

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
GANDHINAGAR**

**Petition No. 2062 of 2022.**

**In the Matter of:**

**Petition for approval of Short-Term Power Purchase arrangement for sourcing of power to cater to the demand of its Licensee Areas in Gujarat under the provisions of the Guidelines for Power Procurement by distribution Licensees issued by the Commission read with Section 63 of the Electricity Act, 2003, for the period from 01.04.2022 to 31.03.2023.**

Petitioner : Torrent Power Limited,  
Represented By : Mr. Chetan Bundela, Mr. Jignesh Langalia & Mr. Rahul Dubey

**CORAM:**

**Anil Mukim, Chairman**

**Mehul M. Gandhi, Member**

**S. R. Pandey, Member**

**Date: 20/05/2022.**

**ORDER**

1. This Petition has been filed by the Petitioner M/s Torrent Power Limited in its capacity as distribution licensee in Gujarat seeking approval of Short Term Power Purchase arrangement for sourcing day power (i.e., from 0900 hours to 2400 hours) and Round-the-Clock (RTC) power (i.e. from 0000 hours to 2400 hours) during the period from 01.04.2022 to 31.03.2023 to cater the demand of its Licensee areas in Gujarat under the provisions of the Guidelines for Power Procurement by Distribution licensee issued by the Commission read with Section 86 (1) (b) of the Electricity Act, 2003.
2. The facts mentioned in the Petition, in brief, are as under:

- 2.1. The Petitioner Torrent Power Limited (TPL) is a company incorporated under the provisions of the Companies Act, 1956 and has long term power purchase arrangement with AMGEN, SUGEN, UNOSUGEN and Renewables, duly approved by the Commission in order to cater to the demand of its consumers in the license areas. It also procures power from power exchange / other bilateral arrangements to meet with requirement. Accordingly, the Petitioner has been monitoring and reviewing the demand and supply position based on continuous developments to cater to the demand of its consumers for the period 01.04.2022 to 31.03.2022.
- 2.2. It is stated that power exchange has recently witnessed sharp increase in prices, *inter alia*, due to deficit in generation along with uncertainty in clearance of volume. Additionally, the coal-based stations are already facing domestic coal shortage and cost of imported is higher and also expected to remain higher. The situation has further aggravated considering Inter-State transmission constraints due to which the Petitioner is facing difficulty in getting necessary NOC for availing open access from SLDC. It is stated that the Petitioner has been facing severe issues in respect of purchase of power from Exchange due to curtailment of NOC. Therefore, the Petitioner has to tie up the power in advance to get higher priority in NOC for open access. Accordingly, in order to cater to the demand of its consumers during FY 2022-23, the Petitioner planned to procure day power (i.e., from 0900 hours to 2400 hours) and Round-the-Clock (RTC) power (i.e., from 0000 hours to 2400 hours) during the period from 01.04.2022 to 31.03.2023 through short term bidding process.
- 2.3. The Petitioner has made following deviations from the MoP bidding guidelines in the bidding documents filed i.e., RFP & PPA for availing better terms and flexibility to reduce the overall cost of power procurement which have been approved by the Commission vide its Order dated 24.04.2017 in Petition No. 1636 of 2017:
- Take or Pay Penalty: The penalty for “take or pay” and “supply or pay” shall be Rs. 2 per unit.
  - Take or Pay Quantum: The minimum quantity for “take or pay” and “supply or pay” shall be 80%.

- 2.4. The Petitioner published a tender notice on 09.12.2021 for procurement of power on short term basis through e-tendering and on Reverse Auction basis in the following newspapers:
- Business Standard (All India Edition)
  - Mint (All India Edition)
- 2.5. The bidders were required to bid on website of MSTC [www.mstcecommerce.com](http://www.mstcecommerce.com) (DEEP Portal) and last date for submission of offers was 13.12.2021. Bids from thirteen (13) bidders were received at IPO stage and e-reverse auction was conducted on MSTC's portal on 16.12.2021. Since the rates discovered in e-Reverse Auction were on higher side, the Petitioner TPL asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Based on final offers received from bidders, the Petitioner approached the Committee with all the details and in turn the Committee recommended to issue "Letter of Award" (LOA) to certain bidders.
- 2.6. It is stated that looking at the situation of In-State generation and continued difficulties in open access, Petitioner issued another tender notice on 05.01.2022 for procurement of power on short term basis through e-tendering and on Reverse Auction basis in the following newspapers:
- Business Standard (All India Edition)
  - Mint (All India Edition)
- 2.7. The bidders were required to bid on website of MSTC [www.mstcecommerce.com](http://www.mstcecommerce.com) (DEEP Portal) and last date for submission of offers was 10.01.2022. Bids from seven (07) bidders were received at IPO stage and e-reverse auction was conducted on MSTC's portal on 12.01.2022. Since the rates discovered in e-Reverse Auction were on higher side, the Petitioner TPL asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Based on final offers received from bidders in the said processes, the Petitioner approached the Committee with all the details and in turn the Committee recommended to issue "Letter of Award" (LOA) to certain bidders.
- 2.8. It is stated that considering the continued issues of In-State generation and Transmission constraints, Petitioner issued another tender notice on 03.02.2022 for

procurement of power on short term basis through e-tendering and on Reverse Auction basis in the following newspapers:

- Business Standard (All India Edition)
- Mint (All India Edition)

2.9. The bidders were required to bid on website of MSTC [www.mstcecommerce.com](http://www.mstcecommerce.com) (DEEP Portal) and last date for submission of offers was 08.02.2022. Bids from five (05) bidders were received at IPO stage and e-reverse auction was conducted on MSTC's portal on 15.02.2022. Since the rates discovered in e-Reverse Auction were on higher side, the Petitioner TPL asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Based on final offers received from bidders in the said processes, the Petitioner approached the Committee with all the details and in turn the Committee recommended to issue "Letter of Award" (LOA) to certain bidders.

2.10. The details of bidders to whom LOAs are issued by the Petitioner are as under:

Month	Time Slot	Bidder/Ref. No.	Source	Revised volume and rate	
				Quantity (MW)	Price (Rs./unit)
01.04.2022 to 30.04.2022	00:00 to 24:00 Hours	PTC India Limited/ 77584	Jindal Power Limited	50	4.45
		PTC India Limited/ 77586	DB Power Limited	75	
		PTC India Limited/ 74489	Jaypee Nigrie STPP	100	
		NTPC Vidyut Vyapar Nigam Limited/ 74838	Jhabua Power Limited	100	
	00:00 to 24:00 Hours	Tata Power Trading Company Limited/ 74176	Jindal Power Limited	100	4.62
		Manikaran Power Limited/ 78172	DB Power Limited	50	
		PTC India Limited/ 74493	MB Power MP Limited	50	
		Tata Power Trading Company Limited / 74213	Tata Power Haldia	80	4.66
		PTC India Limited/ 74491	Jaypee Nigrie STPP	100	4.75
		00:90 to 24:00 Hours	PTC India Limited/ 77584	Sembcorp Energy India Limited	50

Month	Time Slot	Bidder/Ref. No.	Source	Revised volume and rate	
				Quantity (MW)	Price (Rs./unit)
01.05.2022 to 31.05.2022	00:00 to 24:00 Hours	PTC India Limited/ 77584	Jindal Power Limited	50	4.45
		PTC India Limited/ 77586	DB Power Limited	100	
		PTC India Limited/ 74489	Jaypee Nigrie STPP	100	
		NTPC Vidyut Vyapar Nigam Limited/ 74838	Jhabua Power Limited	50	
		Manikaran Power Limited/ 78172	DB Power Limited	50	4.62
		PTC India Limited/ 74493	MB Power MP Limited	50	
		Tata Power Trading Company Limited / 74176	Jindal Power Limited	100	
		Tata Power Trading Company Limited/ 74213	Tata Power Haldia	80	
		PTC India Limited/ 74491	Jaypee Nigrie STPP	100	
	00:90 to 24:00 Hours	PTC India Limited/ 77584	Sembcorp Energy India Limited	50	5.25
01.06.2022 to 30.06.2022	00:00 to 24:00 Hours	PTC India Limited/ 77584	Jindal Power Limited	100	4.57
		PTC India Limited/ 77586	DB Power Limited	50	
		PTC India Limited/ 74489	Jaypee Nigrie STPP	100	
		NTPC Vidyut Vyapar Nigam Limited/ 74838	Jhabua Power Limited	100	
		Tata Power Trading Company Limited/ 74212	GoHP share in Hydro Electric Powerplant, HP	150	4.61
01.06.2022 to 30.09.2022	00:00 to 24:00 Hours	PTC India Limited/ 74493	MB Power MP Ltd.	50	4.84
		PTC India Limited/ 74491	Jaypee Nigrie STPP	100	
		Tata Power Trading Company Limited/ 74176	Jindal Power Limited	100	
		Manikaran Power Limited/ 78172	DB Power Limited	50	4.86

Month	Time Slot	Bidder/Ref. No.	Source	Revised volume and rate	
				Quantity (MW)	Price (Rs./unit)
	00:00 to 24:00 Hours	PTC India Limited/77584	Sembcorp Energy India Limited	50	5.25
01.07.2022 to 30.11.2022	00:00 to 24:00 Hours	PTC India Limited/77584	Jindal Power Limited	50	4.56
		PTC India Limited/74489	Jaypee Nigrie STPP	100	
		NTPC Vidyut Vyapar Nigam Limited/74838	Jhabua Power Limited	50	
01.10.2022 to 31.03.2022	00:00 to 24:00 Hours	PTC India Limited/74488	SKS Power Generation Chhattisgarh Limited	70	4.70
		Tata Power Trading Co Ltd/74187	Jindal Power Limited	70	4.75

2.11. It is submitted that the Standing Committee Certificate for compliance of MoP guidelines and the LOAs issued by the Petitioner to the successful bidders is filed with the Petition and the bidders have accepted the same, which is also filed. Accordingly, the Petitioner has requested the Commission to approve the power purchase arrangement and adopt the tariff as above for supply of day power (i.e., from 0900 hours to 2400 hours) and Round-the-Clock (RTC) power (i.e., from 0000 hours to 2400 hours) during the period 01.04.2022 to 31.03.2023, through short term bidding process in accordance with the provisions of the Guidelines for Power Procurement by Distribution licensee issued by the Commission read with the provisions of Section 86(1)(b) of the Electricity Act, 2003.

