

**BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION  
LUCKNOW**

Petition No.503/07

**IN THE MATTER OF:** Approval of Request for Proposal (RFP) and other related documents for setting up 3X660 MW Prayagraj Thermal Power Project at Bara, Distt-Allahabad based on super critical technology through competitive bidding process.

**AND**

**IN THE MATTER OF:** Prayagraj Power Generation Company Ltd.  
Shakti Bhawan,  
14,Ashok Marg,  
Lucknow.

:Petitioner

The following were present:

1. Sri. Awanish Awasthi, MD, UPPCL
2. Mrs. K. Sinha, SE, UPPCL
3. Sri. Lal Chand, CE(Planning)
4. Sri. Awdhesh Kr. Verma
5. Sri. M.P Singh, Larson & Toubro Ltd.
6. Sri. S. Bhowmick, CESC Ltd., Kolkata
7. Sri. A.K Arora, CESC Ltd., Lucknow
8. Sri. Ravi Kathpal, M/s Feedback Ventures
9. Sri. Anurag Raizada, M/s Feedback Ventures
10. Sri. Sameer Darji, M/s Feedback Ventures
11. Sri. Gagan Bihari Srivastava, SDO, UPPCL
12. Sri. S.A Faruqi, EE, UPPCL
13. Sri. Rakesh Trivedi, EE(C), Allahabad
14. Sri. P.Mehrotra, EE(Planning), Lucknow
15. Sri. Deepak Raizada, AE(Planning), UPPCL
16. Sri. R.Purohit, AE(Planning), UPPCL
17. Sri. Prashant Chaturvedi, DGM, NTPC
18. Sri. V.K Padha, AGM, NTPC
19. Sri. Arvind Jhalani, DGM, NTPC
20. Sri. Ashok Kumar, CE(Trans) UPPTCL
21. Sri. S.C.S Sharma, CE, UPPTCL
22. Sri. Deepak Luthra, SE, 400 KV Design circle, UPPTCL
23. Sri. K.B Singh, DGM(Comm.), NTPC
24. Sri. Arjesh Sharma, PCRI, BHEL, Haridwar
25. Sri. V.Kumar, PCRI, BHEL, Haridwar

**ORDER**

(Date of Hearing 16.01.08)

- (1) The Petition states that UP Power Corporation Ltd.(UPPCL) has been appointed nodal agency by GoUP to select the developer for 3X660 MW Prayagraj Thermal Power Project at Bara, Distt-Allahabad as per competitive bidding guidelines issued by the Central Government on behalf of Paschimanchal Vidyut Vitran Nigam Limited,

Poorvanchal Vidyut Vitran Nigam Limited, Madhyanchal Vidyut Vitran Nigam Limited, Dakshinanchal Vidyut Vitran Nigam Limited, Kanpur Electricity Supply Company (hereinafter referred to as Procurers). Prayagraj Power Generation Company Ltd. (hereinafter referred to as PPGCL) is stated to act as an authorized representative of the Procurers. Authorized representative is defined in the RFP document to “*mean Prayagraj Power Generation Company Ltd.; the body corporate authorized by the procurer to carry out the bidding process for a selection of the successful bidder on their behalf*”. The clause 2.4 of the ‘*Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees*’ dt.19.1.05 (hereinafter referred to as CBG) provides that the procurement by more than one distribution licensee shall be permitted through a combined bid process and they shall have the option to conduct the bid process through an authorized representative and an authorized representative may be one of the procurer or a Special Purpose Vehicle (SPV) incorporated for such purpose. The authorized representative in this case is PPGCL represented by the officers of UPPCL.

