

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 168/MP/2019

Subject : Petition under Section 79 of the Electricity Act, 2003 read with Article 13 of the Power Purchase Agreement dated 22.4.2007 and Clause 4.7 of the Competitive Bidding Guidelines and this Commission's order dated 17.9.2018 in Petition No. 77/MP/2016.

Petitioner : Coastal Gujarat Power Limited (CGPL)

Respondents : Gujarat Urja Vikas Nigam Limited (GUVNL) and others

Date of Hearing : 21.1.2020

Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member

Parties Present : Shri Amit Kapur, Advocate, CGPL
Shri Kunal Kaul, Advocate, CGPL
Shri Samikrith Rao, Advocate, CGPL
Ms. Ranjitha Ramachandran, Advocate, GUVNL, Haryana & Rajasthan Discoms and PSPCL
Ms. Poorva Saigal, Advocate, GUVNL, Haryana & Rajasthan Discoms and PSPCL
Ms. Tanya Sareen, Advocate, GUVNL, Haryana & Rajasthan Discoms and PSPCL
Shri Pulkit Tare, Advocate, MSEDCL
Shri Anup Jain, Advocate, MSEDCL

Record of Proceedings

Learned counsel for the Petitioner submitted that the present Petition has been filed, *inter-alia*, for approval of capital expenditure of Rs. 2715 crore to be incurred by Petitioner due to installation of Flue Gas Desulphurisation (FGD) System pursuant to the liberty granted by the Commission in order dated 17.9.2018 in Petition No. 77/MP/2016. Learned counsel for the Petitioner handed over note on arguments and mainly submitted as under:

(a) Central Electricity Authority (CEA) in its report for installation of FGD to comply with the revised norms relating to Sulphur Dioxide in respect of the Petitioner's Project has given an indicative capital expenditure of Rs. 0.30 crore/MW (i.e. total capital expenditure of Rs. 1245 crore). CEA in its report has not provided any justification, scope of work, norms and assumptions, etc. considered by it for computing the capital expenditure. Further, CEA also did not consider various associated elements/costs, namely, gas to gas heater, sea water intake system, Restoration of existing roads and re-routing of utilities, piping for FGD return water and recurring operational expenditure, etc.

(b) After conducting the detailed bidding process followed by the round of negotiations, the hard cost discovered by the Petitioner for installation of FGD is Rs.0.39 crore/MW as against Rs.0.30 crore/MW as indicated by CEA and total

cost as per the Petitioner works out to Rs.0.65 crore/MW which also includes owner's cost, statutory taxes and duties, contingency cost and other ancillary expenditure/cost.

(c) The Commission in its order dated 11.11.2019 in Petition No. 152/MP/2019 in the case of Maithon Power Limited v. TPDDL and Ors. has observed that the estimated costs by CEA are indicative only and that various items have not been considered by CEA in its report and accordingly has granted in-principle approval for additional cost claimed by the Petitioner therein. Similarly, the cost discovered by the Petitioner after the open competitive bidding also ought to be allowed.

2. Learned counsel for the Respondents, GUVNL, Haryana and Rajasthan Discoms and PSPCL, mainly submitted as under:

(a) For similarly sized project, Sasan Power Limited has claimed the total expenditure on account of installation of FGD system at Rs. 2400 crore as against the Petitioner's claim of Rs. 2715 crore despite having wet FGD system which has admittedly higher cost than the Petitioner's sea water based FGD.

(b) The Commission vide Record of Proceeding dated 29.8.2019 had requested CEA to comment on technology to be adopted by the Petitioner. However, CEA has not dealt with the Petitioner's additional requirements/claims such as gas to gas heater, sea water intake, temporary circulating water outfall channel, restoration of existing access roads and re-routing of utilities, FGD return water and other miscellaneous cost which are in addition to the CEA's report and need to be verified by CEA.

(c) Impact of additional expenditure on account of installation of FGD system has to be considered based on project capacity of 4000 MW as the bid and PPA executed was based on 4000 MW capacity only and not 4150 MW. Expansion of the Project capacity to 4150 MW was the choice of the Petitioner and impact due to such additional capacity cannot be passed onto the procurers.

(d) On the various additional claims such as owner's cost, IDC, contingency expenditure, opportunity cost, GST, auxiliary consumption and recurring operation expenditure, the Respondents have made detailed submission in their replies which may be considered.

3. Learned counsel for the Respondent, MSEDCL adopted the arguments submitted by the learned counsel for the Respondent GUVNL and submitted that it is pre-mature to determine the actual cost to be incurred by the Petitioner at this stage and the various claims of the Petitioner need to be verified.

4. In rebuttal to the contention of the Respondents regarding the restriction of capacity to 4000 MW, learned counsel for the Petitioner submitted that change in the configuration of units/capacity of the project was duly approved and relevant capacity in this regard is contracted capacity as per the PPA i.e. 3800 MW, which has remained unchanged. Learned counsel sought permission to file additional submission on this limited issue.

5. After hearing the learned counsels for the parties, the Commission directed the Petitioner to file the following information/documents on affidavit by 10.2.2020 with copy to the Respondents who may file their responses, if any, on or before 17.2.2020:

(a) Relevant capacity of the project to be considered by 7.2.2020;

(b) Detailed note on bidding (ICB or domestic) award of different packages (firm basis or escalation basis), bidders participated in the bid and L1 bidder with awarded cost of each packages, etc.;

(c) Difference in cost against Chimney package of Rs. 104.03 crore and Rs. 70.24 crore as submitted at Para 32 of the Petition.; and

(d) Details of the opportunity cost claimed along with copy the supporting documents/calculations.

6. As per Paras 43 to 59 of the Petition, some of the additional equipments, namely, GGH, Booster fan, installation of sea water intake channel and new chimney, etc. are required for the proposed sea water based FGD system. Staff of the Commission is directed to request CEA to comment on the necessity of these equipments and the associated cost.

7. The Commission directed that due date of filing the information and response thereof should be strictly complied with. No extension shall be granted on that account.

8. Subject to the above, the Commission reserved order in the Petition.

By order of the Commission

**Sd/-
(T.D. Pant)
Deputy Chief (Law)**