



BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION,

LUCKNOW

Petition No.: 960/2014

IN THE MATTER OF:

Petition under Section 63 of the Electricity Act, 2003 read with Clause 10.4 of the "Guidelines for short-term (i.e. for a period less than or equals to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process" issued by Ministry of Power on 15th May, 2012, for adoption of tariff for purchase of electricity by Noida Power Company Limited, a licensee of the Hon'ble Commission, from the Prospective/Successful Bidders pursuant to tariff determined through a transparent and Competitive Bidding Process adopted in accordance with the Guidelines.

And

IN THE MATTER OF:

Noida Power Company Limited (NPCL), Greater Noida. **Petitioner**

Present

1. ShriDesh Deepak Verma, Chairman
2. Smt.Meenakshi Singh, Member
3. Shri I. B. Pandey, Member

ORDER

(Date of Hearing – 13th August, 2014)

Apetition has been filed by NPCL, Greater Noida in the matter of Short Term Power Purchasefor the period from July, 2014 to September, 2014 U/S 63 of the EA, 2003 read with Cl. 10.4 of the



Guidelines for Short-term (i.e. for a period less than or equals to one year) Procurement of Power by Distribution Licensees notified by MoP on 15th March, 2012.

In the hearing held on 13th August, 2014, Mr. R. C. Agarwala, MD & CEO, Mr. Rajiv Goyal, GM-Projects, Mr. Somnath Ganguly, GM-Ops, Mr. Manoj Jain, CFO, Mr. Alok Sharma, Manager-Legal & Mr. A. K. Arora, Resident Manager of NPCL were present.

The facts mentioned in the petition briefly are as under:

The Petitioner is a company incorporated under the provisions of the Companies Act, 1956 with Registered Office at Commercial Complex, H-Block, Alpha – II Sector, Greater Noida, Uttar Pradesh and is engaged in the business of distribution and retail supply of electricity in the Greater Noida Area, Uttar Pradesh.

Petitioner submitted that the Commission in Tariff Order dated 31st May, 2013 had directed the Petitioner to procure short-term power through competitive bidding process under the Guidelines for Short-term (i.e. for a period less than or equals to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process (hereinafter referred to as the “Guidelines”) dated 15th May, 2012 issued by the Ministry of Power, Government of India.

Petitioner submitted that it has filed its ARR Petition for FY 2014-15 on 28th November 2013, wherein complete details of power procurement vis-à-vis demand and other distribution expenses were provided for the approval of the Commission. Petitioner submitted that in the ARR Petition, it had stated that as the Long term PPA executed between the Petitioner and the Essar Power (Jharkhand) Limited (hereinafter referred to as “EPJL”) through competitive bidding process had been terminated by the Petitioner on 22nd August, 2013 for not complying with the provisions of the PPA and that the said issue was subjudice before the Commission (Petition No.903/2013), therefore, the Petitioner will procure power for FY 2014-15 on Short-term/ Medium-term/ Long-term basis through Competitive bidding, as the case may be.

Petitioner submitted, that in view of the above in January, 2014 it conducted a Short-term Competitive Bidding in terms with the Guidelines issued by the Ministry of Power on 15th May, 2012 for a period of three months i.e. (April, 2014 to June 2014) for procuring upto 150 MW power. In pursuance to the said bidding, Power Purchase Agreements were signed between the Petitioner and the successful bidders. Subsequently a Petition for adoption of tariff under Section 63 of the



Electricity Act, 2013 and provisions of the Guidelines was filed before the Hon'ble Commission on 3rd March, 2014 and the Commission adopted the tariff vide its Order dated 24th March, 2014.

Petitioner submitted that meanwhile, PaschimanchalVidhyutVitran Nigam Ltd. (PVVNL)/Uttar Pradesh Power Corporation Ltd. (UPPCL) vide its letter dated 4th February, 2014 informed the Petitioner that the 45MW power supplied by them would be stopped w.e.f. 12th February, 2014 in the absence of any valid Power Purchase Agreement. Hence, the Petitioner made alternate arrangements to substitute the said 45 MW power.

Petitioner submitted that the Commission vide its Order dated 30th May, 2014 disposed of the Petition No. 903/2013 filed by EPJL against the termination of PPA dated 9th May, 2012 by the Petitioner, wherein the Commission directed the Petitioner to restore the encashed Performance Bank Guarantee of Rs. 72 Crore to EPJL and therefore brought the parties to their former position. Thereby, the Commission allowed the parties to rethink over the issues in light of the facts under the provisions of the PPA.

Petitioner submitted that in view of the above, EPJL's earlier letters seeking extension of Scheduled CoD by 18 months and EPJL's additional affidavit regarding supply of Power from Essar Power M.P. Limited (EPMPL) and also affidavit submitted by EPMPL before the Commission in the said Petition No. 903 of 2013, it is evident that no long term power is expected to be received from EPJL or any alternate source in near future.

Petitioner submitted that in the above backdrop and to meet the growing power demand of the consumers of its licensed area, the Petitioner published a notice in Times of India and The Economic Times on 2nd June, 2014, inviting Bids from Generators, Captive Power Plants, Licensed Power Traders, State Utilities and Distribution Licensees from all over India for procurement of 230 MW power on Short Term basis for meeting its power requirements from July 2014 to September 2014. Copies of the Newspaper clippings have also been submitted by the Petitioner along with the Petition. The last date for submission of bids was 9th June, 2014 for both the non-financial and the financial bids. A Request for Proposal (hereinafter referred to as "RfP") was prepared detailing all the terms and conditions for supply of power and was duly uploaded on the official website of the Petitioner i.e. www.noidapower.com. Petitioner has also submitted a copy of the RfP. As per the RfP document, the Petitioner sought the power procurement on the firm basis as shown in the table below:



Table 1: Power Procurement Quantum as per RfP

Period	Duration (Hrs)	Quantum (MW)
01.07.2014 to 30.09.2014	RTC (00:00 – 24:00)	180
	Peak (19:00-24:00)	50

Note: 1) With minimum bid capacity of 10 MW

2) With maximum capacity of 75 MW from a single generating source.

Petitioner submitted that it intended to procure up to 230 MW power (approx.) under two time blocks i.e. RTC and Peak, at the Delivery Point being the Petitioner's Periphery i.e. Interconnection of Petitioner's system with UPPTCL, for a period of 3 months from the Scheduled Delivery Date of 1st July, 2014 in accordance with the terms of the RfP Document.

Petitioner submitted that in pursuance to the bidding process the Petitioner formed a Bid Monitoring Committee consisting of the employees of the Petitioner Company and the Standing Committee which consisted of the employees of the Petitioner Company and an External Independent Member namely Shri. Harit Agarwal (Chartered Accountant, Member of Executive Committee of Northern India Regional Committee of Institute of Chartered Accountants of India).

Petitioner submitted that in response to aforesaid competitive bidding process it received ten (10) proposals / bids on the last date of bid submission i.e. 9th June, 2014. The names of all the ten bidders are mentioned herein below:

Table 2: Name of the Bidders participated in the bidding process

S.No.	Name of the Bidder
1	M/s Manikaran Power Limited (MPL)
2	M/s GMR Energy Trading Limited (GMRETL)
3	M/s Adani Enterprises Limited (AEL)
4	M/s Tata Power Trading Company Limited (TPTCL)



5	M/s PTC India Limited (PTC)
6	M/s Shree Cement Limited (SCL)
7	M/s National Energy Trading & Services Limited (NETS)
8	M/s NTPC VidyutVyapar Nigam Limited (NVVNL)
9	M/s Knowledge Infrastructure Systems (P) Limited (KISPL)
10	M/s JSW Power Trading Limited (JSWPTL)

The petitioner submitted that the Non-Financial Bids were opened and evaluated by the Bid Monitoring Committee and were found in order. The Bid Monitoring Committee proceeded to open the Financial Bids of all the bidders in presence of representatives of the Bidders and the information namely quoted tariff at delivery point, trading margin (if any) etc. quoted by each bidder was also read out to all Bidders at the time of opening of Financial Bids. The Bid Monitoring Committee also tabulated the results of the bids and submitted the same to the Standing Committee for evaluation and finalization.

The petitioner submitted that the Bidders in their bids quoted the Tariff at Delivery Point in the prescribed format as set out in Annexure-III of the RfP. Based on the quoted Tariff provided by the Bidders the Delivered Tariff at Petitioner's Bus was calculated. Petitioner submitted that the following factors were considered for the purpose of bid evaluation and computation of landed power purchase cost at the Petitioner's Bus:

- Applicable POC rates for Short-term slab as notified by CERC vide its Order No. L- 1/44/2013-CERC dated 31stDecember, 2013.
 - Transmission Charges of U.P. as Rs. 50/- per MWh.
 - Applicable Open Access charges namely RLDC / SLDC Operation Charges and Application Fees as notified by CERC.
 - The Transmission Losses (POC losses) as notified by NLDC for the period commencing from 13thJanuary, 2014 to 19thJanuary, 2014 to be added for the evaluation purpose.
 - The Transmission Losses (POC losses) as notified by NLDC for the period commencing from 2ndJune, 2014 to 8thJune, 2014 shall be added for the evaluation purpose.
 - U.P. State Transmission Losses as approved by UPERC, i.e. 3.67%.
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Petitioner submitted that on the request of the bidders, the Petitioner also clarified to them that any changes in transmission charges / losses applicable for the State of U.P. will be included in bidding rates and paid according to rates computed with new tariff of transmission charges and losses as and when the same are being approved by the Commission. After examining the landed cost of the bidders the Standing Committee observed that low rates are offered by those bidders who are situated in Western Region. Petitioner submitted that during various meetings at NRLDC, all Northern States have been appraised about the availability of transmission corridor and upcoming transmission capacities. It has been further clarified that during the summer season the transmission capacity shall be restricted as per the revised Inter-regional schedule of NLDC.

Petitioner submitted that in the TTC assessment report as published by NLDC for July, 2014 to September, 2014, the margin availability for STOA for WR-NR link is given as Nil. Therefore, the power scheduled from the sources situated in Western Region cannot be materialized in substance even if the scheduling is done on Advance basis. Petitioner also submitted a copy of the above report along with the Petition.

Petitioner submitted that the Standing Committee also observed that, at present, UPSLDC is not allowing to off-take firm power to the Petitioner. Therefore, scheduling can only be done on Day-ahead basis which has least priority in terms of allocation of transmission corridor as per the CERC (Open Access in Inter-state Transmission) Regulations, 2008 and its subsequent amendments thereof. The Petitioner has decided to challenge the unilateral decision of UPSLDC and UPPTCL not allowing Open Access to the Petitioner on Firm Basis before the Commission for directions to them. The above matter in Petition No. 934 / 2014 is subjudice before the Commission. Therefore, till the final disposal of above petition or directions in this regard by Commission, the Petitioner cannot source power on firm basis. Even, the bidders also showed reluctance to supply power on day-ahead basis.

Petitioner submitted that in the absence of firm allocation of transmission corridor, the Standing Committee decided to evaluate bids submitted by Northern Region generating sources which has maximum chances to get the transmission corridor from the Regional Load Dispatch Centre, even if they are scheduled on Day-ahead basis, to secure the interest of the consumers of Greater Noida area.

Petitioner submitted that subsequently, the two bidders, namely, M/s Shree Cement Limited (SCL) and M/s Manikaran Power Limited (MPL) offered to lower their rates from July, 2014 to September,



2014. The SCL vide its letter dated 12th June, 2014 has offered to lower its rate to Rs. 3.80 per kWh for the month of July, 2014 and to Rs. 3.865 per kWh for the months of August and September, 2014. Similarly, the MPL vide its letter dated 17th June, 2014 has also offered to lower its rate to Rs. 3.73 per kWh for the month of July, 2014 and to Rs. 3.865 per kWh for the months of August and September, 2014. Petitioner also submitted the copy the above mentioned letters. In view of the downward revision of rates, the Standing Committee decided to evaluate the bids based on the revised offers received from SCL and MPL.

The weighted average lowest quoted landed price at NPCL's Bus as submitted by the Petitioner are shown in the Table below:

Table 3: Weighted average lowest quoted landed price at NPCL's Bus as submitted by the Petitioner

Month	Jul-14	Aug-14	Sep-14
Region of Generator	NR	NR	NR
RTC Power (MW)	240	250	195
Rate (Rs./kWh)	3.78	3.89	3.87
Weighted Avg. Rate (Rs. / kWh)	3.85		

Petitioner submitted that the Standing Committee observed that the Weighted Average Price for procurement of power from July, 2014 to September, 2014 as tabulated above would be Rs. 3.85 per kWh which is, quite competitive as compared to the prices prevailing in the market and is the most reliable considering the entire power from NR region only. Petitioner submitted that it will be in the best interest of the consumers of Greater Noida and will enable the NPCL to provide reliable power supply to its consumers.

Petitioner submitted that the Standing Committee further observed that the Landed cost at Petitioner's Bus can also be benchmarked with the CERC's Market Monitoring Cell Report of March, 2014. It has further been observed that the Weighted Average Price of the RTC power under bilateral segment from July, 2013 to September, 2013 was 4.28 per kWh, which is significantly higher than the proposed power purchase cost recommended by the Standing Committee. Petitioner submitted that, the Standing Committee further observed that on account of congestion in the inter-regional links and due to limited availability of generation capacity in the Northern Region, the Indian Energy Exchange (IEX) has also witnessed surge in spot market prices. The ongoing summer has recorded high temperatures which have crossed records of many years as stated in various news



items in print and electronic media and it is being predicted that the affected monsoon will result into low rains this year.

Petitioner submitted that the Standing Committee also compared the rates discovered in other tenders including that of U.P. Power Corporation Limited (UPPCL). Petitioner submitted that it is evident from the below table that for the month of June, 2014 the rates discovered by UPPCL are on a higher side.

Table 4: Rates discovered by UPPCL for the month of June, 2014

S. No.	Bidder	Region of Generator	Quantum of Power (MW)	Rate at UPPCL Periphery (Rs/kWh)	Rates after U.P. State Charges & Losses (Rs/kWh)
1	NVVNL	ER	100	4.08	4.29
2	GMR	ER	100	4.08	4.29
3	Mittal	ER	100	4.43	4.65
4	GMR	NR	50	4.5	4.72
5	NVVNL	ER	50	4.52	4.74
6	PTC	ER	50	4.54	4.76
7	PTC	ER	100	4.94	5.18

Petitioner submitted that the above rates as discovered by UPPCL are way higher than the tariff discovered from the NR Sources by NPCL in the present bidding process. Similarly, the rates discovered by Punjab State Power Corporation Limited (PSPCL) for the month of July, 2014 as quoted by NR sources and as shown in the Table below are also on a higher side:

Table 5: Rates discovered by PSPCL for the month of July, 2014

S. No.	Bidder	Quantum of Power (in MW)	Rate at PSPCL Periphery (Rs/kWh)
1	SCL	100	4.03
2	TPTCL	50	4.15
3	PTC	200	4.15
4	PTC	250	4.21
5	PTC	60	4.25
6	PTC	75	4.25
7	PTC	75	4.40
8	SCL	25	4.45
9	GMRETL	200	4.70



Petitioner submitted that it may also be noted that due to high demand and fuel shortages by many States in the Northern India, even the gas based power plants are also operated to meet the demand. The increase in transmission capacity on WR-NR route is highly dependent upon execution of a major 765 kV transmission line projects specially Gwalior-Jaipur, which is expected to be commissioned only by end of March, 2015. These constraints have necessitated many States in NR to commence booking of power and therefore there is an increase of power rates in short-term market.

Petitioner submitted that the Standing Committee has also observed that the Bulk Supply Tariff (BST) as proposed by UPPCL in its ARR petition for FY 2014-15 is Rs. 4.357 per kWh which is considerably higher than the rates discovered by the Petitioner in the present bidding process.

Petitioner submitted that the Standing Committee also observed that the discovered weighted average rates of Rs. 3.85 per kWh from July, 2014 to September, 2014 is also lower than the Weighted Average Landed Cost of Rs. 3.92 per kWh of the Petitioner from July, 2013 to September, 2013 which was even net-off payment rebate. In view of the above observations and after considering all aspects in view to ensure stable supply to the consumers of Greater Noida Area at reasonable rates, the Standing Committee recommended the Petitioner to procure power from July, 2014 to September, 2014 as per following details:

Table 6: Details of power procurement as recommended by the Standing Committee for July, 2014 to September, 2014

Bidders	Source	Period	MW offered	Rate at Delivery Point i.e. NPCL's Bus (Rs./kWh)
MPL	Jaypee -KW, H.P.	Jul'14	100	3.730
		Aug'14	60	3.865
		Sep'14	100	3.865
SCL	SCL, Rajasthan	Jul'14	100	3.800
		Aug'14-Sep'14	100	3.865
NETS	LancoBudhil, H.P.	Jul'14-Aug'14	40	3.870
		Sep'14	20	3.870
PTC	Govt. of H.P.	Aug'14	50	4.000
Wt. Average Price				3.850

Petitioner also submitted a copy of the Standing Committee Report duly signed by all the members.



Petitioner submitted that Section 63 of the Electricity Act, 2003, states that the Commission shall adopt the tariff arrived through transparent process of bidding in accordance with guidelines issued by Central Government. The said provision is reproduced below:

“Section 63 (Determination of tariff by bidding process): 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.”

Petitioner submitted that the para 2 of Clause 10.4 of the Guidelines for Short-term Procurement of power dated 15th May, 2012 issued by Ministry of Power, states as follows:

“In all other cases, the procurer(s) shall submit a petition to the Appropriate Commission for adoption of tariff within 2 days from the date of signing of PPA. Appropriate Commission should communicate the decision within 7 days from the date of submission of Petition”

Petitioner submitted that it has accordingly entered into Power Purchase Agreements with the successful bidders lastly on 20th June, 2014. And in compliance to the above, it has filed the petition for adoption of tariff by the Commission. Petitioner requested the Commission to adopt the tariff as mentioned in above Table 6 arrived through the process of competitive bidding.

In compliance to the terms of “Article 6 of Part A- General” of the “Schedule of Fees” of the UPERC (Fees and Fines) Regulations, 2010, the petitioner has also submitted a demand draft of Rs. 10,000/- bearing No. 232406 dated 20th June, 2014 issued by ICICI Bank, Greater Noida for the purposes of fees for filing the Petition.

Commission’s Analysis:

It has been observed that the Petitioner has initiated the power procurement process for procurement of Short-term power in accordance with the Guidelines for Short-term Procurement of Power by Distribution Licensees through Tariff based Bidding process, notified by the Ministry of Power on 15th May, 2012 which is based on the direction of the Commission issued in its Tariff Order dated 31st May, 2013.

As per the submissions of the Petitioner which also includes the supporting documents, such as copy of RfP document, copy of clipping of the advertisement, copy of the report of Standing Committee,



Copy of request letters from other bidders, TTC assessment Report from July to September, 2014, it seems that the Petitioner has followed the bidding process as per the guidelines issued by the Central Government. It has also been observed that an appropriate comparison has also been made with the prevailing or estimated tariff in the procurement period before finalizing the bidders.

As the power procurement has been done as per guidelines of the Central Government, hence the power procurement quantum during July, 2014 to September, 2014 along with the derived Tariff (as per Table 6) is approved by the Commission. The above will also be taken into consideration while finalising the ARR / Tariff Petition for FY 2014-15.

The Petition is disposed of.

(I. B. Pandey)

Member

(Meenakshi Singh)

Member

(Desh Deepak Verma)

Chairman

Place: Lucknow

Date: _____ August, 2014
