

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 63 of 2010

**In the matter of Maharashtra State Electricity Distribution Company Ltd.'s
(MSEDCL) Petition for approval of deviations for procurement of 2000
(±20%) MW power on medium term basis through International Competitive
Bidding Process (Case I)**

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

ORDER

Dated: December 01, 2010

The Maharashtra State Electricity Distribution Company Limited (MSEDCL) submitted a Petition on October 11, 2010, seeking approval for procurement of 2000 (±20%) MW power on medium term basis through International Competitive Bidding Process (Case I).

2. The prayers made by MSEDCL are as follows:

“



1. *Examine the proposed request for approval of deviations for procurement of 2000(±20%) MW power on medium term basis through International Competitive Bidding Process (Case I)*
2. *Approve documents for Medium Term Power procurement along with the deviations proposed therein from Standard Bidding Document issued by Ministry of Power;*
3. *Examine the concerns expressed by the petitioner for a favourable dispensation as detailed in the petition;*
4. *Grant expeditious approval on the deviations submitted thereof ”*

3. MSEDCL, in its Petition, submitted as under:

A. Introduction:

MSEDCL has filed the present petition seeking approval of deviations for procurement of 2000(±20%) MW power on medium term basis through International Competitive Bidding Process (Case I). The Petition has been filed under the provisions of Clause 3 (i) and (ii) read along with Clause 5.16 of the guidelines for determination of tariff by bidding process for procurement of power by Distribution Licensee issued by the Ministry of Power (MoP) on January 19, 2005 and as amended thereafter.

B. Grounds on which present Petition is filed:

a. MSEDCL has prepared the demand-supply scenario based on the 17th EPS. In the said demand supply scenario, prepared by MSEDCL the Uran gas based power generation project and Lanco Energy Pvt. Ltd. Teesta VI power project were considered to be commissioned in the year 2011-12.

b. However, MSEDCL understands that the said Uran gas project and the Lanco Energy Pvt. Ltd. Teesta VI are getting delayed. With the delay in commissioning of the two said power generation projects, there would be a gap of 2000 MW which requires to be filled up.



c. Therefore, MSEDCL had proposed to carry out 2000 MW medium term power procurement with a single deviation which was heard by the Commission as Case No. 14 of 2010. During the proceedings of the said case, the Commission had asked for additional information which was provided by MSEDCL.

d. In the meantime, the MoP issued amendments to Case I bidding guidelines and RFP and other bidding documents on July 21, 2010. Therefore, additional deviations were sought by MSEDCL in Case 14 of 2010.

e. But, the Commission in its Order dated September 8, 2010 in Case 14 of 2010 had held as under:

“The Commission has taken a view that as the matter has already been heard by the Commission in the presence of the Consumer Representatives on June 29, 2010, the Commission, through this Order cannot consider the new prayers and the new deviations to the SBD as proposed by the Petitioner. Therefore, the Commission has restricted itself to the matter in the original Petition and the clarifications submitted by the Petitioner in response to the directives issued during the hearing, and the Commission hereby directs the Petitioner to submit a separate Petition for any new deviation that it may wish to incorporate.”

f. In view of the directions given by the Commission, MSEDCL has filed a fresh Petition before the Commission for approval of further deviations from Standard Bidding Documents (SBD) for procurement of 2000 ($\pm 20\%$) MW power on medium term basis through International Competitive Bidding Process (Case I) for the period from January 2011 to December 2012.

C. Proposed deviations in the SBD:

a. Contract period:

To allow the bidder to supply for first contract year i.e. January 1, 2011 to December 31, 2011 **and/or** second contract year i.e. from January 1, 2012 to December 31, 2012.



b. Evaluation of Bid:

To accept the bid on **firm basis** and evaluation of bid to be done separately for each contract year.

c. Evacuation arrangement:

The responsibility for arrangement of requisite power evacuation system up to the STU interface is to be with the **bidder/seller** even if the project is located within the Maharashtra State periphery.

4. The Commission, vide its Notice dated October 20, 2010, scheduled a hearing in the matter on November 25, 2010, and directed MSEDCL to serve a copy of its Petition along with its accompaniments to the Consumer Representatives authorised under Section 94(3) of the Electricity Act 2003.

