



Chhattisgarh State Electricity Regulatory Commission  
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Petition No. 09/2008(M)

**Chhattisgarh State Electricity Board**

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**Petitioner**

**ORDER**

**(Passed on 29.07.2008)**

Chhattisgarh State Electricity Board (CSEB, hereinafter) has filed a petition for adoption of tariff for long-term procurement of power on international competitive bidding basis (as per case-2) for Bhaiyathan thermal power project, under section 63 of the Electricity Act, 2003 (the Act, hereinafter). The petition has been registered as Petition No. 09 of 2008 (M). On the basis of recommendation of the Evaluation Committee, CSEB has issued Letter of Intent (LoI) to the consortium led by M/s India Bulls Power Generation Ltd., which has quoted the lowest levelized tariff of Rs.0.81 per Kwh in the bidding. The lowest tenderer has completed other formalities such as, acceptance of letter of intent (LoI), has paid the project development expenses, submitted performance bank guarantee and has completed formation of the project company. The signing of Power Purchase Agreement (PPA), Share Subscription Agreement and Assistance and Operation Agreement await adoption of tariff. The environment clearance from Ministry of Environment and forest for the project is also awaited.

2. The facts of this case, in brief, is that CSEB has decided to set up a thermal power project of 1200 to 1500 MW capacity at Bhaiyathan, Sarguja to be developed by a single company which shall be responsible for development of coal mining, coal transportation, power generation and power transmission upto the load centre CSEB would have ordinary equity share of 26% in the company, other than cash in the project. In lieu of such 26% ordinary equity share, CSEB decided to give freedom to the developer to sell of 35% of power generated by the project to third party(s) while 65% of the power would be provided to CSEB at competitive bidding price. On a separate petition filed by CSEB for approval of certain deviations provided in the Standard Bidding Documents (SBD) for case-2 as issued by Ministry of Power, Govt. of India, the Commission passed an order on 03.10.2007 approving the deviations. In pursuance of this order and an order dated 30.10.2007 passed by the Commission in a review petition in the matter, CSEB completed the bidding process. The lowest bid was from a consortium of M/s Sunflag Iron & Steel Company Ltd. and India Bulls Power Generation Ltd. led by India Bulls Power Generation Ltd. (the company). CSEB has issued LoI to this bidder on 2<sup>nd</sup> April '08 for developing the project of the capacity of 1320 MW. The present petition for approval of the tariff at which the company shall supply power to CSEB as given in the bid.

3. Para 6.14 of the guidelines for determination of the tariff on bidding process issued by Ministry of Power, Government of India provides that the final PPA along with the certification by the Evaluation Committee shall be forwarded to the

appropriate Commission for adoption of tariff in terms of section 63 of the Act. However, the document of PPA as given in SBD of Case-2 states that the procurer shall obtain orders of appropriate Commission adopting the tariff under section 63 of the Act and make available to the seller on the date of execution of the agreement. This indicates that the tariff adoption is to be done prior to the execution of the agreement (signing of PPA). CSEB has submitted unsigned final PPA and report/recommendation of Evaluation Committee with the petition. In view of the position mentioned above and the lowest rate of the levellized and most economical tariff received so far, the Commission is of the opinion that adoption of this tariff prior to signing of PPA may be approved subject to following conditions:

- (i) A signed copy of PPA shall be submitted to the Commission immediately after signing.
- (ii) CSEB shall submit the desired certification by Evaluation Committee within 15 days from the date of this order.
- (iii) Environmental clearance be obtained timely to avoid any delay in the implementation of the project.
- (iv) CSEB will give an undertaking that no representations have been received by them against this bidding process after issuance of Lol and no judicial proceeding is pending in this regard at any court and submit the same within 15 days of the order.

4. The levellized tariff of Rs.0.81 per Kwh for supply of power to CSEB or its successor for a period of 25 years from Bhaiyathan Thermal Power Project as per the details given in Lol dated 02.04.2008 issued to the company, is approved subject to the aforesaid conditions.

CSEB may be informed accordingly.

**Sd/-  
Member**

**Sd/-  
Chairman**

**True Copy**

**(N.K. Rupwani)  
Secretary**