

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION**

**GANDHINAGAR**

**Petition No. 1900 of 2020**

**In the matter of:**

**Petition under Section 63 read with Section 86 (1) (b) of the Electricity Act, 2003 and Clause 8.6 of Guidelines for procurement of Solar power through Competitive Bidding notified by MoP on 03.08.2017, for continuing with the bidding process by issuing LoA under RfS No. GUVNL / 100 MW / Solar (Phase X) dated 15.07.2020 for procurement of power from Raghnesda Solar Park pursuant to receipt of single bid in the tender and adoption of tariff discovered thereunder.**

Petitioner : Gujarat Urja Vikas Nigam Limited  
Sardar Patel Vidyut Bhavan, Race Course Circle,  
Vadodara 390 007.

Represented by : Ms. Sailja Vachhrajani, Shri Parthik Joshi and Shri  
Kandarp Mistry

**CORAM:**

**Shri Anand Kumar, Chairman  
Shri Mehul M. Gandhi, Member**

**Date: 29.01.2021**

**ORDER**

1. The present Petition has been filed by M/s Gujarat Urja Vikas Nigam Limited, seeking following reliefs for the competitive bidding process conducted by the Petitioner through RFS No. GUVNL / 100 MW / Solar (Phase X) dated 15.07.2020 for Raghnesda Solar Park:
  - (a) To grant consent for continuing the bidding process by issuing Letter of Award (LoA) to M/s. SJVNL at the corresponding capacity and rate quoted by them in the RFS No. GUVNL / 100 MW / Solar (Phase X) dated 15.07.2020;

(b) To adopt the tariff discovered by the Petitioner in the said transparent competitive bidding process through RFS No. GUVNL / 100 MW / Solar (Phase X) dated 15.07.2020 within the time duration stipulated by Ministry of Power, Government of India under the amended guidelines.

2. Facts mentioned in the Petition are detailed below:

2.1. Government of Gujarat notified Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003 in May, 2003 for reorganization of the entire power sector in the State of Gujarat. Pursuant to this the Gujarat Electricity Industry Reorganization and Comprehensive Transfer Scheme, 2003 notified under the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003, erstwhile Gujarat Electricity Board was reorganized and its functions have been vested in different entities.

2.2. The activities of Generation, Transmission, Distribution, Bulk power purchase and supply undertaken by erstwhile Gujarat Electricity Board have been entrusted to separate seven functional entities. The generation activity is assigned to Gujarat State Electricity Corporation Limited (GSECL), transmission activity is assigned to Gujarat Energy Transmission Corporation Limited (GETCO), and the distribution activity is assigned to four distribution companies viz. Uttar Gujarat Vij Company Limited (UGVCL), Madhya Gujarat Vij Company Limited (MGVCL), Dakshin Gujarat Vij Company Limited (DGVCL) and Paschim Gujarat Vij Company Limited (PGVCL). Further, the function of Bulk purchase and bulk sale of power is assigned to the Petitioner, Gujarat Urja Vikas Nigam Limited (GUVNL), as per the re-organization scheme.

2.3. Distribution companies are mandated to procure power from Renewable Energy Sources as per the provisions of Section 86(1)(e) of the Electricity Act, 2003 and in terms of the GERC (Procurement of Energy from Renewable Energy Sources) Regulations, 2010 as amended from time to time.

2.4. The Petitioner on behalf of its four Distribution Companies has been entering into Power Purchase Agreement(s) amongst others with various Renewable Energy Generators for procurement of power from time to time.

2.5. Section 63 of the Electricity Act, 2003 provides that 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.

2.6. Section 86(1)(b) of the Electricity Act 2003 provides that the State Commission shall discharge following functions, namely:

“ .....

*Clause (b) – regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.*

.....”

2.7. Ministry of Power (MoP), Government of India (GoI) on 03.08.2017, has notified the “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects”. However, Standard Bidding Documents are yet to be published by MoP, Government of India. Section 3.1.1 of the said Guidelines provides following conditions to be met by the Procurer for Competitive Bidding:

“ .....

