



Petition No. 1846 of 2022

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

(Date of Order: 21.07.2022)

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman
Hon'ble Shri Kaushal Kishore Sharma, Member
Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

IN THE MATTER OF

Petition for adoption of tariffs discovered through Tariff Based Competitive Bidding Process in accordance with the Bidding Guidelines specified by Ministry of Power, Govt. of India for procurement of 125 MW Solar Power from Grid connect Solar PV Power Projects to be installed under "Solar Parks and Ultra Mega Solar Power Projects Scheme" of the Ministry of New and Renewable Energy, Govt. of India under Case-1 long term bidding route for the period 25 years with fixed tariffs and for approval of PPA.

Uttar Pradesh New & Renewable Energy Development Agency (UPNEDA)
Vibhuti Khand, Gomti Nagar, Lucknow - 226010

.....Petitioner

Versus

Uttar Pradesh Power Corporation Limited (UPPCL)
7th Floor, Shakti Bhawan Extnn, 14 Ashok Marg, Lucknow - 226001

.....Respondent

The following were present:

1. Shri. Deepak Raizada, CE-PPA, UPPCL
2. Shri. Mahendra Singh, SE, UPPCL
3. Ms. Namrata Kalra, Counsel, UPNEDA
4. Shri. Narendra Singh, Project Officer, UPNEDA

ORDER

(Date of Hearing - 28.06.2022)



1. UPNEDA invited bids for selection of SPD for 5 projects in Solar Park for aggregate capacity 275 MW. This petition is filed jointly by the Uttar Pradesh New & Renewable Energy Development Agency (UPNEDA) as Nodal Agency and Uttar Pradesh Power Corporation Ltd (Procurer) to adopt the tariff for procurement of power from the successful bidders for aggregate capacity of 125 MW under Section 63 of Electricity Act 2003 and to approve the PPA dated 03.02.2022 signed for 125 MW with M/s SJVN Ltd.
2. The Petitioner has made the following prayers:
 - a. To take the Petition on record and admit the same;
 - b. To approve and adopt the tariff for procurement of power from the successful bidders as mentioned for aggregate capacity of 125 Mw under Section 63 of the Electricity Act 2003;
 - c. To approve the PPA's dated 03.02.2022 signed for 75 MW and 50 MW with M/s. SJVN Ltd.;
 - d. To condone any inadvertent omission/ errors/ shortcomings and permit the Petitioners to add/ charge/ modify after this filing and make further submissions as may be required at a future date;
 - e. Pass such other further Order as the Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.;

Background of the Case

3. Ministry of New and Renewable Energy, Govt of India has notified scheme for "Development of Solar Parks and Ultra Mega Solar Power Projects vide No. 30/26/2014-15/NSM dated 12/12/2014 and amended vide 30/26/2014-15/NSM dated 21/3/2017. Under the scheme, Ministry initially sanctioned setting up of 600 MW Solar Park in the districts of Jalaun, Allahabad, Mirzapur and Kanpur Dehat vide its letter 30/72/2014-15/NSM dated 27.10.2015 which was later reduced to 440 MW vide Ministry Letter No- 30/72/2014-15/NSM dated 19/6/2017 due to constraint in availability of land.
4. These Solar Parks are being developed through a Joint Venture Company "Lucknow Solar Power Development Corporation Ltd" (LSPDCL), between UPNEDA and Solar Energy Corporation of India (SECI), responsible for providing land, Power evacuation infrastructure and other infrastructure facilities at site. Out of 440 MW sanctioned capacity, 165 MW Capacity Projects



have been commissioned in village Kosda Kala, Tehsil Meja District Prayagraj (50 MW), Village Vijaypur Tehsil Sadar District Mirzapur (75 MW) and village Dakar, Tehsil Orai, District Jalaun (40 MW) and remaining 275 MW capacity is proposed for allocation is to be developed at the following locations:

Sr. No	District	Project Name	Location	Proposed Project Capacity (MW)
1	Kanpur Dehat	Gujrai	Village: Gujrai, Tehsil: Akbarpur	50
2	Jalaun	Parasan	Village: Parasan, Tehsil: Kalpi	75
3	Jalaun	Gurhah	Village: Gurhah, Tehsil: Orai	75
4	Jalaun	Makrechha & Banghauli	Village: Makrechha, Tehsil: Orai	45
5	Jalaun	Tikar-1 & Tikar-2	Village: Banghauli, Tehsil: Orai	30

