

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2207 of 2023

In the Matter of:

Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003 for seeking adoption of tariff discovered under Competitive Bidding Process by MPSEZ Utilities Private Limited for procurement of 360 MW Power on Design, Build, Finance, Own and Operate (DBFOO) basis.

Petitioner : MPSEZ Utilities Limited (MUL)

Represented By : Mr. Mehul Rupera and Mr. Ranjan Kumar

CORAM:

Mehul M. Gandhi, Member

S. R. Pandey, Member

Date: 31/05/2023

ORDER

1. The present Petition has been filed by the Petitioner MPSEZ Utilities Limited (MUL), under Section 63 read with 86(1)(b) of the Electricity Act 2003 inter alia seeking following prayers:

- (a) *To admit the present Petition.*
- (b) *To adopt the tariff discovered by the Petitioner and approve the procurement of 360 MW Power at the discovered tariff as per the tender issued by the Petitioner for procurement of power on a long-term basis from Power Station developed*

through Public-Private Partnership on Design, Build, Finance, Own and Operate (the "DBF00") basis through competitive bidding process;

- (c) Grant approval to the Power Supply Agreement (PSA);*
- (d) In the interim, may please allow the Petitioner to start procuring power as per the executed Power Supply Agreement with the Supplier to provide uninterrupted power supply to the consumers in the Petitioner's licensee area.*
- (e) To condone any inadvertent omissions/ errors/ shortcomings and permit the Petitioner to make addition/ change/ modification/ alter/ the present petition and make further submissions as may be required.*
- (f) The Petitioner craves relief for filing any further submissions prayers, additions and alterations to this Petition as may be necessary from time to time.*
- (g) Pass any other order as this Hon'ble Commission may deem fit and proper under the fact and circumstances of the present case.*

2. Facts mentioned in the Petition in brief are as under:

- 2.1 The Petitioner is a Distribution Licensee in Mundra area located in the state of Gujarat and has been supplying power to the consumers in its area of supply as a distribution licensee in terms of the Electricity Act, 2003.
- 2.2 To cater to the increasing demand of power in the license area, the Petitioner entered into Long Term Power Purchase Agreement (PPA) for procuring 50 MW of power with Thermal Generators, 12 MW of power with Wind Energy Generators (WEG) and 1070 MW Wind-Solar Hybrid with Solar Energy Corporation of India Limited (SECI).
- 2.3 With an objective to be able to provide reliable and quality power to the consumers of the distribution license area, the Petitioner is continuously involved in discussions with the existing and upcoming consumers to better serve the needs of consumers of its license area.

2.4 Based on the discussion with various existing and upcoming consumers, the Petitioner has envisaged that there shall be a substantial increase in the demand of power by its consumers in its license area.

2.5 As such, it is expected that the demand will increase on account of the expansion of already installed units and the addition of new units in the license area of the Petitioner. In this context, the Petitioner has placed on record the following table, which elucidates the half yearly expected maximum demand as under:

FY	H1 (MVA)	H2 (MVA)
FY 2023-24	447	701
FY 2024-25	1090	2830
FY 2025-26	2887	2891
FY 2026-27	3660	4980

2.6 In terms thereof, it is further stated that the Ministry of Power (MoP), Government of India (GoI) notified the guidelines under Section 63 of the Electricity Act, 2003.

2.7 Section 63 of the Electricity Act, 2003 provides that 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. Also, as per Section 86 (1) (b) of the Electricity Act, 2003, the duty of the Commission is to regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.

2.8 The Petitioner MPSEZ Utilities Limited filed a Petition dated 13.07. 2022 under section 86 (1) (b) read with Section 63 of the Electricity Act, 2003 read with 'Guidelines for Procurement of Power by the distribution licensee issued by the Commission for seeking approval of quantum and deviation from the Model Bidding Documents as per Ministry of Power Guidelines dated 06.03.2019 for

Procurement of 600 MW power under Long Term basis from Power Station (s) set up on Design, Build, Finance, Own, and Operate (DBFOO) basis.

- 2.9 Under the aforesaid Petition, the Petitioner intended to procure power through Competitive Bidding Process as per MoP Model Bidding Documents and guidelines and also proposed few deviations in the Model Bidding Documents issued by Ministry of Power (MoP) on 29.01.2019 to ensure commercial clarity about contractual provisions to safeguard the interest of the consumers.
- 2.10 MoP Guidelines state that, if there is any deviation from the Model Bidding Documents, then the same shall be subject to approval of the Appropriate Commission.
- 2.11 During the hearing, Petitioner had requested the Hon'ble Commission may in the interim allow to issue tender so that the consultative process, pre-bid conference etc. can be initiated and the Petitioner will open the tender only after the Hon'ble Commission accords its approval to deviations.
- 2.12 Accordingly, Hon'ble Commission vide its daily order dated 08.08.2022 directed that, Petitioner may issue tender so that the consultative process & other aspects can be undertaken. However, the same shall be subject to the final decision of the Hon'ble Commission.
- 2.13 In terms of Hon'ble Commission order dated 08.08.2022, the Petitioner, floated a RFQ Ref. No: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFQ/143 dated 24.08.2022 issued on DEEP portal of MSTC website for procurement of 600 MW of electricity on a long-term basis from Power Station developed through Public-Private Partnership on Design, Build, Finance, Own and Operate (the "DBFOO") basis through competitive bidding process.
- 2.14 Petitioner issued the tender on DEEP portal of MSTC website on 24.08.2022 and published tender notice for procurement of power on long term basis for a period

of 15 years i.e., from Oct-2022 to Sept- 2037, extendable with mutual consent up to another 10 years, in English newspaper viz. Indian Express Newspaper (All Editions in India) and Gujarati newspaper viz. Sandesh Newspaper (All Editions in Gujarat).

2.15 Moreover, a Pre-Bid Meeting with prospective bidders was conducted on 22.09.2022 to address the issues / queries of the Prospective Bidders. The Petitioner had received various queries/suggestions/recommendations from the prospective bidders and the Petitioner addressed the same at length during the meeting and subsequently also published the detailed list of queries & suggestions of the bidders, clarifications / replies thereto. For avoidance of doubt and for the sake of issuance of due clarification, the Petitioner also issued necessary Addendum with regard to the modifications / amendments incorporated in the tender document. It is further submitted that some of the Bidders had requested for extension of timelines to enable them to undertake various activities as per the bid requirements. In view of requests of Bidders and in the interest of wider participation and to have better competition, the Petitioner had extended the bid deadline and rescheduled the bid deadlines.

2.16 The Technical Bid Opening was held on 08.11.2022 and the Technical Bid Opening of online bids on DEEP portal of MSTC website was held in the presence of a committee comprising of the following members (i) Shri Mehul Rupera, Director (ii) Shri Vijil Jain, Chief Financial Officer (iii) Shri Ranjan Kumar, Senior Manager (iv) Shri Mohit Srivastava, Manager as members for evaluation.

2.17 The Petitioner received bids from four Bidders offering aggregate capacity of 947 MW. The Bid Evaluation Committee scrutinized the bids submitted by the Bidders and deliberated the issues in detail about responsiveness of the bids. Pursuant to the observation of discrepancies, queries were raised by the Petitioner. The responsiveness issues and queries raised by the Committee and the compliance / clarification / additional documents submitted by Bidders were duly examined by

the Committee to evaluate their qualification. The Technical Bid Evaluation Report duly vetted by the Members of Bid Evaluation Committee is also filed with the Petition.

- 2.18 Based on the evaluation done, the Petitioner vide its letter dated 11.11.2022 has invited the four bidders to participate in the next stage of bid process i.e RFP stage.
- 2.19 Moreover, a Pre-Bid Meeting with prospective bidders was conducted on 12.12.2022 to address the issues / queries of the Prospective Bidders. The Petitioner had received various queries/suggestions/recommendations from the prospective bidders and the Petitioner addressed the same at length during the meeting and subsequently also published the detailed list of queries & suggestions of the bidders, clarifications / replies thereto. For avoidance of doubt and for the sake of issuance of due clarification, the Petitioner also issued necessary Addendum with regard to the modifications / amendments incorporated in the tender document.
- 2.20 Since Commission's approval in the Petition No. 2133 of 2022 was awaited, Petitioner continued to extend the RFP submission dates seven consecutive times from its initial date of submission.
- 2.21 Commission in Petition No. 2133 of 2022, vide its Order dated 06.03.2023 had approved the deviations sought from the Guidelines dated 06.03.2019 issued by the Ministry of Power, Government of India, including modifications/deviations, additions, deletions proposed by the Petitioner and accordingly the draft of Bid Documents i.e., RFQ, RFP and PSA were also approved.
- 2.22 Accordingly, the RFP submission dates had been extended from 29.12.2022 to 21.03.2023 post issuance of GERC order vide dated 06.03.2023 in Petition No. 2133 of 2022.

2.23 The Financial Bid Opening was held on 21.03.2023 and the Financial Bid Opening of online bids on DEEP portal of MSTC website was held in the presence of a committee comprising of the following members for opening and evaluation of the financial bids (i) Shri Mehul Rupera, Director (ii) Shri Vijil Jain, Chief Financial Officer (iii) Shri Ranjan Kumar, Senior Manager (iv) Shri Mohit Srivastava, Manager as members for evaluation.

2.24 The Petitioner received bids from three Bidders offering aggregate capacity of 560 MW. The Bid Evaluation Committee scrutinized the bids submitted by the Bidders and deliberated the issues in detail about responsiveness of the bids. Pursuant to the observation of discrepancies, queries were raised by the Petitioner. The responsiveness issues and queries raised by the Committee and the compliance / clarification / additional documents submitted by Bidders were duly examined by the Committee to evaluate their qualification. The Financial Bid Evaluation Report duly vetted by the Members of Bid Evaluation Committee is also filed with the Petition.

2.25 Post the RFP bidding held on DEEP portal of MSTC, and response received after scrutiny, following bidders were selected.

Event No.: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFP/144

Period: 11/11/2022 09:00:00 To 21/03/2023 17:00:00

Sr. No.	Bidders	Quoted Capacity in MW	Total Tariff in Rs./kWh	Ranking
1.	Adani Power Limited	360	5.00	L1
2.	DB Power Limited	100	5.89	L2
3.	MB Power Madhya Pradesh Limited	100	5.97	L3

- 2.26 Accordingly, in terms of article 1.2.7 of the RFP document, Adani Power Limited is the Lowest Bidder since it has offered the Lowest Tariff.
- 2.27 Petitioner submitted that, in terms of article 1.2.8 of the RFP document, the Lowest Bidder shall be the Selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Clause 3 of the RFP-DBFOO, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason or in case the capacity required as per clause 1.1 is not fully met by the Lowest Bidder.
- 2.28 Therefore, in conformance to Clause 3.3.3 of the Request for Proposal document, Petitioner vide its letter dated 27.03.2023 has invited DB Power Limited (DBPL) and MB Power Madhya Pradesh Limited (MBMPL) to match the Bid of the Lowest Bidder (the "second round of bidding").
- 2.29 In response to Petitioner's second round of bidding, DB Power Limited vide its e-mail dated 28.03.2023 has informed that the rate they have offered in the bid is their best rate, and no further reduction is possible.
- 2.30 Further, MB Power Madhya Pradesh Limited vide its letter dated 28.03.2023 had informed that they have offered their best tariff and they are not in a position to reduce it any further.
- 2.31 Based on the evaluation done and from the analysis of price trends discovered under various arrangements, the Committee evaluated that the Total Tariff discovered for long term power procurement is market aligned and had recommended issuing LOA to Adani Power Limited and thereof execution of Power Supply Agreement (PSA) for procurement of 360 MW on Long Term basis.
- 2.32 The Committee had also certified that the bid process evaluation is done according to the provisions of the bid documents and the bidding process is in conformity

with the Guidelines for Long term power procurement issued by Ministry of Power vide Notification No. 23/17/2013-R&R (Vol-VI) dated 5th March 2019.

- 2.33 Accordingly, the Petitioner has issued in principal Letter of Award (LOA) to Adani Power Limited vide its letter dated 03.04.2023 to initiate the process of finalizing the Power Supply Agreement (PSA). Petitioner have executed a Power Supply Agreement (PSA) on 14.04.2023.
- 2.34 In view of the above and in accordance with Section 63 read with Section 86(1)(b) of the EA 2003, the Petitioner has filed the present Petition for seeking adoption of tariff in Competitive Bidding Process conducted through RFP Ref No.: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFP/144 dated 11th November 2022 issued by MPSEZ Utilities Private Limited on DEEP portal of MSTC website.
3. The matter was kept for hearing on 06.05.2023. During the hearing, representative appearing on behalf of the Petitioner MUL, reiterated the facts of the Petition as stated at para 2 above.
- 3.1 Furthermore, as per Section 86(1)(b) of the Electricity Act 2003, the Commission is empowered to regulate electricity purchase and procurement process of distribution licensees including the price at which power shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.
4. We have considered the submissions made by the Petitioner. The Petitioner has filed the present Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003. The Petitioner has sought the approval of the Commission for procurement of power at discovered tariff quoted by successful bidder under competitive bidding process.

4.1 Considering the anticipated increase in load requirement of the Petitioner, procurement of the power as proposed by Petitioner under Long-Term DBFOO basis will enable the Petitioner to meet increased load demand from its consumers in its license area.

4.2 The Petitioner has sought the approval of the Commission under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003, which read as under:

“

.....

Section 63.

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.”

.....”

As per above Section, whenever transparent competitive bidding process is conducted under Section 63 of the Electricity Act, 2003 in accordance with the guidelines issued by the Central Government, the tariff discovered under such bidding has to be adopted by the Commission.

4.3 The Commission is empowered to regulate electricity purchase and procurement process of distribution licensees.

“

Section 86(1) The State Commission shall discharge the following functions, namely: -----

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.”

.....”

As per the aforesaid provision, the Commission has to regulate the power procurement of the Distribution Licensees, including the procurement process, the price at which electricity shall be purchased from the generating company or the Licensees or through other sources through agreement for purchase of power for distribution and supply within the State.

- 4.4 Thus, it is apparent from the aforesaid provisions that the Petition filed by the Petitioner is within the purview of the Commission’s jurisdiction and in terms of the powers vested by the Electricity Act, 2003 and Regulations framed thereunder, the Commission decides to admit the present Petition.
- 4.5 It is observed that the Petitioner initiated the competitive bidding process vide RFQ Ref. No: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFQ/143 dated 24.08.2022 and RFP Ref No.: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFP/144 dated 11.11.2022 to procure 600 MW of electricity on a long term basis from Power Station developed through Public-Private Partnership on Design, Build, Finance, Own and Operate (the "DBFOO") basis through competitive bidding process on DEEP portal of MSTC website. Commission in Petition No. 2133 of 2022, vide its order dated 06.03.2023 had approved the deviations sought from the Guidelines dated 06.03.2019 issued by the Ministry of Power, Government of India, including modifications/deviations, additions, deletions proposed by the Petitioner and accordingly the draft of Bid Documents i.e., RFQ, RFP and PSA were also approved.
- 4.6 We note that Petitioner has also issued tenders as to provide wide publicity of the said tender i.e. RFQ Ref. No: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFQ/143 dated 24.08.2022 by publishing notice in two National newspapers having wide circulation to seek wide participation from the participating bidders. The Petitioner also hosted the Bid Documents & Addendums

on its website as well as on the DEEP portal. Further, the Petitioner also held Pre-Bid Meeting wherein key bid parameters, provisions of bid documents & timelines were discussed, and the queries raised by the Prospective Bidders were addressed by the Petitioner. The last date of bid submission in the tendering process was 29.12.2022 which was subsequently extended up to 21.03.2023.

- 4.7 We note that the Petitioner received bids from four Bidders offering aggregate capacity of 947 MW and the technical bid opening was held on 08.11.2022 on e-bidding portal as per the tender timeline in the presence of Bid Evaluation Committee consisting of following officials:

Sr. No.	Name	Designation
1	Shri Mehul Rupera	Director
2	Shri Vijil Jain	Chief Financial Officer
3	Shri Ranjan Kumar	Senior Manager
4	Shri Mohit Srivastava	Manager

- 4.8 It is also submitted by the Petitioner that aforesaid bids received from 4 bidders were opened in presence of Bid Evaluation Committee and also evaluated by said Committee. As per technical evaluation report of the said Committee it is observed that all the 4 bids received were technically qualified and technical evaluation report signed by the Members of the Bid Evaluation Committee is filed by the Petitioner, which is reproduced below:

“

Dt. 11.11.2022

Bid Evaluation Report for Qualification Stage

Request For Qualification– Design, Build, Finance, Own and Operate

***(RFQ - DBF00) and Invitation for e-Tender for Long Term Procurement of Electricity on
DEEP Portal***

For Power Supply Agreement-DBF00

Issued By

MPSEZ Utilities Limited

RFQ Ref. No:

***MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFQ/143 dated 24th
August 2022***

1. Background

MPSEZ Utilities Limited (MUL) is having Long Term Power Purchase Agreement with Adani Power (Mundra) Limited for 40 MW, Udupi Power Corporation Limited for 10 MW, Adani Renewable Energy (KA) Limited for 12 MW and Solar Energy Corporation of India Limited (SECI) for 1070 MW to cater its load requirement.

In order to provide reliable and quality power to the consumers of the distribution license area, MUL is continuously involved in discussions with the existing and upcoming consumers to better serve the needs of consumers of its license area.

Based on the discussion with various existing & upcoming consumers, MUL is envisaging a substantial increase in demand in its license area.

It is expected that demand will be increased on account of the expansion of already installed units and the addition of new units in the license area of the MUL. The half yearly expected maximum demand are as below:

<i>FY</i>	<i>H1 (MVA)</i>	<i>H2 (MVA)</i>
<i>FY 2023-24</i>	<i>438</i>	<i>674</i>

<i>FY 2024-25</i>	<i>1163</i>	<i>2123</i>
<i>FY 2025-26</i>	<i>2727</i>	<i>2736</i>
<i>FY 2026-27</i>	<i>4017</i>	<i>4279</i>

In view of the increased power demand in its license area, MPSEZ Utilities Limited (MUL) intends to procure 600 MW of electricity on a long-term basis from Power Station developed through Public-Private Partnership on Design, Build, Finance, Own and Operate (the "DBFOO") basis through competitive bidding process vide RFQ Ref. No: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFQ/143 dated 24.08.2022 issued on DEEP portal of MSTC website.

Under the present long term power procurement, MUL intends to procure power through competitive bidding process as per Ministry of Power's Model Bidding Documents and guidelines. The last date for submission of bids in the above tender on DEEP portal of MSTC website was 04.11.2022.

MUL had constituted a committee for evaluation of the bids (Evaluation Committee), consisting of the following members:

Sr. No	Name	Designation
<i>1</i>	<i>Shri Mehul Rupera</i>	<i>Director</i>
<i>2</i>	<i>Shri Vijil Jain</i>	<i>Chief Financial Officer</i>
<i>3</i>	<i>Shri Ranjan Kumar</i>	<i>Senior Manager</i>
<i>4</i>	<i>Shri Mohit Srivastava</i>	<i>Manager</i>

2. Publication of tender (RFQ)

MUL issued the tender on DEEP portal of MSTC website on 24.08.2022 and published tender notice for procurement of power on long term basis for a period of 15 years i.e., from Oct-2022 to Sept- 2037, extendable with mutual consent up to another 10 years, in the following newspapers:

1. English newspaper viz. Indian Express Newspaper (All Editions in India)

2. Gujarati newspaper viz. Sandesh Newspaper (All Editions in Gujarat)

3. Details of tender

RFQ Reference No.	MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFQ/143 dated 24 th August 2022
Tender Description	Request For Qualification - Design, Build, Finance, Own and Operate (RFQ - DBFOO and RFP- DBFOO) and Invitation for e-Tender for Long Term Procurement of Electricity on DEEP Portal For Power Supply Agreement Issued By MPSEZ Utilities Limited.
Capacity	600 MW
Minimum Capacity	100 MW
Term of PPA	15 Years
Fuel Sourcing	To be arranged by Supplier

4. Response to RFQ

A total of 4 (four) bid responses, aggregating to total capacity of 947 MW were received by MUL. The technical bids were opened on 08.11.2022 on e-bidding portal as per the tender timeline. The details of bidder and the capacity offered by them are tabulated below:

