

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2005 of 2021.

In the Matter of:

Petition under Section 63 read with 86(1)(b) of the Electricity Act 2003 for seeking adoption of tariff discovered under Competitive Bidding Process conducted vide RFS dated 15.03.2021 (Phase X-R) issued by GUVNL for procurement of power from 100 MW Solar Projects to be developed in Raghanesda Solar Park.

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

Represented by : Ld. Advocate Mr. Anand Ganesan and Mr. Parthik Joshi

CORAM:

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

Date: 07.10.2021

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 - R) dated 15.03.2021 for Raghanesda Solar Park:
 - (a) To admit the Petition;
 - (b) To adopt the tariff of Rs. 2.64/unit discovered by GUVNL, in the transparent bidding process conducted vide RfS No. GUVNL / 100 MW / Solar (Phase X - R) dated 15.03.2021 in accordance with the Guidelines issued by MoP;

- (c) To allow further submissions, prayers, additions and alterations in the present Petition as may be necessary from time to time;
- (d) To pass any other Order as the Commission may deem fit and appropriate under the circumstances of the case, to avoid further delay and in the interest of justice.

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 reorganization 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 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 provides that the Procurer shall 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, inform the Appropriate Commission about the initiation of the bidding process and shall 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. It also provides that till the time 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.
- 2.7. In light of the above regulatory framework, the Petitioner on behalf of its four subsidiary Distribution companies conducted tendering process for procurement of 700 MW grid connected power from Solar PV projects to be developed in Raghanesda Solar Park through competitive bidding vide RfS No. GUVNL/700 MW/Solar (Phase III) dated 28.09.2018 wherein the higher tariffs in the range of Rs. 2.84 – Rs. 2.89 per unit were discovered and the tender was scraped.

- 2.8. Thereafter, the Petitioner has initiated the tendering process for Re-bidding vide RfS No. GUVNL/700 MW/Solar (Phase III-R) dated 06.03.2019 for procurement of 700 MW Solar Power wherein total 500 MW capacity was allocated at the tariffs of Rs. 2.65-2.70 per unit (Plots B, D, E, F & G) and 200 MW capacity (Plots A & C) remained unallocated due to under subscription.
- 2.9. Thereafter, in order to bid out the above-mentioned unallocated capacity of 200 MW, the Petitioner for the third time issued RfS No. GUVNL / 200 MW / Solar (Phase VI) dated 24.06.2019 for procurement of power from 200 MW Solar Power Projects to be developed in 700 MW Raghanesda Solar Park wherein 100 MW capacity (Plot A) was allocated at tariff of Rs. 2.65 per unit and 100 MW capacity (Plot C) remained unallocated due to under-subscription.
- 2.10. Thereafter, the Petitioner for the fourth time issued RfS No. GUVNL / 100 MW / Solar (Phase X) dated 15.07.2020 for procurement of power from 100 MW Solar Power Projects to be developed in 700 MW Raghanesda Solar Park wherein single bid of M/s SJVN quoting tariff of Rs. 2.73 per unit was received which was subsequently revised to Rs. 2.65 per unit and in consultation with the State Government in terms of the Commission's Order dated 29.01.2021 in Petition No. 1900 of 2020, it was decided to undertake fresh bidding and tie up power at the lower tariff out of two tenders. In pursuant to the aforesaid Commission's Order, M/s SJVN vide letter dated 05.02.2021 once again approached the Petitioner with a revised tariff of Rs 2.41 per unit to which it was conveyed vide letters dated 08.02.2021 and 11.02.2021 to SJVN about the aforesaid Order of the Commission and the decision regarding re-bidding and tying up power at lower tariff discovered out of two tenders with a request to M/s SJVN to extend the validity of their bid and participate in the fresh bidding. However, M/s SJVN vide letter dated 15.02.2021 withdrew their offer.
- 2.11. Thereafter, the Petitioner GUVNL for the fifth time issued RfS No. GUVNL / 100 MW / Solar (Phase X-R) dated 15.03.2021 in order to bid out the remaining unallocated capacity of 100 MW under intimation of the Commission. The bid documents containing Request for Selection (RFS), Power Purchase Agreement (PPA), Implementation & Support Agreement (ISA), Land Lease Agreement (LLA),

Addendums and corrigendums issued from time to time in respect of present tender are filed with the present Petition.

