

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.36 of 2012

Tamil Nadu Generation and Distribution
Corporation Ltd.
No.144, Anna Salai
Chennai – 600 002.

..... Petitioner
[Represented by the Chief Engineer
and Superintending Engineer,(PPP),
TANGEDCO]

Vs

Nil

..... Respondent

Dates of hearing : 18-10-2012, 21-11-2012, and
08-01-2013

Date of Order : 28-03-2013

The above M.P.No.36 of 2012 came up for hearing on 18-10-2012, 21-11-2012 and 08-01-2013 before the Commission. The Commission after perusing the above petition and the connected records and after hearing arguments passes the following order:-

ORDER

1. Prayer of the Petitioner in M.P.No.36 of 2012:-

The prayer in M.P.No.36 of 2012 is to approve the following,-

(a) for having floated tender for the purchase of 1000 MW RTC power from intra-region generators located in Southern Region for a period i.e. from November 2012 to May 2013 and to incorporate the following deviations namely:-

(i) Provision to raise monthly bill instead of raising bill on weekly basis or at the end of the contract period for the energy scheduled;

(ii) Provision to pay the payment directly by TANGEDCO and to keep the L.C. as back up for non-payment of bill within due date as against the payment through L.C. as provided in the MOP guidelines.

(iii) Provision to open a revolving Letter of Credit for an amount equivalent to 100% of the cost of 45 days of contracted power as against the provision for providing revolving Letter of Credit for an amount equivalent to 100% of the weekly energy corresponding to contracted capacity at the tariff indicated in PPA; and

(b) Procurement of power to the tune of 1000 MW (5088 MU) under this proposed Tender No. 04 of 2012 for the period from November 2012 to May 2013.

2. Hearing held on 18-10-2012:-

In its hearing held on 18-10-2012, the Commission held as follows:-

“M.P.No.36 of 2012 is filed by Tamil Nadu Generation and Distribution Company Limited for procurement of short term power to the tune of 1000 MW RTC power for the period November 2012 to May 2013. The petitioner has prayed for approval of certain deviations. During the argument, the Chief Engineer (PPP) agreed that there is a repetition in the proposed amendment for payment terms and therefore the following amendments proposed in the petition can be deleted. “The generators in Tamil Nadu will also be provided with payment security equivalent to

100% of the cost of 45 days of energy charges". This deletion is because of repetition and the previous sentence adequately caters to the same.

During the hearing, the Chief Engineer, PPP further stated that bids were opened on 11-10-2012 wherein only one eligible bid for a quantum of 20 MW has been received. The petitioner will file further details with regard to the selected bid as and when they finalize the same".

3. Hearing held on 21-11-2012:-

During the hearing on 21-11-2012, the petitioner prayed to lie over the matter and the prayer of the petitioner was granted by the Commission.

4. Hearing held on 08-01-2013:-

In its hearing held on 08-01-2013, the Commission held as follows:-

"The Superintending Engineer, PPP, TANGEDCO clarified that the quantum of 1000 MW prayed by M.P.No.36 of 2012, they could get only 20 MW. This petition was kept pending at the request of the petitioner. They now clarified that they have already filed a separate petition for approval of the Commission for 20 MW. The only issue which remains is the approval of the deviation as sought for in the petition. P.P.A.P. for approval of 20 MW will be dealt with separately. Orders reserved".

5. Contentions of the Petitioner with regard to deviations:-

At para 11 of the petition, the petitioner has referred to the guidelines of Government of India and the reasons for the deviation from the guidelines. The following portion in the said para 11 is relevant:-

Sl. No.	Clause	Details of CERC guideline	Details of terms and conditions to be incorporated in NIT
1	(5)(vi)(d) Billing cycle	Bidders may raise bills on weekly basis or at the end of the contract period for the energy scheduled.	Supplier may raise monthly bill followed by REA based final monthly bill for inter-state generators and monthly JMR for intra-state generators as there is no infrastructure available for weekly accounting
2	(5)(vi)(f) Payment terms	The procurer may be required to provide revolving Letter of Credit (LC) equivalent to 100% of the weekly energy corresponding to contracted capacity at the tariff indicated in PPA. LC shall be opened prior to commencement of supply of power.	<p>TANGEDCO will provide direct payment instead of payment through LC.</p> <p>The L.C. will have to be used only as a back-up payment security mechanism.</p> <p>The TANGEDCO shall endeavor to provide revolving Letter of Credit for an amount equivalent to 100% to the cost of 45 days of contracted power which shall be established in favour of trader / generator / utility. LC opening charges shall be fully borne by TANGEDCO. All other charges (operation / negotiation, recoupment) shall be borne by the successful bidder. TANGEDCO shall deposit the amount of the monthly bill in the designated account of the supplier within 7 days of the date of receipt of the bill.</p> <p>LC shall, however, be valid for a period beyond 45 days of contracted period. Please note that LC will be opened only upon receipt of performance bank guarantee. The LC value shall be periodically reviewed and changed with each increase or decrease in quantum of power. However, the supplier shall and has the right to invoke the LC only in the event of TANGEDCO neglects to pay the undisputed amount of the invoice by due date.</p>

Finding of the Commission:-

6. In the prayer, the petitioner has also included procurement to the tune of 5088 million units under the proposed Tender No.4 of 2012 for the period November 2012 to May 2013. When this matter was taken up on 18.10.2012, the CE, PPP, TANGEDCO agreed that there is a repetition in the proposed amendment for payment terms with regard to “the generators in Tamil Nadu will also be provided with payment security equivalent to 100% of the cost of 45 days of energy charges” and therefore he suggested deletion of the same from the proposed amendment. The CE, PPP further stated that bids were opened on 11.10.2012 wherein only one eligible bid for a quantum of 20 MW has been received and further confirmed that he will file details with regard to the selected bid as soon as they finalize the same.

7. This matter was again listed on 8th January 2013. The SE, PPP, TANGEDCO during the hearing pointed out that they have filed a separate PPA Petition for adoption of tariff for the purchase of 20 MW based on the above referred tender. Under these circumstances, what survives in M.P. No.36 of 2012 is approval of the deviations sought for and adoption of tariff for the procurement of 20 MW will be dealt with under the PPA Petition filed separately. The Commission after hearing the arguments and written submissions in the Petition approved the following deviations.

- (a) To raise monthly bill instead of raising bill on weekly basis or at the end of the contract period for the energy scheduled;
- (b) Provision to make the payment directly by TANGEDCO and to keep the Letter of Credit as backup for non-payment of bill within the due date as against payment through Letter of Credit provision in the MOP guidelines;
- (c) Provision to open a revolving Letter of Credit for an amount equivalent to 100% of the cost of 45 days of contracted power as against the provision for

providing revolving Letter of Credit for an amount equivalent to 100% of the weekly energy corresponding to contracted capacity at the tariff indicated in the PPA.

8. The quantum of energy to be procured through this approval will be corresponding to 20 MW RTC power for the period from November 2012 to May 2013.

9. Appeal:-

An Appeal against this Order of the Commission shall lie before the Appellate Tribunal for Electricity under section 111 of the Electricity Act 2003 within 45 days.

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

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

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission