



**ORDER
OF THE
WEST BENGAL ELECTRICITY REGULATORY COMMISSION**

IN CASE NO. OA – 539 / 25 – 26

APPLICATION SUBMITTED BY WEST BENGAL STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED UNDER SECTION 86 (1) (B) AND SECTION 63 OF THE ELECTRICITY ACT, 2003 FOR APPROVAL OF DEVIATIONS FROM MODEL BIDDING DOCUMENTS AS PER MINISTRY OF POWER GUIDELINES DATED 06.03.2019 TO SET UP 1600 MW (2 X 800 MW) POWER PLANT ON DESIGN, BUILD, FINANCE, OWN AND OPERATE (DBFOO) MODEL

DATE: 14.11.2025



Application submitted by West Bengal State Electricity Distribution Company Limited under Section 86 (1) (b) and Section 63 of the Electricity Act, 2003 for approval of deviations from Model Bidding Documents as per Ministry of Power guidelines dated 06.03.2019 to set up 1600 MW (2 x 800 MW) power plant on Design, Build, Finance, Own and Operate (DBFOO) model

Facts in brief:

- 1.0 The West Bengal State Electricity Distribution Company Limited (WBSEDCL) submitted a petition on 11.11.2025 seeking approval of deviations from the Model Bidding Documents issued under the Ministry of Power guidelines dated 06.03.2019 read with the deviations approved by the Commission vide order dated 20.08.2025 in Case No. OA – 527 / 25 – 26 for procurement of 1600 MW power under Long-Term Arrangement from the Second Greenfield Power Station of 2 × 800 MW capacity to be set up on Design, Build, Finance, Own and Operate (DBFOO) model, in terms of Section 86(1)(b) read with Section 63 of the Electricity Act, 2003. The Commission admitted the petition in Case No. OA – 539 / 25 – 26.
- 2.0 In the petition, WBSEDCL has inter-alia stated the following:
 - 2.1 WBSEDCL proposed to procure 1600 MW of power from a Thermal Power Plant to be setup in the State of West Bengal under the DBFOO model, as per the Ministry of Power guidelines dated 06.03.2019. WBSEDCL adopted a two-stage selection process comprising 'Qualification Stage' and 'Bid Stage', for selection of the successful Bidder. WBSEDCL sought approval of certain deviations from the Model Bidding Documents (RFQ, RFP and PSA), which were granted by the Commission vide order dated 20.08.2025 in Case No. OA – 527 / 25 – 26. WBSEDCL submitted that the RFP, draft PSA, draft Fuel Supply Agreement, draft Letter of Assurance from Coal India Limited has been published on 18.10.2025 in the portal of Telecommunications Consultants India Limited (TCIL) for the pre-qualified bidders from the RFQ stage.
 - 2.2 WBSEDCL submitted that during pre-bid clarification, the pre-qualified bidders raised their concern regarding the challenges of fuel transportation through railways and the limited clarity on specific coal mine source, and accordingly requested to increase the limits of road transportation cost. The pre-qualified bidders also requested to add a provision related to the approval mechanism of the 'Additional Fuel Supply Arrangement' in the event of fuel shortage from the original source aligning with the spirit of regulation 5.8.7A of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Third Amendment) Regulations, 2020.



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2.3 In view of the above, WBSEDCL prayed following modification in the Draft PSA:

(i) Clause 22.2.4 of the draft PSA:

WBSEDCL prayed to modify the 2nd paragraph of clause 22.2.4 of the draft PSA related to the cost of transportation of fuel by road. WBSEDCL submitted that either of its proposals (A) or proposal (B) may be considered by the Commission.

Proposal (A): "In respect of transportation of coal by road, the cost of transportation of domestic coal shall be lower of (a) 115% of freight payable to Indian Railways for transportation by rail for the distance slab corresponding to the actual road distance covered for such transportation plus taxes and duties applicable on such rail freight, and (b) the actual cost of transportation by road."

Proposal (B): "The cost of fuel transportation by road as the publication of RFP shall be considered as Rs. 12.13 per tonne per km. provided that this rate shall be escalated on monthly basis based on the Transport and Communication component in the CPI. The cost of road transportation as computed above shall be recovered as part of monthly invoice billed to the Utility by the Supplier."

(ii) Clause 22.9.1 of the draft PSA:

It is proposed that the approval mechanism of Additional Fuel Supply Arrangement (AFSA) specified in clause 22.9.1 of the draft PSA may be modified by including the following proviso after clause 22.9.1:

"provided, no approval from the Appropriate Commission is required if ECR due to supply of such coal is not increasing beyond 15% of the base ECR and the AFSA is limited to the period not more than 01 (one) month."

3.0 In view of the above, WBSEDCL in accordance to Clause 4 of the Guidelines dated 06.03.2019 has sought approval before this Commission for deviations/ modifications in PSA from the Model Bidding Documents notified by the Ministry of Power, Government of India.



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Observations of the Commission:

- 4.0 WBSEDCL had proposed to purchase power from a 1600 MW (2 x 800 MW) plant to be developed through competitive bidding process under section 63 of the Electricity Act 2003, where linkage coal will be to the proposed plant provided under SHAKTI scheme. In terms of section 63 of the Electricity Act 2003, the Commission has to adopt the tariff if such tariff is determined transparent process of bidding in accordance with the guidelines issued by the Government of India. Any deviation from the guideline and Model Bidding Procedure needs prior approval of the Commission.

Clause 22.2.4 of draft PSA

- 5.0 WBSEDCL has already sought modification in the draft PSA vide its application dated 18.07.2025. WBSEDCL in the said application sought modification of clause 22.2.4 related to cost of transportation of domestic fuel, where in addition to the overall limit mentioned in the Model PSA, WBSEDCL proposed an additional limit for the road transportation cost upto 110% of freight payable to Indian Railways for the same distance. The Commission approved the same vide order dated 20.08.2025 in Case No. OA-527/25-26.
- 6.0 Under the instant petition, WBSEDCL is proposing for further relaxation, as mentioned in paragraph 2.3(i) above. Two proposals have been submitted. In proposal (A) it has been requested to enhance the limit from 110% to 115% of applicable railways freight of the corresponding distance. Whereas, in proposal (B) WBSEDCL has considered a base rate of Rs. 12.13 per tonne with monthly escalation. WBSEDCL has not submitted any detailed analysis justifying their claim of base rate, but merely relied on the rate adopted by Assam Power Development Corporation Limited (APDCL) and applied inflation index.
- 7.0 The Commission is of the view that the cost of road transportation is influenced by several area-specific factors such as distance, terrain, quality of infrastructure, local taxes and levies, and prevailing market conditions. Hence, simply adopting the APDCL bid value as a benchmark would not be appropriate for the State, given the differing regional circumstances. In absence of specific justification, the proposal (B) is not considered for further analysis.



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- 8.0 In view of above, the Commission finds that proposal (A) is in consistent with the intent and provisions of the Model Bidding Documents, where the total cost is also benchmarked with the percentage of railway freight.

Clause 22.9.1 of draft PSA

- 9.0 The Commission observes that, as per clause 22.9.1 of the Model PSA, in event of Fuel Shortage, supplier may arrange for additional source of fuel supply to meet such Fuel shortage through an Additional Fuel Supply Arrangement (AFSA). As per model PSA, supplier shall ensure the AFSA is the best available option and take concurrence of the Utility. After taking concurrence of Utility, supplier shall submit the AFSA before the Commission for approval.
- 10.0 WBSEDCL proposes to insert a provision at the end of the clause 22.9.1 of the draft PSA, so that approval of the Commission is not required, if the AFSA is does not exceed one month and the Energy Charge Rate (ECR) due to coal from such new source does not increase the ECR beyond 15% of the base ERC.
- 11.0 The proposed modification is for short term management of coal shortage (limited to one month) and cost increase is limited to 15% of the base ECC, which is consistent with the intent of Regulation 5.8.7A of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Third Amendment) Regulations, 2020. The proposal is found reasonable and practical. However, the Commission observes that WBSEDCL shall clearly define the term "base ECR" in the draft PSA to ensure clarity and consistency.

Order:

- 4.0 In view of the above, the Commission accords its approval to the deviations proposed for the second paragraph of clause 22.2.4 of the draft PSA as per Proposal (A) of WBSEDCL. The Commission also accords its approval to the proposed insertion of new provision to the clause 22.9.1 of the draft PSA. WBSEDCL is also directed to provide a definition of 'Base ECR' in the draft PSA.
- 5.0 WBSEDCL shall submit a copy of the modified 'draft PSA' for record of the Commission and proceed with the bidding process.



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- 6.0 The petition is disposed of.
- 7.0 A copy of the order shall be posted in the website of the Commission.
- 8.0 WBSEDCL 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: 14.11.2025

Sd/-
DEPUTY DIRECTOR, WBERC