- 2.12. 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. This portal is also being used by Central Government agencies such as SECI for carrying out competitive bidding for procurement of renewable energy. The tender documents alongwith a copy of newspapers for 'Notice Inviting Tender' are filed with the petition.
- 2.13. It is submitted that the initial tendering process for Raghanesda Solar Park (Phase III) was conducted through RFS dated 28.09.2018 wherein a pre-bid meeting was held on 22.10.2018 and all the queries of the interested parties were discussed and deliberated at length and all the acceptable suggestions made during the Pre-Bid Meeting were incorporated in the tender documents. Further, the comments/suggestions of stakeholders received in subsequent tenders were also considered and acceptable changes were made in the tender documents from time to time. In view of the same, another Pre-Bid Conference/Clarification Meeting was not held specifically for this tender, but however the queries/suggestions of stakeholders were solicited and responses thereof were uploaded by issuing necessary Addendum.
- 2.14. The last date for submission of bids in this tender was 12.04.2021 which was extended by GUVNL upto 26.04.2021. Total 3 bids for 300 MW capacity from M/s TP Saurya Limited (Tata), M/s Sprng Natural Power Source Pvt. Limited and M/s SJVN Limited were received.
- 2.15. The Technical Bid Opening was held on 30.04.2021 in the presence of Bid Evaluation Committee constituted by GUVNL consisting of following members for technical evaluation: (i) Shri K. P. Jangid, General Manager, Commerce, (ii) Smt. Sailaja Vachhrajani, General Manager, IPP, (iii) Shri Parthiv Bhatt, Company Secretary, and (iv) Shri J. N. Pancholi, Chief Finance Manager, F&A.

2.16. 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 Bids were opened on 07.05.2021 on the e-bidding portal in the presence of Bid Evaluation Committee.

2.17. The details of capacity and tariff offered by bidders is mentioned below and the e-report generated on the bidding portal is also filed with the petition.

Sr. No.	Name of the bidder	Capacity offered (MW)	Tariff (Rs / Unit)
1.	M/s SJVN Limited	100	2.64
2.	M/s TP Saurya Limited (Tata),	100	2.88
3.	M/s Sprng Natural Power Source Pvt. Limited	100	2.90
	Total	300	

2.18. As per tender terms & conditions, two bidders i.e. M/s SJVN Limited and M/s TP Saurya Limited were qualified for e-reverse action which was conducted on same day wherein no changes were made by these two bidders. Thus, M/s SJVN Limited has emerged L1 bidder at tariff of Rs. 2.64/unit in the present tender. The report generated on e-bidding portal is also filed with the present petition.

2.19. It is submitted that the Petitioner GUVNL vide letters dated 12.05.2021 & 18.06.2021 had requested M/s SJVN Limited to review the quoted tariff and offer the least possible tariff in view of tariff of Rs 2.41 per unit offered by them earlier. In response, M/s SJVN Limited vide letters dated 13.05.2021, 10.06.2021 & 23.06.2021 expressed their inability to revise the tariff and requested the Petitioner to issue LoA at tariff of Rs 2.64 per unit. As per terms and conditions of tender, M/s SJVN's bid is valid up to 23.10.2021.

2.20. The Petitioner also requested to consider the following relevant aspects:

A. Basic Custom Duty

- (i) Government of India vide OM dated 09.03.2021 has proposed to impose 40% custom duty on solar modules with effect from 01.04.2022. The last date of bid submission in the latest tender (Phase X-R), in which the tariff of Rs 2.64

/ unit has been discovered, was on 26.04.2021 i.e. subsequent to issuance of this OM by GoI. Therefore, the imposition of BCD will not be eligible for tariff revision under 'Change in Law' provisions of PPA in case of above tariff of Rs 2.64 / unit.

- (ii) In case of tariff of Rs 2.41 per unit offered by M/s SJVN Limited in the earlier tender (Phase X), the last date of bid submission was 21.09.2020. Therefore, the imposition of BCD would have been eligible for tariff revision under 'Change in law' provisions of PPA as the bid deadline was prior to issuance of OM dated 09.03.2021 by GoI in case of tariff of Rs 2.41 per unit offered earlier by M/s SJVN Limited vide letter dated 05.02.2021.
- (iii) In case of tariff of Rs. 2.41 per unit, considering the construction period of 15 months and time period of 90 days between date of signing of PPA and issuance of LoA, the SCOD would have fallen after 01.04.2022 attracting BCD on solar modules that are imported after 01.04.2022 which could increase the effective tariff than the tariff of Rs 2.64 / unit discovered in latest tender is better as it does not have the uncertain component of BCD.

B. Transmission Charges and Losses of CTU

- (i) Raghanesda Solar Park is interconnected with CTU grid in terms of Long Term Access (LTA) availed by GPCL as solar park developer on behalf of Solar Project Developers.
- (ii) As per CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, the transmission charges and losses of CTU grid are waived in respect of solar projects commissioned upto 31.12.2022. Further, Ministry of Power (MoP) vide order dated 21.06.2021 has extended the waiver of ISTS Transmission Charges for the projects to be commissioned upto 30.06.2025. It has been clarified by MoP that waiver is allowed for Inter-State Transmission Charges only and not losses. For implementation of the MoP order, the amendments in the Regulations by CERC is required and the same is yet to be issued by CERC. Thus, the existing waiver in the transmission charges and

losses is upto 31.12.2022. Therefore, it is imperative to tie up the solar capacity in the park considering above timeline of 31.12.2022.

- (iii) Hon'ble CERC vide order dated 28.01.2021 in the Petition No. 331/MP/2021 filed by Solar Park Developers of various States including GPCL has rejected the prayers of Park developers seeking to exempt them from payment of transmission charges and losses in case of delay in commissioning of solar projects beyond the date of operationalization of LTA and commissioning of corresponding transmission system. CTU also vide letter dated 10.08.2021 has conveyed that 700 MW LTA granted to GPCL for Raghanesda Solar Park is operationalized with effect from 12.08.2021 pursuant to request of GPCL.

C. **Other factors**

- (i) The tariff of Rs. 2.64 per unit in the present tender which is inclusive of impact of BCD is better than the tariff of Rs 2.65 – 2.70 per unit at which 600 MW projects have already been awarded in Raghanesda Solar Park as the projects already awarded are likely to claim tariff revision under Change in Law on account of Safeguard Duty unlike present tender.
- (ii) The vacant plot of 100 MW for which GUVNL has already conducted 4 tendering processes has resulted into tariff discovery in the range of Rs 2.65 – 2.89 per unit earlier against which the tariff of 2.64 per unit discovered in the latest tender is lowest amongst all previous tenders.
- (iii) The special geographical conditions of Raghanesda Solar Park and socio-economic parameters associated with development of solar park considered by State Government while approving the park needs to be considered.
- (iv) Taking into consideration that the cost of development of solar park infrastructure and maintenance thereof is to be recovered through Upfront Development Charges and O&M charges for entire park capacity of 700 MW, the delay in allocation of 100 MW capacity may affect all stakeholders of the park such as GPCL, GETCO, GIPCL, GSECL and other private developers.

- (v) As per terms and conditions of tender, the PPAs are to be signed with above successful bidders within 90 days from issuance of LoA. Further, the time period for commissioning of solar projects is 15 months after signing of PPAs.
- 2.21. In view of the above and in accordance with Section 63 read with 86 (1) (b) of the Electricity Act 2003, the Petitioner has filed the present petition for seeking adoption of tariff of Rs 2.64 / unit discovered in transparent bidding process conducted in accordance with Ministry of Power's Guidelines vide RFS No. GUVNL / 100 MW / Solar (Phase X-R) dated 15.03.2021 for procurement of power from 100 MW Solar Project to be developed in Raghanesda Solar Park
3. The matter was heard on 24.09.2021.
4. Ld. Adv. Mr. Anand Ganesan and Mr. Parthik Joshi, on behalf of the Petitioner, reiterated the submissions as stated in para 2 above.
- 4.1. It is submitted that the present matter is filed under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003 for adoption of tariff of Rs. 2.64 per unit discovered under Competitive Bidding Process conducted vide RFS dated 15.03.2021 (Phase X-R) issued by GUVNL for procurement of power from 100 MW Solar Projects to be developed in Raghanesda Solar Park.
- 4.2. It is submitted that Government of India vide Office Memorandum dated 09.03.2021 has proposed to impose 40% customs duty on solar modules w.e.f. 01.04.2022 whereas last date of bid submission in above tender was 26.04.2021 i.e. subsequent to issuance of above Office Memorandum. Therefore, the imposition of basic customs duty will not be eligible for tariff revision under 'Change in Law' provisions in case of discovered tariff of Rs. 2.64 per unit. Further, in case basic customs duty is not imposed by Government of India in that case the Petitioner will be eligible for reduction in above discovered tariff.
- 4.3. It is further submitted that the Petitioner received bids from three bidders in present tendering process and as per terms & conditions of tender, two bidders were qualified for e-reverse auction. In reverse auction, M/s SJVN Limited was

selected as successful bidder. Moreover, the Petitioner has also filed the Bid Evaluation Committee Report with present Petition.

4.4. In response to query from the Commission whether any deviation is there from bidding guidelines and approved Bid documents, Ld. Adv. Mr. Anand Ganesan submitted that there is no deviation from the guidelines and approved Bid documents. Further, in response to provisions of 'Late Payment Surcharge' being incorporated in the PPA, it is submitted that the Petitioner will sign supplemental PPA with M/s SJVNL for incorporating the relevant provisions of 'Late Payment Surcharge' as per notification issued by Ministry of Power.

5. We have carefully considered the submissions made by the Petitioner. The Petitioner has sought the Commission's approval by adopting the tariff discovered under Competitive Bidding Process conducted vide RFS dated 15.03.2021 (Phase X-R) issued by GUVNL for procurement of power from 100 MW Solar Projects to be developed in Raghnesda Solar Park under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003.

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 for its four Distribution Licensees towards fulfilment of their RPO as specified by the Commission in the GERC (Procurement of Energy from Renewable Energy Sources) (Second Amendment) Regulations, 2018. In the said Regulations, the Commission has stipulated the RPO requirement of Distribution Licensees till FY 2021-22 as under:

Year	Minimum Quantum of purchase (in %) from renewable energy sources (in terms of energy in kWh)			
	Wind (%)	Solar (%)	Others (Biomass, Bagasse, Hydro and MSW) (%)	Total (%)
(1)	(2)	(3)	(4)	(5)
2018-19	7.95	4.25	0.50	12.70
2019-20	8.05	5.50	0.75	14.30
2020-21	8.15	6.75	0.75	15.65
2021-22	8.25	8.00	0.75	17.00

From the above table it is apparent that the Petitioner is required to procure substantial quantum of solar power since the Commission has increased the Solar RPO in view of the requirement stipulated by the Government of India. Accordingly, in order to meet the Solar RPO target the Petitioner initiated the competitive bidding for procurement of power from the Solar PV Projects to be set up at 700 MW Raghnesda Solar Park.

- 5.2. The Petitioner has sought the Commission's approval under Section 63 read with Section 86(1)(b) of the Electricity Act. It is, therefore, necessary to refer these Sections as reproduced below:

"Section 63:

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;"

As per above Section, whenever competitive bidding is conducted under Section 63 of the Electricity Act, 2003 in accordance with the guidelines issued by the Central Government, the tariff discovered under such bidding has to be adopted by the Commission.

"Section 86(1) The State Commission shall discharge the following functions, namely: -----

(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."

As per the provisions of above Section, the Commission has to regulate the power procurement of the Distribution Licensees, including the procurement process, the price at which electricity shall be purchased from the generating company or the Licensees or through other sources through agreement for purchase of power for distribution and supply within the State.

- 5.3. Thus, it is apparent from the provisions of above referred Sections that the petition filed by the Petitioner is within the purview of the Commission's jurisdiction and in terms of the powers vested by the Electricity Act, 2003 and Regulations framed thereunder, the Commission has admitted the said petition.
- 5.4. It is observed that the Petitioner started the competitive bidding process as per Section 63 of the Electricity Act vide RFS No. GUVNL/700 MW/Solar (Phase-III) dated 20.9.2018 for procurement of 700 MW from the Solar Power projects to be set up at Raghnesda Solar Park under intimation to the Commission. The Petitioner give wide publicity to the said tender by publishing a notice in three National newspapers having maximum readership to seek wide participation from the participating bidders. The bids were opened on 21.12.2018 wherein the tariff discovered was in the range of Rs. 2.84 to Rs. 3.22 per unit for the total quoted capacity of 1250 MW as against the tendered capacity of 700 mw. Since the discovered tariff was found to be significantly higher considering the then prevailing market scenario, the Petitioner annulled the said bidding process.
- 5.5. In order to ensure that the most competitive tariff is discovered, the Petitioner initiated re-bidding process for 700 MW power from the Solar Power projects to be set up in Raghnesda Solar Park vide RFS No. GUVNL/700 MW/SOLAR (PHASE-III-R) dated 06.03.2019 by stipulating Rs. 2.70 per unit as the ceiling tariff. Ceiling tariff was stipulated by the Petitioner to avoid the repeat scenario of cancellation of biding process on discovery of higher tariff. In this bidding process also, the Petitioner gave wide publicity by publishing the notice in two English Newspapers and one Gujarati Newspaper having maximum readership and had also hosted the bid documents on its website as well as on the website of TCIL. In this bidding process, the Petitioner received online bids from four bidders offering aggregate capacity of 600 MW as against the tendered capacity of 700 MW. Since there was undersubscription of 100 MW, as per Clause 4.3.2 of RFS Documents, the Petitioner auctioned only 80% of the capacity for which the bids were received, i.e., 80% of 600 MW = 480 MW. However, since the capacity allocation was to be made in multiples of 100 MW considering the uniform plot size of 100 MW at Raghnesda Solar Park, the capacity of 480 MW was rounded off to 500 MW and accordingly, the Petitioner issued the Letter of Award to four bidders at the tariff

in the range of Rs. 2.65 to 2.70 per unit and allocated 500 MW capacity as quoted by them. The Commission vide order dated 17.07.2019 in Petition No. 1803 of 2019 approved the award of LoA to four bidders.

5.6. It is observed from the above that against 700 MW capacity at Raghanesda Solar Park, capacity of 500 MW only could be allocated to four successful bidders thereby leaving 200 MW as unallocated capacity. The Petitioner, therefore, initiated competitive bidding process through RFS No. GUVNL/200 MW/Solar (Phase-VI) dated 24.06.2019. Since the lowest rate discovered in the earlier bidding dated 06.03.2019 was Rs. 2.65 per unit, the Petitioner stipulated the same as ceiling tariff in this RFS. The Petitioner gave wide publicity by publishing the tender notice on 25.06.2019 in three national newspapers, namely, 'The Hindu', 'Business Line', and 'Indian Express'. The tender documents were also hosted on the Petitioner's website as well as on E-bidding portal "Electronic Tendering System (ETS)" developed by M/s ElectronicTender.com India Pvt Ltd. which is approved by the Ministry of Electronics & Information Technology, Government of India vide Certificate dated 31.07.2018. The last date of submission of bids was 24.07.2019. However, as the Petitioner did not receive any bids till the last date of bids submission, the deadline for bid submission was extended until 07.08.2019 and finally only one bid was received from M/s GSECL and that too for 100 MW capacity.

5.7. The Petitioner also initiated bidding process for purchase of 100 MW power from the Solar Power projects to be set up in Raghanesda Solar Park vide RFS No. GUVNL/100 MW/SOLAR (PHASE-X) dated 15.07.2020 by stipulating ceiling price as Rs. 2.73 per unit which was subsequently revised to Rs. 2.65 per unit. In this bidding process also, the Petitioner gave wide publicity by publishing the notice in two English Newspapers and one Gujarati Newspaper having maximum readership and had also hosted the bid documents on its website as well as on the website of TCIL. In this bidding process, the last date for submission of bid was 17.08.2020. However, the Petitioner did not receive any bids and therefore, the deadline for submission of the bid was extended until 31.08.2020 to which the Petitioner received only one bid till 31.08.2020 from M/s SJVN Limited and accordingly, the deadline for submission of the bid was further extended 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 Raghanesda Solar Park, the Petitioner received only one (1) bid for the said plot from M/s SJVN Limited. The Petitioner GUVNL vide the affidavit dated 27.01.2021 made the submissions that after the consultation with State Government it was decided to undertake fresh bidding and tie up power at the lower tariff and accordingly requested the Commission that it does not want to approve adoption of tariff as prayed for in Petition No. 1900 of 2020 and has requested to give necessary direction for re-tendering. Accordingly, the Commission vide Order dated 29.01.2021 gave liberty to the Petitioner GUVNL to approach the Commission for adoption of tariff afresh after taking appropriate actions regarding bidding in accordance with law.

- 5.8. It transpires from the above that the Petitioner has been making consistent attempts to invite bid for entire 700 MW capacity of Raghanesda Solar Park. However, despite its best efforts, the Petitioner could get bid only for 600 MW which indicates that no other bidders are interested in developing the balance 100 MW capacity in the remaining unallocated plot in the Raghanesda Solar Park on account of challenging site conditions. The Commission is satisfied with the sincere attempts put in by the Petitioner by inviting the bid for entire 700 MW capacity multiple times through a transparent process of competitive bidding and accordingly, the Commission decides to approve the present tendering process.
- 5.9. In the present case, the Petitioner has proceeded with the opening of technical bid as well as financial bid and has sought the consent of the Commission for award of LoA and adoption of tariff. In this regard, it is pertinent to note that the Petitioner constituted Bid Evaluation Committee consisting the following Officers:

<i>Sr. No.</i>	<i>Name</i>	<i>Designation</i>
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)

- 5.10. The technical bid opening was held on 30.04.2021 in the presence of the Bid Evaluation Committee. The bid offering 100 MW capacity, has been evaluated by the Bid Evaluation Committee and the technical evaluation report prepared and signed by the Members of the Committee and submitted with the Petition is reproduced below:

“TECHNICAL BID EVALUATION REPORT”

RFS NO. GUVNL / 100 MW / SOLAR (PHASE X-R) DATED 15.03.2021

Tender for Procurement of 100 MW Solar Capacity to be developed in 700 MW Raghnesda Solar park (Phase – X-R).

06th April 2021

1. Background

Gujarat Urja Vikas Nigam Limited (GUVNL) intends to procure 100 MW Solar Power from the projects to be located in 700 MW Raghnesda Solar Park Solar Power through competitive bidding process (conducted through electronically facilitated online web based portal followed by reverse auction) as notified via RfS No. GUVNL /100 MW / Solar (Phase X-R) dated 15.03.2021. The RfS was floated on 15.03.2021. The last date for submission of bids in the above tender was 26.04.2021.

GUVNL had constituted a committee for evaluation of the bids (Evaluation Committee), consisting of the following members:

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

This report outlines the responses of all the bidders in respect of Non-Financial (technical) bid evaluation and recommendations of committee.

2. Details of Tender

<i>RfS Reference No.</i>	<i>RfS No. GUVNL / 100 MW / Solar (Phase X-R) dated 15.03.2021</i>
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Capacity	<i>Total 100 MW Solar Project to be developed in 700 MW Raghnesda Solar Park</i>
Minimum Bid Capacity	<i>100 MW</i>
Term of PPA	<i>25 years from S.C.O.D.</i>
Technology	<i>Commercially established Solar Photovoltaic technology</i>

3. Response to RFS

The technical bid opening event was convened on 30.04.2021. A total of 03 (Three) responses for aggregate capacity of 300 MW received by GUVNL were opened. The list of the bidders and the capacity offered is as below:

SN	Name of Bidder	MW
<i>1</i>	<i>Sprng Natural Power Sources Pvt. Limited</i>	<i>100</i>
<i>2</i>	<i>SJVN Limited</i>	<i>100</i>
<i>3</i>	<i>TP Saurya Limited</i>	<i>100</i>
	<i>Total</i>	<i>100</i>

4. Principles of Evaluation

The approach to evaluation has been that all the bidders who qualify under the terms specified in the bidding documents, the financial bid of such qualified bidders shall be opened. Also, in case of a perceived non-responsiveness, clarifications are to be sought from the concerned bidders.

Following conditions relating to Qualification Requirements have been specified in the RFS document –

Net worth:

- i) The Net-Worth of the Bidder or its Affiliate or Parent / Ultimate Parent for the financial year ending 31.03.2020 or 31.12.2020 or 31.12.2019 as the case may be, shall not be less than INR 0.80 Crores per MW (of the capacity quoted).*
- ii) The net worth to be considered for the above purpose will be the cumulative net-worth of the bidding company or consortium together with the net worth*

of those Affiliates of the bidder(s) that undertake to contribute the required equity funding and performance bank guarantees in case the bidder(s) fail to do so in accordance with the RfS.

- iii) For avoidance of doubt, “net worth” as per section 2 (57) of the Companies Act 2013 means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.*
- iv) For meeting the above financial eligibility criteria, if data is provided by the Bidder in USD, equivalent rupees of Net Worth and other financial parameters will be calculated by Bidder using Reserve Bank of India's reference rates prevailing on the date of closing of accounts for the respective financial year.*
- v) Pursuant to evaluation of Net Worth Criteria as part of technical bid, if it is found by GUVNL that the Bidder is eligible for lesser quantum than the quantum for which bid has been submitted, then the Bidder shall be qualified for such lesser quantum, provided that such quantum is not less than minimum bid capacity.*
- vi) GUVNL shall accept the Provisional Accounts which are duly certified by a practicing Chartered Accountant of India and at least two Directors or one Director and the Company Secretary. Provided that an undertaking signed by at least two Directors or one Director and the Company Secretary is submitted by the bidder confirming that Final Audited Annual Accounts for the last financial year are not available as on date of bid submission.*
- vii) The companies which have recently raised funds and are not able to meet net-worth as per the Clause 3.4.4 (i) i.e. as 31.03.2020 or 31.12.2020 or 31.12.2019 as the case may be, or in case the Bidder is a newly formed company, supported by documentary evidence of its recent formation at ROC*

then the certificate issued by a Chartered Accountant certifying net worth as on latest available date based on certified copy of Balance Sheet, Profit & Loss account Schedules and cash flow statement supported with bank statement shall be required to be submitted.

5. Technical Bid Opening

The bid opening event was convened on 30.04.2021 at 11:00 hours before the Bid Evaluation Committee at GUVNL, Vadodara, where following members / their nominee(s) were present:

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

The Bid Evaluation Committee deliberated the issues in detail about responsiveness of the submitted bids.

6. Responsiveness Issues

On scrutiny of the bid documents submitted by participating bidders, responsiveness issue were observed in respect of bids submitted by M/s Sprng Natural Power Source Pvt. Ltd., M/s SJVN Ltd. and M/s TP SAURYA Ltd. on which queries were raised by GUVNL on E-bidding portal/e-mail. The responsiveness issues raised by GUVNL and the responses / compliance submitted by bidders are discussed in the subsequent section.

7. Specific Issues

(1) Sprng Natural Power Source Pvt. Ltd.

As per terms & conditions of RFS, the validity of bid in the Covering letter is required to be kept till 180 days from bid deadline of 26.04.2021. Upon scrutiny of documents submitted by M/s Sprng Natural Power Source Pvt.

Ltd., it was observed that the validity of bid as per Covering letter was up to 10.10.2021.

In this regard, GUVNL had raised a query on E-bidding portal and requested the bidder to submit revised Covering letter wherein mentioned date for the validity of bid at least up to 23.10.2021. In response, M/s Sprng Natural Power Source Pvt. Ltd. has mentioned the validity of bid has been extended till 23.10.2021 as per revised Covering letter.

(2) SJVN Ltd.

As per terms & conditions of RFS, the validity period of BG submitted towards EMD and the validity of bid in the Covering letter is required to be kept till 180 days from bid deadline of 26.04.2021. Upon scrutiny of the documents submitted by M/s SJVN Ltd., it was observed that the validity period of BG submitted towards EMD was up to 20.10.2021 as per Covering letter and the validity of bid as per Covering letter was up to 20.10.2021.

In this regard, GUVNL had raised a query on E-bidding portal and requested the bidder to submit revised Covering letter wherein mentioned date for the validity period of BG submitted towards EMD and the validity of bid at least up to 23.10.2021. In response, M/s SJVN Ltd. has mentioned the validity period of BG till 27.10.2021 as per Original BG submitted towards EMD dated 04.05.2021 and the validity of bid has also been extended till 27.10.2021 as per revised Covering letter.

(3) TP Saurya Ltd.

As per terms & conditions of RFS, the bidder has to submit Undertaking from Parent/Affiliate Company to contribute the required equity and performance bank guarantee in case the Bidder fail to do so in accordance with the RfS. Upon scrutiny of the Undertaking letter submitted by M/s TP Saurya Ltd., it was observed that the detail mentioned related to RfS No. in submitted Undertaking letter by CEO, MD from M/s Tata Power Company Limited (Parent Company) was incorrect.

In this regard, GUVNL had raised query vide email dated 04.05.2021 and requested the bidder to submit revised Undertaking letter wherein correct RfS No. to be mentioned. In response, M/s TP Saurya Ltd. has submitted revised Undertaking letter mentioning correct RfS No.

8. Evaluation of Responses

The Status in brief is indicated in the following table:-

SN	Name of Bidder	MW	Status
1	<i>Sprng Natural Power Sources Pvt. Limited</i>	100	Qualified
2	<i>SJVN Limited</i>	100	Qualified
3	<i>TP Saurya Limited</i>	100	Qualified
	<i>Total</i>	100	

9. Way Forward

Based on the above results, the Financial bid of above 03 (three) bidder may be opened.

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

.....”

It can be observed from the technical evaluation report that since there was three bid offering 300 MW capacity against the tendered capacity of 100 MW, and the Bid Evaluation Committee found it to be responsive, the said bidders was deemed qualified for opening its financial bid.

- 5.11. The financial bid was opened on 07.05.2021 on the E-bidding portal in the presence of the Bid Evaluation Committee. As per the reported generated on 07.05.2021

from the Electronic Tender System, the tariff of Rs. 2.64 per unit was discovered as reproduced below:

Sr. No.	Name of the Company	Tariff (Rs. /kWh)	Ranking
1	M/s SJVN Limited	2.64	L1
2	TP Saurya Limited	2.88	L2

5.12. As stated earlier, the Petitioner has made sincere and multiple attempts for inviting the bid for the entire 700 MW capacity of Raghnesda Solar Park and despite its best efforts, the Petitioner could get bid only up to 600 MW capacity. The Commission, therefore, accepts the Petitioner's request for adoption of tariff discovered thorough the transparent bidding process by issuing Letter of Award to M/s SJVN Limited at the capacity quoted by them.

5.13. As far as the adoption of tariff of Rs. 2.64 per unit is concerned, it is obvious that M/s SJVN Limited has quoted this ceiling tariff of Rs. 2.64 per unit. It is pertinent to note here that in the Order dated 17.07.2019 in Petition No. 1803 of 2019 the Commission has approved the award of 500 MW capacity at the tariff in the range of Rs. 2.65 to Rs. 2.70 per unit as under:

Sr. No.	Name of the Bidder	Quoted Capacity (MW)	Allocated Capacity (MW)	Tariff (Rs./kWh)
1	Electro Solar Private Ltd.	200	200	2.65
2	Gujarat State Energy Corporation Ltd.	100	100	2.68
3	Gujarat Industries Power Company Ltd.	100	100	2.68
4	Tata Power Renewable Energy Ltd.	200	100	2.70
	Total	600	500	

5.14. With regard to Petition No 1900 of 2020 is concerned, the Petitioner had filed an affidavit dated 27.01.2021 for allowing them to initiate a separate re-tendering process for 100 MW capacity at Raghnesda Solar Park in the light of price trends at that relevant time, wherein discovered tariff is at Rs 1.99 per unit in Non-Park based tender was discovered in the Petitioner in another tender. The Petitioner with due consent of State Government and considering the public interest involved has proposed to undertake the separate fresh tendering process for

tying 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. Further, M/s SJVN Limited itself has agreed to reduce the quoted tariff from Rs. 2.73 per unit to Rs. 2.65 per unit under the aforesaid RfS dated 15.07.2020. It is also requested not to approve adoption of tariff as prayed for in the aforesaid Petition and to give necessary direction for re-tendering, which was allowed by the Commission with a liberty to the Petitioner GUVNL to approach the Commission for adoption of tariff afresh after taking appropriate actions regarding bidding in accordance with law.

