

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 39/MP/2012

**Coram: Dr. Pramod Deo, Chairperson
Shri S. Jayaraman, Member
Shri V.S. Verma, Member
Shri M. Deena Dayalan, Member**

**Date of Hearing: 20.3.2012
Date of Order: 12.6.2012**

In the matter of

Application under para 5.16 of the "Guidelines for determination of tariff by bidding process for procurement of power by Distribution Licensees" issued by Ministry of Power, Government of India under Section 63 of the Electricity Act, 2003 for extension of bid processing period in respect of Chhattisgarh Surguja Power Limited.

And

In the matter of

Chhattisgarh Surguja Power Limited, New Delhi ...**Petitioner**

Following were present:

Shri Damodar Balapure, CSPL
Shri Sanjay Mehrotra, CSPL

ORDER

The petitioner, Chhattisgarh Suguja Power Limited (CSPL) has filed this petition seeking approval of the Commission for extension of time (for a further period of 730 days i.e. upto 13.3.2014) to complete the bid process of the project to select a successful bidder.



2. The petitioner has submitted that CSPL was incorporated as Special Purpose Vehicle (SPV) for establishment of a coal based thermal pithead power plant of a gross capacity of 4000 MW to be set up at villages Salka/Khamaria in Tehsil Udaipur of District Surguja in the State of Chhattisgarh on build, own and operate basis. The petitioner is a wholly owned subsidiary of the Power Finance Corporation Limited and is acting as the Authorized Representative of the Procurers of electricity from the project namely, Chhattisgarh, Maharashtra, Madhya Pradesh, Gujarat, Goa, Daman & Diu, and Dadra & Nagar Haveli.

3. The petitioner has submitted that as per the guidelines notified by the Ministry of Power, Government of India for procurement of power by the distribution licensees through competitive bidding, the Request for Qualification (RfQ) for the project was issued on 15.3.2010 after completion of the activities required under the guidelines. The last date for submission of RfQ was extended ten times on each occasion by two to three months on the advice of Ministry of Power, Government of India due to forest related issues concerning the coal blocks allocated to the project. The last date of submission RfQ was 4.6.2012. The Ministry of Power has also indicated that the forest related issues relating to the coal blocks are expected to take some more time as the issue will be resolved by the concerned Ministry of Government of India in due course. Further, 5.16 of the Guidelines provide that in case there is any deviation from this guidelines, the same shall be with the prior approval of the appropriate Commission.

4. The petitioner has submitted that the bid process was initiated by issuing Request for Qualification for the project on 15.3.2010. In the two stage bid process, as per the guidelines, a time limit of minimum 270 days and maximum 730 days has been prescribed to complete the bid process. The time limit 730 days provided in the Guidelines has expired on 14.3.2012. The petitioner has further submitted that the Board of CFSL in its 28th meeting held on 27.2.2012 has approved proposal for extension of bid process time line for 730 days from 14.3.2012 to 13.3.2014. Accordingly, the petitioner has prayed for the approval of the extension of time for completion of the bid process by a further period of 730 days from 14.3.2012 i.e. till 13.3.2014.

5. During the hearing, the representative of the petitioner submitted that considering the problems associated with the projects, minimum period of 270 days is not sufficient to complete the bid process and the Commission may consider to grant another 730 days.

6. We have considered the request of the petitioner. The Guidelines issued by the Ministry of Power, Government of India provides the following time bound for the Stage 2 bidding process

S. No.	Event	Elapsed time from zero date
1.	Publication of Request for Qualification (RfQ)	Zero date
2.	Submission of RfQ	45 days
3.	Issue of Request for Proposal (RfP)	75 days
4.	RfP bid submission	225 days

5.	Evaluation of bids and issue of Letter of Intent (LoI)	240 days
6.	Signing of Agreements.	270 days

7. It is noticed that the bidding process has to be completed within a period of 270 days. It is however seen that on account of forest related issues, the petitioner has not been able to proceed beyond the stage of submission of RfQ. In fact, the petitioner has fixed the last date for submission of RfQ as 4.6.2012. As per the guidelines, the process of submission of RfQ has to be completed within 45 days. Thereafter, the process will take another 225 days for completion. In this case, the petitioner has prayed for 730 days time from of 14.3.2012 i.e. till 13.3.2014.

8. Clause 5.18 of the Guidelines provides as under:

"In the two stage bid process,

- (i) a minimum period of 45 days shall be allowed between the publication of RfQ and last date of submission of responses to RfQ and*
- (ii) a minimum period of 150 days shall be allowed between the issuance of RFP and the last date of RFP bid submission.*

Subject to the completion of necessary milestones in respect of project preparatory activities as given in clause 3.2 of these Guidelines, the timetable for the bid process is indicated in Annexure-I. In normal circumstances, the bid process is likely to be completed in a period of 270 days.

The Procurer may give extended timeframe than indicated in the Annexure-I. However, if the bidding process is likely to take more than 730 days, approval of the Appropriate Commission shall be obtained in accordance with clause 5.16."

9. In accordance with the above provisions, the Commission has been vested with the power to extend the period of completion of bid process beyond the 730 days, in accordance with clause 5.16 of the Guidelines. Clause 5.16 of the guidelines provides

that in case there is any deviation from the guidelines, the same shall be with the approval of the appropriate Commission.

10. We are conscious of the fact that the selection of a successful petitioner for the Ultra Mega Project is to be done on time bound basis. Therefore, we are not inclined to grant 730 days as prayed by the petitioner. In our view it will be sufficient if the petitioner is allowed 225 days time for completion of the process from the date of submission of the RfQ and extra 75 days time to take care of any forest related issues. Accordingly, in exercise to our power in clause 5.16 read with 5.18 of the guidelines we allow the petitioner to complete the process of selection of the bidder by 30.3.2013.

11. The petition No. 39/MP/2012 is disposed of in terms of above.

sd/-
(M.DEENA DAYALAN)
MEMBER

sd/-
(V.S.VERMA)
MEMBER

sd/-
(S.JAYARAMAN)
MEMBER

sd/-
(Dr. PRAMOD DEO)
CHAIRPERSON