Sr. No.	Name of Bidder	Plant Location	Capacity Offered (MW)
1	Jindal India Thermal Power Limited	Jindal India Thermal Power Limited, Village- Derang, Tehsil - Kaniha, Angul, Odisha	100

2	<i>Adani Power (Mundra) Limited</i>	<i>Adani Power (Mundra) Ltd. Village Tunda & Siracha, Distt- Kutch, Gujarat</i>	577
3	<i>DB Power Limited</i>	<i>DB Power Limited, Village – Baradarha, District – Janjgir – Champa, Chhattisgarh</i>	100
4	<i>MB Power (Madhya Pradesh) Limited</i>	<i>Anuppur Thermal Power Project, Village – Jaithari, Dist – Anuppur, Madhya Pradesh</i>	170
<i>Total Capacity (MW)</i>			947

5. **Principles of Evaluation**

The approach to evaluation has been a two-stage bidding process (collectively referred to as the "Bidding Process") for selection of the Bidder for award of the Project. The first stage (the "Qualification Stage") of the process involves qualification of interested parties who make an application in accordance with the provisions of the RFQ – DBFOO.

At the end of this stage, MUL has announced a list of qualified applicants who are eligible for participation in the second stage of the Bidding Process (the "Bid Stage") comprising Request for Proposals ("RFP-DBFOO").

Following conditions relating to qualification requirements have been specified in the RFQ document –

(A) Technical Capacity: For demonstrating technical capacity and experience (the "Technical Capacity"), the Applicant shall, over the past 5 (five) financial years preceding the Application Due Date:

- (i) have paid for, or received payments for, construction of Eligible Project(s); and/
or
- (ii) paid for development of Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.2.1; and/ or

(iii) collected and appropriated revenues from Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.2.1,

such that the sum total of the above is more than Rs. 5 Cores for every MW of capacity offered by the Applicant hereunder (the “Threshold Technical Capacity”).

(B) Financial Capacity: The Applicant shall have a minimum Net Worth (the “Financial Capacity”) equivalent to Rs. 1.5 crore (Rupees one crore and fifty lakh) per MW of capacity offered by the Applicant) at the close of the preceding financial year.

For the purposes of this RFQ - DBFOO, net worth (the “Net Worth”) shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity shareholders.

In case the annual accounts for the latest financial year are not audited and therefore the Applicant cannot make it available, the Applicant shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Applicant shall provide the Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided.

O&M Experience: The Applicant shall either enter into an agreement for entrusting its operation & maintenance (O&M) obligations to an entity having the requisite experience or undertake O&M through qualified and experienced staff of its own.

Based on the evaluation, the bidder-wise evaluation of bids under RFQ stage is as follows:

Bidder No. 1: Jindal India Thermal Power Limited

Particulars	Submitted	Meeting Criteria/Requirement as per RFQ	Clarifications required if any	Status after clarifications
Total Capacity Quoted	100 MW			
Project Location	Jindal India Thermal Power Limited, Village- Derang, Tehsil – Kaniha, Angul, Odisha			

<i>Company related documents</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	<i>Found in order</i>
<i>Formats as per RFQ</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	
<i>Net-Worth</i>	<i>3014.41 Cr</i>	<i>Yes</i>	<i>Yes</i>	
<i>Threshold Technical Capacity value</i>	<i>9655.26 Cr</i>	<i>Yes</i>	<i>No</i>	

Bidder No. 2: Adani Power (Mundra) Limited

<i>Particulars</i>	<i>Submitted</i>	<i>Meeting Criteria/Requirement as per RFQ</i>	<i>Clarifications required if any</i>	<i>Status after clarifications</i>
<i>Total Capacity Quoted</i>	<i>577 MW</i>			
<i>Project Location</i>	<i>Adani Power (Mundra) Ltd. Village Tunda & Siracha, Distt- Kutch, Gujarat</i>			
<i>Company related documents</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	<i>Found in order</i>
<i>Formats as per RFQ</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	
<i>Net-Worth</i>	<i>5443.36 Cr</i>	<i>Yes</i>	<i>No</i>	
<i>Threshold Technical Capacity value</i>	<i>41613.98 Cr</i>	<i>Yes</i>	<i>No</i>	

Bidder No. 3: DB Power Limited

<i>Particulars</i>	<i>Submitted</i>	<i>Meeting Criteria/Requirement as per RFQ</i>	<i>Clarifications required if any</i>	<i>Status after clarifications</i>
<i>Total Capacity Quoted</i>	<i>100 MW</i>			
<i>Project Location</i>	<i>DB Power Limited, Village – Baradarha, District – Janjgir – Champa, Chhattisgarh</i>			
<i>Company related documents</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	<i>Found in order</i>
<i>Formats as per RFQ</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	
<i>Net-Worth</i>	<i>3352.44 Cr</i>	<i>Yes</i>	<i>No</i>	

<i>Threshold Technical Capacity value</i>	<i>14569.30 Cr</i>	<i>Yes</i>	<i>No</i>	
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Bidder No. 4: MB Power Madhya Pradesh Ltd

<i>Particulars</i>	<i>Submitted</i>	<i>Meeting Criteria/Requirement as per RFQ</i>	<i>Clarifications required if any</i>	<i>Status after clarifications</i>
<i>Total Capacity Quoted</i>	<i>170 MW</i>			
<i>Project Location</i>	<i>Anuppur Thermal Power Project, Village – Jaithari, Dist – Anuppur, Madhya Pradesh</i>			
<i>Company related documents</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	<i>Found in order</i>
<i>Formats as per RFQ</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	
<i>Net-Worth</i>	<i>1704.74 Cr</i>	<i>Yes</i>	<i>No</i>	
<i>Threshold Technical Capacity value</i>	<i>12724.38 Cr</i>	<i>Yes</i>	<i>No</i>	

6. **Way Forward**

Based on the evaluation done, the following bidders have been shortlisted for the second stage of bidding process i.e Bid-Stage of Long-Term Procurement of Electricity on DBFOO basis.

<i>Sr. No.</i>	<i>Name of Bidder</i>	<i>Plant Location</i>	<i>Capacity Offered (MW)</i>	<i>Status</i>
<i>1</i>	<i>Jindal India Thermal Power Limited</i>	<i>Jindal India Thermal Power Limited, Village-Derang, Tehsil – Kaniha, Angul, Odisha</i>	<i>100</i>	<i>Qualified</i>
<i>2</i>	<i>Adani Power (Mundra) Limited</i>	<i>Adani Power (Mundra) Ltd. Village Tunda & Siracha, Distt- Kutch, Gujarat</i>	<i>577</i>	<i>Qualified</i>

3	DB Power Limited	DB Power Limited, Village - Baradarha, District - Janjgir - Champa, Chhattisgarh	100	Qualified
4	MB Power (Madhya Pradesh) Limited	Anuppur Thermal Power Project, Village - Jaithari, Dist - Anuppur, Madhya Pradesh	170	Qualified
Total Capacity (MW)			947	

Accordingly, MUL vide its letter dated 11.11.2022 invites the above bidders to participate in the next stage of bid process i.e RFP stage.

Sr. No	Name	Designation	Signature
1	Shri Mehul Rupera	Director	Sd/-
2	Shri Vijil Jain	Chief Financial Officer	Sd/-
3	Shri Ranjan Kumar	Senior Manager	Sd/-
4	Shri Mohit Srivastava	Manager	Sd/-

4.9 In accordance with said report, all 4 bidders were invited to participate in the next stage of bidding process i.e. RFP stage. As per the terms and conditions of the tender, 4 bidders with aggregate capacity of 947 MW could qualify against the tendered capacity of 600 MW for the RFP stage and the Petitioner accordingly conducted the RFP process.

4.10 We note that RFP was issued on 11.11.2022 under which the RFP submission date was 29.12.2022, however since Commission's approval in Petition No. 2133 of 2022 was awaited, MUL continued to extend the RFP submission dates accordingly, the RFP submission dates had been extended from 29.12.2022 to 21.03.2023 post issuance of Commission's order vide dated 06.03.2023 in Petition No. 2133 of 2022.

- 4.11 We note that MUL had conducted pre-bid conference on 12.12.2022 among the Shortlisted Applicants for Long Term Procurement of Electricity on DBFOO basis wherein the three (3) Bidders namely (i) DB Power Limited (ii) MB Power Madhya Pradesh Ltd (iii) Adani Power Limited had participated in the bid stage of the RFP and had submitted their bid on 21.03.2023 at DEEP Portal of MSTC website.
- 4.12 We note that the Petitioner received bids from three Bidders offering aggregate capacity of 560 MW and the financial bid opening was held on 21.03.2023 on DEEP portal as per the tender timeline in the presence of Bid Evaluation Committee consisting of following officials:

Sr. No	Name	Designation
1	Shri Mehul Rupera	Director
2	Shri Vijil Jain	Chief Financial Officer
3	Shri Ranjan Kumar	Senior Manager
4	Shri Mohit Srivastava	Manager

- 4.13 It is also submitted by the Petitioner that aforesaid bids received from 3 bidders were opened in presence of Bid Evaluation Committee and also evaluated by said Committee. As per financial evaluation report of the said Committee it is observed that all the 3 bids received were financial qualified and financial bid evaluation report signed by the Members of the Bid Evaluation Committee is filed by the Petitioner, which is reproduced below:

Dt. 03.04.2023

Bid Evaluation Report for Bid Stage

Request For Proposal – Design, Build, Finance, Own and Operate

(RFP- DBFOO) and Invitation for e-Tender for Long Term Procurement of Electricity on

DEEP Portal

For Power Supply Agreement

Issued By

MPSEZ Utilities Limited

RFP Ref No.:

MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFP/144 dated 11th November 2022

1. Background

In view of the increased power demand in its license area, MPSEZ Utilities Limited (MUL) intends to procure 600 MW of electricity on a long term basis from Power Station developed through Public-Private Partnership on Design, Build, Finance, Own and Operate (the "DBFOO") basis through competitive bidding process vide RFP Ref No.: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFP/144 dated 11.11.2022 issued on DEEP portal of MSTC website.

Under the present long term power procurement, MUL intends to procure power through competitive bidding process as per Ministry of Power's Model Bidding Documents and guidelines. The last date for submission of bids in the above tender on DEEP portal of MSTC website was 21.03.2023.

MUL had constituted a committee for evaluation of the bids (Evaluation Committee), consisting of the following members:

<i>Sr. No</i>	<i>Name</i>	<i>Designation</i>
<i>1</i>	<i>Shri Mehul Rupera</i>	<i>Director</i>
<i>2</i>	<i>Shri Vijil Jain</i>	<i>Chief Financial Officer</i>
<i>3</i>	<i>Shri Ranjan Kumar</i>	<i>Senior Manager</i>
<i>4</i>	<i>Shri Mohit Srivastava</i>	<i>Manager</i>

3. RFP Response

MUL filed a Petition on 13.07.2022 before Hon'ble GERC for the Procurement of 600 MW power through a competitive bidding process on a Long-Term basis, starting from Oct'2022.

In the said Petition, MUL had requested the Hon'ble GERC for approval of quantum and deviations in model bidding documents as per the Ministry of Power (MoP) guidelines dated 06.03.2019.

During the hearing, MUL had requested the Hon'ble Commission may in the interim allow to issue tender so that the consultative process, pre-bid conference etc. can be initiated and MUL will open the tender only after the Hon'ble Commission accords its approval to deviations.

Accordingly, Hon'ble Commission vide its order dated 08.08.2022 directed that, MUL may issue tender so that the consultative process & other aspects can be undertaken. However, the same shall be subject to the final decision of the Hon'ble Commission.

Accordingly, the RFQ in this regard was published on 24.08.2022 and was concluded on 11.11.2022. The RFP was issued on 11.11.2022 under which the RFP submission date was 29.12.2022.

Since Hon'ble Commission's approval was awaited, MUL continued to extend the RFP submission dates seven consecutive times from its initial date of submission.

Accordingly, the RFP submission dates had been extended from 29.12.2022 to 21.03.2023 post issuance of GERC order vide dated 06.03.2023 in Petition No. 2133 of 2022.

MUL had conducted pre-bid conference on 12.12.2022 among the Shortlisted Applicants for Long Term Procurement of Electricity on DBFOO basis.

The following three (3) Bidders had participated in the bid stage of the RFP and had submitted their bid on 21.03.2023 at DEEP Portal of MSTC.

Bidder No. 1: DB Power Limited

<i>Particulars</i>	<i>Submitted</i>	<i>Meeting Criteria/Requirement as per RFP</i>	<i>Clarifications required if any</i>	<i>Status after clarifications</i>
<i>Total Capacity Quoted</i>	<i>100 MW</i>			
<i>Company related documents</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	<i>Found in order</i>
<i>Formats as per RFP</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	
<i>Bid Security</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	
<i>A copy of the draft PSA-DBFOO with each page initialed by the person signing the Bid in pursuance of the Power of Attorney issued</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	

Bidder No. 2: MB Power Madhya Pradesh Ltd

<i>Particulars</i>	<i>Submitted</i>	<i>Meeting Criteria/Requirement as per RFP</i>	<i>Clarifications required if any</i>	<i>Status after clarifications</i>
<i>Total Capacity Quoted</i>	<i>100 MW</i>			
<i>Company related documents</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	<i>Found in order</i>
<i>Formats as per RFP</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	
<i>Bid Security</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	
<i>A copy of the draft PSA-DBFOO with each page initialed by the person signing the Bid in pursuance of the Power of Attorney issued</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	

Bidder No. 3: Adani Power Limited

<i>Particulars</i>	<i>Submitted</i>	<i>Meeting Criteria/Requirement as per RFP</i>	<i>Clarifications required if any</i>	<i>Status after clarifications</i>
<i>Total Capacity Quoted</i>	<i>360 MW</i>			
<i>Company related documents</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	<i>Found in order</i>
<i>Formats as per RFP</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	
<i>Bid Security</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	
<i>A copy of the draft PSA-DBFOO with each page initialed by the</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>	

person signing the Bid in pursuance of the Power of Attorney issued				
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Adani Power (Mundra) Limited vide its letter dated 20.03.2023 has submitted that the NCLT order dated 08.02.2023 approving the scheme of amalgamation of various subsidiary companies Adani Power Maharashtra Limited, Adani Power Rajasthan Limited, Udupi Power Corporation Limited, Raipur Energen Limited, Raigarh Energy Generation Limited, Adani Power (Mundra) Limited with Adani Power Limited (APL).

4. Way Forward

Based on the evaluation done, the following bidders bid have been found in order for the second stage of bidding process i.e Bid-Stage of Long-Term Procurement of Electricity on DBFOO basis.

Sr. No.	Name of Bidder	Plant Location	Capacity Offered (MW)	Recommendation
1	DB Power Limited	DB Power Limited, Village - Baradarha, District - Janjgir - Champa, Chhattisgarh	100	Qualified
2	MB Power (Madhya Pradesh) Limited	Anuppur Thermal Power Project, Village - Jaithari, Dist - Anuppur, Madhya Pradesh	100	Qualified
3	Adani Power (Mundra) Limited	Adani Power (Mundra) Ltd. Village Tunda & Siracha, Distt- Kutch, Gujarat	360	Qualified
Total Capacity (MW)			560	

MUL has opened the bid on 21.03.2023 at DEEP Portal of MSTC with following Price Comparative Statement:

Event No. : MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFP/144

Period: 11/11/2022 09:00:00 To 21/03/2023 17:00:00

<i>Sr. No</i>	<i>Price Header</i>	<i>DB Power Limited (mstc/DB Power Limited/74155)</i>	<i>MB Power Madhya Pradesh Ltd (mstc/MB Power Madhya Pradesh Ltd/74236)</i>	<i>Adani Power Mundra Limited (mstc/Adani Power Mundra Limited/353322)</i>
1	<i>Quantum Offered in MW</i>	100	100	360
3	<i>Fixed Charges in Rs per kWh</i>	3.150	3.210	2.500
4	<i>Cost of Fuel in Rs per kWh</i>	1.200	1.120	1.400
5	<i>Cost of Transportation of fuel in Rs per kWh</i>	0.980	0.890	1.100
6	<i>Transmission Injection Charges (Rs/MW/Month)</i>	0.00	0.00	0.00
7	<i>Transmission Drawl Charges (Rs/MW/Month)</i>	340685	381600	0.00
8	<i>Transmission Injection Losses in percentage (%)</i>	0.00	0.00	0.00
9	<i>Transmission Drawl Losses in percentage (%)</i>	3.670	3.670	0.000
10	<i>Total Tariff in Rs per kWh</i>	5.96	5.97	5.00
11	<i>GCV of Coal</i>	3865.00	4150.00	4150.00
12	<i>SHR</i>	2508.859	2450.00	2450.000

5. Queries and responses

In response to the bids received from the bidders, MUL sought clarification with regard to position of fuel supply, coal quantity allocation, detailed excel workings and supporting documents towards computation of following charges as quoted under Appendix-I of the RFP document:

- *Fuel Charge*
- *Cost of Fuel*
- *Cost of Transportation along with distance in KMs.*
- *ISTS Losses*
- *GCV of Coal*
- *Notified price as per Fuel Supply Agreement (FSA)*

On scrutiny of the bid documents submitted by participating bidders, clarifications were asked in respect of bid submitted by DB Power Limited.

In the bid submitted, DB Power Limited have mentioned GCV of 3865 kCal/kg at DEEP portal of MSTC however at Appendix-1, Sr. No. 33 the GCV was mentioned as 4150 kCal/Kg further Total Tariff was not aligned with the ISTS Loss percentage as mentioned in the bid.

In this context, DB Power Limited have submitted its response vide its letter dated 24.03.2023. Based on the scrutiny and responses received from the bidders the price response is modified herein as under:

<i>Sr. No</i>	<i>Price Header</i>	<i>DB Power Limited (mstc/DB Power Limited/74155)</i>	<i>MB Power Madhya Pradesh Ltd (mstc /MB Power Madhya Pradesh Ltd/74236)</i>	<i>Adani Power Mundra Limited (mstc/Adani Power Mundra Limited/353322)</i>
<i>1</i>	<i>Quantum Offered in MW</i>	<i>100</i>	<i>100</i>	<i>360</i>
<i>3</i>	<i>Fixed Charges in Rs per kWh</i>	<i>3.150</i>	<i>3.210</i>	<i>2.500</i>
<i>4</i>	<i>Cost of Fuel in Rs per kWh</i>	<i>1.090</i>	<i>1.120</i>	<i>1.400</i>
<i>5</i>	<i>Cost of Transportation of fuel in Rs per kWh</i>	<i>0.900</i>	<i>0.890</i>	<i>1.100</i>

6	Transmission Injection Charges (Rs/MW/Month)	0.000	0.000	0.000
7	Transmission Drawl Charges (Rs/MW/Month)	340685	381600	0.00
8	Transmission Injection Losses in percentage (%)	0.000	0.000	0.000
9	Transmission Drawl Losses in percentage (%)	3.670	3.670	0.000
10	Total Tariff in Rs per kWh	5.89	5.97	5.00
11	GCV of Coal	4150.000	4150.000	4150.000
12	SHR	2450.000	2450.000	2450.000

Post the RFP bidding held on DEEP portal of MSTC, and response received after scrutiny, following bidders were selected under on DEEP Portal:

Sr. No.	Bidders	Quoted Capacity in MW	Total Tariff in Rs./kWh	Ranking
1.	Adani Power Limited	360	5.00	L1
2.	DB Power Limited	100	5.89	L2
3.	MB Power Madhya Pradesh Limited	100	5.97	L3

Accordingly, in terms of article 1.2.7 of the RFP document, Adani Power Limited is the Lowest Bidder since it has offered the Lowest Tariff.

In terms of article 1.2.8 of the RFP document, the Lowest Bidder shall be the Selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Clause 3 of the RFP-DBFOO, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason or in case the capacity required as per clause 1.1 is not fully met by the Lowest Bidder.

Accordingly, in conformance to Clause 3.3.3 of the Request for Proposal document, MUL vide its letter dated 27.03.2023 has invited DB Power Limited and MB Power Madhya Pradesh Limited to match the Bid of the Lowest Bidder (the "second round of bidding").

Article 3.3.3 of the RFP document is reproduced herein as under:

"In the event that the Lowest Bidder withdraws or is not selected for any reason in the first instance or the capacity required is not met by the Lowest Bidder (the "first round of bidding"), the Utility may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Lowest Bidder (the "second round of bidding"). If in the second round of bidding, only one Bidder matches the Lowest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Lowest Bidder in the second round of bidding, then the Bidder whose Bid was lower as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth lowest Bidders in the first round of bidding offer to match the said Lowest Bidder in the second round of bidding, the said third lowest Bidder shall be the Selected Bidder. It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof."

In response to the MUL's second round of bidding, DB Power Limited vide its e-mail dated 28.03.2023 has informed that the rate they have offered in the bid is their best rate, and no further reduction is possible.

MB Power Madhya Pradesh Limited vide its letter dated 28.03.2023 has informed that they have offered their best tariff and they are not in a position to reduce it any further.

6. Recommendation and Observation

Committee note that PFC Consulting Ltd as Nodal Agency has issued 4500 MW tender for Procurement of Aggregate Power requirement for Group of States for undertaking tariff based competitive bidding for medium term procurement of Power under para B (v) of Shakti Policy, 2017, on November 21, 2022.

Technical and Financial bid were opened on January 12, 2023 & January 19, 2023 respectively. The term of the agreement is for 5 years with coal linkage under para B (v) of Shakti Policy, 2017.

The results of the aforesaid tender are as follows:

1. Capacity Required - 2611.0 MW; Coal Source – Talcher

(Tariff of L1 Bidder is Rs 4.49/kWh, 110% of L1 Bidder is Rs 4.939/kWh.)

Name of Bidder	Quantity (MW)	Base Fixed Charge (Rs.per KWH)	Cost of Fuel (Rs. per KWH)	Cost of fuel transportation (Rs .per KWH)	Base Variable Charge (Rs. per KWH-Sum of Cost of Fuel and Cost of Fuel Transportation)	Total Tariff (Rs./k Wh)
Jindal India Thermal Power Limited	200	2.79	1.52	0.18	1.7	4.49

2. Capacity Required - 1567.0 MW; Coal Source – IB Valley

(Tariff of L1 Bidder is Rs 5.13/kWh, 110% of L1 Bidder is Rs 5.643/kWh.)

Name of Bidder	Quantity (MW)	Base Fixed Charge (Rs.per kWh)	Cost of Fuel (Rs. per kWh)	Cost of fuel transportation (Rs. Per kWh)	Base Variable Charge (Rs. per kWh-Sum of Cost of Fuel and Cost of Fuel transportation)	Total Tariff (Rs./kWh)
TRN Energy Private Limited	100	2.07	1.98	1.08	3.06	5.13
RKM Power gen Pvt Ltd	150	2.79	1.401	1.006	2.406	5.196

<i>SKS Power Generation Chhattisgarh Limited</i>	<i>100</i>	<i>2.16</i>	<i>2.4</i>	<i>0.69</i>	<i>3.09</i>	<i>5.25</i>
<i>MBPower Madhya Pradesh Ltd</i>	<i>170.25</i>	<i>2.46</i>	<i>1.55</i>	<i>1.3</i>	<i>2.85</i>	<i>5.31</i>
<i>Jindal Power Limited</i>	<i>350</i>	<i>2.7</i>	<i>2</i>	<i>0.7</i>	<i>2.7</i>	<i>5.4</i>
<i>DB Power Limited</i>	<i>100</i>	<i>3.2</i>	<i>1.8</i>	<i>0.41</i>	<i>2.21</i>	<i>5.41</i>

Other recent Medium-Term tender results are as follows:

<i>Sr. No.</i>	<i>Buyer with e-RA date</i>	<i>Supply Period</i>	<i>Quantum (MW)</i>	<i>Tariff (Rs./kWh)</i>
<i>1</i>	<i>Tamil Nadu (TANGEDCO) (PTC aggregator) (09.02.22)</i>	<i>Apr'22 to Mar'27</i>	<i>1500</i>	<i>4.66</i>
<i>2</i>	<i>Haryana (HPPC) (05.04.22)</i>	<i>Apr'22 to Apr'25</i>	<i>1000</i>	<i>5.70-5.75</i>
<i>3</i>	<i>Adani Electricity Mumbai Ltd. (AEML) (13.07.22)</i>	<i>Sep'22 to Oct'24</i>	<i>500</i>	<i>5.98</i>

Short-Term tender results are as follows:

<i>Sr. No.</i>	<i>Buyer</i>	<i>Supply Period</i>	<i>Quantum (MW)</i>	<i>Tariff (Rs./kWh)</i>
<i>1</i>	<i>UPCL</i>	<i>Apr-June'23</i>	<i>400</i>	<i>9-11.75</i>
<i>2</i>	<i>Gridco Limited</i>	<i>Apr-May'23</i>	<i>200</i>	<i>10-11.50</i>
<i>3</i>	<i>Haryana Power Purchase Centre</i>	<i>May-Oct'23</i>	<i>750</i>	<i>7.97-11.49</i>
<i>4</i>	<i>NDMC</i>	<i>Apr-Oct'23</i>	<i>50-90 MW</i>	<i>9.34-12.00</i>
<i>5</i>	<i>KSEB</i>	<i>May'23</i>	<i>25</i>	<i>15.42</i>

Power Price trend for procurement of power from IEX:

<i>Year</i>	<i>IEX Price (Rs. /kWh)</i>	<i>ISTS Charges (Rs. /kWh)</i>	<i>ISTS Losses (Rs. /kWh)</i>	<i>Misc. Expenses (IEX Fee, Margin etc.)</i>	<i>Total Tariff to MUL (Rs. /kWh)</i>
<i>2023</i>	<i>5.95</i>	<i>0.47</i>	<i>0.24</i>	<i>0.05</i>	<i>6.71</i>
<i>2022</i>	<i>5.77</i>	<i>0.47</i>	<i>0.23</i>	<i>0.05</i>	<i>6.52</i>
<i>2021</i>	<i>3.94</i>	<i>0.47</i>	<i>0.17</i>	<i>0.05</i>	<i>4.63</i>

From the above price trends discovered under various arrangements, the Committee evaluated that the Total Tariff discovered for long term power procurement is market aligned and recommends issuing LOA to Adani Power Limited and thereof execution of Power Supply Agreement (PSA) for procurement of 360 MW on Long Term basis.

The Committee hereby certifies that the bid process evaluation is done according to the provisions of the bid documents and the bidding process is in conformity with the Guidelines for Long term power procurement issued by Ministry of Power vide notification no 23/17/2013-R&R (Vol-VI) dated 5th Mar 2019.

*Shri Mehul Rupera
Sd/-
Director
....."*

*Shri Vijil Jain
Sd/-
Chief Financial Officer*

*Shri Ranjan Kumar
Sd/-
Senior Manager*

*Shri Mohit Srivastava
Sd/-
Manager*

- 4.14 It is also submitted by the Petitioner that bid process evaluation is done according to the provisions of the bid documents and the bidding process is in conformity with the Guidelines for Long term power procurement issued by Ministry of Power vide notification no 23/17/2013-R&R (Vol-VI) dated 5th Mar 2019, conformity certificate signed by the Members of the Bid Evaluation Committee is filed by the Petitioner, which is reproduced below:

Dt. 03.04.2023

CONFORMITY CERTIFICATE
(To whomsoever it may concern)

Subject: Tender invited by MPSEZ Utilities Limited (MUL) for procurement of 600 MW of electricity on DBFOO basis

MPSEZ Utilities Limited (MUL) had issued the tender for procurement of 600 MW of electricity on DBFOO basis vide RFQ Ref. No: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFQ/143 dated 24th August 2022 and RFP Ref. No: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFP/144 dated 11th November 2022 at DEEP portal of MSTC website.

In this regard, the following prices were discovered at DEEP portal of MSTC website.

Sr. No.	Bidders	Quoted Capacity in MW	Total Tariff in Rs./kWh	Ranking
1.	Adani Power Limited	360	5.00	L1
2.	DB Power Limited	100	5.89	L2
3.	MB Power Madhya Pradesh Limited	100	5.97	L3

The Committee hereby certifies that the bid process evaluation is done according to the provisions of the bid document and the bidding process is in conformity with the Guideline for Long term power procurement issued by Ministry of Power vide notification no 23/17/2013-R&R (Vol-VI) dated 5th Mar 2019.

Shri Mehul Rupera
Sd/-
Director
....."

Shri Vijil Jain
Sd/-
Chief Financial Officer

Shri Ranjan Kumar
Sd/-
Senior Manager

Shri Mohit Srivastava
Sd/-
Manager

- 4.15 We further note that Clause 3.3 of the RFP document pertains to 'Selection of Bidder'. It is, therefore, necessary to refer Clause 3.3 of the RFP document which reads as under:

"

3.3 Selection of Bidder

- 3.3.1 Subject to the provisions of Clause 2.16.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2.1 and **who quotes the lowest Tariff offered to the Utility** in conformity with the provisions of Clause 3.5 shall be declared as the selected Bidder (the "Selected Bidder"). In the event that the Utility rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- 3.3.2 In the event that two or more Bidders quote the same amount of Tariff for (a) the full Capacity Required; (b) one full Capacity Required and other part of the Capacity Required; (c) Capacity totaling more than the Capacity Required and (d) Capacity totaling to the Capacity Required (the "**Tie Bidders**"), the Utility shall identify the Selected Bidder under (a) by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend; under (b) by declaring the Bidder who has offered full Capacity Required as the Selected Bidder; under (c) by declaring the Bidder with maximum Capacity as first Selected Bidder and other Bidder as second Selected Bidder with remaining Capacity and under (d) by declaring both the Bidders as the Selected Bidder with respective Capacity.
- 3.3.3 In the event that the Lowest Bidder withdraws or is not selected for any reason in the first instance or the capacity required is not met by the Lowest Bidder (the "**first round of bidding**"), the Utility may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Lowest Bidder (the "**second round of bidding**"). If in the second round of bidding, only one Bidder matches the Lowest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Lowest Bidder in the second round of bidding, then the Bidder whose Bid was lower as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth lowest Bidders in the first round of bidding offer to match the said Lowest Bidder in the second round of bidding, the said third lowest Bidder shall be the Selected Bidder. It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof.
- 3.3.4 In the event that no Bidder offers to match the Lowest Bidder in the second round of bidding as specified in Clause 3.3.3, the Utility may, in its discretion, invite fresh Bids (the "**third round of bidding**") from all Bidders except the Lowest Bidder of the first round of bidding, or annul the Bidding Process, as the case maybe. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are lower than the Bid of the second lowest Bidder in the first round of bidding.

3.3.5 *After selection, a Letter of Award (the “LOA”) shall be issued, in duplicate, by the Utility to the Selected Bidder and the Selected Bidder shall, within 7(seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Utility may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.*

3.3.6 *After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Supplier to execute the PSA-DBFOO within the period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation, modification, or amendment in the PSA-DBFOO.*

4.16 We note that the out of total bid capacity of 600 MW, responses were received for 560 MW capacity and the Petitioner vide its letter dated 28.03.2023 had invited L-2 and L-3 Bidders to match the Lowest Tariff as quoted by L-1 discovered tariff by Adani Power Limited (“Successful Bidder”) for a capacity of 360 MW. We also note that the Petitioner having found significant gap between the lowest (L-1 Bidder) and other quoted tariffs by L-2 and L-3 Bidder discovered at the DEEP Portal had sought consent from the bidders for matching their quoted tariff with L1 discovered tariff however bidders had not given its consent to match the L-1 discovered tariff.

4.17 As already recorded earlier, the Petitioner ensured wide participation for evincing competition by publishing the Notice Inviting Tender in two National Newspapers having large readership, also organized pre-bid conference, and further incorporated necessary changes suggested by the prospective bidders. The Technical Bids (RFQ stage) were opened in presence of the Bid Evaluation Commission and as the Bid Evaluation Committee evaluated the technical bids and declared 4 bidders as qualified for opening the technical bids for aggregate capacity of 947 MW, the same were opened in presence of Bid Evaluation Committee. 3 bidders with aggregate capacity of 560 MW were qualified for RFP stage and accordingly, RFP was conducted by the Petitioner and as per the criteria mentioned in the RFP document the Petitioner has submitted that Letter of Intent (LOI) is issued by the Petitioner to the above successful bidder for a capacity of 360 MW.

4.18 In view of the foregoing, the Commission is satisfied with the entire tendering process including the RFP bidding conducted by the Petitioner at DEEP portal in a transparent manner and discovered tariff at Rs. 5.00 per kWh of Adani Power Limited with quoted capacity of 360 MW.

4.19 The Commission, therefore, decides to adopt the above discovered tariff quoted by Adani Power Limited and approve the power procurement of Petitioner for 360 MW capacity and also approve the Power Supply Agreement executed by the Petitioner with the Adani Power Limited.

5. SUMMARY OF DECISIONS:

5.1 We give approval to the Petition to adopt the tariff discovered under the transparent competitive bidding process conducted by the Petitioner through RFP Ref No.: MPSEZ Utilities Private Limited/Long/Coal from CIL/22-23/ET/RFP/144 dated 11th November 2022 conducted at DEEP portal and approve the power procurement of the Petitioner for procurement of 360 MW capacity at discovered tariff of Rs. 5.00 per kWh.

5.2 We also approve the Power Supply Agreement executed by the Petitioner with Adani Power Limited.

5.3 Order accordingly.

6. Accordingly, the Petition stands disposed of.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 31/05/2023.