

DELHI ELECTRICITY REGULATORY COMMISSION

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017.

No. F.3(164)/Tariff/DERC/

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 TOWMCL at Okhla, 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 New Delhi Municipal Council (NDMC).

And

In the matter of:

Timarpur Okhla Waste Management 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.

ORDER

(Date of Order: 14.08.2007)

1. This petition has been filed before the Commission on 22.1.2007 under the provision of the Electricity Act, 2003 by the Timarpur – Okhla Waste Management Company (Private) Limited (TOWMCL), 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 Okhla, Delhi by utilising the municipal solid waste generated in the city of Delhi as basic input. The waste is to be supplied by the Municipal Corporation of Delhi (MCD) and New Delhi Municipal Council (NDMC). The project has been conceptualised as an integrated project which is expected to offer an unique and integrated solution for management of both liquid and solid waste of the city of Delhi.
2. The proposed project appears to be environment friendly and implementation of this project would help in reducing pollution, minimise the landfill and develop green electricity in the city of Delhi. The project comprises of the following components:
 - a) Power Plant of 16 MW capacity at Okhla.

- b) RDF Plant at Timarpur capable of processing 650 tonnes of MSW per day.
 - c) RDF Plant at Okhla capable of processing 1300 tonnes of MSW per day.
 - d) Bio-methanation Plant at Okhla to process 100 tonnes green waste per day.
 - e) Transportation of RDF from Timarpur to Okhla.
3. The Petitioner has submitted to the Commission to take into consideration the following important aspects related to the project:
- a) The intention of GoNCTD, MCD and NDMC behind encouraging the environment friendly disposal of MSW;
 - b) Compelling requirement of 'MSW Handling Rules 2000' issued by Government of India vide GR dated 25th September, 2000;
 - c) Benefits accruing to the society at large due to operation of such integrated Municipal Solid Waste ("MSW") processing project;
 - d) Even though the tariff proposed for power from MSW projects is higher than power from conventional sources, the quantum of power and the impact on power purchase cost for BRPL is insignificant (the quantum of power is less than 0.85% of the total purchase of BRPL in year 2009-10);
 - e) The average power purchase tariff under Bilateral agreement for the year 2005-06 has been more than Rs. 4 per unit that may further increase with time;
 - f) Non-availability of land for use as landfill site in Delhi & adjoining areas.
4. The TOWMCL is a special purpose vehicle/ company setup jointly by Infrastructure Leasing and Finance Service (IL&FS) through Unique Waste Processing Company (UWPC) and Andhra Pradesh Technology Development Centre (APTDC) to develop integrated waste processing project at Timarpur & Okhla. The ownership of the Company shall be transferred to the successful bidder pursuant to the bidding process alongwith all rights, duties and obligations. Accordingly, all the agreements, clearances, etc. have been obtained/signed in the name of TOWMCL.
5. The New Delhi Waste Processing Company Pvt. Ltd. (NDWPCL) is a company jointly setup by GNCTD through Delhi Power Company Ltd.

(DPCL), IL&FS through UWPC and APTDC to facilitate development and implementation of waste processing projects in Delhi. NDWPCL is a nodal agency identified for carrying out the bidding and selecting the implementation agency through an open competitive bidding process.

6. The project developments of both Timarpur Component and Okhla Component have been significantly completed. The current status is as follows:

Okhla Compost Site Component:

- a) MoU with NDMC signed;
- b) Concession Agreement for garbage allocation approved by MCD;
- c) Land allocation approved by NDMC;
- d) DPR finalized;
- e) Treated STP water allocation received from DJB – Agreement for Supply of Treated Sewage finalized;
- f) In-principle approval for off-take of power & PPA received from BRPL;
- g) Evacuation arrangements finalized with BSES Rajdhani Power Ltd.
- h) Clearance received from Airport Authority of India (AAI), Director General of Civil Aviation (DGCA), Delhi Development Authority (DDA), Town & Country Planning (T&CP), Central Ground Water Board (CGWB) and accordingly site authorization formalities have been completed.
- i) Application filed with Ministry of Environment & Forests (MoEF) for environmental clearance to the Project.

