

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

Case No. 01 of 2024

Inland Power Ltd. (IPL) Petitioner

Versus

Jharkhand Bijli Vitran Nigam Ltd.(JBVNL) Respondent

**CORAM: HON'BLE JUSTICE MR. AMITAV KUMAR GUPTA, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECH)**

For the Petitioner: Mr. Saket Upadhyay, Advocate

For the Respondent: None

Date – 25th January, 2024

1. Inland Power Limited (IPL) has filed the instant petition under Section 86(1)(b) of the Electricity Act, 2003 for approval of the 4th Supplementary Power Purchase Agreement (PPA) and extension of Principle Power Purchase Agreement dated 23.02.2012 signed between Jharkhand Bijli Vitran Nigam Limited (erstwhile JSEB) & M/s Inland Power Limited (IPL).
2. The petitioner's prayers are as follows:
 - (a) For approval of PPA (Power Purchase Agreement) proposed to be executed for extension of existing Principal Power Purchase Agreement dated 23.02.2012 including Supplementary Power Purchase Agreement dated 22.04.2013, 2nd Supplementary Power Purchase Agreement dated 13.02.2018 and 3rdSupplementary Power Purchase Agreement dated 28.06.2023 executed between Jharkhand Bijli Vitran Nigam Limited (erstwhile JSEB) and M/s Inland Power Limited, for a further period of 15 years.
 - (b) For permission to the petitioner and JBVNL to extend the Principal Power Purchase Agreement dated 23.02.2012 including Supplementary Power Purchase Agreement dated 22.04.2013, 2ndSupplementary Power Purchase Agreement dated 13.02.2018, and 3rd Supplementary Power Purchase Agreement dated 28.06.2023 on the same terms and condition for 15 further years.
 - (c) For any other appropriate relief or reliefs the Commission deems fit and proper.

Submissions of the Petitioner

3. Learned Counsel for the Petitioner has submitted that the factual matrix of the petition is as follows:
 - (a) The petitioner had entered into MoU with Government of Jharkhand on 18.10.2011 for setting up a 126 MW (2x 63 MW) Thermal Power Station in the name and style of Inland Gola Thermal Power Project on a build, own and operate basis located at Inland Nagar, Gola, District-Ramgarh, Jharkhand.
 - (b) A Principal Power Purchase Agreement (PPA) was signed between the petitioner and Jharkhand Bijli Vitran Nigam Limited (erstwhile JSEB) on 23.02.2012 (Principal PPA) for purchase of 35MW power to be generated from 2 x 63 MW thermal power station.
 - (c) Subsequently, first Supplementary Power Purchase Agreement (PPA) was signed between the petitioner and Jharkhand Bijli Vitran Nigam Limited

(erstwhile JSEB) on 22.04.2013 (Supplementary PPA) for sale and purchase of entire quantity of power to be generated from 1st Unit of 63 MW.

