

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO. 79 OF 2024 DATED 14th AUGUST, 2024

BETWEEN

ELECTECHNIQUE POWER LIMITED APPLICANT

AND

THE ACCOUNTING OFFICER

KENYA ELECTRICITY GENERATING COMPANY PLC ... 1ST RESPONDENT

KENYA ELECTRICITY GENERATING COMPANY PLC .. 2ND RESPONDENT

AND

SYNERGY POWER SYSTEMS LTD INTERESTED PARTY

Review against the decision of the Accounting Officer, Kenya Electricity Generating Company Plc in relation to Tender No: KGN-NGONG-006-2024 for Supply of 11KV Indoor Circuit Breaker for Ngong Windfarm

BOARD MEMBERS

1. Ms. Alice Oeri - Vice-Chairperson & Panel Chairperson
2. Mr. Stanslaus Kimani - Member
3. Dr. Susan Mambo - Member

IN ATTENDANCE

1. Ms. Sarah Ayoo - Holding brief for Acting Board Secretary
2. Ms. Evelyn Weru - Secretariat

PRESENT BY INVITATION

APPLICANT

ELECTECHNIQUE POWER LIMITED

1. Gideon Muturi

- Advocate, G.K.Muturi & Co. Advocates

2. Mr. Muchiri Kahoro

-Advocate, G.K.Muturi & Co. Advocates

RESPONDENTS

ACCOUNTING OFFICER, KENYA ELECTRICITY GENERATING COMPANY PLC & KENYA ELECTRICITY GENERATING COMPANY PLC

1. Mr. Mogaka

-Advocate, Mogaka Omwenga & Mabeya
Advocates

INTERESTED PARTY

SYNERGY POWER SYSTEMS LTD

No Appearance

DECISION OF THE BOARD

1. On 14th August 2024, Electechnique Power Limited, the Applicant herein, filed a Request for Review dated 14th August 2024 together with a Supporting Affidavit sworn on 13th August 2024 by Lee Kamunya Gaitiu, its Managing Director (hereinafter referred to as the "Request for Review") through the firm of G.K.Muturi & Co. Advocates.
2. In opposition to the Request for Review, the Respondents filed on 19th August 2024 through Mogaka Omwenga & Mabeya Advocates, a Notice of Appointment of Advocates dated 19th August 2024, a 1st and 2nd

Respondents' Memorandum of Response to the Request for Review and a Replying Affidavit sworn on 19th August 2024 by Vincent Mamboleo, the 1st Respondent herein together with the confidential file pursuant to Section 67(3)(e) of the Act.

3. *Vide* a Hearing Notice dated 23rd August 2024, the Acting Board Secretary, notified parties and all tenderers in the subject tender of an online hearing of the instant Request for Review slated for 29th August 2024 at 11.00 hrs, through the link availed in the said Hearing Notice.
4. *Vide* email dated 29th August 2024, parties were notified that hearing of the matter had been rescheduled to Friday, 30th August 2024 at 11.00 a.m.
5. At the hearing of the instant Request for Review on 30th August 2024, both counsels for the Applicant and Respondents informed the Board that they wished to file a consent and have the matter marked as withdrawn.
6. Subsequently, a Consent Order dated 30th August 2024 and signed by all parties' respective advocates on record was equally filed with the Review Board on 30th August 2024 pursuant to Regulation 216(2) of Regulations 2020.
7. In the circumstances, the Request for Review dated 14th August 2024 and filed on even date is deemed to have been withdrawn on 30th August 2024 by consent of parties.

FINAL ORDERS

8. In exercise of the powers conferred upon it by Section 173 of the Public Procurement and Asset Disposal Act, No. 33 of 2015, the Review Board makes the following orders by consent of all parties to the Request for Review dated 14th August, 2024 and filed on even date:

A. The Applicant's Request for Review dated 14th August 2024 and filed on even date be and is hereby marked as withdrawn.

B. There shall be no orders as to costs.

Dated at NAIROBI, this 4th Day of September, 2024.



.....
SECRETARY

PPARB

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD
APPLICATION NO 79 OF 2024

ELECTECHNIQUE POWER LIMITED.....APPLICANT

-VERSUS-

THE ACCOUNTING OFFICER OF
KENYA ELECTRICITY GENERATING COMPANY PLC1ST RESPONDENT
KENYA ELECTRICITY GENERATING COMPANY PLC2ND RESPONDENT

-AND-

SYNERGY POWER SYSTEMS LTDINTERESTED PARTY

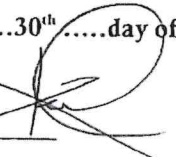
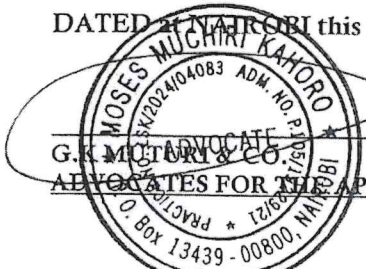
CONSENT ORDER

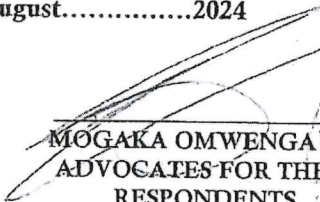
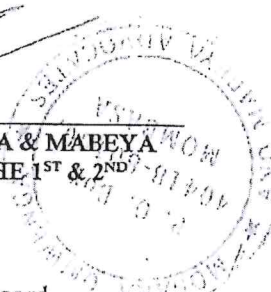
*(In relation to Tender Referenced KGN-NGONG-006-2024 for Tender for Supply of 11KV Indoor
Circuit Breaker for Ngong Windfarm)*

Pursuant to Regulation 216 1 - 3 of the Public Procurement & Asset Disposal Regulations 2020, the parties herein (The Applicant and the 1st & 2nd Respondent) hereby agree that the Request for Review be and is hereby withdrawn on the following terms:


1. The Letter of Notification to award and all Letters of Regret dated 2nd August 2024 written to bidders are hereby withdrawn;
2. The Respondent re-evaluate afresh all the bids submitted, including the Applicant's bid in accordance with the Constitution, the Public Procurement and Asset Disposal Act, Public Procurement & Asset Disposal Regulations 2020 and the Tender Document and the tender document and communicate the outcome within the next 21 days;
3. Each party to bear its own costs.

DATED at NAIROBI this ...30th.....day of.....August.....2024



G.K. MUTURI & CO.
ADVOCATES FOR THE APPLICANT



MOGAKA OMWENGA & MABEYA
ADVOCATES FOR THE 1ST & 2ND
RESPONDENTS

Lodged with the Secretary of the Public Procurement Administrative Review Board
on.....30th.....day of.....August.....2024

Signed.....
BOARD SECRETARY

