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**Petition No. 1050 of 2015**

**BEFORE**

**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION**

**LUCKNOW**

**Date of Order: 22.02.2016**

**PRESENT:**

1. Hon'ble Sri Desh Deepak Verma, Chairman
2. Hon'ble Sri Indu Bhushan Pandey, Member
3. Hon'ble Sri S.K. Agarwal, Member

**IN THE MATTER OF:** For adoption of tariff under Section 63 of the Electricity Act 2003 discovered through competitive bidding process as per the standard guidelines issued by the Central Government for procurement of solar power from grid connected solar PV projects.

1. The Managing Director,  
U.P. Power Corporation Ltd.,  
7<sup>th</sup> Floor, Shakti Bhawan,  
14, Ashok Marg, Lucknow
2. Uttar Pradesh New and Renewable Energy Development Agency,  
Vibhuti Khand,  
Gomti Nagar,  
Lucknow - 226010.

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**AND**

1. Jakson Engineers Limited,  
A-43, Phase II Ext.,  
Hosiery Complex,  
Noida-201305
2. K.M. Consortium,  
76, Eldeco Greens,  
Gomti Nagar,  
Lucknow-206010
3. ACME Solar Energy Pvt. Ltd.,  
Plot No. 152,  
Sector-44, Gurgaon,  
Haryana-122002



4. Jatadhari Merchandise Pvt. Ltd.,  
70, Nalini Seth Road,  
Kolkata-700007
5. Sukhbir Agro Energy Ltd.,  
A-16, Ground Floor,  
Narain House,  
Green Park Main,  
New Delhi-110016

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Following were presents:

1. Sri V.P. Srivastava, CE (PPA), UPPCL
2. Sri S.K. Sinha, SE, (PPA), UPPCL
3. Sri K. Prashad, EE, (PPA), UPPCL
4. Sri Rajeev Srivastava, Advocate, UPPCL
5. Smt Namrta Kalra, UPNEDA
6. Sri Navneet , Consultant
7. Sri M.L. Arora, CEO, Sukhbir Agro Energy Ltd.
8. Sri K. Nadeem, SAEL, Solar Energy Pvt. Ltd.
9. Sri A.K. Verma, Chairman, UPRVUP
10. Sri Rama Shanker Awasthi, Consumer
11. Sri S.K. Gupta, Jakson Engineers Limited
12. Sri S.S. Mehta, Medhaj Tech.

### ORDER

(Date of Hearing 28.01.2016)

1. Petition is filed jointly by UPPCL and UPNEDA for adoption of tariff under Section 63 of the Electricity Act 2003 discovered through competitive bidding process. The tariff rates discovered for 12 year time horizon are as given below:

Sl. No.	Name of the Bidding company	Capacity (MW)	Tariff (Rs/Kwh)	Proposed Location
1.	M/s Sukhbir Agro Energy Ltd., New Delhi.	30	9.33	Mahoba
2.	M/s Jakson Engineers Ltd., Noida	30	9.24	Mahoba
3.	M/s K.M. Consortium, Lucknow	5	9.25	Mahoba
4.	M/s Jatadhari Merchandise Pvt. Ltd., Uttarakhand	10	9.27	Lalitpur
5.	M/s ACME Solar Energy Pvt., Ltd., Gurgaon	30	8.93	Mahoba



