

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 20 of 2011

In the matter of
Petition of the Tata Power Co. Ltd to seek approval of the proposed quantum of Power for Medium term power procurement through Competitive bidding process under Case 1 bidding and Bidding documents in accordance with Section 63 of the Electricity Act, 2003 and Competitive Bidding Guidelines

Shri V.P. Raja, Chairman
Shri Vijay L. Sonavane, Member

ORDER

Dated: May 9, 2011

The Tata Power Company Limited's, Distribution Business (TPC-D), submitted a Petition under affidavit dated on February 2, 2011 under Sections 61 and 63 of the Electricity Act, 2003 (EA 2003) and Regulation 23 of MERC (Term and Conditions of Tariff) Regulations, 2005, seeking approval of the proposed Quantum of Power for Medium term power procurement through Competitive Bidding Process under Case 1 bidding and for the approval of Bidding documents in accordance with Section 63 of the EA 2003 and the "Guidelines for Competitive Bidding for determination of tariff for procurement of power by Distribution Licensees", dated January 19, 2005 as notified and amended by the Ministry of Power (MoP), Government of India.

2. The prayers in its Petition are as under:
- “
- a) *Examine and approve the power procurement under medium term.*
- b) *Approve the RfP and the PPA documents for procurement of power on medium term basis (Case 1) along with references.*

- c) *Condone any inadvertent omission/errors/shortcoming/and permit the Petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date.*
- d) *Grant suitable opportunity to the petitioner within a reasonable time frame to file additional material information that may be subsequently available and / or as may be required by the Hon 'ble Commission."*

3. TPC-D made the following submissions in the Petition:

I. Background under which the Petitioner has filed the Petition:

- a) Section 61 and 62 of the EA 2003 empowers the State Commissions to specify the terms and conditions for the determination of tariff for generation, transmission, distribution and supply of electricity in their State. In order to promote further competition, Section 63 of the EA 2003 provides the State Commission to adopt such tariffs which have been determined through a transparent process of Competitive Bidding. Section 63 of the EA 2003 lays down as under:

“

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 Govt."

- b) MoP in accordance with Section 63 of the EA 2003, came up with the *"Guidelines for Competitive Bidding for determination of tariff for procurement of power by distribution licensees (CBG)"* on January 19, 2005.
- c) The MoP subsequently issued the amendments to these guidelines on March 27, 2009 and also notified the Standard Bid Documents (SBD) for procurement of power on (Long-Term or Medium-Term) under Case 1 bidding. Further modifications were made in the CBG and the SBD on July 21, 2010.
 - (i) Clauses 3.1 and 5.16 of the CBG mandate the procurer to meet the following conditions prior to initiating the bidding process for procurement of power, which are as under:
 - a. Seek approval from the Appropriate Commission for the quantum of energy to be procured under Case 1.

- b. Seek approval from Appropriate Commission on the deviations in the Standard Bidding Documents (SBD) issued by the Ministry of Power, Government of India.

The relevant clause of CBG reads as follows -

“

3.1 (iii) Approval of the Appropriate Commission shall be sought prior to initiating the bidding process in respect of the following aspects:

(a) For the quantum of capacity/ energy to be procured, in case the same is exceeding the projected additional demand forecast for next three years following the year of expected commencement of supply proposed to be procured...”

...

5.16 In case there is any deviation from these guidelines, the same shall be subject to approval by the Appropriate Commission. The Appropriate Commission shall approve or require modification to the Bid Documents within a reasonable time not exceeding 90 days.”

