



Petition No. 1605 of 2020
BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Date of Order: 18.12.2020

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 Adoption of tariffs discovered through tariff based competitive bidding process as per the bidding guidelines specified by Ministry of Power, Govt. of India for procurement of 72 MW solar power "from grid connect solar PV power projects under case-1 long term bidding route for the period 25 years with fixed tariffs and for approval of PPAs.

U.P. New & Renewable Energy Development Agency
(UPNEDA), Vibhuti Khand, Gomtinagar, Lucknow.

U.P. Power Corporation Limited,
(Through Managing Director)
Shakti Bhawan, 14- Ashok Marg, Lucknow

..... **Petitioner**

NTPC Ltd.
RE-BD, Room no.307, 3rd Floor,
Engineering Office Complex, Plot no.A-8A
Sector-24, Post Box No.13,
Noida-201301

M/s Sukhbir Agro Energy Ltd.
Faridkot Road, Guruharsahai,
Distt- Firozpur (Punjab)-152022

.....**Respondent**



The following were present:

1. Shri Khalid Nadeem, M/s Sukhbir Agro
2. Shri Ishpaul Uppal
3. Chief Engineer (Renewable), UPPCL
4. Shri. Manish Malviya, NTPC
5. Ms. Namrata Kalra, Sr. Project Officer-I, UPNEDA

Order
(Date of hearing 22.09.2020)

1. The Petition has been filed jointly by the Uttar Pradesh New & Renewable Energy Development Agency (UPNEDA) as Nodal Agency (In the form of Authorized Representative and Uttar Pradesh Power Corporation Ltd (Procurer). The Petition has been filed under section 86(1) (b) read with section 63 of Electricity Act 2003 having prayer as follows:
 - a) Condone the delay in completion of Bidding process by 199 days.
 - b) Issue necessary orders for adoption of tariff for procurement of power from the successful bidders at the fixed tariff as mentioned for aggregate capacity of 72 MW as per the section 63 of Electricity Act 2003.
 - c) Approve respective PPAs

Brief facts in Petition

2. As per the provision in Bidding Guidelines, Procurer, Uttar Pradesh Power Corporation Ltd (UPPCL) have made Uttar Pradesh New & Renewable Energy Development Agency (UPNEDA) its authorized representative for carrying out the tendering/bidding Process for Procurement of 500 MW Power in phase -III under Solar Energy Policy -2017 from Grid connected Solar PV Projects.
3. Commission vide its order dated 14.6.2019 allowed the ceiling price of Rs 3.05/kWh fixed for the entire term of the PPA and approved the following deviations sought by UPNEDA & UPPCL in Petition No-1470 of 2019 from Standard Bidding Guidelines proposed in RFP and model PPA document for carrying out bid for procurement of 500 MW Power:



- a) Financial closure to be kept within 240 days of signing of PPA
 - b) e-reverse auction process will be adopted in line with process followed by the SECI
4. Bidders have been allowed to install Solar PV power plant on self-identified and owned land or Water body in view of Ministry of New and Renewable Energy (MNRE) vide letter dated 6/3/2019 that UPNEDA may allow bidders to install Solar PV power plant on self-identified and owned land or Water body, subject to approval of the tariffs under winning bids from Uttar Pradesh Electricity Regulatory Commission (UPERC).
5. In the invited bid, three (3) no. of bids with cumulative capacity of 90 MW as against 500 MW aggregate capacity from two (2) bidders were received as follows:

No.	Name of Bidder	Capacity (MW)
1	M/s NTPC Limited, Noida	20
2	M/s NTPC Limited, Noida	20
3	M/s Sukhbir Agro Energy Limited, New Delhi	50
Total		90

6. As per evaluation and the record notes of meeting held on 19.6.2019, all the above bids submitted were found to be technically responsive and financial bids of the above technically qualified bidders were downloaded and opened on 25.6.2019 in presence of Bid evaluation committee:

S. No	Bidders ID	Name of Bidders	Bid Project Capacity offered (MW)	Quoted Tariff in financial offer (before e-RA) in Rs./kWh
1	ETS-IN-2018-RS0002037	NTPC Limited, Noida	20	3.02
2	ETS-IN-2019-RS0001146	NTPC Limited, Noida	20	3.02
3	ETS-IN-2016-RS0000676	M/s Sukhbir Agro Energy Ltd New Delhi	50	3.05