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2. It is submitted by the petitioners that:
- i. UPNEDA is the nodal agency designated by GoUP for carrying out all the tasks related to bidding process for Solar Power Projects in the State.
  - ii. For procurement of 300 MW capacity Solar Power from grid connected Solar PV projects on the basis of International Competitive Bidding under case 1 long term bidding has been carried out in accordance with the guidelines for tariff based competitive bid process for grid connected power projects as per MNRE guidelines.
  - iii. BEC (Bid Evaluation Committee) has certified that bid evaluation in respect of the bid process has been done in conformity with the provisions of RfP document dated 14.07.2014.
  - iv. UPPCL, the procurer, has also provided a certificate on conformity of the bid process to the guidelines for tariff based competitive based process for grid connected power projects based on Renewable Energy sources of MNRE.
  - v. High power committee under the chairmanship Chief Secretary approved above rates which have been subsequently approved by U.P. cabinet also.
3. At the outset of the hearing the Commission enquired from the petitioners why above discovered tariff rates are not consonant with the tariff rates discovered elsewhere in the country given that same MNRE guidelines are being followed here also. To which petitioner submitted that unlike other places in country where tariff is discovered for 25 years' time horizon, in this case time horizon of only 12 years has been kept which is the major cause of variance with tariff discovered elsewhere in the country.
4. The Commission again enquired what prompted the petitioner to deviate from the norm of 25 years' time horizon and whether it has been approved by competent authority. The petitioner submitted that the bid was conducted in the year 2014 and reflects the then prevailing rates in the market. It was further added by the petitioner that due to apprehensions regarding solar tariff in long run, it was considered that PPA shall be for the period of 12 years only. After 12<sup>th</sup> year the tariff for next 13 years for these plants shall be flat APPC of the 11<sup>th</sup> year on which developers may or may not agree. In a way it is a unilateral provision.
5. The petitioner further submitted another reason for tariff not being in conformity with tariff elsewhere is that those tariffs are discovered for solar
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parks which have plug 'n' play facility i.e. land and transmission system are provided by the solar park developer/Government.

6. Sri A.K. Verma, Chairman, U P Rajya Vidyut Upbhokta Parishad argued for the rejection of above tariffs and submitted :
    - i. Why there is deviation in the duration of the PPA that resulted in hike in tariff
    - ii. when there was deviation in time horizon, why no approval was sought from the Commission
    - iii. the high power committee constituted under Solar Policy of GoUP has neither certified conformity of bid process with the provisions of RfP nor has it certified the transparency in the bid process
    - iv. when last tariff rate discovered in country is as low as Rs. 4.34 a unit, why consumers here are forced to pay around Rs. 9 per unit.
  7. Sri Rama Shanker Awasthi, Consumer submitted that the Commission always has the Regulations in place that provides for tariff for 25 years' time period and prevailing UPERC CRE Regulations, CERC Regulations, MNRE guidelines, SBD etc. all have the same provision. So it is illogical to go for the bid with 12 years' time horizon.

He further submitted that if the tariff is approved on 12 year basis the entire depreciation is charged in initial 12 years, after that fixed cost of the power from these plants becomes zero resulting in cost of power becoming very low. This cheaper power must be given to UPPCL only. He also raised apprehension about the transparency of the bid process since it does not ensure availability of power to UPPCL after first 12 years of the project that will become cheaper.
  8. Sri S. K. Gupta from M/s Jackson Engineers Ltd submitted that rates discovered here must be benchmarked to then prevailing capital cost and interest rates. Further, he added there is adequate provision made in RfP to ensure that developers stick to timeline given for completion of the project so that there is no chance of any developer seeking hike in tariff for failing to meet given timeline. He maintained that developers may consider continuing agreement with UPPCL given that UPPCL offers firm tariff rate from 13<sup>th</sup> year onwards. He also submitted that while deciding tariff after 12 years it must be noted that Income tax rules do not allow full depreciation in 12 years.
  9. Another developer submitted since now PPA is done and based on that investments have been made hence prayed the Commission should approve PPA as well as tariff.
  10. After hearing all the stakeholders the Commission directs the petitioners to submit :
    - i. detailed justification of discovered tariff,
    - ii. appropriate certifications in original on conformity of the bid process as per clause 7.3 of MNRE guidelines enclosed with the petition,
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11. The final order would be passed subsequent to submission of above information.

(S.K. Agarwal)  
Member

(Indu Bhushan Pandey)  
Member

(Desh Deepak Verma)  
Chairman

Place: Lucknow  
Dated: 22.02.2016