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Case No. 16 of 2021

Case of Brihanmumbai Electric Supply and Transport Undertaking seeking approval for procurement of 400 MW Wind-Solar Hybrid Power from Solar Energy Corporation of India Limited for meeting its Solar and Non solar Renewable Purchase Obligation Targets

Brihanmumbai Electric Supply and Transport Undertaking

..... Petitioner

Solar Energy Corporation of India

..... Respondent

Coram

Shri Sanjay Kumar, Chairperson
Shri I. M. Bohari, Member
Shri Mukesh Khullar, Member

Appearance:

For the Petitioner

: Sh. NN Chougule (Rep.)

For the Respondent

: Sh. MG Ramchandran (Adv.)

ORDER

Dated: 26 April, 2021

1. Brihanmumbai Electric Supply and Transport Undertaking (**BEST**) has filed this Petition under Section 86(1) (b) of Electricity Act, 2003 (EA) and Regulation 21.1 of MERC (Multi Year Tariff) Regulations, 2019 on 25 February 2021, seeking approval for procurement of 400 MW Wind-Solar Hybrid Power from Solar Energy Corporation of India Limited (**SECI**) for meeting its Solar and Non solar Renewable Purchase Obligation (**RPO**) Targets.

2. BEST's main prayers are as follows:

- (a) *To approve draft Power Sale Agreement (PSA) to be executed between BEST and SECI for procurement of 400 MW Wind-Solar Hybrid Power from 1110 MW ISTS-Connected Wind-Solar Hybrid Power Projects (Tranche-III) as per Regulation 21.1 of MERC(Multi Year Tariff) Regulations, 2019.*
- (b) *To approve the procurement of quantum of 400 MW Wind-Solar Hybrid Power by BEST from SECI at a fixed tariff of Rs. 2.41 per unit discovered through competitive bidding plus SECI's trading margin of 07 (seven) paise per unit for 25 years.*
- (c) *To consider the procurement of such Wind-Solar Hybrid power towards meeting the Solar RPO and Non solar RPO of BEST.*
- (d) *To allow BEST to transfer the surplus solar energy up to 15 % of total RPO target for meeting the shortfall of Non solar RPO from FY 2023-24 onwards as per MERC(RPO-REC) Regulation, 2019*
- (e) *To allow BEST to meet its Non solar RPO for FY 2020-21, FY 2021-22 and FY 2022-23 by procuring Non Solar RECs.*
- (f) *To allow BEST to carry forward the shortfall of Solar RPO of FY 2022-23 and to meet the same cumulatively in FY 2023-24.*
- (g) *To allow to carry forward the surplus of Solar RPO from FY 2023-24 onwards and to use the same to meet the Solar RPO of respective next year.*

3. BEST in its Case has stated as follows:

- 3.1 Ministry of New and Renewable Energy (MNRE) has issued National Wind-Solar Hybrid Policy, 2018 on 14 May 2018. The power procured from the hybrid project may be used for fulfilment of Solar RPO and Non-solar RPO in the proportion of rated capacity of solar and wind power in the hybrid plant respectively.
- 3.2 Subsequently, a scheme for setting-up of 2500 MW wind-solar hybrid power projects was sanctioned by MNRE on 25 May 2018 for procurement of hybrid power at a tariff discovered through transparent process of bidding by SECI.
- 3.3 As required under Section 63 of the EA, MNRE has issued the Guidelines on 14 October 2020, for procurement of Wind- Solar Hybrid power through Tariff Based Competitive Bidding Process. As per Clause 1.5 of these guidelines, SECI will be the nodal agency for implementation.

3.4 SECI initiated a Tariff Based Competitive Bid Process for procurement of 1200 MW of the power generated from the ISTS connected Wind-Solar Hybrid Power Projects (Tranche III) on the terms and conditions contained in the Request for Selection (RFS) issued by SECI dated 14 January 2020.