II. Demand Projections

- a) TPC-D is one of the three Distribution licensees in the Mumbai supply region. In the past, TPC-D could not expand its distribution network much as it was restrained from carrying out supply to consumers with demand of less than 1000 kVA. However, the Hon'ble Supreme Court vide Judgment dated July 8, 2008 interpreted the licenses of TPC and held that TPC is entitled to supply to any consumer in its 485 sq. km. license area.
- b) Further, the Commission vide Tariff Order dated June 15, 2009 in Case No. 113 of 2008 for TPC-D allowed TPC-D to supply power to consumers in its license area, by utilizing the distribution network of the other distribution licensee already present in the area so as to optimize the capital expenditure by preventing the duplication of network.
- c) The Commission further issued Clarificatory Order in Case No. 113 of 2008 dated July 22, 2009 and the Order dated October 15, 2009 which paved the way for consumer changeover for availing the benefit of lower tariff of TPC-D.
- d) TPC-D has evaluated the demand supply gap till FY 2015-16 as per Regulation 23 of MERC (Terms and Condition of Tariff) Regulation 2005 which envisages that:

“The Distribution Licensee shall prepare a five-year plan for procurement of power to serve the demand for electricity in his area of supply and submit such plan to the Commission for approval.”

- e) TPC-D forecasted its demand based on the prevailing business environment and a restrained historical business growth, a hybrid of methods of trend analysis, end use analysis. It also developed a framework to separately capture growth of existing, prospective and changeover consumer and further verified it through the category specific approach.
- f) The sales projection for TPC-D’s existing as well as changeover consumers based on the aforementioned study is expected to be as follows:

Table 1: Sales projections till FY 2015-16

| All figures in MUs | FY 2010-11 | FY 2011-12 | FY 2012-13 | FY 2013-14 | FY 2014-15 | FY 2015-16 |
|--------------------|------------|------------|------------|------------|------------|------------|
| Direct sales | 2,689 | 2,911 | 3,082 | 3,229 | 3,409 | 3,628 |
| Changeover sales | 2,044 | 3,305 | 3,371 | 3,438 | 3,507 | 3,577 |
| Total sales | 4,733 | 6,216 | 6,453 | 6,667 | 6,916 | 7,205 |

- g) TPC-D’s existing loss level is hovering at around 1%. With an increase in the LT consumers in its network in the future years, TPC-D is expecting an increase in the distribution loss level for the consumers supplied power through its network.

The distribution loss level trajectory expected to be as follows:

| | FY 2010-11 | FY 2011-12 | FY2012-13 | FY 2013-14 | FY 2014-15 | FY 2015-16 |
|-------------------------|------------|------------|-----------|------------|------------|------------|
| Distribution Loss level | 1% | 1.25% | 1.5% | 1.75% | 2% | 2% |

- h) While projecting the distribution loss for changeover consumers, a distribution loss of 9 % is considered for LT consumers and 1.5% for HT consumers for arriving at the energy at the T < > D interface. The weighted average of the loss for FY 2010-11 works out to be at 4.63% which has been considered for projecting demand for the changeover consumers from FY 2010-11 to FY 2015-16.

- i) TPC-D has considered the transmission loss of 4.85% and load factor of 0.73 for the period FY 11 to FY 2015- 16, and has estimated the Demand projection at G<>T interface as follows:

Table 3: Peak demand projections till FY 2015-16

| | FY 2010-11 | FY 2011-12 | FY 2012-13 | FY 2013-14 | FY 2014-15 | FY 2015-16 |
|---------------------------------|------------|------------|------------|------------|------------|------------|
| Demand at Delivery point in MUs | 5,106 | 6,740 | 7,003 | 7,243 | 7,521 | 7,833 |
| Peak Demand in MW | 799 | 1,054 | 1,095 | 1,133 | 1,176 | 1,225 |

- j) TPC-D's existing demand is met partly from its own generating station at Trombay and Hydro power plants in Raigad District of Maharashtra as per the PPA signed between the Tata Power Company Limited – Generation (TPC-G) and TPC-D. Capacity available to TPC-D from TPC-G is 647 MW under the existing arrangement. TPC-D has planned to procure additional 198 MW of capacity from TPC-G from April 1, 2011. The total capacity available with TPC-D will be at around 845 MW considering the additional capacity from TPC-G. The source wise capacity allocation from different units of TPC-G is as tabulated below:

Table 4: Capacity Allocation (MW)

| Unit | Capacity | TPC-D existing arrangement | TPC-D additional arrangement in pipeline |
|-------------|----------|----------------------------|--|
| Unit 4 | 150 | 40 (Standby) | 42 (Standby) |
| Unit 5 | 500 | 183 | 61 |
| Unit 6 | 500 | 183 | 61 |
| Unit 7 | 180 | 66 | 22 |
| Hydro | 447 | 164 | 54 |
| Unit 8 - LA | 150 | 50 | |
| Total | 1927 | 646 + 40 (Standby) | 198 + 42 (Standby) |

- k) TPC-D would face the peak shortfall about 411 MW in FY 2015-16 after considering the additional capacity available with TPC-D , the peak shortfall is shown in the table below:

Table 5: Power procurement requirement

| | FY 2010-11 | FY 2011-12 | FY 2012-13 | FY 2013-14 | FY 2014-15 | FY 2015-16 |
|---|------------|------------|------------|------------|------------|------------|
| Peak Demand (MW) | 799 | 1,054 | 1,095 | 1,133 | 1,176 | 1,225 |
| Contract Power at bus bar (MW) ¹ | 622 | 814 | 814 | 814 | 814 | 814 |
| GAP | 177 | 240 | 281 | 319 | 362 | 411 |

¹ Capacity at G<>T interface after taking into account the auxiliary consumption

III. Procurement of power

- a) TPC-D has planned to procure 250 MW ($\pm 20\%$) power on medium term basis from April 1, 2012 to March 31, 2013 (Supply Period I) and 350 MW ($\pm 20\%$) power on medium term basis from April 1, 2013 to March 31, 2015 (Supply Period II & III) to ensure reliable power supply and to reduce the power procurements cost to its consumers,.
- b) TPC-D has planned to procure power initially on medium term basis and thereafter on a long term basis in order to ensure availability of power to the consumers at the earliest and also to allow sufficient time to bidders to develop their project on long term basis.
- c) TPC-D intends to procure power on medium term basis at the Delivery point on “Base load” basis and/or on “Diurnal Load” basis. This is because the upcoming load in the system is more of diurnal nature and operates between 09:00 -23:00 hrs. The total power requirement has been bifurcated into Base load and Diurnal load as shown below:

Table 6: Procurement of power

| Supply Period | Scheduled Delivery date | Scheduled Expiry Date | Procurement of power (MW) | |
|-------------------|-------------------------|-----------------------|---------------------------|----------------------|
| | | | Base | Diurnal (0900: 2300) |
| Supply Period I | April 1, 2012 | March 31, 2013 | 150 | 100 |
| Supply Period II | April 1, 2013 | March 31, 2014 | 200 | 150 |
| Supply Period III | April 1, 2014 | March 31, 2015 | 200 | 150 |

- d) TPC-D has proposed that the Bidder may choose to quote for any one or more of the Supply Periods and also choose to supply for either Base or Diurnal time blocks. The Bids will be evaluated on firm basis.
- e) TPC-D has proposed the delivery date as per the terms of the Standard Bid Documents, which is reproduced below:
 - “if the requisition capacity is less than 500 MW the scheduled delivery date shall be decided by the procurer.”*
- f) TPC-D in view of the above has requested the Commission to approve the quantum as proposed by TPC-D for procurement through the Competitive Bidding process.

IV. Bidding Documents

- a) In accordance with Clause 5.1 of the CBG, TPC-D was required to prepare the RFP and PPA in accordance with the MoP’s Standard Bidding Documents. Clause 2.2 of the Competitive Bidding Guidelines (“CBG”) stipulates that depending on the nature of load requirement separate Bid documents shall be issued by the Procurer.

The relevant portion of the clause reads as follows:

“

However separate RFP shall be used for procuring base load or peak load or seasonal load requirements as the case may be.”

Accordingly, Clause 2.2 of the CBG mandates that Procurer shall adopt separate RFP processes for procuring base load or peak load or seasonal load requirements, as the case may be.

- b) TPC-D has proposed to proceed with the single RFP document to provide procedural comfort to the bidders. TPC-D has called bids for meeting its base and diurnal load requirement for three consecutive supply periods of aggregate capacity of 250 MW and 350 MW respectively.
- c) To abide by Clause 2.2 of the CBG, TPC-D has proposed to invite separate financial bids for base and diurnal load for each of the Supply Periods. This will help in independent evaluation of the bids. Therefore, TPC-D has requested the Commission to allow to proceed with the single RFP document for the above medium term procurement process.
- d) The deviations (if any) and the references in the RFP and the PPA document vis-à-vis the Draft SBD issued by MoP for Case1 Bidding dated March 27, 2009, amended subsequently on July 21, 2010 are provided in the subsequent paragraphs.

V. Request for Proposal

- a) TPC-D has adopted the Standard RFP document except for the following deviation:

| Clause No. | Clause as per SBD | Proposed Clause |
|------------|--|---|
| 1.3.1 | The Procurer shall be wholly responsible to arrange transmission access from the station switchyard of the generation source in case of the generating source being in the same state as that of the Procurer. | The Seller shall be wholly responsible to arrange transmission access from the station switchyard of the generation source in case of the generating source being in the same state as that of the Procurer. However, if the evacuating line for the proposed generating source forms a part of the state transmission pool, the Procurer shall bear the Transmission charges as notified by the SERC. |
| 2.4.1.1 | Bidders shall have the option to quote firm Quoted Capacity Charges and / or firm Quoted Energy Charges for the term of | Bidders to quote firm Quoted Capacity Charges for the term of the PPA, i.e. the Quoted Escalable Capacity Charges and or Quoted Escalable Energy Charges shall |

| | | |
|--|---|--------------------------------------|
| | the PPA, i.e. where the Quoted Escalable Capacity Charges and / or Quoted Escalable Energy Charges shall be 'nil' for all the Contract Years. | be "nil" for all the Contract Years. |
|--|---|--------------------------------------|

b) **The reference proposed in the RFP document are as follows:**

| Clause No | Clause as per SBD | Proposed Clause |
|------------------|--|--|
| 1.3.1 | Requisitioned capacity and load requirement. | <ul style="list-style-type: none"> ▪ Supply Period I: 150 MW (Baseload) & 100 MW (Diurnal Load 0900:2300). ▪ Supply Period II & III: 200 MW (Base load) & 150 MW (Diurnal Load 0900:2300). |
| 1.3.1 | Scheduled delivery date | <ul style="list-style-type: none"> ▪ Supply Period I: April 1 2012 to March 31, 2013. ▪ Supply Period II: April 1, 2013 to March31, 2014. ▪ Supply Period III: April 1, 2014 to March 31, 2015 |
| 1.3.1 | Minimum Bid Capacity | 25 MW |
| 1.3.1 | Arranging Transmission Access | <p>Seller shall be responsible for arranging transmission access from the Injection Point to the Delivery Point.</p> <p>Such arrangement shall be as per the regulations specified by the Appropriate Commission, as amended from time to time</p> |

VI. Power Purchase Agreement

a) TPC-D has adopted the Standard PPA document except for the following deviation.

| Clause No | Clause as per SBD | Proposed Clause |
|-------------------|---|--|
| 1.1 (Definitions) | "Minimum Off take Guarantee" shall mean guaranteed off take of % | "Minimum Off take Guarantee" shall mean guaranteed offtake of sixty five percent (65%) of the Aggregate |

| | | |
|--|--|---|
| | <p>of the Aggregate Contracted Capacity for the procurer during a Contract Year.</p> | <p>Contracted Capacity for the Procurer during a Contract Year for Base Load and 80% of the Aggregated Contracted Capacity for the Procurer during a Contract Year for Diurnal Load during the time when the Availability of the Station is greater than the Minimum Offtake Guarantee. Further, the Off take percentage for this purpose shall be computed as per the following formula: Off take percentage = $\frac{\text{Yearly Average Off take in MW}}{\text{Contracted Capacity in MW}} * 100$; Where, For Base Load; Yearly Average Offtake in MW = $\frac{\text{Yearly Energy Off take in MUs}}{\text{no of hours (8760)}} * 1000$ For Diurnal Load; Yearly Average Offtake in MW = $\frac{\text{Yearly Energy Off take in MUs}}{\text{no of hours (5110)}} * 1000$</p> |
|--|--|---|

b) The references proposed in the PPA document are as follows:

| Clause No | Clause as per SBD | Proposed Clause |
|-------------------|---|---|
| Definition 1.1 | Normative Availability:....% % Availability of the Aggregate Contracted Capacity at the Interconnection Point on Contract Year basis | Normative Availability: 85% % Availability of the Aggregate Contracted Capacity at the Interconnection Point on Contract Year basis |
| 10.3.1 | Relief for Change in Law For every cumulative increase/ decrease of each Rupees [Insert amount] in the Capital | Relief for Change in Law: For every cumulative increase/ decrease of each Rupees One lakh twenty five thousand (Rs 1.25 lakhs) in the Capital Cost during the Construction Period, the |

| | | |
|-----------------|--|---|
| | <p>Cost during the Construction Period, the increase/ decrease in Non Escalable Capacity Charges shall be an amount equal to[Insert amount] of the Non Escalable Capacity Charges.</p> <p>In case of Dispute, Article 14 shall apply. It is clarified that the above mentioned compensation shall be payable to either Party, only with effect from the date on which the total increase/ decrease exceeds amount of Rs. [Insert Amount].</p> | <p>increase/ decrease in Non Escalable Capacity Charges shall be an amount equal to zero point two six seven percent (0.267%) of the Non Escalable Capacity Charges. In case of Dispute, Article 14 shall apply.</p> <p>It is clarified that the above mentioned compensation shall be payable to either Party, only with effect from the date on which the total increase/ decrease exceeds amount of Rs. One lakh twenty five thousand (Rs 1.25 lakhs) in the per MW capital cost, in relation to the Installed Capacity.</p> |
| Tariff Schedule | <p>Incentive payment</p> <p>Incentive shall be provided for availability of Contracted Capacity beyond ...%</p> | <p>Incentive payment</p> <p>Incentive shall be provided for availability of Contracted Capacity beyond 85%</p> |
| Tariff Schedule | <p>Penalty payment</p> <p>Penalty shall be levied for availability of Contracted Capacity below ...%</p> | <p>Penalty payment</p> <p>Penalty shall be levied for availability of Contracted Capacity below 80%.</p> |

4. The Commission issued a notice on February 24, 2011 scheduling the hearing in the matter on March 18, 2011 and directed TPC-D to serve copies of its Petition to the four Consumer Representatives authorised on a standing basis under Section 94(3) EA 2003.

5. The hearing in the matter was held at the Commission's office on March 18, 2011. During the hearing, Shri. V.H. Wagle, DGM, appeared on behalf of TPC-D, and Dr. Ashok Pendse of Thane Belapur Industries Association (TBIA), Authorised Consumer Representatives also attended the hearing.

6. Shri. V. H. Wagle, TPC-D made presentation during the hearing on the Demand/Supply position of TPC-D. Shri. Wagle briefly explained the methodology adopted for projecting the demand and sales for its existing consumers and change over consumers

from RInfra-D to TPC-D. Shri. Wagle cited the reasons for undertaking the deviations from the Standard Bid Documents under this Petition for Medium Term Power Procurement under Case I.

7. Shri. Ashok Pendse enquired that whether the changeover consumers includes changeover from either R-Infra/ BEST or only from R-Infra. Shri. V.H. Wagle submitted that the changeover consumers which have been considered for projecting the demand and sales include consumers from both R-Infra and BEST.

