



Petition No. 1550 AND IA No. 1562 and IA No. 1 & 2 of 2020
BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Date of Order: 17.07.2020

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Shri Kaushal Kishore Sharma, Member
Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

IN THE MATTER OF Petition for seeking approval of Draft Competitive Bidding Documents for procurement of slop based power for long term for meeting the Renewable Purchase Obligation in compliance with Para 18 (iv) of the Captive and Renewable Energy Generating Plants Regulations, 2019 and the directions of Hon'ble UPERC in Order dated 02.12.2019 in Petition No. 1504/2019.

Through Chief Engineer, PPA,
U.P. Power Corporation Ltd.
Shakti Bhawan Extension,
14- Ashok Marg, Lucknow.

..... **Petitioner**

And

IN THE MATTER OF Application for impleadment on behalf of the Seksaria Biswan Sugar Factory Ltd., under Regulation 57 of the UPERC (Conduct of Business) Regulation, 2019 read with order 1 rule 10 of Code of Civil Procedure 1908).

Through, Chief Executive,
Seksaria Biswan Sugar Factory,
P.O. Biswan, Distt. Sitapur, U.P.



And

IN THE MATTER OF

Application for impleadment on behalf of the DCM SHRIRAM Ltd., under Regulation 57 of the UPERC (Conduct of Business) Regulation, 2019 read with order 1 rule 10 of Code of Civil Procedure 1908).

And

IN THE MATTER OF

Application for impleadment on behalf of the Dwarikesh Sugar Ltd., under Regulation 57 of the UPERC (Conduct of Business) Regulation, 2019 read with order 1 rule 10 of Code of Civil Procedure 1908).

..... Applicant(s)

The following were present:

1. Shri Deepak Raizada, CE, UPPCL
2. Shri Mahendra Singh, SE, UPPCL
3. Shri Mohit Goyal, Consultant, Mercados, UPPCL
4. Shri Bajinder Singh, Advocate, Seksariya Biswan Chinni Mill Ltd.
5. Shri D.D. Chopra, Advocate, Seksariya Sugar & Dwarikesh Sugar Ltd.
6. Shri Anoop Singh, DCM Sriram Ltd.
7. Shri Venkatesh, Advocate, DCM Sriram Ltd.

ORDER

(Date of Hearing 25.06.2020)

1. The hearing was held today through video conferencing using Google meet.
2. UPPCL, the Petitioner has filed this Petition seeking approval of draft competitive Bidding Documents for procurement of slop- based power for long term to meet renewable purchase obligation and the directions of UPERC in Order dated 02.12.2019 in Petition No. 1503 & 1504/2019. The Petitioner has prayed as follows:

- a. Take the Petition on record;

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- b. Approve the principles outlined in the Petition in respect of the Model Bid documents;
 - c. Approve the enclosed Bid documents namely the Request for Proposal and Power Purchase Agreement;
 - d. Condone any inadvertent omissions/errors/shortcomings and permit the Petitioner to add/ change/ modify/ alter this filing and make further submissions as may be required at a future date;
 - e. Pass such other order(s) that may be deemed fit and proper in the facts and circumstances of the case.

Background

3. UPERC (Captive and Renewable Generation) Regulations, 2019 referred to as CRE Regulations, 2019 dated July, 25, 2019 issued vide Notification No. UPERC/Secy/CRE Regulation/2019/271 require the licensee to procure power from bagasse based Generation and Co-generation plants commissioned on or after 1st April, 2019, through a process of competitive bidding under Section 63 of the Act.
4. Earlier, M/s Dwarikesh Sugar Industries Pvt. Ltd and Dalmia Sugar Pvt. Ltd. & DCM Sriram Ltd. had filed Petition No. 1503/2019 and 1504/2019 respectively for seeking direction to UPPCL to carryout bidding for procurement of (bagasse + slop) based power. Commission vide order dated 02.12.2019 in these Petitions had allowed, subject to their participation in bidding process, these Generators to inject power into the grid keeping in view the compliance of environment norms of zero affluent discharge. Commission had also directed UPPCL to complete the bidding process by January,2020.



5. The Petitioner, UPPCL have also submitted in Petition that procurement of slop based power will be helpful in meeting RPO obligation. The Petitioner has also mentioned that procurement of such power on competitive basis has not been undertaken by any other State in the Country. The Government of India (GoI) has not issued any Standard Bidding Document for procurement of slop-based power through competitive bidding route. In view of this, UPPCL has prepared the current bid documents in accordance with the guidelines of December, 2017 issued by MoP for procurement of Solar power through bid route and the model PPA issued by UPERC with CRE Regulations, 2019.

Proceedings in the matter

6. The hearing in the matter was held on 14.05.2020, wherein Shri Mohit Goyal, consultant, Mercados gave a briefing about salient points of the bidding documents, such as maximum 10% Fuel mix (Bagasse), the tenure of PPA as 10 years, minimum bid quantum as two MW and total proposed quantum as 20 MW (+/- 25%). Major proposed deviations in the document are that PPA period is of 10 years and EMD/PBG clause(s) have been relaxed. He also mentioned that MNRE document dated 30.07.2018 prescribed 10% ceiling of bagasse, however, in subsequent MNRE Notification dated 28.02.2020, the said ceiling has been removed.
7. Dwarikesh Sugar Pvt. Ltd and DCM Sriram Ltd., Seksariya Biswan Sugar mill Ltd filed impleadment applications numbered as IA No. 1, 2 and 1562/2020 in the instant Petition. The Counsel of the impleaders raised concern on (i) REC benefit for the generators and (ii) minimum bid quantum for participation in the bid. The counsels also requested the Commission to direct UPPCL to provide bid documents for comments.
8. The Commission allowed all the three impleadment application filed in the matter namely M/s Dwarikesh Sugar, DCM Sriram Ltd and



Seksariya Biswan Sugar Mill Ltd. The Commission also directed that UPPCL shall host the bidding documents on UPPCL's website after giving public notice in the newspapers. So that all concerned generators including those who have filed impleadment application could submit their comments on bidding documents. The UPPCL was also directed to prepare and submit revised bidding documents before the Commission along with statement of reasons (SOR).

9. The next hearing in the matter was held on 25.06.2020. The Petitioner, UPPCL confirmed that public notice in Hindi and English were published in Dainik Jagran (Lucknow & Gorakhpur edition), Amar Ujala, (Varanasi edition) and Hindustan Times (New Delhi edition). The bid document was hosted on the UPPCL's website after Public Notice. UPPCL vide their letter dated 22.06.2020 has placed on record the compilation of comments / suggestions received from the prospective bidders and UPPCL comments on the same. Based on these comments, UPPCL has proposed some change(s) in the draft bidding documents.

10. Comment from following generators have been received by UPPCL:

- a) The Awadh Sugar and energy Ltd, Harigaon, Sitapur
- b) Kesar Sugar Ltd,
- c) Dalmia Bharat Sugar Ltd.,
- d) DCM Sriram Ltd.
- e) Seksariya Biswan Sugar Mill Ltd.

The following main points emerged for consideration by Commission:

- A. Fuel Mix: The Bidding documents mentioned that fuel mix with maximum 10% bagasse shall be allowed which is impractical due to technological constraints.
- B. RPO fulfilment by UPPCL: No guidelines have been issued by MNRE for bagasse + slop- based power and no reference of the same is available



in the bidding documents. In case UPPCL is to avail RPO benefit then the tariff shall be fixed on cost plus basis.

- C. Minimum bid quantum: The minimum bid quantum shall be one MW instead of two MW.
- D. The word "MOD" has not been defined in the bidding document.
- E. Schedule Delivery Date: UPERC order dated 02.12.2019 in Petition No. 1503/2019 and 1504/2019 allowing the Petitioner(s) to inject power into the Grid shall be taken care of while defining schedule delivery date of power.
- F. Total Requisition Capacity: The Total requisition capacity mentioned in RFP documents should be increased from 20 MW (+/- 25%) to 40 MW (+/- 25%).

Commission's View

11.(a) **Fuel Mix:** The technology of slop fired boilers works on about 30 to 40% bagasse mix with slop due to very low calorific value and high moisture of slop. In view of the technological constraints, UPPCL has proposed fuel mix with maximum 40% of bagasse. Therefore, Commission, keeping in view the above, allows fuel mix with maximum 40% bagasse with slop.

(b) **Fulfilment of RPO obligation by UPPCL through purchase of slop-based power:** The slop- based power generation is not defined as a source of renewable energy under the UPERC, CRE Regulation, 2019. Also, Commission earlier in Petition No 1045 of 2015 has held that slop base generation can not be used to meet RPO compliance as the same is not defined in the RE category by MNRE. The present MNRE guidelines dated 28.02.2020 are in the context of Waste to Energy projects.



Also, if slop- based power from the projects is considered for RPO, then these projects will no longer be eligible for REC as per Regulation-5 (3) of the CERC, REC Regulations, 2010 as amended from time to time. Moreover, ceiling rate for power procurement under the bidder is @APPC, which will have to be revisited in case of green energy benefit not being made available to the generators. Therefore, the contention of UPPCL, that it can fulfil its RPO obligation through slop- based power procurement, cannot be accepted.

(c) **Minimum Bid Quantum:** The Legal Counsel of Seksariya Biswan sugar Mill Ltd. submitted that they are already supplying power to UPPCL through 132 kV System to Biswan S/s and intend to use the same line for export of one MW surplus power from their newly installed slop fired boiler in its distillery. On specific query by the Commission on minimum quantum of one MW, Shri Deepak Raizada, CE, PPA-II, UPPCL, submitted that they have three offers for supplying of two MW and six offers in the range of four to six MW. Therefore, minimum two MW limit was kept in the bidding documents.

In compliance to Commission's direction during hearing held on 25.06.2020, UPPCL vide their affidavit dated 29.06.2020 have submitted information on minimum capacity which is tied up through PPA/ PSA signed by UPPCL for various renewable energy source, which is two MW. Seksariya Sugar Ltd. vide its submission dated 03.07.2020 have also furnished information of DISCOMs which have entered PPA with generators for supplying capacity of one MW.

Commission, keeping in view, (i) competitive bidding is being invited by UPPCL who have earlier tied up minimum two MW from renewable energy sources through PPA/PSA and (ii) sufficient no of bids would be available at two MW as minimum bid quantum for fair competition among bidders and (iii) optimization of transaction cost, finds minimum bid quantum of two MW as appropriate.



(d) **Merit Order Dispatch:** The counsel of DCM Sriram Ltd has contended that MOD should not be applicable on the bagasse + slop-based power, since, renewable energy has must run status. The Counsel averred that in case the Plant not being dispatched by SLDC as per MOD, the associated business at the sugar factory would also be hampered.

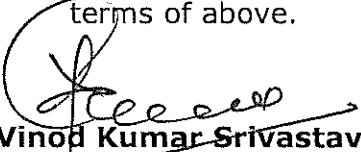
Commission is of the view that renewable energy being cheaper than the conventional, should any way be scheduled in Merit Order Dispatch except in the case of grid security and safety which has the highest priority and prerogative of State Load Dispatch Center.

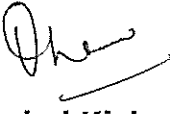
(e) **Total Requisition Capacity:** Commission is of the view that UPPCL has invited bid for 20 MW (+/-25%) keeping in view its power requirement.

(f) **Scheduled Delivery Date:** UPPCL has proposed different schedule delivery date(s) keeping in view the gestation period of new projects, under construction projects and compliance of earlier orders of the Commission. Commission is of the view that these are commercial arrangements and shall be agreed to by and between the parties.

UPPCL may commence bidding process with abovesaid modifications in the bidding document. A copy of amended bidding document shall be submitted to Commission by UPPCL for record.

The Petition and the incidental impleadment applications are disposed of in terms of above.


(Vinod Kumar Srivastava)
Member


(Kaushal Kishore Sharma)
Member


(Raj Pratap Singh)
Chairman

Place: Lucknow

Dated: 17.07.2020