3.5 Following three Hybrid Power Developers (HPD) were selected in the Competitive Bidding Process for Hybrid Power Project to be established anywhere in India:

S.No.	Name of the Bidder	Total Quoted Capacity (MW)	Capacity of Solar PV Component (MW)	Capacity of Wind Component (MW)	Declared CUF (%)	Total expected generation (MUs)	Discovered Tariff (Rs/Unit)
1	ABC Renewable Energy Pvt. Ltd.	380	380	126	41.71	1388.29	2.41
2	Adani Renewable Energy Holding Eight Ltd.	600	570	200	36.66	1927.10	2.41
3	AMP Energy Green Pvt. Ltd.	130	112.5	44.1	42.50	484.32	2.41
	TOTAL	1110	1062.5	370.1		3799.71	2.41

3.6 SECI has issued the Letter of Awards to all above selected developers on 31.12.2020 for development and establishment of the 1110 MW Hybrid Power Projects as per the terms and conditions contained in the RfS.

3.7 SECI vide its letter dated 4 January 2021, offered 600 MW Solar Wind Hybrid Power from this scheme to BEST. Effective tariff for signing of PSA in this scheme is Rs 2.48 per unit including SECI's Trading Margin of Rs 0.07 per unit.

3.8 Based on the RPO targets set by the Commission till FY 2024-25 and as per the Central Govt. target of 40% of total energy from clean energy sources by the end of FY 2029-30, BEST has computed capacity requirement for its Solar and Non-Solar RPO compliance (based on different CUFs) as follows:

Period/Technology	Solar (MW)	Non Solar (MW)
FY 2020-21 till FY 2024-25	64 to 224	186 to 194
FY 2025-26 till FY 2029-30	290 to 455	205 to 269

3.9 As per regulation 7.3 of MERC (RPO-REC) Regulation, 2019, Obligated Entity can use surplus Solar energy up to 15% of total RPO target to meet shortfall in non-Solar RPO target and vice-versa.

3.10 The declared CUF of SECI's proposed 1110 MW Solar Wind Hybrid project is approximately 40 %. Based on BEST's projected RPO target and 40 % CUF of these hybrid projects, it is observed that BEST can meet its solar and Non solar RPO up to FY 2028-29 by tying up 400 MW from SECI's proposed 1110 MW Solar Wind Hybrid project. In that, share of solar power will be approx. 296.55 MW and wind power will be 103.45 MW. The energy allocated to BEST will be provided by each selected developer on proportionate basis of tie up. The expected generation from 400 MW tie up of Wind Solar Hybrid power is as shown in the table below:

Hybrid Power Developers	Project Capacity (MW)			CUF (%)	Energy (MUs)	% of plant contribution	BEST's Share				
	Total capacity	Solar PV Component (MW)	Wind Component (MW)	Declared	Declared		400	BEST's share in MW		Expected generation	
								Solar	Wind	Solar (MUs)	Wind (MUs)
ABC Renewable	380	380	126	41.71	1388.29	34.23	136.94	102.84	34.10	348.91	151.38
Adani Renewable	600	570	200	36.66	1927.10	54.05	216.22	160.06	56.16	473.51	220.97
AMP Energy	130	112.5	44.1	42.50	484.32	11.71	46.85	33.65	13.19	126.30	48.23
Total	1110	1063	370		3799.71	MW	400	296.55	103.45	948.73	420.58
							400	1371.00			

3.11 It is expected that the power flow from SECI's proposed Hybrid project will be starting from FY 2023-24 onwards. As directed by the Commission in MYT Order (Case No. 324 of 2019), BEST has proposed to meet its solar and Non solar RPO for FY 2020-21 and FY 2021-22 by procuring Solar and Non solar RECs. Further BEST proposes to meet its Non solar RPO for FY 2022-23 by procuring Non solar RECs. Further, BEST has proposed to carry forward shortfall/surplus of Solar RPO from FY 2022-23 onwards to the next years and to transfer the surplus solar energy up to 15 % of total RPO target for meeting the

shortfall of Non solar RPO from FY 2023-24 onwards as per MERC (RPO-REC) Regulation, 2019.

