(1)

BEFORE THE HON'BLE CHHATTISGARH STATE ELECTRICITY REGULATORY COMMISSION, RAIPUR (C.G.)

PETITION NO. /2020

IN THE MATTER OF:

Petition under Section 86 (1) (b) of the Electricity Act, 2003 for approval of Power Sale Agreement dated 21.07.2020 with CSPTrdCL for purchase of 63MW (contracted capacity) power from CSPTrdCL that it purchases from (2*685 MW) installed capacity coal based thermal power project of M/s. Raipur Energy limited on back to back basis and procurement of power under the Power Sale Agreement dated 21.07.2020.

AND IN THE MATTER BETWEEN:

Chhattisgarh State Power Distribution
Co. Ltd.,"Vidyut Sewa Bhawan",
Danganiya, Raipur-492013

...PETITIONER

Versus

Chhattisgarh State Power Trading
Co. Ltd.,"Vidyut Sewa Bhawan",
Danganiya, Raipur-492013

...RESPONDENT

PETITION UNDER SECTIONS 86 (1) (b) OF THE ELECTRICITY ACT, 2003

1. **DESCRIPTION OF PETITIONER:**

Petitioner is a body corporate registered under the Companies Act, 1956 and functions as distribution licensee in the State of Chhattisgarh for supply of electricity in accordance with the provisions of Electricity Act 2003.

2. **DESCRIPTION OF RESPONDENT:**

Respondent is Chhattisgarh State Power Trading Company Limited (CSPTrdCL)is a company incorporated under the Companies Act, 1956. It has been authorized by CSEB Transfer Scheme Rules-2010 to act as authorized representative of the State Govt. and to execute the power purchase agreement with the developers of coal based thermal power projects coming under MoU route in Chhattisgarh.

3. **SUBJECT MATTER IN BRIEF INCLUDING CAUSE OF ACTION:**

It is stated that the Chhattisgarh State Power Distribution Company Limited (CSPDCL) is statutorily obliged to meet the consumer demand of electricity in the State of Chhattisgarh. It is a successor entity of erstwhile Chhattisgarh State Electricity Board to supply electricity to consumers located in the area of supply of Chhattisgarh state. In order to comply with the demand of energy, CSPDCL decided to purchase more power from coal based thermal energy generators. As such to meet the requirement, Chhattisgarh State Power Trading Company Limited (CSPTrdCL) (a successor company formed pursuant to the restructuring of the erstwhile CSEB) has been authorized to act as a representative of the GoCG to execute Power Purchase Agreements (PPAs) with the developers of coal based thermal power projects being set up as Independent Power Producers (IPPS) in the State of Chhattisgarh under the MoU route. Thus, CSPTrdCl singed a Power Purchase Agreement with M/s. Raipur Energy Limited (REL) on 08.07.2020 for purchase of 5% of power from REL's (2*685MW) thermal power plant. In pursuance to aforesaid consideration, CSPDCL has executed Power Sale Agreement (PSA) with CSPTrdCL for purchase of 63MW power from CSPTrdCL, that CSPTrdCL purchases from REL's 2*685MW powerplant, from the date of

commencement of supply by REL to CSPTrdCL i.e. 21.07.2020, which needs approval of Hon'ble commission under section 86(1)(b) of Electricity Act 2003. Copy of Power Sale Agreement dated 21.07.2020 is annexed herein **ANNEXURE P/1**.

Hence, this petition.

4. **THE PROVISIONS OF THE ACT OR PROVISION UNDER WHICH THE PROCEEDING INITIATED / RELIEF CLAIMED:**

The instant petition is filed under sections 86 (1) (b) of Electricity Act, 2003.

5. **STATEMENT OF LIMITATIONS:**

Petitioner has entered into Power Sale Agreement (PSA) with Chhattisgarh State Power Trading Company Limited on 21.07.2020 for purchase 63 MW power from an installed capacity of 1370 MW. It is humbly stated that the Petitioner has approached this Hon'ble Commission invoking its regulatory jurisdiction and since there is no period of limitation prescribed under the Electricity Act, 2003, hence there is no applicability of law of limitation in the present case.

6. **STATEMENT OF JURISDICTION:**

This Hon'ble Commission under section 86(1)(b) of the Electricity Act, 2003has statutory jurisdiction to regulate, approve powersale agreement and procurement of power by the Petitioner.