3. The matter was heard on 20.04.2022 and Mr. Chetan Bundela on behalf of the Petitioner, while reiterating the facts stated in para 2 above submitted that after the Reverse Auction conducted on MSTC's portal, the rates discovered were on higher side and therefore, the Petitioner asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Based on final offers received from bidders, the Petitioner approached the Standing Committee for bid evaluation with all the documents and as recommended by the said Committee to issue "Letter of Award" (LOA) to certain bidders and accordingly, the Petitioner has provided the details of bidders to whom LOAs are issued in tabular form in the Petition.

- 3.1. It is submitted that the Standing Committee Certificate for compliance of MoP guidelines and copies of LOAs issued to the successful bidders and acceptance by the bidders is filed by the Petitioner and requested the Commission to admit the Petition and approve the power purchase arrangement.
- 3.2. Further, it is submitted that since the rate discovered in e-Reverse Auction were on higher side, all bidders were asked to submit their best offer in terms of reduction in rate and increase in quantum and based on final offers received from bidders, the Petitioner approached the Bid Evaluation Committee with all the details. Also, referring to the Standing Committee Certificate, it is submitted that original rate and revised rate offered by bidders are already stated therein and based on final offers, the Petitioner approached the Committee and it was recommended by the Committee to issue LOA to the successful bidders.
4. In pursuance of the directives by the Commission, the Petitioner has filed additional submissions vide affidavit dated 07.05.2022 on (a) Submission of documents exchanged between the bidders and the Petitioner in respect of negotiation and (b) Clarification in respect of number of bidders with regard to tender notice dated 05.01.2022 as under:
  - 4.1. With regard to submission of documents exchanged between the bidders and the Petitioner in respect of negotiation, the Petitioner has submitted that since the rate discovered in e-Reverse Auction were on higher side, all bidders were asked to submit their best offer in terms of reduction in rate and increase in quantum and based on final offers received from bidders, the Petitioner approached the Bid Evaluation Committee with all the details. The original rate and revised rate offered by bidders have been referred in the Standing Committee Certificate and based on final offers, the Petitioner approached Committee and it was recommended by the Committee to issue LOA to the successful bidders and in compliance to the direction, the Petitioner is submitting copy of correspondence with bidders.
  - 4.2. Regarding clarification of number of bidders with regard to tender notice dated 05.01.2022, it is clarified by the Petitioner that the bids from 14 bidders were received at IPO stage and E-reverse auction was conducted on MSTC's portal on

12.01.2022 and the same is also mentioned in the Standing Committee Certificate dated 19.01.2022.

5. We have considered the submissions made by the Petitioner. The Petitioner has filed the present Petition seeking approval for Short Term Power purchase arrangement of day power (i.e., from 0900 hours to 2400 hours) and Round-the-Clock (RTC) power (i.e., from 0000 hours to 2400 hours) during the period 01.04.2022 to 31.03.2023 tied-up through competitive bidding process in order to cater the demand of its consumers in its licensees areas of Ahmedabad/Gandhinagar, Surat, Dahej SEZ and Dholera SIR. We also note that the Petitioner, being a distribution licensee, has the Universal Service Obligation to ensure uninterrupted electricity supply to the consumers within its license area as provided under Section 43 of the Electricity Act, 2003.

5.1. The Petitioner has prayed to approve the arrangement for sourcing quantum of power for period from 01.04.2022 to 31.03.2023 from sources at rate as stated in the Petition and table above through short term bidding process to cater the demand of its licensees area of Ahmedabad/Gandhinagar, Surat, Dahej SEZ and Dholera SIR. The Petitioner published tender notices inviting bids through e-tendering and on e-Reverse Auction basis and the bidders were required to bid on MSTC's website and accordingly it is stated by the Petitioner that tendering was undertaken through transparent e-bidding process on DEEP Portal and while in the cause title it is mentioned for approval under the provisions of the Guidelines for Power Procurement by the Distribution Licensee issued by the Commission vide Notification No. 02 of 2013 dated 14.08.2013 read with Section 63 of the Electricity Act, 2003; whereas in para-19 of the Petition it is requested for approval of the power purchase arrangement and adoption of the tariff as above for supply of day power (i.e., from 0900 hours to 2400 hours) and Round-the-Clock (RTC) power (i.e., from 0000 hours to 2400 hours) as detailed in the Petition, through short term bidding process in accordance with the provisions of the Guidelines for Power Procurement by Distribution licensee issued by the Commission read with the provisions of Section 86(1)(b) of the Electricity Act, 2003.



5.2. We note that the present Petition has been filed by the Petitioner under Section 63 for adoption of tariff discovered under the competitive process, hence it is necessary to refer the said Section is reproduced below:

“.....

*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.*

.....”

As per above Section, whenever competitive bidding is conducted under Section 63 of the Electricity Act, 2003 in accordance with the guidelines issued by the Central Government, the tariff discovered under such bidding has to be adopted by the Commission.

5.3. Section 86 (1) (b) also empowers the Commission to regulate the electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured. Section 63 of the Act is regarding determination of tariff by bidding process to be adopted by the Commission if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government. It is, therefore, necessary to refer the relevant provisions of Section 86 (1) (b):

“.....

*Section 86. Functions of State Commission, --*

*(1): - The State Commission shall discharge the following function:*

.....

*(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;*

.....”

The above Section provides the Commission has to regulate the power procurement of the Distribution Licensees, including the procurement process, the price at which electricity shall be purchased from the generating company or the Licensees or through other sources through agreement for purchase of power for distribution and supply within the State.

- 5.4. This Commission has also issued the 'Guidelines for Procurement of Power through Competitive Bidding' dated 14.08.2013. Clause 13, 14, 15 and 16 of the aforesaid Guidelines issued by the Commission are reproduced below:

“ .....

*13. Where the Distribution Licensee is to procure power on a short-term basis or there is a shortfall due to any reason whatsoever, or failure in the supply of electricity from any approved source of supply during the year, for any reason whatsoever, the licensee may enter in to a short-term arrangement or agreement for procurement of power through power exchanges or through a transparent process of open tendering and competitive bidding.*

*14. In case of procurement of power through competitive bidding, the Distribution Licensee shall initiate the process for short-term power procurement in accordance with the Ministry of Power's Guidelines for Short Term Procurement of Power by Distribution Licensees through Tariff based bidding process' notified by the Ministry of Power on 15/05/2012 and in force from time to time. As provided in the MoP Guidelines:*

*a) The bid documentation shall be prepared in accordance with the MoP guidelines and the approval of the GERC shall be obtained unless the bid documents are as per the standard bid documents issued by the Central Government.*

*b) Generally, no deviation shall be allowed from these Guidelines. However, if it is essential to have the deviation from these Guidelines, the same could be done with the prior approval of the GERC.*

*c) The Procurer(s) shall procure short-term power as per the plan approved by the GERC or appropriate body as may have been constituted for the purpose by the GERC. In such case the Distribution Licensees will intimate about the initiation of the procurement process to the GERC.*

*d) In case procurement of short-term power exceeds the approved annual short-term procurement plan, the Procurer(s) shall obtain prior approval from the GERC or any appropriate body as may have been constituted for the purpose by the GERC.*

*15. For procurement on short-term basis, a single-stage bid process by inviting Request for Proposal (RFP) shall be adopted. Procurer or authorized representative shall prepare bid document in line with these Guidelines. The Procurer shall publish an RFP notice in at least two national newspapers and upload the same on company website to accord it wide publicity. The bidding shall necessarily be by way of competitive bidding.*

*16. The PPA shall be signed with the selected bidder(s) consequent to the selection process.*

*(a). After the conclusion of bid process, the Standing Committee constituted for evaluation of RFP bids shall provide appropriate certificate on conformity of the bid process evaluation to the provisions of the RFP document. The Procurer shall provide a certificate on the conformity of the bid process to these Guidelines to the GERC.*

*(b). If the quantum of power procured and tariff determined are within the overall approval granted by the GERC in Annual Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the GERC.*

*In all other cases, the Procurer(s) shall submit a petition to the GERC for adoption of tariff within two days from the date of signing of PPA. The GERC should communicate the decision within seven days from the date of submission of petition. ....”*

As per Clause 13 of the aforesaid guidelines, when the Distribution Licensee needs to procure the power to meet the demand of the consumers on the short-term basis, the Distribution Licensee may do so through energy exchange or through transparent process of open tendering and competitive bidding.