- (d) Coal India Limited invited EOI under Shakti on 04.08.2017 for auction of coal linkage for IPPs having already concluded long term PPA and M/s Inland Power Limited was declared successful bidder for 67400 tons of coal, and to provide a discount of 01 paisa per unit of electricity supplied as mentioned in the LOI issued by CCL vide letter dated 21.12.2017. Consequent there to, 2nd Supplementary PPA was signed between the petitioner and M/s Inland Power Limited on 13.02.2018.
- (e) JBVNL had approached this Hon'ble Commission seeking approval of the PPA dated 23.02.2012 along with other prayers in Case No 04 of 2018 and the Hon'ble Commission vide order dated 28.05.2019 approved the Principal PPA dated 23.02.2012, and it was made clear that no PPA would be acted upon without prior approval of Commission.
- (f) The petitioner, M/s Inland Power Limited, participated in the auction conducted by Coal India Limited under SHAKTI Scheme B-II Round V, pursuant to auction process and received LOI vide letter no CCL/HQ/C 4/FSA/2022-23/337 dated 24.02.2023 for signing Fuel Supply Agreement for 4300 tons of coal. The petitioner executed 3rd Supplementary Power Purchase Agreement with Ms Inland Power Limited on 28.06.2023 for the purpose of coal linkage under Shakti B (II) Round V for 4300 MT of coal.
- (g) Thereafter, the petitioner-M/s Inland Power Limited, approached this Hon'ble Commission in Case No 14 of 2023 for approval of 3rd Supplementary Power Purchase Agreement executed on 28.06.2023 for the purpose of coal linkage under Shakti B (II) Round V for 4300 MT of coal and the Hon'ble Commission by order dated 23.06.2023 approved the 3rd Supplementary PPA which provided the methodology for adjustment of discount in the monthly bills in terms of Shakti Scheme.
4. Learned Counsel for the petitioner has submitted that the petitioner, vide letter no. IPL/JBVNL/22-23/282 dated 25.08.2022, had requested for extension of the power purchase agreement (PPA) with JBVNL as the tenure of the power purchase agreement is 10 years from the date of COD (Commercial Operation Date) i.e. 21.05.2014 and the principal PPA is valid up to May, 2024.
5. It was pointed out that the Principal PPA signed between the Petitioner and Jharkhand Bijli Vitran Nigam Limited (erstwhile JSEB) on 23.02.2012 provides for extension of the agreement for a further period under clause 2.3. It was stated that the minimum life of the plant is 25 years and accordingly, it was requested to extend the existing PPA for further 15 years.
6. It was also submitted that the respondent JBVNL had received approval of the extension of PPA in its 70th Board of Directors meeting held on 13.12.2023 vide agenda/item no. 70-07 and in terms of the decision taken by the Board of Director, the Executive Director (C & R) JBVNL issued letter no 1806 dated 29.12.2023 to the petitioner forwarding the resolution approved by Board of Directors for extension of Principal Power Purchase Agreement dated 23.02.2012 and for filing petition before the Hon'ble JSERC for necessary approval of draft of 4th Supplementary PPA.

Submission of the Respondent

7. The Respondent has filed the counter-affidavit which supports the contention of the petitioner. It is averred in the counter-affidavit that approval has been granted by the Board of Directors of JBVNL and it is prayed that the Commission grant approval for renewal and extension of Principal Power

Purchase Agreement dated 23.02.2012 on the same terms and condition for further 15 years.

Commission’s observation and findings

- 8. The Commission has considered the submission of the petitioner and perused the counter-affidavit filed by the respondent and the materials available on records.
- 9. It is evident that Section 86 (1)(b) of the Electricity Act, 2003 provides that the State Commission has the responsibility to regulate the electricity purchase, and discharge such other functions as may be assigned to it under the Act. Section 86(1)(b) of the Electricity Act, 2003 reads as under:-

“Section 86 Function 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;
.....
(k) discharge such other functions as may be assigned to it under this Act.
- 10. As mandated under section 86(1)(b) of the Act, the distribution licensee is obligated to get the Power Purchase Agreement, approved by the Commission
- 11. Both the parties have prayed for renewal and extension of Principal Power Purchase Agreement dated 23.02.2012 on the same terms and condition for further 15 years. It is observed that the agenda for extension of the principal PPA signed between Inland Power Limited (IPL) & Jharkhand Bijli Vitran Nigam Limited (JBVNL) erstwhile JSEB has been approved in the 70th Board of Directors meeting. Moreover, the parties have mutually agreed and consented that the draft of PPA be executed between them, subject to the approval of this Commission.

In the result, it is ordered as;

ORDER

- 12. In the facts and circumstances of the case, and in view of the provisions of Section 86 (1) (b) of the Electricity Act, 2003 and discussions made herein above, the prayer of the petitioner is allowed.
- 13. The draft of 4th Supplementary Power Purchase Agreement to be executed between the petitioner IPL and the respondent JBVNL, which provides for renewal and extension of Principal Power Purchase Agreement dated 23.02.2012 on the same terms and conditions for further 15 years, as stated above, is hereby approved.
- 14. The petition stands disposed off, accordingly.

Sd/-
Member (T)

Sd/-
Member (L)

Sd/-
Chairperson