



**ORDER
OF THE
WEST BENGAL ELECTRICITY REGULATORY COMMISSION
IN CASE NO. OA-500/2024-25**

IN REGARD TO THE APPLICATION SUBMITTED BY CESC LIMITED UNDER SECTION 86(1)(B) READ WITH SECTION 63 OF THE ELECTRICITY ACT-2003, SEEKING APPROVAL OF THE DEVIATIONS FROM "GUIDELINES AND MODEL BIDDING DOCUMENTS (MBDs) FOR PROCUREMENT OF POWER ON MEDIUM TERM FROM POWER STATIONS SET UP ON FINANCE, OWN AND OPERATE (FOO) BASIS, DATED 29.01.2019 ISSUED BY THE MINISTRY OF POWER" FOR PROCUREMENT OF UP TO 200MW ROUND-THE-CLOCK (RTC) THERMAL POWER FOR TWO YEARS THROUGH COMPETITIVE BIDDING.

PRESENT:

DR. MALLELA VENKATESWARA RAO, CHAIRPERSON

DATE: 12.12.2024



Approval of deviations from the Model Bidding Documents (medium term) for procurement of up to 200 MW Round-the-Clock (RTC) thermal power from projects set up under the Finance, Own and Operate (FOO) basis through competitive bidding under Section 63, Section 86(1)(b) and other applicable provisions of the Electricity Act, 2003 and in terms of applicable Regulations of the West Bengal Electricity Regulatory Commission.



Facts in brief:

- 1.0 CESC Limited has submitted a Petition dated 04.10.2024 seeking approval of deviations from the Model Bidding Documents (medium term) for procurement of up to 200 MW Round-the-Clock (**RTC**) thermal power from projects set up under Finance, Own and Operate (**FOO**) basis through competitive bidding under Section 63, Section 86 (1) (b) and other applicable provisions of the Electricity Act, 2003 and in terms of applicable Regulations of the West Bengal Electricity Regulatory Commission. The Petition dated 04.10.2024 has been admitted by the Commission in Case No. OA-500/24-25.
- 2.0 In the Petition, CESC Limited has inter-alia stated the following:
 - 2.1 CESC Limited proposes to procure up to 200 MW Round-the-Clock (RTC) thermal power for 2(two) years starting from 01.04.2025 from project(s) set up under Finance, Own and Operate (FOO) basis, through competitive bidding to meet its consumer demand. Further, CESC Limited vide Letter dated 02.12.2024 projected demand and supply scenario for FY 2025-26 and FY 2026-27 along with load curves for Summer, Monsoon and Winter season.
 - 2.2 Now CESC Limited intends to make certain deviations to "Medium Term Agreement for Procurement of Power (**APP**) issued by Ministry of Power dated 29.01.2019", for procurement of power on FOO basis, which was revised on 19.12.2022 and subsequently amended on 12.05.2023, to enable wider participation of Sellers in the competitive power procurement process on the rationale that tariff unless inclusive of taxes and duties make evaluation difficult.
 - 2.3 CESC Limited has about 1350 MW of committed resources in the form of embedded generating stations and long-term thermal power source. In addition, CESC Limited has contracted short-term power through competitive bidding, procures power from co-generation source and has also participated in tenders to arrange for power through banking / swapping mechanism for the summer / monsoon months. CESC Limited has also recently contracted 250 MW of wind-solar hybrid power and has also entered into an agreement for procurement of 300MW solar power on long term basis. Even after considering all these sources and associated factors, there is still a large gap to be met. To bridge this gap partially, 200 MW power procurement on RTC basis from thermal sources has been proposed.



Approval of deviations from the Model Bidding Documents (medium term) for procurement of up to 200 MW Round-the-Clock (RTC) thermal power from projects set up under the Finance, Own and Operate (FOO) basis through competitive bidding under Section 63, Section 86(1)(b) and other applicable provisions of the Electricity Act, 2003 and in terms of applicable Regulations of the West Bengal Electricity Regulatory Commission.



- 2.4 It is also submitted that the proposed 200 MW thermal power procurement on RTC basis, is expected to bring down inadvertent but unavoidable DSM transactions as RTC procurement will pare down the very high peaks of import requirements to a much manageable limits which can be sourced through Term Ahead Market / Day Ahead Market / Real Time Market and is expected to reduce dependence on power exchanges.
- 2.5 In view of the above, CESC Limited in accordance with Clause 4 of the "Revised Guidelines and Model Bidding Documents (MBDs) for procurement of power on Medium Term from thermal projects on FOO basis dated 29.01.2019", has sought approval of the deviations under Clauses 11.8.1 and 11.8.2 of "Model Agreement for Procurement of Power" from the Commission.

Observations of the Commission:

Requirement of power purchase:

- 3.1 The Commission has noted that as per the Draft Distribution Perspective Plan 2030 of Central Electricity Authority (CEA), the peak demand in CESC area will be 3002 MW in 2029-30 from 2515 MW in 2024-25. In Summer of 2024, CESC recorded highest ever demand of 2728 MW. Moreover, the demand supply gap throughout the year is also prominent from the load curves submitted by CESC Limited considering existing Own supply capacity and PPAs executed by them. From the expected demand supply position submitted by CESC Limited vide letter dated 02.12.2024, it is noted that even after considering power purchase of 250MW wind-solar hybrid power and 300MW solar power there is a requirement of power. CESC also mentioned that in winter there may be some surplus power which they propose to utilize through swapping of power as per applicable Regulations. Thus, there is a requirement of procurement of power by CESC Limited to meet the growing demand.

Price of power purchase:

- 3.2 The Commission observed that the Tariff will be discovered through transparent process of competitive bidding in accordance with the Guidelines. It is also observed from the application that the procurement process is under Section 63 of the Electricity Act, 2003 and CESC Limited will purchase such power at discovered price.



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Deviations Proposed:

- 3.3 CESC Limited has proposed that the Tariff payable by the Utility shall be inclusive of all taxes, duties and cess as on the bid submission date, in place of "Model Agreement for Procurement of Power" of Ministry of Power dated 29.01.2019, clause 11.8.1 "The Parties expressly agree that the Tariff shall be inclusive of all taxes and duties, save and except the taxes and duties specified in Clause 11.8.2. It is further agreed that the Supplier shall pay all taxes and duties, including the taxes and duties specified in Clauses 11.8.2, in accordance with Applicable Laws" and clause 11.8.2 "The Tariff payable by the Utility under this Article 11 shall be exclusive of Goods and Service Tax, Electricity Duty, Value Added Tax or Goods and Service Tax, Custom Duty on Fuel or any replacement thereof, if applicable, and any Goods and Service Tax, Electricity Duty, Value Added Tax or Goods and Service Tax and Custom Duty on Fuel thereon shall be paid by the Supplier and reimbursed by the Utility upon submission of necessary particulars by the Supplier" shall be deleted.
- 3.4 In view of the above, the Commission concludes the followings:
- (i) The proposed RTC thermal power will enable CESC Limited to mitigate the increasing demand in CESC's licensed area in the coming years.
 - (ii) The proposed deviations dated 04.10.2024 are towards ease of evaluation of bid for improving bidders' participation.



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Order:

- 4.1 In view of the above, the Commission accords its approval of the deviations proposed by CESC Limited under clauses 11.8.1 and 11.8.2 of Model Agreement for Procurement of Power on medium term (FOO) basis.
- 4.2 CESC Limited may proceed with the bidding process with an intimation to the Commission and shall submit a fresh copy of the Bidding documents for record of the Commission.
- 4.3 A copy of the order shall be posted in the website of the Commission.
- 4.4 CESC Limited shall download the copy of the order from the website of the Commission and act on it. Certified copy of the order, if applied for, be given to the parties on completion of formalities laid down in the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013, as amended and on submission of necessary fees.

Sd/-

(DR. MALLELA VENKATESWARA RAO)
CHAIRPERSON

Dated: 12.12.2024

Sd/-

(SECRETARY)