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

PETITION NO. 54/2020

IN THE MATTER OF:

Petition for approval of power purchase from 96 MW installed
capacity Rognichu Hydro-electric Project located in the East
Sikkim District of Sikkim and approval of Power Purchase
Agreement (PPA) entered between Chhattisgarh State Power
Distribution Company Limited and M/s Madhya Bharat Power
Corporation Limited in this regard.

Chhattisgarh State Power Distribution ...PETITIONER

V/s

M/s Madhya Bharat Power Corporation Ltd. ...RESPONDENT

Through,

ABHINAV KARDEKAR,
ADVOCATE
Bungalow 4, Upper Floor,
MARUTI SOLITAIRE,
KHAMARDIHI ROAD,
SHANKAR NAGAR,
RAIPUR (C.G.)
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BEFORE THE HON'BLE CHHATTISGARH STATE ELECTRICITY REGULATORY COMMISSION, RAIPUR (C.G.)

PETITION NO. /2020

IN THE MATTER OF:

Petition for approval of power purchase from 96 MW installed capacity Rognichu Hydro-electric Project located in the East Sikkim District of Sikkim and approval of Power Purchase Agreement (PPA) entered between Chhattisgarh State Power Distribution Company Limited and M/s Madhya Bharat Power Corporation Limited in this regard.

Chhattisgarh State Power Distribution Co. Ltd....PETITIONER

V/s

M/s Madhya Bharat Power Corporation Ltd. ...RESPONDENT

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RAIPUR
DATE 04/06/2020

COUNSEL FOR PETITIONER
ABHINAV KARDEKAR
Advocate
Mob.: 99812-61140
BEFORE THE HON'BLE CHHATTISGARH STATE ELECTRICITY
REGULATORY COMMISSION, RAIPUR (C.G.)

PETITION NO. /2020

IN THE MATTER OF:

Petition for approval of power purchase from 96 MW installed
capacity Rognichu Hydro-electric Project located in the East
Sikkim District of Sikkim and approval of Power Purchase
Agreement (PPA) entered between Chhattisgarh State Power
Distribution Company Limited and M/s Madhya Bharat Power
Corporation Limited in this regard.

Chhattisgarh State Power Distribution
Co. Ltd., "Vidyut Sewa Bhawan",
Danganiya, Raipur-492013
V/s
M/s Madhya Bharat Power Corporation Ltd.,
Registered Office: E-585, Greater Kailash-II,
Ground Floor, New Delhi-110048
Regional Office: 2nd Floor, Vanijya Bhawan,
Devendra Nagar Square, Jail Road,
Raipur-492001

...PETITIONER

...RESPONDENT

PETITION UNDER SECTION 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:**

Madhya Bharat Power Corporation Limited (MBPCL) is a Special Purpose Vehicle (SPV) of Sarda Energy and Minerals Limited. MBPCL is implementing 96 MW Rongnichu Hydro Power Project in East Sikkim on Rongnichu river near Gangtok.

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

That M/s Madhya Bharat Power Corporation Ltd. (for short ‘Company/ MBPCL’) placed an offer to the Chhattisgarh State Power Holding Company Limited vide its letter dated 27.03.2019 for sale of hydro power from 96 MW Rongnichu Hydro Electric Project, East Sikkim and requested to enter into a long term PPA. To study feasibility of power purchase from the Hydro Electric Project, the CSPDCL had demanded for the details from the Company and on examination of the same, agreed to enter into PPA on certain terms and conditions. CSPDCL is a successor entity of erstwhile Chhattisgarh State Electricity Board which is obliged to supply electricity to consumers located in the area of supply of Chhattisgarh State and in pursuance to aforesaid consideration the Chief Engineer(RA&PM), CSPDCL has executed the power purchase agreement with the Company on 4th January 2020, which needs approval of Hon’ble Commission under section 86(1)(b) of Electricity Act 2003. Hence, this petition.
4. **THE PROVISIONS OF THE ACT OR PROVISION UNDER WHICH THE PROCEEDING INITIATED / RELIEF CLAIMED:**

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

5. **STATEMENT OF LIMITATIONS:**

Petitioner has entered into Power Purchase Agreement on 04th January 2020 for purchase from 96 MW hydel power and for this purpose no period of limitation would apply.

6. **STATEMENT OF JURISDICTION:**

Hon'ble Commission has statutory jurisdiction to approve the power purchase and procurement process of petitioner.

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

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

7.1 Petitioner is statutorily obliged to meet the consumer demand of electricity in the State of Chhattisgarh. It is stated that out of total 5722.05 MW available power, the hydel power is only 225 MW conventional and 50.90 MW small hydel projects. Thus, there has been scope for Petitioner to enter into power purchase agreement to procure hydel power from the hydro power projects to meet the demand of the consumers of the State. At present, thermal hydel ratio is 90.51:4.82 which will improve approximately to 89.27:6.12.
7.2 That aforesaid availability mix of generating sources tied up with CSPDCL indicates a meager availability from hydel power stations, which are considered to be very significant for meeting consumer demand during peak time of load cycle i.e. evening peak hours exists. Hydel power is the best option for optimization of solar power for demand balancing purposes.

7.3 That M/s Madhya Bharat Power Corporation Ltd. (for short 'Company') placed an offer to the Chhattisgarh State Power Holding Company Limited vide its letter dated 27.03.2019 for sale of hydro power from 96 MW Rognichu Hydro Electric Project, East Sikkim and requested to enter into a long term PPA. It is submitted that the CSPDCL vide its letter dated 26.04.2019 replied to the aforesaid letter dated 27.03.2019 of the company and demanded certain information to study the feasibility of power purchase from the Hydro Electric Project. Copies of letters dated 27.03.2019 and 26.04.2019 are collectively annexed herewith as ANNEXURE-P/1 (Colly.)

7.4 That the Company replied to the technical questions of the Petitioner vide its letter dated 22.05.2019 giving out the details pertaining to: technical limits and contracted characteristics; grid conditions at delivery point; details of any other contracted capacity with other procurers; reservoir characteristics; availability of peak power in MW and duration; project details etc. Copy of the letter dated 22.05.2019 of the Company to the Chief Engineer (RA & PM), CSPDCL is annexed herewith as ANNEXURE-P/2.
7.5 That the Company mentioned in its letter dated 22.05.2019 that the anticipated date for commercial operation of the project is 30th June 2020 and in this regard also submitted a letter dated 26.03.2019 issued by the Government of Sikkim, Energy and Power Department whereby the commercial date of operation of the project has been extended up to 30th June, 2020. Apart from this, the Company has represented to the Petitioner that the estimated cost of completion of project shall be approximately Rs. 1460 crore. The cost approved by the lenders with SCOD as 30th June 2018 is Rs. 1187.45 Cr. Hence, revised cost has been submitted to the lenders by respondent for approval. The Company also mentions that 12% of the deliverable energy generated at the interconnection point (s) shall be supplied free of cost for the first 15 years and 15% of the deliverable energy generated at the interconnection point (s) or money equivalent thereof from 16th to 35th year from the COD of the Project. Copy of letter dated 26.03.2019 is annexed herewith as ANNEXURE-P/3.

7.6 That after going through the Company’s report, the CSPDCL accorded approval and sent a Letter of Intent along with a draft PPA vide letter dated 06.11.2019, communicating that the Petitioner had agreed for entering into long term power purchase agreement with the Company for purchase of hydro power from 96 MW Rognichu Hydro Electric Project on certain terms and conditions. These terms and conditions were:

(i) The Contracted Capacity shall be the net of the Installed Capacity, after accounting for auxiliary consumption and the capacity corresponding to the deliverable energy, which M/s Madhya Bharat Power Corporation Ltd is
obligated to supply to Govt. of Sikkim under the provisions of the Agreement dated 01/03/2006 entered into between the Govt. of Sikkim and the M/s Madhya Bharat Power Corporation Ltd.

(ii) The procurement of Contracted Capacity as mentioned above is subject to approval of power purchase agreement by CSERC.

(iii) The power shall be procured from the date of CoD after PPA upon grant of open access by CTU/STU of respective States.

(iv) The Project Developer shall be responsible for open access from Ex-bus of STU Chhattisgarh periphery. The project developer shall pay all the charges of wheeling of power from Ex-bus to STU of Chhattisgarh.

(v) Project developer shall submit petition before CSERC for determination of tariff.

(vi) CSPDCL shall submit petition before CSERC for approval of the PPA.

Copy of Letter of Intent dated 06.11.2019 is annexed herewith as ANNEXURE-P/4.

7.7 The Petitioner has consented to procure power from 96 MW from Rognichu Hydro Electric Project. The contracted capacity shall be the net of the installed capacity, after accounting for auxiliary consumption and the capacity corresponding to the deliverable energy, which the Company is obligated to supply to the Government of Sikkim under the Agreement dated 01.03.2006. Copy of the Agreement dated 01st March 2006 between the Company and the Government of Sikkim is annexed herewith as ANNEXURE-P/5.
7.8 Accordingly a draft PPA has been prepared which is more or less in line with the PPA approved by the I.d. CSERC on 06.03.2018 that was executed between CSPDCL and M/s. I.A. Hydro Energy Pvt. Ltd with some minor changes and the said PPA has been executed by CSPDCL with the respondent company on 04th January 2020 after acceptance of the LOI by the Company along with the terms and conditions vide letter dated 18.11.2019 which needs approval of Hon'ble Commission under section 86(1)(b) of Electricity Act, 2003. Copy of letter dated 18.11.2019 is annexed herewith as ANNEXURE-P/6.

7.9 As per the PPA, the procurer has accepted the supplier's offer to procure the balance capacity of power from the project, subject to the approval of the I.d. Chhattisgarh State Electricity Regulatory Commission. It is reiterated that the as per terms of PPA supplier shall achieve financial closure within 36 month from effective date (i.e. the date of approval of PPA by Commission) and commissioning of project will be done with in 30 month from the date of financial closure. And, the availability of power in any contract year shall be at a tariff determined by the Commission. The salient features about the PPA dated 04th January 2020 are given in the table below:

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<td>1.</td>
<td>Introduction</td>
<td>The Madhya Bharat Power Corporation Ltd. stated as &quot;MBPCL&quot; is a generating Company and owns and</td>
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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 Amendment**
This Agreement shall not be modified or amended without the prior consent of the Parties, and any such amendment or modification shall be subject to the approval of CSERC.

4. **Article: 3 Term of the Agreement**
This Agreement shall be valid from the Effective Date (i.e. upon approval by the CSERC) until the Expiry Date (i.e. date of 35th year of the Commissioning date), unless terminated earlier pursuant to Article 15.

5. **Article: 4 Conditions Precedent & Subsequent**
This Article contains sub-Articles as:
4.1 Satisfaction of conditions subsequent by the supplier.
4.2 Consequences of non-fulfillment of conditions subsequent.
4.3 Performance Bank Guarantee.
| 6. | Article 5: Representations & Warranties | The Supplier has represented, inter alia, that it has all the financial standing and capacity to perform its obligations and execute this Agreement; this Agreement is enforceable against the Supplier; all information submitted was complete and accurate; it is compliance with all the applicable Laws etc. Likewise, Procuer has also represented to the Supplier, inter alia, that it has capacity to perform its obligations and execute this Agreement; this Agreement is enforceable against the Procuer, etc. |
| 7. | Article 6: Construction and Development of the Project | This Article covers the following: Project implementation; Progress reporting by the Supplier; Project Performance; Payments; changes in supplier’s equity shareholding; Safety measures; water charges; supplier’s liability not limited by contractors; Insurance coverage; Contracted Capacity & Energy Supply; Commencement of Supply; Extension of Time; Liquidated Damages for delay in commencement of supply of power to the Procuer; Third Party Verification; Employment of Foreign Nationals. |
| 8. | Article 8: Plant Operation & Maintenance | Supplier shall organize operation and maintenance of the Project so as to ensure optimum utilization of the water potential and if required, to affect improvement. |
| 9. | Article 9 | • The supplier shall be responsible, at
Interconnection, Transmission, Metering and Energy Accounting

its own cost, for operation and maintenance of the Interconnection Facilities of the Project and tie line (if applicable). All charges relating to open access transmission charges and losses upto delivery point will be borne by supplier.

- For installation of meters and matters incidental thereto, the Supplier and the Procurer shall be bound by the CEA (Installation and Operation of Meters) Regulations, 2006, Grid Code, ABT/DSM, as amended from time to time.
- Scheduling and RLD/C/ SLDC charges, applicable on supply of the contracted energy up to the Delivery point and shall be borne by the Supplier.
- RUC shall issue Regional energy Accounts (REA) that shall be binding on both the Parties.

10. Article 10: Energy Purchase and Sale

Tariff for supply of contracted energy in any Contract year shall be the tariff as determined by the CSERC

11. Article 11 Billing Procedures and Payments

Tariff shall be calculated in accordance with this Agreement and as approved by the CSERC. Monthly bill /invoice will be on basis of REA depicting energy delivered at delivery point as all charges relating to open access transmission charges and losses upto delivery point will be borne by supplier.

12. Article 12 Operation &
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Copy of the PPA entered into between MBPCL and CSPDCL on 4th January 2020 is annexed herewith as ANNEXURE-P/7.

8. LAW POINTS INVOLVED IN THE MATTER:

The petitioner carries universal 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. RELIEF SOUGHT:

In light of the submissions made above, Hon'ble Commission may kindly be pleased to approve purchase of power from 96 MW installed capacity Rognichu Hydro Electric Project and the aforesaid Power Purchase Agreement (PPA) dated 4th January 2020 between petitioner and M/s. Madhya Bharat Power Corporation Ltd. (MBPCL).

10. INTERIM RELIEF:

NIL

11. GROUNDS FOR CLAIMING RELIEF:

Petitioner is distribution licensee in the State of Chhattisgarh whose ARR is approved by State Commission. The procurement of power and Power Purchase Agreement (PPA) of distribution licensee is regulated by Hon'ble Commission under section 86(1)(b) of the act. Hence, approval of CSERC to purchase hydel power under instant PPA is necessary.
12. **PETITION FEE:**

A petition fee of Rs. 4,80,000/- (In words Rupees Four lakh Eighty thousand) in accordance with clause 20(a) of Schedule 1 under CSERC Fees and Regulations 2009 is paid through Cheque No.166313, dated 29.05.2020, drawn on Union Bank of India, Raipur.

13. **ENCLOSURES:**

As above

**RAIPUR**

DATE 09/06/2020

**COUNSEL FOR PETITIONER**

ABHINAV KARDEKAR
Advocate
Mob.: 99812-61140
BEFORE THE CHHATTISGARH STATE ELECTRICITY 
REGULATORY COMMISSION, RAIPUR (C.G.)

PETITION No. OF 2020

PETITIONER
Chhattisgarh State Power Distribution 
Co. Ltd.

V/s

RESPONDENT
M/S. Madhya Bharat Power 
Corporation Limited

AFFIDAVIT

I, Biplab Dutta, S/o Shri Bishnu Prasad Dutta, aged about 49 years, 
working as Executive Engineer in O/o C.E. (RA & PM), CSPDCL, do 
hereby solemn affirmation on oath as under:

1. That I am the authorized signatory of Applicant company in the 
present case and as such fully conversant with the facts and 
circumstances of the case.

2. That the instant petition has been drafted as per my instructions and 
the contents made in Paras 1 to 3 are true and correct according to 
my knowledge and belief and based on information as per office 
record.

3. That nothing material is overstated or concealed in the accompanying 
petition.

VERIFICATION

I, Biplab Dutta, the above described deponent, solemnly affirm and verify 
that the contents of this affidavit are true to my personal knowledge and 
belief.

Hence verified and signed on /3/2020 at Raipur (C.G.)

DEPONENT

[Signature]

[Notary]

[Stamp]