7. **FACTS OF THE CASE IN DETAIL:**

The following facts are submitted for kind consideration of this Hon'ble Commission that:

7.1. Petitioner is statutorily obliged to meet the consumer demand of electricity in the State of Chhattisgarh. It is a successor entity of

erstwhile Chhattisgarh State Electricity Boardto supply electricity to consumers located in the area of supply of Chhattisgarh state and in pursuance to aforesaid consideration, CSPDCL has executed Power Sale Agreement (PSA) with CSPTrdCL. Further, CSPDCL has agreed to purchase 63MW of power from CSPTrdCL that it purchases from REL on back to back basis from the date of commencement of supply of power by REL to CSPTrdCL.

7.2. It is submitted that a PPA dated 05.01.2011 was executed between CSPTrdCL and M/s. GMR Chhattisgarh Energy Limited. However, on 02.08.2019 Adani Power Limited took over M/s. GMR Chhattisgarh Energy limited. Consequently, the name GMR changed to M/s. Raipur Energy Limited (REL) w.e.f. 20.08.2019. Thus, to execute new PPA, the old PPA executed between CSPTrdCL and M/s. GMR Chhattisgarh Energy Limited was cancelled and fresh PPA was executed between CSPTrdCL and M/s Raipur Energy Limited (REL) on 02.08.2020. Further, the same was communicated to Petitioner on 04.08.2020 vide Respondent's letter dated 04.08.2020. Copy of letter dated 04.08.2020 sent by respondent to petitioner is annexed here as **ANNEXURE P/2**.

7.3. That after the permission for execution of new PPA was approved, Respondent entered into fresh Power Purchase Agreement (PPA) with M/s. Raipur energy limited on 08.07.2020 for purchase of 5% power from its coal based thermal power station with installed capacity of 1370 MW (consisting of 685 MW* 2 No. of Units) at village Raikheda of Tehsil Tilda in Raipur District in Chhattisgarh. PPA dated 08.07.2020 executed between CSPTrdCL and REL is annexed herein as **ANNEXURE P/3.**

7.4. That the power received by CSPTrdCL from REL is being supplied to Petitioner on back-to back basis, hence a back-to back

agreement between CSPDCL and CSTPrdCL was executed on 21.07.2020 and the same needs approval of the Hon'ble Commission.

7.5. That it is pertinent to mention here that the Power Purchase Agreement signed between CSPTrdCL and REL on 08.07.2020 for purchase of energy obligated under the terms of the MOU and IA from their said project at energy (variable) charges. Generating Company has entered into Memorandum of Understanding (MOU) on 04.06.2007 with State Government of Chhattisgarh (GOCG) and erstwhile CSEB. Copy of MOU dated 04.06.2007 is annexed here as **ANNEXURE P/4**.

7.6. That pursuant to the provisions of the MOU, an Implementation Agreement (IA) has been entered with State Government of Chhattisgarh, CSPHCL (a successor company of CSEB)& M/s. GMR Chhattisgarh Energy Ltd. (now Raipur Energen Ltd.) on 12.04.2010. Copy of Implementation Agreement dated 12.04.2010 is annexed herein as **ANNEXURE P/5.**

7.7. That it is submitted that CSPDCL has agreed to purchase the above power from the date of commencement of supply by REL to CSPTrdCL at the rate, terms and conditions of the power sale Agreement dated 21.07.2020. The salient features about the Power Sale Agreement(PSA)date 21.07.2020 is given in the table below:

Sl. No.	Particulars	Remarks
1.	**Introduction**	CSPTrdCL has been authorized by CSEB Transfer Scheme Rules-2010 to act as authorized representative of the State Govt. and to execute the power purchase agreement with REL with 1370 MW installed capacity of coal based thermal power projects coming under MoU route in Chhattisgarh
2.		

	Article: 1 Definitions	The definitions and interpretations of the words have been provided under Article 1. The words/ expressions used in the Agreement, unless as defined under Article 1 of this Agreement, shall have the meaning assigned to them in the Electricity Act 2003, and the rules and regulations framed there under.
3.	**Article:2 Term of the Agreement**	This Agreement shall be valid from the Effective Date until the Expiry Date, unless terminated earlier pursuant to Article 2.3
4.	**Article:3 Commencement of supply of energy to CSPDCL**	The date of commencement of supply of the Contracted Energy by CSPTrdCL to CSPDCL shall be the date on which CSPTrdCL receives power from REL under the PPA dated 08.07.2020 executed with REL.
5.	**Article: 4 Dispatch, Meteringand Energy Accounting**	• Dispatch: As per the provision of applicable Grid Code and any direction and requirement specified by SLDC/RLDC from time to time. • Metering installation, testing, calibration etc. will be according to CEA (Installation and Operation Meters) Regulations, 2006 and the Grid Code. • Scheduling and Energy Accounting: As per the provision of applicable Grid Code and REL PPA. • Delivery Point: Out stationed gantry of the Power Station Switchyard. • Transmission Charges and Losses: Account of CSPDCL
6.	**Article: 5 Applicable Tariff**	• CSPDCL shall pay CSPTrdCL charges determined in accordance with Article 8.1 of the REL PPA, along with any Trading Margin, it applicable, pursuant to Article 5.2 of this Agreement. • Trading Margin: CSPTrdCL shall charge a Trading Margin, if decided to be recovered from CSPDCL by theGoCG from time to time, over and above the Applicable Tariff.

7.	**Article:6** **Billing and Payment**	• From the commencement of supply of power, CSPDCL shall pay to CSPTrdCL the monthly Tariff Payments,CSPTrdCL shall issue to CSPDCL a signed Monthly Bill / Supplementary Bill by the 7th dayof every Month ("Billing Date") for the supply of energy in the preceding Month. • Each Monthly Bill shall include all charges as per this Agreement for the energy supplied for the relevant Month based on Energy Accounts issued by RLDC / SLDC or any other competent authority, which shall be binding on both the Parties. The Monthly Bill amount shall be the product of the energy scheduled and the Applicable tariff. • Payment of Monthly Bill: CSPDCL shall pay by 23rd day from the due date as shall have been previously notified by CSPTrdCL in accordance with Article 6.3.1 • Late payment surcharge: if payment is delayed beyond 30 days by CSPDCL. It will be according to CERC (Terms and condition of tariff) Regulation 2014 i.e. 1.50% per month or part thereof • Rebate: It will be according to CERC (Terms and condition of tariff) Regulation 2014 i.e. 2% of the invoice amount • Payment Security Mechanism: ▪ Letter of credit (LC) ▪ Collateral Arrangement - Third Party Sales on Default • Disputed Bill: Buying Entity disputes the amount payable under a Monthly Bill it shall pay 95% of the disputed amount within fifteen days (15) days of receiving such Bill, and it shall issue a notice (the "Bill Dispute Notice") to the invoicing

		• Quarterly and Annual Reconciliation within 30 days of the end of quarter or year • Payment of Supplementary Bill
8.	**Article: 7 Events of Default and Termination**	This Article lists down the occurrence and continuation of any of the events of default, issuance of default notice by CSPDCL, Cure Period and Termination notice in case default not remedied.
9.	**Article: 8 Governing Law and Dispute Resolution**	It is a standard clause prevailing in power purchase agreement.
10.	**Article: 9 Miscellaneous Provisions**	Includes clauses, inter alia, pertaining to Amendment, Third party beneficiaries, Wavier, Confidentiality, Severability, Notices, Language, Compliance with Law, Counterparts etc.

8. **LAW POINTS INVOLVED IN THE MATTER:**

The petitioner carries supply obligation as a distribution licensee in the State and under section 86(1)(b)of Electricity Act 2003 the power purchase and procurement process of distribution licensee is subjected to approval of the State Electricity Regulatory Commission.

9. **RELIEFS SOUGHT:**

In light of the submissions made above, Hon'ble Commission may kindly be pleased to:

I. Approve the Power Sale Agreement (PSA) dated 21st July 2020 between Petitioner and Respondent for purchase 63 MW (contracted capacity) of power that Respondent purchases from 1370 MW installed capacity coal based thermal power project of M/s. Raipur Energy limited located at village Raikheda of

Tehsil Tilda in Raipur District Chhattisgarh on back to back basis.

II. Any other relief as this Hon'ble Commission deems fit.

10. **INTERIM RELIEF:**

NIL

11. **GROUNDS FOR CLAIMING RELIEF:**

I. For the reason that the power purchase and procurement process of distribution licensee is regulated by Hon'ble Commission. Hence, approval of CSERC to purchase coal based thermal power under instant PSA is necessary.

II. For the reason that the Petitioner is a distribution Licensee in State of Chhattisgarh and requires power to supply to electricity consumers of State.

III. For the reason that the 5% of thermal power purchased from CSPTrdCL will attract only energy variable charges and therefore it is cost effective.

12. **PETITION FEE:**

A petition fee of Rs. Three Lakh Fifteen Thousand (3,15,000/-)in accordance with clause 20(a) of CSERC (Fees & Charges) Regulations 2009 is transferred into account of Chhattisgarh State Electricity Regulatory Commission, account no: 049104000358385, IDBI BANK MAIN BRANCH at Raipur on dated 22 /10/2021 through RTGS No: UBINH21295776207 by debiting account of CSPDCL, A/c no: 619405010000102 at Union Bank of India. The account statement is attached herewith.

13. **ENCLOSURES:**

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As above.

RAIPUR
23.11.2021

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COUNSEL FOR PETITIONER

ABHINAV KARDEKAR
Advocate
Mob.: 99812-61140