

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under Section 82 (1) of the Electricity Act 2003
Central Act 36 of 2003)

PRESENT:-

Thiru.K.Venugopal Member

and

Thiru.S.Nagalsamy Member

M.P.No.8 of 2012

Tamil Nadu Generation and
Distribution Corporation Ltd.
(Represented by its Chairman Cum
Managing Director)
No.144, Anna Salai
Chennai – 600 002.

..... Petitioner
(Thiru P.H.Vinod Pandian,
Advocate for Petitioner)

Vs

Nil

.... Respondent

Dates of hearing : 16-04-2012 and 26-09-2012

Date of order : 21-11-2012

M.P.No.8 of 2012 came up for final hearing before the Commission on 26-09-2012. The Commission upon perusing the above M.P.No.8 of 2012 and the connected records and upon hearing the Chief Engineer and Executive Engineer (PPP) TANGEDCO passes the following order:-

ORDER

1. Prayer of the Petitioner in M.P.No.8 of 2012:-

The prayer of the Petitioner in M.P.No.8 of 2012 is as follows:-

- (a) Payment mode is direct payment instead of LC. For collateral arrangement, Standby LC/Bank Guarantee is provided in place of credible escrow mechanism.
- (b) The scheduled delivery date may be postponed on mutual consent of the seller up to the period of six months in order to accommodate the upcoming projects.
- (c) In case of failure of the seller to start supply of power to the procurer even after expiry of six months from its scheduled delivery date, as a case may be, it shall be considered as a seller event of default and provision of Article 11 (events of default and termination) may apply and the seller shall be liable to pay to the procurer charges equivalent to 12 months at Rs.2.00 per unit calculated at normative availability.

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 the section 63 of the Electricity Act, 2003. The Miscellaneous Petition is filed 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. Hearing held on 16-04-2012:-

In the hearing held on 16-04-2012, the Petitioner was directed to file affidavit justifying the following:-

- (a) The need for procurement of power of 1000 MW for 5 years period.

- (b) Assessment made about power availability in TANGEDCO during 2015-16.
- (c) Any assessment made about price after 2014 when the Southern Grid is connected to all India Grid.
- (d) Flexibility of 6 months suggested in the commencement of supply.

4. Affidavit filed by the Petitioner:-

Pursuant to the directions of the Commission, the Petitioner filed an affidavit dated 16-04-2012. In the said affidavit, the Petitioner has stated as follows:-

(i) The need for procurement of power of 1000 MW for 5 years period

TANGEDCO submitted the projection on demand and supply position for the period from 2011-12 to 2016-2017 in M.P.No.15 of 2011 enclosed as Annexure in which the projected demand varies between 12462 to 18311 MW and in the same period the total generation availability would be increasing from 11263 to 20119 MW. The net deficit in the generation availability after including the spinning reserve which varies from 1907 to 4670 MW during the years 2011-12 to 2015-16 while there may be a surplus of 498 MW during the year 2016-17.

- To meet out the above deficit TANGEDCO programmed to purchase 3900 MW RTC power under Case I bidding for the period from 2012-17.
- TANGEDCO floated tender for purchase of 450 MW RTC power under Case I bidding Tender No.01/PPMT/2011 for a period of five years from 2012 to 2017. In that TANGEDCO signed PPA with M/s.NETS for only 100 MW RTC power through medium term.
- TANGEDCO floated another tender for purchase of 450 MW RTC power under Case I bidding Tender No.02/PPMT/2011 for a period of five years from 2012 to 2017. In that TANGEDCO issued LOI on 27-04-2012 to M/s.Jindal

Power Ltd. and M/s.Adani Enterprises Ltd. for purchase of 200 MW (each) RTC Power through medium term.

- Out of 3900 MW, LOI has been issued for 500 MW only and the balance quantum of 2400 MW has to be procured to meet out the deficit and hence TANGEDCO decided to float tender for 1000 MW \pm 20% RTC power for a period of five years.

(ii) Assessment made about power availability in TANGEDCO during 2015-16.

The details of assessment made about power availability in TANGEDCO during 2015-16 considering the capacity addition during the period 2011-12 to 2014-15 is furnished below:-

1	Expected Installed Capacity	18194 MW
2	Total availability	13425 MW
3	Projected Demand	16955 MW
4	Deficit	-3530 MW
5	Spinning Reserve	910 MW
6	Nett Deficit	- 4440 MW

(iii) Any assessment made about price after 2014 when the Southern Grid is connected to All India Grid:-

It is very difficult to make assessment about price after 2014 when the Southern Grid is connected to All India Grid. However the national grid will enable faster trades in power sales, it will reduce costs, some of which may be passed on to consumers in the form of lower tariffs.

iv Flexibility of 6 months suggested in the commencement of supply:-

- (a) TANGEDCO reasonably expect many prospective generating companies in Tamil Nadu to participate in the tender thereby TANGEDCO may be in

an advantageous position in terms of transmission charges and loss components and further there will not be any corridor constraints in power evacuation if power is made available from the generating stations operating in Tamil Nadu.

(b) Since time taken for finalization of the tender is approximately more than six months under Case I bidding, flexibility given for commencement of supply would pave the way for more bidders to participate in the tender which in turn result in purchase of power at reasonable rates and thereby ultimate benefit goes to general public.

(c) By extending commencement of supply the generating companies may utilize the period to get necessary statutory approvals from various agencies required for commissioning of the plant.

5. Finding of the Commission:-

5.1. This petition was filed by TANGEDCO for approval of the following deviations in the procurement of 1000 MW of power as base load under case I bidding.

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

(b) The Scheduled delivery date may be postponed on mutual consent of the seller up to the period of six months in order to accommodate the upcoming projects.

(c) In case of failure of the seller to start supply of power to the procurer even after expiry of six months (6) from its scheduled delivery date, as a case may be, it shall be considered as a seller event of default and provision of Article

11 (Events of default and termination) may apply and the seller shall be liable to pay to the procurer charges equivalent to 12 months at Rs.2.00 per unit calculated at Normative availability.

5.2. In accordance with the Government of India guidelines issued under section 63 of the Electricity Act 2003, any deviations in the guidelines issued by the Ministry of power, Government of India has to be got approved from the Commission. The matter was heard on 16-4-2012 and the petitioner was directed to file an affidavit justifying the following:-

- (a) The need for procurement of power of 1000 MW for 5 years period.
- (b) Assessment made about power availability in TANGEDCO during 2015-16.
- (c) Any assessment made about price after 2014 when the Southern Grid is connected to all India Grid.
- (d) Flexibility of 6 months suggested in the commencement of supply.

5.3. The petitioner TANGEDCO filed their reply which is extracted below:-

(i) *The need for procurement of power of 1000 MW for 5 years period.*

TANGEDCO submitted the Projection on Demand and Supply position for the period from 2011-12 to 2016-17 in M.P. No. 15 of 2011 enclosed as Annexure in which the projected demand varies between 12462 to 18311 MW and in the same period the total generation availability would be increasing from 11263 to 20119 MW. The net deficit in the generation availability after including the spinning reserve

which varies from 1907 to 4670 MW during the years 2011-12 to 2015-16 while there may be a surplus of 498 MW during the year 2016-17.

➤ To meet out the above deficit TANGEDCO programmed to purchase 3900 MW RTC power under Case I bidding for the period from 2012-17.

➤ TANGEDCO floated tender for purchase of 450 MW RTC power under Case I bidding tender No. 01/PPMT/2011 for a period of five years from 2012 to 2017. In that TANGEDCO signed PPA with M/s NETS for only 100 MW RTC power through medium term.

➤ TANGEDCO floated another tender for purchase of 450 MW RTC power under Case I bidding tender No. 02/PPMT/2011 for a period of five years from 2012 to 2017. In that TANGEDCO issued LOI on 27.04.12 to M/s. Jindal Power Ltd and M/s Adani Enterprises Ltd for purchase of 200 MW (each) RTC power through medium term.

➤ Out of 3900 MW, LOI has been issued for 500 MW only and the balance quantum of 2400 MW has to be procured to meet out the deficit and hence TANGEDCO decided to float tender for 1000 MW \pm 20% RTC power for a period of five years.

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(iii) Any assessment made about price after 2014 when the Southern Grid is connected to All India Grid.

It is very difficult to make assessment about price after 2014 when the Southern Grid is connected to All India Grid. However the national grid will enable faster trades in power sales, it will reduce costs, some of which may be passed on to consumers in the form of lower tariffs.

(iv) Flexibility of 6 months suggested in the commencement of supply.

a) *TANGEDCO reasonably expect many prospective generating companies in Tamil Nadu to participate in the tender thereby TANGEDCO may be in a advantageous position in terms of transmission charges and loss components and further there will not be any corridor constraints in power evacuation if power is made available from the generating stations operating in Tamil Nadu.*

b) *Since time taken for finalization of the tender is approximately more than six months under Case I bidding, flexibility given for commencement of supply would pay the way for more bidders to participate in the tender which in turn result in purchase of power at reasonable rates and thereby ultimate benefit goes to general public.*

c) *By extending commencement of supply the generating companies may utilize the period to get necessary statutory approvals from various agencies required for commissioning of the plant.*

5.4. The matter was further heard on 26-9-2012. The Chief Engineer PPP and Executive Engineer PPP, TANGEDCO presented the case.

5.5. After hearing the representatives of the petitioner and after perusing the written submissions, the Commission approves the following deviations:-

- (a) Payment mode is direct payment instead of letter of credit. For collateral arrangement, standby LC/ Bank Guarantee may be provided in place of Credible Escrow mechanism.
- (b) The Scheduled delivery date may be postponed based on mutual consent of the seller and buyer up to a period of six months so that upcoming projects could also be accommodated.
- (c) As far as the damages proposed at the rate of Rs.2.00 per unit calculated at normative availability for a period of 12 months in prayer C, the same would work out to approximately Rs.1600 crores for one year and the Commission is of the opinion that such a provision may not be necessary as it will only inflate the quoted price. Provisions as contained in the Government of India tariff guidelines issued under Section 63 in this regard are adequate for protecting the interest of the buyer as this damages works out to Rs.500 crores approximately. Accordingly Prayer C is not allowed.

5.6. The petitioner may proceed with the bid process duly incorporating the approved amendments 1 & 2 indicated above. The Commission shall be approached for adoption of tariff along with necessary documents as envisaged in the guidelines issued by the Government of India in this regard.

6. Appeal:-

An appeal against this order lies before 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