



Petition No. 1773 of 2021

BEFORE

**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Date of Order (17.01.2022)

PRESENT:

1. Hon'ble Sh. Raj Pratap Singh, Chairman
2. Hon'ble Sh. Kaushal Kishore Sharma, Member
3. Hon'ble Sh. Vinod Kumar Srivastava, Member (Law)

IN THE MATTER OF:

Petition for adoption of tariffs discovered through Tariff Based Competitive Bidding Process in accordance with the Bidding Guidelines specified by Ministry of Power, Govt of India for procurement of 200 MW Solar Power from Grid connected Solar PV Power Projects to be installed under "Solar Parks and Ultra Mega Solar Power Projects Scheme" of the Ministry of New and Renewable Energy, Govt of India under Case-1 long term bidding route for the period 25 years with fixed tariffs and for approval of PPA.

1. Uttar Pradesh New & Renewable Energy Development Agency
Vibhuti Khand, Gomti Nagar, Lucknow, U.P. – 226010
2. Uttar Pradesh Power Corporation Ltd. (UPPCL),
Shakti Bhawan, 14 – Ashok Marg, Lucknow, U.P. – 226001

-----Petitioner

Following was present:

1. Sh. Deepak Raizada, Chief Engineer (PPA), UPPCL
2. Smt. Namrata Kalra, UPNEDA

ORDER

(Date of Hearing 07.12.2021)

1. UPNEDA invited bids for selection of SPD for 5 projects in Solar Park for aggregate capacity 275 MW. This petition is filed jointly by the Uttar Pradesh New & Renewable Energy Development Agency (UPNEDA) as Nodal Agency and Uttar Pradesh Power Corporation Ltd (Procurer) to adopt the tariff for procurement of power from the successful bidders in the for aggregate capacity of 200 MW under section 63 of electricity Act 2003 and to approve the PPA dated 16.6.2021 signed for 75 MW with M/s SJVN Ltd.



2. The Petitioner(s) have prayed as follows:

- a) To approve and adopt the tariff for procurement of power from the successful bidders as mentioned for aggregate capacity of 200 MW under section 63 of electricity Act 2003.
- b) To approve the PPA dated 16.6.2021 signed for 75 MW with M/s SJVN Ltd
- c) To condone any advertent omissions /errors/shortcomings and permit the Petitioners to add /charge/modify after this filing and make further submissions as may be required at a future date.
- d) Pass such order as the Hon'ble Commission may deem fit & proper in the fact & circumstance of the case.

Brief Facts

3. Ministry of New and Renewable Energy, Govt of India has notified scheme for **"Development of Solar Parks and Ultra Mega Solar Power Projects** vide No. 30/26/2014-15/NSM dated 12/12/2014 and amended vide 30/26/2014-15/NSM dated 21/3/2017. Under the scheme, Ministry initially sanctioned setting up of 600 MW Solar Park in the districts of Jalaun, Allahabad, Mirzapur, and Kanpur Dehat vide its letter 30/72/2014-15/NSM dated 27.10.2015 which was later reduced to 440 MW due to constraint in availability of land vide Ministry Letter No 30/72/2014-15/NSM dated 19/6/2017.
4. These Solar Parks are being developed through a Joint Venture Company "Lucknow Solar Power Development Corporation Ltd" (LSPDCL) between UPNEDA and Solar Energy Corporation of India (SECI) responsible for providing land, Power evacuation infrastructure and other infrastructure facilities at site. Out of 440 MW sanctioned capacity, 165 MW Capacity Projects have been commissioned in village Kosda Kala, Tehsil Meja District Prayagraj (50 MW), Village Vijaypur Tehsil Sadar District Mirzapur (75 MW) and village Dakor, Tehsil Oral, District Jalaun (40 MW) and remaining 275.MW capacity proposed for allocation is to be developed at the following locations:



S. No.	District	Project Name	Location	Proposed Project Capacity (MW)
1	Kanpur Dehat	Gujrai	Vill: Gujrai, Tehsil: Akbarpur	50
2	Jalaun	Parasan	Vill: Parasan, Tehsil: Kalpi,	75
3	Jalaun	Gurhah	Vill: Gurhah, Tehsil: Orai,	75
4	Jalaun	Makrechha & Banghauri	Vill: Makrechha, Tehsil: Orai Vill: Banghauri, Tehsil: Orai,	45
5	Jalaun	Tikar 1 & Tikar 2	Vill: Tikar, Tehsil: Orai,	30

5. MNRE vide letter No -320/16/2017-NSM dated 19/8/2020 and vide letter No 320/14//2017-NSM dated 10-6-2021 granted extension of timeline for the 440 MW Solar Park in U.P till 31-12-2021 with the condition that Solar Project Developers (SPD) are to be selected and land is to be allotted by the SPPD to the selected SPD by 31-12-2021 to avail further extension of one year.
6. Ministry of Power vide its Resolution No 23/27/2017 dated 3/8/2017 have issued "Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid connected Solar PV Power Projects" and issued amendments subsequently which are applicable for selection of Solar Project Developers for projects outside and inside Solar Park. As per the aforesaid Guidelines any deviations shall be subject to approval by Appropriate commission.
7. UPPCL vide its letter dated 13/3/2020 & 26/8/2020 have provided consent to procure power from 275 MW unallocated capacity in U.P Solar Park and procure power at a ceiling tariff of Rs 3.25/kWh in the bid proposed to be invited by UPNEDA for selection of SPD for 5 projects in Solar Park of aggregate capacity 275 MW.
8. UPNEDA invited bids for procurement of power for 275 MW Grid Connected Solar PV projects as per RfS and model PPA document dated 29.1.2021. NIT inviting bids was published in all editions of following daily national newspapers on 30.1.2021 and was uploaded on website of UPNEDA www.upneda.org.in
 - a. Hindustan Times (English), all editions
 - b. Hindustan (Hindi), all U.P editions



9. Virtual Pre bid meeting was held on 17th February 2021 at UPNEDA head office. UPPCL vide its letter dated 123/Mo Abhi/PPA-II dated 16/2/2021 provided consent to procure power at a ceiling tariff of Rs 3.00 /kWh.
10. RfS and model PPA document were submitted to the Commission for approval. The Commission vide its order dated 25/2/2021 approved the deviations sought by UPNEDA & UPPCL in Petition No-1680 of 2020 with the ceiling price of Rs 3.00/kWh fixed for the entire term of the PPA. Accordingly, modifications were made in the RfS and PPA document and last date for submission and opening of bids was extended to 16.3.2021.
11. MNRE, vide its O.M. No 283/3/2018 –GRID SOLAR dated 09.03.2021 issued the notification regarding imposition of Basic Customs Duty (BCD) of 25 % on Solar PV Cells & 40 % on Modules/Panels with effect from 1.4.2022. It was also informed that imposition of BCD on solar cells and modules (without grandfathering of bid out projects) has been agreed to by the Ministry of Finance and the customs notification in this regard shall be issued at appropriate time. The Ministry also directed all RE implementing agencies and other stakeholders to include appropriate provisions in their bid documents, so that bidders may take the BCD trajectory into account while quoting tariffs, in all bids where the last date of bid submission is subsequent to date of the OM and in all such bids, the imposition of BCD as per above trajectory shall not be considered as change in-law.
12. Accordingly, notice was issued advising all bidders to take cognizance of the O.M. issued by MNRE, on the subject of "Imposition of Basic Customs Duty (BCD) on Solar PV Cells & Modules/Panels", during preparing their response to the RfS and changes in taxes/Duties on account of this issued OM/ notification, will not be considered under "Change in Law" under the PPA.
13. Since the option of e-reverse auction was not available on the State e-Procurement portal, the e-bids were invited on ISN ETS portal <https://www.bharat-electronictender.com>. The bidders including its Parent, Affiliate or Ultimate Parent or any Group Company were allowed to submit a single bid for less or all 5 projects in the UP solar park, which shall be applicable for all the 25 years.
14. The following bids were received as follows:



