

BEFORE THE HON'BLE KERALA STATE ELECTRICITY REGULATORY COMMISSION

In the matter of : Petition under Regulation 77 of the KSERC (Terms and Conditions for Determination of Tariff) Regulations 2021 and in compliance with the directions of Hon'ble Commission vide order dated 25-6-2022 in Petition no. 11/2022 seeking approval for the deviations made in the Standard Bidding Documents issued by Ministry of Power vide notification dated 30-1-2019 for procuring 500 MW RTC power on medium term basis for five years under FOO (Finance, Own and Operate) basis.

Petitioner :Kerala State Electricity Board Limited

KSEBL most humbly submit the following:

1. Kerala State Electricity Board Limited (KSEBL), is an integrated State Public Sector power utility company constituted by the State Government. KSEBL is carrying out the Generation, Transmission and Distribution functions through three strategic business units. The distribution business unit has been meeting the energy requirement of the consumers by optimally Scheduling power from own generating stations and purchasing power from various sources prudently and economically such that benefit is passed on to the entire consumers of the State.
2. To meet the energy demand of the State, KSEBL entered into long-term Power Sale Agreements for 865MW through two tariff based competitive bids during December 2014 as per the tariff based competitive bidding Guidelines for procurement of Electricity from Thermal Power Stations set up on DBFOO basis, notified vide resolution No. 23/17/2011-R&R(Vol-V) dated 08-11-2013 by MoP under Section 63 of the EA,2003 (herein referred to as DBFOO guidelines).
3. As per Section 86(1)(b) of the Electricity Act, 2003 the State Commission shall 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. Section 63 of the EA,2003 further provides that 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.
4. Hon'ble Commission in the MYT order dated 25-6-2022 in OP 11/2022 directed that ***the Commission hereby permits KSEB Ltd to make necessary arrangements for***

procuring 465 MW of equivalent power on medium term basis through competitive bidding as per Section 63 of the Electricity Act, 2003. Alternatively, KSEB Ltd may make necessary arrangements for procuring 465 MW from power plants through competitive bidding route who have assigned coal linkage as per the SHAKTI policy of the Central Government.

Extract from MYT order dated 25-6-2022 in OP 11/2022:

"6.112 In view of the foregoing facts and developments, the Commission cannot permit KSEB Ltd to continue scheduling of power from the following four provisionally approved/ unapproved contracts, (i) Purchase of 115MW of Power from Jhbua power Ltd of L2 of Bid-1, (ii) 150 MW from Jindal Power Ltd of Bid-2, (iii) 100MW from Jindal India Power Ltd and (iv) 100 MW of power from Jhabua Power Ltd of Bid-2.

*6.113 The Commission noted that, as detailed under Table 6.69 above, during the MYT period 2022-23 to 2026-27, KSEB Ltd has proposed to schedule 465 MW and 3263.29 MU annually from the above four DBFOO contracts. As per the power requirement projected by KSEB Ltd in the present petition and in order to avoid any power shortage and other contingencies, **the Commission hereby permits KSEB Ltd to make necessary arrangements for procuring 465 MW of equivalent power on medium term basis through competitive bidding as per Section 63 of the Electricity Act, 2003. Alternatively, KSEB Ltd may make necessary arrangements for procuring 465 MW from power plants through competitive bidding route who have assigned coal linkage as per the SHAKTI policy of the Central Government.***

Once the competitive bidding process as mentioned above is completed by KSEB Ltd, they shall file a separate petition for obtaining approval of the Commission for this purchase including its quantity and adoption of its tariff as per the provisions of the Electricity Act, 2003 and Tariff Regulations, 2021."

5. In compliance with the above orders, KSEBL initiated action for procuring 500MW RTC power on medium term basis.
6. Ministry of Power vide its letter No. [No.23/17/2013-R&R] (Vol-II) dated 29th January 2014, issued the Model Documents comprising the Model Request for Qualification (the "MRFQ") and the Model Request for Proposal (the "MRFP"), and Model Agreement for Procurement of Power (the 'MAPP') (collectively, the "Model Bidding Documents") to be adopted by the distribution licensees for procurement of power from the power producers.
7. Based on the above, the Central Government had notified the Guidelines vide resolution

No. 23/17/2013-R&R (Vol-II) dated 10th February 2014, which were further amended vide resolution dated 20th August, 2015. Further, the Central Government vide its letter No. 23/17/2013-R&R (Vol-IV) dated 16th January 2017, had issued a single document as the "Standard Bidding Document" comprising both the Model Request for Qualification (the "MRFQ") and the Model Request for Proposal (the "MRFP"), and the Model Agreement for Procurement of Power (the "MAPP") (collectively, the Standard Bidding Document and the MAPP are referred to as the "Model Bidding Documents") to be adopted by distribution licensees for procurement of electricity from the power producers/Traders/Discoms. Based on the same, the Central Government had notified the Guidelines vide resolution No. 23/17/2013-R&R (Vol-V) dated 17th January 2017.

8. Ministry of Coal, vide its letter No. 23011/15/2016-CPD/CLD dated 22nd May, 2017, has introduced the policy guidelines for allocation of Coal linkages to Power Sector - new more transparent Coal allocation policy for power Sector, 2017- SHAKTI (Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India) (referred as the "SHAKTI Policy"). Under the SHAKTI scheme, use of linkage coal has also been allowed in Medium term power procurement.
9. Based on the above, for enabling the use of linkage coal as per the provisions of Para B (I), B (III) & B (IV) of SHAKTI Policy, the Central Government, vide its letter No. 23/17/2013-R&R-Vol-VI (Part 2) dated 29th January 2019, has issued the revised bidding documents (i) a single document as the "Standard Bidding Document" comprising both the Model Request for Qualification (the "MRFQ") and the Model Request for Proposal (the "MRFP"), and the (ii) Model Agreement for Procurement of Power (the "MAPP") (collectively, the Standard Bidding Document and the MAPP are referred to as the "Model Bidding Documents") to be adopted by distribution licensees for Procurement of Electricity from the Power Producers/Traders/Distribution Licensees through a process of open and transparent competitive bidding conducted by Distribution Licensees through an electronic platform (DEEP e-Bidding Portal) based on offer of the lowest tariff from power generating stations constructed and/or operated on FOO basis.
10. These guidelines are known as the 'Guidelines for Procurement of Electricity for medium term from Power Stations set up on Finance, Own and Operate (FOO) basis (the "Guidelines"). The application of these Guidelines shall be restricted to projects from which power is procured in accordance with an Agreement for Procurement of Power for a period between one and five years, with a provision for extension of this period upto 25% of the initial contract period or one year whichever is lower, with mutual consent.
11. The tariff determined through the DEEP e-Bidding process using e-reverse Auction based on these Guidelines comprising the Model Bidding Documents shall be adopted

by the Appropriate Commission in pursuance of the provisions of section 63 of the Act.

12. The guidelines stipulate that any deviation from the Model Bidding Documents shall be made by the Distribution Licensees only with the prior approval of the Appropriate Commission. Provided, however, that any project specific modifications expressly permitted in the Model Bidding Documents shall not be construed as deviations from the Model Bidding Documents.
13. KSEBL with the approval of Hon'ble Commission (Order dated 2-11-2022 in OP 60/2022) made certain deviations in the above model bidding documents to suit to the requirement of KSEBL.
14. Accordingly, the bid for medium term power procurement of 500 MW RTC power from generators having linkage coal with period of commencement of supply from April 2023, was floated in DEEP portal with Bid start date as 04.11.2022 with e-Tender No. KSEBL/Medium/Coal from Linkage Coal/22- 23/ET/179 and e-reverse auction No. KSEBL/Medium/Coal from Linkage Coal/22-23/RA/173.
15. The tender was given wide publicity. The last date of submission of bid was extended several times as per the request of various generators, latest of which was on 04.01.2023. Seeing that only one bidder has submitted the bid on 04.01.2023, bid submission date was further extended to 07.01.2023.
16. Despite of all these efforts, only two firms submitted their bids in DEEP portal with offered quantum totaling to 250 MW against requisitioned capacity of 500 MW and both failed to qualify in the bid process. The details are as follows:

Name of firms participated in bid.	Quantum Offered	Reason for Not Qualifying
M/s. Jindal Power Limited	100 MW	Not submitted the original bid documents.
M/s. RKM Powergen Pvt Limited	150 MW	Failed to meet the required criteria of having linkage coal.

17. The Board had resolved to annul the bidding process and to rebid the same immediately. The matter was intimated to Hon'ble Commission.
18. For rebidding, KSEBL made further modifications. As per MoP guidelines, trading licensee shall not be eligible for bidding in case the source of fuel is linkage coal. Further, as per the amendment no.23/17/2013-R&R -Volume VI (Part-2) dated 12-7-2019, bidders with allocated coal linkage including cola linkage as per SHAKTI policy is eligible.

The bidding documents are modified in line with the above amendment to MoP guidelines.

19. The deviations made by KSEBL are enclosed as **Annexure-2**. The revised bidding documents are enclosed as **Annexure-3**.
20. As per the guidelines, any deviation from the Model Bidding Documents shall be made by the Distribution Licensees only with the prior approval of the Appropriate Commission. Therefore, the instant petition is filed seeking approval for the deviations made by KSEBL in the standard bidding documents for procurement of power on medium term basis under FOO basis.

Prayer

Considering the submissions made above, KSEBL humbly request approval of Hon'ble Commission for the deviations made in the Standard Bidding Documents issued by Ministry of Power vide notification dated 30-1-2019 for procuring 500 MW RTC power on medium term basis for five years under FOO (Finance, Own and Operate) basis.

Chief Engineer(REES & SOURA, Commercial & Tariff)