



Tamil Nadu Electricity Board Engineers' Sangam

தமிழ்நாடு மின்சார வாரிய பொறியாளர் சங்கம்

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To

Date: 07.10.2020

Shri R K Singh,
Hon'ble Minister of State (I/C),
Power, New & Renewable Energy,
Shram Shakti Bhawan, Rafi Marg,
New Delhi.

Respected Sir,

Sub: Concerns, Comments and Objections to Draft Standard Bidding Document- To be kept in abeyance until decision on EA-Bill 2020 is made or until 31st March, 2021 whichever is later.

Ref: Ministry of Power, Government of India, Draft Standard Bidding Document Version Date 20/09/2020 circulated on 22nd September, 2020 under the Current Notices on website www.Powermin.nic.in.

In the subject cited matter, our Sangam registers its vehement protest to Ministry of Power for circulation of Draft Standard Bidding Document and giving a very short time limit to seek comment on this draft until 5th Oct. 2020.

The MoP, GoI seems to be in unprecedented haste in pursuit of its dream of selling of multibillion infrastructures and vast human resource of power sector of the Country to profit mongering private players and super rich of the country in lieu of inviting investment in power sector and ease of doing business by putting the interests of Poor, Farmers, Common Public, Employees, State Governments at stake by setting new heights of unconstitutional practices and processes day by day while compromising the issues of National Energy Security, National Food Security, Electricity Availability to all and Development of the Nation.

The very first page of this Draft portrays the paradoxical view itself as;

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“the National Emblem, Satyamev Jayte, Ministry of Power and Government of India” is printed on the top left corner, then the title reads as ***“Draft Standard Bidding Document for privatization of Distribution Licence”*** in the middle the of page then at the end of the page a Note is appended which reads as

“The Provisions contained in the SBD's do not represent the views of the Ministry, or its officers and are not binding on the Ministry. The Proposals are essentially being presented with an aim of initiating discussions and soliciting inputs from Stakeholders on the SBDs.”

The reasons to fairly believe it as the paradoxical are as follows:-

- Our Sangam is at great loss to understand that ***“Presence of “the National Emblem, Satyamev Jayte, Ministry of Power and Government of India”*** endorses that it is a Ministry of Power, Government of India's Document whilst Ministry of Power does not own the responsibility of provisions contained in this SBD.
- Why the Ministry of Power has circulated this SBD for obtaining the comments and that's too in a very short time while the provisions mentioned therein are not binding on the Ministry.
- The constitution of India under seventh schedule provides power to both the central as well as state governments to make appropriate laws on the matters related to electricity. By the way, how SBD is proposed it appears that the federal structure of electricity is being interfered by centralizing the powers.

The basic intent of the constitution is being violated and centralization of power is not desired. The intent should be towards decentralization of power for transparency and efficiency.

The Central Govt. has been trying to violate the concurrent status of electricity through this exercise of circulating the SBD by virtually shifting electricity from concurrent list to the Union list by dictating States to follow the path of privatization on the line of Central Government free will.

This exercise is analogous to “Like someone ‘A’ who has no authority and legal papers to sell someone ‘B’s’ house but that someone ‘A’ put ‘B’s’ house on sale by listing it on some real estate website by putting disclaimer this is just a suggestive selling exercise and I cannot be held responsible for my deeds, however viewers of this advertisement are requested to comment about the deal offered.

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The title clearly conveys the real intentions and policy plank of Ministry of Power, Govt to Privatize the Distribution Licensees by having a look at the previous trends in Oil Corporations, Navrattan Companies, Railways and Airports show that the announcement of privatization soon came after the huge investment was made in the improvement in their infrastructure.

Similarly in the case of BSNL's huge investments in connecting all the Panchayats with internet network under Bharat Fiber Scheme may also meet the same fate or may be sold to private Giant JIO.

Now after the huge investments in upgradation of Electricity Infrastructure through various prestigious schemes like APRDP 2001, R-APDRP/IPDS 2008, DDUGJY & SAUBHAGYA 2014/2017, Smart Grid Pilot Project & NSGM 2012-15), and Structural Reform (Electricity Act 2003).

UDAY (Ujwal Discom Assurance Yojana) scheme, launched in November 2015, MGJG and upcoming ADITYA Yojana. We as Federation, are stating that MoP, Govt is also planning for complete Privatization of the Power Sector through the way of this SBD after having huge investments in electricity sector.

However we as Sangam are submitting our few important statements of Concerns, Comments and Objections to Draft Standard Bidding Document under strong protest without prejudice to our right for detailed/additional submissions regarding our Concerns, Comments and Objections in subject cited matter which is to be kept in abeyance until decision on EA-Bill 2020 is made or until 31st March, 2021 whichever is later.

The details of important points in SBD and concerned comments are as follows:-

Draft Proposal:

The ministry has suggested several options that the states can choose while offering the DISCOMs for Privatization and it contains the guidelines for the Privatisation of DISCOMs throughout the Country. These include suggestions on stake of State Governments in the Power Distribution, ranging from zero (no involvement) to minority stake of 26 per cent for the distribution and retail sale of electricity.

Comment:

The Centre is pushing State run Power Distribution Companies (DISCOMs) to increase private sector participation with a view that "Globally, Distribution utility

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Privatisation has affected the sectorial output positively by attracting new investments into the value chain and gradually increasing operational efficiency.

The Established Truth is however the exact opposite of this view, "An analysis by the World Bank in 2018 revealed that there is no significant difference across utility ownership types, concerning the efficiency and quality of services provided to commercial end users.

The World Bank tracks and rates the performance of Electricity Distribution in each country through its 'Getting Electricity' indicator, a part of ease of 'Doing Business'. The indicator measures the time, procedures and costs to connect to the grid, as well as service reliability and tariffs for business consumers.

The key findings of the analysis are:

- Most of the Distribution Utilities are Public Owned, especially in Asia and the Middle East. Privatization is prevalent in Western countries.
- Globally, Distribution Utilities regardless of their ownership are improving their efficiency to provide new connections. **However, securing a new grid connection is equally cumbersome from Public and Private owned Utilities.**
- **Utility ownership has little correlation with power outages and commercial tariffs.**

The above study and the key findings are completely striking out all possibilities of the floral path promised to the consumers and as envisaged by the MoP, Gol.

Draft Proposal:

According to the draft, the highest bidder "shall be provided with a clean balance sheet, free of accumulated losses/unserviceable liabilities" of the DISCOMs. It also proposed that existing assets of the distribution licensee, other than land, would be transferred to the highest bidder according to rates determined by State Power Regulators. Further, wherever required, the concerned State or UT Government may provide suitable transition support to the successor entity for a specified period of say 5 or 7 years," the SBD added.

Comment:

It is worthwhile to mention that when the Electricity Bill - 2000 was drafted to unbundle SEBs, the balance sheet was almost clean but the scenario after Electricity Act - 2003 was passed and in force for a period about 17 years now, the

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Balance sheet as per MoP, Gol, own data circulated in Power Ministers Conference of 3rd July 2020.

Some of the achievements of MoP, Gol reads as below:-

- Net Worth of State DISCOMs is (-) Rs. 80,567 Crores (31.03.2019)
- Total Financial loss of DISCOMs is Rs 85,803 Crores (FY 19)
- Total DISCOM Debt is Rs. 4.79 Lac Crores
- Accumulated Losses of DISCOMs is 4.89 Lac Crores
- Regulatory Assets is 1.4 Lac Crores

So just by looking these whopping figures of losses our question is.....

“What is the guarantee that once the balance sheet is cleaned then it will not meet up the same fate in upcoming 20-25 years if these proposed so called reforms would have happened through this SBD”?

Draft Proposal:

Land owned by the existing **DISCOMs** shall be provided to the new owner on a right to use basis at nominal charges.

Comment:

We are at great loss to understand that how the infrastructure earned by blood and sweat of Power men of the country for the past 70 years can be offered to profit mongering entities without any cost or at negligible rent basis agreement that may be @ Rs. 1 only.

Draft Proposal:

In the case of the shareholding of the distribution company, the investor can acquire 100% of the equity share with no government involvement. This will be useful for distribution utilities in densely populated urban areas. In another case, the investor can hold 74% of the equity shares, while the government will have 26%. This will be applicable for Distribution Utilities in Urban, Rural mixed Geography.

Under the proposed document, significant loss-making Power Distribution Companies (DISCOMs) with medium to high Aggregate Technical & Commercial losses (AT&C) **Losses of above 15 per cent may be bid out** on AT&C Loss reduction commitment for the first five years. The fixed parameter will be the consideration for sale of equity shares in successor entity.

A second bid parameter has been proposed in case of DISCOMs with **lower than 15 per cent AT & C Losses (or with negligible ACS-ARR gap)**. The SBD suggests

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that the bid parameter may be upfront premium for equity consideration in the Distribution Company. A fixed AT&C Loss trajectory for next five years may be specified in the request for proposals (RFP) which shall be adopted for tariff determination, the SBD said.

Comment:

While imposing the decision of Privatisation of Electricity Sector of the UT it was stated that Sub optimal performance of Power Distribution and supply is the cause and now the whole country electricity sector is put on sale without any criterion or rationale behind it.

Draft Proposal:

The draft document proposed that existing power purchase agreements (PPAs) of the DISCOMs will be transferred to the successor entities. However, for specific cases where PPA rates are very high, State/UT governments will retain PPAs to supply power to the new licensee at a lower cost. For power purchase agreements (PPAs), the documents state that the PPAs can be assigned to the successor entity, or the PPAs may be retained by the state-owned entity for a specified period.

Comment:

To our mind, if the State Government decides to Privatise DISCOM completely, the Power Purchase Agreement (PPA) will be transferred to the successful bidder. Whereas if the State decides to retain a 26 percent stake in the DISCOM, the State will have to retain the PPAs for a specific period.

This is a clear case of favouring the private players (i.e.,) they will be responsible for profits only, while the burden will lie with State Governments while the State Govt. owned DISCOMs are considered to be as burden now- a-days, irrespective of all the services and role they are playing to sustain and increase in the development rate of country. Moreover the tax payer money will be used to make the base for profit of Private Entities.

Draft Proposal:

The documents further specify that the consultant will consider everything to assess the feasibility and financial restructuring and transition financing. The consultant will use industry benchmarks and analysis of past data for receivables, payables, stores, and capital work in progress to arrive at a realistic assessment of values to be considered for the opening balance sheet of the restructured distribution utility.

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A similar analysis will also be carried out on the Power Purchase and Transmission Payments, with any overdue payments and its associated delayed payment surcharges to be accounted for realistically in the opening balance sheet of the restructured distribution utility. The consultants will also carry out detailed financial projections for the restructured DISCOM with assumptions agreed with the State Governments on energy demand supply, power procurement, tariff revisions, loss trajectories, and financing of future capital expenditure on a reasonable basis.

As per the draft bidding documents, fixed assets and their associated capital sources will be transferred at values approved by SERC. The consultants will analyze regulatory orders for the values of net assets, liabilities, and equity permitted by the SERC in tariffs over the years.

Comment:

In the case of Orissa privatization in mid 90s, the most important lesson to be learnt is that when Consultants were made the king the end result was the disaster. The Orissa consultants took hundreds of Crores as their fee and disappeared without any responsibility or accountability. When Privatisation in Orissa collapsed the consultants were nowhere to be seen.

Unfortunately, Gol is still following the Consultancy game plan again. Before starting this SBDs exercise, Gol must first study the role of consultants in Orissa and other relevant cases.

Draft Proposal:

Employees of the Existing Distribution licensee shall be transferred to the successor entity. Such Transfer of employees shall be at continued or better service conditions. Further, the concerned State/UT government shall be responsible for all terminal liability obligations of such employees till their transfer date. The Successor shall fund necessary contribution towards terminal liabilities on a prospective basis from the date of their transfer.

Comment:

In the Delhi exercise of privatization the worst sufferers were the employees who were practically thrown to the wolves. And presently in case of Odisha, CESU's case, Tata like employee centered firm are not ready to take the responsibility of the existing service conditions, of the employees on as is where is basis, what can be said about others.

Secondly it will pose existential threat to the present employees and their dependent families. For those who are in the last phase of their career, who will pay their

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pension for social security as the GPF is with the respective state Government and he will be superannuated from the successor entity.