5.15. We also note that in the earlier bidding process for 100 MW capacity at Raghnesda Solar Park the tariff discovered was Rs. 2.65 per unit. However, it was decided to undertake fresh bidding and tie up power at lower tariff. In the present bidding process the discovered tariff is of Rs. 2.64 per unit, i.e., 1 paisa below the discovered tariff of Rs. 2.65 per unit. It is also noted that as per submission of the Petitioner, the tariff of Rs. 2.65 per unit is not consisting burden of additional cost due to the Basic Custom Duty introduced by the Central Government later on after aforesaid bidding process and its estimated impact is about 40 to 50 paisa per unit as 'Change in Law'. In the present Petition, competitive bidding process carried out by the GUVNL, wherein discovered tariff is Rs. 2.64 per unit, consists of the Basic Custom Duty with estimated impact of about Rs. 0.40 to 0.50 paisa per unit as per Petitioner's submission. Thus, the effective tariff discovered may be worked out to about Rs. 2.14 to Rs. 2.24 per unit, in comparison to earlier discovered tariff of Rs. 2.65 per unit, is quite lower than the tariff discovered under earlier competitive bidding process. Hence, we decide to adopt the same.

5.16. As the Commission has approved the tariffs for the 500 MW Solar Power projects to be set up in the 700 MW Raghnesda Solar Park as shown in the table above, the Commission decides to adopt the tariff of Rs. 2.64 per unit as discovered in the present bidding conducted by the Petitioner vide RfS No. GUVNL/100 MW/ Solar (Phase-X-R) dated 15.03.2021 for procurement of power from the 100 MW Solar PV project to be set up by M/s SJVN Limited at Raghnesda Solar Park which also happens to be the lowest discovered and approved tariff in the said earlier bidding.

6. In view of above, we decide to grant consent for the bidding process conducted vide RfS No. GUVNL / 100 MW / Solar (Phase X-R) dated 15.03.2021 for procurement of power from the Solar Power projects to be set up at Raghnesda Solar Park including issuance of Letter of Award to M/s SJVN Limited for 100 MW capacity and adopt the tariff of Rs. 2.64 per unit discovered under the said competitive bidding process conducted by the Petitioner.
7. We note that in response to provisions of 'Late Payment Surcharge' being incorporated in the PPA, it is submitted that the Petitioner will appropriately incorporate the relevant provisions of 'Late Payment Surcharge' as per notification issued by Ministry of Power in PPA with M/s SJVNL. We, therefore, direct the Petitioner that the provisions regarding Late Payment Surcharge be appropriately incorporated in the PPA with successful bidder M/s SJVNL while ensuring conformity of the same in accordance with Electricity (Late Payment Surcharge) Rules, 2021 notified under the Electricity Act, 2003 by Ministry of Power, Government of India. We also note that during the hearing on 24.09.2021 in response to query from the Commission whether any deviation is there from bidding guidelines and approved Bid documents, Ld. Adv. Mr. Anand Ganesan on behalf of the Petitioner submitted that there are no deviations from the guidelines and approved Bid documents. We further note that the Petitioner is required to submit the copy of the signed PPA with M/s SJVNL and therefore, we direct the Petitioner to submit copy of duly executed PPA to the Commission alongwith an affidavit stating that the Articles/provisions of the PPA are as per the bidding guidelines and deviations approved by the Commission from time to time and also complied with the stipulations of the Electricity (Late Payment Surcharge) Rules, 2021. We also direct the Petitioner that for the purpose of transparency, after execution of the PPA, publicly disclosed the name (s) of the successful bidder(s) and the tariff quoted by them together with the break up with the component, for 30 days on its website in terms of Clause 10.3 of the bidding guidelines as amended for knowledge and information of the stakeholders.

8. **SUMMARY OF DECISIONS:**

- 8.1. We decide to adopt the tariff discovered under the transparent competitive bidding process conducted by the Petitioner through RfS No. GUVNL/100 MW/ Solar (Phase X R) dated 15.03.2021 as under:

Sr. No.	Name of the Company	Quoted Capacity (MW)	Allocated Capacity (MW)	Tariff (Rs./Unit)
5	M/s SJVN Limited	100	100	2.64

- 8.2. We direct the Petitioner to sign the Power Purchase Agreements with the successful bidder as referred in para 7 above, in compliance with the stipulations of the Electricity (Late Payment Surcharge) Rules, 2021
- 8.3. We direct the Petitioner to submit the copy of duly executed PPA to the Commission. We also direct the Petitioner that for the purpose of transparency, after execution of the PPA, publicly disclosed the name (s) of the successful bidder and the tariff quoted by them together with the break up with the component, for 30 days on its website in terms of Clause 10.3 of the bidding guidelines as amended for knowledge and information of the stakeholders.
9. We order accordingly.
10. With this order the present petition stands disposed of.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 07/10/2021.