- (2) The Petitioner has passed through RFQ stage in which 8 bidders have qualified for RFP stage. The RFP document is proposed to have certain deviations from CBG and the Commission is prayed to consider them and approved RFP documents.
- (3) The Petitioner was directed, by notice dt.19.12.07, to publish a notice in the newspaper, with a gist of above mentioned petition, for inviting objections, suggestions and comments, if any, from the stakeholders and interested parties in the subject matter of the said petition and make public the said Petition along with the documents filed before the Commission by keeping a copy on its Website and a hard copy in the Office at its Headquarter for inspection of any person who is desirous to make objections, suggestions and comments. The comments could be filed by any person by 31.12.07 directly to the Commission with an advance copy to the Petitioner and time up to 7.1.08 was allowed to the Petitioner to file reply to the comments received. A notice dt.20.12.07 was published in Hindi & English in various newspapers by the Petitioner as directed by the Commission in notice dt.19.12.07. On the request made, the Petitioner was allowed to file reply to comments by 10.1.08.
- (4) The Commission by Public notice dt.1.1.08 fixed 16.1.08 as the date of hearing in the matter.

- (5) The Petitioner has filed the following documents with RFP document, –
- (a) draft agreement to hypothecate cum deed of hypothecation,
  - (b) default escrow agreement
  - (c) share purchase agreement
  - (d) draft Power Purchase Agreement(PPA).
- (6) The following have filed comments –
- (a) NTPC Ltd. vide letter dt.31.12.07.
  - (b) Reliance Power vide letter dt.31.12.07.
  - (c) M/s L&T vide letter dt.28.12.07.

The Petitioner has replied to the comments filed by the persons above mentioned vide letters dt.9.1.08. The above persons are also stated to be the qualifier of RFQ stage and hereinafter being referred to as 'Prospective Bidders'

- (7) The deviations being sought, put up in Annexure (A) to the petition, are in respect to the acquisition of land, environment clearance, fuel supply agreement, timelines for furnishing performance guarantee and execution of share purchase agreement after issue of letter of intent, commercial operation date and synchronizing of unit.

The Petitioner has stated that the procedure for issuing notice under section 6 is in under process, rapid EIA is expected by Jan,08, fuel supply agreement shall be signed between the seller and the fuel supplier as per the terms of PPA, the selected bidder shall submit the performance guarantee and execute the share purchase agreement within 8 days of issue of letter of intent , the commercial operation date under no event shall be earlier than 36 months and synchronization of unit prior to 33 months from NTP.

CBG states that prior to issuance of RFP, notification under section 6 should have been issued, proposal for environmental clearance submitted for final approval. The clause 2.1.3 of Standard Bid Documents (SBD) provide for signing of a fuel supply agreement between procurer & the fuel supplier with a right to the procurer to assign the agreement to a selected bidder, however, this clause shall not be applicable in case the bidder has to arrange fuel. The submission of performance guarantee and execution of share purchase agreement is to be made by the selected bidder within 60 days of the issue of letter of intent as per clause 2.1.3.2 of SBD. As per Annexure 6, Format 3 of SBD, COD is to be decided by the procurer which shall not be less than 48 months.

The Petitioner has submitted the rationales for seeking the above deviations from CBG and SBD. It is stated that the coal linkage has been granted to the project on explicit condition that it is commissioned in the 11<sup>th</sup> year plan and since the time is

short as such it is necessary to go for the process of RFP with crashed timelines. Regarding fuel supply agreement, it is stated that the coal linkage is in the name of PPGCL which will become the seller and shall enter into an agreement with the fuel supplier. The plea of early synchronization and commissioning of the project have also been made on the ground that the project is to be commissioned in the 11<sup>th</sup> year plan.

Clause 3.1.1 (A) of PPA, provided in SBD, has been removed by the Petitioner which provides an option to change the unit configuration after the effective date till NTP provided that the seller submits and undertaking to the effect that change in unit configuration shall meet all the conditions specified in Format 3 of Annexure 6 of RFP and the changed unit configuration shall meet all functional specifications and additional cost arising out of such change shall be to the account of the seller and no adjustment in the tariff will be permitted.

The Petitioner submits in the petition that decision of GoUP is to keep the size of the unit to 660 MW and so is the total capacity of the project.