Timarpur Component

- a) MoU with MCD signed;
 - b) Concession Agreement with MCD approved;
 - c) DPCC clearance under Air and Water Act received;
 - d) Clearance received from Airport Authority of India (AAI), Ministry of Defence (MoD), Delhi Development Authority (DDA), Town & Country Planning (T&CP), Central Ground Water Board (CGWB) and accordingly site authorization formalities have been completed. Site clearance under progress.
7. The project would sell all the electrical power generated from the project to BSES Rajdhani Power Ltd. (BRPL) under a long term Power Purchase Agreement (PPA). The BRPL has given “in-principle” approval to purchase power from the project subject to DERC's approval.

8. The Petitioner has submitted that in accordance with the Commission's advice they now request for determination of tariff by bidding process as mandated under Section 63 of the Electricity Act, 2003 for this special Power Project based on Municipal Solid Waste (MSW). The bid process will be carried by New Delhi Waste Processing Company Pvt. Ltd., a joint venture company with share holding of DPCL, IL&FS and APTDC to Develop Municipal Solid Waste Project in Delhi. The DPCL has already accorded its approval to New Delhi Waste Processing Company Pvt. Ltd., for carrying out the bid process. The bidding will be for development of integrated waste processing facility including the Power Plant and will be strictly carried out as per the competitive bidding guidelines issued by the Ministry of Power, Govt. of India. Further, the entire power generated from this project would be purchased by BSES Rajdhani Power Ltd. (BRPL).
9. The Petitioner, in addition to the Petition above mentioned, placed on record additional documents vide its letter dated 17.05.2007, 21.05.2007, 08.06.2007 and 18.06.2007 for approval of the bid documents alongwith variations/modifications in request for qualification (RFQ) and request for proposal (RFP) by the Commission.
10. The filing of the aforesaid Petition was followed by a series of interactions, both written and oral, wherein the Commission sought additional information/clarification and justification on various issues critical for adoption of the tariff fixed by the competitive bidding. The Petitioner has provided the additional information pertaining to bid documents (RFQ & RFP) alongwith justification and variations from the guidelines issued by the Ministry of Power, Govt. of India, vide its letters dated 17.05.2007, 08.06.2007 and 18.06.2007.
11. Further, the Petitioner has requested the Commission vide its letter dated 16.03.2007 to keep the Petition filed by it for determination of Tariff for the proposed Power Project on 22.01.2007 in abeyance. The Petitioner sought vide its letter dated 08.06.2007 and 18.06.2007 the approval of the bid documents alongwith variations suggested by the Petitioner.
12. The Petitioner has submitted that standard bid documents released by the Ministry of Power, Govt. of India are framed, keeping in mind the Large Thermal and Hydro Power Plants and for supply of firm power. However, since the bidding in this case is for a small size special power plant based

on renewable source of energy (waste) having infirm power, certain deviations from the standard documents have been suggested for their approval by the Commission. The deviations from the standard documents as suggested by the Petitioner alongwith justification are mentioned below:

Deviations from the Competitive Bidding Guidelines

<u>Bidding Guideline</u>	<u>NDWPCT/TOWMCL's Bid Condition</u>	<u>Justification</u>
Clause 4.16 Normative availability – In case of combined capacity and energy charge bidder has to specify the normative availability and model EPA shall feature the penalty clause in the event of normative availability not being met.	Clause regarding the normative availability is deleted.	The provision for Normative availability is not suitable for the Projects based on Renewable Energy Sources, since this is an infirm power and the generation is largely dependent on the quality of Garbage provided by the Municipal Corporation and the developer does not have any control over the quality of the garbage.
Clause No. 5 Two stage bidding process is envisaged.	Single stage bidding is envisaged wherein the RFQ and RFP are invited simultaneously.	In view of the small capacity plant, single stage bidding is envisaged. However the bidders will be shortlisted first and RFP of shortlisted bidders will only be evaluated. This will also reduce the timelines of the project and will facilitate in commissioning the project at the earliest.

CHANGES IN STANDARD REQUEST FOR QUALIFICATION (RFQ) DOCUMENT

<u>Standard Bid Document</u>	<u>NDWPCT/TOWMCL's Bid Condition</u>	<u>Justification</u>
<u>Request for Qualification</u>		
Page 3, Clause 3 Reference to PPA (Power Purchase Agreement).	Reference to EPA (Energy Purchase Agreement).	The model PPA released with standard bid documents does not entail the features typically applicable for renewable energy sources, therefore the model EPA released by UPERC is adopted.

Standard Bid Document	NDWPCT/TOWMCL's Bid Condition	Justification
RFQ Notification: Capacity of the Plant- To specify minimum and maximum capacity.	The bidder is asked to quote the capacity, however the minimum anticipated capacity is 13 MW (Ex-Bus) and no maximum capacity is mentioned.	The technology for waste to energy is still in the nascent stage of development and it is therefore intended to take the advantage of the latest technology available in the world market so as to get Best Available System and Technology for the project. However, based on the committed MSW supply and waste characterization study done by the proponents, the potential capacity is stated as minimum capacity. If anybody quotes the capacity more than it, with the same quantity of MSW it will help in reducing the tariff.
RFQ Notification:	Qualifying requirements added.	For easy reference.
RFQ Notification: Higher time lines stated for RFQ, RFP, submissions etc. Total time for selection is To + 390 days	Time lines curtailed, by issue of RFQ and RFP together and parallel submission. Total time for selection is To + 70 days and for operation is To + 760 days.	The timelines are reduced considering the small size of the project and composite bidding is envisaged instead of two stage bidding process. This will also help in bringing the project at the earliest.
Section 1 and 2	Modified (added project details, background etc., as desired)	For bidder's clarity
Section 1.2: Definition of SPV, Lead Procurer, Authorized Representative, & Authorized Person.	Deleted	In-principle approval of BRPL to purchase power from the project and approval to the bid documents is enclosed.
Clause 1.3 Capacity of the Plant – To specify minimum and maximum capacity	The bidder is asked to quote the capacity, however the minimum anticipated capacity is 13 MW (Ex-Bus) and no maximum capacity is mentioned.	The technology for waste to energy is still in the nascent stage of development and it is therefore intended to take the advantage of the latest technology available in the world market so as to get Best Available System and Technology for the project. However, based

Standard Bid Document	NDWPCT/TOWMCL's Bid Condition	Justification
		on the committed Garbage supply and waste characterization study done by us the potential capacity is stated as minimum capacity. If anybody quotes the capacity more than it, with the same quantity of garbage it will help in reducing the tariff.
Clause 1.4	Now added: "it is envisaged that minimum exportable energy from the Project (ex bus bar) shall be 60 Million Units per year."	Indicative figures.
Clause 1.8 Transfer of Project – The assets shall be transferred back to the Procurer at the terminal value	Clause No. 2.9 Assets will flow back to respective state authorities. No terminal value is specified.	All the assets will be transferred back to the respective state authorities as per the land lease/concession agreement at the end of term of EPA. As the land belongs to such agencies, they may not like to part with their land.
Clause 2.1.3 Qualifying Criteria – Financial Criteria	Clause 3.1.3 Qualifying Criteria – Financial Criteria	
➤ Internal Resource Generation – Equal to at least Rs. 0.30 Crore equivalent US\$ per MW of the maximum capacity offered, computed as five times the maximum internal resources generated during any of the last five years business operations.	➤ Internal Resource Generation – Equal to at least Rs. 15.0 Crore or equivalent US\$, computed as five times the maximum internal resources generated during any of the last five years business operations.	This has been done in view of the small size of the plant, huge capital cost of the project as compared to the conventional sources @ Rs. 10 Cr./MW and to ensure that, only the bidders who have sufficient capital adequacy should take part in the bid. Moreover, the firm values have been used rather than per MW values to ensure fair competition.
➤ Networth – Rs. 0.50 Crore or equivalent US\$ per MW of the capacity offered by the Bidder.	➤ Networth – Rs. 25.0 Crore or equivalent US\$.	
➤ Annual turnover – Rs. 1.20 Crore or equivalent US\$ per MW of the capacity offered by the Bidder.	➤ Annual turnover – Rs. 60.0 Crore or equivalent US\$.	

