



THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

Petition No. 2084 of 2024

QUORUM

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Sanjay Kumar Singh, Member

IN THE MATTER OF:

Petition under section 86 (1)(b) and other applicable provisions of the Electricity Act, 2003 for seeking approval of the Long Term Power Purchase Agreement and the deviations in approved documents i.e. Request for Qualification, Request for Proposal and Power Supply Agreement for invitation of E- Tender for Procurement of 1600 MW of power from Thermal Power Projects sourcing fuel from B(iv) of Shakti Policy under Design Build, Finance, Own, and Operate Model, for meeting the requirement of Dakshinanchal Vidyut Vitran Nigam Ltd., Madhyanchal Vidyut Vitran Nigam Ltd., Purvanchal Vidyut Vitran Nigam Ltd., Paschimanchal Vidyut Vitran Nigam Ltd. and Kanpur Electricity Supply Company Ltd.

AND

IN THE MATTER OF

Uttar Pradesh Power Corporation Limited (UPPCL),

Shakti Bhawan, 14- Ashok Marg, Lucknow-226001

..... Petitioner

FOLLOWING WERE PRESENT

1. Shri Deepak Raizada, CE (PPA), UPPCL
2. Shri Vikram Singh, SE, UPPCL
3. Ms. Niharika Pandey, EE, UPPCL
4. Shri Avinash Kr., AE, UPPCL
5. Shri Mohit Goyal, Consultant, UPPCL
6. Shri Siddharth, Consultant, UPPCL

ORDER

(DATE OF HEARING: 18.06.2024)



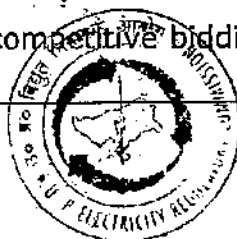


1. The petitioner, UPPCL has filed this petition for approval for the long- term power procurement of 1500 MW power from thermal power project and also approval of deviations in bid documents, namely, Request for Qualification (RFQ), Request for Proposal (RFP) and Power Supply Agreement (PSA) with respect to "Model Bidding Document or MBD" dated 5.3.2019 sourcing fuel under B(IV) of Shakti Policy read with amendment dated 14.7.2022 issued by MOP.
2. The Petitioner has prayed the following:
 - a. Take the petition on record.
 - b. Issue necessary orders to accord approval to initiate Bidding process for Procurement of 1600 MW Thermal Power through Competitive route.
 - c. Issue necessary orders for approval of deviations sought by Petitioner from Model Bidding Document and Amended Model Bidding Document.
 - d. Issue necessary orders for approval of bid documents namely the Request for Qualification, Request for Proposal and Power Supply Agreement.
 - e. Condone any Inadvertent omissions/errors/shortcomings.
 - f. Pass any such further orders as the Hon'ble Commission may deem fit in the facts and circumstances of the case.

Brief facts:

3. The Commission vide its Suo Motu order dated 23.6.2023 took cognizance of Supply versus Demand position of UP Discoms for FY 2024 to FY 2040, wherein RTC deficit from FY 2029-30 onwards was identified. Further, Central Electricity Authority (CEA) in its Resource Adequacy Study has proposed around 10795 MW of additional coal-based capacity required up to FY 2033-34 for the State of Uttar Pradesh. Against the proposed coal-based capacity, UPPCL has already planned for augmentation of existing power stations accumulating to 5000 MW from Obra D (1600 MW), Anpara A (1600 MW) & Meza II (1800 MW).
4. UPPCL has, therefore, decided to procure electricity from thermal power generating station that would dedicate the contracted capacity of 1500 MW from a new power station of 1600 MW installed capacity (2X800 MW) to be set up on ultra super critical technology in the State of Uttar Pradesh on Design, Build, Finance, Own & Operate (DBFOO) basis. UPPCL would carry out the bidding process through transparent competitive bidding for selection of the supplier to

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whom the contract may be awarded for supply of electricity thereof as per the terms specified in the bidding documents.

5. In line with UPERC (Modalities of Tariff Determination) Regulations, 2023, UPPCL has prepared the document of bidding on the basis of guidelines for long term procurement of Electricity from thermal power stations set up on DBFOO basis and sourcing fuel as provided under Model Bidding Documents (MBDs) including allocation of coal under B(IV) of Shakti Scheme.
6. Accordingly, UPPCL is seeking deviations from Model Bidding Documents and its amendment and approval of long-term PSA along with RFQ and RFP for procurement of 1500 MW power for 29.5 years through Competitive Bidding from thermal power project having installed capacity of 1600 MW.

Record of Proceedings

7. During the hearing on 6.6.2024, the Commission made certain observations and directed UPPCL to revert on following points:
 - (i) The deviation regarding construction of dedicated transmission system by developer to connect the power station to point of grid connection, u/s 62 of the Act was in contravention to the UPERC (Modalities of Tariff Determination) Regulations, 2023 and hence Impermissible.
 - (ii) The location of the project would be required at the RFQ stage which would be important for overall planning of UPPTCL transmission system.
 - (iii) The undertaking pertaining to National Security and Integrity as provided in Disinvestment Guidelines of Govt. of India shall be adhered to.
 - (iv) Deviations in the RFQ-DBFOO regarding purchase preference to local suppliers and restrictions on sourcing from non-friendly countries in terms of the Government's policies.
 - (v) Deviation regarding restriction on companies having foreign investment.





- (vi) Deviation to restrict the number of consortium members to 4 instead of 6.
- (vii) Measurement of GCV of coal at loading as well unloading point and clarity on which one will be used for payment of fuel charges.
- (viii) Applicable tariff in case of supply of power from an alternate source.
- (ix) Rationale for considering net Station Heat Rate (SHR) as 2275 kCal per kWh.

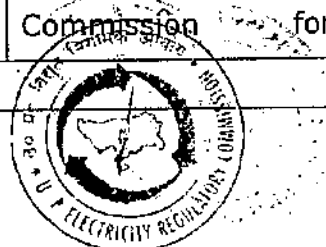
8. During the next hearing on 18.6.2024, UPPCL made a presentation before the Commission covering all above observations of the Commission and also submitted an additional affidavit dated 21.06.2024 containing the presentation made during the hearing on 18.06.2024. The Commission vide its ROP order dated 24.06.2024 issued a detailed order regarding the changes to be incorporated in the bidding documents and directed UPPCL to submit revised deviation statement and bidding documents for approval. UPPCL vide its submission dated 27.06.2024 has submitted the revised deviation statement for each of the bidding documents namely, Request for Qualification (RFQ), Request for Proposal (RFP) and Power Supply Agreement (PSA) along with revised bidding documents.

Commission's View

9. After considering the issues raised/ presented during the presentation and after perusing the documents placed on record, the Commission approves the following deviations:

S. No.	Issue concerned	Provision in initial bidding document submitted to the Commission.	Deviation approved and incorporated in the revised bidding document submitted to the Commission.
1.	Construction of dedicated	Supplier must obtain approval from the Commission for	(i) The responsibility to connect the Power Station to Point of Grid

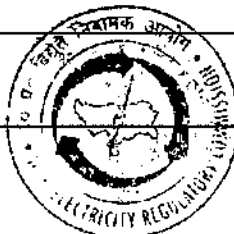
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	transmission system	transmission charges related to dedicated transmission system under Section 62 of the Act.	Connection through Dedicated Transmission System would be that of UPPCL. This system would be constructed in accordance with the UPERC (Modalities of tariff Determination) Regulations, 2023, and UPERC (Grant of Connectivity to Intra-State Transmission System) Regulations, 2010 and subsequent amendments. (ii) The bidder, therefore, would be required to quote ex-bus tariff.
2.	Disclosure of Project Location	Project address omitted in the application letter	(i) The project's location has been specified at the RFQ stage in line with the original clause of RFQ-DBFOO. (ii) However, Bidder would be allowed to change the location of the project up to the "Appointed Date" but will have to inform UPPCL about any location change.

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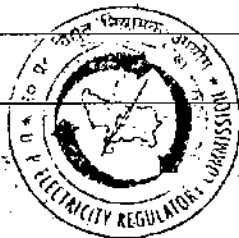
			(iii) No time extension shall be granted for the reason of change in location and the supplier has to adhere to the timelines specified in the RFP document.
3.	Quotation of fuel charges in the bid	Weighted average price of coal and GCV at loading point of mine, weighted average transportation freight payable for transportation from mine, washing cost and distance from loading point of mine to proposed plant location to be quoted.	Coal quantity of 6.52 MT of G10 coal from CCL has been allocated from 2029-30. This information has been incorporated in the bidding documents.
4.	GCV measurement for payment of fuel charges	The average GCV of fuel shall be determined in accordance with certification and classification provided by an independent agency appointed by the Utility at its cost and expenses and such	(i) Difference in GCV between unloading point and firing end, on average basis, would be determined in the manner as notified by the Commission as per UPERC Generation Tariff Regulations from time to time, to account for stacking/storage





		GCV value shall be used for computation for payment of fuel charges.	losses. The avg. GCV at the firing end would be used for computing the fuel charges payable by UPPCL. (ii) Guidelines of the Government of India regarding Independent agency sampling of coal at loading/unloading point would be abided by.
5.	Tariff for supply of power from alternate source.	In case of supplier sourcing power from alternate source, such supply shall, for payment of fixed and fuel charge, be deemed to be supplied under and in accordance with provisions of this agreement.	In case the Supplier sources power from an alternate source, the tariff at the delivery point would be compared and any additional transmission charges and losses would be to the account of Supplier.
6.	Disqualification criteria as per disinvestment guidelines.	(i) In the matter relating to national security and integrity, any member of consortium or their associates have not been convicted by	With regard to disqualification criteria in matters related to national security and integrity, all the clauses as per the original SBD have been retained.

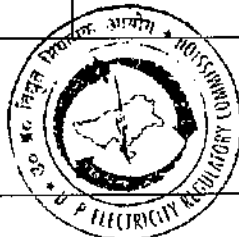
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		<p>the court of law or any agency of Govt.</p> <p>(ii) Any member of consortium or their associates have not been convicted for any offence under IPC for which minimum period of imprisonment is two years or more.</p>	
7.	Purchase preference to local suppliers and restrictions in terms of GOI policies	Clause 2.2.1 of the RFQ-DBFOO having provisions for preference to local suppliers was removed.	Clause 2.2.1 is a limiting clause having various conditions which was specified in the SBD when commencement of power supply was prior to 3 rd anniversary of the RFQ. Since, the commencement of power is not within three years of RFQ, all the conditions of the limiting clause 2.2.1 have been deleted including that of purchase preference for local suppliers and restrictions on sourcing from non-friendly countries in terms of the Government's policies.



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8.	No. of consortium members	The number of consortium members has been reduced to 4 from 6 as contained in the RFQ DBFOO	The number of consortium members was restricted to 4 instead of 6, to enhance the smooth functioning and stability point of view.
<i>In addition to above, as the mines are not yet identified, RFP submission by bidders would happen only after linkage coal mines were identified so that bidders may quote fuel charge component in the bid.</i>			

10. The Commission, in view of above, approves the revised bidding documents containing above and other deviations and disposes of the petition.

(Sanjay Kumar Singh)

Member

(Arvind Kumar)

Chairman

Place: Lucknow

Dated: 04.07.2024



