ANDHRA PRADESH LEGISLATURE

(Twelfth Legislative Assembly)

SECOND REPORT
OF
THE COMMITTEE ON PUBLIC UNDERTAKINGS
(2004 - 05)

ON

THE AUDIT PARAS APPEARED IN THE REPORTS OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA FOR THE YEARS 1996-97 (Paras) (Commercial)

ON

A.P. STATE ELECTRICITY BOARD

(Presented to the Legislature on 17-12-2004)

ANDHRA PRADESH LEGISLATURE (P.U.C.) SECRETARIAT
PUBLIC GARDENS, HYDERABAD - 500 004.

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ANDHRA PRADESH LEGISLATIVE ASSEMBLY
COMMITTEE ON PUBLIC UNDERTAKINGS (2004-2005)
(CONSTITUTED ON 28TH JULY, 2004)

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5. Sri C. Damodar Rajanarasimha
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18. Sri N. Diwakar Rao
19. Sri Janga Krishna Murthy
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21. Smt. Padala Aruna
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23. Sri Mumtaz Ahmad Khan
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LEGISLATURE SECRETARIAT :

1. Sri K. Tuljanand Singh, Secretary
2. Smt. V. Jayakumari, Joint Secretary
3. Sri D. Siva Rao, Asst. Secretary
4. Sri K. Satyanarayana Rao, P.S. to Secretary

INTRODUCTION

I, the Chairman of the Committee on Public Undertakings (2004-2005) having been authorised by the Committee to present the Report on their behalf, present this **Second Report** on the **Andhra Pradesh State Electricity Board**, on the audit paras contained in the Reports of the C. & A.G. of India (Commercial) for the years, 1996-97.

The Committee on Public Undertakings (2003-2004) have examined the Reports of the Comptroller and Auditor General of India for the years ended 31st March, 1997 (Commercial), but could not present a report on the same due to the Dissolution of XI Legislative Assembly earlier than its original schedule.

The Committee (2004-2005) have considered and approved this Report at their sitting held on 13-12-2004.

A Statement showing the summary of principal recommendations/ observations of the Committee is appended to this Report.

A record of proceedings of the sitting of the Committee which has been maintained forms part of this Report.

The Committee wishes to express their thanks to the Principal Secretary to Government, Energy Department, the Chairman and other Officials of the A.P. State Electricity Board for the co-operation they have extended and for placing the required information and material before the Committee.

The Committee places on record their appreciation of the assistance rendered to the Committee by the Accountant General (Audit) - II, Andhra Pradesh, the Senior Deputy Accountant General (Commercial) and other Officers and staff of the Accountant General Office.

The Committee also places on the record their appreciation of the assistance rendered to the Committee by the Secretary to State Legislature and the other Officers and Staff of Legislature Secretariat, in the examination of the general working and audit paras relating to the Andhra Pradesh State Electricity Board and in preparation of this Report.

Hyderabad,
Dt. 13.12.2004

N. Uttam Kumar Reddy,
CHAIRMAN,
Committee on Public Undertakings.

RECOMMENDATIONS ON THE PARAS APPEARED IN THE AUDIT REPORT (COMMERCIAL) 1996-97 PERTAINING TO A.P. TRANSCO (ERSTWHILE A.P. STATE ELECTRICITY BOARD).

INDIVIDUAL PARAS :

4B. 2.1 Establishment of coal based thermal power projects at Ramagundum :

In accordance with the policy of Government of India for private participation in power sector, the Board decide March 1993) to entrust the implementation of 2 x 250 MW power project at Ramagundum to a private developer.

After inviting tenders on global basis, the Board selected (July 1994) M/s. BPL group who secured the highest number of points in the evaluation at a cost of Rs.1852.40 crore. In line with the bid specifications when the Board issued a Letter of Intent (LOI) on 18 July 1994 the BPL declined to accept the LOI conditions in so far as they related to ceiling on capital cost, foreign exchange etc. M/s BPL sought 90 days for preparation of draft PPA and extension of cut off date for financial closure to end of August 1995 with a fixed ceiling of 5 per cent on penalty for delay in scheduled date of completion and issue of guarantee and counter guarantee if it became necessary. After discussion with BPL the Board issued a revised LOI on 23rd July, 1994 by diluting or deleting some clauses stipulated in earlier LOI. The Board and BPL entered into PPA on 31st October 1994 according to which the project would be commissioned by July, 1999. BPL submitted a Detailed Project Report in july, 1995 ie., 8 months after signing the PPA indicating the total cost of the project at Rs. 269.83 crore and finally it was agreed to at Rs. 2211.40 crore.

As BPL has not followed process which was internationally accepted practice of issuing specifications for Independent Power Projects, there was poor response from bidders and a bid was accepted out of only 2 bids received at a high price. The Board did not have any say in the selection of Engineering, Procurement and construction (EPC) Contractor by BPL Audit observed that

(i) No specific reasons were frunished by BPL for the increase in the porject cost, one of the reasons attributed subsequently was uprating of istalled capacity from 2 x 250 MW to 2 x 260 MW. It was observed that this was an after thought and the Board had also not requested for such uprating.

(ii) The foreign currency component of EPC contract shown in original bid at 15.56 per cent of the project cost was revised to 38.32 per cent when the DPR submitted. This would result in an additional liability to the Board towards foreign exchange fluctuations which ultimately result in increase in the tariff.

(iii) The foreign consultants of the Board, who have reviewed the revised project cost categorically stated (March 1996) that the prices of power plants as such have not increased since December, 1993 due to the competitive market and BPL should be able to achieve the EPC contract at the same price as quoted in the original bid ie., Rs.1603.70 crore. But BPL has declined for this.

(iv) The cost of the project assessed by the consultants at Rs.2133.90 crore and by the Board at Rs.2184 crore but actually agreed rate was Rs.2211.40 crore.

(v) Even though the original LOI stipulated a specific date for financial closure, at the instance of BPL this condition was modified incorporating a floating date (12 months from the date of signing PPA) with further possibility of extension of time by Board. The PPA was entered in October 1994, but the financial closure was not done till May, 1997 (18 months from the date of agreement of PPA). In the absence of the above the stipulation about the commissioning dates cannot be enforced and recovery of liquidated damages may prove difficult.

(vi) BPL indicated debt equity ratio as 3:1 but the Board in the LOI required the BPL to maintain 2.33:1. Any increase in the equity has a tendency to increase in tariff.

(vii) Evacuation of power was originally contemplated at 220 KV which was subsequently necessitated to 400 KV. This had the impact on the cost of the switch yard which rose by Rs. 29.24 crore. The issue of bearing this additional cost is still under negotiation.

The Company in its explanatory notes stated that after issue of letter of intent Dt. 18-7-94 as per Government approval, BPL held discussions with the Government and the final letter of intent Dt.23-7-1994 was issued as a result of these discussions with the Government. It is not correct to say that the LOI Dt. 23-7-1994 was issued diluting or deleting the clauses stipulated in original LOI.

The capital cost on completion with details of indexation as quoted in bid document is Rs.1920 crore as against Rs.1852.40 crore presented in the audit para.

The BPL after examining their technical specifications/margins have offered to increase the capacity to 2 x 260 MW without any increase in cost. So, it is not correct that increase in captial cost is due to this reason.

Regarding the tariff, as per the Board's consultants i.e., ICICI, the tariff under the August 1996 scenario will be lower than the tariff as per the bid, for a rupee devaluation below 2.7% per annum over the life of the project.

Regarding escalation of capital cost, the Board has sought to shift the onus of the risk of escalation to M/s BPL and M/s BPL have now committed to the firm completed cost of the project with a ceiling. The costs mentioned in audit Rs.1603.7 and Rs.1955.78 crore are not the EPC prices and indicates the project cost excluding IDC and financing costs.

Regarding cost of the land it can not be assessd at this stage as land acquisition is a lengthy, process and the awards are yet to be passed by the Revenue Authorities and this would be paid through tariff.

Regarding the delay in finalisation of the project in time. In the light of the fact that the project was under review by Government from February 1995 to October 1995 the delays due to which the project is yet to take off are not solely attributable to bidder and bidder can not hold to the bid captial cost. The Board also stated that it is not the practice to attach penalties for non-achievement of financial closure, as financial closure is dependent on several factors which are not under the control of the developer.

The Principal Secretary (Energy) to Govt. of A.P., in his oral evidence stated that regarding the foreign currency component it was explained that at the time of LOI it was mentioned as 15% only. Subsequently Government of India increased it upto 40%. Regarding financial closure even though the Regulatory Commission has given clearance with required amendments and changes for further improving PPAs, the consent was given during November, 2002 only and the Company was not able to reach financial closure. Hence the project implementation ie., starting of the 1st unit would be 33 to 36 months from the date of financial closure, is being delayed.

Regarding increase in project cost the Principal Secretary stated that to reduce transmission losses the capacity was increased from 220 KVA to 400 KVA Here, even though the developer has asked for increase in cost it was not accepted. But due to increase in foreign exchange variation the cost has escalated and they are eligible to get as much amount as they want as per the GOI policy.

Regarding escalation in EPC contract the increase in price was due to devaluation of rupee value and which is a case as per guidelines.

Regarding commencement of the project, the principal secretary replied that the developer was going round to get financial closure as and when the financial closure is achieved, time allowed to commence 1st unit would be 33 months. In the meantime the developer is required to submit monthly report to APTRANSCO

4B.2.2 Selection of developers for establishment of short gestation power projects.

Keeping in view the expected delay in completion of long gestation power projects on hand the State Government directed (May 1995) the Board to consider proposals for establishment of short gestation power projects to add atleast 2000-3000MW of generation capacity in pirvate sector within a period of next 24 months. To achieve this goal, the Board invited global bids in May, 1995 for setting up short gestation Gas/Naphtha/Low Sulphur Heavy Stock/Furnace oil based power projects in 13 identified locations. The salient features of the bid were (i) the minimum capacity of the power project should be 100 MW (ii) the choice of fuel, transportation of fuel, tie up of fuel linkage and obtaining all clearances for the project is the responsibility of bidder and (iii) the gestation period for the construction of the project should be 18 months from the date of signing of the PPA.

The evaluation of the qualification bids was carried out by ICICI on behalf of the Board and 24 bids of the 14 Developers were short listed. The Board forwarded to the State Government 21 bids in September and 2 in November 1995 which were accepted by State Government. Board called for price bids from the short listed bidders and in response received 22 bids from the 14 bidders and negotiations followed and the same were sent to State Government for approval after giving them ranks as given by the ICICI. The State Government finally approved (24 July, 1996) only 8 bids of 6 developers for setting up of 8 projects for a cumulative capacity of 1623 MW, 6 out of 8 projects are land based and 2 are barge mounted. Immediately the Board issued LOI to the selected 6 Developers with a direction to enter into PPA within 30 days from the date of LOI. The tariff quoted by these selected bidders ranged from Rs.2.29 to Rs.2.73 per unit and the gestation period ranged from 13 to 27 months. Though it was envisaged to sign the PPA within 30 days of issue of LOI (ie., by 22 August 1996) they were actually signed in March 1997 indicating a delay of 7 months.

The following observations are made :

i) Though it was specified in the bid document that the proposals which score atleast 80 per cent in the evaluation will only be short listed, score percentage actually reached was ranged between 39 and 79 (7 bids crossing 70 per cent.)

ii) The concept of short gestation power project was conceived in May 1995 to add 2000-3000 MW with in next 24 months i.e., by May 1997 but the PPAs were concluded only in March 1997.

iii) The Board at the instance of the bidders agreed to bear foreign exchange risk in respect of repayment of foreign debt and interest thereon and also agreed to provide State Government guarantee as an additional comfort which were against the initial tender specifications.

iv) Weightage of 1:4 for the gestation period and price factors was given in the final evaluation of the bids. With this, undue advantage has been extended to 4 projects and the Board had not examined wether it would be in a position to evacuate power in 13 months before giving weightage to such low gestation period. The actual delay in entire process has defeated this justification.

v) M/s. Oakwell Engineering Company submitted proposals for establishment of 2 barge mounted project of 150 MW each. On evaluation of proposals it was found that the projects quoted were 100 MW each only, the gestation period quoted was 13 months and tariff was Rs. 2.73 per unit. The tariff quoted by land based projects ranged from Rs. 2.29 to Rs. 2.59 per unit. The additional burden on the Board on selection of barge projects would be Rs. 294.30 crore over the agreement period of 15 years.

vi) The Board forwarded that draft PPA version to all the bidders on 19th March, 1997 with directions to conclude the same within 2 days failure of which would result in automatic cancellation of the LOI issued earlier. As M/s. Usha Martin Industries Ltd. (UMIL) could not stick to the above condition, their LOI was cancelled and M/s. Nagarjuna Construction Company Ltd., (NCC) was selected in the place of UMIL who were the next lowest bidder at levelised tariff of Rs. 2.54 per unit. This resulted in extra burden on the Board to a tune of Rs. 23.15 crore per annum (represent the difference in tariff on NCC and UMIL).

vii) Though the original bid document specified that the tie up of fuel linkage is the responsibility of the bidder, the Board ultimately agreed to shoulder the responsibility of ensuring assurance of the fuel linkage approval by GOI within 60 days of the date of signing the PPA and also agreed to extend the scheduled date of completion on day for day basis for each of delay (reckoned from 61 day) in the issuance of fuel linkage approval. As there was no progress in securing the approval for fuel linkage from GOI, it has absolved the developers from the liability towards liquidated damages for the delay in completion of the projects. This was not in the interest of the Board.

The Board in its explanatory notes stated that reduction of marks from 80 to the lower level was as no bidder has reached 80 per cent of requisite marks this was reduced to save time in retendering and their further process etc.

Regarding the foreign exchange the Board explained that the prospective bidders represented that if foreign exchange risk was to be borne by the developers, indeterminate increase in the capacity and energy charges have to be quoted by the developer to cover this risk and they requested that the foreign exchange risk should be borne by the Board.

Regarding the weightage in respect of gestation period and price (80-20), the Board stated that this was examined carefully by the Board and the issue was discussed during pre-bid conference between bidders and Board and concluded accordingly. It is also stated that if the projects were completed in short period the Board would be benefited.

Regarding the comparison between the land base project and barge mounted projects, Board in its explanatory notes stated that the cost effectiveness of barge mounted project when compared to land based project is not correct.

Regarding award of contract to NCC in place of UMIL was justified by the Board stating that it would be better to award a contract to a willing developer instead of to an unwilling developer.

Regarding the fuel linkage from GOI the Board stated that this was received on 21-7-1997 for a capacity of 1500 MW as against 1750 MW. The Board also stated that there was no absolving of the developer from the liquidated damages for the delayed completion of the projects as per the PPA provisions.

The AP Transco in the oral evidence stated that :

Regarding delay in execution of the project, JMD in the oral evidence explained that as fuel linkage was not forthcoming, Government had to help them to come out of the problem. As a part of its, a proposal was submitted by AP Transco during April 2003 to APERC (AP Electricity Regulatory Commission) and the APERC gave its consent in May 2003;

Regarding securing of points by the Developers none of the bidders have secured 80% marks and option for Government was either to cancel or revise the qualifying marks. The other option was to reduce 1.5 times of the capacity and the selected bidders should be asked to quote the prices and the option was adopted and 1.5 times capacity reduction was envisaged.

To a query on changing of bidder in awarding contract, JMD of the Company, stated that basically all the projects were given at the same cost and there was no additional burden by going from one bidder to another bidder.

To a query regarding present system of time schedule by the Committee it was replied by JMD of the Company that basically it was 18 months from the date of financial closure. Now it is from the date of signing of PPA (Power Purchase Agreement).

To a query regarding position of completion of these projects, the JMD of the Company stated that two projects were completed (Lanco, Kondapally and BSES) and regarding remaining 4 projects (Gouthami, Konaseema, Vemagiri and GVK expansion) agreements were entered into and financial closures are being entered into though they were entered into earlier.

Recommendation :

The Committee by taking all the replies (on the 2 paras) into consideration observed that power projects are industries and developers are not doing any social service even though returns on these projects would be expected after 15/30 years. In due course every thing would be paid back to them. The Committee is concerned about delay in commencement of the projects.

Main object in going for global tenders is to get competitive bidding from an effective, efficient, financially sound and planned developer. Though so many guidelines were prepared and issued, unfortunately they were not being followed properly and developers are not realising importance of these guidelines or taking any responsibility from any angle i.e. either in respect of time schedule or financial matters.

The Committee recommends that APTransco shall have a say in selection of EPC contractor and AP Transco shall monitor the progress of project periodically. The AP Transco shall get periodical reports from the Developers to have a control over the financial matters and in respect of progress of the projects from time to time.

SUMMARY OF RECOMMENDATIONS

The Committee by taking all the replies (on the 2 paras) into consideration observed that power projects are industries and developers are not doing any social service even though returns on these projects would be expected after 15/30 years. In due course every thing would be paid back to them. The Committee is concerned about delay in commencement of the projects. Main object in going for global tenders is to get competitive bidding from an effective,efficient, financially sound and planned developer. Though so many guidelines were prepared and issued, unfortunately they were not being followed properly and developers are not realising importance of these guidelines or taking any responsibility from any angle i.e., either in respect of time schedule or financial matters.

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(Paragraph No. 4B.2.2)

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