

BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

Case No. HERC/Petition No. 53 of 2023

Date of Hearing : 08.11.2023  
Date of Order : 08.11.2023

In the Matter of

**Petition under section 86(1) (b) of the Electricity Act, 2003 for regulatory approval of the Request for Selection (RfS)/ Bidding document for the procurement of total 100 MW power from Biomass, Cogeneration (Bagasse) and Cogeneration (Non-Bagasse) based power projects (with single maximum capacity less than 10 MW by any single generator to be set up in State of Haryana) at the tariff discovered through competitive bidding (followed by e- reverse auction) along with draft Power Purchase Agreement to be executed with successful bidders.**

**Petitioner**

Haryana Power Purchase Centre, Panchkula (HPPC)

**Present on behalf of the petitioner**

1. Shri Vishal Sharma, Advocate
2. Shri Gaurav Gupta, Xen, HPPC

**Quorum**

**Shri Naresh Sardana**

**Member**

**ORDER**

1. The present petition has been filed by HPPC seeking approval of the bidding documents for procurement of 100 MW power from biomass, co-generation (bagasse) and co-generation (non bagasse) based power plants, to be set up in Haryana at the tariff to be discovered through competitive bidding.

2. **HPPC's submissions: -**

2.1 That the Steering Committee for Power Planning ['SCPP'] in its 68<sup>th</sup> meeting held on 14.03.2023 under the Chairmanship of P.S (Energy) Government of Haryana approved the policy of procurement from Biomass/Co-generation based power projects in State of Haryana. The relevant extract from the agenda meeting regarding draft RE Policy is as under:

*"The draft policy for procurement of RE power on yearly basis from biomass/cogeneration power plants to be set up in the State of Haryana is detailed as under:-*

*"As per Haryana Bio Energy Policy 2018, Haryana has surplus biomass availability of 8416 thousand tons which has potential for utilization of the residues of these crops to generate electricity. The need to promote power generation is necessitated due to the aggravated environmental issues because of burning of crop residues in the fields. In order to reduce the uncontrolled biomass burning, it is proposed to encourage the industry to set up biomass & cogeneration plants using biomass/bagasse as fuel for generation of electricity and steam etc as per Haryana Biomass policy, 2018 by Haryana Renewable Department (HAREDA) of Govt. of Haryana.*

*As there is social and environmental impact associated with incineration of biomass through power generation and keeping in mind the ambitious target of Government of India (GOI) of*

achieving 500 GW power capacity from renewable energy resources by 2030, it is proposed to increase the generation of power through incineration of biomass in a graded manner. Thus the following quantum for procurement of such power on yearly basis is proposed:-

- a) Cat-1: 50 MW from Biomass based power plants using any technology as per HERC RE Regulation.
- b) Cat-2: 25 MW from bagasse based cogeneration power plants.
- c) Cat-3: 25 MW from non-bagasse based cogeneration power plants.

HPPC will float a bid every year for the procurement of above quantum in the first quarter of every calendar year. Any interested developer will be required to submit its bid to Haryana Power Purchase Centre (HPPC) for any of the above category for generation and supply of power from Biomass/cogeneration based power plants to be purchased on behalf of Haryana Discoms on long-term basis. This policy will be applicable for procurement of power through tariff based competitive e-bidding followed by e-reverse auction on the basis of arranging the bidders in each category after e-reverse auction in descending order from maximum percentage discount offered in that category on generic levelized tariff determined by HERC for each of the biomass/cogeneration plants technologies/categories from time to time till the requisite capacity in that category is fulfilled.

Tentative Timelines for the event are as below:

- a) Floating of bid: 1st -10th January of every year
- b) Submission of bid: Upto 31th January
- c) Processing of bid : February/March
- d) Filing of Petition in HERC for adoption of the tariff: February/March of every year.

Fuel Source: Biomass/Bagasse as defined in HERC RE Regulations as amended from time to time.