No.	Name of Bidder	Bid received for total Capacity (MW)	No of Projects for which Bid is reced.	Name of Projects (Location)
1	M/s SJVN Ltd, New Delhi	200	03	1. Gujrai Kanpur Dehat (50 MW) 2. Gurhah, Jalaun (75 MW) 3. Parasan, Jalaun (75 MW)
2	M/s REC Power Distribution Company Ltd, Gurugram Haryana	275	05	1. Gujrai Kanpur Dehat (50 MW) 2. Gurhah Jalaun (75 MW) 4. Makrecha & Banghauil (45 MW) 3. Parasan, Jalaun (75MW) 5. Tikar 1 & Tikar II (30 MW)

15. The Bid Evaluation committee was constituted as per mandate by GOUP order no 334/87-Atrk-Urja Shrot Vibhag /2021 dated 8/3/2021 with members as follows:

S.No.	Member	Designation
1	Director UPNEDA	Chairman
2	Secretary cum Chief Project Officer UPNEDA	Member
3	Senior Project officer- 1, Solar Energy Policy UPNEDA	Member
4	Nominated Representative of Principal Secretary, Additional Energy Sources	Member
5	Nominated Representative of Principal Secretary Finance	Member
6	Nominated Representative of Principal Secretary Law	Member
7	Nominated Representative of Managing Director, UPPCL	Member
8	Nominated Representative of Managing Director, SECI, New Delhi	Member
9	Nominated Representative of Director, IIT Kanpur	Member
10	Nominated Representative of Director, IIM Lucknow	Member

16. Non-Financial Bids were publicly downloaded at 12.30 PM on 17/3/2021 by the above Committee at UPNEDA's head office at Gomtinagar, Lucknow in the presence of representatives of bidding company who chose to attend.

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17. Since out of two bids, one bidder submitted offer for three projects for total capacity 200 MW and the second bidder had submitted offer for all five projects of total capacity 275 MW, as per provision in the bidding guidelines, evaluation of the bids for allocation of only three projects having total capacity 200 MW was carried out by Bid evaluation committee and the Committee recommended inviting bid again for remaining 2 projects capacity 75 MW.

18. As per evaluation, bids submitted by both the bidders for three projects were found to be technically responsive as follows:

No.	Name of Bidder	Bid received for total Capacity (MW)	No of Projects for which Bid was technically evaluated & found responsive
1	M/s SJVN Ltd, New Delhi (RS0000062)	200	03 (200 MW)
2	M/s REC Power Distribution Company Ltd, Gurugram Haryana (RS0000206)	275	03 (200 MW)

19. The financial bids of the above technically qualified bidders were downloaded and opened on 23.3.2021 in presence of Bid evaluation committee and are tabulated as follows:

S. No	Bidders ID	Name of Bidders	Bid Projects (location) capacity (MW)	Quoted Tariff in financial offer (before e-RA) in Rs./kWh	Rank
1	ETS-IN-2020-RS0000206	M/s REC Power Distribution Company Ltd, Gurugram	1. Gujrai Kanpur Dehat, (50 MW) 2. Gurhah Jalaun (75 MW) 3. Parasan, Jalaun (75 MW)	2.69	1
2	ETS-IN-2020-RS0000062	M/s SJVN Ltd, New Delhi	1. Gujrai Kanpur Dehat (50 MW) 2. Gurhah Jalaun (75 MW)	2.84	2



S. No	Bidders ID	Name of Bidders	Bid Projects (location) capacity (MW)	Quoted Tariff in financial offer (before e-RA) in Rs./kWh	Rank
			3 Parasan, Jalaun (75 MW)		

A. Both the bidders were found to be eligible for participation in e-Reverse Auctioning which was carried out on 23/3/2021 firstly for Project Parasan district Jalaun (75 MW) at 1.00 PM. Final tariff received after e-Reverse Auction for allocation of Parasan Project (75 MW) is as follows:

Project Parasan district Jalaun (75 MW)

S. No & Rank	Bidders ID	Name of Bidders	Quoted Tariff in financial offer (before e-RA) in Rs./kWh	Final tariff after e-RA (Tariff for 25 years) in Rs /kWh
1	ETS-IN-2020-RS0000206	M/s REC Power Distribution Company Ltd, Gurugram	2.69	2.69
2	ETS-IN-2020-RS0000062	M/s SJVN Ltd, New Delhi	2.84	2.68

B. The e-Reverse Auction process was carried out on 23/3/2021 at 2.15 PM for Project Gurhah District Jalaun (75 MW). Final tariff received after e-Reverse Auction for allocation of Gurhah Project (75 MW) is as follows:

Project Gurhah District Jalaun (75 MW)

S. No & Rank	Bidders ID	Name of Bidders	Quoted Tariff in financial offer (before e-RA) in Rs./kWh	Final tariff after e-RA (Tariff for 25 years) in Rs /kWh
1	ETS-IN-2020-RS0000206	M/s REC Power Distribution	2.69	2.69

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S. No & Rank	Bidders ID	Name of Bidders	Quoted Tariff in financial offer (before e-RA) in Rs./kWh	Final tariff after e-RA (Tariff for 25 years) in Rs /kWh
		Company Ltd, Gurugram		
2	ETS-IN-2020-RS0000062	M/s SJVN Ltd, New Delhi	2.84	2.84

C. The e-Reverse Auction process was carried out on 23/3/2021 at 3.30 PM for Project Gujrai District Kanpur Dehat (50 MW). Final tariff received after e-Reverse Auction for allocation of Gujrai Project (50 MW) is as follows:

Project Gujrai District Kanpur Dehat (50 MW)

S. No & Rank	Bidders ID	Name of Bidders	Quoted Tariff in financial offer (before e-RA) in Rs./kWh	Final tariff after e-RA (Tariff for 25 years) in Rs /kWh
1	ETS-IN-2020-RS0000206	M/s REC Power Distribution Company Ltd, Gurugram	2.69	2.69
2	ETS-IN-2020-RS0000062	M/s SJVN Ltd, New Delhi	2.84	2.84

20. The Evaluation Committee recommended for approval of fixed tariff quoted by two bidding companies for 25 years for the projects (Location) of capacity mentioned in the table as below



S. No & Rank	Name of Bidders	Project Name	Bid Project Capacity (MW)	Quoted Tariff in financial offer (before e-RA) in Rs. /kWh	Final Tariff after e-reverse auctioning (Tariff for 25 Years) in Rs./kWh
1	M/s SJVN Ltd, New Delhi	Parasan district Jalaun	75	2.84	2.68
2	M/s REC Power Distribution company Ltd, Gurugram	Gurhah district Jalaun	75	2.69	2.69
3	M/s REC Power Distribution company Ltd, Gurugram	Gujrai district Kanpur Dehat	50	2.69	2.69

21. The fixed tariff approved for total project capacity 200 MW is tabulated hereunder:

S. No	Name of Bidders	Project Name (location)	Allotted Project Capacity (MW)	Final Tariff after e-reverse auctioning (Tariff for 25 Years) in Rs./kWh
1	M/s SJVN Ltd, New Delhi	Parasan	75	2.68
2	M/s REC Power Distribution company Ltd, Gurugram	Gurhah	75	2.69
3	M/s REC Power Distribution company Ltd, Gurugram	Gujrai	50	2.69
	Total		200	

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22. UPNEDA issued LOA dated 17.05.21 to the above two bidding companies and the selected Solar Project Developers were directed to deposit Contract Performance Guarantee (CPG) of required amounts and enter into PPA with UPPCL (Procurer) within 30 days of issuance of Letter of Intent. After submission of CPG by the firm M/s SJVN Ltd, New Delhi to UPNEDA, PPA's for procurement of 75 MW Power from Parasan Project Jalaun were signed by UPPCL on 16/6/2021.

23. M/s RECPDCL have sought extension of timeline for deposition of CPG and for signing PPA for two projects (125 MW) till 31/8/2021 on account of LOI being received during the second Lockdown on account of resurgence of COVID-19. After PPA's are signed with RECPDCL, the same will be submitted to the Commission for approval through a separate petition.

