

Rs 2.44 per unit was discovered which was record low tariff at that time. The Petitioner has filed Petition No. 1768 of 2018 for adoption of said tariff and the Commission vide Order dated 19.06.2019 in said Petition has adopted the discovered tariff.

- 2.6. It is submitted that in the subsequent tenders conducted from time to time by the Petitioner pursuant to further discussions with the developers in the pre-bid process conducted, the Introduction/modification/changes in rates of safeguard duty and/or anti-dumping duty which has direct effect on the project cost were included in ambit of Change in Law provisions in subsequent tendering process. Later on, the provision of Introduction/modification/changes in rates of safeguard duty and/or anti-dumping duty and/or custom duty which has direct effect on the cost of Solar PV modules was also included in the ambit of 'Change in Law' clause and record low tariff of Rs. 1.99 per unit was discovered. In subsequent tender the Petitioner included Introduction/modification/changes in rates of safeguard duty and/or anti-dumping duty and/or custom duty including surcharges thereon having direct effect on cost of Solar PV modules, wherein tariff of Rs. 2.20 per unit was discovered with such revised provisions. The Petitioner has filed Petitions No. 1923 of 2021 and 1963 of 2021 for adoption of tariff discovered under aforesaid respective bids. The Commission vide its Orders dated 08.01.2021 and 13.05.2021 respectively adopted the tariff discovered under bidding process conducted by the Petitioner.
- 2.7. It is submitted that recently Ministry of Finance, Government of India vide its notification dated 30.09.2021 increased rate of GST on Solar Modules from 5% to 12%. During the pre-bid meeting held for the present tender, the developers represented before GUVNL that it is difficult to anticipate change in rates of taxes, duties at the time of submission of bids and therefore change in rates of taxes / duties should be covered as pass through under Change in Law provisions of PPA. In view of above, GUVNL made amendments in the "Change in Law" provisions of bid documents pursuant to discussions with prospective bidders during the pre-bid meeting.
- 2.8. It is submitted that Petitioner conducted present tendering process for procurement of 500 MW grid connected power from Solar PV Projects through Competitive

Bidding (followed by e-reverse auction) vide RfS No. GUVNL/500 MW/Solar (Phase XIII) dated 03.01.2022 and also published the Notice Inviting Tender in two National newspapers having regarding these Tender.

- 2.9. It is submitted that at the time of floating of present tender, the Petitioner had kept the provisions regarding 'Change in Law' in the tender documents in accordance with the previous bidding process conducted by GUVNL covering limited items for relief under Change in Law provisions which restricted to (i) Anti-Dumping Duty, Safeguard Duty and Custom Duty on Solar PV Modules (ii) the imposition of taxes or surcharges or levies on generation of electricity (leviable on the final output in form of energy) or sale of electricity. The changes in rates of GST on solar modules was not covered in the aforesaid Change in Law provisions of the tender documents. However, pursuant to representation of the prospective bidders during pre-bid meeting, the 'Change in Law' clause was modified to include GST / Surcharge on solar modules and thereby, attractive tariff of Rs. 2.29 per unit is discovered.
- 2.10. It is further submitted that such lower discovered tariff of Rs. 2.29 per unit is in overall interest of the consumers, which could be achieved by providing clarity regarding change in rates of GST and surcharge thereon. Moreover, the Petitioner has fulfilled all the necessary requirements for adoption of tariff under Section 63 of the Electricity Act, 2003 by way of prior intimation regarding initiation of bidding process, issuing bidding documents, holding pre-bid meeting, e-reverse auction, bid evaluation committee certificate etc. and accordingly, adoption being post facto approval after completion of competitive bidding process, the Commission is requested to adopt the tariff discovered under transparent bidding process.
3. We have considered the submissions made by the Petitioner. We note that the Petitioner has filed the present Petition for seeking adoption of tariff discovered under Competitive Bidding Process conducted vide RfS No. GUVNL/500 MW/Solar dated 03.01.2022 issued by GUVNL for Procurement of Power from 500 MW Solar PV Power Projects in Gujarat. Since, the present Petition is for procurement of power by the Petitioner on behalf of its four subsidiary distribution companies, the Commission has jurisdiction to decide the present matter. Accordingly, we decide to admit the present Petition.

4. As the matter finally heard by the Commission, it is reserved for Order.
5. We order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Sd/-
[Anil Mukim]
Chairman

Place: Gandhinagar.
Date: 12/05/2022.

