

**BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Petition No.556/08

IN THE MATTER OF: Approval of 'Request for Qualification' (RFQ) for 2X660 MW Sangam Thermal Power Project to be set up at Karchanna, Distt-Allahabad based on super critical technology through competitive bidding process.

AND

IN THE MATTER OF: Sangam Power Generation Company Ltd.
3rd Floor, Shakti Bhawan Extn.,
14,Ashok Marg,
Lucknow.

:Petitioner

The following were present:

1. Sri.Pradeep Shukla, Chairman, UPPCL
2. A.K. Awasthi, MD, UPPCL
3. Sri. A.M Mishra, Head (Electrical), Avantha Power & Infrastructure
4. Sri. Sumeet Notani, Reliance Power Ltd.
5. Sri. Praful Katiyar, Feedback Ventures Ltd.
6. Sri. Shailesh Joshi, Feedback Ventures Ltd.
7. Sri. S.A Faruqi, EE, UPPCL
8. Sri. R.P Purohit, AE,UPPCL
9. Sri. Lal Chand, CE(Planning) & CE(Project), SPGCL
10. Mrs. K. Sinha, SE, UPPCL
11. Sri. Prashant Mehrotra, EE(Planning), UPPCL
12. Sri. A.K Arora for CESC Ltd. & NPCL Lucknow
13. Sri. Prashant Chaturvedi, NTPC

ORDER

(Date of Hearing 19.8.08)

(1) This petition has been filed for approval of 'Request for Qualification' (RFQ) by the Petitioner (SPGCL) which is a Special Purpose Vehicle (SPV) created for development of 2X660 MW Sangam Power Project setting up at Karchanna, Distt-Allahabad. The Petitioner is also authorized by the procurers, Paschimanchal Vidyut Vitran Nigam Ltd., Poorvanchal Vidyut Vitran Nigam Ltd., Madhyanchal Vidyut Vitran Nigam Ltd., Dakshinanchal Vidyut Vitran Nigam Ltd. and Kanpur Electricity Supply Company Ltd., the distribution companies owned by UP Power Corporation Ltd., for selecting a developer for the said project.

It is stated that the competitive bidding process initiated earlier for selection of developer for development of the said project has been annulled by decision of the Government of U.P. and the fresh bidding process is being initiated.

- (2) Vide public notice dt.08.08.08 published in the newspapers, the Petitioner was directed to keep a copy of the petition along with RFQ documents on its website and make available hard copies of the same for inspection by any person. The comments/objection/suggestion of the stakeholders and interested parties were also invited by 19.8.08, the date of hearing. The sale of RFQ document on provisional basis was also allowed on a prayer made in the petition from 12 August onwards pending approval.
- (3) M/s Lanco Infratech Ltd., Gurgaon, M/s Usha Martin, New Delhi, M/s K.S.K Energy Ventures Ltd., Hyderabad, M/s Devona Thermal Power & Infrastructure Ltd., New Delhi, M/s Unitech Ltd., Noida, M/s Essar Power Ltd., M/s JSW Energy Ltd. and M/s CESC, Kolkata have sought, in their written communications, more time for submission of responses to RFQ.

M/s Reliance Power Ltd. has submitted that under Clause 2.1.4 of RFQ, the documentary evidence are to be certified by Managing Director /Chief Executive Officer who are full time director on the board of the company and statutory auditor as such its CEO would not be able to sign the documents and a request has been made to modify the Clause. M/s CESC, Kolkata has informed in its written submissions that its Managing Director is out of the country and requested for a clarification if Company Secretary could sign the documents.

Noida Power Company Ltd. (NPCL) is seeking allocation of power from this project. In separate communications, NPCL has also sent representations of various associations for allocation of power in its favour.

- (4) In the hearing, representative of Avantha Power & Infrastructure sought extension of time for submission of response to RFQ and relaxation in qualifying financial requirements.

Sri. Sumeet Notani of Reliance Power reiterated the written submissions and requested that a Manager of the Company so authorized by the Board of Directors should be allowed to sign the documents as required under the said clauses. He also sought additional time for submission of response.

Sri. A.K Arora representing M/s CESC, Kolkata and NPCL submitted that extension of two weeks be allowed for submission of response to RFQ and an allocation of power for NPCL from the project might also be considered.

Sri. A.K Awasthi, MD, UPPCL submitted on behalf of the procurers that responses to RFQ might be allowed up to 1.9.08. The parties present in the hearing expressed satisfaction to the proposed extension. On relaxation in financial requirements, Sri. Awasthi stated that those requirements were in line with guidelines of the Central Government as such no relaxation be allowed. Sri. Pradeep Shukla, Chairman, UPPCL and Sri. Awasthi opposed the allocation of power to NPCL from the project stating that the requirements of procurer distribution companies should not be reduced as shortage of power would continue even after 90% of the capacity purchased from the project.

The Commission urged the procurers to bring more clarity on the capacity to be purchased from 'additional unit' of the project in future and designate an entity that would facilitate the acquisition of land for such additional unit as 'authorized representative' then assigned with responsibility of facilitating land acquisition would not be in existence after the 100% equity in SPV was purchased by the successful bidder. Sri. Awasthi submitted in reply that provisions of 'Thermal Power Generation Development Policy-2008' of GoUP shall be provided to bidders and suitably incorporated in the text of RFQ. GoUP should be facilitating for acquisition of land for additional unit, he submitted further. To the query on changes made from the RFQ approved earlier, Sri. Shailesh Joshi informed on behalf of the Petitioner that provision of owning or operating a plant of minimum aggregate gross capacity of not less than 500 MW had been deleted from the qualifying technical requirements in the RFQ document put for approval in the present petition. However, procurers have no objection for its incorporation again.

It was observed that words 'procurer' and 'State Distribution Licensee' have been used alternatively in the RFQ document whereas the procurers are well identified.

- (5) Since qualifying financial requirements are as per the Standard Bid Documents as such no relaxation is being considered. The above mentioned procurers have established the procurement process under section 63 of the Electricity Act,03 and Guidelines made thereof by the Central Government. The allocation of power to NPCL shall be considered at RFP stage.
- (6) In consideration of the submissions, written and oral, made before the Commission, the petitioner is directed to modify the RFQ document incorporating the following:
 - (i) The last date of submission of application for qualification shall be 1.9.08.

- (ii) The documentary evidences, required under Clause 2.1.4, may be signed by a person so authorized by the Board of Directors of the Company in case MD/CEO is not capable of signing such documents. The statutory auditor is not required to be co-signatory on such evidences however; a certificate of statutory auditor regarding the financial capability shall also be produced.
 - (iii) The technical requirement of owning or operating aggregate capacity of not less than 500 MW as approved earlier shall be included in the present RFQ.
 - (iv) GoUP policy shall be formed as a part of the document and the provision of capacity to be purchased from additional unit shall be suitably incorporated. GoUP/UPPCL shall facilitate acquisition of land for additional unit.
 - (v) The word 'Procurers' shall be used in place of 'State Distribution Licensee'.
 - (vi) The parameters mentioned in clause 1.2.20 are indicative at this stage of bidding.
- (7) The modified RFQ, along with a copy of this order, shall be conveyed to prospective bidders who have purchased the RFQ document and also posted the same on the website.
- (8) The petition is disposed of.

(R.D. Gupta)
Member

(P.N Pathak)
Member

(Vijoy Kumar)
Chairman

Lucknow; Dated: 20th Aug, 2008