- 3.12 As per Ministry of Power (MoP) Order dated 5 August 2020, no Inter-State transmission (ISTS) charges and losses will be levied on transmission of the electricity generated from power plants using solar and wind sources of energy, commissioned till 30 June 2023. These three projects will be commissioned before 30 June 2023, so that additional burden of interstate charges to the tune of Rs. 1.70 per unit will be avoided. While arriving at the quantum of RE power to be tied up, this aspect of ISTS waiver is also taken into account so that the BEST can save the RE power purchase cost while fulfilling its RPO till FY 2029-30.
- 3.13 The rate of Rs. 2.48 per unit offered by SECI is highly competitive as compared to tariff of Rs. 2.90 per unit and Rs. 2.87 per unit for solar and non-solar power considered by the Commission in MYT Order dated 30 March 2020 in Case No. 324 of 2019 and the recent tariff discovered by other DISCOMs. The lower rate is in the interest of consumers and if BEST invites the tenders for procurement of solar and Non solar power on its own, then BEST may not get the competitive rate as low as the rate offered by SECI.
- 3.14 To receive ~ 1371 MU's of RE energy every year BEST will require to tie-up 400 MW Hybrid Power @ 40% CUF whereas at 30% CUF (as per MNRE bidding guidelines), BEST will be required to tie up 550 MW of Hybrid power. Therefore, Transmission capacity requirement decreases by 37% by upgrading the CUF from 30% to 40%.
- 3.15 Purchase of 400 MW wind solar Hybrid power will significantly reduce BEST's short-term power purchase quantum thereby hedging BEST from volatility of short-term prices. Further, the short-term power is being replaced with long term power with fixed tariff for 25 years without any escalation in price because of inflation.
- 3.16 SECI forwarded PSA to be signed between BEST and SECI, and Power Purchase Agreement (PPA) to be signed between SECI and successful Hybrid Power Developers (HPD). Provisions provided in SECI-HPD PPA shall mutatis-mutandis apply to this BEST – SECI PSA and all associated obligations and liabilities shall be implemented on back to back basis. SECI shall approach Central Electricity Regulatory Commission (CERC) under Section 63 of EA for the adoption of tariff discovered through competitive bidding for procurement of 1110 MW ISTS-Connected Wind-Solar Hybrid Power Projects in India (Tranche-III). As per clause 3.1.1(g) of PSA, BEST shall obtain the approval of PSA including trading margin from this Commission.
- 3.17 BEST will sign PSA with SECI for procurement of 400 MW wind Solar hybrid power for a period of 25 years from the Scheduled Commissioning Date (SCD) at fixed tariff of

Rs.2.41/unit plus trading margin of Rs. 0.07/unit determined through bidding process conducted as per RfS issued by SECI under the National Wind-Solar Hybrid Policy dated 14 May 2018 issued by MNRE and MNRE guidelines.

- 3.18 Delivery point shall be a single point or multiple points at 220 kV or above, where power from the Project is injected into the identified ISTS Substation. Metering shall be done at this interconnection point where the power will be injected into the ISTS. For interconnection with grid and metering, the HPD shall abide by the relevant CERC Regulations, Grid Code, and Central Electricity Authority (CEA) Regulations as amended from time to time.
- 3.19 SECI shall provide certificate identifying the quantum of hybrid energy supplied by SECI and being met by BEST Undertaking within thirty (30) days after the end of each year.
- 3.20 SECI vide its letter dated 4 January 2021 has requested to sign the PSA. Only after PSA is signed between SECI and BEST, SECI will sign PPA with successful developers. The SCD is 18 months from effective date of the PPA. The project which will get commissioned before June 2023, will get the benefit of waiver of ISTS charges and losses. Therefore, to give sufficient time for developers to commission the project before the deadline of June 2023, it is essential to complete the formalities of signing of PSA and PPA at the earliest. BEST therefore requests the Commission to dispose of this petition at the earliest.

4 The office of the Commission vide email dated 16 March 2021 sought following clarification from BEST and SECI:

- 4.1 Whether BEST has tried to negotiate with SECI for reducing trading margin of 7 paisa/unit by relying upon recent orders passed by various other State Regulatory Commissions.
- 4.2 To monitor the Change in Law event and their impact on the tariff, parties are required to provide following information:
 - i. Tentative date/month of procurement of RE generating equipment such as Solar Modules/Panels, Wind turbine etc.
 - ii. Country of Import, if not domestically procured
 - iii. Activity wise (land procurement, grid connectivity, material procurement, start and completion of construction activities, testing and commissioning etc) milestone dates proposed till SCOD.

5 BEST, by its letter dated 23 March 2021 submitted its reply to the data gaps, which has been summarized below:

- 5.1 As per Clause 4(b) (ii) of Guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid Connected Wind Solar Hybrid Projects dated 14 October 2020 issued by MNRE, SECI may charge a trading margin of Rs. 0.07 per unit from the Buying entity / Procurer for purchase and sale of the hybrid power.
- 5.2 As per clause 8(d) of CERC (Procedure, Terms and Conditions for grant of trading license and other related matters) Regulations, 2020 dated 2 January 2020, for transactions under long term contracts, the trading margin shall be decided mutually between the Trading Licensee and the seller.
- 5.3 The matter of reduction in trading margin was deliberated with SECI. SECI informed that the Trading margin of Rs. 0.07 per unit is part and parcel of bidding document for 1200 MW Hybrid project (Tranche III) and the same is not negotiable.
- 5.4 SECI has challenged the Order of PSERC, which has reduced trading margin to 2 paisa/unit, before the Hon'ble APTEL and the Order in the matter is expected soon.
- 5.5 Similar to the order issued by PSERC with similar reasoning, Delhi Electricity Regulatory Commission (DERC) has also issued the Order on 31 December 2020 and allowed a Trading Margin of 2 paise/kWh. SECI has challenged this DERC order before APTEL under Appeal No. DFR 39 of 2021. Hon'ble APTEL in its daily order dated 23 February 2021 stayed the impugned Order dated 31 December 2020 passed by DERC to the extent of reducing trading margin to Rs. 0.02/unit., till the disposal of the appeal.

6 In response to the data gaps raised, SECI submitted the replies dated 23 March 2021 as given below:

Regarding Trading Margin:

- 6.1 For facilitating the purchase and re-sale of power from the Hybrid Developers to the Buying Entities, SECI is entitled to a Trading Margin of Rs.0.07/ kWh as consideration, payable by the Buying Entities including BEST in terms of the Guidelines notified by the Central Government.
- 6.2 The Standard PSA, agreed to by BEST, provides for trading margin of Rs.0.07/kWh.
- 6.3 SECI vide letter dated 4 January 2021 offered allocation of 600 MW Hybrid Power to BEST.

In the said letter, with regard to applicable tariff and trading margin, SECI, inter-alia, stated as under:

*“The Tariff was discovered through e-RA on 23.12.2020 and effective price for signing of PSA In this scheme is Rs.2.48/kWh including **SECI’s Trading Margin i.e. 0.07/kWh.**”*

[Emphasis Supplied]

