

DELHI ELECTRICITY REGULATORY COMMISSION
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017.

No. F.3(204)/Tariff/DERC/2007-08/

Petition No. 26/2008

In the matter of:

Determination of Tariff for sale of power generated by the Integrated Waste Management Complex Plant proposed to be constructed and operated by East Delhi Waste Processing Company Private Limited (EDWPCL) at Ghazipur, Delhi, utilising the Municipal Solid Waste generated in the city of Delhi as basic input and to be supplied by Municipal Corporation of Delhi (MCD).

And

In the matter of:

East Delhi Waste Processing Co. Pvt. Ltd.,
Core 4B, 4th Floor,
India Habitat Centre,
Lodhi Road,
New Delhi – 110 003.

...Petitioner

Coram:

**Sh. Berjinder Singh, Chairman, Sh. K. Venugopal, Member &
Sh. Shyam Wadhera, Member.**

ORDER

(Date of Order: 10.06.2009)

1. This Petition has been filed before the Commission on 22.11.2007 under the provisions of the Electricity Act, 2003 by the East Delhi Waste Processing Company Private Limited (EDWPCL), hereinafter called the Petitioner, for determination of tariff for sale of power generated by the integrated waste management complex plant to be set-up at Ghazipur, Delhi by utilising the municipal solid waste generated in the city of Delhi as basic input. The solid waste is to be supplied by the Municipal Corporation of Delhi (MCD). This project has been conceptualised as an integrated project which is expected to offer a unique and integrated solution for management of solid waste of city of Delhi. The prospective developer was proposed to be selected through competitive bidding process.
2. Section 63 of the Electricity Act, 2003 (hereinafter referred as "the Act") envisages that the appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding, in accordance with the guidelines issued by the Central Government. The

Central Government, Ministry of Power has issued the guidelines contemplated under Section 63 of the Act, titled "Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees" (hereinafter referred to as "the Guidelines") vide Resolution no. 23/11/2004-R&R Vol. II dated 19.01.2005 and amendments thereof. The salient features of the bidding process as laid down in the guidelines are discussed hereunder for convenience of reference:

- (a) The guidelines are applicable for procurement of base-load, peak-load and seasonal power requirements of distribution licensees through process of competitive bidding. The distribution licensees (referred to as procurers for the purpose of competitive bidding) may adopt the guidelines for long-term procurement for a period of 7 years and above and medium term procurement for a period exceeding 1 year up to a period of seven years. These guidelines were generally followed in the instant case of Municipal Solid Waste Plant.
- (b) Procurement by more than one distribution licensee through a combined bid process is permitted and in such a case, the procurer has the option of conducting the bid process through an authorized representative.
- (c) The bid documentation is required to be prepared in accordance with the guidelines and the standard bid documents issued by the Central Government. In such cases, intimation shall be sent by the procurer to the appropriate Regulatory Commission about initiation of the bidding process. In the event of deviation from the bidding conditions contained in the guidelines, approval of the Appropriate Commission shall be sought by the procurers or their authorized representative.
- (d) A two-stage bidding process comprising separate Request for Qualification (RFQ) and Request for Proposal (RFP) shall be adopted for long-term procurement under the guidelines and the procurer or authorized representative shall prepare bid documents including RFQ and RFP in line with these guidelines and standard bid documents.
- (e) The procurer shall publish a RFQ notice in at least two national newspapers, company website and preferably in trade magazines to accord it wide publicity. The bidding process shall necessarily be by way of international competitive bidding. RFP shall be issued to all bidders, who are qualified at RFQ stage. In case, the bidders

seek any deviation and procurer finds that deviation is reasonable, the procurer shall obtain approval of the appropriate Commission before agreeing to such deviation.

- (f) The minimum number of qualified bidders should be at least two other than any affiliate company or companies of the procurer to ensure competitiveness. If the number of qualified bidders responding to the RFQ/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.
- (g) The procurer shall constitute a Committee for evaluation of the bids with at least one Member external to the procurer organization and affiliates. The external Member shall have expertise in financial matters/bid evaluation. The procurer shall reveal past association with the external Members directly or through its affiliates that could create potential conflict of interest.
- (h) Eligible bidders shall be required to submit separate technical and price bids along with necessary bid-guarantee. The bid shall be opened in public and representatives of bidders desiring to participate shall be allowed to remain present. The bidder, who has quoted lowest levelled tariff as per evaluation procedure, shall be considered for award of the contract.
- (i) The Power Purchase Agreements (PPAs) shall be signed by the procurers with the selected bidders consequent to the selection process in accordance with the terms and conditions as finalized in the bid document before the RFP stage. After signing of the PPAs, the Evaluation Committee shall provide appropriate certification on adherence to the guidelines and to the bid process established by the procurer. The procurer shall also make the evaluation of bid public by indicating terms of minimum bid and anonymous comparison of all other bids and also the contract signed with the successful bidder.

