



2. The prayer of the petitioner is -
  - a. to approve procurement of 20 MW of RTC Power (72 MUs) from M/s. Madras Cements Ltd for the period January' 13 to May' 13 at the rate of Rs.5.50 per Kwhr.;
  - b. to approve and ratify the action of TANGEDCO for having issued letter of acceptance to M/s. Madras Cements Ltd., for supply of 20 MW of RTC power (12.48 Mus) for the period from 6-12-2012 to 31-12-2012 in the month of December 2012 in anticipation of approval ;

**3. Contention of the Petitioner:-**

- 3.1. The petitioner has contented in his petition that only 1/4<sup>th</sup> of the power is being harnessed by them from the inter-state agencies due to the Corridor congestion.
- 3.2. Two tenders have been invited for procurement of power and TANGEDCO could not get the tender quantity on short term basis.
- 3.3. In view of the above and to mitigate the prevailing critical power position and to augment power due to decreasing trend in wind power generation from the month of October onwards and also to overcome the short fall in the previous tenders and the issues of corridor congestion, with the due approval of the Commission in M.P. No. 36 of 2012, tenders were invited by the petitioner on 27-9-2012 for procurement of 1000 MW RTC power from the generators located in the Southern region.

3.4. The petitioner further states that only two bids were received by them in response to the above referred tender from M/s. Madras Cements Ltd., Ariyalur for a quantum of 20 MW for the period October'12 to May'13, the second bid being from M/s. MMS Steel Pvt. Ltd. the price bid of M/s. MMS Steel Pvt. Ltd. was not opened by them as they have not complied with the terms and conditions related to Bank Guarantee towards Earnest Money Deposit. The Bid Evaluation was done by a duly constituted Committee, consisting of -

- 1) Thiru K. Seshadri, CE/PPP, TANGEDCO
- 2) Thiru S. Arulsamy CFC / general, TANGEDCO
- 3) Thiru R. Kaliyamurthy, GM. TNSC Bank (Retired) (External Member)

3.5. The recommendations of the Evaluation Committee are as follows:-

*“12. Recommendations:-*

*In view of evaluation of the bids received from M/s. Madras Cements Ltd and M/s. MMS Steel Pvt Ltd., the Standing Evaluation Committee recommends the following.*

- 1. The Non-financial and Financial Bids of M/s. Madras Cements Ltd may be considered as they have furnished BG for EMD and accepted all terms and conditions of TANGEDCO as stipulated in NIT.*
- 2. To reject the offer of M/s. MMS Steel pvt. Ltd as they have not produced BG towards EMD.*
- 3. The rate offered by M/s. Madras Cements Ltd is Rs.6.50/- per unit which is higher than the prevailing rate Rs.5.50/- per unit as offered by the local generators in respect of tender 03/2012. TNERC is yet to pronounce its approval for rate adoption and additional quantum. Hence, M/s. Madras Cements may be addressed for rate negotiation.*

4. *It has been instructed in MoP guideline in Para 6 that*

*“To ensure competitiveness the minimum number of bidder should be at least two other than the GENCO owned by State Government of procuring State. If the number of bidders responding to the RFP is less than two and procurer still wants to continue with the bidding process, the same may be done with the consent of the appropriate Commission.”*

5. *In view of the above, it is recommended that the rate may be negotiated with L1 bidder and in case the negotiated rate is found to be reasonable by TANGEDCO, approval of TNERC has to be obtained for proceeding further.”*

3.6. The rate quoted by M/s. Madras Cements Ltd was Rs.6.50 per Kwhr, which was bought down to Rs.5.50 per Kwhr after negotiation. The petitioner had recommended adoption of tariff of Rs.5.50 per Kwhr for procurement of power to the extent of 20 MW from M/s. Madras Cements Ltd on round the clock basis.

#### **4. Findings of the Commission:-**

4.1. This petition is for adoption / ratification of tariff under Section 63 of Electricity Act 2003 for procurement of 20 MW round the clock power at negotiated rate of Rs.5.50 per Kwhr for the period 6-12-2012 to 31-5-2013. This matter was heard on 7-2-2013.

4.2. The Bid Evaluation Committee has highlighted the MoP guideline regarding ensuring competition wherein the requirement of atleast two bidders was envisaged and if the number of bidders responding to the RFP is less than two and the procurer still wants to continue with the bidding process, the same may be done with the consent of the appropriate Commission. The Commission notes that this procedure was not complied with by the petitioner TANGEDCO,

despite being pointed out by the Evaluation Committee. MoP guidelines should have been followed scrupulously and the Commission's approval to proceed with the single bid should have been obtained in advance. The Commission observes that this is the first time such a violation has taken place. The Commission directs that in future approval of the Commission for proceeding with the bids, if the number of bids is less than two, shall be obtained before proceeding with the continuation of the bidding process. With the above direction, the commission adopts the tariff of Rs.5.50 per Kwhr for supply of round the clock power of 20 MW by M/s. Madras Cements Ltd for the period 6<sup>th</sup> December'12 to 31<sup>st</sup> May'13. The agreement between the parties shall be in accordance with the Government of India guidelines issued under section 63 of the Electricity Act, 2003, subject to specific deviations approved by this Commission for this particular procurement.

**5. 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 a 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