

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION
BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA**

Case No. HERC/PETITION NO. – 54 of 2022

**Date of Hearing : 20.10.2022
Date of Order : 20.10.2022**

IN THE MATTER OF:

Petition under section 86(1)(b) of the Electricity Act, 2003 read with Regulation 7 of the HERC (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021 seeking approval of source as well as the approval of Power Purchase Agreement (PPA) for purchase of 21 MW during sugar crushing season out of 28 MW Co-generation Based Power Plant of M/s Panipat Cooperative Sugar Mills Ltd. at the mutually agreed ceiling levelized tariff of Rs. 6.67 per unit on long-term basis.

Petitioner

Haryana Power Purchase Centre, Panchkula (HPPC)

Respondent

M/s. Panipat Cooperative Sugar Mills Ltd.

Present on behalf of the Petitioner

Mrs. Sonia Madan, HPPC

Present On behalf of the Respondent

Mr. Rajinder Kumar Singla, Advocate

Quorum

**Shri R.K. Pachnanda
Shri Naresh Sardana**

**Chairman
Member**

ORDER

Brief Background of the case

1. The present petition has been filed by HPPC seeking approval of the Commission to procure 21 MW power out of 28 MW bagasse based co-generation power plant of the respondent, during sugar cane crushing season, for 20 years, at the tariff to be determined by the Commission under Section 62 of the Electricity Act, 2003, subject to the mutually agreed levelized ceiling tariff of Rs. 6.67/kWh.
2. It has been submitted that the petitioner herein i.e. HPPC had filed a petition bearing no. 39 of 2021 before this Commission seeking approval of source and draft PPA to be executed with the respondent herein.
3. The Commission, vide its order dated 28.03.2022, observed that HPPC had not taken necessary action as per Regulation 7(e) of the HERC RE Regulations, 2021. Hence, the Commission had observed that HPPC may float NIT for procurement of power through competitive bidding as per the provisions of Regulation 6 (3) of the HERC RE Regulations,

2021. Nonetheless, the parties were granted liberty to approach the Commission again, in case a consensus on the levelized ceiling tariff is reached justifying the same vis-a-vis the prevailing tariff and HPPC is in a position to submit the requisite documents as required under Regulation 7(e) of the HERC RE Regulations, 2021.

4. The petitioner has submitted as under: -

4.1 That after the passing of the final order dated 28.03.2022 by the Hon'ble Commission, a meeting was held between the parties on 10.05.2022. In the said meeting, the issue of ceiling tariff was discussed and deliberated at length and a consensus was reached between HPPC and the Generator regarding the proposed ceiling tariff i.e. Rs. 6.67/kWh. Further, the representative of the Generator submitted that the proposal of sale of power to HPPC/Discoms may be considered only during the sugar cane crushing season.

4.2 That submissions with respect to competitiveness of the proposed tariff vis-à-vis tariff discovered through competitive bidding/ tariff prevalent in the market, are as under:-

a) No competitive bidding has taken place in Haryana for purchase of bagasse based co-generation power with which the present tariff can be compared.

b) The tariff determined by Hon'ble Uttar Pradesh Electricity Regulatory Commission was considered. However, it has been submitted that the tariff of bagasse based co-generation power projects in Haryana cannot be compared with that of Uttar Pradesh (discovered tariff of Rs. 4.71/kWh through competitive bidding) as the fuel cost (bagasse) considered by the Hon'ble Uttar Pradesh Electricity Regulatory Commission's Regulations 2019 dated 25.07.2019 is Rs. 1010/MT (for FY 2019-20) with the escalation of 5% while the fuel cost (bagasse) in Haryana is Rs. 2000/MT (for FY 2022-23).

4.3 That the comparative details showing the tariff proposed is aligned with the prevalent market conditions, is as under :-

FY	Uttar Pradesh			Haryana		
	Variable Cost (in Rs/kWh)	Fixed Cost (in Rs/kWh)	Total Cost (in Rs /kWh)	Variable Cost (in Rs/kWh)	Fixed Cost (in Rs/ kWh)	Total Cost (in Rs/kWh)
2021-22	1.84	2.64	4.48	1.80 (as per Fuel cost of Rs. 1027/MT)	2.60	4.40
2022-23	1.93	2.58	4.51	3.50 (as per Fuel cost of Rs. 2000/MT)	2.69	6.19
2023-24	2.03	2.52	4.55	3.60	2.65	6.25

4.4 That the procurement of power from the respondent, at a ceiling levelized tariff of Rs. 6.67/unit mutually agreed by the parties, shall satisfy the conditions laid down under Regulation 7(2)(e) of RE Regulations, 2021 thereby making the procurement of power competitive and in the interest of all concerned.

