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PART IV-C

Statutory Rules and Orders (Other than those published in Part I, I-A and I-L) made by Statutory Authorities other than the Government of Gujarat including those made by the Government of India, the High Court, the Director of Municipalities, the Commissioner of Police, the Director of Prohibition and excise, the District Magistrates and the Election Commission, Election Tribunals, Returning Officers and other authorities, under the Election Commission.

GUJARAT ELECTRICITY REGULATORY COMMISSION

Guidelines for Procurement of Power by Distribution Licensees

Notification No. 2 of 2013

Preamble

Section 86 (1) (b) of the Electricity Act, 2003, envisages that the State Commission shall regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply. In fulfilment of duty cast upon the Commission as above, the Gujarat Electricity Regulatory Commission frames these guidelines for procurement of power by the Distribution Licensees in the State of Gujarat.

1. Sections 42 and 43 of the Electricity Act, 2003, provide that it is the duty of Distribution Licensee to ensure electricity supply to the consumers within the licensed area of supply on request. The power purchase cost is the major cost element in the aggregate revenue requirement of Distribution Licensees.

2. In order to ensure standardization and reduce subjectivity in power procurement and to protect consumers' interest through a process of transparent and economic procurement of power, the Gujarat Electricity Regulatory Commission (GERC) hereby directs all Distribution Licensees in the State to follow the procedure laid down in these Guidelines for procurement of power.
3. Every year by 31st January, the Distribution licensees shall submit power procurement plan for 5 years which will include:
 - a. Peak load and energy forecasts of their respective license areas for each of the successive 10 years. The peak load and energy forecasts shall be made for the overall Area of Supply.
 - b. Anticipated power supply position for each of the successive five years along with the projections for additional requirement of procurement of power, if any.
 - c. Hourly load duration projection for each of the successive 5 years.
4. Distribution Licensees shall have long-term / medium-term tie up to meet load requirement of at least 75% duration of the fifth year. In case of any shortfall to meet load requirement of 75% of duration of the fifth year through long-term / medium-term arrangement, the Distribution Licensee shall initiate the process of long-term procurement of power.
5. Distribution Licensees shall have long-term / medium-term tie up to meet load requirement of at least 85% of duration of the third year. In case of any shortfall to meet load requirement of 85% of duration of the third year through long-term / medium-term arrangement, the Distribution Licensee shall initiate the process of medium-term procurement of power.

6. The Distribution Licensee shall normally endeavour to procure power through competitive bidding. In case of any proposal for procurement of power through MoU route, the Distribution Licensee shall obtain prior approval of the GERC.
7. In case of procurement of power through competitive bidding, the Distribution Licensees shall initiate the process for long-term / medium-term power procurement in accordance with the Ministry of Power's 'Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees' notified by the Ministry of Power on 19/01/2005 and in force from time to time. As provided in the MoP Guidelines:
 - a. The bid documentation shall be prepared in accordance with the MoP guidelines and the approval of the GERC shall be obtained unless the bid documents are as per the standard bid documents issued by the Central Government. In the latter case, intimation shall be sent by the Distribution Licensee to the GERC about initiation of the bidding process.
 - b. Approval of the GERC shall be sought in the event of any deviations from the bidding conditions contained in the MoP guidelines, and in following the process described in the MoP guidelines.
 - c. Approval of the GERC shall be sought prior to initiating the bidding process with regard to the following aspects:
 - i. For the quantum of capacity / energy to be procured, in case the same exceeds the projected additional demand forecast for the next three years following the year of expected commencement of supply proposed to be procured. Such demand forecast shall be based on the latest available (at the time of issue of RFQ) Electric Power Survey published by the Central Electricity Authority (Both for Case 1 and Case 2).
 - ii. For the transfer price of fuel, in case of fuel specific procurement enquiry, if such price has not been determined by government, government approved mechanism or a fuel regulator (under Case 2).

8. In case of long-term / medium-term procurement of power from generating sources, where tariff is to be determined / adopted by the Central Electricity Regulatory Commission, the Distribution Licensee shall take prior approval of the GERC before entering into any such arrangement.
9. In case of long-term / medium-term procurement of power from generating sources, where tariff is to be determined by the GERC, the Distribution Licensee shall enter into such arrangement or agreement only after getting prior approval of the power purchase agreement.
10. For getting approval of draft PPA, the Distribution Licensee shall submit an application along with the details of quantum of power, justification for selecting a particular source/technology and the draft PPA document.
 - a. The Distribution Licensee shall, within 7 days after registration of the application, publish a notice of his application in at least two daily newspapers, one in English language and one in vernacular language, having wide circulation in the relevant area.
 - b. The suggestions and objections, if any, on the proposal for procurement of power and draft PPA, may be filed before Secretary, GERC, by any person within 30 days of publication of this notice with a copy to the applicant.
 - c. The GERC shall, within ninety (90) days from the date of registration of a complete application and after considering all suggestions and objections received from the public, issue Order approving/rejecting the proposal and draft PPA with such modifications or such conditions as may be specified in that Order.
11. For procurement of power from renewable sources of energy, the Distribution Licensee shall enter into long-term agreement in accordance with the Model PPA to be prescribed by the GERC separately. Approval of the GERC shall be sought in the event of any deviations from the Model PPA.

12. The Distribution Licensee shall submit a copy of the 'power purchase agreement' within 30 days of entering into an agreement for long-term / medium-term procurement of power.
13. Where the Distribution Licensee is to procure power on a short-term basis or there is a shortfall due to any reason whatsoever, or failure in the supply of electricity from any approved source of supply during the year, for any reason whatsoever, the licensee may enter into a short-term arrangement or agreement for procurement of power through power exchanges or through a transparent process of open tendering and competitive bidding.
14. In case of procurement of power through competitive bidding, the Distribution Licensees shall initiate the process for short-term power procurement in accordance with the Ministry of Power's 'Guidelines for Short-Term Procurement of Power by Distribution Licensees through Tariff based bidding process' notified by the Ministry of Power on 15/05/2012 and in force from time to time. As provided in the MoP Guidelines:
 - a. The bid documentation shall be prepared in accordance with the MoP guidelines and the approval of the GERC shall be obtained unless the bid documents are as per the standard bid documents issued by the Central Government.
 - b. Generally no deviation shall be allowed from these Guidelines. However, if it is essential to have the deviation from these Guidelines, the same could be done with the prior approval of the GERC.
 - c. The Procurer(s) shall procure short-term power as per the plan approved by the GERC or appropriate body as may have been constituted for the purpose by the GERC. In such case the Distribution Licensees will intimate about the initiation of the procurement process to the GERC.
 - d. In case procurement of short-term power exceeds the approved annual short-term procurement plan, the Procurer(s) shall obtain prior approval from the

GERC or any appropriate body as may have been constituted for the purpose by the GERC.

15. For procurement on short-term basis, a single-stage bid process by inviting Request for Proposal (RFP) shall be adopted. Procurer or authorized representative shall prepare bid document in line with these Guidelines.

The Procurer shall publish an RFP notice in at least two national newspapers and upload the same on company website to accord it wide publicity. The bidding shall necessarily be by way of competitive bidding.

16. The PPA shall be signed with the selected bidder(s) consequent to the selection process.
 - a. After the conclusion of bid process, the Standing Committee constituted for evaluation of RFP bids shall provide appropriate certificate on conformity of the bid process evaluation to the provisions of the RFP document. The Procurer shall provide a certificate on the conformity of the bid process to these Guidelines to the GERC.
 - b. If the quantum of power procured and tariff determined are within the overall approval granted by the GERC in Annual Revenue Requirement (ARR) of the respective year, then the same will be considered to have been adopted by the GERC.

In all other cases, the Procurer(s) shall submit a petition to the GERC for adoption of tariff within two days from the date of signing of PPA. The GERC should communicate the decision within seven days from the date of submission of petition.

17. The GERC may permit any Distribution Licensee to make purchase of power without requiring that such purchase be subject to Competitive/Open Process in the event of an unforeseen and an exceptional situation. However, the Distribution Licensee shall not, thereby, be exempted from demonstrating the need and the reason for departure

from a competitive process together with the economic justification for the purchase, the means, whereby, in the absence of competition, the Distribution Licensee proposes to secure the best possible terms and such other information as the GERC may require.

Gandhinagar
Date: 7th August 2013

Sd/-
(Mukesh Kumar)
SECRETARY