Those who are in mid terms of their career will have to face the scrutiny on one or the other basis and will be the sufferer for losing his or her job and switching the job will not be so easier when the unemployment rate is the highest in last 45 years.

Thirdly, all the employees and engineers have been recruited as per respective State/UT Government Exams, Interviews, Terms and conditions and now snatching their job due to Government free will out of some mirage effect of privatization process will be an arbitrary exercise and against the service rules as well as natural justice to all of them.

The Ministry of Power, Government of India is issuing the draft after draft on a continual basis which are in line with the open secret of intentions to privatize the whole distribution companies of the India on one or the other basis.

The comment period on the EA Bill had not been over yet when Gol imposed the Direction of privatization of UT's, then after decision of Privatization of Purvanchal Vidhyut Vitran Nigam Limited has been taken unilaterally, now to head further to complete the process of privatization this SBD has been floated, while one more additional draft has been circulated in the name of Draft Electricity (Rights of Consumers) Rules 2020 and recently circulated the Draft Electricity (Change In Law, Must Run Status, and other matters) Rules 2020.

Federation wants to assert that, now, it is very much evident that MoP, Gol is bifurcating the provisions made in EA-Bill- 2020 and presenting them in form of individual draft to make it more convenient for themselves to make suitable provisions in the present laws of Electricity to meet their desired and ultimate goal of Privatization.

However the EA-Bill was discussed at length in the Power Ministers Conference, 3rd July, 2020 and it was said that "Based on the comments of all stakeholders the draft proposed amendments shall be modified suitably but till date no modified draft has been circulated for comments and concerns.

Moreover in the power ministers conference of 03 July the issue of privatization and SBDs was nowhere on the horizon and nowhere was it discussed. After 03 July, 2020 how this issue has now become an overriding priority, needs to be transparently explained by Gol, in its statement of objects and reasons while issuing this draft SBD.

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We as Sangam are of the affirm view that for the wellbeing of the Power Sector and to ensure its important role in development of the Country, The MoP, GOI must look towards electricity sector in a holistic approach in spite of making business out of it and would have to bring the policies which cures the root cause of the Fire not the smoke only after having due say and deliberations from all stakeholders of electricity through all available means after the normalcy has arrived from COVID-19 pandemic.

More over outbreak of COVID-19 has provided opportunity to GOI to rethink about their disinvestment in PSU's, one of the reasons why India has been comparatively less affected from COVID-19 despite all odds like high density of population, poor education, delay in preventive measures, mass movement of casual laborers and return of high number of infected persons from abroad is due to India's massive "Public infrastructure in Health, Banking, Telecommunication, Transport and most importantly Electricity.

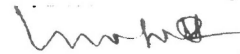
Once all public sectors including electricity are sold it will be very difficult to rebuild them and India will not be able to cope with similar kind of crisis in the future.

The present subject cited Draft Standard Bidding Document for Privatization of Distribution licensee version Dated 20.09.2020 along with all its proposed clauses guiding the privatization of the UTs electricity system must be withdrawn / revoked/scrapped/held in abeyance with immediate effect till decision is made on EA-Bill 2020 or until 31st March, 2021 whichever is later.

We further demand for Re- Bundling of State Electricity Boards by taking the lessons from the past mistakes of MoP, GOI to really achieve all the dreams which was envisaged earlier and being envisaged now through the reforms, however as per our opinion honest reviews are necessary, wherever reforms in the shape of Privatization are not necessary for a developing country like INDIA.

Thanks in Anticipation.

Yours Sincerely,



(V.S.SAMPATHKUMAR)

General Secretary.

A copy of the above is being forwarded to following dignitaries for information.

1. Hon'ble Prime Minister, GOI, New Delhi.
2. Hon'ble Chief Ministers of Tamilnadu.
3. Hon'ble Electricity Minister, Govt. of Tamilnadu.
4. Secretary Power, GOI, New Delhi.
5. The Secretary General, All India Federation of Power Diploma Engineers (AIFOPDE).
6. The National Coordination Committee of Electricity Employees & Engineers (NCCOEEE).
7. Sh.Vishal Kapoor and Sh. Narender Singh designated for compiling of comments on subject cited matter.