



petitioner represented by the Chief Engineer (PPP), TANGEDCO and Thiru Rahul Balaji and Thiru R.P.Parthasarathy advocates for the Petitioners in I.A.Nos. 1 and 2 in the main petition respectively passes the following order:-

**ORDER**

1. **Prayer in I.A. No.1 of 2013 in M.P.No.27 of 2013:-** The prayer of the petitioner is to permit the petitioner to intervene in the proceedings and hear it on merit prior to passing any orders.

2. **Prayer in I.A.No.2 of 2013 in M.P.No.27 of 2013:-** The prayer of the petitioner is to direct the impleading of the Petitioner's Association as a party respondent to the present petition (i.e. M.P.No.27 of 2013).

3. **Prayer of the Petitioner in M.P.No.27 of 2013:-** The prayer of the petitioner is to approve the proposal to purchase of balance offered quantum of 2122 MW (3430-1208-100 MW) from the total offered capacity of 3430 MW in tender No.03/PPLT/2012 to meet the gap between the demand and supply.

4. **Facts of the case:-** In order to bridge the gap between the demand of power and availability of power, the petitioner has decided to procure the balance offered quantum of 2222 MW (3420-1208 MW) from the total offered quantum of 3430 MW in Tender No.03/PPLT/2012.

5. **Contention of the Petitioner as set out in the petition:-**

5.1 The CERC has approved a tariff of Rs.4.92 per unit for the year 2012-2013 for Vallur Thermal Station. The levelized tariff quoted by the L1 tender M/s.DB Power Ltd., in Tender No.03/PPLT/2012 is considered to be reasonable. The total available capacity including the new and expected additions will be 10900 MW but the forecasted peak demand for the year 2013-14 is 15,736 MW as per 18<sup>th</sup> EPS survey of CEA. The estimated demand for Tamil Nadu as per CEA estimation is as follows:-

<u>Year</u>	<u>Demand</u>
2013-14	15736 MW
2014-15	17497 MW
2015-16	19489 MW
2016-17	20816 MW

5.2 Considering the availability of power and power demand in Tamil Nadu, it is necessary to procure the balance quantum of 2222 MW (3420-120 MW) from the total offered quantum of 3420 MW in the said Tender No.03/PPLT/2012. The Board in its 38<sup>th</sup> meeting inter alia approved to file petition before the Commission seeking approval for purchase of balance quantum of power upto 2222 MW in Tender No.03/PPLT/2012 as per clause 3.5.7 of RFP if the remaining bidders from L4 to L12 match the levelized tariff of L1 along with the additional rebate for payment offered by L1. Out of twelve bidders L2 to L11 have matched L1 tariff and additional rebate for prompt payment and the L12 bidder M/s.Simhapuri (offered quantum 100 MW) has not given concurrence to match levelized tariff of L1 and additional rebate for prompt payment. Hence the balance quantum of power to be procured is 2122 MW (2222-100 MW).

6. **Hearing held on 13-09-2013:-** In the hearing held on 13-09-2013, Commission has directed the petitioner to furnish certain details within 2 weeks time.

7. **Affidavit filed by the Petitioner in terms of the orders of the Commission dated 13-09-2013:-**

Pursuant to the order dated 13-09-2013 passed by the Commission in the hearing dated 13-09-2013, as referred to in para 6 above, the petitioner filed an additional affidavit on 25-09-2013 justifying their petition. In the additional affidavit, the petitioner has made the following submissions, namely:-

- (i) On earlier occasions, TANGEDCO have submitted demand forecast for short term tender and medium term tenders and therefore not comparable with the present long term tender.
- (ii) In the present long term tender the projected demand for 2013-14 is mentioned as 14580 MW in M.P.No.37 of 2012 whereas the peak demand forecast for 2013-14 is 15736 MW as per the 18<sup>th</sup> EPS survey published by Central Electricity Authority.
- (iii) The data furnished by the Authority under Electricity Act, 2003 supersedes all other data and the availability of power with TANGEDCO is expected not more than 10900 MW and the present deficit is arrived as  $15736-10900 = 4836$  MW for the year 2013-14.

- (iv) CERC notifies various escalation factors and other parameters every six months for the purpose of bid evaluation and tariff payment. By applying the said Notification dated 10-08-2012, the actual tariff for September 2013 in respect of the following companies, from whom it is proposed to buy power is as follows:-

Sl.No.	Name of the Company	Offered Quantum	Actual tariff for September 2013 in Rs./Kwh
1.	M/s.DB Power Ltd.,	208 MW	4.01
2.	M/s.Jindal Power Ltd.	400 MW	4.38
3.	M/s.Ind Bharath Energy (UTKAL) Ltd.	500 MW	4.46
4.	Bharath Aluminium Co.Ltd.,	200 MW	3.67
5.	M/s.Dhariwal Infrastructures Ltd.,	100 MW	4.27
6.	M/s.PTC India Ltd.,	100 MW	4.53
7.	M/s.KSK Mahanadi Power Co.Ltd.,	500 MW	4.68
8.	M/s.GMR Energy Trading Ltd.,	150 MW	4.67
9.	M/s.IL&fS Tamil Nadu Power Co.Ltd.,	540 MW	2.42
10.	M/s.Coastal Energen Pvt.Ltd.,	555 MW	3.0
11.	M/s.OPG Powr Gen.Pvt.Ltd.,	74 MW	5.50

- (v) The components for domestic coal and imported coal can be chosen either escalable or as non-escalable or combination of both by the bidder at his choice.

Domestic Coal:

- a. Domestic fuel component in Rs. per unit upto three decimal points.
- b. Inland transportation of fuel component in Rs. per unit upto three decimal points.

Imported coal:

1. Imported fuel component in US dollars per unit upto five decimal points.
2. Overseas transportation of fuel component in US dollars per unit upto five decimal points.
3. Inland transportation of fuel component in Rs. per unit upto three decimal points.
4. Inland fuel handling component in Indian Rs. per unit upto three decimal points.

## 8. Findings of the Commission:-

8.1 This petition has been filed by TANGEDCO for procurement of additional quantum of 2122 MW base load power (RTC) for a period of fifteen years from 2013 to 2028 in Tender No.03/PPLT/2012 under case 1 bidding. This Commission by the order dated 18-12-2012 in M.P.No.37 of 2012 has already allowed the petition filed by TANGEDCO for procurement of 1000 MW  $\pm$  20% of RTC power for 15 years through long term under case 1 bidding procedure issued by Ministry of Power, Government of India under section 63 of the Electricity Act, 2003 and also approved certain deviations in the procedure as mentioned in the said order.

8.2 In the said tender the following 12 bidders participated and offered the following quantum:-

Sl.No.	Name of the Company	Fuel	source	Offered Quantum
1.	M/s.DB Power	Domestic Coal Linkage	Chattisgarh	208 MW
2.	M/s.Jindal		Chattisgarh	400 MW
3.	M/s.Ind Bharath		Orissa	500 MW
4.	M/s.BALCO		Chattisgarh	200 MW
5.	M/s.Dhariwal		Maharashtra	100 MW
6.	M/s.PTC		Jharkhand	100 MW
7.	M/s.KSK		Chattisgarh	500 MW
8.	M/s.GMR		Maharashtra	150 MW
9.	M/s.IL & FS	Imported coal	Tamil Nadu	540 MW
10.	M/s.Coastal		Tamil Nadu	548 MW
11.	M/s.OPG		Tamil Nadu	74 MW
12.	M/s.Simhapuri		Andhra Pradesh	100 MW
<b>Total</b>				<b>3430 MW</b>

8.3 In the above Table Sl.No.2 to Sl.No.4 have agreed to match L1 rate as well as for the additional rebate of Rs.0.02 per unit of energy as per the PPA, Article 8.3.6(a) of the PPA provides as follows:-

*“An additional rebate of 0.02/unit of scheduled energy as per the provisional bill payable in the first five contract years starting from scheduled delivery date provided one hundred percent of the provisional bill is credited to seller’s account within 5 days from the date of issuance of provisional bill.”*

Hence LOI was issued to the said four bidders (L1 to L4) for a total quantity of 1208 MW by the TANGEDCO.

8.4 Negotiation was conducted by TANGEDCO with the remaining bidders to match L1 rate and additional rebate for repayment with the following bidders and above action was ratified by the Board of TANGEDCO in its 38<sup>th</sup> meeting.

Sl.No.	Name of the Company	Offered Quantum
1.	M/s.BALCO	Balance 100 MW
2.	M/s.Dhariwal	100 MW
3.	M/s.PTC	100 MW
4.	M/s.KSK	500 MW
5.	M/s.GMR	150 MW
6.	M/s.IL & FS	540 MW
7.	M/s.Coastal	548 MW
8.	M/s.OPG	74 MW
9.	M/s.Simhapuri	100 MW
<b>Total</b>		<b>2222 MW</b>

8.5 Out of the above bidders, L12 bidder, namely M/s.Simhapuri (offered quantum 100 MW) has not given concurrence to match L1 rate and additional rebate. Therefore, TANGEDCO filed the present petition seeking approval for the purchase of remaining 2122 MW (2222-100) from the other bidders who opted to match the L1 bidder.

8.6 Thiru K..Seshadri, Chief Engineer (PPP), has represented the petitioner and submitted that to bridge the gap between the demand and supply, the procurement of additional power is absolutely necessary. He would submit that even after the proposed procurement there will be still deficit in the power needed since the demand is raising every year steadily. The Indian Wind Power Association represented by the learned counsel Thiru Rahul Balaji and Tamil Nadu Spinning Mills Association represented by the learned counsel Thiru R.P. Parthasarathy have filed impleading petitions in the said M.P.No.27 of 2013. Thiru Rahul Balaji has submitted that the Wind Power Association is seriously affected if TANGEDCO refused to purchase power generated by the Wind Generators. He also submitted that during the month of July higher quantum of power is generated by wind generators and there is no corresponding reduction in generation from other sources but only wind generators are asked to back down during night time. Thiru

Rahul Balaji, advocate has pointed out that the substantial portion of wind generators is also a captive consumers and because of R&C measures they are not able to consume their own power but they are forced to use the power that TANGEDCO sells to them by paying higher tariff. The learned advocate has further argued that since the petition has been filed under section 63 of the Act, once the Commission approves the proposal of TANGEDCO, Commission thereafter has no other option except to adopt the tariff proposed by TANGEDCO and hence, their grievance has to be resolved at this stage itself and he would come up with fresh data to disprove the one projected by TANGEDCO now. He also submitted that the Commission has already approved the proposal to purchase 1000 MW power  $\pm 20\%$  Now in the petition the quantum is sought to be increased to 2122 MW which is more than 200% of the originally approved quantum and is therefore impermissible. The Chief Engineer (PPP) has also vehemently contended that only when the approval is granted by the Commission early, he could approach the Power Grid Corporation of India for booking corridor so that power could be brought to this State from outside. If the corridor is not booked earlier, power cannot be brought to this State and consequently the entire State would plunge into darkness. He argued that he wants the approval of the Commission only for the quantum of power and not the rate/price of power. Thiru Seshadri also submitted that wind energy is an infirm power and that he cannot plan the future requirement by relying on infirm power and thereby he has sought to repel the contention of Thiru Rahul Balaji, advocate representing the Indian Wind Power Association that while forecasting the demand for future, the wind energy likely to be generated should also be taken into account. Thiru Seshadri has also pointed out that the right of the wind generators for "Must Run" status is not absolute but it is subject to IEGC and Tamil Nadu is the highest procurer of wind energy and the generation of wind energy would be considered while entering short term and medium term power purchase agreement and therefore the apprehension of the wind generators are misplaced. Thiru Seshadri, CE has also pointed out that what is now sought to be procured is a base load power without which power position cannot be managed in this State.

8.7 The Commission has given careful consideration of the rival submissions made by Thiru K.Seshadri, CE (PPP) and Tvl. Rahul Balaji and R.P.Parthasarathy, advocates who filed the I.As. Thiru K.Seshadri, CE (PPP) has explained the present power position and the absolute need of additional procurement to bridge the gap between the demand and supply, taking into account the self generation of TANGEDCO and

capacity addition and the position that would emerge after the Southern Grid is connected to the rest of India. Commission is of the view that the Indian Wind Power Association and Tamil Nadu Spinning Mills Association have no locus standi to implead in this case since the wind power is infirm power whereas the petition is for purchase of base load power. I.A.No.1 and 2 of 2013 in M.P.No.27 of 2013 is therefore dismissed as devoid of any merit. Further, the Commission approves the procurement of balance quantum of 2122 MW in Tender No.03/PPLT/2012 floated by TANGEDCO under case 1 bidding subject to the deviation already approved in M.P.No.37 of 2012 dated 18-12-2012, considering the absolute need to procure additional power to maintain a stable power position.

9. **Appeal:-** An appeal against this order lies to the Appellate Tribunal for Electricity under section 111 of the Electricity Act, 2003 within a period of 45 days from the date of receipt of a copy of this order.

(Sd/.....)

**(S. NAGALSAMY)  
MEMBER**

**//True copy//**

**Secretary  
Tamil Nadu Electricity  
Regulatory Commission.**