(8) The prospective bidders have commented on the provisions of RFP and draft PPA to which the Petitioner has submitted replies. These comments are as below -

- (i) The capacity of the project should be a range to provide flexibility to achieve economy and sub-critical technology should not be insisted. The Petitioner submits that MoEF clearance is being sought for the capacity specified in the RFP and MoEF has issued TOR on which the action is being taken and any change in unit size or capacity would require reinitiating the exercise, which would ultimately delay the project.
- (ii) DPR of the project must be provided. The Petitioner states that the project profile shall be provided with RFP document which shall contain necessary information.
- (iii) It is commented that section 6/17 notice should be issued prior to RFP and include the provision of handing over of land, site clearance in the PPA. In reply, it is stated that the provisions of Section 17 notice has already been applied. Since the draft PPA prescribed by Ministry of Power (MoP) does not have any provision in respect to handing over of land as such the same has not been included.
- (iv) In respect to fuel arrangement, it is commented that fuel supply agreement should be signed and procurer must establish that coal is adequate for contract period. It is further commented that coal transportation should not be in the scope of bidders. In reply to above,

it is stated that seller shall execute FSA and the coal linkage is for the project life and the transportation of coal shall be the responsibility of the bidders.

- (v) The Petitioner is required to provide distance between river bed and site, water charges, cost, quantity and source of construction water. The distance is stated, by the Petitioner, to be 17 Km. and the cost of water is to be provided 15 days before the bid deadline. Regarding quantity and source of construction water, the Petitioner calls for the due diligence of the prospective bidders.
- (vi) Hydrological, geological, meteorological and seismological data is required before RFP. The Petitioner states that the same will be provided with RFP documents.
- (vii) The clarification has been sought as to the contracted capacity. The Petitioner has clarified that the contract capacity shall not be less than 1648.35 MW which is arrived at on 90% of the total capacity of 1980 MW with due consideration of auxiliary consumption @7.5%.
- (viii) The prospective bidders have urged to make provision of change in unit configuration as made in clause 2.1.2 of RFP. The Petitioner states in reply that Government has approved capacity on the basis of unit size.
- (ix) Clause 2.1.3.1 of RFP provides that on finalization of RFP project documents after the amendments envisaged in clause 2.6.1, all the project documents except share purchase agreements shall be executed by the concerned parties and the procurers/authroised representative shall deliver copies of these executed RFP project documents to the bidder at least 15 days prior to the deadline. Commentator finds 15 days time too short and require at least 60 days. The Petitioner has submitted that as per as per SBD, if SPV is signing the PPA and other agreements prior to the submission of bids, then RFP project documents except share purchase agreement need to be executed and the procurer/authorized representative shall deliver the copies of these documents to the bidder at least 15 days prior to the deadline and thus, the time given is in line with the SBD.
- (x) It is suggested in the comments that 60 days be provided for furnishing performance guarantee and execution of share purchase agreement from the issue of letter of intent as prescribed by SBD or

extend it to 30 days. In reply, the Petitioner states that the State is facing acute shortage of power and GoUP has planned the commissioning of project in 11<sup>th</sup> plan and the coal linkage has been also granted to the project on the explicit condition that the project is commissioning in the 11<sup>th</sup> plan as such it is necessary to crash the timelines for completing the entire bidding process.

- (xi) Inter connection between the bus of the power station and the grid has been required to be clarified. The Petitioner states that it is clearly defined in the PPA.
- (xii) Clause 2.6.3 of RFP provides that the amendment of RFP shall be issued at least 30 days prior to bid deadline. It is commented that it should be issued 60 days prior to provide sufficient time. The Petitioner has justified the time period in view of the commissioning of the project planned in the 11<sup>th</sup> plan.
- (xiii) Clarification has been sought whether Board Resolution is to be certified by Company Secretary or Director of the Company under clause 2.7.1.1 (1) of RFP. The Petitioner has clarified that the same will need to be certified either by Company Secretary or Director of the Company and suitable changes shall be incorporated in revised RFP.
- (xiv) It is suggested that the scenarios as referred in Annexure 4 of RFP are not mentioned in Clause 2.7.1.4 of RFP. The Petitioner has replied that the RFP document is tailor made for the scenario 4 in various scenarios given under RFP and Annexure 4 shall be modified suitably.
- (xv) The timelines given under clause 2.8.2 have been required to be in accordance with the Guidelines. The Petitioner finds it necessary for commissioning of the project in 11<sup>th</sup> plan.
- (xvi) It is commented that under clause 2.15.1, both envelopes are to be opened at the same time while the envelop-1 is to be opened for responsive check. The Petitioner has submitted to modify RFP.
- (xvii) The clarification has been sought as to how coal price and transportation charges shall be escalated. The Petitioner has submitted that as per CERC escalation rates notification, a single escalation rate for the entire energy component has been provided and the same has been adopted.

- (xviii) In Annexure 6, Format 3, COD of 1<sup>st</sup> unit is not later than 42 months from the effective date and COD of the power station not later than 48 months from the effective date. It is suggested COD of 1<sup>st</sup> unit should be between 54 to 58 months from the effective date with 5 month gap for commissioning of successive units. The Petitioner justifies the schedule given in the said Annexure as it has planned the commissioning of the power station in the 11<sup>th</sup> plan and also on account of coal linkage.
- (xix) The comments suggest that 6 months for achieving financial closure is too aggressive and the same shall be extended to 12 months from the date of Lol or 14 months from effective date whichever is later.
- (xx) The prospective bidders require cost of land, R&R.
- (xxi) The Petitioner is required to allow a part of the capacity to be sold outside the State to achieve mega status. The Petitioner has clarified that the minimum contracted capacity is 90% which comes around to 1648 MW after deduction of auxiliary consumption and hence the choice is given to seller to sale balance capacity to other State and to allow them to comply benefits available under the mega power policy. The seller is required to make necessary arrangements on its own to avail mega power benefits.
- (xxii) It is suggested that non-extension of tax holiday under section 80(i)(a) may be considered as change in law with appropriate compensation mechanism. The Petitioner states that it has adopted the policy as laid down in SBD/PPA of Gol.
- (xxiii) It is submitted, in respect to clause 1.2.8 (b) of schedule 7, that PPA limits the liability of the procurer on account of non off-take of scheduled energy and the same be deleted and article suitably be modified to reflect that such penalty shall be reimbursed by the procurers to the sellers. The Petitioner has submitted that penalty clause is not applicable since in terms of clause 1.2.8 of PPA, it is applicable only when the seller arranges the fuel and it is not the case so mentioned and the same shall be deleted.
- (xxiv) Other information required are as below:
  - (a) the point from where construction power shall be supplied and the tariff,
  - (b) the source of construction water and charges,

- (c) the electricity duty/cess levied on generation of electricity,
- (d) the coal analysis,
- (e) site and vicinity map, topographical survey report, power evacuation scheme and voltage level,
- (f) clearance of State Pollution Board,
- (g) Railway track lay out from coal-mine to plant,
- (h) Drainage study report is being prepared by Department of Irrigation and the same shall be provided in due course of time, and
- (i) Ash disposal area identification report.

The Petitioner has submitted that construction power shall be provided under clause 4.2(b) of PPA and tariff of such power is available in the website of UPPCL, and other details, as per (d,e & i) above, shall be provided in 'Project Profile' with the revised RFP. The Petitioner calls for the due diligence of the bidder in respect to (b) & (c) above. Regarding clearance of State Pollution Board and railway track lay out, it is stated that the both are under process. It is also stated that the work of railway track has been entrusted to M/s Rites and the details shall be provided in due course of time.

- (9) The Petitioner has submitted the project profile on 15.1.08 vide letter no.211/PLG/PPGCL/UMPP/CS/UPERC dt.15.1.08. The copy of the project profile has also been put on the web site of UPPCL.

The project profile deals with scope of work for the power station, raw water system, ash water circulation system pump house, treated liquid effluents, ash slurry system, coal supply and coal handling plant, auxiliary steam system for start up, construction water supply system, construction power supply system, switchyard system, storm water drainage system, interface requirements, technical requirements for the power stations, source of water, water analysis, coal linkage/availability and transportation, coal quality parameters and fuel oil characteristics, power station testing requirements and plot plan etc. Meteorological data and Geotechnical data are not available.

- (10) (A) In the hearing on 16.1.08, Sri. Awanish Awasthi, MD, UPPCL has made submissions on behalf of the Petitioner. He has submitted that 3X660 MW, super critical technology has been chosen for setting up power station at Bara as per the decisions taken by GoUP in view of the power shortage being experienced in the

State and the super critical technology being environment friendly and fuel efficient. It is also submitted that any unit size which totals to less than 1980 MW shall be detrimental to the State and any size higher than 660 MW would also not be possible as all clearances and linkages have been sought 3x660 MW. BHEL representative has submitted that the unit size can not be changed because environment and pollution clearances were being sought for 3X660 MW and MoEF does not accept approximate capacity. MD, UPPCL also informed that the enhanced project capacity as a result of higher unit size would not be able to find allocation of additional coal. He has also submitted that in the event of change in unit size, the whole exercise shall be undertaken afresh and that would be too late as the coal allocation for the project is contingent to the project commissioning in the 11<sup>th</sup> plan. MD, UPPCL has clarified that GoUP circular providing +20% variation on future capacities would not apply in this case. Representative NTPC has shown favor to variation in capacity and stated that it is variation from SBD and might not be allowed. The preamble of the Electricity Act,03 states that it is an Act, inter alia, for promotion of efficient and environmentally benign policies. Therefore super critical technology shall be used from environment point of view however, the Commission would consider to allow bidders a choice for high unit size if he seeks all clearances, allocations, licences and bear the commensurate cost with the condition that the requirements of the procurers are not prejudiced.

MD, UPPCL has informed that the a notice under section 6 shall be issued by the end of Jan,08, meeting with farmers concluded on positive note and money deposited with the District Magistrate for the acquisition which is expected by the next month. NTPC has submitted that clearances as per CBD should be available prior to RFP and proposed timelines for bid process are compact in comparison to 150 days provided in SBD. NTPC has prayed to allow reasonable time . The Commission finds that according to CBD and SBD, land, water, hydrological data, geological, meteorological & seismological data and fuel should be available before RFP. Since, UPPCL has informed that the land should be available before Lol, therefore, it would be appropriate that if the conditions of the CBD are not met before 10 days of opening of bids, the date shall be extended suitably. In respect to environment clearance, it is submitted on behalf of the petitioner that the report shall be submitted by or in the month of March,08. It is also informed during the hearing that there is no forest land or wild life sanctuary on project site. The qualifiers of RFQ stage, present in the hearing, have expressed their reservations that in absence of MoEF clearance, it would be difficult to assume environment

standards for preparation of bids. NTPC has required knowing as to what happens if the land and environment clearance are not available before Lol. In light of concerns shown by the parties and efforts being committed on behalf of the Petitioner, it has become necessary that the environment clearance should be available within 6 months lest the date of commissioning of generating station is extended. It is noted that various clearances are in the process at different stages and may impact the commissioning of the generating station. Therefore, all timelines shall be linked to the date of issue of Lol. The share of SPV shall be transferred to the selected bidder within 8 days of submission of performance guarantee. The 1<sup>st</sup> unit shall be commissioned within 54 months from the date of Lol and subsequent within a gap of 5 months which would include one and half month time for submission of performance guarantee, execution of SPA, transfer of shares and 12 months for achieving financial closure. All the above dates shall run concurrently from the date of issue of Lol.

The prospective bidders have submitted that the timelines are very compact and huge efforts shall be required in commissioning of the power stations. We find it necessary to incentivise the early commissioning of the project and the Petitioner shall put up a proposal to this effect. Benefits under mega policy have also come of discussion and it is decided that the selected bidder shall approach MoP for that purpose.

The question of right of way has also been raised in relation to road, transportation of water and laying railway tracks. The procurer should arrange right of way for above purposes. Transportation of water is a matter of project design as such this responsibility lies with the selected bidder whether it be water for construction or operation of the power station.

The cost of land and R&R has also been required by the parties present in the hearing. The Petitioner has submitted a statement of tentative liabilities and payment made against such liabilities during the hearing and has agreed to provide the same with RFP documents for the bidders and final cost shall be provided 15 days prior to bid deadline. Any additional cost, if incurred by the Petitioner over and above the costs provided in RFP documents shall be shared by the procurers in proportionate to their shares in the contracted capacity.

NTPC has submitted that time allowed for commissioning of performance guarantee and signing of share purchase agreement should not be less than 60 days. We find that 30 days should be sufficient for this purpose which shall also be the basis of FSA.

M/s Reliance Power requires 24 months from Lol for signing a fuel supply agreement (FSA). The signing of FSA may run concurrently with other activities after issue of Lol however, the Petitioner shall obtain a letter of assurance from NCL for supply of coal in accordance with the terms of linkages specified by the Ministry of Coal.

The issue of construction power and evacuation of power have also been discussed. The delivery point shall be the bus of the power station.

NTPC, Reliance Power, L&T, CESC or other person have not raised other issues.

(B) The Petitioner was directed in the hearing to amend the provisions of RFP, PPA & other documents accordingly in pursuance to –

- (a) the replies to the comments where the Petitioner has agreed to modify the provisions,
  - (b) the observations made by the Commission and
  - (c) decisions taken by the Commission during the hearing ,
- and put up the same for approval of the Commission.

(11) The Petitioner has made submissions in compliance to direction issued in the hearing vide letter no.263/plg/PPGCL/UMPP/CS/UPERC dt.23.1.08. We have perused the documents. There are certain provisions which have been retained or modified on the basis of the replies made by the Petitioner on the comments received by it. Some other provisions have been modified according to the decisions of the Commission. The Petitioner has also proposed incentive for advanced commissioning. This is observed that certain proposals are yet to be aligned with the observations and decisions of the Commission. The RFP documents along with the submission made on 23.1.08 are approved subject to the following:

- (i) Unit size – 660 MW
- (ii) Number of units – 3
- (iii) Gross Capacity – 1980 MW
- (iv) Contracted capacity – 90% of gross capacity
- (v) Technology – super critical
- (vi) In clause 2.1.2, bidder is allowed to change the unit configuration after effective date as per provisions of PPA. In view of this, the bidder can change the unit size/station capacity ensuring such that new capacity is not less than the gross capacity with super critical technology. The bidder should note that environment clearance and coal linkage has been taken by the procurers only for the said gross capacities and RFP specifies time for various activities including dates of

commissioning as such no change in timelines shall be permitted in case new capacity exceeds the gross capacities and the successful bidder shall be the responsible for all clearances and linkages required for the new capacity with no cost to the procurer.

- (vii) Procurers shall do following actions prior to bid opening -
- a. Section 6 notice under the Land Acquisition Act, 1894 shall be issued by 15.2.08.
  - b. Secure Letter of assurance from coal company or Ministry of Coal
  - c. Provide Hydrological, geological, metrological & seismological data to bidders.
  - d. Provide Water allocation.
  - e. Provide R&R as determined by appropriate authority and EMP.
  - f. Approach MoP, Gol for extending the benefits to power generation projects under mega power policy to be taken up by the selected bidder after issue of Lol.

In case above conditions are not fulfilled, the date of bid opening shall be extended till the compliance is made.

- (viii) The cost of land, R&R and any other cost incurred by the Petitioner shall be intimated on firm basis in RFP 15 days prior to bid deadline. Any change subsequent to issue of RFP shall be shared by the procurers in proportion to their share in installed capacity.

- (ix) Environmental norms : for the purpose of bidding, the following environment shall be considered :

- a. Flue gas emission without flue gas conditioning as per present requirement of MoEF,
- b. Water- zero discharge
- c. Ash- high density disposal
- d. FGD not required but provision for its incorporation in future be made.

- (x) Time from issue of RFP to the date of bid opening shall be 60 days.

- (xi) The condition precedent to be fulfilled before letter of intent-

- a. environment report to MoEF is submitted,
- b. possession, free from all encumbrances, of land taken.
- c. Forest clearance obtained, if required.

The date of issuance of Lol shall be extended in case above conditions are not met.

- (xii) The condition to be fulfilled after letter of intent-

a. environment clearance is obtained within 6 month,

In case the above, the clearance is not obtained, the date of COD shall be extended by the margin of time such clearances obtained.

- (xiii) Performance guaranty to be deposited by the successful bidder within 22 days of Lol.
- (xiv) 100% equity shall be transferred within 8 days after submission of performance guarantee.
- (xv) Right of way and or land required if any, shall be arranged by the procurer for carrying water from river, making road from highway to the project site and laying railway tracks at appropriate time. The time, when required, is to be settled at the time of Lol with the successful bidder
- (xvi) Scheduled date of COD of first unit shall be not later than 54 months from the issue of Lol. Subsequent units shall be commissioned with a gap of 5 months.
- (xvii) Best efforts schedule shall be the synchronization of 1<sup>st</sup> unit in the 11<sup>th</sup> plan and successful bidder will make all out efforts to advance the scheduled date of COD for which incentive shall be paid, in addition to normal energy charge, as below:
  - (a) In case COD advance up to 3 months, incentive shall be 20 paisa/unit for any energy supplied up to the schedule date of COD,
  - (b) In case the COD is advanced by more than 3 months, incentive shall be 30 paisa/unit for any energy supplied up to the schedule date of COD.

Above incentive shall have no role in evaluation of financial bid.

- (xviii) Any intermediate milestone based on above terminal dates may be agreed mutually after Lol.
- (xix) The delay in fulfillment of condition precedent will affect the COD. If delay is more than 6 months, the successful bidder shall be entitled for increase of 2.5% in non-escalable component of the fixed cost component of tariff.
- (xx) The successful bidder shall approach Ministry of Power to issue a certificate extending the benefits under Mega Power Policy.
- (xxi) Construction power shall be provided from 220Kv S/s of STU at Rewa road at project sites which is about 50 Km. from Bara by Poorvanchal Vidyut Vitran Nigam Ltd./STU. The construction cost shall be borne by the selected bidder.
- (xxii) Evacuation of power at voltage shall be at 765 KV.
- (xxiii) Start up power may be provided at suitable voltage level to the project.

- (xxiv) Transmission system connection with the bus bar of the power station is the responsibility of the procurer. Detailed transmission plan shall be prepared for the project and got cleared by CEA or CTU.
- (xxv) Co-ordination committee shall be formed comprising members of procurers, STU, the successful bidder and representative of NCL.
- (xxvi) Change in electricity duty, cess, VAT and other levies on Aux. power may be pass through at actual.
- (xxvii) Coal analysis and water analysis, site & vicinity map, topographical survey report is as provided in project profile.
- (xxviii) Gap in Hydrological, Geological, Meteorological, seismological data, if any, shall be met by 15.2.08.
- (xxix) Ash disposal area shall be as identified in the project profile.
- (xxx) Non-extension of tax holiday under section 80 I(A) by the time the plant is commissioned shall be considered as change in law.
- (xxxi) Energy charges defined in RFP shall be aligned with financial bid.
- (xxxii) For the purpose of evaluation, price of fuel based on percentage of Grade D/E envisaged for use has to worked out and indicating in the RFP(ref. page 35 of RFP).
- (12) NPCL supplying power in Greater Noida, which is part of the State, has not been allocated any power. However, ten percent power is available for supplying outside the State to avail benefits under Mega Policy. If there is no infringement in obtaining Mega Status, two percent of the gross capacity may be allowed to NPCL.
- (13) This Order shall be the essential part of RFP. If any question arises as to the interpretation of any provision of the RFP document, the intent of this order shall be final.
- (14) The Petitions is disposed of.

(R.D. Gupta)  
Member

(P.N Pathak)  
Member

(Vijoy Kumar)  
Chairman

Lucknow; Dated: 24<sup>th</sup> Jan, 2008