

| | | | | |
|--------------|--|------|-------------|--------------|
| 9 | Foton Novelty Private Limited | 2.56 | 50 | Disqualified |
| 10 | TEQ GREEN POWER XII PRIVATE LIMITED | 2.58 | 100 | |
| 11 | NTPC Renewable Energy Limited | 2.60 | 200 | |
| 12 | ADANI RENEWABLE ENERGY HOLDING TWELVE LIMITED | 2.66 | 300 | |
| 13 | Torrent Power Limited | 2.67 | 100 | |
| 14 | NHPC RENEWABLE ENERGY LIMITED | 2.69 | 200 | |
| 15 | Utkrrisht Solar Energy Private Limited | 2.70 | 280 | |
| 16 | Azure Power Sixty Four Private Limited | 2.76 | 100 | |
| 17 | COAL INDIA LIMITED | 2.78 | 500 | |
| 18 | Project Eleven Renewable Power Private Limited | 2.93 | 150 | |
| Total | | | 3440 | |

(Signed by Members)

4.11. In view of the above situation, as per Clause 4.3.2 of the RfS documents, the Petitioner had to conduct e-reverse auction for the subscribed capacity of 500 MW. In this regard, it is necessary to refer Clause 4.3.2 of the RfS document as reproduced below:

“4.3 Reverse Auction (Step-3)

.....

4.3.2. Total eligible bidders for reverse auction shall be decided as mentioned below:

Assuming

T = Total number of techno-commercially qualified bidders, and

S_T = Capacity of the total number of techno-commercially qualified bidders

S_K = Cumulative capacity till the 'k'th serial number bidder (not the 'k'th rank bidder) after ranking is done in ascending order from L1 onwards

S_M = Total capacity of techno-commercially qualified bidders after ranking is done in ascending order from L1 onwards) such that ($S_{M-1} < S_E$ MW and $S_M \geq S_E$

S_E = Eligible Capacity for Award

| | | |
|---------------------------------------|---|--|
| S_E = (Eligible capacity for award) | (i) In case $S_T < 500$ MW; $S_E = 0.8 \times S_T$, (ii) In case $S_T \geq 500$ MW; $S_E = 0.8 \times S_T$, subject to maximum eligible capacity being 500 MW. | |
| $n = \{$ | T , if $T = m$ or $m+1$ $m + (T-m)/2$, if $S_m \geq S_E$ and $m + (T-m+1)/2$, if $S_m \geq S_E$ and | Where m = Total number of techno-commercially qualified bidders (after ranking is done in ascending order from L1 onwards) such that ($S_{M-1} < S_E$ MW and $S_M \geq S_E$) and $1 \leq m \leq T$ |

Total eligible bidders for e-Reverse Auction = Bidders from Sl. No. 1 to Sl. No. n. For For e.g. (Shortlisting of bidders for reverse auction):

Total bid capacity of techno-commercially shortlisted bidders = $S_T = 770$ MW

Eligible capacity for award = $S_E = 500$ MW

$S_M = 550$ MW

Therefore, $n = [7 + (11-7)/2] = 9$ as per the above formula.

| Sl. No. | Techno commercially qualified Bidder | Rank | Capacity (MW) | T | M | SE | N | Shortlisted Bidders |
|---------|--------------------------------------|------|---------------|----|---|--------|----|---------------------|
| 1 | B8 | L1 | 55 | 11 | 7 | 500 MW | 9* | B8 |
| 2 | B5 | L2 | 45 | | | | | B5 |
| 3 | B1 | L3 | 125 | | | | | B1 |
| 4 | B4 | L4 | 75 | | | | | B4 |
| 5 | B2 | L5 | 80 | | | | | B2 |
| 6 | B3 | L6 | 95 | | | | | B3 |
| 7 | B7 | L7 | 75 | | | | | B7 |
| 8 | B6 | L8 | 60 | | | | | B6 |
| 9 | B10 | L9 | 50 | | | | | B10 |
| 10 | B9 | L10 | 55 | | | | | |
| 11 | B11 | L11 | 55 | | | | | |

* Thus, $n = 7 + (11 - 7)/2 = 9$ as per the above formula."

4.12. As per above referred clause, 11 bidders with aggregate capacity of 1810 MW qualified for e-reverse auction and the Petitioner had conducted e-reverse auction.

