

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

**Shri Gireesh B. Pradhan, Chairperson
Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member
Shri A.K. Singhal, Member**

Petition No. 002/SM/2014

Date of order: 21.02.2014

In the matter of

Requirement under the new MoP guidelines-Discontinue of notification on escalation rates for evaluation by CERC.

ORDER

Clause 5.6 (vi) of the Government of India, Ministry of Power (MoP) Notification No.23/11/2004-R&R(Vol.II) dated 19.1.2005 (as amended from time to time) on Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees enjoins on the Central Electricity Regulatory Commission (CERC) to notify the Escalation Rates for the imported coal, both for bid evaluation and payment purposes. In pursuance with the said provisions, the Commission has been notifying the escalation rates every six months.

2. The MoP has now issued new guidelines along with standard bidding documents (Model RFQ, RFP and PSA) separately for Case 2 and Case 1 bidding.

3. For Case 2 bidding, the MoP has, vide its resolution dated 21.9.2013, issued new guidelines "Guidelines for Procurement of Electricity from Thermal Power Stations set

up on Design, Build, Finance, Operate and Transfer (DBFOT) basis" subject to various terms and conditions including:

"5. The 'Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees' issued on 19th January, 2005, as amended from time to time, including the standard bidding documents issued thereunder, are hereby repealed insofar as they relate to long-term procurement of electricity through location specific, coal based power projects referred to therein as Case 2 projects. Provided, however, that any agreements signed or actions taken prior to the date hereof shall not be affected by such repeal of the said guidelines of 2005 and shall continue to be governed by the guidelines repealed hereunder".

4. For Case 1 bidding, the MoP has, vide its resolution dated 9.11.2013, issued new guidelines "Guidelines for Procurement of Electricity from Thermal Power Stations set up on Design, Build, Finance, Own and Operate (DBFOO) basis" subject to various terms and conditions including:

"5. The 'Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees' issued on 19th January, 2005, as amended from time to time, including the standard bidding documents issued in 2009 and amended from time to time thereunder, are hereby repealed insofar as they relate to long-term procurement of electricity where the location technology, or fuel is not specified by the procurer referred to therein as Case 1 projects. Provided, however, that any agreements signed or actions taken prior to the date hereof shall not be affected by such repeal of the said guidelines of 2005 and shall continue to be governed by the guidelines repealed hereunder".

5. As mentioned in the Overview of the Model Power Supply Agreement (MPSA), the Utility shall pay to the Supplier a **Fixed Charge determined through competitive bidding** for availability of the Power Station. In case of Case 2, the Fixed Charge determined for each accounting year shall be revised annually to reflect 30 per cent of the variation in a composite index comprising Wholesale Price Index (WPI) and Consumer Price Index (CPI). In case of Case 1, the Fixed Charge determined for each

accounting year shall be revised annually to reflect 30 percent of the variation in WPI. Therefore, the escalable component of the fixed chares is taken care.

6. As per the MPSA, Fuel charge is the amount payable by the utility to the Concessionaire for the fuel utilized in generation of electricity. **Fuel Charge is a pass through**, subject to appropriate safeguards, which would address a major risk faced by power produces due to uncertainty relating to fuel prices over the medium and long term. The framework contained in the MPSA provides alternative formulations for determination of fuel costs depending on the source and pricing of fuel supplies. Four alternative sources of fuel (i) Concessional fuel from Coal India, (ii) fuel from captive mines, (iii) fuel through imports and (iv) fuel through imports from captive mines situated outside India have been dealt in the bid documents. Therefore, the escalation rates for domestic/imported coal/gas are not required to be notified.

7. As required under Appendix-I of Model RFP for PSA, the bidders submit their bid and offer in accordance with the provisions of the PSA and Clause 3.5 of the RFP (A Tariff of ₹.... comprising a Fixed charge of ₹.... per kWh and Fuel Charge of ₹.... per kWh) as on the bid due date, on the express understanding that the Lowest Bidder shall be selected on the basis of the lowest tariff offered. There is no levelised tariff quoted by the bidders, therefore, Discount Rate, Dollar Rupee Exchange Rate variation, Escalation for Transmission Charges, etc. are not required to be notified.

8. As mentioned in the above paras, as per the new MoP guidelines, no escalation rates are required to be notified by CERC. However, for agreements signed or actions

taken prior to the date of these new guidelines, the escalation rates for payment are required to be notified by CERC (i.e. under MoP guidelines of 2005).

9. We direct that the notification of escalation rates for evaluation applicable for the six months commencing 1.4.2014 and onwards shall be discontinued in accordance with the provisions discussed in Para 3 to 7 of this order.

Sd/-

(A.K. Singhal)
Member

Sd/-

(M Deena Dayalan)
Member

Sd/-

(V.S. Verma)
Member

Sd/-

(Gireesh B. Pradhan)
Chairperson