

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 134/MP/2012**

**Coram  
Dr. Pramod Deo, Chairperson  
Shri S.Jayaraman, Member  
Shri V.S.Verma, Member**

**DATE OF HEARING: 14.6.2012**

**DATE OF ORDER: 25.7.2012**

**In the matter of**

Application under para 5.16 read in conjunction with para 5.18 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 vide Notification No. 23/1/20404- R&R (Vol-II) dated 19.1.2005 (including amendments dated 30.3.2006, 18.8.2006, 27.9.2007, 27.3.2009 and 21.7.2010) under Section 63 of the Electricity Act, 2003 for extension of bid processing period in respect of Ultra Mega Power Project of Orissa Integrated Power Limited.

**And**

**In the matter of**

Orissa Integrated Power Limited, New Delhi

...**Petitioner**

**Following were present:**

Shri Sanjay Mehrotra, OIPL  
Shri Kamlesh Menon, OIPL  
Shri P.P.Srivastava, OIPL  
Shri P.C. Hembam, OIPL  
Shri Ravi Sishnoi, OIPL

**ORDER**

The petitioner, Orissa Integrated Power Limited has filed this petition



seeking approval of the Commission for extension of time (for a further period of 730 days i.e. up to 31.3.2014.) to complete the bid process of the project to select a successful bidder.

2. The petitioner has submitted that Orissa Integrated Power Limited (hereinafter referred to as 'OIPL') was incorporated as Special Purpose Vehicle (SPV) for establishment of coal based thermal pithead power plant of a gross capacity of 4000 MW to be set up at village Bhedabahal in District Sundergarh in the State of Odisha 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, Odisha, Chattisgarh, Haryana, Madhya Pradesh, Tamil Nadu, Punjab, Uttarakhand and Uttar Pradesh.

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 11.6.2010 after completion of the activities required under the Guidelines. The last date for submission of RfQ was extended six times by two months on each occasion 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 of RfQ was 30.7.2012. It has been submitted that as per

Guidelines, submission of application for environment clearance to administrative authority responsible for according final approval is a pre-requisite for issuance of RfQ. Ministry of Environment and Forest vide its Memorandum dated 9.9.2011 revised its circular dated 31.3.2011 by requiring intimation of status of application for forest diversion to Expert Appraisal Committee (EAC) for considering the proposal for environmental clearance. Accordingly, application for obtaining environment clearance was submitted to the concerned authority on 3.1.2012. However, Ministry of Environment and Forest has indicated that application would be submitted to EAC after availability of the environmental and forestry clearance of the allocated coal blocks. For resolving the issue, the matter was referred to CEA on 10.2.2012. The matter was further taken up by the Secretary (Power) with Secretary, Environment and Forest vide letter dated 24.2.2012.

4. The petitioner has submitted that out of the 3244.163 acres of land required for the project, 68.88 acres are forest land and this requires diversion of forest land for non-forest use. The Forest Diversion Proposal was submitted to the concerned State Government agency on 18.5.2011 which was forwarded to the Principal Chief Conservator, Rourkela for further process on 31.3.2012. The stage-I forest clearance was expected by end of June, 2012.

5. The petitioner has further submitted that Ministry of Power vide its letter dated 13.12.2011 has intimated that the decision of EGoM on the issue

related to Standard Bid Documents to be followed for the preparation of the RfQ documents for OIPL as and when decided would be intimated to PFC. The petitioner has submitted that RfQ documents could be prepared only after obtaining the decision of EGoM.

6. The petitioner has submitted that bid process was initiated by issuing Request for Qualification for the project on 11.6.2010. 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 9.6.2012. The petitioner has further submitted that the Board of OIPL vide its Resolution dated 15.5.2012 had approved proposal for extension of bid process time line for 730 days from 10.6.2012 to 9.6.2014. Clause 5.16 of the Guidelines provides that in case, there is any deviation from these Guidelines, the same shall be with the prior approval of the appropriate Commission. Accordingly, the petitioner has prayed for the approval of extension of time for completion of the bid process by a further period of 730 days from 10.6.2012 to 9.6.2014 in deviation of the Guidelines in accordance with clause 5.17 thereof.

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

8. 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

9. It is noticed that the bidding process has to be completed within a period of 270 days. However, 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 30.7.2012. 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 10.6.2012 i.e till 9.6.2014.

10. 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 period 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 the accordance with clause 5.16 of the Guidelines."*

11. 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 day, 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.

12. We are conscious of the fact that the selection of a successful bidder 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 an additional 75 days time to take care of any forest related issues. Accordingly, in exercise of 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 5.4.2013.

13. The petition No. 134/MP/2012 is disposed of in terms of above.

Sd/-

**(V.S.VERMA)**  
**MEMBER**

sd/-

**(S.JAYARAMAN)**  
**MEMBER**

sd/-

**(Dr. PRAMOD DEO)**  
**CHAIRPERSON**