*a) Prepare the bid documents in accordance with these Guidelines and Standard Bidding Documents (SBDs) [consisting of Model Request for Selection (RfS) Document, Model Power Purchase Agreement (PPA) and Model Power Sale Agreement (PSA)], notified by the Central Government, except as provided in sub-clause (c) below*

*b) Inform the Appropriate Commission about the initiation of the bidding process*

*c) Seek approval of the Appropriate Commission for deviations, if any, in the draft RfS, draft PPA, draft PSA (if applicable) from these Guidelines and/or SBDs, in accordance with the process described in Clause 18 of these Guidelines.*

*(i). However, till the time the SBDs are notified by the Central Government, for the purpose of clarity, if the Procurer while preparing the draft RfS, draft PPA and other Project agreements provides detailed provisions that are consistent with the Guidelines, such detailing will not be considered as deviations from these Guidelines even though such details are not provided in the Guidelines.*

(ii). Further, in case of an ongoing bidding process, if the bids have already been submitted by bidders prior to the notification of these Guidelines and/or SBDs, then if there are any deviations between these Guidelines and/or the SBDs and the proposed RfS, PPA, PSA (if applicable), the RfS, PPA and the PSA shall prevail.

.....”

2.8. Pending the issuance of Standard Bidding Documents by Central Government, the Petitioner is conducting the Competitive Bidding process for procurement of Solar power from time to time based on Bid Documents prepared by the Petitioner containing detailed provisions that are consistent with the Guidelines and deviations approved by the Commission. The Guidelines dated 03.08.2017 issued by MoP have been amended from time to time i.e. on 14.06.2018, 03.01.2019, 09.07.2019, 22.10.2019 and recently on 25.09.2020.

2.9. As per an earlier notified amendment dated 22.10.2019 to the Guidelines, various provisions relating to adoption of tariff by Appropriate Commission have been modified which are as under:

“.....

*Clause 10.4 – Subject to provisions of the Act, the distribution licensee or the Intermediary Procurer, as the case may be, shall approach the Appropriate Commission for adoption of tariffs by the Appropriate Commission in terms of Section 63 of the Act. In case, the Appropriate Commission does not decide upon the same within sixty days of such submission, the tariffs shall be deemed to be have been adopted by the Appropriate Commission.*

.....

*Clause 12 (c) – It is presumed that in terms of Clause 10.4 of these Guidelines, the tariff will be adopted by the Appropriate Commission within 60 days of such submission. However, notwithstanding anything contained in these Guidelines, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days, shall entail a corresponding extension in financial closure.*

.....

*Clause 14 (iii) - It is presumed that in terms of Clause 10.4 of these Guidelines, the tariff will be adopted by the Appropriate Commission within 60 days of such submission. However, notwithstanding anything contained in these Guidelines, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days, shall entail a corresponding extension in scheduled commissioning date.”*

2.10. Clause 8.6 of the aforesaid guidelines provides the minimum number of qualified bidders as two and if the number of qualified bidders is less than two, even after three attempts of bidding, and the Procurer still wants to continue with the bidding process, the same may be done with the consent of the Appropriate Commission. Clause 8.6 of the Guidelines notified by Ministry of Power reads as under:

“.....

*8.6 To ensure competitiveness, the minimum number of qualified Bidders should be two. If the number of qualified bidders is less than two, even after three attempts of bidding, and the Procurer still wants to continue with the bidding process, the same may be done with the consent of the Appropriate Commission.*

.....”

2.11. The Petitioner has accordingly included the said provision at Clause 4.1. of its RFS document for procurement of Solar Power through the Competitive Bidding process.

2.12. In light of the above regulatory framework, the Petitioner on behalf of its four subsidiary Distribution Companies had conducted tendering through Competitive Bidding process for procurement of 700 MW grid connected power from Solar PV projects to be developed in Raghnesda Solar Park through:

(i). RFS No. GUVNL/700 MW/Solar (Phase III-R) dated 06.03.2019 for procurement of power from 700 MW Raghnesda Solar Park, wherein total 500 MW capacity was allocated (Plots B, D, E, F & G) and 200 MW capacity (Plots A & C) remained unallocated due to under-subscription.

