

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
Thiru S. Nagalsamy Member

M.P.No.24 of 2011

Tamil Nadu Generation and Distribution Ltd. represented by Chairman and Managing Director, No. 144, Anna Salai, Chennai – 600002.	Petitioner (Thiru P.H. Vinod Pandian Standing Counsel for TANGEDCO)
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Vs

Nil	Respondent
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Date of Hearing : 13.09.2011; 03.11.2011; 16.11.2011;
21.06.2012 and 20.12.2012

Date of Order : 20.12.2012

The above M.P. No.24 of 2011 has been filed by TANGEDCO with a prayer to approve the deviation in the guidelines issued by the G.O.I. for procurement of power through competitive bidding in respect of procurement of 450MW under Medium Term Open Access for a period of 5 years for floating of tender in bid specification No. 02/PPMT/2011 under ICB Route. The deviation sought to be approved is the payment security mechanism in the form of standby Letter of Credit instead of Letter of Credit backed by Escrow mechanism stipulated in the said guidelines.

The petitioner has submitted that the bid deadline for the tender was 18.02.2012 at 14.00 hrs. The bids were received from the following

companies in time and the non-financial bids (Envelope-I) were opened on 18.02.2012 at 14.30 hrs. in the presence of the bidders / their authorised representatives by TANGEDCO. The details of quantum offered by the three companies are as below:

Sl.No.	Name of the Bidder	Quantity offered by the bidders
1.	M/s. Jindal Power Ltd., New Delhi	200 MW
2.	M/s. Adani Enterprises Ltd., Ahamadabad	200 MW
3.	M/s. OPG Power Generation Pvt. Ltd., Chennai	470 MW
	Total	470 MW

As per SECTION 3.1 of RFP, Bid Evaluation consists of four steps, viz.

Step I. : Responsiveness check of Non-financial bid.

Step II. : Evaluation of Bidders fulfilment

Step III. : Evaluation of Financial Bid

Step IV. : Successful Bidder(s) selection

Each Bid checked for compliance with the submission requirements set forth in Clause 3.2 of RFP before the evaluation of Bidder's fulfilment of Qualification Requirement was taken up and the above three bids are found responsive: -

Hearing held on 13.09.2011

In the hearing held on 13.09.2011, Commission directed TANGEDCO to clarify what deviations they actually propose to make from the guidelines of G.O.I. and also to clarify whether they would specify the quantum indicted in the letter No. (E/PPP/Dir/PP/EE/AEE/Case 1/F. Tender.1/D-392/ 11 dated 2.9.2011 or whether they would insist on the minimum of 100 MW as proposed in the bid. TANGEDCO was also directed to justify whether they would really need this much power in June 2012 when they would be flush with wind power as well as their own generation.

Pursuant to the above direction TANGEDCO filed an additional affidavit, justifying the prayer in the main petition.

Hearing held on 16.11.2011

During the hearing, Thiru Ezhilarasan, Chief Engineer/ PPP presented the case. He submitted that the deviation from the guidelines with regard to default escrow agreement in the payment mechanism was approved by the Commission on 3.11.2011 and submitted an affidavit presenting the corresponding changes in clause 8.4.2011 of the PPA and corresponding changes in the RFP has already been filed on 4.11.2011. The Commission after perusing the affidavit approved the deviation in payment mechanism as prayed for by the petitioner.

Hearing held on 21.6.2012

Thirumathi Hema, Executive Engineer, TANGEDCO presented the case. Thir P.H. Vinod Pandian, Standing Counsel for TANGEDCO filed current status report. Commission directed to follow other actions as per section 63 of the Electricity Act 2003.

Contents of the Status Report

The comparative statement of levelised tariff for the following bidders are tabulated as under:

Sl.No.	Name of the Bidder	Levelised Tariff Rs./Kwh	Rank
1.	M/s. Jindal Power Ltd.	4.9165	L1
2.	M/s. Adani Enterprises Ltd	5.4674	L2
3.	M/s. OPG Power Generation Pvt. Ltd.	5.9933	L3

The Negotiation meeting was conducted on 07.03.2012 with L1 and L2. During negotiation the L1 was requested to reduce the price. The L1 bidder M/s. Jindal Power Ltd. has not accepted to reduction in quoted tariff. Hence, the L2 and L3 bidder were requested to match with L1 rate.

The L2 bidder M/s. Adani Enterprises Ltd. has accepted to reduce the levelised tariff to Rs. 4.99/Kwh.

The L3 bidder M/s. OPG has not accepted to match L1 and L2 rate.

As per the orders of the TNERC dated 16.02.2012, the upset price for Case I bidding (Phase II) Tender no.02/PPMT/2011 was fixed as Rs.4.00 per Kwh and submitted to the Hon'ble TNERC in a sealed cover before opening of the financial bid on 05.03.2012.

The financial bid evaluation committee in its meeting held on 18.04.2012 suggested that the present value of unit rate of M/s. Jindal and M/s. Adani are in line with the prevailing market price and less than the upset price of Rs.4.00/Kwh but the present value of unit rate of M/s. OPG is higher than the prevailing market price and upset price and hence the financial bid evaluation committee recommended that the rates quoted by M/s. Jindal and M/s. Adani are reasonable and acceptable and the rates quoted by M/s. OPG is not accepted.

Board of Directors of the TANGEDCO in its 24th meeting held on 23.04.2012 accorded approval for the following:

- i) To issue Letter of Intent (LOI) to successful L1 bidder M/s. Jindal Power Limited, New Delhi for purchase of 200 MW RTC Power sourced from Chattisgarh through Medium Term power purchase under Case – I bidding (02/PMT/2011) for a period of five years from 01.09.2012 to 31.08.2017.
- ii) To issue Letter of Intent (LOI) to successful L2 bidder M/s. Adani Enterprises Limited, Ahmedabad for purpose of 200 MW RTC Power sourced from Gujarat through Medium Term power purchase under Case – I bidding (02/PPMT/2011) for a period of five years from 01.09.2012 to 31.08.2017.
- iii) To authorise Director / Distribution to sign the PPA on behalf of TANGEDCO.

- iv) To seek approval of TNERC for adoption of Tariff under Section 63 of Electricity Act 2003 in line with the G.O.I. guidelines vide section no.6.4.

TANGEDCO issued a Letter of Indent to M/s. Jindal and M/s. Adani on 6.04.2012 and accepted by M/s. Jindal on 27.04..2012. But M/s. Adani has accepted the LOI only on 15.06.2012.

Power Purchase Agreement between TANGEDCO and M/s. Jindal and M/s. Adani is expected to be signed during 4th week on June 2012.

Orders of the Commission on 20.12.2012

The Commission upon hearing the petitioner and after perusing all the records relating to the above M.P. 24 of 2011 passed the following order on 20.12.2012.

ORDER

TANGEDCO filed an affidavit stating the current status of the bids received consequent to the approval given by the Commission in M.P.24 of 2011. A separate petition PPAP No.7 of 2012 has been filed for adoption of tariff. In the said PPAP No.7 of 2012, counters have also been received from the respondents viz. M/s. Adani and Jindal. PPAP 7 of 2012 shall be listed separately for disposal. M.P. No.24 of 2011 is closed.

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

(Sd.....)
(K. Venugoapl)
Member

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission