

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021**

**Present: Shri U. N. Behera, Chairperson
Shri S. K. Parhi, Member
Shri G. Mohapatra, Member**

Case No. 59/2020

Odisha Hydro Power Corporation (OHPC)	Petitioner
Vrs.		
GRIDCO Ltd. & others	Respondents

In the matter of: **Application for approval of Implementation of ERP System at different Power Stations and Corporate office of OHPC as per Para 23 of the order passed in Case No.56 of 2019.**

For Petitioner: Shri D. N. Patra, GM (Elect) on behalf of OHPC

For Respondents: Shri S.K. Panda, GM (PP) and Ms.Murchhana Dhar, AGM (PP) for GRIDCO, Shri Ananda Kumar Mohapatra, Shri R. P. Mahapatra and Shri Manas Sahoo, representative of MSME Society.

ORDER

Date of hearing: 12.01.2021

Date of order: 02.02.2021

1. The present petitioner Odisha Hydro Power Corporation (OHPC) is a generating company engaged in hydro power generation in the state of Odisha. OERC Generation Tariff Regulations, 2014 under which the power station is regulated has a provision under Regulation 3.4 (d) & (e) for incurring additional capital expenditure which is necessary for efficient and successful operation of a generating station but not included in the original capital cost. OHPC in its Tariff application to the Commission for FY 2019-20, among other things, had sought permission for implementation of Enterprise Resource Planning (ERP) in their corporation. The Commission in its order in case No.69 of 2018 dt.28.03.2019 while dealing with the above matter had directed as follows:

“Para-133: The proposal submitted by OHPC at Para 130-132 need to be studied in detail and it is directed that OHPC should file a separate petition with justification for approval of those projects”.

2. In obedience to the above order of the Commission, OHPC had submitted another revised proposal for capital expenditure (additional capitalization) under case No.56 of

2019. The Commission in its order in the same case dt.11.06.2020 had directed as follows:

“However, OHPC has not justified huge expenditure for implementation of ERP which may do so during the ensuing tariff hearing. Therefore, we are not approving the ERP implementation proposal now”.

3. Now, OHPC has filed the present petition for approval of implementation of ERP in their power station justifying its expenditure. OHPC submits that adoption of business re-engineering process and technology will help OHPC in improving operational efficiency and transparency. ERP products are globally accepted standard solutions that will provide many benefits to OHPC. The petitioner has stated that ERP can help them in process improvement in the areas of Finance and Accounts, Human Resource Management, Operation & Maintenance, Inventory, Document Management, Procurement and Sale, Project Management and finally Reporting.
4. OHPC submits that considering various advantages that may be available to OHPC by implementation of ERP they had started the process of implementation of ERP in the year 2008. Despite lot of advertisement, Pre-Bid meeting and discussion, nothing fruitful emerged till the year 2018. The ERP tender notice was first published on 12.04.2018. Despite extension of last date of submission, no bidders participated in the tender process. However, the tender was cancelled on 14.08.2018 as no bid was received against the said tender. Thereafter, the participants in the Pre-Bid meeting were invited again for one to one discussion on 27.08.2018. Basing on the inputs received from the prospective bidders and OEMs, certain changes were incorporated in the ERP tender and fresh tender was floated on 22.11.2018. Basing on the request of prospective bidders, the last date for submission of bids was extended three times. Finally, OHPC received one Bid i.e. from M/s Tech Mahindra on 28.02.2019 by the scheduled date of submission. The tender document was opened on 29.03.2019. After M/s Tech Mahindra getting qualified in the Technical Evaluation, the Price Bid was opened on 29.03.2019. The total price quoted by M/s Tech Mahindra is Rs.42,97,41,500/- (Rupees Forty Two Crores Ninety Seven Lakhs Forty One Thousands Five Hundred only) excluding GST.
5. Subsequently, an Expert Committee was constituted under the Chairmanship of Prof. Dr. Gopal Krishna Nayak, Director, IIIT, Bhubaneswar which recommended that if the proposed ERP implementation project is supported by necessary financial provision of OHPC, then the Management may take constructive approach in

materializing the tender earliest possible to achieve the benefit of ERP. After that, another Committee was formed comprising committee of Directors, independent Director, Company Secretary, IT Advisor, Joint Secretary, Finance Department and members of OCAC for final negotiation of the offered price submitted by M/s Tech Mahindra towards selection of ERP product and consequential implementation in OHPC. The Committee negotiated with M/s Tech Mahindra and they agreed on the price of Rs.41 crore (excluding GST) and the Committee recommended to place the order on M/s Tech Mahindra Ltd. The final negotiation price offered by M/s Tech Mahindra for implementation of ERP in OHPC is Rs.41 crore excluding GST for supply of ERP product (SAP) and provide Implementation Services, Annual Maintenance Contract (AMC), Annual Technical Support (ATS) and OEM Audit for a period of 5 years after successful complementation of stabilization period of 18 months from the effective date of Contract. (Stabilization period means System Stabilization, User support, Publication of annual accounts from ERP). Letter of Award (LoA) has been issued to M/s Tech Mahindra on 16.03.2020 and they have accepted it. OHPC has submitted that M/s Madhya Pradesh Power Transmission Company Ltd. has also implemented ERP in 2017 at a cost of Rs.48,23,97,614.52 excluding Taxes which helps in appreciating present price quoted by M/s Tech Mahindra.

6. OHPC further submits that their Board in its 157th meeting held on 26.06.2020 has decided to request OERC again to consider the proposal of OHPC by allowing the expenditure for implementation of ERP to be incurred by OHPC indicating the requirement of such implementation. Till such time the ERP Implementation Project has been kept in abeyance. Accordingly, OHPC requests OERC in this application to accord in-principle approval of the project cost for Implementation of ERP at Rs.41 crore (excluding Taxes).
7. One of the respondents GRIDCO submits that as per the order of OERC dt.11.06.2020, OHPC should have raised this matter in the ensuing Tariff hearing. Therefore, the case may not be admitted. However, OHPC has requested OERC to consider the present application under additional capitalization in terms of OERC Generation Regulations, 2014. Meanwhile OERC has come out with another Regulation called OERC Generation Tariff Regulation, 2020 which is in force w.e.f 15.07.2020. The present application should be considered within the ambit of that Regulation. The proposed expenditure should be considered under the head of O&M

Expenses of the present Regulation. The amount of Rs.41 crore cited by M/s Tech Mahindra includes Annual Maintenance Cost of 5 years after stabilization period. If Annual Maintenance Cost for 3 years is considered, then final quoted price comes to Rs.33,97,98,400/-. GRIDCO has requested the Commission to allow the cost after prudence check.

8. Another respondent Mr. R.P. Mahapatra has stated that the present application should be considered under OERC Generation Tariff Regulation, 2020. The ERP system does not come under “Additional Capitalization” is evident from the fact that the petitioner did not seek the approval of the Commission before implementation of the same. It is not understood how the single tender was opened on 25.05.2019 even before filing the petition in case No.56 of 2019 on 17.09.2019 and the LoA was issued to M/s Tech Mahindra on 16.03.2020 before the orders were issued by the Commission on 11.06.2020 in case No.56 of 2019. There is no detailed justification given by the petitioner regarding (i) whether the cost is to be considered under “Additional Capitalization”, (ii) whether there will be increase in the availability of the hydro generating units, (iii) whether the quantum of energy generated will increase and (iv) consequent reduction in the cost of power generated. The ERP is a system for improvement of Management which will improve its profitability. It cannot be considered under “Additional Capitalization” under Regulation 12(g) of the OERC Generation Tariff Regulation, 2020. The sequence of events clearly establishes that action taken by the petitioner from 2008 onwards cannot be considered for approval by the Commission under “Capital Maintenance” or “Additional Capitalization”. OHPC is implementing the same for assisting its Management. The submission of the petitioner for approval of ERP appears to be an afterthought. The detailed submission justifying issuance of LoA on single tender basis is unnecessary while seeking approval of the Commission for “Capital Expenditure”.
9. The respondent Mr. Ananda Kumar Mohapatra has stated that the project cost of Rs.41 crore (excluding Taxes) for ERP installation is very much high. This is evident from the report of PWC Ltd., who has been selected as a consultant to execute the programme that the estimated project cost is Rs.21.07 crore which is revised to Rs.34.20 crore. The Tech Mahindra has been selected in a single bid process. The interest of MSMEs of Odisha has not been duly considered in the Bid process thereby violating the rules and norms of Industry Department of Government of Odisha.

