

**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.5 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

**Date of hearing : 12.04.2013**

**Date of Order : 15-07-2013**

P.P.A.P No. 5 of 2013 was filed by the petitioner TANGEDCO seeking approval of the Commission for the purchase of power around 903 MW TO 927 MW (7916.56 MUs approximately) from intra-state local generators for a period less than one year i.e. from 1<sup>st</sup> June 2013 to 25<sup>th</sup> May 2014 and in pursuance of the tender floated by TANGEDCO for procurement of 1000 MWs of RTC power for the period from June 2013 to May 2014 and for approving the rate of electricity under Section 63 of the Electricity Act 2003.

Prayer of the petitioner is for approval and adoption of tariff towards procurement of the above referred quantum of power for the period from 1<sup>st</sup> June 2013 to 25<sup>th</sup> May 2014 from the inter-state generators in respect of tender No. 05 of 2012 which have given concurrence to supply power at the rate of Rs.5.50 per unit adhering to terms and conditions of TANGEDCO in pursuance of the Order dated 31-12-2012 issued by Tamil Nadu Electricity Regulatory Commission in MP No. 42 of 2012 and I.A. No. 01 in MP No. 42 of 2012 with necessary alteration in Contract Performance Guarantee Clause as mentioned in para 21 of the petition.

This petition is complementary to the petition P.P.A.P No. 4 of 2013. Both these petitions are arising out of the power procurement process through tender 05 of 2012 of the Order of the Commission in MP. No. 42 of 2012. Only distinction is that while P.P.A.P No. 4 of 2013 is for procurement of power from inter-state traders / generators, the present petition P.P.A.P. No. 5 of 2013 is for procurement of power from intra-state generators only. The tendering process being one, facts of this case is also similar to the facts of petition P.P.A.P No. 4 of 2013.

**Contention of the Petitioner in the petition:**

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 relating 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.

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

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.

When the petitioner sought extension of time of 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 bid by both inter-state and intra-state bidders was between 3971.5 MW to 4071.5 MW. Out of this, the bids by intra-state bidders was to the tune of

883.5 MW thereby leaving the inter-state quantum in the range of 3020 MW to 3488 MW.

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 in MP No. 42 of 2012 which was granted by the Commission.

In the intra-state quantum, the petitioner has stated that after negotiation with various bidders, the standing committee for bid evaluation met again on 26-12-2012 and evaluated bids and prepared a comparative statement for the evaluation of rate of all the bids and found the same to be in Order.

The petitioner with a view to tide over the shortage of power, even after purchase from inter-state utilities traders / generators as covered in petition P.P.A.P No. 4 of 2013, is proposing to purchase power from intra-state generators as proposed in this petition, in view of the fact that open access for transmission of power from inter-state utilities is likely to be rather limited.

The petitioner further submits that TANGEDCO's Board in its 33<sup>rd</sup> Board Meeting held on 19-12-2012 has authorized the CMD, TANGEDCO to negotiate with the bidders for finalizing procurement at the rate up to Rs.5.00 per Kwhr in respect of inter-state generators and rate upto Rs.5.50 per Kwhr in respect of

local generators and also to decide on the over all quantum of power procurement .

The petitioner has stated in his petition that on 29-1-2013 the intra-state local generators have reduced their rate to Rs.5.50 per unit and also extended the validity period. Consequently, the net quantum offered by the local generators is between 903 MW and 927 MW for the period from 1<sup>st</sup> June 2013 to 25<sup>th</sup> May 2014 at the rate of Rs.5.50 per unit and incidentally this is the same rate as offered against the previous tender relevant to P.P.A.P. No. 03 of 2012 and approved by the Board in its 26<sup>th</sup> meeting held on 23-6-2012.

**Arguments during the hearing:**

The petitioner argued that this petition is similar to P.P.A.P No. 4 of 2013 except that the energy is being procured from the generators located within Tamil Nadu. Two P.P.A.Ps have been filed for distinguishing between Inter-State Power procurement and Intra-State Power procurement. The Chief Engineer, PPP clarified that the prices have been negotiated to arrive at the best possible price and the same has been approved by the Board of Directors of TANGEDCO. The exact quantum after renegotiation with the bidders is as indicated in page 84 of the type set of documents. The minor deviation with regard to opening of back-up LC is involved in this petition as well.

### **Finding of the Commission:**

The Commission had approved the deviation from the Government of India guidelines by its 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.*

Availability of open access between southern region and the other regions of the country is very limited. This is likely to improve only when southern region is interconnected with the NEW grid. In view of this, attempts are also being made by various utilities in the southern region to procure power from within State by way of harnessing power from local generators, captive power plants, etc.

The negotiated rate has been indicated as Rs.5.50 per Kwhr and the same does not involve any further transmission costs. In view of the assured availability of this capacity of 903 MW to 927 MW and further in view of non

availability of corridor, Commission has no choice but to adopt the rate of Rs.5.50 per Kwhr as per the negotiated rate obtained through this tender.

The petitioner has also sought approval from the Commission for a further modification in the deviations approved earlier Viz., “Contract Performance Guarantee may be furnished when TANGEDCO provides the Letter of Credit as back up payment mechanism.” The Commission observes that this is an issue which has cropped up during the bid processing stage. Ideally approval for the same should have been obtained in advance. As a special case this deviation is being approved by the Commission now. In future TANGEDCO should ensure that approval for any deviation should be obtained in advance.

**APPEAL:**

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 the copy of this order by the aggrieved person.

Ordered accordingly.

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

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

/ True Copy /

Secretary  
Tamil Nadu Electricity  
Regulatory Commission