4.13. In the E-Reverse auction of 10.06.2022 a report generated on the web-portal of Bharat-electronic tender is reproduced below:

| S# | Bidder's Name | Quoted Value | Loaded Value | Date/Time of Bidding | Bidder's Quantity | Special Remarks | Difference in % (Bid- Value Vs Start- Price) |
|----|---|--------------|--------------|--------------------------|-------------------|------------------|--|
| 1 | ABREL SPV 2 LIMITED (ETS-IN-2021-RS0000128) | 2.30 | 2.30 | 10-Jun-2022 16:22:52 RTZ | 300.00 | Field Not Filled | 4.56% |
| 2 | HINDUJA RENEWABLES ENERGY PRIVATE LIMITED (ETS-IN-2021-RS0000181) | 2.30 | 2.30 | 10-Jun-2022 16:23:18 RTZ | 120.00 | Field Not Filled | 4.56% |
| 3 | SJVN LIMITED (ETS-IN-2022-RS0000202) | 2.31 | 2.31 | 10-Jun-2022 16:15:43 RTZ | 200.00 | Field Not Filled | 4.15% |
| 4 | ACME Pokhran Solar Private Limited (ETS-IN-2021-RS0000377) | 2.32 | 2.32 | 10-Jun-2022 16:14:51 RTZ | 300.00 | Field Not Filled | 3.73% |
| 5 | Foton Novelty Private Limited (ETS-IN-2022-RS0000082) | 2.32 | 2.32 | 10-Jun-2022 16:23:59 RTZ | 50.00 | Field Not Filled | 3.73% |
| 6 | SOLARCRAFT POWER INDIA PRIVATE LIMITED (ETS-IN-2022-RS0000163) | 2.34 | 2.34 | 10-Jun-2022 16:00:32 RTZ | 120.00 | Field Not Filled | 2.90% |

| | | | | | | | |
|----|--|------|------|--------------------------|--------|------------------|--------|
| 7 | SOLAIRE ENERGY INDIA PRIVATE LIMITED (ETS-IN-2022-RS0000150) | 2.34 | 2.34 | 10-Jun-2022 16:01:02 RTZ | 150.00 | Field Not Filled | 2.90% |
| 8 | The TATA Power Company Limited (ETS-IN-2020-RS0000141) | 2.49 | 2.49 | 10-Jun-2022 13:01:13 RTZ | 120.00 | Field Not Filled | -3.32% |
| 9 | ReNew Solar Power Private Limited (ETS-IN-2019-RS0000087) | 2.55 | 2.55 | 10-Jun-2022 13:01:13 RTZ | 150.00 | Field Not Filled | -5.81% |
| 10 | TEQ GREEN POWER XII PRIVATE LIMITED (ETS-IN-2022-RS0000174) | 2.58 | 2.58 | 10-Jun-2022 13:01:13 RTZ | 100.00 | Field Not Filled | -7.05% |
| 11 | NTPC Renewable Energy Limited (ETS-IN-2022-RS0000070) | 2.60 | 2.60 | 10-Jun-2022 13:01:13 RTZ | 200.00 | Field Not Filled | -7.88% |

4.14. It can be observed from above that at the end of E-Reverse auction, three bidders, i.e., (i) M/s ABREL SPV 2 Limited, (ii) M/s Hinduja Renewables Energy Private Limited and (iii) M/s SJVN Limited were found successful bidders with quoted tariff of Rs. 2.30-2.31 per unit for total 620 MW capacity. However, since the tender was for 500 MW, allocation was to be for 500 MW and hence there is partial capacity allocation of 80 MW against quoted quantum of 200 MW with quoted tariff of Rs. 2.31 per unit in case of SJVN Limited in terms of Clause 4.4.2 of the RfS document.

4.15. Clause 4.4 of the RFS document pertains to 'Selection of Successful Bidders' and pertains to partial capacity allocation. It is therefore, necessary to refer Clause 4.4 of the RFS documents which reads as under:

".....

4.4 Selection of Successful Bidders

4.4.1 (not used)

4.4.2 The lowest quoting bidder will be allotted its qualified project capacity and then, next higher bidder will be allotted its qualified project capacity and so on, till the total capacity is exhausted.