- Ministry of Power vide its Resolution No 23/27/2017 dated 03.08.2017 have issued "Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid connected Solar PV Power Projects" and issued amendments subsequently which are applicable for selection of Solar Project Developers for projects outside and inside Solar Park. As per the aforesaid Guidelines any deviations shall be subject to approval by Appropriate Commission.
- MNRE vide letter No -320/16/2017-NSM dated, 19/8/2020 and vide letter No 320/14J/2017-1\1SM dated 10-6-2021 granted extension of timeline for the 440 MW Solar Park in U.P till 31-12-2021 with the condition that Solar Project Developers (SPD) are to be selected and land is to be allotted to the selected SPD by 31-12-2021 to avail further extension of one year.
- UPPCL vide its letter dated 13/3/2020 & 26/8/2020 have provided consent to procure power from 275 MW capacity in U.P Solar Park and procure power at a ceiling tariff of Rs 3.25/kWh in the bid proposed to be invited by UPNEDA for selection of SPD for 5 projects in Solar Park of aggregate capacity 275 MW. Subsequently, UPPCL vide its letter dated 16.02.2021 have provided consent to procure power from 275 MW unallocated capacity in U.P. Solar Park and procure power at a ceiling tariff of Rs 3.00/kWh.



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8. Accordingly, UPNEDA invited Bids for procurement of power from unallocated capacity of 275 MW Grid Connected Solar PV projects on 29.01.2021 as per RfS and model PPA document approved by the Commission vide its order dated 25.02.2021 in Petition No. 1680 of 2020. NIT inviting bids was published in all editions of following daily national newspapers on 30.1.2021 and was uploaded on website of UPNEDA www.upneda.org.in
- i. Hindustan Times (English), all editions
 - ii. Hindustan (Hindi), all U.P editions
9. Accordingly, 200 MW power was allocated to
- b. Ms. SJVN Limited, New Delhi – 75 MW at Parasan Project
 - c. Ms. REC Power Distribution Company Limited, Gurgaon – 75 MW at Gurhah Project and 50 MW at Gujrai Project.
10. Letter of Intent was issued to selected bidders on 17.05.2021 wherein RECPDCL failed to submit CPG and sign PPA even after time extension provided by UPNEDA till 31.08.2021. Subsequently, the LOI issued to RECPDCL was cancelled by UPNEDA vide letter dated 08.09.2021. M/s SJVN Limited was allocated 75 MW Parasan Project in Jalaun District wherein the tariff of Rs 2.68/Unit was adopted by the Commission and PPA was approved vide its order dated 17.01.2022 in petition No. 1773/2021.
11. Subsequently, bids were re-invited by UPNEDA on 09.09.2021 for procurement of (cancelled allocation of 125MW and remaining 75 MW) power from 200 MW Grid Connected Solar PV projects. NIT inviting bids was published in all editions of following daily national newspapers on 9/9/2021 (Copies annexed at Annexure 13) Further, to give wide publicity to this NIT, it was uploaded on website of UPNEDA www.upneda.org.in
- d. Hindustan Times (English), all editions
 - e. Business Standard (English), all editions
 - f. Hindustan (Hindi), all U.P editions
12. MNRE, vide its O.M. No 283/3/2018 -GRID SOLAR dated 09.03.2021 issued the notification regarding imposition of Basic Customs Duty (BCD) of 25 % on Solar PV Cells & 40 % on Modules/Panels with effect from 01.04.2022. It was also informed that imposition of BCD on solar cells and modules (without grandfathering of bid out projects) has been agreed to by the Ministry of Finance and the customs notification in this regard shall be issued at appropriate time. The Ministry also directed all RE implementing agencies and other stakeholders to include appropriate provisions in their bid documents, so



that bidders may take the BCD trajectory into account while quoting tariffs, in all bids where the last date of bid submission is subsequent to date of the OM and in all such bids, the imposition of BCD as per above trajectory shall not be considered as change in-law.

13.The above notification issued by MNRE, Govt. of India was included in the RFS document, as approved by the Commission for procurement of Power from vide order dated 25.02.2021 in Petition No. 1680/2020, for the bids being invited, advising all bidders to take cognizance of the O.M. issued by MNRE on the subject of "imposition of BCD on Solar PV cells and Modules /Panels" since the O.M. and its associated orders issued by the Ministry of Finance shall also be applicable on this tender and changes in taxes/duties on account of this issued OM/notification, shall not be considered under change in law under the PPA.

14.The following bids were received as follows:

Sr. No.	Name of Bidder	Bid Received for Total Capacity (MW)	No. of Projects for which bids were received	Name of Projects (Location)
1	M/s. SJVN Ltd., New Delhi	125	02	75 MW at Gurhah Project 50 MW at Gujrai Project.
2	M/s. ABREL SPV-2 Mumbai	125	02	75 MW at Gurhah Project 50 MW at Gujrai Project

15.The Bid Evaluation committee was constituted as per mandate by GOUP order no 334/87-Atrkf-Urja Shrot Vibhag/2021 dated 08.03.2021 with members as follows:

Sr.No.	Member	Designation
1	Director UPNEDA	Chairman
2	Secretary cum Chief Project Officer UPNEDA	Member
3	Senior Project officer- 1, Solar Energy Policy UPNEDA	Member
4	Nominated Representative of Principal Secretary, Additional Energy Sources	Member
5	Nominated Representative of Principal Secretary Finance	Member
6	Nominated Representative of Principal Secretary, Law	Member
7	Nominated Representative of Managing Director, UPPCL	Member
8	Nominated Representative of Managing Director, SECI, New Delhi	Member
9	Nominated Representative of Director, ZIT Kanpur	Member
10	Nominated Representative of Director, IIM Lucknow	Member



16. Non-Financial Bids were publicly downloaded at 12.30 PM on 16/12/2021 by the above Committee at UPNEDA's head office at Gomti Nagar, Lucknow in the presence of representatives of bidding company who chose to attend. Since out of two bids, both the bidders submitted offer for two projects for total capacity 125 MW, accordingly as per provision in the bidding guidelines, evaluation of the bids for allocation of two projects having total capacity 125 MW was carried out by Bid Evaluation Committee.

17. As per evaluation, bids submitted by both the bidders for three projects were found to be technically responsive as follows:

Sr. No.	Name of Bidder	Bid received for total Capacity (MW)	No. of Projects for which Bid technically evaluated and found responsive
1	M/s. SJVN Ltd., New Delhi	125	02 (125 MW)
2	M/s. ABREL SPV-2 Mumbai	125	02 (125 MW)

18. The financial bids of the above technically qualified bidders were downloaded and opened on 28.12.2021 in presence of Bid evaluation committee and are tabulated as follows:

Sr. No.	Bidders ID	Name of Bidders	Bid Projects (Location) Capacity (MW)	Quoted Tariff in Financial Offer (before e-RA) in Rs./kWh	Rank
1	ETS-IN-2019-RS0000062	M/s. SJVN Ltd., New Delhi	75 MW at Gurhah Project 50 MW at Gujrai Project	2.99	1
2	ETS-IN-2021-RS0000128	M/s. ABREL SPV-2 Mumbai	75 MW at Gurhah Project 50 MW at Gujrai Project	2.99	1

19. Both the bidders were found to be eligible for participation in e-Reverse Auction which was carried out on 28.12.2021 firstly for Project Gurah district Jalaun (75 MW) at 3.15 PM. Final tariff received after e-Reverse Auction for allocation of Gurah Project (75 MW) is as follows:



Sr. No. & Rank	Bidders ID	Name of Bidders	Quoted Tariff in Financial Offer (before e-RA) in Rs./kWh	Final Tariff after e-RA (Tariff for 25 years) in Rs./kWh
1	ETS-IN-2019-RS0000062	M/s. SJVN Ltd., New Delhi	2.99	2.98
2	ETS-IN-2021-RS0000128	M/s. ABREL SPV-2 Mumbai	2.99	2.99

20. Both the bidders were found to be eligible for participation in e-Reverse Auction which was carried out on 28.12.2021 for Project Gujrai district Kanpur Dehat (50 MW) at 4.15 PM. Final tariff received after e-Reverse Auction for allocation of Gujrai Project (50 MW) is as follows:

Sr. No. & Rank	Bidders ID	Name of Bidders	Quoted Tariff in Financial Offer (before e-RA) in Rs./kWh	Final Tariff after e-RA (Tariff for 25 years) in Rs./kWh
1	ETS-IN-2019-RS0000062	M/s. SJVN Ltd., New Delhi	2.99	2.98
2	ETS-IN-2021-RS0000128	M/s. ABREL SPV-2 Mumbai	2.99	2.99

21. The Evaluation Committee recommended for approval of fixed tariff quoted by two bidding companies for 25 years for the projects (Location):

Sr. No.	Name of Bidders	Project Name	Bid Project Capacity (MW)	Quoted Tariff in Financial Offer (before e-RA) in Rs./kWh	Final Tariff after e-RA (Tariff for 25 years) in Rs./kWh
1	M/s. SJVN Ltd., New Delhi	Gurah District Jalaun	75	2.99	2.98
2	M/s. SJVN Ltd., New Delhi	Gujrai District Kanpur Dehat	50	2.99	2.98