(ii). RFS No. GUVNL / 200 MW / Solar (Phase VI) dated 24.06.2019 for procurement of power from 200 MW Solar projects to be developed in 700 MW Raghnesda Solar Park wherein 100 MW capacity (Plot A) was allocated and 100 MW capacity (Plot C) remained unallocated due to under-subscription.

2.13. Accordingly, in the above tendering process, the 100 MW capacity at Plot C in Raghnesda Solar Park remained unallocated. Therefore, the Petitioner, under

intimation to the Commission, initiated the tendering process through another tender vide RFS No. GUVNL / 100 MW / Solar (Phase X) dated 15.07.2020 in order to bid out the said unallocated capacity of 100 MW. The intimation of initiation of this bidding process was submitted to the Commission vide its letter dated 14.07.2020.

2.14. The Petitioner had issued a public notice inviting tender in two national newspapers for this Tender. The tender documents were also hosted on GUVNL's website as well as on E-Bidding Portal "Electronic Tendering Engine" (ETS) developed by M/s Electronic Tender.com (India) Pvt. Limited who is approved by Ministry of Electronics and Information Technology, GoI vide certificate dated 31.07.2018. The copy of tender documents alongwith the copies of newspapers for 'Notice Inviting Tender' are filed with the present Petition.

2.15. The last date for submission of bids in this tender was 17.08.2020. However, the Petitioner did not receive any bids and therefore, the deadline for submission of the bids was extended until 31.08.2020. Since, the Petitioner received only one bid till 31.08.2020 from M/s SJVN Ltd., the deadline for submission of the bids was therefore further extended by the Petitioner upto 21.09.2020. Thus, even after third attempt of bidding in this tender, in addition to attempts made in the earlier tenders for bidding out 'Plot C' of Raghnesda Solar Park, the Petitioner received only one (1) bid for the said plot from M/s SJVN Ltd.

2.16. The Technical Bid Opening was held on 22.09.2020 in the presence of Bid Evaluation Committee constituted by GUVNL consisting of following members for technical evaluation:

<b>Sr. No.</b>	<b>Name</b>	<b>Designation</b>
1.	Shri K. P. Jangid	General Manager, Commerce
2.	Smt. Sailaja Vachhrajani	General Manager, IPP
3.	Shri Parthiv Bhatt	Company Secretary, GUVNL
4.	Shri J. N. Pancholi	Chief Finance Manager (F&A)

2.17. The Technical Evaluation Report signed by the Bid Evaluation Committee has been filed with the Petition. In accordance with the Technical Evaluation report,

the Financial Bid of M/s SJVNL was opened on 28.09.2020 on the e-bidding portal in the presence of Bid Evaluation Committee wherein tariff of Rs. 2.73 per unit was quoted by M/s SJVN Ltd.

- 2.18. The Petitioner had specified the ceiling tariff of Rs. 2.75 per unit in the bidding documents and the tariff of Rs. 2.73 per unit was quoted by M/s SJVNL on e-bidding portal. The e-report generated on the e-bidding portal is also filed with the Petition.
- 2.19. It emerges from the above that apart from M/s SJVNL, no other bidders are interested for developing projects in the 'Plot C' of the Raghnesda Solar Park even after multiple attempts of bidding made by the Petitioner.
- 2.20. In view of the above and in accordance with Clause 8.6 of the MoP Guidelines notified on 03.08.2017 and Clause 4.1 of GUVNL's RFS document, the Petitioner has filed the present Petition for seeking consent of the Commission for continuing with the bidding process by issuance of LoA to M/s SJVNL for 100 MW Solar project to be developed at 700 MW Raghnesda Solar Park capacity at tariff of Rs. 2.73 per unit discovered in RfS No. GUVNL / 200 MW / Solar (Phase X) dated 15.07.2020 and adoption of tariff by the Commission.
3. The matter was listed for hearing on 15.12.2020 through virtual hearing by Video Conferencing on account of prevailing COVID 19 pandemic.
4. During the aforesaid hearing, Ms. Sailaja Vachhrajani, on behalf of the Petitioner reiterated the submissions as stated at para 2 above.
  - 4.1. She submitted that the present Petition has been filed for 100 MW Solar based project to be set up at 'Plot C' of 700 MW Raghnesda Solar Park by the Petitioner. Earlier, the Petitioner had conducted number of competitive bidding rounds for procurement of power from Raghnesda park based Solar projects, wherein, the first round conducted for inviting competitive bids for 700 MW capacity was annulled on account of higher tariff quotes received. Thereafter, 500 MW was tied up by the Petitioner in second round of bidding, followed by 100 MW in third round of bidding in which only single bid quotation was received from M/s GSECL

at the ceiling tariff. Now, in the present round of competitive bidding process conducted by the Petitioner through RFS No. GUVNL / 100 MW / Solar (Phase X) dated 15.07.2020 for Raghnesda Solar Park, only one single bid is received and therefore, as per the Guidelines of Tariff Based Competitive Bidding Process notified by Ministry of Power, Government of India, the Petitioner is required to seek the consent of the Commission for continuing with the bidding process by issuing Letter of Award (LoA) to M/s. SJVNL at the corresponding capacity of 100 MW and tariff of Rs. 2.73 per unit quoted by M/s SJVNL in their bid in the RFS No. GUVNL / 100 MW / Solar (Phase X) dated 15.07.2020 and for adoption of tariff. Hence, the Petitioner has filed the present Petition.

- 4.2. She further submitted that in the present Competitive Bidding process undertaken by the Petitioner for the plot C of Raghnesda Solar Park, the Petitioner had stipulated ceiling tariff of Rs. 2.75 per unit which was based on the experience of rates discovered in the past bidding processes carried out by the Petitioner and also since 'Plot - C' in Raghnesda Solar Park was not taken up by any bidders in the earlier rounds of competitive bidding processes. She submitted that the Petitioner has not issued the Letter of Award (LoA) to M/s. SJVNL till the date of hearing and hence there is no issue regarding the timelines of 60 days as stipulated in the bidding guidelines.
- 4.3. She also submitted that necessary infrastructure at Raghnesda Solar Park is being created by Solar Park Developer considering 700 MW capacity of the Park, out of which 600 MW capacity is presently tied up by the Petitioner, whereas; the fees/other costs are to be incurred/levied for 700 MW capacity and hence, balance 100 MW capacity is necessarily required to be tied up after approval of the Commission for continuing with the bidding process by issuing Letter of Award(LoA) to M/s SJVN Limited and adoption of tariff.
- 4.4. She submitted that the Petitioner has filed the present Petition for seeking consent of the Commission for continuing with the bidding process conducted vide RFS No. GUVNL/100 MW/Solar (Phase X) dated 15.07.2020 by issuing Letter of Award to M/s SJVNL for the corresponding capacity and rate quoted by them i.e. 100 MW capacity with quoted tariff of Rs. 2.73 per unit and also for adoption of the said



tariff discovered by the Petitioner in the transparent bidding process conducted by the Petitioner.

- 4.5. During the hearing, the Petitioner submitted to file a detailed affidavit regarding the rationale and detailed reasons for accepting the present bid and the tariff. Therefore, the Commission vide its Daily Order dated 15.12.2020 decided and directed that the Petitioner is required to file the detailed affidavit on or before 18.12.2020.
5. Subsequently, the matter was heard by the Commission through virtual hearing by Video Conferencing on 23.12.2020 wherein Shri A. N. Khambhata and Shri Parthik Joshi remained present on behalf of the Petitioner GUVNL.
- 5.1. During the aforesaid hearing, Shri Parthik Joshi appearing on behalf of the Petitioner submitted that after the hearing held on 15.12.2020 in the present matter, the Petitioner GUVNL had written to M/s SJVN Limited vide their letter dated 15.12.2020 seeking reasons regarding difference between the tariff quoted by them in GUVNL's present tender and the tariff of Rs. 2.07 per unit quoted by them in SECI's tender in an adjoining State. Moreover, the Petitioner GUVNL also conveyed in the aforesaid letter to M/s SJVN Limited to revisit the quoted tariff of Rs. 2.73 per unit and offer the least possible tariff in light of prevailing market trend of tariff quotes received in different tenders. He submitted that in response to the above letter of the Petitioner, M/s SJVN Limited vide its letter dated 18.12.2020 highlighted that each tender is unique wherein the tariff quote is derived from the Capital Cost to be incurred for the project and expected revenue therefrom on case to case basis and deriving capital cost is based on various site specific factors like Topography, Soil Conditions, Solar Insolation, Land Cost, O&M costs, tender conditions, risks involved for that particular project.
- 5.2. He further submitted that M/s SJVN Limited in its aforesaid letter has also highlighted the location specific issues regarding 'Plot-C' of Raghnesda Solar Park stating that the soil shows liquefaction properties demanding deeper foundation than usual, while topography of the said plot is such that the entire plot is low lying wherein alkaline nature of water gets accumulated for prolonged periods of time and

therefore, requiring the height of Solar panels, cable trays etc. to be much higher from the ground level than usually required. Moreover, the resistivity value being very low, it necessitates specialised concrete, increased thickness of steel for panel mounting structures, inverters, transformers etc. so as to counter corrosion. M/s SJVNL has also stated that apart from increased capital cost, the O&M cost will also be higher during the operational period of the project.

5.3. He also submitted that thereafter, M/s SJVN Limited vide its letter dated 22.12.2020 stated that due to various issues during the operational period, infrastructure facilities and other challenges at Raghnesda Solar Park, the quoted tariff of Rs. 2.73 per unit is reasonable but since they want to enhance their presence in the State of Gujarat, M/s SJVNL has agreed to offer a discount of Rs. 0.03 per unit and accordingly, the revised tariff offered by M/s SJVNL is Rs. 2.70 per unit matching with the tariff of one of the developers who is already working on one of the plot having better conditions than Plot C in Raghnesda Solar Park. He submitted that the revised tariff offered by M/s SJVNL is in line with the tariff quoted by M/s Tata Renewables in an earlier competitive bidding round conducted by the Petitioner for Raghnesda Solar Park and pursuant to which the Petitioner executed PPA with M/s Tata Renewables who is already working on another plot in Raghnesda Solar Park.

5.4. In response to query of the Commission regarding recent tariffs discovered through Competitive Bidding Process in Gujarat, Shri Parthik Joshi submitted that just few days before the hearing, the tariff discovered in Competitive Bidding Process undertaken by the Petitioner for Non-Solar Park based projects for 500 MW Solar based projects is Rs. 1.99 per unit, which is quoted by M/s NTPC for 200 MW, by M/s Torrent Power Limited for 100MW, M/s Al Jomaih Energy and Water Company for 80 MW and M/s Aditya Birla Renewable Limited who have emerged as the lowest bidders under the said tender. He submitted that unlike Raghnesda Solar Park, the aforesaid tender being for Non-Solar Park, wherein the developers have to identify and choose land within the State for setting up the Solar project, seek connectivity from STU/CTU, also need to develop other related & necessary infrastructure etc., whereas in case of Solar Park based projects, the relevant infrastructure is made available to the project developers for which requisite

upfront fees alongwith other recurring charges are leviable. Therefore, certain bidders are comfortable with Non-Park based projects since upfront fees and other charges are not applicable which are otherwise leviable in case of Solar Park based projects. Therefore, the tariff quotes for Solar Park based projects and Non-park based projects are different and distinct since it involves infrastructure & other related costs towards construction of roads, water, land etc. He submitted that in present case M/s SJVNL has represented regarding frequent flooding, high moistures content in the soil requiring special foundation with higher cost, more structural & steel cost, upfront charges etc.

- 5.5. On a further query from the Commission as to whether the recent trend of lower tariffs being quoted by bidders in competitive bidding processes is attributable only on account of no infrastructure costs being levied on the bidders in Non-Park based projects and thereby they don't have to pay for the same and other related costs or is it due to cost reduction in relevant equipment costs or technological advancements yielding higher CUFs etc. and what is the assessment of the Petitioner regarding various factors that are responsible for such discovery of lower tariffs recently, Shri Parthik Joshi submitted that certainly there has been technological advancements with recent Solar modules that are available being Bi-facial Solar panels, wherein higher CUF is achievable. However, in the present case the utilisation of such Bi-facial panels is not likely to yield higher CUFs because of frequent flooding & water logging, more particularly at 'Plot-C' of Raghnesda Solar park which is low lying. Also, the soil there, unlike sandy soil at other places hardly contributes in additional Solar generation even if Bi-facial Solar panels are utilised. Further, on account of soil conditions and issues of water logging not only requires higher capital cost but that apart even from accessibility point of view there is difficulty to the project site or Solar panels installed and other auxiliaries. As such, the cost towards cleaning of panels, attending faults, manpower requirements would be on higher side when compared to other sites, which leads to higher O&M cost during the entire life of the project apart from the higher capital cost and challenges during construction phase. Further, in respect of Solar Insolation, Raghnesda Solar Park has a specific Solar Insolation data which is different & distinct as compared to other locations and such natural Solar

Insulation cannot be changed by the developer and therefore, the same needs to be factored in calculation for electrical energy output.

- 5.6. With regard to query as to why the Petitioner has not filed any affidavit till date despite the Commission's direction in its Daily Order dated 15.12.2020 to file the same on or before 18.12.2020, he submitted that since the Petitioner intended to file a detailed consolidated affidavit in the matter including the response of M/s SJVNL, which was awaited has caused an unintentional delay. He submitted that in view of the response of M/s SJVNL vide its letters dated 18.12.2020 and further letter dated 22.12.2020 to the Petitioner's letter dated 15.12.2020, necessary affidavit will be filed. Further, considering the provisions of Clause 8.6 of the bidding guidelines notified by Ministry of Power, Government of India and the facts and circumstances of the present case whether the Procurer i.e. Petitioner GUVNL still wants to continue with the present bidding process or not needs to be submitted by the Petitioner on affidavit after duly taking into consideration the recent developments of lower tariff discovery qua the quoted tariff in present case after thorough deliberation in consultation of its management and involving Government, as may be deemed appropriate, because the financial impact for 100 MW capacity with differential tariff shall matter for the entire term of PPA of 25 years. Therefore, the Petitioner needs to clearly convey its intention as to whether it still wants to continue with the present bidding process despite receipt of single bid at revised tariff quote of Rs. 2.70 per unit on affidavit, Shri Parthik Joshi submitted that the Petitioner will file a consolidated detailed affidavit duly incorporating the same after necessary internal approvals and decision in the matter, while taking into consideration the recent developments and will also incorporate its decision regarding its intention as to whether the Petitioner still wants to continue with the bidding process despite receipt of single bid at revised tariff quote of Rs. 2.70 per unit on the affidavit for which Commission may allow the filing the same by 31.12.2020. Accordingly, the Commission vide its Daily Order dated 24.12.2020 directed the Petitioner to file the same on or before 31.12.2020
- 5.7. However, thereafter, during the hearing held on 29.12.2020 in another Petition filed by the Petitioner GUVNL, the Commission was requested by the Petitioner to

grant additional time for filing the aforesaid affidavit up to 10.01.2021 in present matter.

- 5.8. Thereafter, the Commission received request from the Petitioner seeking further time period of 30 days for filing the affidavit as directed by the Commission vide its letter dated 11.01.2021 as consultation was going on with the State Government.
- 5.9. In response to aforesaid request letter from the Petitioner, the Commission vide its letter dated 21.01.2021 directed that the Petitioner needs to file their reply/ affidavit/response on or before 27.01.2021.
6. Thereafter, the matter was listed for hearing before the Commission on 28.01.2021.
- 6.1. During the aforesaid hearing, Ms. Sailaja Vachhrajani, appearing on behalf of the Petitioner submitted that the Petitioner has filed an affidavit dated 27.01.2020 before the Commission. She further submitted that the Petitioner be permitted to initiate a separate re-tendering process for 100 MW capacity at Raghnesda Solar Park in the light of latest price trends without ceiling tariff as 100 MW capacity is yet to be tied up and in the fresh tendering process, the Petitioner to tie up power at lowest tariff discovered out of the two tenders i.e. presently conducted tender vide RFS dated 15.07.2020 and fresh tendering process, considering in case of tariff offered by SJVNL, if they agree to keep their validity considering the tariff of Rs. 2.65 per unit now offered by them without prejudice to their right to participate in the said fresh tendering process. Thereafter, the Petitioner to re-approach the Commission for adoption of tariff in a consolidated manner once the fresh tendering process is completed.
- 6.2. She further submitted that the Petitioner is seeking permission of the Commission for allowing retendering of the present tender in light of the latest price trends wherein discovered tariff is at Rs 1.99 per unit in Non-Park based tender and it appears that as the financial implication of higher tariff of Rs. 2.65 per unit now offered for above 100 MW capacity for a period of 25 years would be substantial

and therefore, the Petitioner is now intending to invite fresh tenders wherein, the Petitioner will also ask M/s SJVNL, if they agree to keep the validity of the bid submitted as mentioned above.

- 6.3. She submitted that in the present matter there is only one single bidder viz. SJVNL who has now offered tariff of Rs. 2.65 per unit which is quite higher and the Petitioner in the interest of consumers at large for better tariff is desirous of inviting fresh bids. She submitted that the Petitioner will abide to the decision and directions of the Commission.
7. The petitioner has further filed an affidavit dated 27.01.2021 to the effect that:
  - 7.1. Earlier, the Petitioner had conducted tendering process twice for 700 MW Raghnesda Solar Park, wherein both the tenders were undersubscribed and PPAs for 600 MW capacity were signed by GUVNL after due approval of Commission. For balance 100 MW capacity at Raghnesda Solar Park, the Petitioner initiated the present tender vide RFS dated 15.07.2020, wherein only single bid of M/s SJVNL was received by the Petitioner even after extending the bid deadline twice. M/s SJVNL had quoted the tariff of Rs 2.73 per unit initially and thereafter reviewing its quoted tariff, M/s SJVNL revised the tariff to Rs 2.70 per unit vide its letter dated 22.12.2020.
  - 7.2. Further, vide its letter dated 13.01.2021, M/s SJVNL has offered revised tariff of Rs 2.65 per unit matching with the tariff of project being executed by M/s GSECL at Raghnesda Solar Park. The Petitioner has reviewed the tariff offered by M/s SJVNL for Raghnesda Solar Park in light of recently discovered tariff of Rs. 1.99 per unit for Non-Park based projects in consultation with State Government.
  - 7.3. In light of the latest price trends, wherein discovered tariff is at Rs 1.99 per unit in Non-Park based tender, it appears that as the financial implication of higher tariff of Rs 2.65 per unit offered for above 100 MW capacity for a period of 25 years would be substantial.
  - 7.4. Therefore, the Petitioner with due consent of State Government proposes that a separate tendering process may be initiated for 100 MW capacity of Raghnesda

Solar Park. Further, it is proposed that if the tariff discovered in such re-tendering is higher than the presently discovered tariff, GUVNL may tie up power at lowest tariff discovered out of two tenders. In the meanwhile, M/s SJVNL will be requested to extend the validity period of their bid till the finalization of fresh bid and / or at their option to participate in the fresh bidding process, as they may consider appropriate, in view of above developments.

7.5. In view of above, the Petitioner has submitted that considering the public interest involved as considered, the Commission may be pleased to direct:

- a) the Petitioner to initiate a separate re-tendering process for 100 MW capacity at Raghanesda Solar Park in the light of latest price trends without ceiling tariff as 100 MW capacity is yet to be tied up.
- b) Petitioner to tie up power at lowest tariff discovered out of the two tenders i.e. presently conducted tender vide RFS dated 15.07.2020 and fresh tendering process, considering in case of tariff offered by SJVN, if they agree to keep their validity as mentioned above, without prejudice to their right to participate in the fresh tendering process.
- c) Petitioner to re-approach Hon'ble Commission for adoption of tariff in a consolidated manner once the fresh tendering process is completed.
- d) Pass any other Order as the Commission may deem fit and appropriate under the circumstances of the case.

8. We have carefully considered the submissions made by the Petitioner. The Petitioner in the Petition filed before the Commission has originally sought consent for continuing with the bidding process by issuing Letter of Award to M/s. SJVNL for 100 MW capacity at the tariff of Rs. 2.73 per unit and also to adopt the said tariff of Rs. 2.73 per unit discovered in the transparent bidding process conducted by the Petitioner through RFS No. GUVNL/100 MW/Solar (PHASE-X) dated 15.07.2020.

8.1. The Petitioner has now filed an affidavit dated 27.01.2021 for allowing them to initiate a separate re-tendering process for 100 MW capacity at Raghanesda Solar

Park in the light of latest price trends, wherein discovered tariff is at Rs 1.99 per unit in Non-Park based tender of the Petitioner in another tender. It appears to the Petitioner that the financial implication of higher tariff of Rs 2.65 per unit offered for above 100 MW capacity for a period of 25 years would be substantial. Accordingly, the Petitioner with due consent of State Government and considering the public interest involved has proposed in the aforesaid affidavit that a separate fresh tendering process be undertaken and the Petitioner to tie up power at lowest tariff discovered out of the two tenders and thereafter approach the Commission for adoption of tariff in a consolidated manner once the fresh tendering process is completed.

- 8.2. We note that Petitioner desires re-tendering by way of inviting fresh bids on following reasons:
- a) financial implication of tariff of Rs. 2.65 per unit of M/s SJVNL for 100 MW capacity at Raghnesda Solar Park being substantial with consideration of recent price trends wherein discovered tariff is at Rs 1.99 per unit in another Non-Park based tender of the Petitioner,
  - b) interest of consumers at large and public interest for better tariffs.
9. The Petitioner submitted that the bidder itself has agreed to reduce the quoted tariff from Rs. 2.73 per unit to Rs. 2.65 per unit. The Petitioner also submitted that even at such reduced tariff the financial implication is still huge on the licensee considering the present market trend.
10. We have also considered that while filing this latest affidavit dated 27.01.2021, the Petitioner has also consulted the State Government and after thorough deliberations and with due consent for re-tendering, which clearly appears to be for public good and common good. This shows bonafide intention on the part of the Petitioner. The ultimate beneficiary is the public at large, if lowest tariffs are found.



11. This Petition has been filed by the Petitioner under Section 63 read with Section 86 (1) (b) of the Electricity Act, 2003, which are reproduced as under:

“ .....

*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.*

.....

*Section 86. (Functions of State Commission): --- (1) The State Commission shall discharge the following functions, namely: -*

(a) xxxx xxxx xxx

(b) *regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;*

.....”

12. Thus, under the above provisions, the Commission is required to regulate the power procurement contract. Here in this case, the Petitioner has filed an affidavit dated 27.01.2021 stating that since lower rates of Rs. 1.99 per unit have been discovered under another bidding conducted by the Petitioner recently and on account of significant financial implication on the licensee as well as consumers at large with the tariff under the present bid it has requested the Commission for directing to undertake re-tendering afresh separately. In this connection it would be profitable to refer to Clause 1.1.1 of the ‘Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects’ issued by the Ministry of Power, which reads as under:

“ .....

### *1.1 Background*

*1.1.1 Promotion of competition in the electricity industry in India is one of the key objectives of the Electricity Act, 2003. Power purchase costs constitute the largest cost element for distribution licensees. Competitive procurement of electricity by the*

*distribution licensees is expected to reduce the overall cost of procurement power and facilitate development of power markets. Internationally, competition in wholesale electricity markets has led to reduction in prices of electricity and in significant benefits for consumers.*

.....”

13. In view of the affidavit dated 27.01.2021, the Petitioner does not want this Commission to approve adoption of tariff as prayed for in the Petition and has requested to give necessary direction for re-tendering.
14. In view of the above, considering the facts and circumstances we decide that as the Petitioner has not pressed the original prayer filed in the present Petition and desires the relief as per affidavit dated 27.01.2021 and accordingly, without further entering into merits of the present matter we pass the following order:

ORDER

The Petition stands disposed of. The Petitioner is at liberty to approach the Commission for adoption of tariff afresh after taking appropriate actions regarding bidding in accordance with law.

**Sd/-**  
**[Mehul M. Gandhi]**  
**Member**

**Sd/-**  
**[Anand Kumar]**  
**Chairman**

Place: Gandhinagar.

Date: 29.01.2021