4.5 Accordingly, the following prayers have been made:-

- a) Grant approval for source of power purchase of 21 MW during sugar cane crushing season out of 28 MW bagasse based co-generation Power Plant for a period of 20 years from the date of commercial operation of the last unit or balance normative life of power station whichever is earlier, with a ceiling levelized tariff of Rs. 6.67/kWh, as mutually agreed between the parties;
- b) Grant approval to the Power Purchase Agreement initialed by the parties; and or
- c) Pass any other order(s) and or direction(s), which the Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

Proceedings in the Case

5. The case was heard on 20.10.2022, as scheduled, in the court room of the Commission.
6. Ms. Sonia Madan, the learned advocate for HPPC, reiterated the contents of the petition, which for the sake of brevity has not been reproduced. Shri Rajinder Kumar Singla, the learned advocate appearing on behalf of the sugar mills, in its reply prayed that this Hon'ble Commission may allow the present petition and allow the parties to sign the mutually agreed Power Purchase Agreement at a ceiling tariff of Rs. 6.67/unit.

Commission's Analysis and Order

7. The Commission heard the arguments of the parties at length as well as perused the written submissions placed on record by the parties. The Commission has examined the copy of draft PPA submitted by the petitioner for approval and observes that clause 2.1.2 of the draft PPA is silent regarding the ceiling tariff. The relevant clause is reproduced hereunder:-

"2.1.2 The applicable tariff shall be the project specific tariff to be determined by HERC under section 62 of Electricity Act, 2003 on the tariff petition filed by the Seller. Such tariff shall be applicable and payable by the Discoms / HPPC to the Seller.

Provided that till the determination of tariff by the Commission, interim tariff @ Average Power Purchase Cost (APPC) of that particular year, as determined by the Commission, shall be payable as an interim measure subject to adjustment thereafter, however, without any interest liability on such adjustments.

Provided further that energy supplied by the Seller, corresponding to contracted capacity, over and above the normative Plant Load Factor (PLF), as considered by the Commission for determination of tariff, shall be paid @ 50 % of applicable tariff.

8. Additionally, it is observed that the ceiling tariff of Rs. 6.67/kWh, mutually agreed upon between the parties, is not aligned with the prevalent market conditions, as mandated under Regulation 7 (2) of the HERC RE Regulations, 2021, as the indicative generic tariff determined by the Commission, in its order dated 05.08.2022, for the bagasse based co-generation projects commissioned in the FY 2022-23, is Rs. 6.64/kWh. However,

considering that the tariff mutually agreed is just a ceiling tariff and the applicable tariff shall be the year to year tariff as determined by the Commission under section 62 of the Electricity Act, 2003, on the petition to be filed by the sugar mill, the Commission grants approval to HPPC to procure 21 MW power during sugar cane crushing season out of 28 MW bagasse based co-generation Power Plant of the respondent for a period of 20 years from the date of commercial operation of the last unit or balance normative life of power station whichever is earlier, at the tariff determined by the Commission subject to mutually agreed levelized ceiling tariff of Rs. 6.67/kWh. Accordingly, the draft Power Purchase Agreement initialed by the parties, is also approved, subject to the amendment in clause 2.1.2 of the PPA to incorporate that the determination of tariff by the Commission under section 62 shall be subject to the levelized ceiling tariff of Rs. 6.67/kWh. It is noted that due to inherent differences between the HERC Regulations and UPERC Regulations or for that matter Regulations notified by CERC/SERCs including cost of feedstock, fuel cost, O&M escalation etc., the regulated tariff will not be comparable.

9. The tariff shall be decided on the separate petition to be filed by the generator i.e. M/s. Panipat Cooperative Sugar Mills Ltd under section 62 of the Electricity Act, 2003, subject to the levelized ceiling tariff of Rs. 6.67/kWh. The tariff petition shall include DPR and all other relevant documents as per the HERC RE Regulations in vogue, to arrive at a prudent capital cost and all other tariff components.
10. Before parting with the order, considering that tariff petition is yet to be filed and the same has to be subjected to public proceedings, the Commission as an interim measure, approves that in case energy drawl is resorted to from this source, prior to determination of final tariff, by the Commission, the same may be paid for at the APPC subject to adjustments vis-à-vis the final tariff as the case may be, without any liability to either party on account of interest/carrying cost on such adjustment, in line with clause 2.1.2 of the PPA. However, scheduling shall be in accordance with the relevant clause of the HERC RE Regulations in vogue.
11. The petition is accordingly disposed of. HPPC shall submit a signed copy of the PPA for the record of the Commission within two weeks from the date of this order.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 20.10.2022.

Date: 20.10.2022
Place: Panchkula

(Naresh Sardana)
Member

(R.K. Pachnanda)
Chairman