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7. All the bidders were found to be eligible for participation in e-Reverse Auctioning and were invited to participate in e-Reverse Auctioning. The e-reverse auction process was carried out on 25.6.2019 itself at 3.30 pm, which continued for 1 hour. After e-Reverse Auction final tariff received was as follows:

S. No & Rank	Bidders ID	Name of Bidders	Bid Project Capacity offered (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	ETS-IN-2018-RS0001818	NTPC Limited, Noida	20	3.02	3.02
2	ETS-IN-2018-RS0002513	NTPC Limited, Noida	20	3.02	3.02
3	ETS-IN-2016-RS0000676	M/s Sukhbir Agro Energy Ltd New Delhi	50	3.05	3.05

8. As per the provision in RFP in line with SECI that if aggregate capacity of techno commercially responsive bids is less than 500 MW only 80 % capacity will be allocated. Therefore, above reverse auction process was conducted for allocation of 72 MW (80 percent of 90 MW).
9. The Evaluation Committee recommended the approval of fixed tariff quoted by three bidding companies for 25 years for the capacity mentioned in the table as below:

S. No & Rank	Name of Bidders	Bid Project Capacity (MW)	Allotted Project Capacity (MW)	Final Tariff after e- reverse auctioning in Rs./kWh
1	NTPC Limited, Noida	20	20	3.02
2	NTPC Limited, Noida	20	20	3.02
3	M/s Sukhbir Agro Energy Ltd New Delhi	50	32	3.05



10. Letter of Intent was awarded by UPNEDA; to the above three bidding companies on 29/11/2019 (after approval from U.P. Government cabinet) and the firms were directed to deposit Contract Performance Guarantee (CPG) of required amounts and to enter into PPA with UPPCL (Procurer). After submission of CPG by the firms to UPNEDA, PPA's for procurement of 72 MW Power were signed by UPPCL.

Record of Proceedings

11. The hearing of the matter was held on 22nd Sept 20 wherein upon specific query of the Commission regarding location of Projects and responsibility of building transmission system, UPNEDA representative, Smt. Namrata Kalra submitted that all the three projects are located in the state of U.P. and their 100% power is allocated to UPPCL. NTPC representative mentioned that their Plants are ISTS connected. Sh. Khalid, Sukhbir Agra representative submitted that they would be connecting the Project to the STU/Discom transmission system. Sh. Deepak Raizada, UPPCL representative also stated that in the present PPAs, the responsibility of the evacuation system is with Developer and in case of Projects being set up in Bundelkhand and Purvanchal region of the State, UPNEDA will reimburse the subsidy as per relevant provisions of Solar Energy Policy 2017.

Commission, keeping in view that NTPC being a CPSU, asked about jurisdiction of Commission in respect of PPAs. Sh. Manish Malviya, NTPC representative submitted that as their Projects are in U.P. and their 100% power would be supplied to UPPCL, UPERC is the appropriate Commission.

Commission's analysis and decision

Bidding guidelines and Ceiling Tariff

12. Commission vide its order dated 14.6.2019 had allowed the ceiling price of Rs 3.05/kWh fixed for the entire term of the PPA and approved certain deviations sought by UPNEDA & UPPCL in Petition No-1470 of 2019 from Standard Bidding Guidelines proposed in RFP and model PPA document. Accordingly, Uttar Pradesh New & Renewable Energy Development Agency (UPNEDA), authorized representative of UPPCL invited bids on 14.01.2019 for Procurement of 500 MW Power in phase -III under Solar Energy Policy -2017 from Grid connected Solar PV Projects.

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13. In compliance with Guidelines the provision of adequate payment security was also made available to bidders in the bid document which constituted of Letter of Credit (LC) and Payment Security Fund. Pre bid meeting was held on 31st January 2019 at UPNEDA head office. Last date for submission and opening of bids was extended to 18.6.2019.

Bid invitation

14. The e-bids was invited on Telecommunications Consultants India Ltd (TCIL) ETS portal www.tcil-india-electronictender.com. NIT inviting bids was published in all editions of following daily national newspapers on 15.1.2019:

- a. Business Standard (English), all editions
- b. Hindustan Times (English), all editions
- c. Hindustan (Hindi), all U.P editions

Further, NIT inviting bids was uploaded on website of UPNEDA www.upneda.org.in. Last date for submission of bids was kept as 15/2/2019 as per NIT.

15. In compliance to the clause (8.2) of Ministry of Power Government of India, Bidding Guidelines issued on 03.08.2017, the Bid Evaluation committee was constituted as per mandate by GOUP order no 797/87-V-2019 dated 14.6.2019. As per bidding Guidelines bid evaluation committee is to be constituted with at least three members, including at least one member with expertise in financial matter/bid evaluation. Accordingly bid committee included one member from Department of Finance, Government of U.P and expert in bid evaluation from Solar Energy Corporation of India (SECI) as member as follows:

S. No.	Member	Designation
1	Director UPNEDA	Chairman
2	Secretary cum Chief Project Officer UPNEDA	Member
3	Senior Project officer- 2, 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



S. No.	Member	Designation
7	Nominated Representative of Managing Director, UPPCL	Member
8	Nominated Representative of Managing Director, SECI, New Delhi	Member
9	Nominated Representative of Director, IIT Kanpur	Member
10	Nominated Representative of Director, IIM Lucknow	Member

Bidders ranking and E-reverse auction

15. Non-Financial Bids were publicly downloaded at 11.30 AM on 18/6/2019 by the above Committee at UPNEDA's head office at Gomtinagar, Lucknow in the presence of representatives of bidding company who chose to attend. As per evaluation, the record notes of meeting held on 19.6.2019, all the three bids submitted aggregating to 90 MW were found to be technically responsive.
16. The financial bids of the above technically qualified bidders were downloaded and opened on 25.6.2019 in presence of Bid evaluation committee. As per record notes of meeting held on 25.6.2019, result of the financial bids opened for the technically qualified, are tabulated as follows:

S. No	Bidders ID	Name of Bidders	Bid Project Capacity offered (MW)	Quoted Tariff in financial offer (before e-RA) in Rs./kWh
1	ETS-IN-2018-RS0002037	NTPC Limited , Noida	20	3.02
2	ETS-IN-2019-RS0001146	NTPC Limited , Noida	20	3.02
3	ETS-IN-2016-RS0000676	M/s Sukhbir Agro Energy Ltd New Delhi	50	3.05



17. As per the tariff quoted by the bidders, ranking of the bidders was done and thereafter shortlisting for participation in e-Reverse Auction. All the bidders were found to be eligible for participation in e-Reverse Auctioning and were invited to participate in e-Reverse Auctioning. The e-reverse auction process was carried out on 25.6.2019 itself at 3.30 pm, for allocation of 72 MW (80 percent of 90 MW), in terms of provision in RFP. The e-reverse auctioning process continued for 1 hour. After e-Reverse Auction final tariff received for 72 MW capacity to be allocated was as follows:

S. No & Rank	Bidders ID	Name of Bidders	Bid Project Capacity offered (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	ETS-IN-2018-RS0001818	NTPC Limited, Noida	20	3.02	3.02
2	ETS-IN-2018-RS0002513	NTPC Limited, Noida	20	3.02	3.02
3	ETS-IN-2016-RS0000676	M/s Sukhbir Agro Energy Ltd New Delhi	50	3.05	3.05

18. As 40 MW capacity got requisitioned amongst till bidders at rank 2. From bidder M/s Sukhbir Agro Pvt Ltd at rank 3, for allocation of 50 MW capacity tariff of Rs. 3.05/kwh was obtained. As per provisions of the RFP, balance 32 MW requisitioned capacity allocation was proposed to M/s Sukhbir Agro Pvt Ltd. The Evaluation Committee recommended the approval of fixed tariff quoted by three bidding companies for 25 years for the capacity mentioned in the table as below:

S. No & Rank	Name of Bidders	Bid Project Capacity (MW)	Allotted Project Capacity (MW)	Final Tariff after e-reverse auctioning (Tariff for 25 Years) in Rs./kWh
1	NTPC Limited, Noida	20	20	3.02



S. No & Rank	Name of Bidders	Bid Project Capacity (MW)	Allotted Project Capacity (MW)	Final Tariff after e-reverse auctioning (Tariff for 25 Years) in Rs./kWh
2	NTPC Limited, Noida	20	20	3.02
3	M/s Sukhbir Agro Energy Ltd New Delhi	50	32	3.05

Tariff approval

19. Empowered committee in meeting held on 13.8.2019 after deliberation approved the allocation of 72 MW capacity on tariff received ranging from Rs 3.02/kWh to 3.05 kWh. Empowered committee also approved signing of Power Purchase Agreements (PPA) with successful bidders within 90 days of issuance of Letter of Intent. U.P Government cabinet approval was provided vide its order dated 7/11/2019. The fixed tariff of successful bidders so approved is tabulated hereunder:

S. No	Name of Bidders	Allotted Project Capacity (MW)	Final Tariff after e-reverse auctioning (Tariff for 25 Years) in Rs./kWh
1	NTPC Limited , Noida	20	3.02
2	NTPC Limited , Noida	20	3.02
3	M/s Sukhbir Agro Energy Ltd New Delhi	32	3.05
	Total	72	

LOI issuance and PPA signing

20. Letter of Intent was awarded by UPNEDA to the above three bidding companies on 29/11/2019 and the firms were directed to deposit Contract Performance Guarantee (CPG) of required amounts and to enter into PPA with UPPCL (Procurer). After submission of CPG by the firms to UPNEDA, PPA's for procurement of 72 MW Power were signed by UPPCL on 27.02.2020. UPNEDA, vide affidavit dated 20.10.2020 has submitted complete copy of NTPC PPAs.

Timelines

21. Activities carried out with Timeline were as follows:



S. No.	Activity	Date
1.	Publication of NIT, RfP and RfP Documents	15.1.2019
2.	Conduction of Pre-Bid Meeting	31.1.2019
3.	Submission and Opening of Response to the RfP by Bidders	18.6.2019
4.	Evaluation of Technical Proposal	19.6.2019
5.	Opening and Evaluation of Financial Proposal of Technically qualified bidders	25.6.2019
6.	Conducting e-reverse auction	25.6.2019
7.	Issue of Letter of Intent to Successful Bidders	29.11.2019
8.	Signing of three (3) no PPA aggregating to 72 MW	27-2-2020

Commission's View

22. As per RFP, LOI were to be issued within 66 days of issuance of RFP, however, due to delay in approval from empowered committee and U.P. Government Cabinet, LOI could be issued only on 29.11.2019. The stipulated time for signing of PPA, as per RFP document, was 90 days from date of issuance of LOI and the PPAs were signed on 27.02.2020 i.e. within three months. **Therefore, overall delay of 199 days in completion of bidding process is condoned.**

23. The Section 63 of Electricity Act, 2003 states that the Commission shall adopt the Tariff arrived through transparent provisions of bidding in accordance with guidelines issue by Central Government; the said Provisions of 63 is reproduce below-

"Section 63 (determination of Tariff by bidding process): Notwithstanding anything contained in Section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government"

The following "Conformity Certificate" have been made available on record of the Commission in original



- (i) The bid evaluation committee "Conformity Certificate" that the bid evaluation has been done in conformance with the provisions of the RFP
- (ii) The Procurer UPPCL "Conformity Certificate" that the bidding process is in conformity to the "Guidelines for Tariff based competitive bidding process for Procurement of Power from Grid connected Solar PV Power Projects

24. In view of all the submissions made during hearing and documents placed on record, the Commission adopts the tariffs as below:

S. No.	Project Capacity	Location	Final Tariff (Tariff for 25 Years) in Rs./kWh	Trans. System
1	NTPC -20 MW	Itawah (Auriaya)	3.02	Responsibility of Developer in terms of clause 4.1 & 4.3 of the PPA
2	NTPC- 20 MW	Rihand	3.02	
3	Sukhbir Agro-32 MW	Bundelkhand Region	3.05	

25. The respective signed PPAs of Projects each dated 27.02.2020 between Solar Power Producer and UPPCL are also approved.

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

(Vinod Kumar Srivastava)
Member

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow

Dated: 18.12.2020

