

## **TERMS OF REFERENCE**

### **Assistance to Association of Power Producers in evolving a sustainable framework to rescue generation projects with locked-in tariffs and facing viability challenges due to factors beyond the control of developers and their migration to regulated tariff structure**

#### **Introduction**

- Association of Power Producers (APP) is a group of 29 leading private power developers in the country and also includes the major private entities in distribution and transmission. APP is the industry's premier think tank, and its members constitute over 90% of the existing and planned power capacity in the private sector.
- One of the most critical issues facing the power sector is viability challenges faced by power projects with bid tariff (i.e. locked-in tariff for 25 years) due to factors beyond the control of developers.
- While project developers are facing severe financial hardships due to the challenged economic viability of the bid out capacities, Discoms, Consumers and Banking sector are witnessing / likely to witness the snowballing negative impact of the same. This can derail power sector's growth and consequently country's economic growth for years to come.
- The justification of the need for revising tariff and providing compensatory tariff for fuel risk has been acknowledged. However the need for revising fixed charges on the ground of abnormal variation in Foreign Exchange rates, increase in interest rates and delays in project implementation caused by delays in statutory clearances and its impact on the project cost and thereby tariff is yet to be accepted.
- In this context, APP has been actively shaping a solution to rescue such projects to avoid negative impact on the power sector, national economy and the consumers. One of the solutions, currently under discussion, is allowing such projects to move to determination of tariff by appropriate regulatory commissions under provisions of Section 62 of Electricity Act, with sacrifices to be made by project developers and lenders both.
- APP is looking to retain a consultant to assist it in achieving the objective of the engagement.

#### **Objective of the engagement**

Main objective of the engagement is to assist APP in shaping and rolling out a sustainable policy framework to rescue generation projects with locked-in tariffs and facing viability challenges due to under-recovery of fixed and variable cost on account of factors beyond the control of developers.

#### **Scope of work**

To achieve the above objective the consultant will be required to:

- Assess the current legal<sup>\*</sup>, policy and regulatory framework in the power sector and its genesis & evolution over the years.
- Analyze the viability challenges faced by power project developers with locked-in tariffs and factors underlying the same
- Quantify the magnitude of the crisis facing the power sector and analyze its current /potential impact on various stakeholders : Developers, Lenders, Discoms, Consumers, and nation /economy as a whole
- Provide analysis of existing mechanisms available to restore viability of stranded/stressed projects.
  - Attempts made so far to restore viability of financially stressed projects
  - Shortcomings of the existing mechanisms
- Analyze, if policy intervention is critical to resolve the current situation

- Provide a comprehensive solution including legal\* provisions and approaches which GoI can adopt to resolve the current situation
  - Provide a comprehensive package including sacrifice by various stakeholders
  - Provide the comprehensive changes /actions required in the current legal\*/policy/regulatory framework
  - Provide detailed pros and cons of each of the proposed approaches
  - Analyze, quantify and demonstrate financially the implications of the proposed action plan on various stakeholders vs scenario where no action is taken – outcome of action as against no action.
  - Provide precedence in India and other countries wherein similar Government action has been undertaken
  - Provide instances of a revenue stream agreed to in a bid situation in any other infrastructure project in India that was subsequently modified by the Government to make the investment viable.
- Prepare a comprehensive strategy and roadmap to ensure wider stakeholder acceptability and ease of implementation of the solution

*\*Note - Inputs from APP's legal counsel will be available to the Consultant*

### **Deliverables**

- Draft report and Final report addressing the scope of work detailed above. It may be mentioned here that the report should be brief and the subjects outlined in the scope be used to the extent of justifying the need for revising tariff, more specifically the fixed charges as it is broadly accepted to compensate variable charges.
- Preparing a detailed presentation to be delivered to various stakeholders.
- Attending meetings with and making presentations to stakeholders.

### **Schedule for deliverables**

- Draft report within 7 days from the notice to proceed
- Final Report within 3 days from discussion with APP members
- Presentation and participation in meetings– to be mutually decided

### **Team**

The Consultant team shall include suitably qualified and experienced people with deep understanding and insights in the power, coal and gas sectors.

Consultant participation in meetings /presentations will be at sufficiently senior level.

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