

Distribution Licensees have not been factored in the Bidding Documents. The main concerns of MSEDCL are with regard to:

- a. Eligibility of the bidder in the Bidding Documents;
 - b. Utilization of concessional fuel and pooled sources of power for bidding;
 - c. Change in Law clauses, which are more relevant to Generation Companies and Traders; and
 - d. The need for illustration of the Reverse E-bidding modalities for medium-term power purchase, as it is being undertaken for the first time in the country.
2. MSEDCL stated that, in the Pre-Bid Meeting held on 26 September, 2017, BEST had assured the prospective bidders that bidding would take place only after all their queries are resolved satisfactorily. However, the clarifications issued by BEST are insufficient and summary, and mostly merely refer to the provisions of the Model Bidding Documents (MBD). MSEDCL has a pool of surplus power available from IPPs, MSPGCL and Central Generating Stations (CGS). Many of these use concessional fuel, i.e. on the basis of coal linkages. Being a Distribution Licensee, it would be able to provide power from pooled sources, comprising both concessional and non-concessional fuel sources, considering the position as per the Merit Order Dispatch (MOD). Hence, BEST's bidding process should enable consideration of such pooled power from MSEDCL as a deemed Trading Licensee.
3. MSEDCL also stated that the Change in Law Clauses of the draft PPA are specific to either Generation Companies or Traders. Instead, it suggested a mechanism of weighted average computation of impact of Change in Law from the pool of generation sources from which power is to be supplied to BEST, since calculation of NPV for pooled sources of power is complicated in its case. MSEDCL would claim the impact of Change in Law considering the change in taxes and other levies, excluding the impact of Fuel Adjustment Charges (FAC). The Commission asked MSEDCL how the weighted average claim on account of Change in Law would be computed, when the Generating Units are not identified and power is provided from pooled sources. MSEDCL replied that it was presently paying the impact of Change in Law to different Generators, and would compute the weighted average impact of Change in Law for the pooled sources. The Commission observed that the computation of impact of Change in Law should be unambiguous in order to avoid complications and disputes in interpretation at the contract implementation stage.
4. The Commission asked MSEDCL whether it had evaluated the implications of supplying power from pooled sources, and how it would be filling up the different Formats requiring Generating Unit-wise particulars. The Commission also asked MSEDCL if there was any clause in the PPA enabling it to change the source of power generation at a later stage in case of any revision in the MoD position or non-availability of any tied-up source. MSEDCL stated that the PPA provides for supply from alternate sources in such

circumstances. The Commission observed that, while MSEDCL or other Distribution Licensees may offer power from pooled sources of power, the Units would have to be identified, and power could be supplied from alternate sources if necessary at the time of real-time despatch in accordance with the provisions of the PPA.

5. MSEDCL stated that a demonstration of the Reverse e-Auction process should be provided to the prospective bidders beforehand in order to avoid any technical difficulties in the bid process since such reverse e-auction is being conducted in medium-term bidding for the first time. As per the bid conditions, the Fixed Charges are to be same as the Variable Charges. Clarity is required as to whether, if the Bidder reduces its Variable Charge by, (say) 1 paisa/kWh, the actual reduction would amount to 1 paisa/kWh or 2 paise/kWh on account of any automatic reduction in the Fixed Charges also by 1 paisa/kWh.
6. MSEDCL stated that the restriction on usage of Concessional Fuel should be removed from the Bidding Documents as it proposes to offer power from pooled sources which use a mix of Concessional Fuel and Non-Concessional fuel. MSEDCL also sought clarity in the definition of Concessional Fuel as its generation pool includes Hydro Power Plants like Koyna, Central Generating Stations, and Nuclear Power Stations. The Commission observed that the Bidding Documents clearly state all the categories of fuel that are to be considered as Concessional Fuel.
7. The Commission asked BEST whether it had examined the possibility of allowing bids from sources utilising linkage coal, in view of the SHAKTI Policy notified by the Ministry of Coal (MoC), Government of India (GoI) on 22 May, 2017, which refers to allocation of linkage coal for Generating Companies for sale to Distribution Licensees under medium-term competitive bidding. The Commission observed that Section 63 of the Electricity Act (EA), 2003 refers to Guidelines issued by GoI, and not specifically to the Ministry of Power (MoP) or MoC. The Commission also noted that the Policy was not decided by the MoC independently but flows from a decision of the Cabinet Committee on Economic Affairs.
8. The Commission observed that, at the time of true-up/Mid-Term Review, the implications of MSEDCL providing power BEST against the background of costly power purchase to mitigate load shedding due to coal shortages would be reviewed.
9. BEST made a presentation on the issues raised by MSEDCL and its replies. On most of the issues, BEST had replied that the Clauses in the Bidding Documents were as per the Model Bidding Document issued by MoP and did not require further clarification, as it believed that any further clarification may result in confusion in interpretation of the Clauses. BEST also stated that it had not introduced a deviation in Clause 10.1 of the draft PPA on its own as contended by MSEDCL. It had only reworded Clause 10.1 so to enable it to procure power of the proposed quantum at the State periphery instead of the

quantum at the generation end as provided in Model Bidding Documents, and also because more than one bidder may bid for the proposed quantum of power in one of the three time slots since the minimum stipulated for any bid is 100 MW.

10. BEST stated that it is not concerned about the source of generation of power as long as the required power is available for its utilization at the State periphery at the price recorded in the PPA.
11. The Commission asked BEST whether it intended to seek the Commission's approval for any deviations from the Model Bidding Documents issued by MoP. BEST stated that it would shortly be submitting a Petition seeking approval for certain deviations from the Model Bidding Documents, in particular with regard to the restriction on use of Concessional Fuel. The Commission suggested that BEST's proposal for deviations from the Model Bidding Document could be submitted as a part of this Case itself, rather than as a separate Petition considering the limited time available. BEST stated that it would file its submission proposing deviations on 18 October, 2017 accordingly.
12. BEST stated that the Bid Due Date, Validity Date and other time-lines would have to be extended to incorporate the outcome of the proposal. This is particularly so since, as required by the Commission in its Order in Case No. 25 of 2017, the Maharashtra State Load Despatch Centre (MSLDC) and the State Transmission Utility (STU) also have to be consulted before final approval of the bidders as their assessment of the transmission capacity available (considering the locations of the Generators) would be critical to the final decision of power purchase. It may also require a relaxation of the minimum period of 5 months for applying for Medium Term Open Access. The Commission asked BEST to consider all aspects, including the time required for obtaining approval for Medium-Term Open Access for inter-State transmission of power, while filing its submission for deviations from the Model Bidding Documents and the prescribed time-lines.
13. Dr. Ashok Pendse, representing Thane-Belapur Industries Association, an authorised Consumer Representative, stated that Generators utilising linkage coal should be allowed to bid, as linkage coal is cheaper and greater competition will help discover better rates, which will benefit the consumers. He stated that BEST should target the cheapest power and not bother about the source of the coal. The Commission was empowered to approve the required deviations from the provisions of the Model Bidding Documents. The present Documents restrict a large segment of available power generation from linkage coal., and hence do not facilitate procurement of power at the cheapest rate. He also stated that MSEDCL may offer power from sources that are most likely not to be dispatched under MOD. However, the specific Units have to be identified while bidding. He added that there is no provision for claiming FAC under lump-sum tariff in the Model Bidding Documents. For claiming the impact of Change in Law, the impact on NPV has to be computed, which should not be a problem for MSEDCL considering its arguments before the APTEL and Supreme Court in the matters relating to compensatory tariff.

14. The Commission directed BEST to file its submission with all proposed deviations from the Model Bidding Documents on 18 October, 2017.

15. The Commission observed that the last date for submission of Bids has been extended upto 25 October, 2017. Considering the time likely to be required for finalising the issues raised in these proceedings, BEST may extend it further up to 31 October, 2017.

Sd/-
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