10. The intervener MSME Society in its written note of submission has stated that OHPC had floated the tender on 22.11.2018 for implementation of ERP with estimated budget of Rs.22 crores, which had been estimated by PWC. After due date of tender submission, only one Company called M/s Tech Mahindra participated as single Bidder. Since this is a case of single bid, it should have been cancelled as per CVC guideline. But OHPC moved on to open the said tender. After opening the Financial Bid, it was found that M/s. Tech Mahindra has quoted Rs.42.5 crores which is near about double of their budget. This tender has taken nearly 15 months to finalize because OHPC was creating methods to award this contract to M/s. Tech Mahindra. As an eligible Bidder, they have requested OHPC several times to cancel the tender for a fair competition and transparency. But OHPC is keen to award the contract to M/s. Tech Mahindra. The tender was floated in 2018 but OHPC is trying to give the work order in 2021 which is a big question here.
11. In its rejoinder, OHPC has submitted that the world is moving towards automation and now every stakeholder has become dependent and relying on system based working during this global pandemic situation. ERP, Office Automation and Document Management System are integral components for computerization in any organization. In the meantime, OPGC, SLDC and GRIDCO have already implemented ERP and LoA has been issued for implementation of ERP in WESCO, NESCO and SOUTHCO on 02.03.2019. Since OERC in its order in Case No. 69 of 2018 dt.28.03.2019 had instructed OHPC for a separate filing of ERP proposal, considering the necessity of ERP in OHPC they had requested the Commission to consider the separate proposal of implementation of ERP through a separate case. A separate application was filed on 08.10.2020 which was registered as Case No.59 of 2020 which is the present case. Successful implementation of ERP will definitely increase the availability of Hydro generating units as it will help in better management of plant O&M activities, renovation & modernization activities, generation planning and better inventory management. The Commission may decide whether the expenditure can be considered under “Additional Capitalization”. The consultant PWC while giving their observation on ERP Price Bid Evaluation has stated that ERP costs are driven by market condition and dynamic in nature. So, the price quoted by Bidder may not exactly match with estimates. The variation of revised estimated price with negotiated price is 21%. OHPC can confirm that there are cases where utilities have considered Bids even if the variation between estimation and actual quoted price is more than 50% considering

their internal priorities and strategic decision. It is observed from multiple bid evaluations in similar utilities that transaction licence cost has varied from Rs.40,000/- to Rs.1,20,000/-. Similarly, man-month rate for a lead consultant has varied between Rs.2.5 lakh to Rs.5 lakh. Bidders quote and provide discounts based on multiple factors such as competition, scope of the work, project risk, cash flow and other terms and conditions. M/s PWC has submitted initial estimate on 2018 based on prevalent rates of 2017. The revised estimate submitted by M/s. PWC is Rs.34,20,10,000/- (excluding taxes) against the initial estimate amount of Rs.21,06,63,000/- (excluding taxes) and revised price offered by M/s. Tech Mahindra Ltd. is Rs.41,49,44,000/- (excluding taxes) against the initial offered price of Rs.42,97,41,500/- (excluding taxes). This shows the dynamics of the market. M/s. PWC has also advised OHPC to consider 21% of variation of quoted price from estimate and proceed further after due approval process. The Expert Committee in their meeting dt.24.07.2019 observed that ERP Implementation project is subjective unlike EPC contract and the comparison attempt by OHPC in respect of comparable SAP product licences cost with that of recent OPTCL's IPDS tender has yielded no conclusive outcome. The estimate of ERP Implementation depends on (a) OEM Licence Cost, (b) Man-month required for implementation and (c) Cost for man-month. All the quotes for all the three components vary widely. The Committee recommended that if the proposed ERP Implementation project is supported by necessary financial provision of OHPC then the management may take constructive approach in materialising the tender earliest possible to achieve the benefit. Therefore, ERP cost is driven by market conditions and dynamic in nature. Pursuant to the decision of the Board in its 119th meeting held on 26.12.2013, the process for ERP implementation in OHPC was initiated. An Open tender was floated for "Selection of ERP Product, Implementation Partner (IP) and End-to-End Implementation Service for successful implementation of ERP in OHPC and GEDCOL on 12.04.2018 and the last date of submission of Bid was 21.05.2018. Prospective Bidders and OEMs participated in the Pre-Bid meeting held on 04.05.2018 at OHPC Training Centre. The corrigendum was published on 18.06.2018 based on the queries received during the pre-bid meeting and the date was extended. The last date for the submission of the bid was extended thrice for better participation from the prospective bidders. The tender was cancelled on 14.08.2018 as no bid was received against the said tender. A fresh tender was once again floated on 22.11.2018. The last date for submission of the Techno-Commercial Bid was extended thrice for better response and the last date of submission of the Bid was fixed on 28.02.2019.

Even after retendering, only one bid of M/s Tech Mahindra Ltd. was received. As per OPWD Guideline *“The single tender received in the first call shall be cancelled without opening the Bid. The acceptance of a single tender received, even after retendering should have prior approval of the next higher authority”*. The Board of OHPC in its 156th meeting held on 06.03.2020 has approved the proposal for placing the order on M/s Tech Mahindra Ltd. It was an open tender, no Bid from any MSME was received. MSMEs were allowed opportunity to participate in the Bid but they have not participated.

12. Heard the arguments and counter arguments of the parties. This is an application for investment approval for OHPC. Implementation of ERP would facilitate the business process re-engineering of OHPC and optimize utilization of resources at its disposal. Its Implementation is long overdue. The Commission needs to approve the same now since it was not there in their original Capital Cost. The Commission while doing so, exercises power within the limit of prevailing OERC (Terms and Conditions of Generation Tariff) Regulations, 2020. The present cost of Rs.41 crores consists of two parts i.e. Capex and Opex as per the Bid document. The project would be implemented within one and half years. Thereafter, it will be maintained by the Bidder for five years. All the costs of Rs.41 crore shall not be loaded on OHPC in one year. It will be payable during a span of six and half years. The payment schedule for implementation of ERP is as follows:

Capex	During first year	Rs.15,63,68,000/-
Capex	During next six month	Rs.7,81,28,000/-
Opex	First year after stabilization	Rs.3,51,00,800/-
Opex	Second year after stabilization	Rs.3,51,00,800/-
Opex	Third year after stabilization	Rs.3,51,00,800/-
Opex	Fourth year after stabilization	Rs.3,51,00,800/-
Opex	Fifth year after stabilization	Rs.3,51,00,800/-
Total :		Rs.41,00,00,000/-

The Capex consists of costs like ERP Licence Cost, ERP Implementation Cost and ERP OEM Audit Cost. The Opex for next five years consists of ERP Annual Technical Support Cost and Annual Maintenance Support Cost. The Capex cost is Rs.23,44,96,000/- whereas Opex cost is Rs.17,55,04,000/-.

13. Let us refer to Regulation 12(1)(g) of the said Regulations which states as follows:

Additional Capitalization

- (1) *The capital expenditure incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial*

operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:

x x x x x

(g) Any additional works/services, which have become necessary for efficient and successful operation of a generating station but not included in the original capital cost.

14. The present implementation of ERP has become necessary for efficient and successful operation of the generating station of OHPC after the cut-off date. Therefore, the expenditure in this regard under both Capex and Opex head can very well be accommodated under “Additional Capitalization” of OERC Regulation. This is because this is an additional service required for efficient running of the Corporation. This cannot be subsumed under O&M Expenses since it is allowed on normative basis for routine maintenance work. This additional capitalization shall be made basing on the above payment schedule. Hence, we approve Rs.41 crore (excluding GST) as Additional Capitalization over a period of six year and six months for Implementation of ERP in OHPC, which shall be recovered through Tariff in due course. In addition to that, taxes as per actual shall form the part of Additional Capitalization and shall be treated as such as per OERC Regulation.

Regarding the procedure of selection of executing agency of ERP through bidding process, these are governed under different rules and regulations and not within the domain of OERC Regulations. Therefore, the Commission has no comments to make on this aspect.

15. Accordingly the case is disposed of.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson