

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

P.P.A.P No.4 of 2013

Tamil Nadu Generation and Distribution
Corporation Ltd.
NPKRR Maaligai, 144, Anna Salai
Chennai -600 002.

..... Petitioner
(Thiru. P.H. Vinod Pandian
Standing Counsel)

Vs.

Nil

..... Respondent

Date of hearing : 12.04.2013

Date of Order : 04-06-2013

P.P.A.P No. 4 of 2013 was filed by the petitioner TANGEDCO seeking approval of the Commission for adoption of tariff towards the procurement of around 1177 MW of RTC power (10150 MUs approximately) from 1st June 2013 to 25th May 2014 from the successful inter-state traders / generators in respect of Tender 05 of 2012 who have given concurrence to supply power at the rate below Rs. 5.00 per unit (landed cost at TN Periphery) and accepting the terms and conditions of TANGEDCO in pursuance of the order issued by Tamil Nadu

Electricity Regulatory Commission in MP No. 42 of 2012 and I.A. No. 1 in MP No. 42 of 2012 dated 31-12-2012.

Contention of the Petitioner in the petition:

2. The petitioner has stated that while unrestricted demand of power is more than 12000 MW, power available from various sources to the petitioner is in the order of 8000 MW resulting in shortage of the order of about 4000 MW. To mitigate the power shortage, the petitioner proposes to procure additional power through competitive bidding under section 63 of the Electricity Act, 2003, following the guidelines issued by the Ministry of Power, Government of India in this regard. The bids were opened on 5-12-2012. 26 bidders participated in the bids.

3. A Standing Committee for bid evaluation was constituted by the petitioner as per Ministry of Power guidelines with the following members.

Sl. No.	Designation of the Member	Name of the Member
1.	Chief Engineer, Private Power Projects, TANGEDCO	Thiru K. Seshadri
2.	Chief Financial Controller, General, TANGEDCO	Thiru S. Arul samy
3.	External Member, General Manager (Retired), TNSC Bank	Thiru R. Kaliamoorthy

4. After evaluating the bids, the Standing committee for bid evaluation recommended the following course of action.

- 1) Invite L1 tenderer for negotiation for both in respect of rate and terms and conditions of TANGEDCO;

- 2) Other bidders may also be called for negotiation for rate matching with negotiated L1 rate and acceptance of the terms and conditions of TANGEDCO; and
- 3) after completing negotiation, second sitting of the Committee may be convened for further processing of tender.

5. When the petitioner sought extension of time for bids upto 31-12-2012, two of the bidders Viz., M/S. JSW Power Limited and M/s. Meenakshi Energy Pvt. Ltd did not extend the validity of their offer as requested by TANGEDCO. The total quantum of energy offered by the bidders of both inter-state and intra-state bidders was between 3971.5 MW to 4071.5 MW. Out of this, the quantum of energy offered by intra-state bidders was to the tune of 883.5 MW thereby leaving the inter-state quantum of energy in the range of 3020 MW to 3488 MW.

6. Since the response to the tender invited was good and there is corridor congestion leading to realization of only 20% to 25% of the tied up quantum from inter-state generating sources, TANGEDCO decided to revise the tender quantum and sought the approval of the Commission through I.A. No. 1 of 2012 in MP No. 42 of 2012 which was granted by the Commission.

7. The letter of acceptance along with terms and conditions of TANGEDCO were issued by the petitioner to the following 7 Nos. of bidders for the quantum of 2177 MW to 2777 MW who have accepted to supply power at the rate below Rs.5.00 per Kwahr:

- a) M/s. GUVNL
- b) M/s. NTPC Vidyut Vyapar Nigam Ltd
- c) M/s. Shree Cement Limited
- d) M/s. Sterlite Energy Ltd
- e) M/s. PTC India Ltd
- f) M/s Instinct Infra & Power Ltd
- g) M/s. Jindal Power Ltd

8. M/s. GUVNL did not accept the letter of award. The petitioner further indicated that M/s Instinct Infra & Power Ltd had informed that they would provide Contract Performance Guarantee only on receipt of letter of credit from TANGEDCO and M/s. Shree Cement Limited has requested to confirm the provision of letter of credit.

9. The petitioner has prayed for the adoption of the tariff to enable them to enter into Power Purchase Agreement with the above said inter-state traders/generators towards the procurement of around 1177 MW of RTC power (10150 MU approximately) for the period from 1st June 2013 to 25th May 2014.

Arguments during the hearing:

10. The matter was heard on 12th April 2013. During the hearing, Chief Engineer, PPP, TANGEDCO explained that only 530 MW open access is available for the months of April 2013 and May 2013. This PPAP No. 4 of 2013

relate to the period 1st June 2013 to 25th May 2014. TANGEDCO confirmed that there are no deviations with respect to the Government of India guidelines other than the ones approved by the Commission already. Certain minor deviations were referred to in the petition. Minor deviations are with regard to the Contract performance Guarantee to be provided by the bidders subject to TANGEDCO opening the LC for payment. This issue is yet to be resolved. The Chief Engineer, PPP was candid enough to admit that the open access availability will be not more than 25% of the applied quantum of the proposed power purchase aggregating to 1177 MW of RTC power and corresponding energy of 10,150 MU.

Finding of the Commission:

11. The Commission had approved the deviation from the Government of India Guidelines by the Order dated 31-12-2012 in MP No. 42 of 2012 and IA No. 1 in MP No. 42 of 2012 and relevant portion of the Order is extracted below:-

“MP No. 42 of 2012 and I.A 1 of 2012 in MP No. 42 of 2012 was taken up for admission. Thiru K. Seshadri, CE, PPP explained the contents of the IA and requested for the Commission’s approval for proceeding with procurement of power from inter-state traders and also sought for permission to file separate PPAPs for procurement of power from inter-state and intra-state generators / traders. During the hearing he also clarified that till southern region is interconnected with the rest of the country, the open access capacity is limited and all the southern States are competing for share in the available transmission capacity. He further stated that even if the full quantum of open access is made available, in view of the shortage of power, they will be able to optimally run the system by backing down high cost IPPs, optimally running the hydro stations by storing water for future needs and with an overall view to reduce the operating cost of the TANGEDCO. Keeping in view the contents of the petition as well as the reasons explained during the hearing the Commission approves the power purchase from inter-state traders / generators. Keeping the landed cost at upto Rs. 5 per unit, the MW and the quantum of power purchase will be regulated, keeping in view the actual open access available in the inter-state system”.

12. The availability of open access to southern region from the other regions is a critical issue. During the hearing it was pointed out by the petitioner that all the four Southern States compete for open access for procurement of power from other regions and whatever capacity is available it is distributed proportionately to various short term open access applicants. It also transpired during the hearing that the open access availability is virtually negligible in view of the booking of the corridor even beyond June 2013. To a query from the Commission as to how this power will be used in case open access is available, CE (PPP) clarified that the power would be distributed to various consumers who are facing restriction and control measures and load shedding, backing down of expensive units etc.

13. The Commission has already observed in its Order in MP No. 42 of 2012 that the MW and the quantum of power purchase will be regulated, keeping in view the actual open access available in the inter-state system.

14. The tariff to be paid for the delivered energy shall be at the rate of, below Rs.5.00 per unit for the landed cost of power at TN periphery and the payment shall be in accordance with the actual rates quoted by various bidders. From the petition, the Commission observes that the rates quoted by various bidders are below Rs.5.00 per unit for landed cost of power at TN periphery. The petitioner shall neither waste any energy nor shall pay for power without off taking the same from the suppliers.

15. With the above observations the Commission adopts the tariff as quoted by various bidders which does not exceed Rs.5.00 per unit, which is the landed cost at TN Periphery.

APPEAL:

16. An appeal under section 111 of the Electricity Act, 2003 against this order shall lie to the Appellate Tribunal for Electricity within a period of 45 days from the date of receipt of a copy of this order.

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

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

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission