

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 91/MP/2020 along with IA Nos.70/2020 and 6/2021

Subject: Petition under Clause 18 of the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects (Resolution number 23/27/2017-R&R) issued by the Ministry of Power, Government of India on 3.8.2017 under Section 63 of the Electricity Act, 2003, seeking certain deviations from the aforementioned guidelines.

Petition No. 631/MP/2020 along with IA No.7/2021

Subject: Petition under Clause 18 of the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects (Resolution number 23/27/2017-R&R) issued by the Ministry of Power, Government of India on 3.8.2017 under Section 63 of the Electricity Act, 2003, seeking certain deviations from the aforementioned guidelines.

Petition No. 672/MP/2020 along with IA No.8/2021

Subject: Petition under Clause 18 of the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects (Resolution number 23/27/2017-R&R) issued by the Ministry of Power, Government of India on 3.8.2017 under Section 63 of the Electricity Act, 2003, seeking certain deviations from the aforementioned guidelines.

Date of Hearing : 5.3.2021

Coram : Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P. K. Singh, Member

Petitioner : 1. Rewa Ultra Mega Solar Limited (RUMSL)
2. Madhya Pradesh Power Management Company Limited
3. Western Central Railway

Parties Present : Shri Jafar Alam, Advocate, RUMSL, MPPMCL, WCR
Ms. Samykya Mukku, Advocate, RUMSL, MPPMCL, WCR
Shri Saahil Kaul, Advocate, RUMSL, MPPMCL, WCR
Shri Amar Narula, Advocate, RUMSL, MPPMCL, WCR
Shri Ankur Arora, Advocate, RUMSL, MPPMCL, WCR
Shri Vishal Binod, Advocate, RUMSL, MPPMCL, WCR
Shri Deep Rao, Advocate, RUMSL, MPPMCL, WCR



Ms. Atyotma Gupta, Advocate, RUMSL, MPPMCL, WCR
Shri Deepak Saxena, Advocate, RUMSL, MPPMCL, WCR
Shri Avaneesh Shukla, RUMSL

Record of Proceedings

Cases were called out for virtual hearing.

2. Learned counsels for the Petitioners submitted that the instant Petitions have been filed under clause 18 of the 'Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects' ('the Guidelines') dated 3.8.2017, as amended from time to time, issued by the Ministry of Power, Government of India for seeking certain deviations from the provisions of Guidelines in the Bid Documents in respect of the bid process initiated for development of 500 MW, 450 MW and 550 MW grid-connected ground mounted Solar PV Projects at Neemuch, Sahajpur and Agar Solar Parks respectively. Learned counsels further submitted as under:

(a) While the Petition No. 91/MP/2020 has already been admitted by the Commission, Petition Nos. 631/MP/2020 and 672/MP/2020 are listed for admission.

(b) As regards status of the bid process, RUMSL has uploaded the bid documents on the electronic bidding portal, albeit with a caveat that the documents are subject to changes as may be directed by this Commission in the instant proceedings. However, bids are yet to be invited and bid schedules are being extended from time to time.

(c) On the basis of feedback received from potential bidders and the events subsequent to the filing of the above Petitions, the Petitioners have sought to incorporate certain additional deviations in the Bid Documents vis-à-vis the Guidelines and have accordingly filed IA Nos.70/2020 and 6/2021 in Petition No. 91/MP/2020, IA No. 7/2021 in Petition No.631/MP/2020 and IA No. 8/2021 in Petition No. 672/MP/2020, which may be allowed and the amended Petitions may be taken on record.

(d) Referring to the records of Petition No. 91/MP/2020 and IAs filed therein, detailed submissions were made on the proposed deviations vis-à-vis the standard clauses of the Guidelines and the rationale behind the proposed deviation. The proposed deviations are in order to ensure that the projects are made bankable, financially viable and attract the lowest possible tariffs from potential bidders.

(e) Deviations proposed are under the following heads, viz. (i) Payment Security Mechanism, (ii) Notification of force majeure event, (iii) off-take constraints, (iv) Event of default and termination consequences, (v) Event of default on account of SPD's failure to supply energy as per the PPA, (vi) applicability of bid responsiveness conditions to affiliates of bidder, (vii) definition of bidder's 'affiliate', (viii) definition of 'control', (ix) time period for holding minimum paid-up share capital, (x) exemption of change in controlling shareholding of a publicly listed company, (xi) extension of commissioning timelines, (xii) RUMSL's additional conditions subsequent, (xiii) inclusion of epidemic, pandemic and a resultant quarantine, lockdown or similar action ordered by any Government authority as a force majeure event, (xiv)

Termination due to non-natural force majeure event, (xv) Quantum and mechanism for Change in Law relief.

(f) Upon permitting the amendments to the Petitions, the proposed deviations in all the three Petitions will be identical.

(g) An inadvertent error has crept into the prayer(a) of the amended Petition No. 91/MP/2020 inasmuch as it seeks approval of the deviations as discussed in Part I-XII (12 nos.) of the Petition instead of Part I-XV (15 nos.). The Petitioner may be permitted to rectify the same.

3. After hearing the learned counsels for the Petitioner, RUMSL, the Commission admitted the Petition Nos.631/MP/2020 and 672/MP/2020. The Commission also allowed the IAs filed in all the three Petitions seeking amendments to the Petitions for incorporating the additional deviations and directed to take on record the amended Petitions. Accordingly, the IAs were disposed of. The Petitioner was also permitted to rectify the inadvertent error in the prayer clause (a) of amended Petition No. 91/MP/2020.

4. The Commission further directed the Petitioners to submit the affidavit in all the three Petitions on or before 19.3.2021 after complying the following:

- (a) Confirmation that the Clauses of the Guidelines in respect of which the deviations have been proposed are with respect to latest amended guidelines.
- (b) Deviations proposed in all the three Petitions are identical;
- (c) SBDs already issued/being issued by the Petitioner will incorporate the deviations proposed; and
- (d) Detailed justification regarding deviations pertaining to Payment Security Mechanism, Affiliates/Control.

6. Subject to above, the Commission reserved the Petitions for order.

By order of the Commission

**Sd/-
(T.D. Pant)
Joint Chief (Legal)**