5. Hearing:

a. During the hearing, Shri. Chavan, C.E (Power Purchase), MSEDCL, Shri. S.G. Metre, EE (Power Purchase), MSEDCL and Shri. N.N. Chunarkar, represented MSEDCL. Consumer Representative, Shri. Shantanu Dixit from Prayas Energy Group was present for the hearing.

Shri. Chavan submitted that the three basic deviations in the Petition are the delivery date, firm price and the evacuation, which are proposed to enable MSEDCL to procure the said quantum of power from a wide supplier base at competitive cost.

b. Submissions of Prayas Energy Group:

Shri Shantanu Dixit, Prayas Energy Group (Prayas) stated that MSEDCL needs to improve the methodology of comprehensive planning over long range so as to make realistic load forecasts and timely efforts for mitigating the ever growing



energy requirement. Shri Dixit stated that the present methodology used by MSEDCL suffered from lack of sufficient data acquisition and incorrect assumptions. MSEDCL's power planning process needs thorough revamping. Shri Dixit also expressed that almost all the petitions put up by MSEDCL were accompanied by deviations sought to the Standard Bidding Documents (SBD) brought out by the Ministry of Power. Shri Dixit further expressed that in case such deviations were essential to customize the bid documents, MSEDCL should clearly bring out the list of such deviations and indicate their locations and affirm on affidavit along with its petition that the deviations in the documents were restricted to the said list only.

Further, Shri Dixit submitted that as per the SBD, MSEDCL/procurer is responsible for the evacuation of power for Open Access. But the deviation proposed here by MSEDCL requires the seller to ensure the evacuation of power. Due to such change there will be limited projects in Maharashtra, who will be interested in participating in the said bidding. This will slow the competition in the Competitive Bidding process and will give a set back to the power purchase procedure, eventually causing power crises situation in Maharashtra State. Moreover, Shri. Dixit stated that MSEDCL should be very selective in proposing deviations and should be clear on the grounds on which they submit the deviations.

c. **Monitoring of power projects and corrective actions:**

- i. The Commission enquired with MSEDCL regarding the methodology used for projecting the demand-supply gap in its licensed area, and especially, whether the progress of upcoming generation projects with whom MSEDCL has tied up, is being monitored. In this respect, it was observed that while approving the request put up by MSEDCL for approval of deviations in the said power procurement plan, vide its Order in the matter of Case 14 of 2010, the Commission had held as follows:

“Item 10 c: The Commission has noted from the information furnished by MSEDCL that some of the power projects are getting delayed. The



Commission instructs MSEDCL to improve the monitoring of the new generation projects and arrange for more frequent site visits. Any indication regarding delay or non-availability of contracted capacity should be dealt with expeditiously. ”

- ii. MSEDCL explained that it acquires the said information from MSPGCL and referred to the information regarding postponement of the Commercial Operation Date (COD) of some of the projects (e.g. The Bhusaval expansion, Uran expansion, Chandrapur units 8, 9 Adani project, Lanco project etc.). The Commission observed that there was variance between the COD stated by MSEDCL and those in the latest list brought out by Central Electricity Authority (CEA). The Commission gave a copy of the list obtained from the CEA to MSEDCL and directed MSEDCL to verify the projected dates so as to get the correct picture. The Commission observed that in spite of the severe power shortage condition, MSEDCL was not monitoring vital information regarding the progress of power projects properly.

d. Commission’s directives in Case No. 14 of 2010:

The Commission had held in the said Order in the matter of Case 14 of 2010 regarding improvement of methodology used for load forecasts as follows:

“The Commission is not at all satisfied with the non-scientific methodology and approximations / assumptions used by MSEDCL to make its demand projections. In the past, the Commission has repeatedly impressed upon MSEDCL that mere dependence on EPS data is not adequate to make load projection for its license area. On scrutiny of the information furnished by the Petitioner it is amply clear that the entire process needs tremendous improvement and therefore, the Commission directs MSEDCL to improve its methodology regarding load projections, especially regarding the issues sited above, and make a presentation to the Commission in 1 month’s time



regarding the improvements incorporated in the same for better accuracy. The presentation should also include methodology it intends to apply to take effective and timely steps to eliminate demand supply gap in its license area.

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The Commission observed that MSEDCL has neither complied with said directives nor has it given any feedback regarding improvements in the process. The Commission enquired with MSEDCL the reason for not complying with the directives given in its above mentioned Order. The Commission further observed that in view of the omnipresence of MSEDCL in every load centre in the State and at locations in the State where the power projects are coming up, it would not be difficult for MSEDCL to collect the required data. The Commission appreciated the concern of MSEDCL to meet the power shortage condition in the State. But at the same time, the Commission reminded MSEDCL that the procedural details cannot be compromised indiscriminately. The Commission is concerned due to inability of MSEDCL to grapple with the issue in a systematic manner. The Commission will nominate a team of officers from the Commission’s office for this purpose, to interact with the Power Procurement team of MSEDCL on continuous basis. The Cell so formed, will closely work with MSEDCL to evolve a systematic long term monitoring process.

6. **Observations of the Commission regarding Deviations proposed:**

The Commission is aware that the State is passing through grave power crisis, and understands the crucial role that MSEDCL is required to play in mitigation of the crisis. The Commission has made it clear that the process, procedures and general methodology used by MSEDCL are grossly inadequate. However, the Commission understands that the causes for delays in commissioning of the power projects with whom MSEDCL has made a tie-up are beyond MSEDCL’s control and efforts need to be made so as not to aggravate the power



crisis further. With the above focus, the Commission's observations regarding the deviations proposed by MSEDCL are as follows:

a. Deviation 1: Contract period:

To allow the bidder to supply for first contract year i.e. January 1, 2011 to December 31, 2011 **and/or** second contract year i.e. from January 1, 2012 to December 31, 2012.

MSEDCL has approached for the approval, to allow the bidder to supply for the first contract year i.e. January 1, 2011 to December 31, 2011 and /or second contract year i.e. January 1, 2012 to December 31, 2012.

MSEDCL has explained that the said splitting up of the contact period of 2 years in two spans of one year each will allow it to enter into contracts with the suppliers at very competitive rates and will also enable it to make the procurements only in the periods of power shortage.

The Commission approves the said deviation as the same will benefit the consumers in terms of reduced cost. The Commission however observes that the period between the issue of approved order and the date of 1st January 2011, which is the intended date of commencement of contract, may not be sufficient to satisfy the stipulations in the Standard Bidding Guidelines (SBG) regarding the requisite time period to be provided to the bidders for submission of the bids. MSEDCL is hereby directed to address the issue by revising the dates and keep the Commission informed regarding the revision made to the contract period to suit the SBG requirements.

b. Deviation 2: Evaluation of Bid:

To accept the bid on **firm basis** and evaluation of bid to be done separately for each contract year.

As the power supply contract as above is likely to be as short as one year, MSEDCL has requested to allow Firm tariff instead of variable or escalable tariff. In view of the practicality of the aspect, the Commission approves the said deviation.



c. Deviation 3 : Evacuation arrangement:

MSEDCL has proposed for placing the responsibility for arrangement of requisite power evacuation system upto STU interface, to the bidders. The Commission feels that the cost of any power evacuation arrangement made by a prospective power supplier with a short term contract for power supply may escalate the power supply cost of the said supplier, and hence the invitation to bid may get restricted, only for those suppliers who are already connected to the Intra State Transmission System.

The Commission directs MSEDCL to ensure that the rigidity as above should be avoided by MSEDCL in view of requirement of fairness and transparency in the said process.

7. The Commission is keen on facilitating procurement of more power for Maharashtra as the demand for electricity is rising and is bound to rise more with the rise in the agricultural activities and industrialization within the State. However, as stated above, there are some procedural requirements that need to be followed with due diligence. Thus, MSEDCL is suggested to build optimistic scenarios as well as pessimistic scenarios. The Commission feels that it would be incorrect to hastily drop a pessimistic scenario, even if it brings out organizational inadequacies. MSEDCL needs to understand that in view of the dynamic industrial and commercial activities in the State, monitoring of power scenario and trends thereof, needs to be given a top priority by MSEDCL in the days to come. The Commission has already taken a pro-active step by forming a cell in its office to interact with and help MSEDCL in the matter.



With the above Case No. 63 of 2010 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman



(K. N. Khawarey)
Secretary, MERC