance, it submitted its consent to accept the decision of the BOD/PSPCL, in the matter of passing of financial assistance to be received from MNRE and CDM's (Carbon Credits) and undertook that it is not taking any benefit of Accelerated Depreciation. But, on 13.09.2022, M/s Shree Ganesh again reiterated its earlier stand that PSPCL is to pay Rs. 5/- per unit and above that Government will pay in the form of GGF which will be received by the plant operator.
- f) Existing PPA dated 25.01.2018 of 0.5 MW executed between PSPCL and M/s Shree Ganesh provides for the passing on of all three benefits (accelerated depreciation, CDM Benefits and subsidy) to PSPCL. Further, it has been agreed between the parties that the existing PPA dated 25.01.2018 for the supply of 0.5 MW will be merged with the fresh PPA of 4 MW and PPA dated 25.01.2018 will be terminated accordingly.
- g) As on date, the parties are yet to sign the PPA. The Parties are in agreement on all the terms and conditions of the Standard PPA issued by PSPCL except on the passing of the financial assistance from MNRE and CDM's (Carbon Credits).
- h) The Commission may be pleased to decide the procurement of 4 MW at a tariff of Rs. 5/kWh without escalation for a period of 5 years from Shree Ganesh Edibles Private Limited in terms of

Section 86(1) (b) of the Electricity Act as read with the applicable regulations.

### **1.2 M/s Malbros International Private Limited**

It has been submitted that:

- a) M/s Malbros has offered to sell upto 2-3 MW of its surplus power from its 9 MW Co-generation plant using Biomass (Paddy straw/Rice husk). On a query by PSPCL, it informed that as per the Boiler design they can use 20% Paddy Straw and 80% Rice Husk. A meeting was held between the parties on 28.03.2022 for negotiation of tariff for sale of surplus power upto 3 MW using Paddy Straw/Rice Husk/Cotton Stalk; however it was not willing to accept the tariff below Rs.6.00/kWh (with 5% escalation of variable cost) which was not acceptable to PSPCL. Later, on 18.04.2022, it offered to sell its surplus power at a tariff of Rs. 4.68/kWh (20% as fixed cost and 80% as variable cost) with 4.5% annual escalation on the variable cost. Upon further negotiations, M/s Malbros vide communication dated on 29.07.2022, intimated its confirmation for sale of its surplus power up to 3 MW at a tariff of Rs. 3.50/kWh without escalation for the tenure of 5 years.
- b) The Commission may be pleased to approve the power procurement upto 3 MW from M/s Malbros in terms of Section 86 (1)(b) of the Electricity Act as read with applicable regulations.

### **1.3 M/s Thind Power Private Limited (2 MW Mini Hydel Project)**

It has been submitted that:

- a) On 30.01.2018, PEDDA sought concurrence from PSPCL for conducting a competitive e-bidding for Small/Mini Hydel Projects on the non-perennial canals (having low heads and low discharge with expected 40% PLF) on BOO basis, based on the discount to be offered by the prospective bidders on the generic tariff determined by the commission vide Order dated 31.10.2017 in Suo-Motu Petition No. 50 of 2017, which was Rs.6.00/kWh (for MHPs below 5 MW capacity) for FY 2017-18, for the entire term of PPA i.e., for 35 years. PSPCL wrote to PEDDA that the tariff should not be more than Rs. 5.00/kWh and reverse bidding is mandatory.
- b) On 22.03.2018, RfP documents was published by PEDDA in the leading newspapers and uploaded at website of Punjab Government and PEDDA. On being successful, the Letter of Award (LOA) dated 31.08.2018 was issued for development of Mini Hydel Project Dhariwal RD of 2.00 MW Capacity to M/s Thind Power Private Limited at the net tariff of Rs. 4.20/kWh (after discount offered on PSERC Tariff for FY 2017-18 for SHPs below 5 MW)) for the entire period of PPA i.e., 35 years from the commercial operation of the project irrespective of actual year of commissioning. Pursuant to the same, an IA dated 13.10.2021 was also signed with PEDDA indicating the said fixed tariff of Rs. 4.20/kWh without any increase/escalation. On 21.10.2021, PEDDA requested PSPCL to sign the Long Term PPA (35 years) with M/s Thind for purchase of power from 2 MW (1x1.25 MW+1x0.75 MW) MHP Dhariwal, at a tariff of Rs.4.20/kWh applicable for the whole term of the PPA.

- c) On 02.09.2022, a meeting was held between PSPCL and M/s Thind, wherein after long deliberations the firm agreed to reduce the tariff to Rs. 3.75/kWh without any escalation, from its 2 MW project for a period of 35 years. On 23.09.2022, M/s Thind also submitted an undertaking to PSPCL, not to avail the benefit of accelerated depreciation and that it has neither availed nor shall avail any grant/subsidy from Gol/GoP for the project.
- d) On 08.07.2021, the Commission passed a Suo-Motu Order in Petition No. 34 of 2021 to continue the ceiling generic tariffs as determined by the Commission vide earlier Order dated 18.09.2020 passed in Petition No. 26 of 2020 (Suo-Motu), till the finalization of the Generic Tariffs for RE Projects for the FY 2021-22. Accordingly, the applicable tariff for the FY 2021-22 is Rs. 4.30/kWh.
- e) The Commission maybe pleased approve the power procurement of upto 2 MW from M/s Thind Power Private Limited in terms of Section 86 (1)(b) of the Electricity Act as read with applicable regulations.

**2. In reference to the issue of power procurement from M/s Shree Ganesh:**

2.1 Respondent M/s Shree Ganesh also filed an IA No. 26 of 2022 submitting as under:

- a) Its plant is ready and shall be operational from 18.11.2022. However, PSPCL in the consent letter has held that the quantum of power supplied during summer season (April to Sept.) will be considered as benchmark power for each year

and it should be ensured that the power supplied to grid during winter (Oct. to March) shall not exceed the power supplied during summer season. Overall settlement will be done at the end of March every year, treating the extra power supplied during winter season as inadvertent flow of power, thus no payment will be made for such dumped power.

- b) Since the power so exported from 18.11.2022 to March 2023 will have no benchmark, it has serious apprehension that PSPCL may dispute making the payment for the same in the absence of a benchmark, as the summer season shall arrive for the 1<sup>st</sup> time during April to Sept., 2023, after exporting power during the winter season.
- c) The rice straw is a seasonal biomass and available only during the period October to November. 2 LMT of rice straw is required for running the plant and it has already procured 1 LMT. The project shall help the State to resolve the issue of stubble burning as it uses rice straw as fuel for generating RE power.
- d) It is prayed to grant immediate/early hearing in the instant matter on urgent basis and waive off the condition with regard to benchmark for the power injection during the winter period of 18.11.2022 to 31.03.2023 and direct PSPCL to pay the agreed tariff during the said period, as the benchmark in terms of the consent letter is yet to be determined.

2.2 PSPCL on 24.11.2022 filed its reply to the IA submitting as under:



- a) PSPCL would be in a position to execute the PPA only when the Commission considers and decides the instant petition. The provision of prospective PPA shall only be applicable when PPA is executed between both the parties after due approval by PSERC. Hence, power, if any, injected into the PSPCL's grid before execution of such PPA, shall be considered as inadvertent power and accordingly it will neither be paid for at the prospective tariff nor shall any adjustment be made by PSPCL.
- b) The party is solely responsible to manage the adequate quantity of Paddy Straw for smooth running of their power plant and is bound to produce power using 100% Paddy Straw.
- c) With regard to waiving of the condition of assessment against a benchmark, if the prospective PPA is signed in the winter season then it would be appropriate to consider next summer season i.e. April to Sep 2023 period as a bench mark for this year winter also i.e. upto 31.03.2023. For the power supplied during the aforementioned winter period, PSPCL shall initially release payment at 75% of the tariff approved by the Commission subject to the condition that the entitlement of such sold energy will then be based on energy account to be settled at the end of Sep 2023. PSPCL will release the balance 25% amount without any interest or recover the payment accrued to PSPCL against the excess energy injected to PSPCL Grid during the winter season upto 31.03.2023, treating such excess power as inadvertent flow of power.

2.3 M/s Shree Ganesh, in response to PSPCL's reply to its IA, reiterated its prayer to direct PSPCL to immediately allow it to

inject power into the grid. Further, while agreeing with PSPCL's proposal of payment at 75% of the tariff during the winter season of 2022-23, it has demanded that the remaining payment beyond 75% shall be made along with interest @ 18% per annum.

3. The petition was taken up for hearing on admission. The Ld. Counsel for PSPCL reiterated the submissions made in the petition and its reply to the IA filed by M/s Shree Ganesh. In response to the Commission's observation that the proposed tariff in case of power procurement from M/s Shree Ganesh is not yet firm, the Ld. Counsel for the respondent M/s Shree Ganesh submitted that her client is willing to undertake to pass on the proportionate CDM benefits and proportionate financial assistance rendered, if any, by the State Govt/MNRE/Central Government to PSPCL. It was also submitted that her client shall not claim any interest on the remaining payment beyond 75% from PSPCL during the ongoing winter season of 2022-23. PSPCL's Counsel submitted that the respondent needs to confirm its above stated revised assertion through an affidavit. The Commission admitted the petition subject to submission of an affidavit by M/s Shree Ganesh in confirmation of its revised assertions and heard the parties. On 08.12.2022, M/s Shree Ganesh submitted the affidavit confirming its revised assertions.

#### **4. Findings and Decision of the Commission:**

The Commission has examined the submissions made in the Petition as well as the IA and has heard both the Ld. Counsel appearing for the petitioner PSPCL and respondent no. 1 M/s Shree Ganesh. The petition is for approval of PSPCL's power procurement process, under Section 86(1)(b) of the Electricity Act and PSERC (Power Purchase and Procurement Process of Licensees) Regulations 2012.

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:

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;”*

PSERC (Power Purchase and Procurement Process of Licensee) Regulations, 2012:

*“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 ;*

*.....;*

*(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.”*

Thus, for approval of any new long term power purchase arrangement by Distribution Licensee, the Commission is mandated to examine the same on the criteria of its necessity, reasonability of cost and conformity with criterion of power purchase as laid down by the Commission and the policy directives/ policies issued by the State/Central Government. The Commission observes that in the prevailing circumstances, when PSPCL is finding it hard to meet its RPO targets specified by the Commission under Sections 86 (1)(e) of the Electricity Act 2003, and being mindful of the policy directive of the Indian Government to reduce its carbon footprint and achieve the target of 500GW of non-fossil fuel based electricity by 2030 and the goal of net zero carbon emissions by 2070, there cannot be any issue with regard to the criteria of ‘Necessity’, ‘Conformity with criterion of power purchase laid down by the Commission’ and ‘the Government policy directives’, in case of power purchase arrangements from the Renewable Sources. Further, the Commission examines the proposed power purchase arrangements on the criteria of its ‘Reasonability of cost’ as under:

#### **4.1 M/s Shree Ganesh Edibles Pvt Ltd:**

- a) The proposed power purchase arrangement is for the surplus power of 4 MW (inclusive of 0.5 MW of existing PPA dated 25.01.2018), through a 66 kV line, from the 15 MW Co-generation Plant based on 100% Paddy Straw as fuel at the fixed tariff of Rs. 5.00/kWh without escalation

for the tenure of 5 years, with the condition that the power supplied to grid during the winter months shall not exceed the power supplied during the summer/paddy months.

**The Commission notes that the tariff proposed in the instant arrangement is comparatively higher than that proposed in case of M/s Malbro. However, keeping in view the condition that the plant would use 100% Paddy Straw and inject power through a 66 kV line (against the use of maximum of about 20% Paddy Straw and injection through 11 kV line by M/s Malbros) along with surrender of its existing PPA dated 25.01.2018 for sale of 0.5 MW at the prevailing tariff of about Rs. 5.62/kWh, the cost of proposed arrangement seems to be reasonable. Further, the commitment of this tariff is only for the next five years without any escalation.**

**PSPCL is directed to ensure a suitable mechanism to have regular inspections to ensure strict compliance of the agreed condition of use of 100% Paddy Straw as the fuel, since this is the primary commitment of the respondent to justify the comparatively higher negotiated tariff citing that it will have a positive impact on the environment by using up Paddy Straw which is otherwise burnt during the winter season causing extensive pollution. In light of the above observations and conditions the Commission approves the tariff for the next five years without any escalation.**

b) With regard to the IA No. 26 of 2022 filed by M/s Shree Ganesh on the issue of settlement of the power likely to be injected by it into the grid during this winter period i.e. prior to the benchmark available of power injection during the summer season, the Commission observes that the party has consented to the PSPCL's proposal for accounting of the same. Accordingly, the IA has been rendered infructuous.

#### **4.2 M/s Malbros International Pvt Ltd.**

The proposed power purchase arrangement is for the surplus power up to 3 MW from the 9 MW Biomass (including Paddy Straw) based Co-generation of M/s Malbros at the fixed tariff of Rs. 3.50/kWh without escalation for a tenure of 5 years, with the condition that the power supplied to grid during winter months shall not exceed the power supplied during the summer/paddy months.

**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.**

#### **4.3 M/s Thind Power Pvt Ltd:**

The proposed power purchase arrangement is for the RE power from the 2 MW (1x1.25 MW+1x0.75 MW) Mini Hydel Project of M/s Thind Power at the fixed tariff of Rs. 3.75/kWh without any escalation for a period of 35 years.

**The Commission observes that the proposed fixed tariff of Rs. 3.75/kWh from the Mini Hydel Project of M/s Thind Power is quite reasonable in term of the cost of the project and is thus approved without any escalation for a period of 35 years.**

**The Commission also notes that the three parties are in agreement on the issue of passing of benefit of accelerated depreciation, financial benefits given by the State Govt/MNRE/Central Government and CDM's (Carbon Credits) for all three projects, if any, to PSPCL as per the standard provisions of the PPAs.**

**Accordingly, the Commission allows the above stated three power purchase arrangements of the distribution licensee PSPCL as detailed above in each case.**

The petition and the IA are disposed of accordingly.

Sd/-  
(Paramjeet Singh)  
Member

Sd/-  
(Viswajeet Khanna)  
Chairperson

Chandigarh  
Dated: 19.12.2022