

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present: Shri. Preman Dinaraj, Chairman
Adv. A.J Wilson, Member (Law)

OP No 10/2021

In the matter of : Petition seeking for approval of trading margin in Power Sale Agreement for 200MW wind power with Solar Energy Corporation of India Limited on long term basis in accordance with Section 86 (1) of Electricity Act,2003 section 63 and Regulation 76 of KSERC (Terms and conditions on determination of Tariff) Regulations, 2018 to meet the Renewable Purchase Obligation of KSEB Ltd as specified in KSERC (Renewable Energy and Net Metering) Regulations, 2020.

Petitioner : Kerala State Electricity Board Ltd.

KSEB Ltd represented by : Sri. KGP Nampootheri, Executive Engineer

Respondents : Solar Energy Corporation of India Ltd.

SECI represented by : Mr. M G Ramachandran, Sr. Advocate
Smt. Tanya Sareen, Advocate
Mr Mudit Jain, Sr Engineer, SECI
Smt. Neha Singh, SECI
Smt Poorva Saigal, Sr.Advocate

First Hearing on : 09.03.2021
Second hearing on : 24.06.2021

Daily Order dated 05.07.2021

1. M/s KSEB Ltd filed a petition before the Commission on 03.02.2021, with the following prayer

‘to approve Rs 0.07/unit as trading margin in the Power Sale Agreement for 200MW wind power with Solar Energy Corporation of India on long term basis.’
2. The Commission admitted the petition as OP10/2021 and hearing on the petition was conducted on 09.03.2021. Based on the deliberations during the

hearing, the Commission, vide daily Order dated 17.03.2021, issued the following directions to the SECI and KSEB Ltd.

- (1) SECI shall, submit a formal request through KSEB Ltd to modify the Article 3.3.1 of the initialed PSA as per the Order of the MoP, GOI dated 15.01.2021 regarding the 'Waiver of Inter-State Transmission Charges and Losses on transmission of electricity generated from solar and wind sources of energy.
- (2) SECI shall submit a detailed justification on claiming Rs 0.07/unit as trading margin for the project.

In compliance of the above direction of the Commission, SECI, submitted the details on 01.04.2021.

3. The second hearing on the petition was conducted on 24.06.2021 through video conference. Sri. K.G.P. Nampoothiri, presented the matter on behalf of the petitioner and Sri. M.G.Ramachandran, Senior Advocate, presented the matter on behalf of the respondent SECI. Summary of the deliberations during the hearing is given below.

- (1) Sri. M G Ramachandran, Senior Advocate, clarified that, the PPA signed by the SECI with the Wind Power Generator (WPG) and PSA signed by SECI with KSEB Ltd are basically back-to-back arrangements between the generator and distribution licensees. SECI is only the intermediary power procurer.
- (2) Clause F of the PPA provides that the rights claimed by WPD against SECI shall be subject to corresponding rights on a back-to-back basis by SECI against Discoms. Sri. M G Ramachandran, Senior Advocate clarified that, in contracts, the right of one party imposes obligation on the other party and vice versa.
- (3) KSEB Ltd clarified that, the contracted capacity as per the PSA signed with SECI is 200 MW only.
- (4) The Commission sought clarification from SECI whether they are entitled to get any profit other than the trading margin @Rs 0.07 per unit. As per clause 4.6.1 of WPD SECI PPA, liquidated damages can be claimed by SECI by encashment of the performance bank guarantee. Clause 5.1.3 of PSA provides that any damages recovered by SECI from WPD will be passed on to KSEB Ltd. Further, a payment security fund is created as per the direction of MNRE.

Sri. M.G. Ramachandran, clarified that, the amount credited in payment security fund can be utilized only as per the guidelines issued by MNRE. The Senior Counsel, added that the Central Government has taken a policy decision that SECI cannot be exposed to unlimited financial liability. No agreement can be contrary to the policy decisions. The documents in this regard will be furnished to the Commission.

- (5) With respect to State Government Guarantee under clause 6.4 of the PSA, KSEB Ltd submitted that, already the State Government has signed the Tripartite Agreement with the Reserve Bank of India and Central Government for providing State Government guarantee to KSEB Ltd and it is still in force. The TPA was formed as part of settlement of accumulated dues of CPSUs by the State Public utilities.

The Commission directed KSEB Ltd to provide a copy of the TPA signed by the State Government with the Reserve Bank of India and Central Government for extending guarantee to KSEB Ltd.

- (6) The Commission pointed out that some mistake has crept in the Article 10.1 that liability arising out of a breach by the SECI/ WPD shall fall on the shoulder of the Buying Entity KSEB Ltd. Sri. M.G. Ramachandran, Senior Advocate accepted the error and agreed to correct the same.
- (7) Sri. M.G. Ramachandran, informed that, when PPA and PSA were signed, both the inter-state transmission charges and losses were exempted for transmitting the power from the RE sources by DISCOMs to meet their RPO. However, as per the latest orders dated 15th January 2021 and 21st June 2021, the waiver of inter-state transmission loss is withdrawn. These notifications are issued in supersession of the earlier notification.
- (8) The Commission noted that, the bidder was Adani Renewable Energy Park (Gujarat) Limited and PPA was signed with M/s Adani Green Energy Three Ltd and then name has been changed to Adani Wind Energy Kutchh Three Ltd. Adv Ramachandran clarified that the action of the bidder is as permitted in the bidding guidelines and bidding documents.
- (9) SECI submitted that, based on the deliberations, they shall amend the Article 10.1.1 of the PSA signed with KSEB Ltd.

4. Based on the deliberations during the hearing, the Commission hereby directs the petitioner KSEB Ltd and the Respondent SECI to comply the following:
- (i) SECI shall amend the PSA based on the deliberations during the hearing and submit the same to KSEB Ltd on or before 12th July 2021 with a copy to the Commission.
 - (ii) KSEB Ltd may submit the initialed PSA on or before 23rd July 2021 before the Commission.

Sd/-
Adv. A J Wilson
Member (Law)

Sd/-
Preman Dinaraj
Chairman

Approved for issue

C R Satheeshchandran
Secretary (i/c)