

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 8 of 2022

Petition for adoption of the tariff discovered through the competitive bidding for procurement of 157.9 MW wind power from the wind generators whose EPAs with MSEDCL have expired.

M/s Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) : Petitioner

- 1 M/s Chottabhai Jethabhai Patel & Co.
 - 2 M/s Enn Enn Corp Limited
 - 3 M/s Octal Suppliers Private Limited
 - 4 M/s Green Infra Wind Energy Limited
 - 5 M/s PTC India Limited
 - 6 M/s SML Electricals India Pvt. Ltd.
 - 7 M/s Karad Power India Pvt. Ltd
 - 8 M/s Jaipur Energy India Pvt. Ltd
 - 9 M/s CLP Wind Farms (Khandke) Private Limited
 - 10 M/s Intech Systems Chennai Pvt. Ltd.
 - 11 M/s Inno Automation India Pvt. Ltd.
 - 12 M/s Intech Automation Pvt. Ltd.
 - 13 M/s Intech Power Kovai Pvt. Ltd.
 - 14 M/s NVR Power Private Limited
 - 15 M/s G2 Technology Solutions India Private Limited
- : Respondents

Coram

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

Appearance:

For the Petitioner : Ms. Kavita Gharat, CE (RE)

For the Respondent : Mr. D. T. Shah
Mr. Amar Sawang
Mr. Nitin Kumar
Mr. Siddharth Richhariya
Mr. Ashish Singh Thakur
Mr. Mahesh Kulkarni
Ms. Bitika Kaur (Adv.)
Mr. Pratap Chandran P.
Mr. Amogh
Mr. R.Sathish

ORDER

Date: 16 February 2022

1. Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) filed the present petition on 20 December 2021 seeking approval for adoption of tariff for long term procurement of 157.9 MW Wind Power from the wind generators whose Energy Purchase Agreement (EPA) with MSEDCL have expired
2. **MSEDCL's main prayers are as follows:**

“

 - A. *To admit the Petition as per the provisions of the Regulation 19 of MERC (RPO, Its Compliance and Implementation of REC Framework) Regulations, 2019.*
 - B. *To adopt the Tariff discovered through competitive bidding process held by MSEDCL for Procurement of 157.9 MW wind Power from Intra-state wind projects whose EPAs with MSEDCL are expired.*
 - C. *To accord approval for signing of the Power Purchase Agreement with the successful bidders at the competitively discovered Tariff w. e. f from date of expiry of existing EPA/PPA/STPPA/OA.*
 - D. *To allow MSEDCL to claim such procurement for the fulfilment of RPO of MSEDCL.”*
3. **MSEDCL in its Case has stated as follows:**
 - 3.1 The Commission vide its Order dated 09 April 2019 in Case No. 50 of 2019 had directed

MSEDCL to procure wind power through competitive bidding route from wind power projects under Group II, III and IV whose EPAs with MSEDCL have expired and allowed MSEDCL to fix the ceiling rate after proper due diligence at their end but the same to be not more than the rates approved for the short-term procurement of wind energy i.e. Rs. 2.52 per unit.

- 32 The Commission vide Order dated 05 July 2019 in Case No. 110 of 2019 accorded approval for deviation sought by MSEDCL in the Standard Bidding Guidelines dated 8 December 2017 for procurement of 500 MW wind power from EPA expired wind generators and directed MSEDCL to approach the Commission for adoption of final Tariff after completion of Competitive Bidding Process.
- 33 Further, the Commission in its Order in Case No. 21 of 2020 dated 01 January 2021 opined that the ceiling rate shall be determined by the utilities as per its own due diligence. MSEDCL may draw a cue to cap the ceiling rate to the tariff discovered for the new wind projects in the State of Maharashtra or at national level by agencies like SECI. The Competitiveness of such rate shall be dealt with by the Commission at the time of adoption of tariff.
- 34 Details of the EPAs with wind generators expiring in the recent period is shown in the Table below:

Technology	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	Total
Wind (MW)	525	495.3	220.25	141	43.57	223.45	1649

- 35 MSEDCL floated following tenders for procurement of power from projects post Expiry of Wind EPA. Despite re-tendering of capacities and huge advertisement, subscription was almost negligible.

Sr. No.	Tender Type	Capacity (MW)	Tender Date	Ceiling Tariff (Rs./kWh)	Capacity of bids received (MW)	Contracted Capacity (MW)	Discovered Tariff (Rs./kWh)
1	Post Expiry	250	12.04.2018	2.52	87	81	2.51 to 2.52
2	Post Expiry	500	20.12.2018	1.97	0	0	NA
3	Post Expiry	500	04.06.2019	2.52	7	7	2.52
4	Post Expiry	200	27.12.2019	2.52	1.25	1.25	2.52
5	Post Expiry	200	11.09.2020	2.52	0	0	0
Total		1650			95.25	89.25	

- 36 Despite such multifold efforts taken by MSEDCL, it could not be able to add the capacity of expired Wind EPA again which resulted in increase in non-solar RPO shortfall. MSEDCL

had floated tenders for 1650 MW during last three years but received very poor response which resulted in contracting with 89.25 MW Capacity i.e., only 5.40 % of tendering capacity.

- 37 MSEDCL observed that most of these tenders of ‘post expiry of EPA’ have received very low response due to low commercial attractiveness of the ceiling tariffs. Generators with such projects are selling electricity in Open Access markets for better prices.
- 38 Recently, in March 2021, during the auction for SECI’s Tranche-X Wind tender, the lowest wind tariff discovered is Rs. 2.77 per unit. The ceiling tariff for MSEDCL’s Wind tender for post expiry EPA needs to be less than the discovered tariff for new projects. Hence, MSEDCL decided to keep ceiling tariff as Rs. 2.65 per unit.
- 39 Accordingly, on 20 August 2021, MSEDCL has floated the tender for Procurement of 500 MW wind Power from Intra-state wind projects whose EPAs with MSEDCL are expired or going to expire till 31 March 2022 with ceiling tariff of Rs. 2.65 per unit.
- 3.10 The PPA term under the said bid has been kept 12 years because, the useful life of Wind Turbine Generators is 25 years as mentioned in MERC RE Tariff/ RPO –REC Regulations and the long term expired EPA was for a period of 13 years. The last date for bid submission was 13 September 2021 which was extended to 27 September 2021 and further extended to 07 October 2021.
- 3.11 Technical bids were opened on 14 October 2021. 15 bidders have submitted bids and all are found technically qualified. The details of all 15 bidders are as given under:

S. No.	Name of Bidder	Bid capacity of the Bidder (MW)
1	M/s Chottabhai Jethabhai Patel & Co.	4.25
2	M/s Enn Enn Corp Limited	10
3	M/s Octal Suppliers Private Limited	8.3
4	M/s Green Infra Wind Energy Limited	40
5	M/s PTC India Limited	6
6	M/s SML Electricals India Pvt. Ltd.	4.95
7	M/s Karad Power India Pvt. Ltd	23.1
8	M/s Jaipur Energy India Pvt. Ltd	7.2
9	M/s CLP Wind Farms (Khandke) Private Limited	50.4
10	M/s Intech Systems Chennai Pvt. Ltd.	6.25
11	M/s Inno Automation India Pvt. Ltd.	2.5
12	M/s Intech Automation Pvt. Ltd.	2.5

13	M/s Intech Power Kovai Pvt. Ltd.	1.25
14	M/s NVR Power Private Limited	1.25
15	M/s G2 Technology Solutions India Pvt. Ltd.	2.75
	TOTAL Capacity	170.7

3.12 RfS conditionality stipulated that the wind projects, whose previous long-term EPA were / are expiring/expired on or before 31 March 2022 are only eligible to participate. M/s CLP Wind Farms (Khandke) Private Limited applied for bid capacity of 50.4 MW. During the scrutiny, it is observed that out of 50.4 MW capacity, its eligible capacity is 37.6 MW only. 12.8 MW capacity is about to expire in May/June 2022, hence not eligible.

3.13 The Financial Bids of the qualified bidders were opened on 28 October 2021. The details of bidder are as given below:

Sr. No.	Name of Bidder	Bid capacity of the Bidder (MW)	Bid Rate in Rs/Unit
1	M/s Chottabhai Jethabhai Patel & Co.	4.25	2.65
2	M/s Enn Enn Corp Limited	10	2.65
3	M/s Octal Suppliers Private Limited	8.3	2.65
4	M/s Green Infra Wind Energy Limited	40	2.65
5	M/s PTC India Limited	6	2.64
6	M/s SML Electricals India Pvt. Ltd.	4.95	2.65
7	M/s Karad Power India Pvt. Ltd	23.1	2.65
8	M/s Jaipur Energy India Pvt. Ltd	7.2	2.65
9	M/s CLP Wind Farms (Khandke) Private Limited	37.6	2.65
10	M/s Intech Systems Chennai Pvt. Ltd.	6.25	2.65
11	M/s Inno Automation India Pvt. Ltd.	2.5	2.65
12	M/s Intech Automation Pvt. Ltd.	2.5	2.65
13	M/s Intech Power Kovai Pvt. Ltd.	1.25	2.65
14	M/s NVR Power Private Limited	1.25	2.65
15	M/s G2 Technology Solutions India Private Limited	2.75	2.65
	TOTAL Capacity	157.9 MW	

3.14 As the total quoted quantum was only 157.9 MW against the 500 MW Tender Capacity, e-reverse auction could not be happened for this Tender.

3.15 MSEDCL requested adoption of Tariff for 157.9MW wind Power discovered through competitive bidding process under Section 63 of the Electricity Act, 2003.

4. Respondent No.9 in its affidavit dated 20 January 2022 submitted following:

- 4.1 The Respondent No. 9 had participated in the tender floated by MSEDCL. MSEDCL issued the Letter of Award dated 15 December 2021 for 37.6MW.
- 4.2 The contents of the captioned petition are in accordance with the details and information shared by MSEDCL at the pre-bidding stage. The Respondent No. 9 has accepted the terms and conditions as provided in the Letter of Award and is agreeable to execute the PPA with MSEDCL.
- 4.3 The Respondent No. 9 is in support of the captioned petition filed by MSEDCL and request the Commission to admit the captioned petition and adopt the tariff discovered through competitive bidding process held by MSEDCL.
- 4.4 From 3 January 2022, the name of CLP Wind Farms (Khandke) Private Limited has changed to Apraava Wind Energy (Khandke) Private Limited. Respondent No. 9 also furnished the certificate of incorporation post change of name and the updated master data as appearing on the website of the Ministry of Corporate Affairs. The process of name change of the entity is underway before the respective authorities and requested the Commission to take on record the name change of the Respondent No. 9 entity.

5. At the e-hearing through video conferencing held on 21 January 2022, the Representative of MSEDCL narrated the sequence of events during the tendering process and emphasized that the discovered tariff of Rs.2.65 P.U. for Wind Power (whose earlier EPAs at generic tariff has been expired) is competitive and reflective of market conditions. Accordingly, MSEDCL requested the Commission to adopt such market discovered tariff. Advocate of M/s CLP Wind Farms (Khandke) Pvt. Ltd. (Sr.No.9) submitted that it supports the Petition of MSEDCL. The representative of CLP informed that on 3 January 2022 name of M/s CLP Wind Farms (Khandke) Pvt. Ltd. has been changed to Apraava Wind Energy (Khandke) Private Limited. It was urged that this change of name aspect be considered while deciding this Petition. Considering the submission made, the Commission directed MSEDCL to file its submission on name change request of M/s CLP Wind Farms (Khandke) Pvt. Ltd.

6. MSEDCL in its additional submission dated 27 January 2022 stated as follows:

- 6.1 M/s CLP Wind Farm (Khandke) Pvt. Ltd. vide two separate emails dated 07.01.2022 has informed regarding change of name of their firm. The summary of email is as under:

Email 1: The wind project of 14.4 MW at Khandke Site for which Power Purchase

Agreement executed with MSEDCL. In this regard the name of company has changed from CLP Wind Farms (Khandke) Private Limited to Apraave Wind Farms (Khandke) Private Limited with effect from January 03, 2022.

Email 2: The wind project of 106.4 MW at Andhra Lake Site and 60 MW at Jath site in Maharashtra for which Power Purchase Agreement executed with MSEDCL. In this regard the name of company has changed from CLP Wind Farms (Khandke) Private Limited to Apraave Wind Farms (Khandke) Private Limited with effect from December 31, 2021.

- 62 MSEDCL vide email dated 14 January 2022 has informed them to submit the documents required to effect the change of name in MSEDCL's record. M/s CLP Wind Farm (Khandke) Pvt. Ltd. vide email dated 22 January 2022 citing various reasons has sought further three months' time for submission of required documents for effecting change of name.
- 63 MSEDCL is not in receipt of any document required for effecting change of name of their firm in MSEDCL's record. The RfS and draft PPA of tender dated 20 August 2021 has no provision to execute the PPA with changed name.
- 64 In view of above, M/s CLP Wind Farms (Khandke) Private Limited may execute Power Purchase Agreement with the same name and may apply for change of name of their firm subsequent to signing of Power Purchase Agreement. In the alternative, M/s CLP Wind Farms (Khandke) Private Limited shall approach MSEDCL with all relevant documents regarding change of name. The documents will be scrutinized and after approval to same as per MSEDCL's procedure, the Power Purchase Agreement between MSEDCL and M/s CLP Wind Farms (Khandke) Private Limited with changed name may be executed.

Commission's Analysis and Rulings

7. This Petition has been filed for adoption tariff of Rs. 2.65 P.U. discovered through competitive bidding for procurement of Wind power from Wind Generators whose EPA with MSEDCL is expired. Before conducting such competitive bidding process, MSEDCL has approached the Commission at several occasions on the issue of mode of procurement, ceiling tariff and deviation in bidding documents. Relevant Orders in these matters are summarized below:
 - 7.1. MSEDCL through its Petition in Case No. 50 of 2019 had approached the Commission for allowing MoU based power procurement from Wind Generators whose EPA with MSEDCL are expired. In that matter vide Order dated 9 April 2019, the Commission has directed MSEDCL to undertake such power procurement through competitive bidding only at a ceiling rate to be decided by MSEDCL after proper due diligence at their end but the same shall not be more than the rates (Rs. 2.25 – 2.52 P.U.) approved for the short-term procurement of wind

energy.

7.2. Thereafter, MSEDCL filed Petition in Case No.110 of 2019 seeking approval for deviation in bidding guidelines on the issues of minimum installed capacity, minimum bid capacity, relaxation from Performance Bank Guarantee & Financial Closure, relaxing minimum CUF requirement and providing clarity on repowering of Wind Turbines. Considering the fact that said bidding process is to be conducted for already commissioned project whose EPA with MSEDCL has expired, the Commission vide Order dated 5 July 2019 has allowed such deviation sought by MSEDCL.

7.3. In Case No. 21 of 2020, amongst other issues related to other RE technologies, MSEDCL has requested to allow increase in ceiling rate for post expiry Wind power procurement as its repeated bidding attempts have failed to attract Wind generators. On this issue while reiterating its stand that ceiling tariff has to be decided by the Distribution Licensee after due diligence and the Commission will consider its competitiveness only at the time of tariff adoption, the Commission in that Order dated 1 January 2021 has made following suggestions on the issue of ceiling tariff:

“21.11. In view of above, the Commission is of the opinion that MSEDCL may conduct separate competitive bidding process for the wind projects with expired EPAs and for new projects. The Commission in various Orders has iterated that the ceiling rate shall be determine by the utilities as per its own due diligence. MSEDCL may draw a cue to cap the ceiling rate to the tariff discovered for the new wind projects in the State of Maharashtra or at national level by agencies like SECI. The Competitiveness of such rate shall be dealt with by the Commission at the time of adoption of tariff. More critical factor is providing secured payment mechanism to the generators which could be covered in the Bid document itself”

7.4. Thus, after initial capping of tariff to approved tariff for short term power procurement, after considering the fact that MSEDCL’s repeated attempt of bidding did not give fruitful results, the Commission suggested MSEDCL to consider rate discovered for new wind project as ceiling tariff.

8. In present Petition, MSEDCL at para 3.5 has demonstrated that its repeated attempts of procurement of such Wind power from EPA expired generators have resulted into cumulative bid capacity of 95.25 MW as against 1650 MW capacity called through bidding process. Further, 87 MW capacity was received in first bidding process conducted in 2018, thereafter very poor or nil response has been received for bidding process.