Procurement Term: Long Term (20 years i.e. Useful life of the plant as per HERC RE-Regulation)

Minimum Capacity: 1 MW

Eligibility of Applicant:

1. Applicant should be a company incorporated as per Company Act.
2. Net Worth: The applicant shall have a minimum net worth of Rs. 2 Crs/MW during any of the last 2 financial years.
3. Liquidity: The applicant shall have to demonstrate at least one of the following parameters during any of the last two financial years:
  - a) Annual Turn over- Rs. 2 Crore/MW.
  - b) Profit Before Depreciation Interest and Taxes (PBDIT)- Rs.20 lac/MW

Brief Implementation Modalities: -

1. *The power will be procured through tariff based competitive e-bidding followed by e-reverse auction.*
2. *Interested parties will submit its bid from the date of floating of tender till 31st Jan of every year with their intention to install a biomass /cogeneration power plant with capacity of 1 MW or above. Before participating in the e- bid process, developers would have to submit earnest money.*
3. *Developer will be free to choose any of the abovementioned categories for sale power to HPPC.*
4. *Selection Criteria*

*Bidders of all categories in the range of 50% of the highest percentage discount (H1%) quoted in any category in the Financial Bid on generic levelized tariff determined by HERC for the biomass/cogeneration plants technologies/categories from time to time shall be eligible for participating in e- reverse auction. After e-reverse auction, selection will be done on the basis of arranging the bidders in each category in descending order from discovered maximum percentage discount in that category till the requisite capacity in that category is fulfilled. After e-RA, the bidders who offer maximum discount in that category will be allocated the capacity quoted/offered in that category. For fulfilling the requisite capacity in each category, the following procedure shall be followed: -*

  - A. *If the total offered/quoted capacity by bidders is less than or equal to the requisite capacity to be fulfilled in that category, then the same shall be allotted to each bidder in that category.*
  - B. *If the total offered/quoted capacity by bidders is more than the requisite capacity to be fulfilled in that category, then bidder offering the maximum discount in percentage shall be given the first priority for bucket filling of the requisite capacity in that category.*

*In case of tie of percentage discount quoted by the bidders for fulfilling the requisite capacity in any category, the bidder who will quote/offer maximum capacity will be given priority over the other for bucket filling of the requisite capacity in that category. If case of tie in maximum capacity offered by bidders, then the bidder who have higher net worth shall be given preference for bucket filling of the requisite capacity in that category.*

*In case of the last bidder, if the balance capacity to be fulfilled in that category is less than the offered capacity by that bidder, then the balance capacity to be fulfilled in that category shall be awarded to that bidder till the total requisite capacity in that category is fulfilled.*

*However, if the balance capacity to be fulfilled in that category is less than 50% of the offered capacity by that bidder, then the bidder shall have the right to refuse the bid within 7 working days in writing. In such case, this balance capacity shall be offered to the next eligible bidder at HPPC discretion. EMD submitted by such Bidder shall be returned along with those of the unsuccessful bidders.*

*Further, if the balance capacity to be fulfilled in that category is more than or equal to 50% of the offered capacity by such bidder, then it shall be mandatory for the last bidder to accept that balance capacity. In case last bidder refuses to accept that balance capacity, EMD submitted by bidder shall be forfeited/encashed by HPPC. In such case, this balance capacity shall be offered to the next eligible bidder at HPPC discretion.*

5. *The tariff discovered after deducting percentage discount (in Rs/kWh) from the generic levelized tariff in that technology/category shall be fixed for the entire life of the project & payable to applicant for sale of power to HPPC/Discoms. It is clarified that no escalation on tariff on any account shall be given to the applicant.*

6. *After finalization of above selection procedure, successful bidders will be issued Letter of Award after the adoption/approval of tariff by State Commission.*

7. *Successful bidders would be required to submit the acceptance of LOA & Performance Bank Guarantee (30 lacs per MW) within 15 days of the issuance of LOA and accordingly PPA will be signed within next 15 days. The bidders would be required to commission the project within 24 months from the date of signing of the PPA.*

8. *Projects shall be installed within the state of Haryana only.*

9. *The development of the evacuation transmission infrastructure till nearest substation shall be carried out by developer at its own cost.*

10. *The successful bidders shall install its plant with new plant & machinery as per HERC RE Regulations in vogue.*

11. *All the clearances required for installation of the plant shall be taken by developer at its own cost.*

12. *Other terms and conditions will be mentioned in the tender to be floated for inviting bids and uploaded on web portal of UHBVN in January of each year."*

*The above policy for procurement of power from biomass/ cogeneration-based power projects is submitted for kind consideration, deliberation and approval of SSCP please."*

2.2 That the petitioner had filed a petition bearing Case No. HERC/Petition No. 13/2023 before this Hon'ble Commission seeking approval of the Request for Selection (RfS)/ bidding document for the procurement of solar power along with draft power purchase agreement to be executed with successful bidders. This Hon'ble Commission vide its order dated 29.03.2023 was pleased to observe that *"the need to procure renewable energy including solar energy is not only to fulfil RPO obligations but also to promote larger integration of clean sources to mitigate greenhouse gas effect and move towards carbon neutrality."*

2.3 That the petitioner is seeking to procure the following quantum of renewable power from Biomass/Cogeneration power projects through electronic competitive bidding process: -

- i Category-1: 50 MW from Biomass based power plants using any technology as per HERC RE Regulation.
- ii Category-2: 25 MW from non-fossil fuel based cogeneration power plants (Bagasse).
- iii Category-3: 25 MW from non-fossil fuel based cogeneration power plants (Non-bagasse).

2.4 That the salient terms and conditions of the draft RfS and PPAs are as under: -

2.4.1 Capacities are to be quoted in integral values. Minimum capacity to be quoted by a single bidder is 1 MW. Maximum capacity to be quoted by a single bidder shall be less than 10 MW.

2.4.2 The Bidders shall offer discount in percentage (%) on the generic levelized tariff (for FY 2023-24) determined by the HERC vide its generic tariff order dated 28.07.2023 for the biomass/ cogeneration power plants technologies /categories.

In case this Hon'ble Commission re-issues generic tariff for Biomass/Cogeneration (bagasse based)/Cogeneration (Non-bagasse based) power projects for FY 2023-24 based on any State specific study before last date of bid submission then the percentage discount quoted by bidder shall be considered on the generic levelized tariff issued by Commission for FY 2023-24.

**The percentage discount quoted by the bidder shall be firm and shall not be less than 1%.**

2.4.3 The bidders are free to locate their Biomass/Cogeneration (bagasse based)/Cogeneration (non-bagasse based) based power projects anywhere in Haryana on the land to be identified and purchased or taken on lease by the bidder.

2.5 That the compelling necessity for promoting procurement of Biomass Power has arisen due to the need to address the human health and environmental issues as well as compliance of the orders of the Hon'ble Supreme Court, the Hon'ble National Green Tribunal as well as the Hon'ble High Court of Delhi arising out of burning of crop residues in the fields.

2.6 That as per the directions passed by Commission for Air Quality Management (CAQM) vide order dated 17.12.2021 considering the order passed by Hon'ble Supreme Court dated 24.11.2021, where the construction work and other manufacturing industries located in Gurgaon/Faridabad/Rohtak/Rewari of Haryana region along with other Delhi NCR industries were banned from working or doing any construction and use of certain furnaces in the Haryana. CAQM has passed directions dated 16.02.2022 for implementation to improve the Air Quality and directed State Pollution Control Boards for the implementation of the same which proves that both Central Government/State Governments and Industries are inclined/bound to shift to the co-generation of powers of renewable in such a way that Air Quality for Delhi NCR which includes Gurgaon/Faridabad/Rohtak/Rewari of Haryana region can work smoothly without any restrictions by using renewable sources and can generate economical GDP of Haryana which is getting hampered and derailing the Industrial growth of Haryana and also Air Quality System. Therefore, it is high time to promote bio-gas/renewable systems in the Industries so that the industrial productions are not hampered due to banning of industries by NGT or by Commission of Air Quality Management which also creates

industrial disturbance/loss of opportunities/shifting of industries from Haryana to other places. If RE power is not promoted in the State then it shall result in increasing of poor Air Quality System due to burning of biomass/parali.

2.7 That the following prayers have been made:-

- a) Pass an order allowing and admitting the present petition under Section 86(1)(b) of Electricity Act 2003; and
- b) Pass an order granting approval to Request for Selection (RfS)/ Bidding document for the procurement of total 100 MW power from Biomass, Cogeneration (Bagasse) and Cogeneration (Non-Bagasse) based power projects (with single maximum capacity less than 10 MW by any single generator to be set up in State of Haryana) at the tariff discovered through competitive bidding (followed by e- reverse auction) along with draft Power Purchase Agreement to be executed with successful bidders; and/or
- c) Pass such other or such further order or order(s) as may deem fit in the facts and circumstances of the case.

### **Proceedings in the Case**

3. The case was heard on 25.10.2023, in the court room of the Commission, wherein the petitioner (HPPC) mainly reiterated the contents of its petition, which for the sake of brevity has not been reproduced herein. The Commission observed that the ceiling tariff proposed in the bid documents is the generic levelized tariff for the FY 2023-24 determined by the HERC vide its generic tariff order dated 28.07.2023 for the biomass/ cogeneration power plants technologies /categories. The Commission observed that in the ibid order of the Commission dated 28.07.2023, indicative levelized tariff (not generic tariff as given in the bid documents) for various biomass technologies (viz. air-cooled, water cooled, TG boiler, ABFC boiler etc.), has been determined. Therefore, not mentioning specific ceiling tariff, may create confusion/un-comparable response from the bidders. In order to avoid any ambiguity in the bid documents, the petitioner was directed to come up with a proposal with specific ceiling tariff, without referring to the indicative levelized tariff determined by the Commission.

### **Commission's Order**

4. The case was heard on 08.11.2023, as scheduled, in the court room of the Commission. The petitioner, as directed by the Commission, did not propose any specific ceiling tariff. However, the learned counsel submitted that the petitioner herein is agreeable to the ceiling tariff, as may be ordered by the Commission.

5. Upon hearing the petitioner, the Commission observes that it is conscious of the serious environmental issues arising from burning of farm waste/paddy stubble in the State and NCR and the consequent need of power project using agro waste/paddy straw as fuel which can meet the social objectives and concerns of the National Green Tribunal as well as the Haryana Government. Therefore, apart from commercial angle, the project has to be considered from social & environmental benefits attached to it. Accordingly, there is a need to procure power from non-fossil fuel based sources which will not only contribute to the fulfillment of RPO obligations but also to promote larger integration of clean sources to mitigate green house gas effect and move towards carbon neutrality. Further, setting up of such projects in Haryana will have the spin-off benefits in terms of generation of employment opportunity for people of the state of Haryana, reduction of transmission and distribution losses as the power will be generated and consumed locally. However, the Commission is equally concerned with the litigations arising out of the PPA terms, on one pretext or the other. The ceiling tariff should not be based on some secondary factor which may change as a result of ongoing litigations, leading to another litigation arising out of the ceiling tariff fixed on that secondary factor. In order to address the same, the petitioner was directed to come up with a proposal with specific ceiling tariff, without referring to any secondary factor which may have repercussions/litigations in future. However, since the petitioner has failed to provide the same, the Commission is constrained to indulge in the matter of providing the base rate, on its own, based on the experience gathered from the tariff determination proceedings during the course of rendering of its adjudicatory functions. Accordingly, the Commission directs that the base price for biomass based power plants and for co-generation power plants shall be Rs. 7.11/kWh and Rs. 6.75/kWh, respectively, irrespective of the technology and biomass fuel used in the generation of power.
6. In terms of the above discussions, the present petition is allowed and the approvals sought are granted.
7. The present petition is disposed of accordingly.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 08.11.2023.

Date: 08.11.2023  
Place: Panchkula

(Naresh Sardana)  
Member