

(a) Payment mode is direct payment instead of Letter of Credit. For Collateral arrangement, Standby Letter of Credit / Bank Guarantee is provided in place of Credible Escrow Mechanism.

(b) In case of requisitioned capacity being equal to or greater than 500 MW, the procurer shall have the option to decide the scheduled delivery date, which shall not be less than five months instead of four years from the effective date.

(c) In case of failure of the seller to start supply of power to procurer even after expiry of “(6)” months instead of twelve (12) months from its scheduled delivery date or the revised scheduled delivery date, as the case may be, it shall be considered as a seller event of default and provisions of Article 11 of the PPA shall apply.

(d) Net worth should be equal to or greater than the value calculated at the rate of Rs.0.50 crore per MW of capacity offered by the bidder in its bid or equivalent USD on date of opening of the tender instead of three years audited annual accounts.

2. Facts of the case:

In view of shortage of power and to meet the demand for the present and for the near future, the Petitioner herein has decided to procure power as contemplated under section 63 of the Electricity Act, 2003. This Miscellaneous Petition is for seeking approval for the deviation proposed from the guidelines issued by Ministry of Power (MOP) under Government of India (GOI) for procurement of power under Case I bidding.

3. Contentions of the Petitioner as set out in the Petition:-

(a) Clause 5.16 of the guidelines states that in case there is any deviation from these guidelines, the same shall be with the prior approval of the appropriate Commission. The appropriate Commission shall decide on the modifications to the bid documents within a reasonable time not exceeding 90 days.

(b) In an earlier occasion, the Petitioner filed a petition vide M.P.No.48 of 2010, M.P.No.24 of 2011 seeking approval for the deviation in payment security mechanism and approved by the Commission before floating the tender.

(c) Power purchase cost through long term is cheaper than the medium term and short term power purchase and hence more economical to go in for long term purchase.

(d) In view of the emergence of single grid as a national grid the competition is exposed in entire India. During such period, execution of long term Power Purchase Agreement is considered to be more advantageous.

(e) The Petitioner seeks the approval of the Commission for four deviations which they propose to make in the guidelines of the Government of India and RFP. The four deviations are as follows:-

(i) Payment mode is direct payment instead of Letter of Credit. For Collateral arrangement, Standby Letter of Credit / Bank Guarantee is provided in place of Credible Escrow Mechanism as stipulated in para 4.10 of the guidelines of the Government of India.

(ii) In case of requisitioned capacity being equal to or greater than 500 MW, the procurer shall have the option to decide the scheduled delivery date, which shall not be less than five months instead of four years from the effective date as stipulated in para 1.3.1 of RFP.

(iii) In case of failure of the seller to start supply of power to procurer even after expiry of “(6)” months instead of twelve (12) months from its scheduled delivery date or the revised scheduled delivery date, as the case may be, it shall be considered as a seller event of default and provisions of Article 11 shall apply as stipulated in para 4.8.2 of PPA.

(iv) Net worth should be equal to or greater than the value calculated at the rate of Rs.0.50 crore per MW of capacity offered by the bidder in its bid or equivalent USD on the date of opening of the tender instead of three years audited annual accounts as stipulated in para 2.1.2.1 of RFP.

4. Hearing held on 18-10-2012:-

The above petition was first heard on 18-10-2012 by the Commission. The Commission passed the following order:-

M.P.No.37 of 2012 filed by TANGEDCO for procurement of 1000 MW \pm 20% for 15 years through long term is admitted. The deviations from the standard bid documents for which approval of the Commission is sought will be examined by the Commission. In the meantime, the Petitioner shall file justification for procurement of capacity of 1000 MW \pm 20% for 15 years, as envisaged in the petition. The details shall be filed within four weeks.

5. Additional affidavit filed by the Petitioner in terms of order dated 18-10-2012:-

Pursuant to the order dated 18-10-2012 passed by the Commission in the hearing dated 18-10-2012 as referred to in para 4 above, the Petitioner filed an additional affidavit on 15-11-2012 justifying their petition. In the additional affidavit, the Petitioner has made the following submissions, namely-

(i) Demand of TANGEDCO during the year 2012 is 12500 MW. Considering the load growth of 8% per annum i.e. about 1000 MW rise of demand every year, TANGEDCO have projected the power supply demand projection for the 12th Five Year Plan period from 2012-13 to 2017-18 taking into account the capacity addition and reduction in capacity addition due to unit retirement / expiry of PPA.

(ii) For the subsequent years projection of demand is made with capacity addition of nearly 1000 MW / year and taking the reduction of capacity due to unit retirement as Zero (0) MW, the deficit at the end of 2027-28 is worked out to be around 17600 MW. Hence floating of tender for procurement of RTC power of 1000 MW under long term basis will overcome the power deficit in the forthcoming years.

(iii) Annexure I relates to the statement of power deficit in MW during 2013-2028 filed by the Petitioner. Annexure II relates to capacity additions filed by the Petitioner.

6. Finding of the Commission:-

(a) This petition is filed by TANGEDCO for procurement of 1000 MW \pm 20% of Round The Clock (RTC) power for 15 years through long term under case I bidding

procedure issued by Ministry of Power, Government of India under Sec 63 of Electricity Act, 2003.

The prayer of the petitioner in this petition is as follows:-

- (i) *Payment mode is direct payment instead of LC. For Collateral arrangement, Standby LC /Bank Guarantee is provided in place of Credible Escrow Mechanism.*
- (ii) *In case of Requisitioned Capacity being equal to or greater than 500 MW, the procurer shall have the option to decide the Scheduled Delivery Date, which shall not be less than five (5) months instead of four (4) years from the Effective Date.*
- (iii) *In case of failure of the Seller to start supply of power to procurer even after expiry of “(6)” months instead of twelve (12) months from its Scheduled Delivery Date or the Revised Scheduled Delivery Date, as the case may be, it shall be considered as a Seller Event of Default and provisions of Article 11 shall apply.*
- (iv) *Networth should be equal to or greater than the value calculated at the rate of Rs.0.50 crore per MW of capacity offered by the Bidder in its Bid or equivalent USD on date of opening of the tender instead of three years audited annual accounts.*

(b) The petitioner has furnished the following needs for procurement of power of 1000 MW for 15 years period.

The demand availability and deficit projections so arrived at for the period up to 2012 – 2018 are furnished in Annexure – A.

It is to be mentioned that in the load forecast of 8% growth in demand assumed is close to accurate, since the actual load growth observed in the analysis of the past few years has been assumed for the future projection. Based on the above principles, the load forecast has been made for the next 6 years (up to 2012-18) with the following assumptions.

- *Seasonal and infirm capacity is not considered here.*
- *Availability is arrived at based on CEA norms i.e. 85% for thermal & nuclear generating units, 88% for gas based generating units and for Hydro generating units based on the water storage from historical data.*
- *In 2013-14 Ennore TPS (250 MW) retires and PPA with GMR Vasavi (196 MW) expires.*
- *2014-15 NLC TPS 1 (475 MW) retires.*
- *2015-16 TTPS I & II units retire (420 MW) and PPA with Samalpatti Power Corporation (105MW) expires.*

- 2016-17 PPA with Madurai Power Corporation (106 MW) expires.

Keeping in mind the delay in scheduled commissioning of new power projects in TANGEDCO, increased forecasted demand on development of IT sectors in the forthcoming years and coming up of many private coal based power plants in Southern Region which are likely to be ready for commercial operation from middle of 2013 and may be interested to enter into Long Term Agreement with TANGEDCO, Board has decided to float a tender for procurement of 1000 MW for a period of 15 years through long term.