The applicant shall submit the final PPA along with the certification by the Evaluation Committee to the appropriate Commission for adoption of tariff in terms of Section 63 of the Act

3. The Applicant "EDWPCL" is a special purpose vehicle/company setup jointly by Infrastructure Leasing & Financing Services and Govt. of NCT of Delhi to develop Integrated Waste Processing Project at Ghazipur site in Trans Yamuna area of Delhi. The ownership of the said company shall be transferred to the successful bidder pursuant to the bidding process

alongwith all rights, duties and obligations. Accordingly, all the agreements, clearance etc. have been obtained/signed in the name of EDWPCL.

4. The East Delhi Waste Processing Company Pvt. Ltd. (EDWPCL) is a company to facilitate development and implementation of Waste Processing Projects in Delhi. EDWPCL is a nodal agency identified for carrying out the bidding and selecting the agency through an open competitive bidding process. The EDWPCL/NDWPCL has stated that 49% of the electrical power generated from this project would be sold to BYPL under a long term Power Purchase Agreement (PPA). The BYPL has already approved a draft of energy purchase agreement vide their letter dated 15.12.2007.
5. The EDWPCL/NDWPCL has submitted that competitive bidding process was initiated on 17.07.2008 with the issue of advertisement for tariff based bids for this project in two National dailies i.e. Economic Times and Business Standard. Further, in order to generate a better response, tariff bids were also advertised through electronic media by way of putting up details of the project in two websites namely www.ilfsindia.com and www.ilfwasteexchange.com. The advertisement was also carried out through "Infraline Research and Information Services" on 23.07.2008. The bidding process was completed on 22.10.2008 with the issue of letter of intent (LoI) to the successful bidder M/s. Delhi International Airport Limited in consortium with M/s. Selco International Limited.
6. During the whole process of bidding, bidders queries were resolved through mutual discussions and official intimations. For detailed discussions on the project, a pre-bid meeting was organised on 27.08.2008 at Delhi to which all the purchasers of the bid documents were invited. On the request of the bidders, bidding submission date for this project was extended and an Addendum was issued on 12.09.2008 informing the extension of date of submission of bids upto 15.10.2008.
7. The EDWPCL/NDWPCL has stated that the following 16 bidders purchased the bid documents:
 - (i) M/s. Convanta Samalpatti Operating (P) Ltd.;
 - (ii) M/s. Jindal Urban Infrastructure Ltd.;
 - (iii) M/s. Unity Infraprojects Limited;
 - (iv) M/s. Ramky Enviro Engineers Limited;

- (v) M/s. Viola Environmental Services Asia Pte Ltd.;
- (vi) M/s. ACME Energy Solutions Private Limited;
- (vii) M/s. Neel Metal Products Ltd.;
- (viii) M/s. Birla Power Solutions Ltd.;
- (ix) M/s. Jaipura Infrastructure Developers Pvt. Ltd.;
- (x) M/s. Isolux Ingenieria S.A, Spain;
- (xi) M/s. Subhash Projects & Marketing Ltd.;
- (xii) M/s. Hydroair Tectonics (PCD) Ltd.;
- (xiii) M/s. Delhi International Airport Limited in consortium with M/s. Selco International Limited;
- (xiv) M/s. A2Z Infrastructure Private Ltd.;
- (xv) M/s. Rochem Separation Systems (INDIA) Pvt. Ltd.;
- (xvi) M/s. Madhucon Projects Limited.

8. Finally, out of 16 purchasers of bid documents following four bidders submitted their bids on 15.10.2008, the last date for submission of the bids:

- (i) M/s. Delhi International Airport Limited in consortium with M/s. Selco International Limited;
- (ii) M/s. Ramky Enviro Engineers Limited;
- (iii) M/s. Jindal Urban Infrastructure Ltd.;
- (iv) M/s. Hydroair Tectonics (PCD) Ltd.

9. The board of EDWPCL/NDWPCL constituted an Evaluation Committee vested with all the powers to take decisions on the bid related matters. The Evaluation Committee consisted of all the following members:

S. No.	Name of the Authority/Company	Name of the Representative	Designation of the Representative
1.	New Delhi Waste Processing Company Private Limited (NDWPCL).	Mr. Rajendra Kumar, IAS	Director, Secretary (Power), GNCTD, CMD (DPCL)
2.	EDWPCL	Mr. Haziq Beg	Director, Sr. Vice-President (IEDCL)
3.	Delhi Power Company Limited (DPCL)	Mr. S. C. Chhabra (Chartered Accountant)	Dy. General Manager (Finance)
4.	Municipal Corporation of Delhi (MCD)	Mr. P. K. Khandelwal	Supt. Engineer (Planning)

5.	Andhra Pradesh Technology Development & Promotion Centre (APTDC)	Mr. S. Jyoti Kumar	Consul (Tech.)
6.	Unique Waste Processing Company (UWPC)	Dr. P. D. Grover	Consultant
7.	IL&FS	Mr. S. Baskaran	Sr. Manager (IL&FS EDC)

10. The qualified bids were opened by the Evaluation Committee and name of the bidders were declared in the presence of representative of all the bidders who were present. The Evaluation Committee on analysis of bid documents found that out of four bidders who have submitted the bid documents, two bidders are eligible for further evaluation i.e. opening of financial bids.

"The bid submitted by M/s. Hydroair Tectonics (PCD) Ltd. in consortium with M/s. Shriram Energy System Pvt. Does not meet the requisite financial qualification criteria. The lead member of the consortium, M/s. Hydroair Tectonics (PCD) Ltd. is meeting the requirement for Internal Resources Generation (IRG) and Net Worth (NW) but the consortium partner M/s. Shriram is not meeting the IRG requirement based on the supporting documents submitted by them. It was also observed that the submissions pertaining to M/s. Shriram were not as per the formats specified in the bid documents as per annexure 9 of RFQ. Moreover, other required qualification documents such as board resolution, consent letter etc. are also provided only by the Lead member. It was also observed that the technical proposal submitted by the consortium is also not complete and there are lot of discrepancies in layout and process flow diagram and variations in process methodology in the technical proposal.

While M/s. Jindal Urban Infrastructure Limited has submitted the conditional bid, stating in its Technical Proposal that they would require additional 5 acres of land to implement the project. The bidder was informed that conditional proposals cannot be accepted and hence, if they desire so, they can withdraw all the conditions imposed by them, on which JUIL has verbally confirmed that they are not in a position to withdraw the conditions. The Evaluation Committee took a view of this and after deliberations, it was decided that conditional RFP submissions of M/s. Jindal Urban Infrastructure Limited are non-responsive....

Bid submitted by other two parties i.e. DIAL-Selco consortium and M/s. Ramky Enviro Engineers Limited was found satisfactory and in line with the requirement of the RFQ and RFP document issued for the project."

11. The Evaluation Committee on analysis of financial bids found that out of four qualified bidders only two bidders are eligible for financial evaluation i.e. opening of financial bids. Accordingly, the Evaluation Committee opened the financial bids of the following two bidders:

- (i) M/s. Delhi International Airport Limited in consortium with M/s. Selco International Limited;
- (ii) M/s. Ramky Enviro Engineers Limited.

12. The meeting for evaluation for financial bids was held on 16.10.2008 and the financial proposals were evaluated in line with terms of RFP. The bids were evaluated for both the formats i.e. with grant as well as without grant.
13. After evaluation of financial bids of the above-mentioned two bidders, the following is the outcome of financial bids:

Financial Bid (with Grant):

S. No.	Bidders Name	TARIFF		
		Minimum	Maximum	Levellised
1.	DIAL + SELCO	3.150	5.067	3.668
2.	Ramky Enviro	2.907	5.670	4.972

Financial Bid (without Grant):

S. No.	Bidders Name	TARIFF		
		Minimum	Maximum	Levellised
1.	DIAL + SELCO	3.330	5.330	3.860
2.	Ramky Enviro	2.900	5.770	5.070

14. The Evaluation Committee recorded its proceedings of financial evaluation in form of "Minutes of Bid Evaluation Committee Meeting for Financial Bids held on 16.10.2008." The Evaluation Committee came to the conclusion that the financial bid of M/s. Delhi International Airport Limited in consortium with M/s. Selco International Limited was the lowest tariff offer. The Committee also endorsed that the bidding process followed for selection of successful bidder conformed to the guidelines for the competitive bidding and the deviations in the bid documents approved by the Commission.
15. In view of the above, M/s. Delhi International Airport Limited in consortium with M/s. Selco International Limited was declared as the successful bidder and in line with the decision of the Evaluation Committee, the letter of intent (LoI) has been issued on 22.10.2008 to them subject to adoption of tariff by the Commission.

16. The Commission is of the view that the bidding process adopted by the EDWPCL/NDWPCL from the initial stage till the evaluation of financial bid by the Evaluation Committee and issuance of Lol is in accordance with the guidelines issued by the Central Government and the deviations in the bid documents approved by the Commission. The bid of M/s. Delhi International Airport Limited in consortium with M/s. Selco International Limited @ levelised tariff of Rs. 3.668 per kWh with grants and Rs. 3.860 per kWh without grant appears to be reasonable. Further, entire bidding process is transparent in accordance with the guidelines issued by the Central Government and as per Section 63 of the Electricity Act, which provides for determination of tariff by bidding process. The Commission hereby accord its consent to the bidding process adopted by EDWPCL/NDWPCL.
17. The Commission further directs the M/s. EDWPCL/NDWPCL to provide certificate of conformity of the bidding process according to Clause 6.2 of the guidelines issued by the Central Government. Further, the procurer has to make public bid documents indicating all the components of the tariff quoted by all the bidders after signing of the PPA or PPA becoming effective whichever is later. The Commission will adopt the tariff in terms of Section 63 of the Act after receiving the signed PPA alongwith the certificate by the Evaluation Committee. This Interim Order will become part of the order to be issued by the Commission on adoption of the tariff in terms of Section 63 of the Act.
18. Ordered accordingly.

Sd/-
(Shyam Wadhera)
MEMBER

Sd/-
(K. Venugopal)
MEMBER

Sd/-
(Berjinder Singh)
CHAIRMAN