8. The Commission enquired about the rationale for change in the Minimum Off take Guarantee for Base Load and Diurnal Load i.e., 65% for Base Load and 80% for Diurnal Load of the aggregate Contracted capacity. Shri. V. H. Wagle submitted that 80% off take guarantee for diurnal load provides comfort to the Bidder.

9. Having heard the Parties, and after considering the material placed on record, the Commission is of the view as under:

In accordance with the provisions of the CBG, the scope of approval is the quantum of the power to be procured and deviations in the Bid Documents from the CBG and the Standard Bidding Documents before they are finally issued to the prospective bidders.

A. Approval of Quantum to be procured and Supply Periods

10. As regards the approval for the quantum of power to be procured, the Commission observes that Clause 3.1 (iii) (b) of the CBG stipulates as follows:

“
*Approval of the Appropriate Commission shall be sought prior to initiating the bidding process in respect of the following aspects:
...For the quantum of capacity / energy to be procured, in case the same is exceeding the projected additional demand forecast for next three years following the year of expected commencement of supply proposed to be procured. Such demand forecast shall be based on the latest available (at the time of issue of RFQ) Electric Power Survey published by Central Electricity Authority. (Both for Case 1 and Case 2)...*”

11. The Commission analysed the details of the demand as projected by TPC-D for the period from FY 2010-11 to FY 2015-16. Further, currently TPC-D has a Power Purchase Arrangement of 845 MW considering the additional capacity of 198 MW from April 1, 2011

by its Generation Business, i.e., TPC-G. Therefore, even after considering the additional capacity available with TPC-D, the power required of TPC-D is as under:

Power procurement requirement

| | FY 2010-11 | FY 2011-12 | FY 2012-13 | FY 2013-14 | FY 2014-15 | FY 2015-16 |
|---|------------|------------|------------|------------|------------|------------|
| Peak Demand (MW) | 799 | 1,054 | 1,095 | 1,133 | 1,176 | 1,225 |
| Contract Power at bus bar (MW) ¹ | 622 | 814 | 814 | 814 | 814 | 814 |
| GAP | 177 | 240 | 281 | 319 | 362 | 411 |

¹ Capacity at G<>T interface after taking into account the auxiliary consumption

12. From the above, the peak shortfall in FY 2015-16 would be close to 411 MW. Further, TPC-D has proposed to adopt 3 supply periods for procurement of power on medium-term basis for Base load and Diurnal load as under:

| Supply Period | Scheduled Delivery date | Scheduled Expiry Date | Procurement of power (MW) | |
|-------------------|-------------------------|-----------------------|---------------------------|----------------------|
| | | | Base | Diurnal (0900: 2300) |
| Supply Period I | April 1, 2012 | March 31, 2013 | 150 | 100 |
| Supply Period II | April 1, 2013 | March 31, 2014 | 200 | 150 |
| Supply Period III | April 1, 2014 | March 31, 2015 | 200 | 150 |

13. The Commission is of the view that the demand projected by TPC-D for future years appears to be reasonable considering the demand projected for FY 2010-11 and actual demand witnessed during the changeover period. However, in the context of the assumptions used for the demand projections, the Commission advised / suggested for improvement of historical data estimation of sales and consumption of electricity by use of the secondary data. Considering the above aspects, the Commission accords its approval to TPC-D's request to procure above quantum of power on medium-term basis through competitive bidding process under Case-1 Bidding in the different supply periods.

B. Approval of the deviations in the Bid Documents

14. The relevant portion of the clause reads as follows:

“

However separate RFP shall be used for procuring base load or peak load or seasonal load requirements as the case may be.”

Accordingly, Clause 2.2 of the CBG mandates that Procurer shall adopt separate RFP processes for procuring base load or peak load or seasonal load requirements, as the case may be.