Power Purchase Cost:

- *Power Purchase cost through long term is cheaper than the medium term and short term power purchase and hence more economical to go in for long term purchase.*
- *The delivery period of the power is programmed during 2013-14. During that period, because of the commissioning of Inter Regional feeder the grid is expected to be on synchronous mode.*
- *In view of the emergence of single grid as a national grid the competition is exposed in entire India. During such period, execution of long term power purchase agreement is considered to be more advantage.*

(c) The proposed date for commencing of delivery is indicated as 1-8-2013. The petition was heard by the Commission on 18-10-2012. The Commission after admitting the petition directed the petitioner to file the justification for procurement of capacity of 1000 MW \pm 20% for 15 years as envisaged in the petition.

(d) The petitioner has filed an additional affidavit on 15th November 2012 stating that the demand during the year 2012 is 12,500 MW. Considering the load growth of 8% per annum i.e. about 1000 MW increase of demand every year, TANGEDCO have projected the power supply demand for the 12th Five Year Plan period from 2012 – 13 to 2017 – 18 taking into account the capacity addition and reduction in capacity due to unit retirement / expiry of PPA. For the subsequent years, projection of demand is made with capacity addition of nearly 1000 MW per year and taking the reduction of capacity due to unit retirement as zero MW, deficit at the end of

2027–28 is worked out to be around 17,600 MW by TANGEDCO. Hence, floating of tender for procurement of RTC power of 1000 MW under long term basis will overcome the power deficit in the forthcoming years. Details of capacity addition and unit retirement has been enclosed by TANGEDCO as Annexure.

(e) During the hearing, the Commission pointed out that the entire planning process addresses only the capacity addition issues and does not deal with the Demand Side Management. The Commission is of the view that Demand Side Management is an effective tool for handling shortages and is an economical option too and therefore should be vigorously pursued by TANGEDCO. The CE, PPP of TANGEDCO was in agreement with the observation of the Commission.

(f) The matter was further heard by the Commission. After hearing the representative of TANGEDCO and after examination of the petition and additional affidavit the Commission approves the following deviations.

- (i) *Payment mode is direct payment instead of LC. For Collateral arrangement, Standby LC /Bank Guarantee is provided in place of Credible Escrow Mechanism.*
- (ii) *In case of Requisitioned Capacity being equal to or greater than 500 MW, the procurer shall have the option to decide the Scheduled Delivery Date, which shall not be less than five (5) months instead of four (4) years from the Effective Date.*
- (iii) *In case of failure of the Seller to start supply of power to procurer even after expiry of “(6)” months instead of twelve (12) months from its Scheduled Delivery Date or the Revised Scheduled Delivery Date, as the case may be, it shall be considered as a Seller Event of Default and provisions of Article 11 shall apply.*
- (iv) *Networth should be equal to or greater than the value calculated at the rate of Rs.0.50 crore per MW of capacity offered by the Bidder in its Bid or equivalent USD on date of opening of the tender instead of three years audited annual accounts.*

(g) The Commission also directs the TANGEDCO to undertake the following exercises:-

- (i) Rolling review of the demand supply position will have to be done every year by the TANGEDCO duly taking into account the load reduction due to Demand Side Management and accordingly capacity addition or bidding under case I or case II will have to be initiated on a year to year basis.
- (ii) Demand Side Management activities leading to energy conservation and efficient use of energy needs to be stepped up on a regular basis by TANGEDCO.
- (iii) The Board of Directors of TANGEDCO shall carefully examine the tariff obtained through the case I bidding in this case, before approaching the Commission for adoption of tariff, as commitment for 15 years will have to be made for this power purchase.

7. APPEAL:

An appeal against this Order lies to the Appellate Tribunal for Electricity under section 111 of the Electricity Act 2003, within a period of 45 days from the date of receipt of the copy of this order by the aggrieved person.

(Sd.....)
(S.Nagalsamy)
Member

(Sd.....)
(K.Venugopal)
Member

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission