

Bihar Electricity Regulatory Commission
Patna

In the matter of

Approval and adoption of Tariff for procurement of base load power on Long term basis under Case-I route of Tariff based Competitive Bidding Guidelines

In the matter of

Bihar State Electricity Board, Patna Petitioner

Present :

U.N.Panjiar	Chairman
R.N. Sharma	Member
S.C. Jha	Member

Appearance on behalf of BSEB:

1. Shri R.P. Chowdhary, Chief Engineer, Transmission (O&M)
2. Shri Rakesh, Executive Engineer
3. Anil Kale, Consultant, M/s ICRA Management Consulting Services Ltd.

Dated : 12/10/2011

Order

The matter was heard.

The petitioner Bihar State Electricity Board (BSEB) was represented by Shri R.P. Chowdhary, Chief Engineer, Transmission (O&M), Shri Rakesh, Executive Engineer and M/s ICRA Management Consulting Services Limited, Consultant appointed by the petitioner to assist them in the bid process was also present through its representative Anil Kale. No other stakeholders or member of general public was present in spite of public notice issued in this regard.

After examining the proposal of the petitioner, the Commission considered it appropriate to have the comments/suggestions of stakeholders/public in general on the petition. Therefore, letter no. BEREC-Misc.-1/08-578 dated 03.09.2011 was issued to the petitioner BSEB directing BSEB to publish a public notice within 3-4 days in at least two daily newspapers, one in English

and another in Hindi, having wide circulation in the State inviting comments/suggestions by interested parties. BSEB was also directed to place the complete petition on the website of BSEB along with copy of the notice through which bids were invited, the report of the bid evaluation committee including the sheet showing levelised tariff of all the bidders, summary of proposal submitted by the evaluation committee to Board of BSEB for opening of financial bids, its approval by Board, copy of the PPA signed with the selected bidders, all components of tariff quoted by all bidders and all other related documents. BSEB was directed to submit response on the suggestions/comments received from the interested parties to the Commission on or before 7th October, 2011. BSEB was also directed to file on affidavit copy of the newspaper clippings of advertisements within one week of publication of public notice in the newspapers.

During the hearing, the petitioner BSEB submitted on affidavit the newspaper clippings of the advertisement published in the newspapers.

No suggestions/comments on the proposal of the petitioner have been received from any stakeholder, interested party or general public. The petitioner BSEB submitted that as per direction given by the Commission, they have placed on their website the complete petition along with copy of the notice through which bids were invited, the report of the bid evaluation committee including the sheet showing levelised tariff of all the bidders, summary of proposal submitted by the evaluation committee to the Board of petitioner BSEB for opening of financial bids, its approval by Board, copy of the PPA signed with the selected bidders, all components of tariff quoted by all bidders and all other related documents. This was also checked on the website of the petitioner BSEB.

Shri Anil Kale, Consultant of the petitioner, made an audio-visual presentation indicating different steps taken by petitioner for inviting bids, processing of the bids, evaluation of the bids, selection of the successful bidder and signing of PPA. The presentation made by the Consultant of the petitioner reveals the following:-

- 1) Section 63 of the Electricity Act, 2003 states 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.”
- 2) Para 6.1 of National Tariff Policy 2006 states that :-
“.....power procurement for future requirements should be through a transparent competitive bidding mechanism using the guidelines issued by the Central Government vide gazette notification dated 19th January, 2005.....
- 3) BEREC had earlier noted the intention of petitioner BSEB to procure 1500 MW of power under “Case-1 Standard Bidding Document” based on guidelines issued by Govt. of India.
- 4) BSEB did not seek any deviation in the Competitive Bidding Guidelines or the Standard Bidding Document issued by Govt. of India.
- 5) BSEB adopted single stage bidding process and issued advertisement on 14.10.2009 inviting bids for procurement of 1500 MW of power under Competitive Bidding Guidelines Case-1. The last date for submission of bid was 4th January, 2010.
- 6) A pre-bid conference with the prospective bidders was organized on 10th November, 2009. The RFP document incorporating all the requisite details and reply to the queries of the bidders was uploaded on the website of BSEB on 20.11.2009. Four bidders submitted their bids to BSEB within the last date of submission of bids, out of whom one bidder namely PTC submitted three (3) separate bids for supply of power from three different sources.
- 7) Petitioner BSEB constituted a Bid Evaluation Committee as per para 5.9 of the guidelines including in the Committee one member external to the procurer organization and affiliates. The Bid Evaluation Committee considered all the six (6) non-financial bids of four (4) bidders which

were evaluated by the Committee. The report of the Evaluation Committee on evaluation of non-financial bids by the Committee has not been submitted by petitioner BSEB.

- 8) As per the report of the Evaluation Committee, none of the bids was found fully responsive, mainly on account of non-compliance of the requirement of para 2.1.2.2a of Standard Bid guidelines,

“that requirement of land would be considered as indicated in the proposal filed with the competent authority for seeking environmental clearance. The bidder should have acquired and have taken possession of at least 50% of the area of the land as mentioned above”

- 9) However, a proposal was submitted to the Board of the petitioner BSEB to relax this requirement and give conditional approval for opening of the financial bids after taking affidavit from the bidders that they will procure the necessary land required for qualification within one (1) year of signing of PPA failing which their contract performance guarantee will be forfeited.

- 10) The Board of petitioner BSEB approved the proposal of opening of financial bid in its meeting held on 23.03.2010.

Accordingly Bid Evaluation Committee opened the financial bid of all the six (6) bids of four (4) bidders and found that the levelised tariff of bidder M/s Essar Power Limited, Mumbai was the lowest at levelised tariff of Rs. 3.057 per kWh at delivery point.

- 11) The petitioner BSEB approved procurement of 450 MW of power from M/s Essar Power Limited at the levelised tariff of Rs. 3.057 per kWh at delivery point and also approved the year-wise tariff quoted by M/s Essar Power Limited. The petitioner also found levelised tariff of other bidders non-competitive and therefore decided not to procure power from them. The PPA with M/s Essar Power Limited was signed on 09.07.2010.

The Commission observes that period of one year has already elapsed after signing of the PPA between procurer BSEB and the seller M/s Essar Power

Limited but BSEB has not intimated whether the seller has complied with the undertaking given in the affidavit regarding procurement of required land within one year of the signing of the PPA.

In view of the above, the Commission directs the BSEB to submit the following papers:-

- 1) Report of the Bid Evaluation Committee on evaluation of the non-financial bids.
- 2) Compliance report submitted by the successful bidder M/s Essar Power Limited regarding procurement of required land as stipulated in the Standard RFP.

The matter will be heard again at 11 A.M. on 16.11.2011.

A copy of this order may be sent to BSEB. This order may also be placed on the website of the Commission.

Sd/-
(S.C. Jha)
Member

Sd/-
(R.N. Sharma)
Member

Sd/-
(U.N. Panjiar)
Chairman