Record of Proceedings

24. The Commission held the hearing on 07.12.2021. Ms Namrata Kalra, UPNEDA informed the Commission that since only 200 MW could be awarded for three projects, UPNEDA would be conducting bidding for balance 75 MW. SLVN has submitted the requisite Performance Bank Guarantee for 75 MW and signed the PPA as well as support agreement with LSPDCL. However, RECPDCL, which was awarded 125 MW has not come forward despite issuing reminders to them and UPNEDA has cancelled their LOA dated 17.05.21 and there is no bid security to be forfeited as only Bid Security Declaration is being undertaken by the bidders in terms of relevant guidelines of MNRE. Therefore, UPNEDA would be rebidding for total of 200 MW including 125 MW which was awarded to RECPDCL but was cancelled subsequently owing to their not coming forward. Thus, the Commission may adopt the tariff and approve the SJVN PPA dated 16.06.21.

Commission's View

25. The following activities have been carried out by UPNEDA for bidding:

S. No.	Activity	Date
1.	Publication of NIT, RfP and RfP Documents	29.1.2021
2.	Conduction of Pre-Bid Meeting	17.2.2021
3.	Submission and Opening of Response to the RfP by Bidders	17.3.2021
4.	Evaluation of Technical Proposal	19.3.2021
5.	Opening and Evaluation of Financial Proposal of Technically qualified bidders	23.3.2021

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S. No.	Activity	Date
6.	Conducting e-reverse auction	23.3.2021
7.	Issue of Letter of Intent to Successful Bidders	17.5.2021
8.	Signing of one no PPA of 75 MW	16.6.2021

26. LOIs were issued on 17.05.2021 within 60 days from the date of submission and Opening of Response to the RfS by Bidders against normal period of 88 days as given in the Bidding Guidelines. Subsequently, PPA dated 16.06.2021 was signed with one successful bidder M/s SJVN Ltd within 30 days from date of issuance of LOI.

27. As per clause (10.2) of Bidding Guidelines after the conclusion of bid process, evaluation committee has provided a certificate of conformity of the bid process evaluation, according to provisions of RFS document. Procurer has also provided a certificate of conformity of the bid process. As per clause (10.3) of the Bidding Guidelines, full details of successful bidders have been posted on UPNEDA's website www.upneda.org.in and procurer's website www.uppdcl.org.

28. The Commission observed that the PPA's for other two projects were to be signed by 31st August 2021, as per time extension sought by RECPDCL, the successful bidder, against a period of 30 days of LOA dated 17.05.2021, as mentioned in clause 2.4 of amended Guidelines dated 3/1/2019. UPNEDA has cancelled LOA of RECPDCL for 125 MW as the successful bidder has not come forward for either submission of Performance Bank Guarantee and signing of the PPA or extension of time. The Commission has noted that MNRE, to promote renewable energy projects, has eased the requirement of submission of Bid Security and now the bidders are to submit a Bid Security Declaration only, but this is being taken advantage by the bidders.

The Commission observed that UPNEDA has not taken action against such bidder who despite being successful in the bid, seek seeking extension for signing of PPA and thereafter do not come forward for signing of PPA. UPNEDA management may take conscious decision on debarring such bidders in the future.

29. The Commission, in view of above, adopts the tariff as given below, having been discovered through transparent competitive bidding process under Section 63 of the Electricity Act'03:

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S. No	Name of Bidders	Project Name (location)	Allotted Project Capacity (MW)	Final Tariff after e-reverse auctioning (Tariff for 25 Years) in Rs./kWh
1	M/s SJVN Ltd, New Delhi	Parasan	75	2.68
2	M/s REC Power Distribution company Ltd, Gurugram	Gurhah	75	2.69
3	M/s REC Power Distribution company Ltd, Gurugram	Gujrai	50	2.69
	Total		200	

30. The Commission also approves the PPA dated 16.06.21 with SJVN at adopted tariff of Rs. 2.68 per unit.

The Petition is disposed of in terms of above.

(Vinod Kumar Srivastava)
Member (Law)

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow
Date: 17. 01.2022