- 6.4 SECI vide email dated 28 January 2021 had informed BEST about the applicable Trading Margin of Rs.0.07/kWh as per Guidelines dated 14 October 2020 of the Government of India.
- 6.5 With regard to SECI’s offer of 600 MW Hybrid Power at tariff of Rs.2.48/kWh [inclusive of Trading Margin of Rs.0.07/kWh], BEST vide email dated 15 February 2021, requested SECI to revise offer letter to 400 MW quantum of power.
- 6.6 In pursuance of the same, SECI vide email dated 17 February 2021, offered 400 MW capacity to BEST. Vide e-mail dated 15 February 2021 BEST informed about certain revisions to be made in the draft PSA. In regard to Article 5.1.1 of the draft PSA dealing with Applicable Tariff, BEST agreed to the following clause, which inter-alia reads as under:

“5.1.1 From SCD, the Buying Entity shall pay the fixed tariff of Rs 2.41/kWh (Two rupees and Forty one paise) plus trading margin of Rs. 0.07/ kWh for the entire term of 25 years”

Jurisdiction to approve the trading margin of SECI vests solely with the Central Commission:

- 6.7 In the present scheme, the Projects shall be located at the locations to be chosen by Hybrid Power Developers at their discretion. The power procured from the projects shall be supplied on pro-rata basis to Buying Entities including BEST who will enter into PSAs with SECI.
- 6.8 The PPA and PSA in matters of tariff will be governed by Section 79(1)(b) of the Electricity Act, 2003, there being a composite scheme for generation and sale in more than one State, as has been referred in decision of Hon’ble Supreme Court in Energy Watchdog case v. Central Electricity Regulatory Commission & Ors. (2017) 14 SCC 80.
- 6.9 The jurisdiction of State Commission under Section 86(1)(b) of the Electricity Act, 2003 read with Rule 8 of the Electricity Rules 2005 is to decide on whether the quantum of power should be purchased by the distribution licensees or not at the price agreed to in the PSA.

- 6.10 SECI has filed an Appeal being No.70 of 2021 before the APTEL against the PSERC Order dated 1 February 2021 to the limited extent of decision on reduction in trading margin from Rs.0.07/kWh to Rs.0.02/kWh. The matter is pending before the Tribunal.
- 6.11 SECI by virtue of its operations, is exposed to various risks such as payment default, late payment, breach of contract, inflation etc. The Trading Margin of Rs.0.07/kWh is to mitigate the risk being borne by SECI. It is because of the payment security mechanism provided by SECI, tariff discovered under SECI schemes are significantly lower than those under tenders done by distribution companies themselves and this benefit is passed onto Buying Entities.
- 6.12 SECI has been consistently specifying the trading margin of Rs 0.07/unit in all the recent transactions involving SECI as intermediate trader and SECI has clearly and unequivocally made known to all the Buying Utilities including BEST that it is not willing to reduce or otherwise compromise on the aspect of above trading margin. SECI'S involvement in the process of bidding and as the intermediary trader has led to significant reduction in tariff (inclusive of trading margin) to Buying Utilities. Accordingly, SECI should get the agreed trading margin (which is also provided in the Guidelines) and expresses its inability to any reduction in the trading margin.

Regarding Timelines of the Milestones

- 6.13 SECI had requested the Hybrid Developers to provide the requisite information. In response, AMP Energy Green Private Limited and ABC Renewable Energy Private Limited has furnished the following information:

AMP Energy

T represents Effective Date of PPA		
S. No.	Query item	Response
a.	Tentative date/month of procurement of RE generating equipment's such as Solar Modules/Panels, Wind turbine etc	- Solar Modules/Panels - T+14 month - Wind Turbine - T+9 month
b.	Country of Import, if not domestically procured	- Solar Modules/Panels - China - Wind Turbine - India
c1.	Land Procurement	By T+12 month
C2.	Grid Connectivity	- Stage-II Connectivity already granted in the 43rd NR Meeting (MoM and Official Intimation awaited)
C3.	Material Procurement	T+8 month
C4.	Start and Completion of construction activities	Start of construction activities - T+6 month onwards

		Completion of construction – T+17 month
C5.	Testing and Commissioning	T+17 month
C6.	Scheduled Commercial Operation Date (SCOD)	T+18 month

ABC Renewable Energy Private Limited:

T represents Effective Date of PPA (assuming April 2021)		
S. No.	Query item	Response
a.	Tentative date/month of procurement of RE generating equipment's such as Solar Modules/Panels, Wind turbine etc	- Solar Modules/Panels – (T+12) - (T+14) months [April,2022-June, 2022] - Wind Turbine - T+12 month (April, 2022)
b.	Country of Import, if not domestically procured	- Solar Modules/Panels - China - Wind Turbine - India
c1.	Land Procurement	By T+09 month (January, 2022)
C2.	Grid Connectivity	Stage-I Connectivity – Obtained Stage-II Connectivity – Obtained
C3.	Material Procurement	T+17 month (September, 2022)
C4.	Start and Completion of construction activities	Start of construction activities - T+10 month (February, 2022) onwards Completion of construction – T+17 month (September, 2022)
C5.	Testing and Commissioning	T+18 month (October, 2022)
C6.	Scheduled Commercial Operation Date (SCOD)	T+18 month (October, 2022)

6.14 The response from Adani Renewable Energy Holding Eight Limited is awaited and shall be duly placed upon being available.

7 At the e-hearing through video conferencing held on 30 March 2021, the representative of the parties reiterated their submission in the Petition and the replies to the data gaps.

Commission's Analysis and Rulings

8 BEST under the instant Petition has sought approval for procurement of 400 MW Wind-Solar Hybrid Power from SECI for meeting its Solar and Non solar RPO Targets.

9 Based on submissions made in the proceeding, the Commission frames following issues for its consideration:

- a. Quantum of power procurement to be allowed to BEST
- b. Competitiveness of the rate proposed for approval.
- c. Other relief sought by BEST in terms of RPO compliances.

The Commission's ruling on above issues are provided in subsequent paragraphs:

10 Issue A: Quantum of Power Procurement to be allowed to BEST

- 10.1 BEST in its Petition has stated that with proposed PSA of 400 MW from Solar Wind Hybrid projects which would be providing energy at 40 % CUF, it can meet its solar and Non solar RPO up to FY 2028-29. BEST has estimated that around 1371 MU/annum of Renewable Energy (~949 MU from Solar and ~421 MU from Wind) would be available from proposed 400 MW contract.
- 10.2 In this regard, the Commission notes that in recent MYT Order dated 30 March 2021, the Commission has approved Renewable Energy projection for BEST for FY 2020-21 to FY 2024-25 so as to comply with RPO targets stipulated in MERC RPO Regulations 2019. As per said projections, approved year wise Renewable Energy requirement of BEST is as follows:

Source	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
Solar Energy (MU)	192	258	348	462	600
Non-Solar Energy (MU)	490	495	500	506	511
Total Renewable Energy (MU)	682	753	848	968	1111

Out of above requirement of renewable energy, BEST only has existing Solar energy contract which provides annual energy of around 32 MU. Thus, for balance quantum, BEST needs to enter into fresh contracts.

- 10.3 As submitted by BEST, power flow from proposed Hybrid Projects is expected to start from FY 2023-24 onwards. As can be seen from above table, RE requirement for FY 2023-24 is 968 MU; as against that proposed Hybrid project would be supplying 1371 MU, which is much more than the requirement.
- 10.4 However, considering its rate of Rs. 2.48/kWh which is lower than variable cost of some of the contracted Thermal Stations and also lower than short term power being procured from other sources, such excess power would only help BEST to reduce its total power procurement cost. Also, with increasing trajectory of RPO targets, such excess contracted RE would be used to meet future RPO targets.

10.5 In view of the above, the Commission approves BEST's proposal of contracting 400 MW power from Wind Solar Hybrid project.

11 Issue B: Competitiveness of the rate proposed for approval.

11.1 The Commission notes that proposed 400 MW power procurement is based on competitive bidding process initiated by SECI for procurement of 1200 MW of the power from ISTS connected Wind-Solar Hybrid Power Projects (Tranche III) on the terms and conditions contained in the Request for Selection (RFS) dated 14 January 2020.

11.2 SECI has discovered the tariff through competitive bidding process through e-reverse auction conducted on 23 December 2020. Following bidders were selected through the competitive bidding process:

S. No.	Name of the Bidder	Total Quoted Capacity (MW)	Declared CUF (%)	Discovered Tariff (Rs/Unit)
1	ABC Renewable Energy Pvt. Ltd.	380	41.71	2.41
2	Adani Renewable Energy Holding Eight Ltd.	600	36.66	2.41
3	AMP Energy Green Pvt. Ltd.	130	42.50	2.41
	TOTAL	1110		2.41

Subsequently, on 31 December 2020, SECI issued the LoA to all the three bid winners.

11.3 SECI vide its letter dated 4 January 2021 approached BEST for procurement of 600 MW of Wind Solar Hybrid power from the above concluded tender process at Tariff of Rs. 2.41/unit plus SECI's trading margin of 7 paisa/unit. However, for the reasons stated in earlier part of this Order, BEST has consented for signing of PSA for 400 MW.

11.4 The Office of the Commission sought certain clarifications from the Parties on applicability of SECI's trading margin of 7 Paisa/unit and timelines of project's milestones. They have submitted their justification on the applicability of trading margin of 7 paisa/unit highlighting the Clauses from Bidding Guidelines and Tender Document. BEST has submitted that it did try to negotiate with SECI on reduction of trading margin, however, SECI did not consider the same.

11.5 The Commission notes that the tariff of Rs. 2.41/kWh has been discovered through transparent process of competitive bidding and such rate is lowest amongst the rate adopted by this Commission. Further, adding SECI's trading margin of 7 paisa/unit, effective rate becomes Rs. 2.48/unit, which is still the lowest rate of power procurement for BEST. Considering these aspect and also considering the fact that this rate is comparable with market

trends, the Commission allows BEST to enter into PSA for 400 MW power procurement from Wind Solar Hybrid project at rate of Rs. 2.48/unit with SECI.

- 11.6 The Commission also notes that the guidelines issued by MNRE for procurement of Hybrid RE power has enabling clause of levying trading margin of 7 paisa/unit by SECI. Relevant part of guidelines dated 14 October 2020 is reproduced below:

“iii. The arrangement for implementation shall be as under:

a. SECI will be the nodal agency for implementation of these Guidelines.

.....

g. The Intermediary Procurer, i.e. SECI, shall enter into a Power Purchase Agreement (PPA) with the Hybrid Power Generator(s) and also enter into a Power Sale Agreement (PSA) with the distribution licensee(s) I consumer(s). The PSA shall contain the relevant provisions of the PPA on a back to back basis.....

.....

i. SECI may charge a trading margin of seven paise/kWh from the Buying entity/ Procurer for purchase and sale of the hybrid power”

This being the case, the Commission notes that provision of levying trading margin of 7 paise/unit was envisaged in guidelines based on which SECI has conducted bidding process and discovered rate of Rs. 2.41/unit. Thus, the tender was processed by SECI under the stipulations of the guidelines of MNRE including the trading margin of 7 paise/unit., Under these conditions, it would not be proper to debate on any of the stipulated conditions which were agreed by BEST. Therefore, the Commission hereby approves the trading margin of 7 paise/unit as per the provisions stipulated in the MNRE guidelines which was in public domain and was agreed to by BEST.

- 11.7 Though the discovery of rates is dependent on various factors and may vary on case to case basis, the Commission notes that even with the trading margin of 7 paise/unit the rate of Rs 2.48/unit is competitive comparable with the rates that are discovered by the utilities in the State. The Commission vide its Order dated 10 August 2020 in Case No. 152 of 2020 has adopted rate of Rs. 2.59/unit for 225 MW of Wind-Solar Hybrid power to be procured by Tata Power Co. Ltd. Rate proposed in present petition i.e. Rs. 2.48/unit (which is inclusive of trading margin) is lower than that rate. Further, CUF in present case i.e. 40% is higher than the assured CUF in Tata Power case i.e. 35%.

- 11.8 The Commission approves the draft PSA to be executed between BEST and SECI for procurement of 400 MW wind-solar hybrid power project at the total rate of Rs 2.48/unit.

12 Issue C: Other relief sought by BEST in terms of RPO compliances.

- 12.1 BEST has submitted that it shall meet its Solar and Non solar RPO for FY 2020-21 and FY

2021-22 by procuring Solar and Non solar RECs. Further, for FY 2022-23 for Non solar category, it has proposed to meet RPO by procuring Non solar RECs. BEST has further proposed to carry forward shortfall/surplus of Solar RPO from FY 2022-23 onwards to the next years and to transfer the surplus solar energy up to 15% of total RPO target for meeting the shortfall of Non solar RPO from FY 2023-24 onwards as per MERC (RPO-REC) Regulation, 2019.

- 12.2 In this regard, the Commission is of the view that such submissions are premature. Any penalty or incentive related to achieving the RPO targets shall be dealt with at the time of RPO verification process of the obligated entities. Till that time, BEST shall take all efforts to fulfill its RPO including procurement of REC at regular intervals so as to avoid peak pricing in the power exchanges. The Commission is aware of the fact that trading on RECs on power exchanges are stayed on account of APTEL judgment and hence utilities are facing difficulties in procurement of RECs. The Commission will consider this aspect during RPO compliance proceeding appropriately.
- 12.3 Further, the Commission notes that in response to the query raised on the timelines of the project's activities, SECI has submitted activity wise timelines for AMP Energy Green Private Limited and ABC Renewable Energy Private Limited. The Commission notes that both these developers have indicated that the procurement of Solar Modules/panels shall be from China. They have further highlighted that such procurement shall be 12 – 14 months after PPA has been signed with SECI. The Commission opines that such information shall assist in addressing the impact of any subsequent claims towards Change in Law event. Such information for third project developer i.e. Adani Renewable Energy Holding Eight Limited is still awaited. The Commission directs BEST/SECI to submit such details within 15 days from issuance of this Order.
- 13 The Commission cautions BEST and stake holders on the importance of timely completion of this project. Timely completion is of essence for BEST for complying with their RPO (which they are lagging at this stage), ensuring power at a reasonable cost for its consumers and most importantly for saving of transmission charges (which are waived for projects commissioned upto June 2023).
- 14 Hence, the following Order:

ORDER

1. Case No. 16 of 2021 is partly allowed.

2. The Commission accords its approval to the Brihanmumbai Electric Supply and Transport Undertaking's procurement of 400 MW wind-solar hybrid power from Solar

Energy Corporation of India Limited at tariff of Rs. 2.41/unit discovered through competitive bidding plus its trading margin of 7 paise/unit for 25 years.

- 3. The Commission approves the draft Power Supply Agreement to be executed between Brihanmumbai Electric Supply and Transport Undertaking and Solar Energy Corporation of India Limited for procurement of 400 MW wind-solar hybrid power project.**
- 4. The power procured from Solar Energy Corporation of India Limited shall be considered for meeting the Solar and Non-Solar Renewable Purchase Obligation requirement of Brihanmumbai Electric Supply and Transport Undertaking.**
- 5. Post signing of the Power Supply Agreement by parties, copy of the same shall be submitted for records of the Commission.**

**Sd/-
(Mukesh Khullar)
Member**

**Sd/-
(I.M. Bohari)
Member**

**Sd/-
(Sanjay Kumar)
Chairperson**