4.4.3 In case of the last selected bidder, if the balance project capacity is less than the total project capacity mentioned by the bidder, then the balance capacity shall be awarded to the bidder till the total capacity is exhausted subject to a minimum allocation of 25 MW. Provided that, in case the partial capacity (balance capacity till the total capacity on offer is exhausted) offered to the last Bidder after completion of the e-reverse auction is lower than 50% of the total quoted capacity by such Bidder, the Bidder shall have an option to refuse such offered partial capacity within seven days of issuance of Letter of Award and the BG against EMD submitted by such Bidder shall be returned alongwith with those of the unsuccessful Bidder

Further, in case the partial capacity offered is greater than or equal to 50% of the total quoted capacity by such Bidder, then it shall be mandatory for the last Bidder to accept such partial capacity offered against its quoted capacity, subject to the total cumulative capacity awarded after e-RA to the successful Bidders not exceeding 500 MW. In case the last bidder refuses to accept such partial capacity offered by GUVNL, the Bank Guarantee against EMD submitted by such Bidder shall be encashed by GUVNL.

.....

4.4.6 At the end of selection process, GUVNL will have right to decide on the issuance of LOA to the successful bidders or any of them based on consideration of price discovered. In case of Consortium being selected as Successful Bidder, the issuance of LOA shall be to the Lead Member of the Consortium.

In all cases, GUVNL's decision regarding selection of bidder through Reverse Auction or otherwise based on tariff or annulment of tender process shall be final and binding on all participating bidders.

Also, GUVNL reserves the right to short close the capacity lower than 500 MW at its discretion, if the prices are abruptly high. Additionally, the discretion to allot or not to allot the additional upto 500 MW capacity under Greenshoe option shall be vested solely with GUVNL.

.....”

- 4.16. Thus, in terms of Clause 4.4.2 of the RfS document, the base capacity allotment against the quantum & tariff quoted by the bidders by the Petitioner is (i) 300 MW at Rs. 2.30 per unit to M/s ABREL SPV 2 Limited, (ii) 120 MW at Rs. 2.30 per unit M/s Hinduja Renewables Energy Private Limited and (iii) 80 MW at Rs. 2.31 M/s SJVN Limited as successful bidders for total 500 MW base capacity.
- 4.17. We also note that as per terms & conditions of the tender, the Petitioner GUVNL has offered additional 500 MW capacity through Greenshoe Option vide letters dated 14.06.2022 to the above successful bidders at L1 rate to the extent of their respective quoted capacity. In response to the same, M/s ABREL vide its letter dated 20.06.2022 accepted only 200 MW capacity out of offered capacity of 300 MW under Greenshoe option whereas the other two bidders i.e., M/s Hinduja and M/s SJVN vide letters dated 20.06.2022 and 15.06.2022 have accepted full capacity of 120 MW and 80 MW under Greenshoe Option respectively. We also note that since M/s ABREL vide its letter dated 20.06.2022 accepted only 200 MW capacity out of offered capacity of 300 MW under Greenshoe option, 100 MW capacity under

Greenshoe remained unallocated. The said unallocated capacity was offered by GUVNL vide its letter dated 20.06.2022 to other bidder i.e. M/s Hinduja based on L1 priority basis to which it was conveyed by M/s Hinduja vide its email dated 28.06.2022 that they are not willing to accept the additional capacity allocation of second round. In view of this, thereafter an offer has been made by the Petitioner GUVNL vide its letter dated 28.06.2022 of said 100 MW unallocated capacity to M/s SJVN and the same was accepted by M/s SJVN vide its letter dated 04.07.2022 at L1 tariff over and above the original base capacity allotment of 80 MW at quoted tariff of Rs. 2.31 per unit and 80 MW Greenshoe capacity of first round at L1 tariff. Thus, the total capacity allotted to M/s SJVN Limited works out to 260 MW. In view of above, the total allotment of 1000 MW capacity under the tender is reproduced as under:

| Rank | Bidder's Name | Base Capacity (MW) (A) | Tariff (Rs / Unit) | Greenshoe Capacity (MW) (B) | Tariff (Rs / Unit) | Total Capacity (MW) (A+B) | Avg. Tariff (Rs / Unit) |
|--------------|-----------------------------------|------------------------|--------------------|-----------------------------|--------------------|---------------------------|-------------------------|
| L1 | ABREL SPV 2 Limited | 300 | 2.30 | 200 | 2.30 | 500 | 2.3000 |
| L2 | Hinduja Renewables Energy Pvt Ltd | 120 | 2.30 | 120 | 2.30 | 240 | 2.3000 |
| L3 | SJVN Limited | 80 | 2.31 | 180 | 2.30 | 260 | 2.3031 |
| Total | | 500 | | 500 | | 1000 | |

- 4.18. As already recorded earlier, the Petitioner ensured wide participation for evincing competition by publishing the Notice Inviting Tender in two National Newspapers having large readership, also organized pre-bid conference and further incorporated necessary changes suggested by the prospective bidders. The Technical Bids were opened in presence of the Bid Evaluation Commission and as the Bid Evaluation Committee evaluated the technical bids and declared 18 bidders as qualified for opening the financial bids, the same were opened on 10.06.2022 in presence of Bid Evaluation Committee. As per terms & conditions of tender, 11 bidders with aggregate capacity of 1810 could qualify for the e-reverse auction and accordingly, e-reverse auction was conducted by the Petitioner and as per the criteria mentioned in the RfS document the Petitioner has submitted that Letter of Award (LOA) is issued by the Petitioner to the three (3) successful bidders for tender capacity of 500 MW alongwith additional 500 MW capacity allocation under

Greenshoe Option to (i) 300 MW capacity and 200 MW capacity (under Greenshoe Option) to M/s ABREL SPV 2 Limited with quoted tariff of Rs. 2.30 per unit, (ii) 120 MW capacity and 120 MW capacity (under Greenshoe Option) to Hinduja Renewables Energy Private Limited with quoted tariff of Rs. 2.30 per unit and (iii) 80 MW capacity at the quoted tariff of Rs. 2.31 per unit and 180 MW capacity (under Greenshoe Option) with quoted tariff of Rs. 2.30 per unit M/s SJVN Limited.

- 4.19. In view of the foregoing, the Commission is satisfied with the entire tendering process including the e-reverse bidding conducted by the Petitioner in a transparent manner and discovered tariff of successful bidders with quoted capacity and allocated capacity to them as stated below:

| Sr. No. | Bidder's Name | Base Capacity (MW) (A) | Tariff (Rs / Unit) | Greenshoe Capacity (MW) (B) | Tariff (Rs / Unit) | Total Capacity (MW) (A+B) | Avg. Tariff (Rs / Unit) |
|--------------|-----------------------------------|------------------------|--------------------|-----------------------------|--------------------|---------------------------|-------------------------|
| 1 | ABREL SPV 2 Limited | 300 | 2.30 | 200 | 2.30 | 500 | 2.3000 |
| 2 | Hinduja Renewables Energy Pvt Ltd | 120 | 2.30 | 120 | 2.30 | 240 | 2.3000 |
| 3 | SJVN Limited | 80 | 2.31 | 180 | 2.30 | 260 | 2.3031 |
| Total | | 500 | | 500 | | 1000 | |

- 4.20. The Commission, therefore, decides to adopt the above discovered tariff of Rs. 2.30-2.31 per unit respectively quoted by above mentioned three bidders, viz., (i) M/s ABREL SPV 2 Limited, (ii) Hinduja Renewables Energy Private Limited, and (iii) SJVN Limited for allocated capacity as above including Greenshoe capacity allotted at L-1 tariff of Rs. 2.30 per unit of Solar PV projects to be set up in Gujarat, as prayed by the Petitioner.

- 4.21. We also note that as per the submissions made by the Petitioner, the Ministry of Power had notified the Electricity (Late Payment Surcharge and Related Matters) Rules, 2021 on 22.02.2021. The said Rules are superseded by the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 on 03.06.2022. The aforesaid Rules, 2022 provides that this Rules are in supersession of earlier Electricity (Late Payment Surcharge and Related Matters) Rules, 2021 except as respects things done or omitted to be done before such supersession. It is submitted that the said

Rules would apply for the outstanding dues of generating companies, Inter-State transmission licensees and electricity trading licensees after the notification of the Rules on 03.06.2022 and accordingly, not applicable in the present matter. It is further submitted that the draft PPA to be signed by the Petitioner GUVNL with successful bidders is consistent with the provisions of the Electricity (Late Payment Surcharge and Related Matters) Rules notified by the Central Government. We note that the Petitioner has initiated and conducted the competitive bidding process through RfS No. GUVNL/500 MW/Solar (Phase XIV) by issuing the 'Notice Inviting Tender' on 16.04.2022 i.e., prior to issuance of notification of the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 on 03.06.2022 by Ministry of Power, Government of India. Thereafter, the Petitioner has completed bidding process on 10.06.2022 and approached the Commission on 20.07.2022 for adoption of tariff discovered through competitive bidding process conducted by the Petitioner vide RfS dated 16.04.2022. It is stated in the said Rules, 2022 that the Central Government in exercise of powers conferred by Section 176 (1) of the Electricity Act, 2003 and in supersession of the Electricity (Late Payment Surcharge) Rules, 2021 except as respects things done or omitted to be done before the supersession has notified Electricity (Late Payment Surcharge) Rules, 2022 which has to come in force on the date of its publication in the Official Gazette. i.e., from 03.06.2022 onwards. In this regard, we are of view that as per Clause 10.4 of bidding guidelines, the distribution licensee or intermediary procurer has to approach the Commission for adoption of tariff discovered under competitive bidding process in terms of Section 63 of Electricity Act, 2003 and the Commission has to decide and adopt the discovered tariff within 60 days from such submissions by the distribution licensee or intermediary procurer. In the present case, the Petitioner has approached the Commission on 20.07.2022 for adoption of tariff discovered through competitive bidding process conducted vide RfS No. GUVNL/500 MW/Solar (Phase XIV) dated 16.04.2022 which is an ongoing process. We also note that though the LOA has been issued to the successful bidders but the PPAs are yet to be signed by the Petitioner with the successful bidders and the same is filed with the Petition for approval of the Commission. Hence, we are of view that the Electricity (Late Payment Surcharge) Rules needs to be incorporated correctly by the Petitioner in the PPAs to be signed with the successful bidders.

4.22. We also note that as submitted by the Petitioner, LoAs have been issued to all the three successful bidders but PPAs are yet to be executed with them. The aforesaid Rules are notified under the Electricity Act, 2003 and therefore, it need to be given effect in the power procurement by the distribution licensee. Hence, we direct the Petitioner GUVNL to incorporate and align the Clauses in Power Purchase Agreements in line with the provisions of Electricity (Late Payment Surcharge) Rules notified by the Ministry of Power.

5. In view of above, this Petition is allowed and as the Petitioner has issued the LoAs to all the three successful bidders and is yet to sign the PPAs with them because as per terms and conditions of tender, the PPAs are to be signed with successful bidders within 30 days from issuance of LoA, the Petitioner is directed to execute the PPAs with the three successful bidders as per decision in this Order. We note that the Petitioner is required to submit the copy of the signed PPAs and therefore, the Petitioner is directed to submit copies of duly executed PPAs to the Commission alongwith an affidavit stating that the Articles/provisions of the PPA are as per the directions as stated above, provisions of Act, Rules, bidding guidelines and deviations approved by the Commission from time to time. We also direct the Petitioner that for the purpose of transparency, after execution of the PPAs, to publicly disclose the name (s) of the successful bidder(s) and the tariff quoted by them together with the breakup 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.

6. SUMMARY OF DECISIONS:

6.1 We decide to adopt the tariff discovered under the transparent competitive bidding process conducted by the Petitioner through RfS No. GUVNL/500 MW/ Solar (Phase XIV) dated 16.04.2022 as under:

| Sr. No. | Bidder's Name | Base Capacity (MW) | Tariff (Rs. / Unit) | Greenshoe Capacity (MW) | Tariff (Rs./ Unit) |
|---------|---------------------|--------------------|---------------------|-------------------------|--------------------|
| 1 | ABREL SPV 2 Limited | 300 | 2.30 | 200 | 2.30 |

| | | | | | |
|--------------|-----------------------------------|------------|------|------------|------|
| 2 | Hinduja Renewables Energy Pvt Ltd | 120 | 2.30 | 120 | 2.30 |
| 3 | SJVN Limited | 80 | 2.31 | 180 | 2.30 |
| Total | | 500 | | 500 | |

- 6.2 Apart from the directives of the Commission in this Order, the Petitioner to sign the Power Purchase Agreement(s) with the successful bidders with allocated capacity and tariff as per above table.
- 6.3 We direct the Petitioner to submit the copies of duly executed PPAs to the Commission alongwith an affidavit stating that the Articles/provisions of the PPA are as per the directions as stated above, provisions of Act, Rules, bidding guidelines and deviations approved by the Commission from time to time. We also direct the Petitioner that for the purpose of transparency, after execution of the PPAs, 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.
7. We order accordingly.
8. With this order the present petition stands disposed of.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Sd/-
[Anil Mukim]
Chairman

Place: Gandhinagar.
Date: 12/08/2022.