

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY
COMMISSION AT RANCHI**

Case No.13 of 2022

Adhunik Power and Natural Resources Ltd. Petitioner

Versus

Jharkhand Bijli Vitran Nigam Ltd. Respondent

**CORAM: HON'BLE SHRI MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE SHRI ATUL KUMAR, MEMBER (TECHNICAL)**

For the Petitioner: Mr. Ashwini Kumar Tak, Advocate & Mr. Eshan Singh,
Deputy Manager

For the Respondent: Mr. Mrinal Kanti Roy, Advocate and Ms. Anita Prasad-
DGM, JBVNL

Date-20th September 2022

1. The instant case has been brought by the petitioner Adhunik Power and Natural Resources Limited (APNRL) purported to be filed under Section 86 (1)(a), 86(1)(b) and Section 64(5) of the Electricity Act, 2003 read with Regulation 45 of the Jharkhand State Electricity Regulatory Commission (Conduct of Business) Regulations, 2016 for approval of the Draft Addendum No. 2 to the PPA dated 28.09.2012 (Principal PPA) to be executed between Jharkhand Bijli Vitran Nigam Limited and Adhunik Power and Natural Resources Ltd. in terms of the third round of auction of coal linkages under paragraph B(ii) of the Shakti Policy, 2017.
2. The Prayers of APNRL are as under:
 - a) Pass an order approving the Draft Addendum No. 2 to the PPA dated 28.09.2012 to be executed between Respondent and Petitioner in terms of the third round of auction of coal linkages under paragraph B(ii) of the Shakti Policy (Scheme of Harnessing and Allocating Koyala (Coal) Transparently on India), 2017;
 - a) Pass such other or further orders as the Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

Submission of the Petitioner:

3. That the Ministry of Coal, Government of India has notified the Scheme for Harnessing and Allocating Koyala (Coal) in India popularly known as SHAKTI Policy for the purpose of providing linkage coal to the Independent Power Producers (IPPs) having already concluded long term PPA with Discoms.

4. That as per the said Scheme, the grant of coal linkage on notified price from each source will be based on the discount offered by the power producer on the existing tariff for the balance period of the PPA. The discount would be computed with reference to linkage coal received and consumed under the SHAKTI scheme. Moreover, the discount offered by the generating companies would be adjusted from the gross amount of the monthly bill raised in terms of the PPA.
5. That Coal India Limited ('CIL') invited Expression of Interest under SHAKTI Scheme on 04.08.2017 and further issues a Scheme Document on 16.08.2017 for auction of coal linkage for IPPs having already concluded long term PPA.
6. That the Petitioner participated in the auction process under the SHAKTI scheme and offered a discount of three (3) paise per kWh for securing coal linkage for supply of 122.85 MW power under the PPA with the Respondent for 25 years and also for supply of 100 MW under the long term PPAs (15 years) with TANGEDCO through PTC India Ltd. (PTC) on back to back basis. Accordingly, the Central Coalfields Ltd ('CCL') issued Letter of Intent ('LOI') dated 21.12.2017 declaring the Petitioner as Provisional successful bidder against the above mentioned PPAs.
7. That in respect of 122.85 MW supply being made by the Petitioner to the Respondent, the Petitioner and Respondent executed a Supplementary Power Purchase Agreement dated 15.02.2018 for passing on the discount of 3 paise per kWh for the power generated from the Shakti coal consumed, in tariff to the Respondent in terms of the aforesaid provisions of the SHAKTI Scheme.
8. That on 30.01.2020, CIL floated a scheme document on SHAKTI (b) (ii) round (iii) policy ('policy') in which those thermal power plants were eligible for participation, whose coal linkage were lesser than 90% of their coal requirement.

The relevant portion of Clause 4.1.2.1 of the policy is extracted herein below:

"A Bidder having valid already Concluded PPA(s) (as defined in Clause 1.1.22) in respect of the Specified End Use Plant(s) and not having, in respect of such Specified End Use Plant(s), as on the last date of submission of EOI, the following (as may be notified on the Electronic Platform separately):

a) Any coal linkage at all or having coal linkage for quantity which is less than 90% of their coal requirement, computed as per the Consumption Norms prescribed in Annexure VIII; and/ or

b) Any coal mine/ coal block or having coal mine/ coal block for quantity which is less than 90% of their coal requirement, computed as per the Consumption Norms prescribed in Annexure -VIII."

