

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1963 of 2021

In the matter of:

Petition under Section 63 read with Section 86 (1) (b) of the Electricity Act, 2003 for adoption of tariff discovered under Competitive Bidding Process for procurement of power from Grid connected Solar PV projects in Gujarat through RfS No. GUVNL / 500 MW / Solar (Phase XII) dated 23.01.2021.

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

Represented by : Ms. Sailaja Vachhrajani

CORAM:

**Mehul M. Gandhi, Member
S. R. Pandey, Member**

Date: 13.05.2021

ORDER

1. The present Petition has been filed by Gujarat Urja Vikas Nigam Limited (GUVNL), with the prayer of seeking adoption of the tariff discovered by the Petitioner in the procurement process conducted by the Petitioner through RfS No. GUVNL/500 MW/ Solar (Phase-XII) dated 23.01.2021 for procurement of power from Grid connected Solar PV projects in Gujarat within the time duration stipulated by Hon'ble Ministry of Power (MoP) under the guidelines up to 25.09.2020.
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, as per the re-organization scheme.
- 2.3. Distribution companies are mandated to procure power from Renewable Energy Sources as per the provision 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 Agreements 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. Ministry of Power (MoP), 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 provide following conditions be met by procurer:

- 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 and Model Power Sale Agreement], 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 purpose of clarity, if the Procurer while preparing the draft RfS, draft PPA, draft PSA 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.*

2.7. The above referred Guidelines dated 03.08.2017 issued by MoP have been amended from time to time on 14.06.2018, 03.01.2019, 09.07.2019, 22.10.2019 and lastly on 25.09.2020.

2.8. As per the amendment vide Resolution dated 22.10.2019 (notified on 23.10.2019) in the Guidelines, various provisions relating to adoption of tariff by Appropriate Commission have been modified and relevant provisions of the same 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.”

2.9. The Petitioner on behalf of its four subsidiary Distribution companies initiated the tendering process for procurement of 500 MW grid connected power from Solar PV projects through competitive bidding (followed by e-reverse auction) vide RfS No. GUVNL/500 MW/Solar (Phase XII) dated 23.01.2021 under intimation to the Commission vide letter dated 22.01.2021. The Petitioner had also published a public notice dated 24.01.2021 of ‘Notice Inviting Tender’ in two national newspapers regarding this tender and the Tender/Bid Documents viz. RfS and PPA including addendums were hosted on the website of GUVNL for information as well as on e-bidding portal for downloading the official copy of the Tender Documents for participation in bidding procedure including e-reverse auction. Further, the Petitioner also held a Pre-Bid Meeting through video conference on 06.02.2021, wherein key bid parameters, provisions of bid documents & timelines were discussed. Further, during the meeting, the Petitioner addressed the queries raised by the Prospective Bidders prior to pre-bid meeting as well as during the pre-bid meeting. The minutes of pre-bid meeting were also issued and hosted on websites of GUVNL and on e-bidding portal. The copy of Notice Inviting Tender with relevant extract of newspapers, Bid Documents including addendums are filed with the Petition.

2.10. The last date of bid submission in the tendering process initially was 23.02.2021 and the same was extended up to 09.03.2021 and finally up to 12.03.2021. The Technical Bid Opening was held on 15.03.2021 in presence of the Bid Evaluation Committee. The report of the Bid Evaluation Committee is also filed with the Petition. The Petitioner had received online bids from 12 bidders offering

aggregate capacity of 1290 MW which were technically qualified.

- 2.11. The 12 bidders who had submitted bids were technically qualified as per the Bid Evaluation Committee and in accordance with the said report, the Financial Bids of 12 bidders were opened on 22.03.2021 on e-bidding portal in presence of the Bid Evaluation Committee.
- 2.12. As per terms and conditions of tender, 9 bidders with aggregate capacity of 1010 MW could qualify for e-reverse auction and GUVNL had conducted e-reverse auction. Accordingly, the Petitioner conducted e-reverse auction for allocating 500 MW capacity from amongst 1010 MW capacity out of 1290 MW for which the bids were received.
- 2.13. The e-auction report generated at the TCIL's portal is also filed with the Petition. Following prices were discovered at the closure of e-reverse auction held on TCIL's portal:

Sr. No.	Name of the Company	Rs./ Unit	Quoted Capacity (MW)	Allocated Capacity (MW)
1	M/s Sprng Ujjvala Energy Private Limited	2.20	120	120
2	M/s NTPC Renewable Energy Limited	2.20	150	150
3	M/s Coal India Limited	2.20	100	100
4	M/s TP Saurya Limited	2.20	60	60
5	M/s SJVN Limited	2.21	100	70
	Total		530	500

- 2.14. The Petitioner has issued Letter of Award (LoA) on 26.03.2021 to the bidders mentioned in above table at the corresponding rates quoted by them and allocated capacity. In case of M/s SJVN Limited, there is a partial capacity allocation of 70 MW as against their quoted capacity of 100 MW. As per terms and conditions of tender, the PPAs are to be signed with above successful bidders within 30 days from issuance of LOA.
- 2.15. In view of the above and in accordance with the Ministry of Power Guidelines and in accordance with Section 63 read with Section 86 (1) (b) of the Electricity Act 2003, the Petitioner has filed the present Petition for adoption of tariff discovered by the Petitioner in Competitive Bidding Process conducted through RfS No.

GUVNL/500 MW/Solar (Phase-XI) dated 23.01.2021 for procurement of power from Grid connected Solar PV projects in Gujarat.

3. The matter was kept for hearing on 03.05.2021 through Video Conferencing, physical presence being not insisted on account of prevailing COVID 19 pandemic and containing its spread.
4. Ms. Sailaja Vachhrajani, on behalf of the Petitioner GUVNL, submitted as per the petition.
 - 4.1. On a query of Commission that what is levelised tariff discovered from such competitive bidding, Ms. Sailaja Vachhrajani submitted that out of five bidders, quoted capacity by four bidders is of 430 MW capacity out of 500 MW capacity at the rate of Rs. 2.20/Unit and accordingly, they have been allocated 430 MW capacity, while one bidder M/s SJVN Limited has quoted Rs. 2.21/Unit for 100 MW capacity but M/s SJVN Limited has been allocated the partial capacity of 70 MW only out of 100 MW quoted capacity. She further submitted that bid documents submitted with the present petition are in consonance with provisions of the bidding guidelines and the deviations earlier approved by the Commission. She further submitted that all the procedures have been followed as per competitive bidding guidelines and the provisions of the Electricity Act, 2003 and relevant documents have also been filed with the Petition.
5. We have considered the submissions made by the Petitioner. The Petitioner has filed the present Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003 and Clause 8.6 of the Guidelines for procurement of Solar Power through competitive bidding notified by Ministry of Power, Government of India dated 03.08.2017. The Petitioner has sought the approval of the Commission for adoption of discovered tariff of Rs. 2.20 per unit and Rs. 2.21 per unit quoted by successful bidders of bid No. RfS No. GUVNL/500 MW/Solar (Phase XII) dated 23.01.2021, as stated in para 2.13 above.
 - 5.1. The Petitioner is purchasing power in bulk for and on behalf of four Distribution Licensees, namely, DGVCL, MGVCL, PGVCL and UGVCL. The Petitioner also procures the renewable power by entering into agreements with the developers