Standard Bid Document	NDWPCT/TOWMCL's Bid Condition	Justification
<p>Clause 2.1.4</p> <p>Qualifying Criteria – Technical Criteria The Bidder must have experience of developing projects (not necessarily in the power sector) in the last 10 years whose aggregate capital costs must not be less than the amount equivalent to Rs. 0.75 Crore per MW of the capacity offered by the Bidder.</p>	<p>Clause 3.1.4</p> <p>Qualifying Criteria – Technical Criteria The Bidder must have experience of developing projects (not necessarily in the power sector) in the last 10 years whose aggregate capital costs must not be less than the amount equivalent to Rs. 100.0 Crore or equivalent US\$, (or Two projects of Rs. 50.0 Crore or equivalent US\$).</p>	<p>This has been done in view of the huge capital cost of the project (@ more than Rs. 10 Cr./MW) as compared to the conventional sources and only the bidders who have sufficient capital adequacy should take part in the bid.</p>
<p>Clause 2.3</p> <p>The RFQ document can be collected in person against payment of requisite fees.</p>	<p>Clause 3.3</p> <p>The RFQ as well as RFP document can be collected together.</p>	<p>This has been done to cut-short the time requirements for bidders' selection.</p>
<p>Clause 2.5.1.4</p> <p>Procedure for change in Bidders' compositions.</p>	<p>Clause 3.5.1.4</p> <p>No change in Bidders' composition shall be allowed after bid submission.</p>	<p>To prevent the spirit of competitive bidding.</p>
<p>Clause 2.6.2</p> <p>Due dates – The total period anticipated for completion of the bidding process is 425 days from the date of Notice for invitation of tender.</p>	<p>Clause 3.6.2</p> <p>The important deadlines are modified and the total period for completion of the bidding process upto signing of agreement is to 120 days from the date of Notice for invitation of tender.</p>	<p>The timelines are reduced considering and small size of the project and composite bidding is envisaged instead of two stage bidding process. This will also help in bringing the project at the earliest.</p>
<p>Clause 2</p>	<p>Clause 3.10 added: Bidders to be bound by all conditions of authorizations and clearances received so far.</p>	<p>The authorizations and clearances have been received subject to certain pre-conditions that have been communicated to bidders through RFP. The selected bidder has to abide by these.</p>
<p>Clause 2</p>	<p>Clause 3.11 added: Details regarding opening of bid documents added.</p>	<p>To provide relevant information to bidders about bid-opening procedure.</p>
<p>Clause 3.3.4</p> <p>Board resolution required at RFP stage.</p>	<p>Clause 3.3.4</p> <p>Board resolution required right now.</p>	<p>Composite bidding adopted.</p>

Standard Bid Document	NDWPCT/TOWMCL's Bid Condition	Justification
Annexure 1: Information of the Procurer to be enclosed.	Deleted	BSES Rajdhani Power Limited (BRPL) is proposed to be sole procurer. Hence, not required.
Annexure 2: Draft format for Joint deed Agreement among participating Distribution Licensees.	Deleted Added "Letter of in-principle acceptance by the Procurer (BRPL) to purchase power from the Project."	Only single procurer. In-principle approval of BRPL to purchase power from the project is enclosed. Separate authorization letter may not be required.
Annexure 3: Letter of Consent from Procurers.	To be enclosed shortly.	BRPL has agreed to procure power subject to DERC's approval, and are also agreeable to all key elements of the Bid documents & submitted to DERC (also enclosed at Annexure B).
Annexure 6 Power Purchase Agreement.	Annexure 6 Energy Purchase Agreement.	Being a smaller and renewable energy project, the model EPA released by UPERC is adopted.

CHANGES IN STANDARD REQUEST FOR PROPOSAL (RFP) DOCUMENT

Standard Bid Document	NDWPCL/TOWMCL Bid Condition	Justification
Request for Proposal		
Tariff Structure – Two part tariff structure is provided i.e. capacity charges and energy charges	Single part tariff structure is envisaged	The Competitive bidding guidelines allows the combined tariff structure and further the fuel in this case i.e. Municipal waste will be provided at no cost. Further, the evaluation criteria is in line with the standard bid document released by Ministry of Power
Definition: Permitted Assigns	Deleted	Not allowed. Need to specifically mention names.
Quoted Tariff	Modified to have only energy charges (and no capacity charges)	Single part tariff, being a small and renewable energy Project.
Quoted Capacity Charge	Deleted	No Capacity Charges
Quoted Escalable Capacity Charge	Deleted	No Capacity Charges
Quoted Non-Escalable Capacity Charge	Deleted	No Capacity Charges

Standard Bid Document	NDWPCL/TOWMCL Bid Condition	Justification
Quoted Energy Charge	Deleted	No Separate Energy Charges
Quoted Escalable Energy Charge	Deleted	No Separate Energy Charges
Quoted Non-Escalable Energy Charge	Deleted	No Separate Energy Charges
RFP Project Documents	Modified to remove irrelevant documents and include relevant documents	Removed: Escrow, Hypothecation, and Port Services Agreement Included: Concession, Land Lease, CDM revenue Sharing Agreements and copy of other authorisation and clearances
RFQ	Modified to refer to part of same bid documents	
Supercritical Technology	Deleted	Not relevant
Clause 1.3 Capacity of the Plant – To specify minimum and maximum capacity	The bidder is asked to quote the capacity, however the minimum anticipated capacity is 13 MW (Ex-Bus) and no maximum capacity is mentioned	The technology for waste to energy is still in the nascent stage of development and it is, therefore, intended to take the advantage of the latest technology available in the world market so as to get Best Available System and Technology for the project. However based on the committed Garbage supply and waste characterization study done by us the potential capacity is stated as minimum capacity. If anybody quotes the capacity more than it, with the same quantity of garbage it will help in reducing the tariff
Clause 1.5 Design Energy for evaluation purpose	Deleted	No Design Energy envisaged for evaluation
Clause 1.6 Transfer of Project – The assets shall be transferred back to the Procurer at a terminal value	Clause No 1.6 Assets will flow back to respective state authorities. No terminal value is specified.	All the assets will be transferred back to the respective state authorities as per the land lease / concession agreement at the end of term of EPA. As the land belongs to such agencies, they may not like to part with their land.
Clause 2.1.1 Procurers to procure Contracted capacity	Procurers to procure entire energy	Bidders can specify maximum possible power generation that can optimize power tariff
Clause 2.1.3 Fuel Supply Agreement	Concession Agreement	MSW is Fuel for the project, supplied by way of Concession
Clause 2.1.3.2 Time limit of 60 days	Time limit curtailed	For early implementation of

Standard Bid Document	NDWPCL/TOWMCL Bid Condition	Justification
for issue of Lol	to 30 days	project.
Clause 2.4 Procurer shall provide collateral arrangement	Deleted	Not required
Clause 2.5.3 Clarification can be sought up to 15 days prior to bid deadline	Clarification can be sought upto 7 days prior to bid deadline	Short period necessitates this modification.
Clause 2.6 Amendment to RFP, any time before issue	Amendment is possible, any time before bid submission date	
Clause 2.7.1.4 Preparation and submission of Financial Bids	Irrelevant sections deleted	No separate capacity and energy charges. Single Tariff.
Clause 2.7.2.4 Bidders to make necessary assessment of Carbon Finance	Bidders to consider submitted PDD.	PDD is already submitted for validation/registration to UNFCCC.
Clause 2.7.3.1 Provision for change in Bidding Consortium	No change in Bidding Consortium.	Under composite bidding, we can't have provision for change in Consortium.
Clause 2.8.2 Due dates – The total period anticipated for COD of the Project is to be as per competitive bidding guidelines.	Clause 2.8.2 The important deadlines are modified and the total period for COD is 760 days from the date of Notice for invitation of tender	The timelines are reduced considering the small size of the project and composite bidding is envisaged instead of two stage bidding process. This will also help in bringing the project at the earliest.
Clause 2.11.2 Cost of RFP document	Deleted	Issued with RFQ and hence no separate cost.
Clause 2.13.1 Performance Guarantee for an amount of Rs.7.25 Lakhs per MW	Revised to Rs.3.5 Crores	This has been done in view of the huge capital cost of the project (@ more than Rs.10 Cr/ MW) as compared to the conventional sources and the bidders should give sufficient guarantee to take up the Project.
Clause 3.3.1.3 Bidders to quote tariff in given format	Irrelevant sections deleted	Format revised as per single tariff structure
Clause 3.3.2 Bidders to quote escalated tariff	Irrelevant sections deleted	Revised as per requirements of single tariff structure with single unit.
Annexure 1 List of Procurers	Deleted	Single Procurer
Annexure 4 Quoted Tariff format	Revised	Single tariff format provided

Standard Bid Document	NDWPCL/TOWMCL Bid Condition	Justification
given Tariff to be quoted in Indian rupees of USD	Tariff quote in INR only (not in USD)	Quote in INR only to be submitted, to prevent such a small project from fluctuations in USD to INR rate
Annexure 6 Undertakings, Scheduled COD & Contracted Capacity	Modified	As per changes indicated above
Annexure 12 List of Banks to be provided	List of Banks provided	
Annexure 12A Illustration for Bid Evaluation	Deleted	Simple, and hence not required
Additional Annexure;	Annexure 13A: Concession Agreement with MCD Annexure 13B: Concession and Land License Agreement with NDMC Annexure 14: CDM Revenue Sharing Agreement Annexure 15: Project Design Document submitted to UNFCCC Annexure 16: Statutory Clearances obtained Annexure 17: Equipment Suppliers' List	Added as required
Model Power Purchase Agreement (PPA)	Model Energy Purchase Agreement (EPA) released by the UPERC on 23.03.2006 for Non Conventional Energy Resources is adopted and termed as Energy Purchase Agreement	The model PPA released with standard bid documents does not entail the features typically applicable for renewable energy Sources, therefore the model EPA released by UPERC is adopted.

13. Section 86 (1)(e) of the Electricity Act, 2003 mandates the Commission to promote co-generation and generation of Electricity from renewable

sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person and also specify for purchase of electricity from such sources, a percentage of total consumption of electricity in the area of a Distribution Licensee.

14. Section 61 of Electricity Act, 2003 provides that the appropriate Commission shall, subject to the provisions of the Act specify the terms and conditions for determination of tariff and in doing so shall be guided by following namely:

“(h) The promotion of co-generation and generation of electricity from the renewable sources of energy.”

15. Section 6.4(1) of National Tariff Policy issued by the Ministry of Power, Govt. of India on 06.01.2006 envisages that pursuant to the provision of Section 86(1)(e) of the Act, the appropriate Commission shall fix a minimum percentage for purchase of energy from such non-conventional sources of energy generation including co-generation taking into account availability of such resources in the region and its impact on retail tariff.
16. Section 5.10.5 of National Electricity Policy also stipulates setting up of solid waste to energy projects in urban areas and recovery of energy from industrial effluents with a view to reduce environmental pollution apart from generating additional energy.
17. It is clear from above that the Commission is competent and draws its power to adopt the tariff, if such tariff has been determined through a transparent process of bidding in accordance with the guidelines issued by the Central Government, in accordance with Section 63 and 86 of the Electricity Act, 2003 and Section 6.4(1) of National Tariff Policy and Section 5.10.5 of National Electricity Policy.
18. The Commission has considered the deviations in bid documents suggested by the Petitioner as listed in para 12 of this Order and approves these variations in bid documents (RFQ, RFP and EPA) subject to the following:
 - a) The deviations in bid documents proposed by the Petitioner are approved, keeping in view, the fact that this specific project is a MSW project which is different from the Conventional Power Plant, which is more or less standardised. It is observed that the standard bid documents issued by the Ministry of Power, Govt. of India are framed

keeping in mind the large Thermal and Hydro Power Plants and for supply of firm power. However, the present project is for a small size power plant based on renewable sources of energy, for supply of infirm power. Therefore, it would not be appropriate to ask the Petitioner to comply with the conditions stipulated in standard bid documents. Some deviations from the standard bid documents, therefore, appear to be unavoidable and accordingly, the deviations proposed by the Petitioner are approved by the Commission.

- b) The Commission has observed that after the assignment of Power Purchase Agreement in favour of three Discoms, MES and NDMC w.e.f. 01.04.2007, the DTL is no longer nodal agency for procurement of power. In the present case the actual power purchaser is BRPL, since the power plant is in its area. Further, it is noticed that in case of open bidding process, if any successful bidder likes to consume the entire power produced by him for captive use by availing open access, such a possibility may not be ruled out at this stage. Nevertheless, even the selection of Open Access captive consumer will have to emerge through competitive bidding.
- c) It is noticed by the Commission that the proposed project is being developed based on a few successful projects elsewhere in the country. However, as an abundant caution, it is suggested that the final design of the plant chosen shall be thoroughly examined and the appropriate technology to suit the quality of MSW generated in Delhi shall only be chosen to avoid the problems faced by some of the non performing stations established at Lucknow, Timarpur Delhi, etc.
- d) The Petitioner is directed to obtain the Commission's approval for any subsequent changes in RFQ/RFP/PPA documents during the bidding stage and all the bidders shall be informed of such changes.
- e) A single part tariff is proposed instead of two part tariff as per the guidelines released by the Ministry of Power, Government of India. The Commission accepts the single part tariff as this project is a non-conventional power station. Therefore, any reference to capacity charges need to be avoided. However, the Commission directs that this station shall not be covered under merit order and shall be treated as "**must run**" power station.
- f) The bidders may be advised to optimise the plant load factor of the plant and price the by-products. The final tariff shall take into account such optimisations.
- g) The Commission does not approve the payment of royalty of 5 paise per kwhr to MCD/NDMC in the light of other advantages accruing to

them. This project will reduce the requirement of more than 150 hectares of land for a sanitary landfill over the project term and substantial reduction in pollution etc. This issue was also dealt with by the Commission in its Order dated 26.12.2006 on Timarpur Solid Waste Management Project and the same was accepted by the MCD as well.

- h) The Commission has observed that since ABT compliant meters are being used for energy exchange after introduction of intra-state ABT in Delhi w.e.f. 1.4.2007, the joint meter reading for the purpose of billing will not be necessary and the meter readings will only be downloaded.
- i) The petitioner has submitted that revenue from carbon credits, if any, shall be dealt as per the directions of the Commission. If Commission does not give any direction about carbon credits, the revenue from carbon credits shall be distributed between MCD and TOWMCL in ratio of 75:25. The issue of sharing of CDM benefits is discussed at length in concession agreement. However, the Commission is of the considered view that since MCD and NDMC etc., are being benefited otherwise by this project like avoiding of landfill and associated environmental benefits, reduction in expenses in waste disposal and collection of tax, etc., it may not be reasonable to allow the CDM benefits to accrue to MCD and NDMC etc., This will load the electricity tariff to the detriment of electricity consumers of Delhi. In view of the above, the Commission orders that the entire CDM benefits shall be available to the TOWMCL. This will help the potential bidders to bid for the most competitive tariff. Alternatively, if IL&FS so desire, CDM benefits may be called for separately for adjustment of tariff on year to year basis.
- j) The Commission observes that banking of energy is only for operation of RDF plant, when the power station is not generating electricity.
- k) The Commission directs the Petitioner that no take or pay conditions shall be included in the Power Purchase Agreement. If this plant is not running, it will create difficulties in disposal of Municipal Solid Waste.
- l) The Commission directs that RFP shall include provisions with regard to achieving of financial closure and commencement of erection work at site within a specified period and completion of entire project within a scheduled time. Any default on this count should be covered by an appropriate remedial action.
- m) The Commission further directs that any grant or concessional loan available from any agency either within India or outside India for such

project shall be called for in the bidding documents and its impact with regard to reduction in the quoted tariff shall be thoroughly examined and clearly mentioned in the bidding documents.

- n) The Commission directs that in case of no extension (after expiry of full term) and the plant is having residual life, the plant may be handed over to the utility/Licensee. The Transfer would be subject to payment of residual value of the plant by the utility and the utility/Licensee should abide by the condition of concession agreement with MCD and NDMC.
 - o) The Commission reserves the right to reject the bids if the bidding process is not in accordance with the guidelines of Ministry of Power.
 - p) In case the tariff quoted by bidders are high and non-competitive due to any reason, the Petitioner, TOWMCL, reserves its right to reject all or any of such bid. The Petitioner may not recommend such bid to the Commission for its adoption.
19. The Commission is of the view that the execution of this project will certainly help in making Delhi cleaner which is in the best interest of the citizens of Delhi.
20. In view of this Order, the Commission's earlier Order dated 26.12.2006 in Petition No. 30/2005 stands superseded.
21. Ordered accordingly.

Sd/-
(K. Venugopal)
MEMBER

Sd/-
(Berjinder Singh)
CHAIRMAN