- a) TPC-D has proposed to proceed with the single RFP document to provide procedural comfort to the bidders. TPC-D has called bids for meeting its base and diurnal load requirement for three consecutive Supply periods of aggregate capacity of 250 MW and 350 MW respectively.
- b) To abide by the Clause 2.2 of the CBG, TPC-D has proposed to invite separate financial bids for base and diurnal load for each of the Supply Periods. This will help in independent evaluation of the bids. Therefore, TPC-D has requested the Commission to allow to proceed with the single RFP document for the above medium term procurement process.

As regards Clause 2.2. of the CBG, the Commission accords approval of single RFP process of approval for procurement of base load or peak load requirements as TPC-D has invited separate financial bids for base and diurnal load for each supply periods.

C. Approval of deviation in Request for Proposal (RFP)

15. **Responsibility of arranging transmission Access:**

TPC-D has submitted the following clause to seek the approval of the Commission as the same is in deviation to the SBD documents:-

“

The Seller shall be wholly responsible to arrange transmission access from the station switchyard of the generation source in case of the generating source being in the same state as that of the Procurer.

However, if the evacuating line for the proposed generating source forms a part of the state transmission pool, the Procurer shall bear the Transmission charges as notified by the SERC.”

The clause in the SBD documents provides as follows – **“Procurer shall be wholly responsible to arrange transmission access from the station switchyard of the**

generation source in case of the generating source being in the same state as that of the Procurer.”

The Commission is of the view that small sellers will find it difficult to arrange the transmission access and hence, **the Commission disapproves the deviation from the SBD.**

16. As regards the deviation in RFP as under:

“
Bidders shall have the option to quote firm Quoted Capacity Charges and / or firm Quoted Energy Charges for the term of the PPA, i.e. where the Quoted Escalable Capacity Charges and / or Quoted Escalable Energy Charges shall be ‘nil’ for all the Contract Years.” The Commission approves the same.

17. Minimum Bid Quantity

As regards the customisation proposed by TPC-D, by specifying the minimum bid quantity of 25 MW, the Commission is of the view that this will facilitate greater participation, since smaller projects can also offer their power, and hence, greater competition, and may lead to discovery of a more competitive rate. Also, this may give more flexibility to TPC-D in meeting its short-term and long-term requirement. Hence, **the Commission approves this customization.**

D. Approval of deviation in Power Purchase Agreement

18. Normative Availability of 85% of the Aggregate Contracted Capacity at the Interconnection Point on Contract Year basis:

As regards the specification of normative Availability as 85% for payment of capacity charges, the same is in accordance with the “Amendment to the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees”, dated March 27, 2009, issued by the Ministry of Power, and hence, **the Commission approves the same.**

19. Minimum Off-take Guarantee

As regards the Minimum Off take Guarantee of 65% of the Aggregate Contracted Capacity for the Procurer during a Contract Year for Base Load and 80% of the Aggregated Contracted Capacity for the Procurer during a Contract Year for Diurnal Load during the time when the Availability of the Station is greater than the Minimum Off take Guarantee as specified by TPC-D, the same is in accordance with that

provided under Case-1 bidding process, and hence, **the Commission approves the same.**

20. Relief for Change in Law

As regards the Clause 10.3.1 regarding the Relief for Change in Law, the same is in accordance with that provided under Case I bidding process, and hence, **the Commission approves the same.**

21. Incentive payment

Incentive payment shall be provided for availability of Contracted Capacity beyond **85%**, the same is in accordance with that provided under Case-1 bidding process, and hence, **the Commission approves the same.**

22. Penalty payment

Penalty payment shall be levied for availability of Contracted Capacity below **80%**, the same is in accordance with that provided under Case-1 bidding process, and hence, **the Commission approves the same.**

23. The Commission directs TPC-D to amend the Bidding Documents by complying with the directions given in this Order and issue the modified Bidding Documents to Bidders and report compliance by submitting the same to the Commission.

With this Order, the Commission disposes of TPC-D's Petition in Case No.20 of 2011.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman