



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17.

No. F.11(1337)/DERC/2015-16/C.F.5123

Petition No. 06/2016

In the matter of : Petition seeking adoption of tariff determined through transparent process of Case 1 RE-Bidding Procedure under Section 63 of the Electricity Act, 2003 and of the approval of signing of proposed Power Purchase Agreement in terms of the DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework implementation) Regulations, 2012 read with DERC Comprehensive Conduct of Business Regulations, 2001.

Tata Power Delhi Distribution Ltd.
Through its Managing Director
NDPL House,
Hudson Lines, Kingsway Camp
Delhi 110 009

.....Petitioner

**Coram: Sh. Krishna Saini, Chairperson &
Sh. B.P. Singh, Member**

Appearance:

1. Mr. Viashal Anand, Adv. TPDDL
2. Mr. Rahul Kinra, Adv. TPDDL
3. Mr. Ajay Kapoor, TPDDL
4. Mr. Anurag Bansal, TPDDL
5. Mr. Divyanshu Bhatt, TPDDL
6. Mr. Hement Goyal, TPDDL
7. Ms. Nayantara A Pande, TPDDL
8. Mr. Mithun Chakraborty, TPDDL
9. Mr. Yuganshu Pathak, TPDDL

ORDER

(Date of Hearing: 14.06.2016)
(Date of Order: 15.07.2016)

1. The instant petition has been filed by M/s. Tata Power Delhi Distribution Ltd (TPDDL) for adoption of tariff and approval of Power Purchase Agreement for procurement of power from small hydro projects in order to meet the Renewable Purchase Obligation (RPO). The Petitioner has made the following prayer :

- a) Adoption of tariff determined through transparent process of Case-1 RE-Bidding Procedure under Section 63 of the Electricity Act, 2003

- b) Approve the terms and conditions of the proposed Power Purchase Agreement in exercise of its powers and relax the application of guidelines pertaining to the same wherever sought by the petitioner.

2. The instant petition is in backdrop of Petition No.58/2014 filed by TPDDL for adoption of Renewable Energy tariffs from Solar as well as Non-solar renewable energy sources for compliance of its Renewable Energy Obligation. In the aforesaid Petition No. 58/2014, this Commission has allowed six solar projects from M/S Sun Edison Holding (Singapore) Pte. Ltd. However, the power to be procured from the Small Hydro Projects was disallowed on the observation that the Small Hydro Project bidders had not agreed to match the CERC Generic Tariff for the year of Commissioning. Subsequently, M/s. TPDDL floated another Request For Proposal (RFP) dated 28.10.2015 inviting bids from Non Solar Renewable Energy sources with Small Hydro in the first phase. The bidding was conducted to procure the balance quantum of 385 MUs energy to meet its Renewable Purchase Obligation (Estimated RPO requirement is 837 MUs for FY 16-17 of RPO at 9%).

3. Summary of the Bids.

- TPDDL has submitted the Technical and Financial evaluation report and the summary of the same is as below:-

| Financial Bid Detail for Small Hydro Projects | | | | | | | | | |
|---|--|--|----------------------|-------------|----------------|------------------------|--------------------------------|--|-------------------|
| Sr. No | Name of the Bidder/ Bidding Consortium | Quoted Tariff (Rs/kWh) at Inter-connection Point | Capacity Quoted (MW) | ENERGY (MU) | Quoted CUF (%) | Inter-connection Point | Landed Tariff at DTL (Rs./kWh) | Date of Commitment for supply of power | COD/ Expected COD |
| 1 | Suryakanta Hydro Energies Pvt. Ltd. | 3.80 | 14 | 55.18 | 45% | DISCOM | 5.26 | 01.04. 17 | 13.05.2014 |
| 2 | Astha Green Ventures India Ltd. (Gangdari) | 4.22 | 16 | 63.07 | 45% | DISCOM | reject ed | 01.09. 16 | 27.03.2014 |
| 3 | Astha Green Ventures India Ltd. (Nanti) | 4.45 | 13.5 | 56 | 47.35 %* | DISCOM | 5.98 | 01.05. 17 | APRIL' 2017 |
| 4 | Astha Green Ventures India Ltd. (Taranda) | 4.6 | 13 | 52 | 45.66 %* | DISCOM | 6.14 | 01.05. 17 | APRIL' 2017 |
| 5 | Tata Power Trading Company Ltd. (Fozal) | 5.1 | 16 | 60 | 45% | STU** | 5.78 | 01.04. 17 | APRIL' 2017 |

| | | | | | | | | | |
|---|--|------|------|-------|----------|--------|------|-----------|------------|
| 6 | Cosmos Hydro Power Pvt. Ltd. | 4.81 | 19.8 | 78 | 44.97 %* | STU** | 5.48 | 31.03. 20 | 31.03.2020 |
| 7 | Puri Oil Mills Limited | 5.35 | 7 | 27.59 | 45% | DISCOM | 6.82 | 15.03. 20 | 15.03.2020 |
| 8 | TangnuRimai Power Generation Pvt. Ltd. (NSL Power) | 5 | 5.16 | 20.34 | 45% | STU** | 5.68 | 01.09. 18 | 01.09.2016 |

*Normative CUF (45%) has been considered wherever the bidders have quoted CUF other than Normative CUF.

** Bidders who have mentioned STU as Interconnection Point shall be liable to bear Discom Charges in case the same is applicable.

- All the bidders, except Gangdari Hydro Power limited have given undertaking to accept their quoted tariff or CERC Generic tariff whichever is lower based on the year of Commissioning of the project. Hence the bid of the same bidder was rejected.

4. Submissions of the Petitioner (TPDDL)

- The tender documents have been revised to bring it in line with CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2012. A brief of the said changes is mentioned below:-

| | Clause as mentioned in SBD of MNRE | TPDDL RFP documents | TPDDL Remarks |
|----|--|---|---|
| 1. | Interconnection point shall mean the point where the power from the power station switchyard bus of the Seller is injected at the Injection Point / intrastate transmission system including the dedicated transmission line connecting the power station with the Injection Point / intrastate transmission system; | Interconnection point shall mean interface point of renewable energy generating facility with the transmission system or distribution system, as the case may be: i. in relation to wind energy projects, inter-connection point shall be line isolator on outgoing feeder on HV side of the pooling sub-station; ii. in relation to small hydro power, biomass power and non-fossil fuel based cogeneration power projects, inter- connection point shall be line isolator on outgoing feeder on HV side of generator transformer; | Modified in accordance with CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2012 |
| 2. | Taxes and Duties The Quoted Tariff, as in Format 4.7, shall be an all-inclusive Tariff up to the Interconnection Point and no exclusions shall be allowed. The Bidder shall take into account all costs including capital and operating costs, | Taxes and Duties The Quoted Tariff, as in Format 4.7, shall be an all-inclusive Tariff up to the Interconnection Point, except taxes, levies and duties incurred in supplying the contracted energy to the procurer. Such taxes, | Modified in accordance with CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2012. |

| | | | |
|----|---|--|--|
| | <p>statutory taxes, levies, duties while quoting such Tariff.</p> | <p>levies and duties applicable shall be allowed as pass through on actual incurred basis on production of supporting documents and proof of payment.</p> <p>PPA Provision There shall be no penalty for supplying power below the contracted energy provided that the reasons for not supplying is not attributed due to the intentional failure of supply even if plant is generating power. However, in case it is established that the plant didn't supply energy corresponding to normative CUF even after the plant was adequately available to do the same, the seller shall be liable to pay penalty at a rate equal to floor price of non-solar REC, for such shortfall quantum prevailing during that period.</p> <p>Further, the successful bidder shall provide self-certified monthly energy account wherein the details of total energy generated by the plant and the quantum energy supplied to all beneficiaries of the station shall be provided.</p> | <p>The Generic Tariff determined by CERC is exclusive of taxes, levies and duties incurred in supplying the contracted energy to the procurer</p> |
| 3. | <p>Right to Energy in Excess of the Contracted Energy</p> <p>TPDDL was obligated to procure Energy corresponding quoted CUF with a band of +-3%.</p> <p>The sellers were required to pay penalty equal to 25% of applicable tariff for the shortfall in units beyond the minimum energy stipulated as above.</p> | <p>Right to Energy in Excess of the Contracted Energy</p> <p>TPDDL is not obligated to procure any power beyond the Energy corresponding to the normative CUF.</p> <p>There shall be no penalty for supplying power below the contracted energy provided that the reasons for not supplying is not attributed due to the intentional failure of supply even if plant is generating power.....</p> | <p>Modified in accordance with CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2012</p> <p>The aforementioned Regulations doesn't prescribe penalty for under supply of power.</p> |
| 4. | <p>Tariff The Bidder, who has quoted lowest levelled tariff as per evaluation procedure, shall be considered for the award. The Evaluation Committee shall have the right to reject all price bids if the rates quoted are not aligned to the prevailing market prices.</p> | <p>Tariff The Bidders however, need to note that the quoted levelled tariff which is above the CERC specified generic tariff as applicable shall be rejected.</p> <p>As per Clarification issued Bidder shall receive</p> | |

| | | | |
|--|--|---|--|
| | | payment as per quoted tariff or CERC generic tariff for the year of Commissioning whichever is lower. | |
|--|--|---|--|

- II. The tariff to be quoted by suppliers has been capped with CERC specified Generic Levelized Tariff in line with DERC order dated 13.04.2015 in Petition No. 58/2014.
- III. The Bidders have also given undertaking that they shall be ready to accept their quoted tariff or CERC Generic Tariff whichever is lower based on the year of Commissioning of the Project. The same insulates TPDDL from making any payments to Bidders over and above the CERC Generic Tariff as was required by the Commission. In case, where CERC Generic Tariff is higher than the quoted tariff, TPDDL shall continue to make payments to the Bidder as per the lower quoted tariffs only.
- IV. The bids have been invited from Small Hydro Projects only, in the first stage as the tariff of Small Hydro Project is lowest among all the Non-Solar Renewable Sources. The same has been done considering the fact that the current tender has been floated to meet the RPO and it would be prudent if the same is met with the minimum cost possible. The low cost shall ultimately benefit the consumers. Further, there are other features of SHP like Suitability with Load Curve of Delhi that makes it a more suitable source of procuring Renewable Power.
- V. The Petitioner had appointed an external member to the Bid Evaluation Committee as Sh. Syed Khursheed Alam, Asst. Manager (Tech.), DTL as required under MNRE guidelines and has submitted financial and technical evaluation report.
- VI. Power from Small Hydro Power is in consumers' interest as the tariff is the lowest.
- VII. Therefore, in light of aforementioned discussion the deviations may be allowed as they are in line with the CERC Regulations.

5. Legal provisions

- i. Section 63 of the Electricity Act 2003 provides that *notwithstanding anything contained in section 62, 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.*
- ii. MNRE Guidelines provides that

“6.8 The Bidder, who has quoted lowest levellised tariff as per evaluation procedure, shall be considered for the award. The Evaluation Committee shall have the right to reject all price

bids if the rates quoted are not aligned to the prevailing market prices

"6.9 In case there is any deviation from these guidelines, the same shall only be with the prior approval of the Appropriate Commission. The Appropriate Commission shall decide on the modifications to the bid documents within a reasonable time not exceeding 90 days."

"7.3 After the conclusion of bidding process, the Evaluation Committee constituted for evaluation of RFP bids shall provide appropriate certification on conformity of the bidding process evaluation according to the provisions of the RFP document. The Procurer/ Authorized Representative shall provide a certificate on the conformity of the bidding process to these guidelines".

"7.6 The signed PPA along with the certification certificates provided by the evaluation committee and by the Procurer as provided in clause 7.2 shall be forwarded to the Appropriate Commission for adoption of tariffs in terms of Section 63 of the Act."

6. Commission's Analysis:

a) Interconnection Point

M/s. TPDDL has taken a deviation in the definition of interconnection point from MNRE guidelines and has changed according to CERC Regulations. As per MNRE guidelines, Transmission charges from the interconnection point to injection point is to be considered by the bidder as quoted tariff whereas CERC Regulations stipulates injection point shall be line isolator on outgoing feeder on HV side of generator transformer.

It is observed that the said deviation was also approved in prior bidding process in petition No. 58 of 2014. The Commission allows the same subject to the condition that the charges and losses prior to the interconnection point against the quoted tariff shall not be borne by the Petitioner TPDDL.

b) Relaxation in CUF

As per CERC Generic Tariff Regulations, Small Hydro Plants are "Must Run Plants". Further, some external factors such as rain, landslides etc may not be totally in the control of bidders and need to be factored. CERC Regulations for large hydro projects does not provide for any penalty on under generation and caps payment at 90p/unit for generation beyond Design Energy. Excerpts from CERC (Terms and Conditions of Tariff) Regulations, 2014 are as below:

" 31(6) In case the actual total energy generated by a hydro generating station during a year is less than the design energy for reasons beyond the control of the generating station, the following

treatment shall be applied on a rolling basis on an application filed by the generating company:

(a) In case the energy shortfall occurs within ten years from the date of commercial operation of a generating station, the ECR for the year following the year of energy shortfall shall be computed based on the formula specified in clause (5) with the modification that the DE for the year shall be considered as equal to the actual energy generated during the year of the shortfall, till the energy charge shortfall of the previous year has been made up, after which normal ECR shall be applicable:

Provided that in case actual generation from a hydro generating station is less than the design energy for a continuous period of 4 years on account of hydrology factor, the generating station shall approach CEA with relevant hydrology data for revision of design energy of the station.

In view of the above the deviation in respect of CUF is allowed subject to scheduling norms as applicable and any charges payable under Deviation Settlement shall be paid by the Developer as in the case of large Hydro Plants and any excess energy generated in excess of normative CUF may be procured at the 50% of tariff adopted by the Commission.

c) Liability to pay Taxes and Duties

As per CERC Regulation the Tariff shall be exclusive of taxes and duties as may be levied by the appropriate Government.

"23. Taxes and Duties

Tariff determined under these regulations shall be exclusive of taxes and duties as may be levied by the appropriate Government:

Provided that the taxes and duties levied by the appropriate Government shall be allowed as pass through on actual incurred basis."

It is observed that under MNRE Case- I RE bidding, taxes and duties are to be borne by the bidder and is not allowed to pass through as the risk associated are with the bidder. However, under Case-2 RE bidding process taxes & duties are allowed to pass through. M/s. TPDDL has taken a deviation from the MNRE Standard Bidding Document for Case I RE bidding and has floated RPF in line with CERC Regulations.

It is further observed that the tariff through bidding process and CERC normative tariff are inclusive of taxes & duties. The Petitioner has failed to give any proper justification for aforesaid deviation and thus it is not allowed.

d) Tariff Benchmarking

Tariff for the Small Hydro Projects in Petition No. 58/2014 was disallowed on the observation that the Small Hydro Project bidders had not agreed to match the CERC Generic Tariff. Consequently, CERC generic tariff for Small Hydro Plants has been kept as a benchmark ceiling and a clause has been added in the RFP that bidder shall give an undertaking to the effect that the quoted levelised tariff or CERC Generic tariff for the year in which the plant gets commissioned, whichever is lower shall be considered as approved tariff for payment purpose has been kept as per the COD date of the financial year. This is allowed.

7. With the above observations and directions, the Commission hereby adopts the generic tariff of small hydro plants as summarised in para 3 above, subject to the condition that the quoted tariff or CERC Generic tariff, whichever is lower based on the year of Commissioning of the project shall be considered as approved tariff. The terms and conditions of Power Purchase Agreement(s) for procurement of power from the quoted Small Hydro Projects are also approved.
8. Ordered accordingly.

Sd/-
(B P Singh)
Member

Sd/-
(Krishna Saini)
Chairperson