

**JOINT ELECTRICITY REGULATORY COMMISSION FOR
THE STATE OF GOA AND UNION TERRITORIES
GURGAON**

Coram
Dr. V. K. Garg, Chairperson
Shri R. K. Sharma, FIE Member

Petition No.....30/ 2011

In the matter of

Petition for seeking approval for the Power Purchase Agreement entered into with M/s NLC Ltd., Neyveli, Tamil Nadu.

And in the matter of:

Electricity Department, UT of Puducherry.
: Petitioner

Present

1. Sh. G Venkatesan, Superintending Engineer
2. Sh. D. Ravi, Executive Engineer

ORDER

11/03/2011

The matter relates to a petition submitted by Electricity Department Puducherry seeking the approval of the Commission under regulation 60 (C) of the JERC (Conduct of Business) regulations 2009, for the Power Purchase Agreement (PPA) entered into by the Electricity department Government of Puducherry (EDP) with M/S NLC Ltd., Neyveli tamil Nadu (NLC).

EDP has signed a PPA with NLC for purchase of power from their proposed 3x 660 MW capacity thermal power station at Sirkali in Nagapatinam district of Tamil Nadu for 50 MW limited to actual allocation made by Ministry of Power. The project is likely to be commissioned during 2016-17.

While signing the Agreement EPD has incorporated a condition that the PPA will be valid subject to approval of the JERC.

The agreement has been signed on 4.01.2011.

EDP has further stated that in view of the urgency expressed by the Generating Company (NLC) they entered into the PPA without taking approval of the

Commission as sufficient time was not available with them for the purpose because after 5.01.2011 they were no longer exempt from the Government of India tariff policy of procurement of power through bidding process.

In this respect the Commission observes as under.

Section 61 (Tariff regulations) subsection (i), a Commission shall, be guided by the National Electricity Policy and Tariff Policy while specifying the terms and conditions for the determination of tariff.

Clarification issued by Government of India Ministry of Power vide their letter No. 23/2/2005-R&R (Vol.-V) dated 9th December, 2010.

Section 86 (b), one of the functions of the state Commission is to regulate electricity purchase and procurement process of the distribution licensee including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.

Clause 60 (c) of the JERC (Conduct of Business) regulations 2009, states that the licensee shall apply to the Commission to approve the draft Power Purchase Agreement that the Licensee proposes to enter into. The Commission may pass orders:

- i. Approving the agreement; or
- ii. Approving the agreement with modifications proposed to the terms of the agreement or
- iii. Rejecting the agreement.

After having gone through the petition and various provisions/documents, few of which are mentioned above, The Commission observes as under:

The date of submission of the application for approval and date of approval in the instant case is important in view of the Ministry of Power letter dated 9.12.2011 mentioned above.

The petitioner's responsibility for approaching and obtaining the approval of the Commission at the appropriate time does not get diluted even if they have incorporated a provision that the PPA is subject to approval of the JERC.

The Commission also observes from the correspondence with NLC attached to the application, EDP had sufficient time to approach the Commission for consideration of their draft PPA under 60 (c).

Therefore the contention of the petitioner that in view of the urgency expressed by the Generating firm and as the time available was not sufficient to go through the process for obtaining approval of the appropriate Commission, the EDP had entered into PPA with NLC, for purchase of power from the proposed Power Project, is not tenable.

However the petitioner is given another opportunity to file additional justifications if any or any other reason as to why their petition should not be rejected.

The additional affidavit be filed on or before 25.03.2011

The matter shall be heard on 04.04.2011

sd/-
(R. K. SHARMA)
MEMBER

sd/-
(DR. V.K.GARG)
CHAIRPERSON