Clause 14 of the aforesaid Guidelines provides that in case of procurement of power through the competitive bidding, the Distribution Licensee shall initiate the process

for Short-Term Power Procurement in accordance with the Guidelines for Short-Term Procurement of Power by the Distribution Licensee through tariff-based bidding process notified by the Ministry of Power, Government of India on 15<sup>th</sup> May, 2012. The bid documents submitted by the Petitioner are as per the MoP guidelines consist of the deviations earlier approved by the Commission. Thus, the bid documents are in accordance with the MoP guidelines.

Sub-clause (b) of Clause 14 of the aforesaid Guidelines provides that whenever there is any deviation from these Guidelines, the same could be done with prior approval of the Commission. Further, sub-clause (c) of the Clause 14 of the aforesaid Guidelines provides that the procurer shall procure the short-term power as per the plan approved by the Commission.

Clause 15 of the said Guidelines provides that for Procurement of Power on short-term basis a single stage bid process by inviting Request for Proposal (RFP) shall be adopted. Further, it is also provided that the procurer/distribution licensee shall publish an RFP notice in at least 2 national newspapers and upload the same on the company's website to accord wide publicity. The bidding shall necessarily be by way of competitive bidding.

Sub-Clause (a) of Clause 16 of the aforesaid Guidelines provides that the Standing Committee needs to be constituted for evaluation of RFP bids who shall provide appropriate certificate on conformity of the bid process evaluation to the provisions of RFP document and conformity of the bid process to these guidelines to the Commission.

Sub-Clause (b) of Clause 16 of the aforesaid Guidelines provides that if the quantum of power procured and tariff determined are within the overall approval granted by the Commission in the Aggregate Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the Commission.

- 5.5. Thus, it is apparent from the provisions of above referred Sections/Clauses that the Petition filed by the Petitioner is within the purview of the jurisdiction of this Commission and accordingly, in terms of the powers vested under the Electricity Act, 2003 and Regulations framed thereunder, the Commission decides to admit the present Petition.

- 5.6. The Petitioner published first tender notice on 09.12.2021 in Business Standard (All India Edition) and Mint newspaper (All India Edition) for procurement of power on short term basis inviting bids through transparent e-bidding Reverse Auction process on DEEP Portal vide Tender No. Torrent Power Limited/Short/21-22/ET/82 and Torrent Power Limited/Short/21-22/RA/74 dated 08.12.2021, whereby the bidders were required to submit their bid/offers on MSTC website and last date for submission of same was 13.12.2021 while also stating Tender No. Torrent Power Limited/Short/21-22/ET/83 and Torrent Power Limited/Short/21-22/RA/75 dated 08.12.2021 in aforesaid notice.
- 5.7. Thereafter, the Petitioner published second tender notice on 05.01.2022 in Business Standard (All India Edition) and Mint newspaper (All India Edition) for procurement of power on short term basis inviting bids through transparent e-bidding Reverse Auction process on DEEP Portal vide Tender No. Torrent Power Limited/Short/21-22/ET/104 and Torrent Power Limited/Short/21-22/RA/96 dated 04.01.2022, whereby; the bidders were required to submit their bid/offers on MSTC website and last date for submission of same was 10.01.2022.
- 5.8. Lastly, the Petitioner published third tender notice on 03.02.2022 in Business Standard (All India Edition) and Mint newspaper (All India Edition) for procurement of power on short term basis inviting bids through transparent e-bidding Reverse Auction process on DEEP Portal vide Tender No. Torrent Power Limited/Short/21-22/ET/121 and Torrent Power Limited/Short/21-22/RA/113 dated 02.02.2022 whereby the bidders were required to submit their bid/offers on MSTC website and last date for submission of same was 08.02.2022 while also stating Tender No. Torrent Power Limited/Short/21-22/ET/120 and Torrent Power Limited/Short/21-22/RA/112 in aforesaid notice.
- 5.9. Thus, the tender notices as stated above were issued by the Petitioner in 2 (two) newspapers which is in compliance with Clause 15 of the Guidelines for Procurement of Power issued by the Commission.
- 5.10. The Petitioner has filed the RFP dated 08.12.2021 and draft PPA whereby bids were invited for supply of power with delivery point as GETCO periphery for its license areas of Gujarat for following quantity and duration vide its Tender No. Torrent

Power Limited/Short/21-22/ET/82 and Torrent Power Limited/Short/21-22/RA/74 dated 08.12.2021:

<b>Requisition</b>	<b>Period</b>	<b>Time slot</b>	<b>Total Quantum* (MW)</b>	<b>Minimum Quantum (MW) to be offered by seller</b>
1	01-04-2022 to 30-04-2022	0000 hours to 2400 hours	300	50
2	01-04-2022 to 30-04-2022	0900 hours to 2400 hours	50	50
3	01-05-2022 to 31-05-2022	0000 hours to 2400 hours	300	50
4	01-05-2022 to 31-05-2022	0900 hours to 2400 hours	50	50
5	01-06-2022 to 30-09-2022	0900 hours to 2400 hours	300	50
6	01-06-2022 to 30-09-2022	0900 hours to 2400 hours	50	50

5.11. The Petitioner received bids from thirteen (13) bidders at IPO stage and e-reverse auction was conducted on MSTC's portal on 16.12.2021. Since the rates discovered in e-Reverse Auction were on higher side, the Petitioner TPL asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Based on final offers received from bidders, the Petitioner approached the Committee with all the details and in turn the Committee recommended to issue "Letter of Award" (LOA) to certain bidders.

5.12. The Petitioner has also filed the second RFP dated 04.01.2022 and draft PPA whereby bids were invited for supply of power with delivery point as GETCO periphery for its license areas of Gujarat for following quantity and duration vide its Tender No. Torrent Power Limited/Short/21-22/ET/104 and Torrent Power Limited/Short/21-22/RA/96 dated 04.01.2022:

<b>Requisition</b>	<b>Period</b>	<b>Time slot</b>	<b>Total Quantum* (MW)</b>	<b>Minimum Quantum (MW) to be offered by seller</b>
--------------------	---------------	------------------	----------------------------	---

1	01-04-2022 to 30-04-2022	0000 hours to 2400 hours	150	50
2	01-04-2022 to 30-04-2022	0900 hours to 2400 hours	300	50
3	01-05-2022 to 31-05-2022	0000 hours to 2400 hours	150	50
4	01-05-2022 to 31-05-2022	0900 hours to 2400 hours	400	50
5	01-06-2022 to 30-09-2022	0900 hours to 2400 hours	350	50
6	01-06-2022 to 30-09-2022	0900 hours to 2400 hours	400	50
7	01-07-2022 to 30-11-2022	0000 hours to 2400 hours	150	50
8	01-07-2022 to 31-12-2022	0900 hours to 2400 hours	300	50
9	01-10-2022 to 31-03-2023	0000 hours to 2400 hours	250	50
10	01-11-2022 to 31-03-2023	0700 hours to 2400 hours	50	50

5.13. The Petitioner received bids from fourteen (14) bidders at IPO stage and e-reverse auction was conducted on MSTC's portal on 12.01.2022. Since the rates discovered in e-Reverse Auction were on higher side, the Petitioner TPL asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Based on final offers received from bidders, the Petitioner approached the Committee with all the details and in turn the Committee recommended to issue "Letter of Award" (LOA) to certain bidders.

5.14. The Petitioner has filed third RFP dated 02.02.2022 and draft PPA whereby bids were invited for supply of power with delivery point as GETCO periphery for its license areas of Gujarat for following quantity and duration vide its Tender No. Torrent Power Limited/Short/21-22/ET/121 and Torrent Power Limited/Short/21-22/RA/113 dated 02.02.2022:

<b>Requisition</b>	<b>Period</b>	<b>Time slot</b>	<b>Total Quantum* (MW)</b>	<b>Minimum Quantum (MW) to be offered by seller</b>
1	01-10-2022 to 31-03-2023	0000 hours to 2400 hours	70	70

- 5.15. The Petitioner received bids from five (05) bidders at IPO stage and e-reverse auction was conducted on MSTC's portal on 15.02.2022. Since the rates discovered in e-Reverse Auction were on higher side, the Petitioner TPL asked all the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Based on final offers received from bidders, the Petitioner approached the Committee with all the details and in turn the Committee recommended to issue "Letter of Award" (LOA) to certain bidders.
- 5.16. We note that the Petitioner has submitted the tender bid documents (RFPs) dated 08.12.2021, 04.01.2022 & 02.02.2022 and draft PPAs along with the present Petition. We take cognizance of submission of the deviations with regard to 'Take or Pay' Penalty and 'Take or Pay' Quantum incorporated by the Petitioner in the RFPs and at Article 5.2.3 of the draft PPAs which were approved by the Commission in the Order dated 24.04.2017 in Petition No. 1636 of 2017.
- 5.17. We further note that the Petitioner has constituted a Standing Committee as per Clause 7.2 of the Guidelines for Short-Term (i.e., for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process (MoP Guidelines) vide Notification No. 23/25/2011/-R&R (Vol-III) dated 30<sup>th</sup> March, 2016 issued by Ministry of Power. As per Clause 11.2 of the MoP Guidelines and Clause 16 (a) of the GERC Guidelines issued by the Commission as quoted above, the Standing Committee constituted for evaluation of bids is required to submit appropriate certificate on conformity of the bid process evaluation according to the provisions of the RFP document. Further, as per Clause 11.3 of the MoP Guidelines, the Procurer for the purpose of transparency is required to make the bids public by indicating the tariff quoted by all the Bidders, after signing of the PPA or PPA becoming effective, whichever is later and while doing so, only the name of the Successful Bidder(s) to be made public and tariffs quoted by other Bidders to



be made public anonymously. The relevant provisions of the Guidelines of Ministry of Power and this Commission read as follows:

“ .....

*7. Bid submission and evaluation*

.....

*7.2 The Procurer shall constitute a Standing Committee for evaluation of the Bids.*

.....

*11. Contract award and conclusion:*

.....

*11.2. After the conclusion of bid process, the Standing Committee constituted for evaluation of RFP bids shall provide appropriate certification on conformity of the bid process evaluation according to the provisions of the RFP documents. The Procurer shall provide a certificate on the conformity of the bid process to these Guidelines to the Appropriate Commission.*

*11.3 For the purpose of transparency, the Procurer shall make the bids public by indicating the tariff quoted by all the Bidders, after signing of the PPA or PPA becoming effective, whichever is later. While doing so, only the name of the Successful Bidder(s) shall be made public and tariffs quoted by other Bidders shall be made public anonymously.*

.....”

- 5.18. In compliance to above, we observe that the Petitioner has submitted the Standing Committee Certificates dated 22.12.2021, 19.01.2022, & 25.02.2022 along with the Petition on affidavit. It is certified in said certificates by the Standing Committee that the bid evaluation process is done according to the provisions of the RFP documents and the bidding process is in conformity with the guidelines for Short-Term power procurement issued by the Ministry of Power vide Notification No. 23/25/2011-R&R dated 30<sup>th</sup> March, 2016 in respect of said requirement of power from 01.04.2022 to 31.03.2023. The aforesaid certificates also state that the bids were invited for different periods, with different quantum and time slots for the period from 01.04.2022 to 31.03.2023.

5.19. The relevant portion of the Standing Committee Certificate dated 22.12.2021 read as follows:

*“ Standing Committee Certificate*

**Standing Committee:**

- |                                       |          |
|---------------------------------------|----------|
| 1. Shri Kashyap Desai, Vice President | Chairman |
| 2. Shri Naimesh Shah, Vice President  | Member   |
| 3. Shri Mayank Gupta, Vice President  | Member   |

**Background**

Torrent Power Limited (TPL) decided to invite bids for supply of power for its license areas of Gujarat for following quantity and duration vide its tender no. Torrent Power Limited/Short/21-22/ET/82 dated 8<sup>th</sup> Dec'21:

Requisition	Period	Time slot (Hours)	Total Quantum (MW)	Minimum Quantum (MW) to be offered by seller
1	1st April'22 to 30th April'22	00 to 2400	300	50
2	1st April'22 to 30th April'22	09 to 2400	50	50
3	1st May'22 to 31st May'22	00 to 2400	300	50
4	1st May'22 to 31st May'22	09 to 2400	50	50
5	1st June'22 to 30th Sept'22	00 to 2400	300	50
6	1st June'22 to 30th Sept'22	09 to 2400	50	50

**Publication of tender**

TPL issued tender on DEEP portal of MSTC website on 8<sup>th</sup> Dec'21 and published the tender notice on 9<sup>th</sup> Dec'21 for procurement of Power on short term basis during 1<sup>st</sup> Apr'22 to 30<sup>th</sup> Sep'22 in the following newspapers:

1. Business Standard (All Edition-Eng.): Delhi, Lucknow, Chandigarh, Kolkata, Bhubaneswar, Mumbai, Pune, Ahmedabad, Chennai, Kochi, Bangalore, Hyderabad
2. Mint- All Edition: Ahmedabad, Mumbai, Delhi, Kolkata, Chennai, Bangalore, Hyderabad, (Chandigarh & Pune - Satellite editions)

## ***Bid evaluation***

Bids from thirteen bidders were received at IPO stage. E-reverse auction was conducted on MSTC's portal on 16<sup>th</sup> Dec'21. The result of e-reverse auction is as under:

<b>Sn</b>	<b>Month</b>	<b>Time Slot</b>	<b>Requested Qty (MW)</b>	<b>Bidder/Ref. No.</b>	<b>Quantity (MW)</b>	<b>Price (Rs / kWh)</b>
1	Apr'22	RTC	300	Tata Trading /74176	100	4.64
				Manikaran /78172	50	
				PTC India /74493	50	
				Tata Trading /74213	80	4.70
				PTC India /74491	20	4.79
2	Apr'22	09 hrs to 24 hrs	50	PTC India /77584	50	5.58
3	May'22	RTC	300	Manikaran /78172	50	4.64
				PTC India /74493	50	
				Tata Trading /74176	100	
				Tata Trading /74213	80	4.70
				PTC India /74491	20	4.79
4	May'22	09 hrs to 24 hrs	50	PTC India /77584	50	5.59
5	Jun'22 to Sep'22	RTC	300	PTC India /74493	50	4.86
				PTC India /74491	100	
				Tata Trading /74176	100	
				Manikaran /78172	50	
6	Jun'22 to Sep'22	09 hrs to 24 hrs	50	PTC India /77584	50	5.65

Since the rate discovered in e-Reverse Auction were on higher side, TPL asked all bidders to submit their best offer in terms of reduction in rate and increase in quantum.

Outcome:

### **1. Tata Power Trading Company Limited:**

**Generation source 1 (Jindal Power Limited):**

<b>Month</b>	<b>Duration(hrs)</b>	<b>RA Offer (Rs/kWh)</b>	<b>Revised Offer (Rs/kWh)</b>
April'22	00:00-24:00	4.64	4.62
May'22	00:00-24:00	4.64	4.62
Jun'22 to Sep'22	00:00-24:00	4.86	4.84

**Generation source 2 (Tata Power Haldia):**

<b>Month</b>	<b>Duration(hrs)</b>	<b>RA Offer (Rs/kWh)</b>	<b>Revised Offer (Rs/kWh)</b>
April'22	00:00-24:00	4.70	4.66

May'22	00:00-24:00	4.70	4.66
--------	-------------	------	------

2. PTC India Limited:

Generation source 1 (MB Power Limited):

Month	Duration(hrs)	RA Offer (Rs/kWh)	Revised Offer (Rs/kWh)
April'22	00:00-24:00	4.64	4.62
May'22	00:00-24:00	4.64	4.62
Jun'22 to Sep'22	00:00-24:00	4.86	4.84

Generation source 2 (SEMBCORP):

Month	Duration	RA Offer (Rs/kWh)	Revised Offer (Rs/kWh)
April'22	00:09-24:00	5.58	5.25
May'22	00:09-24:00	5.59	5.25
Jun'22 to Sep'22	00:09-24:00	5.65	5.25

Generation source 3 (Jaypee Nigrie):

Month	Duration	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
April'22	00:00-24:00	20	4.79	100	4.75
May'22	00:00-24:00	20	4.79	100	4.75
Jun'22 to Sep'22	00:00-24:00	100	4.86	100	4.84

3. Manikaran Power Limited:

Generation source (DB Power Limited):

Month	Duration (Hrs.)	RA offer (Rs/kWh)	Revised offer (Rs/kWh)
April'22	00:00-24:00	4.64	4.62
May'22	00:00-24:00	4.64	4.62

Based on final offers received TPL approached the Committee and Committee recommended to issue Letter of Award (LOA) to following bidders:

Sn	Month	Time Slot	Name of Bidder/Ref. No.	Quantity (MW)	Price (Rs / kWh)
1	Apr'22	RTC	Tata Trading /74176	100	4.62
			Manikaran /78172	50	
			PTC India /74493	50	
			Tata Trading /74213	80	4.66
			PTC India /74491	100	4.75
2	Apr'22	0900 hrs to 2400 hrs	PTC India /77584	50	5.25
3	May'22	RTC	Manikaran /78172	50	4.62

			PTC India /74493	50	
			Tata Trading /74176	100	
			Tata Trading /74213	80	4.66
			PTC India /74491	100	4.75
4	May'22	0900 hrs to 2400 hrs	PTC India /77584	50	5.25
5	Jun'22 to Sep'22	RTC	PTC India /74493	50	4.84
			PTC India /74491	100	
			Tata Trading /74176	100	4.86
			Manikaran /78172	50	
6	Jun'22 to Sep'22	0900 hrs to 2400 hrs	PTC India /77584	50	5.25

The Committee hereby certifies that the bid process evaluation is done according to the provisions of the RfP documents and the bidding process is in conformity with the Guideline for short term power procurement issued by Ministry of Power vide notification no 23/25/2011-R&R dated 30<sup>th</sup> March 2016.

Sd/-

Kashyap Desai  
Chairman

Date: 22<sup>nd</sup> Dec'21  
Place: Ahmedabad

.....”

Sd/-

Naimesh Shah  
Member

Sd/-

Mayank Gupta  
Member

5.20. The relevant portion of the Standing Committee Certificate dated 19.01.2022 read as follows:

“ Standing Committee Certificate

**Standing Committee:**

- |                                       |          |
|---------------------------------------|----------|
| 1. Shri Kashyap Desai, Vice President | Chairman |
| 2. Shri Naimesh Shah, Vice President  | Member   |
| 3. Shri Mayank Gupta, Vice President  | Member   |

**Background**

Torrent Power Limited (TPL) decided to invite bids for supply of power for its license areas of Gujarat for following quantity and duration vide its tender no. Torrent Power Limited/Short/21-22/ET/104 dated 4<sup>th</sup> January, 2022:

Requisition	Period	Time slot (Hours)	Total Quantum (MW)	Minimum Quantum (MW) to be offered by seller
1	1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	00 to 24	150	50

2	1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	09 to 24	300	50
3	1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	00 to 24	150	50
4	1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	09 to 24	400	50
5	1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	00 to 24	350	50
6	1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	09 to 24	400	50
7	1 <sup>st</sup> Jul'22 to 30 <sup>th</sup> Nov'22	00 to 24	150	50
8	1 <sup>st</sup> Jul'22 to 31 <sup>st</sup> Dec'22	09 to 24	300	50
9	1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00 to 24	250	50
10	1 <sup>st</sup> Nov'22 to 31 <sup>st</sup> Mar'23	07 to 22	50	50

### **Publication of tender**

TPL issued tender on DEEP portal of MSTC website on 4<sup>th</sup> January, 2022 and published the tender notice on 5<sup>th</sup> January, 2022 for procurement of Power on short term basis during 1<sup>st</sup> April, 2022 to 31<sup>st</sup> March, 2023 in the following newspapers:

1. Business Standard (All Edition-Eng.): Delhi, Lucknow, Chandigarh, Kolkata, Bhubaneswar, Mumbai, Pune, Ahmedabad, Chennai, Kochi, Bangalore, Hyderabad
2. Mint- All Edition: Ahmedabad, Mumbai, Delhi, Kolkata, Chennai, Bangalore, Hyderabad, (Chandigarh & Pune - Satellite editions)

### **Bid evaluation**

Bids from 14 bidders were received at IPO stage. E-reverse auction was conducted on MSTC's portal on 12<sup>th</sup> January, 2022. The result of e-reverse auction is as under:

<b>Sn</b>	<b>Month</b>	<b>Time Slot</b>	<b>Requested Qty (MW)</b>	<b>Bidder/Ref. No.</b>	<b>Quantity (MW)</b>	<b>Price (Rs/kWh)</b>
1	1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	RTC	150	NTPC Vidyut Vyapar Nigam Limited/ 74838	100	4.49
				PTC India Limited/77584	50	
2	1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	09 hrs to 24 hrs	300	PTC India Limited/77587	50	5.75
				PTC India Limited/77585	100	
				PTC India Limited/74493	50	
				Tata Power Trading Co	50	5.80

<b>Sn</b>	<b>Month</b>	<b>Time Slot</b>	<b>Requested Qty (MW)</b>	<b>Bidder/Ref. No.</b>	<b>Quantity (MW)</b>	<b>Price (Rs/kWh)</b>
				Ltd/74176		
				Tata Power Trading Co Ltd/74242	50	6.25
3	1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	RTC	150	PTC India Ltd/77586	100	4.49
				PTC India Ltd/77584	50	
4	1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	09 hrs to 24 hrs	400	PTC India Limited/77585	100	5.75
				PTC India Limited/77587	50	
				PTC India Limited/74493	50	
				Tata Power Trading Co Ltd/74176	50	5.80
				Tata Power Trading Co Ltd/74242	60	6.25
				Tata Power Trading Co Ltd/74185	50	
5	1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	RTC	350	NTPC Vidyut Vyapar Nigam Limited/ 74838	100	4.61
				PTC India Limited/77584	50	
				PTC India Limited/77586	50	
				Tata Power Trading Co Ltd/74212	150	4.65
6	1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	09 hrs to 24 hrs	400	PTC India Limited/77587	50	5.98
				Tata Power Trading Co Ltd/74176	50	
				PTC India Ltd/74493	50	
				PTC India Ltd/77585	100	5.99
				Tata Power Trading Co Ltd/74185	50	6.25
				Tata Power Trading Co Ltd/74242	60	
7	1 <sup>st</sup> Jul'22 to 30 <sup>th</sup> Nov'22	RTC	150	PTC India Ltd/77584	50	4.6
				NTPC Vidyut Vyapar Nigam Limited/ 74838	50	
				PTC India Ltd/74489	50	
8	1 <sup>st</sup> Jul'22 to 31 <sup>st</sup> Dec'22	09 hrs to 24 hrs	300	PTC India Ltd/77585	100	6.65
				PTC India Ltd/74493	50	
				Tata Power Trading Co Ltd/74176	50	6.66
				PTC India Ltd/77587	50	
				Tata Power Trading Co Ltd/74242	50	

Sn	Month	Time Slot	Requested Qty (MW)	Bidder/Ref. No.	Quantity (MW)	Price (Rs/kWh)
9	1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	RTC	250	NTPC Vidyut Vyapar Nigam Limited/ 74838	50	4.72
				PTC India Ltd/77586	50	
				PTC India Ltd/77584	100	4.73
				PTC India Ltd/74489	50	
10	1 <sup>st</sup> Nov'22 to 31 <sup>st</sup> Mar'23	07 hrs to 22 hrs	50	Tata Power Trading Co Ltd/74176	50	5.59

Since the rate discovered in e-Reverse Auction were on higher side, TPL asked all bidders to submit their best offer in terms of reduction in rate and increase in quantum.

Outcome:

### 3. PTC India Limited:

#### Generation source 1 (Jaypee Nigrie STPP/74489)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	00:00-24:00	-	-	100	4.45
	09:00-24:00	50	5.75	50	5.63
1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	00:00-24:00	-	-	100	4.45
	09:00-24:00	50	5.75	50	5.63
1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	00:00-24:00	-	-	100	4.57
	09:00-24:00	50	5.98	50	5.86
1 Jul'22 to 30 <sup>th</sup> Nov'22	00:00-24:00	50	4.6	100	4.56
	09:00-24:00	50	6.65	50	6.53
1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00:00-24:00	50	4.73	100	4.68
	07:00-22:00	-	-	50	5.49

#### Generation source 2 (Jindal Power Limited/77584)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	00:00-24:00	50	4.49	50	4.45
	09:00-24:00	100	5.75	100	5.63
1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	00:00-24:00	50	4.49	50	4.45
	09:00-24:00	100	5.75	100	5.63
1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	00:00-24:00	50	4.61	100	4.57
	09:00-24:00	100	5.99	100	5.86
1 Jul'22 to 30 <sup>th</sup> Nov'22	00:00-24:00	50	4.6	50	4.56
	09:00-24:00	100	6.65	100	6.53
1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00:00-24:00	100	4.73	100	4.68
	07:00-22:00	-	-	50	5.70

#### Generation source 3 (DB Power Limited/77586)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)



1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	00:00-24:00	-	-	75	4.45
	09:00-24:00	50	5.75	50	5.63
1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	00:00-24:00	100	4.49	100	4.45
	09:00-24:00	50	5.75	50	5.63
1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	00:00-24:00	50	4.61	50	4.57
	09:00-24:00	50	5.98	50	5.86
1 Jul'22 to 30 <sup>th</sup> Nov'22	00:00-24:00	-	-	50	4.60
	09:00-24:00	50	6.66	50	6.65
1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00:00-24:00	50	4.72	50	4.68
	07:00-22:00	-	-	50	5.49

4. Tata Power Trading Company Limited:

Generation source 1 (GoHP share of power in Hydro Electric Power Plant located in Himachal Pradesh/74212):

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	00:00-24:00	150	4.65	150	4.61

Generation source 2 (Sembcorp Energy India Limited/74176)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	09:00-24:00	50	5.80	50	5.63
1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	09:00-24:00	50	5.80	50	5.63
1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	09:00-24:00	50	5.98	50	5.86
1 Jul'22 to 30 <sup>th</sup> Nov'22	09:00-24:00	50	6.65	50	6.53
1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	07:00-22:00	50	5.59	50	5.59

Generation source 3 (Nava Bharat Energy India Limited/74242)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	09:00-24:00	50	6.25	50	5.63
1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	09:00-24:00	60	6.25	50	5.63
1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	09:00-24:00	60	6.25	50	5.86
1 Jul'22 to 30 <sup>th</sup> Nov'22	09:00-24:00	50	7.00	80	6.53

Generation source 4 (Nava Bharat Ventures Limited/74185)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	09:00-24:00	50	6.25	50	6.25
1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	09:00-24:00	50	6.25	50	5.98

5. NTPC Vidyut Vyapar Nigam Limited:

Generation source (Jhabua Power Limited/74838)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	00:00-24:00	100	4.49	100	4.45
1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	00:00-24:00	-	-	50	4.45
1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	00:00-24:00	100	4.61	100	4.57
1 Jul'22 to 30 <sup>th</sup> Nov'22	00:00-24:00	50	4.61	50	4.56
1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00:00-24:00	50	4.72	50	4.68

Based on final offers received TPL approached the Committee and Committee recommended to issue Letter of Award (LOA) for RTC power for 1<sup>st</sup> April, 2022 to 30<sup>th</sup> November, 2022 to following bidders:

Sn	Month	Time Slot	Bidder/Ref. No.	Quantity (MW)	Price (Rs/kWh)
1	1 <sup>st</sup> Apr'22 to 30 <sup>th</sup> Apr'22	RTC	PTC India Limited/77584	50	4.45
			PTC India Limited/77586	75	
			PTC India Limited/74489	100	
			NTPC Vidyut Vyapar Nigam Limited/74838	100	
2	1 <sup>st</sup> May'22 to 31 <sup>st</sup> May'22	RTC	PTC India Limited/77584	50	4.45
			PTC India Limited/77586	100	
			PTC India Limited/74489	100	
			NTPC Vidyut Vyapar Nigam Limited/74838	50	
3	1 <sup>st</sup> Jun'22 to 30 <sup>th</sup> Jun'22	RTC	PTC India Limited/77584	100	4.57
			PTC India Limited/77586	50	
			PTC India Limited/74489	100	
			NTPC Vidyut Vyapar Nigam Limited/74838	100	4.61
			Tata Trading Power Trading Co Ltd/74212	150	
4	1 <sup>st</sup> Jul'22 to	RTC	PTC India Limited/77584	50	4.56

	30 <sup>th</sup> Nov'22	PTC India Limited/74489	100
		NTPC Vidyut Vyapar Nigam Limited/ 74838	50

The Committee hereby certifies that the bid process evaluation is done according to the provisions of the RfP document and the bidding process is in conformity with the Guideline for short term power procurement issued by Ministry of Power vide notification no 23/25/2011-R&R dated 30<sup>th</sup> March 2016.

Sd/-  
Kashyap Desai  
Chairman

Sd/-  
Naimesh Shah  
Member

Sd/-  
Mayank Gupta  
Member

Date: 19<sup>th</sup> Jan'22  
Place: Ahmedabad

.....”

5.21. The relevant portion of the Standing Committee Certificate dated 25.02.2022 read as follows:

“ Standing Committee Certificate

### **Standing Committee Certificate**

#### **Standing Committee:**

- |                                       |          |
|---------------------------------------|----------|
| 1. Shri Kashyap Desai, Vice President | Chairman |
| 2. Shri Naimesh Shah, Vice President  | Member   |
| 3. Shri Mayank Gupta, Vice President  | Member   |

#### **Background**

Torrent Power Limited (TPL) decided to invite bids for supply of power for its license areas of Gujarat for following quantity and duration vide its tender no. Torrent Power Limited/Short/21-22/ET/121 dated 2<sup>nd</sup> February, 2022:

Requisition	Period	Time slot (Hours)	Total Quantum (MW)	Minimum Quantum (MW) to be offered by seller
1	1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00 to 24	70	70

#### **Publication of tender**

TPL issued tender on DEEP portal of MSTC website on 2<sup>nd</sup> February, 2022 and published the tender notice on 3<sup>rd</sup> February, 2022 for procurement of Power on short term basis during 1<sup>st</sup> October, 2022 to 31<sup>st</sup> March, 2023 in the following newspapers:

1. Business Standard (All Edition-Eng.): Delhi, Lucknow, Chandigarh, Kolkata, Bhubaneswar, Mumbai, Pune, Ahmedabad, Chennai, Kochi, Bangalore, Hyderabad

2. Mint- All Edition: Ahmedabad, Mumbai, Delhi, Kolkata, Chennai, Bangalore, Hyderabad, (Chandigarh & Pune - Satellite editions)

### **Bid evaluation**

Bids from 5 bidders were received at IPO stage. E-reverse auction was conducted on MSTC's portal on 15<sup>th</sup> February, 2022. The result of e-reverse auction is as under:

Sn	Period	Time Slot	Requested Qty (MW)	Bidder/Ref. No.	Quantity (MW)	Price (Rs/kWh)
1	1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00 hrs to 24 hrs	70	Tata Power Trading Co Ltd/74187	70	4.75
				PTC India Limited/74488	70	4.75
				PTC India Limited/74490	70	4.90
				PTC India Limited/74489	70	5.50

Since the rates discovered in e-Reverse Auction were on higher side, TPL asked all bidders to submit their best offer in terms of reduction in rate and increase in quantum.

Outcome:

#### 1. PTC India Limited

Generation source 1 (SKS Power Generation Chhattisgarh Limited / 74488)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00 hrs to 24 hrs	70	4.75	70	4.70

Generation source 2 (DB Power Limited / 74490)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00 hrs to 24 hrs	70	4.90	No change (As quoted during eRA)	

Generation source 3 (Jaypee Nigrie Super Thermal Power Plant / 74489)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer (Rs/kWh)	Quantum (MW)	Offer (Rs/kWh)
1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00 hrs to 24 hrs	70	5.5	No change (As quoted during eRA)	

#### 2. Tata Power Trading Co Ltd

Generation source (Jindal Power Limited/ 74187)

Month	Duration (hrs)	RA Offer		Revised Offer	
		Quantum (MW)	Offer	Quantum	Offer

			(Rs/kWh)	(MW)	(Rs/kWh)
1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	00 hrs to 24 hrs	70	4.75	No change (As quoted during eRA)	

Based on final offers received TPL approached the Committee and Committee recommended to issue LOA to following bidders:

Sn	Month	Time Slot	Bidder/Ref. No.	Quantity (MW)	Price (Rs/kWh)
1	1 <sup>st</sup> Oct'22 to 31 <sup>st</sup> Mar'23	RTC	PTC India Limited/74488	70	4.70
2		RTC	Tata Power Trading Co Ltd/74187	70	4.75

The Committee hereby certifies that the bid process evaluation is done according to the provisions of the RfP document and the bidding process is in conformity with the Guideline for short term power procurement issued by Ministry of Power vide notification no 23/25/2011-R&R dated 30<sup>th</sup> March, 2016.

Sd/-  
Kashyap Desai  
Chairman

Sd/-  
Naimesh Shah  
Member

Sd/-  
Mayank Gupta  
Member

Date: 25<sup>th</sup> February, 2022  
Place: Ahmedabad

.....”

From the above it is observed that the Standing Committee in its respective Certificates has confirmed that the tender notices were published in the newspapers, viz, (i) Business Standard (All Editions): Delhi, Lucknow, Chandigarh, Kolkata, Bhubaneswar, Mumbai, Pune, Ahmedabad, Chennai, Kochi, Bangalore, Hyderabad and (ii) Mint (All Editions): Ahmedabad, Mumbai, Delhi, Kolkata, Chennai, Bangalore, Hyderabad, (Chandigarh & Pune – Satellite Editions).

- 5.22. The aforesaid certificates dated 22.12.2021, 19.01.2022 & 25.02.2022 issued by the Standing Committee states that bids were invited for supply of power during 01.04.2022 to 31.03.2022 for its license areas of Ahmedabad/Gandhinagar, Surat, Dahej SEZ and Dholera SIR of Gujarat for specified quantity for the aforesaid durations.
- 5.23. The first Certificate of Standing Committee dated 22.12.2021 states that bids were received from 13 bidders and thereafter e-reverse auction was conducted on MSTC's Portal on 16.12.2021. It also states that the rates discovered in e-Reverse Auction

were on higher side and therefore, the Petitioner TPL asked all bidders to submit their best offer in terms of reduction in rate and increase in quantum. It appears from the above certificate that revised offers were submitted by M/s Tata Power Trading Company Limited with generation source as Jindal Power Limited by revising rate with reduction of Rs. 0.02/unit for RTC power up to end of September - 2022 while in case of generation source as Tata Power Haldia by revising rate with reduction of Rs. 0.04/unit for RTC power up to end of May- 2022. It also seems from the certificate that revised offers were submitted by M/s PTC India Limited with generation source as MB Power Limited by revising rate with reduction of Rs. 0.02/unit for RTC power for April-2022 to September-2022 while in case of generation source as SEMBCORP by revising rate for power during 09:00 to 24:00 with reduction of Rs. 0.33/unit in April-2022, Rs. 0.34/unit in May-2022 and reduction of Rs. 0.40/unit from June-2022 to September-2022. Similarly, in case of generation source as Jaypee Nigrie for RTC power by revising rate with reduction of Rs. 0.04/unit and increase in quantum of 80 MW (i.e. from 20 MW to 100 MW) up to end of May-2022 and reduction of Rs. 0.02/unit for June-2022 to September-2022. Moreover, it also transpires that revised offers were submitted by Manikaran Power Limited with generation source as DB Power Limited by revising rate with reduction of Rs. 0.02/unit for RTC power upto May-2022. However, it appears that Manikaran Power Limited has not offered any reduction in rate of Rs. 4.86/unit for RTC power for the period from 01.06.2022 to 30.09.2022.

- 5.24. The Second Certificate of Standing Committee dated 19.01.2022 states that bids were received from 14 bidders at IPO stage and thereafter e-reverse auction was conducted on MSTC's Portal on 12.01.2022. It also states that the rates discovered in e-Reverse Auction were on higher side and therefore, the Petitioner TPL asked all bidders to submit their best offer in terms of reduction in rate and increase in quantum. It appears from the above certificate that revised offers were submitted by M/s PTC India Limited with generation source -1 as Jaypee Nigrie by revising rate with reduction of Rs. 0.12 paisa per unit for power during 09:00 to 24:00 hrs. from April-2022 upto June-2022. Moreover, for RTC power the revised rate with reduction of Rs. 0.04/unit and increase in quantum of 50 MW (i.e. from 50 MW to 100 MW) for the months from July-2022 to November-2022. Also, for power during 09:00 to 24:00 hrs. the revised rate with reduction of Rs. 0.12/unit for the months from July-

2022 to November-2022 is offered. Further, for the period from October-2022 to March-2023 for RTC power the revised rate with reduction of Rs. 0.05/unit and increase in quantum of 50 MW (i.e. from 50 MW to 100 MW) is offered. In case of generation source - 2 as Jindal Power Limited, revised rate with reduction of Rs. 0.04/unit for RTC power during the period April to May-2022 is offered, whereas for power during 09:00 to 24:00 hrs. in months of April & May-2022, reduction in rate of Rs. 0.12/unit is offered. Moreover, for RTC power during the month of June-2022 revised rate with reduction of Rs. 0.04/unit and increase in quantum of 50 MW (i.e. from 50 MW to 100 MW) is offered and for power during 09:00 to 24:00 hrs. reduction in rate of Rs. 0.12/unit is offered. For the period from July-2022 to November-2022 for RTC power reduction in rate offered is Rs. 0.04/unit and for power during 09:00 to 24:00 hrs. reduction in rate of Rs. 0.12/unit is offered. Also, for the period from October-2022 to March-2023 reduction in rate of Rs. 0.05/unit for RTC power is offered. Similarly, in the case of generation source as DB Power Limited, for power during 09:00 to 24:00 hrs. in April-2022 reduction in rate of Rs. 0.12/unit is offered. For RTC power during May-2022 & June-2022 and during October-2022 to March-2023, revised rate with reduction of Rs. 0.04/unit is offered. For power during 09:00 to 24:00 hrs. during May-2022 and June-2022 reduction in rate of Rs. 0.12/unit is offered whereas during the period from July-2022 to November-2022 revised rate with reduction of Rs. 0.01/unit is offered. Moreover, M/s Tata Power Trading Company Limited with generation source -1 (GoHP share of power in Hydro Electric Power Plant at Himachal Pradesh) has offered RTC power by revising rate with reduction of Rs. 0.04/unit for June -2022. While in case of generation source -2 as SEMBCORP Energy India Limited for power during 09:00 to 24:00 hrs. revised rate with reduction of Rs. 0.17/unit is offered for the period from April 2022 to May 2022, whereas; for June-2022 to November-2022 revised rate with reduction of Rs. 0.12/unit is offered. However, for the power during 07:00 to 22:00 hrs. from October 2022 to March 2023 no reduction in rate is offered. It also emerges from the certificate that in case of generation source -3 as Nava Bharat Energy India Limited for power during 09:00 to 24:00 hrs. in months of April-2022 & May-2022 revised rate with reduction of Rs. 0.62/unit is offered but in May-2022 there is reduction in quantum of 10 MW (i.e. from 60 MW to 50 MW). For power during 09:00 to 24:00 hrs. in month of June-2022 revised rate with reduction of Rs. 0.39/unit is offered with reduction in quantum of 10 MW (i.e. from 60 MW to 50

MW). Also, during July-2022 to November-2022, increase in quantum of 30 MW (i.e. from 50 MW to 80 MW) is offered with revised rate by reduction of Rs. 0.47/unit. While in case of generation source - 4 as Nava Bharat Ventures India Limited by revising rate with reduction of Rs. 0.27/unit during June -2022 is offered for time period from 09:00 hrs. to 24:00 hrs. It is also observed that NTPC Vidhyut Vyapar Nigam Limited with its generation source as Jhabua Power Limited has offered revised rate for RTC power with reduction of Rs. 0.04/unit for the months of April-2022 & June-2022 and period from October-2022 to March-2023, whereas; for period from July-2022 to November-2022 revised rate with reduction of Rs. 0.05/unit is offered.

5.25. The third Certificate of Standing Committee dated 25.02.2022 states that bids were received from 05 bidders and thereafter e-reverse auction was conducted on MSTC's Portal on 15.02.2022. It also states that the rates discovered in e-Reverse Auction were on higher side and therefore, the Petitioner TPL asked all bidders to submit their best offer in terms of reduction in rate and increase in quantum. It appears from the above certificate that revised offers were submitted by M/s PTC India Limited with generation source- 1 as SKS Power Generation Chhattisgarh Limited for RTC power by revising rate with reduction of Rs. 0.05/unit for the period from October-2022 to March-2023. While in case of generation source -2 as DB Power Limited for RTC power there is no change in quoted rate of Rs. 4.90/unit during e-reverse auction for the period from October-2022 to March-2023. Similarly, in case of generation source - 3 as Jaypee Nigrie Super Thermal Power Plant also, the rate of Rs. 5.50/unit quoted during e-reverse auction is not changed for RTC power during the period from October-2022 to March-2023. Moreover, it also transpires that revised offers were submitted by Tata Power Trading Co. Limited with generation source as Jindal Power Limited, wherein, the rate of Rs. 4.75/unit is not revised for the period from October-2022 to March-2023. Accordingly, Committee has recommended to issue LOA to (i) M/s PTC India Limited for 70 MW RTC power @ Rs. 4.70/unit for 01.10.2022 to 31.03.2023 and (ii) Tata Power Trading Co. Limited for 70 MW RTC power @ Rs. 4.75/unit for 01.10.2022 to 31.03.2023.

5.26. The aforesaid certificates also states that based on the final revised offer received, the Petitioner TPL approached the Committee and the Committee decided to issue Letter of Award to bidders as per tables stated in respective certificates as above viz.



Manikaran Power Limited, PTC India Limited, Tata Power Trading Company Limited, and NTPC Vidyut Vyapar Nigam Limited. Accordingly, the Petitioner issued Letter of Awards dated 22.12.2021, 19.01.2022 & 25.02.2022 filed with the Petition to the bidders as under:

Period	MSTC No.	Time Duration	Bidders	Injecting Source	Quantity (MW)	Rate at GETCO Periphery (Rs./kWh)
01.04.2022 to 30.04.2022	77584	00:00 to 24:00 Hours	PTC India Limited	Jindal Power Limited	50	4.45
	77586		PTC India Limited	DB Power Limited	75	
	74489		PTC India Limited	Jaypee Nigrie STPP	100	
	74838		NTPC Vidyut Vyapar Nigam Limited	Jhabua Power Limited	100	
	74176		Tata Power Trading Company Limited	Jindal Power Limited	100	4.62
	78172	Manikaran Power Limited	DB Power Limited	50		
	74493	PTC India Limited	MB Power MP Limited	50		
	74213	Tata Power Trading Company Limited	Tata Power Haldia	80	4.66	
	74491	PTC India Limited	Jaypee Nigrie STPP	100	4.75	
	77584	00:90 to 24:00 Hours	PTC India Limited	Sembcorp Energy India Limited	50	5.25
01.05.2022 to 31.05.2022	77584	00:00 to 24:00 Hours	PTC India Limited	Jindal Power Limited	50	4.45
	77586		PTC India Limited	DB Power Limited	100	
	74489		PTC India Limited	Jaypee Nigrie STPP	100	
	74838		NTPC Vidyut Vyapar Nigam Limited	Jhabua Power Limited	50	4.62
	78172		Manikaran Power Limited	DB Power Limited	50	
	74493		PTC India Limited	MB Power MP Limited	50	
	74176		Tata Power	Jindal Power	100	

Period	MSTC No.	Time Duration	Bidders	Injecting Source	Quantity (MW)	Rate at GETCO Periphery (Rs./kWh)
			Trading Company Limited	Limited		
	74213		Tata Power Trading Company Limited	Tata Power Haldia	80	4.66
	74491		PTC India Limited	Jaypee Nigrie STPP	100	4.75
	77584	00:90 to 24:00 Hours	PTC India Limited	Sembcorp Energy India Limited	50	5.25
01.06.2022 to 30.06.2022	77584	00:00 to 24:00 Hours	PTC India Limited	Jindal Power Limited	100	4.57
	77586		PTC India Limited	DB Power Limited	50	
	74489		PTC India Limited	Jaypee Nigrie STPP	100	
	74838		NTPC Vidyut Vyapar Nigam Limited	Jhabua Power Limited	100	
	74212		Tata Power Trading Company Limited	GoHP share in Hydro Electric Powerplant, HP	150	4.61
01.06.2022 to 30.09.2022	74493	00:00 to 24:00 Hours	PTC India Limited	MB Power MP Ltd.	50	4.84
	74491		PTC India Limited	Jaypee Nigrie STPP	100	
	74176		Tata Power Trading Company Limited	Jindal Power Limited	100	
	78172		Manikaran Power Limited	DB Power Limited	50	4.86
	77584	00:90 to 24:00 Hours	PTC India Limited	Sembcorp Energy India Limited	50	5.25
01.07.2022 to 30.11.2022	77584	00:00 to 24:00 Hours	PTC India Limited	Jindal Power Limited	50	4.56
	74489		PTC India Limited	Jaypee Nigrie STPP	100	
	74838		NTPC Vidyut Vyapar Nigam Limited	Jhabua Power Limited	50	

Period	MSTC No.	Time Duration	Bidders	Injecting Source	Quantity (MW)	Rate at GETCO Periphery (Rs./kWh)
01.10.2022 to 31.03.2022	74488	00:00 to 24:00 Hours	PTC India Limited	SKS Power Generation Chhattisgarh Limited	70	4.70
	74187		Tata Power Trading Co. Limited	Jindal Power Limited	70	4.75

5.27. We also note that the Ministry of Power has notified the Electricity (Late Payment Surcharge) Rules, 2021. The Rules have come into force on the date of their publication in the Official Gazette i.e., 22.02.2021. The said Rules read as under:

“ .....

2 Application. -

.....

(b) such Power Purchase Agreements, Power Supply Agreements and Transmission Service Agreements that become effective after these rules come into force, in which tariff is determined under section 63 of the Act.

3. Definitions. - (1) In these rules, unless the context otherwise requires, -

(a) “Act” means the Electricity Act, 2003 (36 of 2003);

(b) “base rate of Late Payment Surcharge” means the marginal cost of funds based lending rate for one year of the State Bank of India, as applicable on the 1st April of the financial year in which the period lies, plus five percent and in the absence of marginal cost of funds based lending rate, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify:

*Provided that if the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years;*

(c) “due date” means the date by which the bill for the charges for power supplied by the generating company or electricity trader or for the transmission service provided by a transmission licensee are to be paid, in accordance with the Power Purchase Agreement, Power Supply Agreement or Transmission Service Agreement, as the case may be, and if not specified in the agreement, forty-five days from the date of presentation of the bill by such generating company, electricity trader or transmission licensee;

- (d) *“Late Payment Surcharge” means the charges payable by a distribution company to a generating company or electricity trader for power procured from it, or by a user of a transmission system to a transmission licensee on account of delay in payment of monthly charges beyond the due date;*
- (2) *Words and expressions used and not defined herein but defined in the Act shall have the meaning respectively assigned to them in the Act.*

4. *Late Payment Surcharge.*

- (1) *Late Payment Surcharge shall be payable on the payment outstanding after the due date at the base rate of Late Payment Surcharge applicable for the period for the first month of default.*
- (2) *The rate of Late Payment Surcharge for the successive months of default shall increase by 0.5 percent for every month of delay provided that the Late Payment Surcharge shall not be more than 3 percent higher than the base rate at any time:*

*Provided that the rate at which Late Payment Surcharge shall be payable shall not be higher than the rate specified in the agreement for purchase or transmission of power, if any:*

*Provided further that, if a distribution licensee has any payment including Late Payment Surcharge outstanding against a bill after the expiry of seven months from the due date of the bill, it shall be debarred from procuring power from a power exchange or grant of short-term open access till such bill is paid.*

The aforesaid rules are statutory Rules notified under the Electricity Act, 2003. Therefore, it needs to be given an effect in the power procurement by the distribution licensee. We note that the Petitioner has made necessary changes in Article 5.3.3 of the draft Power Purchase Agreements as noted hereinafter.

- 5.28. We note that the Petitioner has specified at Clause 5.3.3 under Article 5 of the Draft Power Purchase Agreements filed with this Petition regarding Late Payment Surcharge in terms of Electricity (Late Payment Surcharge) Rules, 2021 notified by the Ministry of Power, Government of India which reads as under:

*“.....*

**5.3.3. LATE PAYMENT SURCHARGE**

- (1) *Late Payment Surcharge shall be payable on the payment outstanding after the 15<sup>th</sup> day of the date of receipt of bill, at the base rate of Late Payment Surcharge applicable for the period for the first month of default.*

*(2) The rate of Late Payment Surcharge for the successive months of default shall increase by 0.5 percent for every month of delay provided that the Late Payment Surcharge shall not be more than 3 percent higher than the base rate at any time:*

*Provided that the rate at which Late Payment Surcharge shall be payable under Article 5.3.3 (1) or Article 5.3.3 (2) shall not be higher than 15%.*

5.29. We also note that the Petitioner has defined 'base rate of Late Payment Surcharge' under Article 1 which reads as under:

*".....*

*"Base rate of Late Payment Surcharge" means the marginal cost of funds based lending rate for one year of the State Bank of India, as applicable on the 1<sup>st</sup> April of the financial year in which the period lies, plus five percent and in the absence of marginal cost of funds based lending rate, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify:*

*Provided that if the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years;"*

5.30. We also note that the Petitioner has incorporated deviations from the MoP bidding guidelines as approved by the Commission vide its Order dated 24.04.2017 in Petition No. 1636 of 2017 in Clause 5.2.3 of Article 5 pertaining to 'Billing & Payment' of the draft PPAs filed for availing better terms and flexibility to reduce the overall cost of power procurement which are as under:

*".....*

**5.2.3. Liquidated Damages:**

- a). *Both the parties would ensure that actual scheduling does not deviate by more than 20% of the contracted power as per the approved open access on calendar monthly basis.*
- b). *In case deviation from Procurer side is more than 20% of contracted energy for which open access has been allocated on calendar monthly basis,*

*Procurer shall pay compensation at Rs. 2.00 per kWh for the quantum, of shortfall in excess of permitted deviation of 20% in energy off-take while continuing to pay open access charges as per contract.*

- c). *In case deviation from Seller side is more than 20% of contracted energy for which open access has been allocated on calendar monthly basis, Seller shall pay compensation to Procurer at Rs. 2.00 per kWh for the quantum, of shortfall in excess of permitted deviation of 20% in energy supplied and pay for the open access charges to the extent of energy not supplied by the Seller.*

.....”

- 5.31. The Petitioner has filed certificates of the ‘Standing Committee’ mentioning that since the rate discovered in e-Reverse Auctions were on higher side and hence the Petitioner asked the bidders to submit their best offer in terms of reduction in rate and increase in quantum. Thereafter, the Petitioner approached the Committee and based on recommendations by the Standing Committee, the Petitioner has issued LoAs to successful bidders. Moreover, in its certificate, the Standing Committee has also certified and confirmed that the bid process evaluation has been done in accordance with the provisions of the RFPs documents and the bidding process carried out in conformity with the Guidelines for Short-Term Power Procurement issued by the Ministry of Power vide notification No. 23/25/2011- R&R dated 30<sup>th</sup> March, 2016. Thus, the Petitioner has complied with the requirement of the guidelines issued by the MoP as well as this Commission.
- 5.32. Based on the above, we decide that the process for procurement of power is carried out by the Petitioner in conformity with the Guidelines for Short-Term Procurement of Power by Distribution Licensee through Tariff based bidding, issued by the Ministry of Power vide Notification dated 30<sup>th</sup> March, 2016 and the Guidelines for Procurement of Power by Distribution Licensee issued by the Commission vide Notification No. 2 of 2013 dated 14<sup>th</sup> August, 2013.
- 5.33. We, therefore, decide to approve the procurement of power by the Petitioner for the period from 01.04.2022 to 31.03.2023 as per the recommendation of the Standing Committee constituted for bid evaluation as stated at para 5.23 above.

- 5.34. As already mentioned above, the Petitioner in terms of recommendations by the Standing Committee has issued 'Letter of Awards' (LoAs) dated 22.12.2021, 19.01.2022 & 25.02.2022 to the successful bidders viz, Manikaran Power Limited, PTC India Limited, Tata Power Trading Company Limited, and NTPC Vidyut Vyapar Nigam Limited.
6. In view of above, this Petition is allowed and it is decided to approve the above Short Term Power Purchase of day power (i.e., from 0900 hours to 2400 hours) and Round-the-Clock (RTC) power (i.e., from 0000 hours to 2400 hours) for the period 01.04.2022 to 31.03.2023 as recommended by the Standing Committee of Bid Evaluation. The Petitioner is directed to submit copies of duly executed PPAs to the Commission confirming on affidavit that the PPAs consist of terms and conditions in conformity as per the bidding guidelines documents and deviations approved by the Commission. It is also directed to the Petitioner that for the purpose of transparency, it shall make the bids public by indicating the tariff quoted by all the Bidders. While doing so, only the name of the Successful Bidder(s) shall be made public and tariffs quoted by other Bidders shall be made public anonymously in terms of Clause 11.3 of the Guidelines for short-term (i.e., for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process notified by Ministry of Power vide Notification No.23/25/2011-R&R dated 30<sup>th</sup> March, 2016.
7. With this, the present Petition stands disposed of.
8. We order accordingly.

**Sd/-**  
**[S. R. Pandey]**  
**Member**

**Sd/-**  
**[Mehul M. Gandhi]**  
**Member**

**Sd/-**  
**[Anil Mukim]**  
**Chairman**

Place: Gandhinagar.  
Date: 20/05/2022.