9. Considering ceiling tariff of Rs. 2.52 P.U. as a reason for low response, MSEDCL has decided to increase the ceiling rate to Rs. 2.65 P.U. Bidding process conducted based on such ceiling

rate of Rs. 2.65 P.U. has received bids of 170.7 MW out of which following bidders of 157.9 MW cumulative capacity found technically eligible:

Sr. No.	Name of Bidder	Bid capacity of the Bidder (MW)	Bid Rate in Rs/Unit
1	M/s Chottabhai Jethabhai Patel & Co.	4.25	2.65
2	M/s Enn Enn Corp Limited	10	2.65
3	M/s Octal Suppliers Private Limited	8.3	2.65
4	M/s Green Infra Wind Energy Limited	40	2.65
5	M/s PTC India Limited	6	2.64
6	M/s SML Electricals India Pvt. Ltd.	4.95	2.65
7	M/s Karad Power India Pvt. Ltd	23.1	2.65
8	M/s Jaipur Energy India Pvt. Ltd	7.2	2.65
9	M/s CLP Wind Farms (Khandke) Private Limited	37.6	2.65
10	M/s Intech Systems Chennai Pvt. Ltd.	6.25	2.65
11	M/s Inno Automation India Pvt. Ltd.	2.5	2.65
12	M/s Intech Automation Pvt. Ltd.	2.5	2.65
13	M/s Intech Power Kovai Pvt. Ltd.	1.25	2.65
14	M/s NVR Power Private Limited	1.25	2.65
15	M/s G2 Technology Solutions India Private Limited	2.75	2.65
	TOTAL Capacity	157.9 MW	

As bids received are lower than the bid capacity of 500 MW, e-reverse auction was not undertaken, and above quoted rate becomes final.

10. The Commission notes that MSEDCL has conducted transparent bidding process after seeking approval for deviation from bidding guidelines. Further, tariff of Rs. 2.64-2.65 P.U. discovered through competitive bidding process is lower than Rs. 2.77 P.U. discovered by SECI in March 2021 for Tranche-X Wind tender. Although such tariff comparison is not applicable to comparison as SECI's bidding is for new Wind Generators whereas MSEDCL's bid is for existing Wind Generators with expired EPA, but still for MSEDCL as a Distribution Licensee any of this energy would meet its non-Solar RPO and hence tariff of Rs. 2.64-2.65 P.U. would be beneficial to MSEDCL to that extent. The Commission also notes that said discovered tariff is higher than Rs. 2.52 P.U. discovered earlier for similar type of Wind Generators. But Wind Generators are not responding to MSEDCL's repeated bids at such lower tariff of Rs. 2.52 P.U. Under such circumstances, the Commission considers tariff of Rs. 2.64-2.65 P.U. discovered through present competitive bidding process is reflective of market trends.

11. The Commission also notes that PPA tenure of 12 years has been worked out by considering useful life of Wind Turbine as 25 years, which is as per RE Tariff Regulations, and 13 years of EPA period which has expired.
12. Accordingly, in line with the mandate under Section 63 of the Electricity Act 2003, the Commission deems it fit to adopt and approve tariff as highlighted in above para 9 for 157.9 MW cumulative Wind projects on long term basis (for the period of 12 years from the date of expiry of existing EPA based on generic tariff).
13. Having ruled as above, the Commission notes that during this proceeding, one of the bidder i.e. M/s CLP Wind Farm (Khandke) Pvt. Ltd. has requested the Commission to take on record change in its name. MSEDCL in its reply dated 27 January 2022 stated that on its request to provide necessary documents related to name change, M/s CLP Wind Farm (Khandke) Pvt. Ltd. has sought three months' time for submitting necessary documents. As such this issue seems to be premature and hence the Commission is not inclined to make any observation on the same. Any name change request may be dealt with as per applicable law.
14. Hence, the following Order.

ORDER

1. **Case No. 08 of 2022 is allowed.**
2. **The Commission accords its approval for procurement of 157.9 MW on long term basis from wind generator as stated in Para 9 and allows MSEDCL to enter into Power Purchase Agreement with the successful bidder for a period of Twelve years.**
3. **The Wind Power procured from these projects shall be eligible towards fulfilment of Maharashtra State Electricity Distribution Co. Ltd.'s Non-Solar RPO for the respective periods.**

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Abhijit Deshpande)
Secretary