22. The fixed tariff approved for total project capacity 125 MW is tabulated hereunder:

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Sr. No.	Name of Bidders	Project Name	Allocated Project Capacity (MW)	Final Tariff after e-RA (Tariff for 25 years) in Rs./kWh
1	M/s. SJVN Ltd., New Delhi	Gurah District Jalaun	75	2.98
2	M/s. SJVN Ltd., New Delhi	Gujrai District Kanpur Dehat	50	2.98

23. UPNEDA issued LOA dated 05.01.2022 to the above bidding company and the selected Solar Project Developer was directed to deposit Contract Performance Guarantee (CPG) of required amounts and enter into PPA with UPPCL (Procurer) within 30 days of issuance of Letter of Intent. After submission of CPG by the firm M/s SJVN Ltd., New Delhi to UPNEDA, PPA's for procurement of 75 MW Power from Gurhah Project Jalaun and for 50 MW Project Gujrai, Kanpur Dehat were signed by UPPCL on 30.02.2022.

Record of Proceedings

24. The Commission held the hearing on 28.06.2022. On a specific query of Commission with regard to approval of deviation in the bidding documents released by UPNEDA vis-à-vis Standard Bidding Document floated by MNRE, Ms. Kalra informed the Commission that specific approval from the Commission with regard to inclusion of clause of non-consideration of "Imposition of Basic Customs Duty (BCD) on Solar PV Cells & Modules/Panels" under "Change in Law" under the PPA in RFP were not taken before reinviting bids. Ms. Kalra further submitted that the Tariff quoted by the firms is with the Ceiling limit of Rs. 3.00/kWh. Ms. Kalra further submitted that even if the specific clause would not have been included in the RFP, it would not have affected the Tariff quoted by the firms which participated in the bidding. The representative for UPNEDA and UPPCL jointly requested the Commission to adopt the tariff and approve the SJVN PPA dated 03.02.22.

Commission's View

25. The following activities have been carried out by UPNEDA for bidding:

Sr. No.	Activity	Date
1	Publication of NIT, RFP and Rfp Documents	09.09.2021
2	Conduction of Pre-Bid Meeting	-
3	Submission and Opening of Response to the RFP by Bidders	16.12.2021
4	Evaluation of Technical Proposal	17.12.2021
5	Opening and Evaluation of Financial Proposal of Technically Qualified Bidders	28.12.2021
6	Conducting e-reverse auction	28.12.2021



Sr. No.	Activity	Date
7	Issue of Letter of Intent to Successful Bidders	05.01.2022
8	Signing of PPA of total 125 MW	03.02.2022

26. LOIs were issued on 05.01.2022 within 20 days from the extended date of submission and opening of Response to the RfS by bidders against normal period of 88 days as given in the Bidding Guidelines. Subsequently, PPA dated 03.02.2022 was signed with successful bidder M/s SJVN Ltd. Within 30 days from the issuance of LOI.

27. As per Clause (10.2) of the Bidding Guidelines after the conclusion of Bidding Process, evaluation committee has provided a certificate of conformity of the bid process evaluation according to provisions of RfS document. Procurer has also provided a certificate of conformity of the bid process. As per Clause (10.3) of the Bidding Guidelines, full details of the successful bidders have been posted on UPNEDA's website www.upneda.org.in and procurer's website www.uppcl.org.

28. The Commission observed that UPNEDA has not sought prior approval of the Commission before making deviations in the Bidding Guidelines under RfP and has conducted the bidding Process. UPNEDA management is directed to take prior approval of such deviations, if any, in future.

29. The Commission, with the above observation at para 21 above, adopts the tariff as given below, based on the conformity certificate of evaluation committee and procurer that the tariff has been discovered through transparent competitive bidding process under Section 63 of the Electricity Act, 2003:

Sr. No.	Name of Bidders	Project Name	Allocated Project Capacity (MW)	Final Tariff after e-RA (Tariff for 25 years) in Rs./kWh
1	M/s. SJVN Ltd., New Delhi	Gurah District Jalaun	75	2.98
2	M/s. SJVN Ltd., New Delhi	Gujrai District Kanpur Dehat	50	2.98
Total			125	



30. The Commission also approves the PPA dated 03.02.2022 with SJVN Ltd. at the adopted tariff of Rs. 2.98 per unit.

Accordingly, the Petition is disposed of in terms of above.

(Vinod Kumar Srivastava)

Member (Law)

(Kaushal Kishore Sharma)

Member

(Raj Pratap Singh)

Chairman

Place: Lucknow

Dated: 21.07.2022