9. That the aforementioned policy extends to the thermal plants who have a coal linkage lesser than 90% of their coal requirement. In this regard, it is submitted that the Petitioner herein participated

in the earlier Shakti Scheme Bid (ii) Round (i), however, the Petitioner was not able to secure coal linkage for the full Contracted Capacity. In view of the aforementioned, the Petitioner participated in the new Shakti Scheme b (ii) round (iii) for securing the coal linkage for the balanced quantum after obtaining consent from TANGEDCO and the Respondent for the long-term Power Purchase Agreement so entered by petitioner with TANGEDCO and the Respondent. Accordingly, the Respondent consented to the same vide its communication dated 20.02.2020.

10. That Pursuant to the aforementioned facts, the Central Coalfields Ltd. ('CCL') has issued declaration of Provisional Successful Bidder pursuant to the Auction Process dated 14.07.2020, wherein, the Petitioner is declared as the provisional successful bidder and has been allocated the 99000 Tonnes (G11) of coal against the aforementioned PPA's at the levelized discount of 8 paise/ kWh pertaining to power generated out of SHAKTI coal consumed. In terms of the declaration of Provisional Successful Bidder pursuant to the Auction Process dated 14.07.2020, the Petitioner is required to enter into a Fuel Supply Agreement with the CCL.
11. That pursuant to the aforementioned, the above facts were informed to the Respondent by the Petitioner vide its letter dated 03.08.2020, wherein, the Petitioner requested the Respondent to initiate the process of Addendum to the PPA dated 28.09.2012 entered between the parties.
12. That the Petitioner addressed a letter dated 01.02.2021 to the Respondent, wherein, the Petitioner sought consent of the Respondent for filing tariff Petitions before this Hon'ble Commission, in view of the Section 64(5) of the Electricity Act, 2003 and the Respondent issued a consent letter dated 04.03.2021 for filing the present Petition before this Commission.
13. It was submitted that such amendment to the PPA is for the benefit of the Consumers as it would reduce overall power purchase cost of JBVNL and the approval sought by APNRL is in accordance with the SHAKTI policy.
14. Learned Counsel for the petitioner reiterated the submissions made in the petition and prayed for approval of the amended agreement/supplementary PPA to be executed between the petitioner and the respondent JBVNL as the approval by the Commission is a pre-condition for execution of FSA with CCL.

Submission of the Respondent

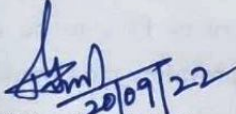
15. It was submitted that the Supplementary PPA and its approval is required as per the provision of scheme document 3.6.8.1 and the Supplementary PPA executed with the Petitioner on 15.02.2018 was approved by the CERC in its order dated 10.08.2018.
16. That the approval of M D JBVNL has been accorded to file petition for approval of draft Supplementary PPA under SHAKTI- B (ii) scheme to be executed between the Respondent (JBVNL) & Petitioner (APNRL).
17. It was also submitted that the approval may be given for signing of draft agreement attached with the petition of the petitioner.

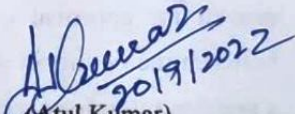
Commission's observation

18. We considered the submission made by the parties and perused the materials available on records.
19. Under section 86 (1) (b) of the Electricity Act, 2003, the state Commission has the responsibility to regulate the electricity purchase and procurement process of Distribution Licensees. Section 86 (1) (b) of the Electricity Act, 2003 reads as under:-
“**Section 86 Function of the State Commission:-** (1) *The State Commission shall discharge the following functions, namely:-*
(a)
(b) *regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the state;*
20. Hence, under Section 86 (1) (b) of the Electricity Act, 2003, the Distribution Licensees is obligated to get the PPA approved by the Commission.
21. Further, the parties have also mutually agreed upon amendment PPA to be executed between them subject to approval of this Commission.

ORDER

22. Considering the entire facts and circumstances of the case, the prayers of the Petitioner are allowed. The second addendum no. 2 to the Power Purchase Agreement dated 28.09.2012 to be executed between the petitioner-APNRL and the Respondent-JBVNL which provides the methodology for adjustment of the discount in the monthly bills to the procurer in terms of the 'SHAKTI Scheme' as stated above is approved.
23. Accordingly, the petition is disposed off in terms of the above order.


(Mahendra Prasad)
Member (Legal)


(Atul Kumar)
Member (Technical)