

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.229/MP/2017

Subject : Adjudication of disputes between NTPC Vidyut Vyapar Nigam Limited and Power Company of Karnataka Limited related to the procurement of power pursuant to Tariff Based Competitive Bid Process undertaken by the Power Company of Karnataka

Petitioner : NTPC Vidyut Vyapar Nigam Ltd (NVVNL)

Respondent : Power Company of Karnataka Ltd (PCKL)

Date of hearing : **19.4.2018**

Coram : Shri P.K.Pujari, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Parties present : Shri M.G.Ramachandran, Advocate, NVVNL
Ms. Ranjitha Ramachndran, Advocate, NVVNL
Ms. Anushree Bardhan, Advocate, NVVNL
Shri Abhay Kumar Srivastava, Advocate, NVVNL
Shri Nishant Gupta, NVVNL
Shri Anurag Gupta, NVVNL

Record of Proceedings

During the hearing, the learned counsel for the Petitioner, NVVNL mainly submitted the following:

- (a) The respondent, PCKL invited bids for procurement of power for quantum of 900 MW for the period 15.11.2016 to 30.11.2016 and accordingly submitted online bid for 250 MW with Earnest Money Deposit (EMD) of Rs 64 lakh.
- (b) The respondent issued LOA to the Petitioner for purchase of 100 MW for the period from 17.11.2016 to 30.11.2016. Since SRLDC had approved open access scheduling of only 25 MW (out of 100 MW), the Petitioner offered to supply 37.5 MW and 30 MW respectively to the respondent from alternate source, which was approved by the respondent.
- (c) Thus, in aggregate, the Petitioner made available 92.5 MW (12.5+12.5+37.5+30) for open access and supply to the respondent. However, the



balance 7.5 MW could not be arranged for reasons beyond the control of the Petitioner and on account of transmission corridor constraints.

(d) The respondent had forfeited the EMD of Rs 64 lakh and had also recovered liquidated damages of Rs 13.65 lakh for shortfall in the supply of balance 7.5 MW power. The respondent has no right to appropriate the EMD and LD the same is contrary to the bid documents.

2. Accordingly, the learned counsel for the Petitioner submitted that the respondent may be directed to return the entire amount of the EMD and the LD together with interest from 31.12.2016 till the date of return of amount to the Petitioner.

3. None appeared on behalf of the respondent, PCKL. On a specific query by the Commission if copy of the Petition was served on the respondent, the learned counsel for the Petitioner replied in the affirmative. The Commission however observed that the respondent may be given time to file its reply / written submissions in the matter, as a last chance.

4. Accordingly, the Commission directed the respondent to file its reply/ written submissions, on affidavit, on or before **14.5.2018**, with advance copy to the Petitioner who shall file its rejoinder / response by **22.5.2018**. No extension of time shall be granted for any reason whatsoever. In case no reply/written submissions are filed within the due date mentioned, the matter shall be decided based on available records.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**

