
“The Petitioner GRIDCO, humbly prays that this Commission may kindly consider for approval of the PPA executed with M/s. ACME Odisha Solar Power Pvt. Ltd. for 25 MW Solar PV station located at Village-Mursing and Sikuan, Tehsil: Deogaon in Bolangir district through OREDA. State scheme, Batch-II for fulfilling the RPO of GRIDCO and give any direction as deem fit and proper.”

Submissions of the Petitioner in support of his prayer:

2. In support of its prayer, the Petitioner has mainly submitted as under:
- (a) To encourage the green energy and to fulfill the Solar Renewable Purchase Obligations (RPOs) of the State, the State Nodal Agency (OREDA) was recommended by the State Technical Committee (STC) to float tender for additional 25 MW of Solar Plant known as OREDA State Bidding Scheme, Phase-II after successful bidding of 25 MW solar capacity in OREDA State bidding Scheme, Phase-I.
 - (b) The Request for Selection (RfS) was floated by OREDA on 22.9.2012 for implementation of solar project in the State. The pre-bid meeting was held on 16.10.2012 and 46 nos. of participants had participated in the meeting.
 - (c) Three numbers of bidders had participated in the bidding process and all bidders were shortlisted based on the qualifying requirements (i.e., Net worth, technical criteria and connectivity with Grid) by the Technical Evaluation Team comprising of Chief Executive, OREDA, Director (Commercial), GRIDCO, PSO& Head (ER), MNRE and Statutory Auditor of OREDA.
 - (d) M/s. ACME Bikaner Solar Power Pvt Ltd. was declared as L1 bidder with quoted price of Rs.7.28/kWh. Then OREDA, vide its letter dated 20.12.2012 had issued Letter of Intent (LoI) in favour of M/s. ACME Bikaner Solar Power Pvt. Ltd. to set up 25MW SPV power plant in the State at the price of Rs.7.28/kWh with certain terms and conditions.
 - (e) OREDA, vide its letter dt.18.02.2013 intimated GRIDCO that M/s. ACME Bikaner Solar Power Pvt. Ltd. had complied with all documents to execute PPA with the developers as per the terms and conditions of the RFS.
 - (f) Later it was found that the Firm has changed its name from M/s. ACME Bikaner Solar Power Pvt. Ltd. to M/s. ACME Odisha Solar Power Pvt. Ltd. with due approval of the Ministry of Corporate Affairs on 15.01.2013. This was referred to the Chartered Accountant as well as Company Secretary of the Technical

Committee on 06.3.2013. As per their opinion, such change of name is as per the Company's Law and would not have any bearing on the RfS and PPA which was executed with M/s ACME Odisha Solar Power Pvt. Ltd. on dt.06.3.2013 for setting up 25 MW grid connected solar PV power project at village Biramaharajpur/Terabha in Sonapur district or at Hatibari/Dhama/Khandopata in the district of Sambalpur at a tariff of 7.28 /kWh.

- (g) Further, due to change of location of the project to Mursing and Sikuan village under Deogaon Tehsil in Bolangir district and due to change of range of power procurement as per the contacted capacity from ($\pm$) 10% to 20% and (-)10% variation as per clause 4 of the PPA on "Right to Contracted Capacity and Electricity", amended and substituted PPA was signed with M/s. ACME Odisha Solar Power Pvt. Ltd. on dt.06.3.2013 with the new location and capacity variation.
- (h) The PPA was signed between M/s. GRIDCO Ltd and M/s. ACME Odisha Solar Power Pvt. Ltd. with the following terms and conditions: -
 - i. The Agreement shall be for 25 years from the date of commercial operation of the Station.
 - ii. GRIDCO at any time during a contract year shall not be obliged to purchase any additional energy from the developer beyond 1.6644 MU/MW/per Year (calculated at 19% CUF) as determined by OERC in its Order in Petition No.37/2008 dated 14.09.2010 with +20% and -10% variation.
 - iii. If in any contract year, the developer has not been able to generate minimum electricity of 1.6644 MU/MW/year less 10% on account of any reason not attributable to GRIDCO or Force Majeure events, the non-compliance by developer shall make him liable to pay penalty to GRIDCO. Apart from this, in case there is any penalty imposed by OERC on GRIDCO due to any shortfall in supply of solar electricity to the GRID directly attributable to the developer, such penalty will also be borne by the developer.
 - iv. As per Clause 14.12 of the Policy Guidelines on Power Generation from Non-conventional Energy Sources, 2005, the developer shall have to pay at a uniform rate of Rs.0.01/kWh on a quarterly basis to OREDA for various services being rendered by OREDA.

- v. The quoted tariff for Solar Power Plant shall be Rs.7.28/per kWh as per tariff bid submitted by the selected bidder through OREDA. This tariff is inclusive of the charges and taxes to be paid by the selected bidder.
 - vi. The Project Proponent shall submit the bill to GRIDCO on monthly basis based on State Energy Accounting data by EBC/SLDC as per the meter installed at the generating station following the end of each month for the net energy supplied to the Grid.
 - vii. Rebate of 2% on the billed amount shall be deducted for payment made within 7 working days and 1% if paid within 30 days from the receipt of the bill by GRIDCO. For payment made beyond 60 days from the date of billing, a surcharge @ 1.25% per month or part thereof shall be levied on the outstanding billed amount by the Project Proponent.
 - viii. As a security package, GRIDCO shall provide facilities of an irrevocable, revolving and confirmed Letter of Credit by any designated Nationalized Bank for a period of one year. The amount of LC shall be equal to the expected payment for one-month billing.
 - ix. The metering for billing shall be at the generator premises as provided in CEA metering regulation and also back-up metering at the grid substation end as per Odisha Grid Code.
 - x. The Solar power station shall be treated as MUST RUN and shall not be subject to merit order dispatch.
 - xi. The construction and setting up of dedicated transmission facility for evacuation of power from the generating station to the point of off take i.e. the nearest grid substation of WESCO/OPTCL based on the system study by WESCO/OPTCL.
 - xii. Apart from the above, the other terms and conditions like Other Charges, KVAh Charges, Indemnification & Insurance, Force Majeure, Change of law, Assignments and Transfer, Default and Termination, Confidentiality, Notices, Settlement of Disputes, Project Equipment Components, Licenses and Permits and Securities have been duly incorporated in the PPA as per the prevailing standard procedure.
- (i) The 25 MW SPV Project of M/s. ACME Odisha Solar Power Pvt. Ltd., located at village Mursing & Sikuan, Tehsil-Deogaon, in Bolangir district got synchronized

and commissioned in the State on 22.06.2015 and exporting solar power since then to GRIDCO.

- (j) In view of above, the petitioner, GRIDCO has prayed before the Commission to consider and approve the PPA executed with M/s. ACME Odisha Solar Power Pvt. Ltd. for 25 MW Solar PV station located at village Mursing & Sikuan, Tehsil-Deogaon in Bolangir district through OREDA State Scheme, Batch-II to fulfill the RPO of GRIDCO.

Reply of the Respondents:

3. The Respondent-TPWODL, in his reply dated 22.9.2022 has made submissions as under:
- a) When PPA was signed (dated 06.3.2013), the distribution business & retail supply was with erstwhile WESCO but same was not placed for approval at that time. There has been a delay of 9 years in placing of PPA for approval of the Commission.
 - b) When the market rate of solar power was quite high, the applicant had signed the PPA. Since the PPA is yet to be approved by the Commission, for the benefits of stakeholders, the existing price may be re-negotiated considering the current trends of solar power markets.
 - c) The RE sources recently approved by the Commission for the State and GRIDCO has sought the consent are far below the rate of Rs.7.28/kWh. The present bidding trend of M/s. ACME solar group's is around Rs.2.43/kWh. In the auction concluded recently under the SECI, the lowest bidder had quoted a tariff of Rs.2/kWh for 600MW capacity.
 - d) Further, considering the modified tariff policy, various exemption given to the renewable sector, Government subsidies, Government facilitated solar parks without any hassle for land acquisition, mandatory RPO target to be fulfilled by the obliged entities, technology advancement and low cost of financing solar projects have gradually and significantly reduced the solar power cost in the range of 240 to 300 P/U.
 - e) Considering the above facts and figures, with respect to cheaper solar power available in the market and to reduce the tariff burden on the consumer, the respondent requested the Commission to give suitable direction.
4. The Respondents M/s. OREDA, M/s. OPTCL and DISCOMs- TPCODL, TPNODL, and TPSODL, in their reply have mainly submitted as under:

- (a) The Respondent-OREDA, the State Nodal Agency has submitted that under Phase-2 of the State Bidding Scheme of OREDA, a very competitive tariff of Rs.7.28/kWh was discovered where the CERC Benchmark tariff in 2012 was Rs.10.39/kWh and the market solar tariff was in the range of Rs.10-12/kWh.
 - (b) The TPSODL has submitted that tariff of the solar project has been discovered under a competitive bidding mechanism and the tariff so discovered, though they are high as compared to the present tariff, were appropriate during the period at that point of time. Further, the power has been availed by the GRIDCO and same has been included in the ARR for the purpose of determination of the Bulk Supply Price (BSP) for DISCOMs and also GRIDCO proposed to seek the approval of the above PPA after a period of about 9 years from the Commission for the purpose of regularizing the same.
 - (c) OPTCL submitted that, the evacuation of generated power is through LILO of 132 kV Bolangir-Tusura (Saintala) line.
 - (d) Being alive to the facts and figures and general observations relating to the subject matter of the PPA as have been placed before the Commission, they have no objection for regularization of the aforesaid PPA as the petitioner has already been availing the power from above solar power station to meet their RPO target.
5. The Respondent Shri R.P. Mohapatra in his reply dated 30.9.2022 has submitted as under:
That the relevant provision under Section 86(1)(b) of the Electricity Act, 2003, Regulations 51(1) and Clause 22.2 of the Appendix – 4(A) of the OERC (Conduct of Business) Regulations, 2004 are relevant for approval of PPA. Even though the Commission approved power procurement from the aforesaid station from the FY 2015-16, it never directed GRIDCO to submit the PPA for approval. It has been stated by him that there is inordinate delay in submission of PPA for approval even though it was executed on 06.3.2013.

Rejoinder of the Petitioner-GRIDCO

6. The Petitioner-GRIDCO vide its rejoinder dated 29.11.2022 has mainly submitted as under:
- a) TPCODL, TPNODL & TPSODL have no objection for regularization of the 25MW PPA dated 06.3.2013 executed by Petitioner with M/s. ACME Odisha Solar Power Pvt. Ltd. as the petitioner has already been availing the power from the same solar power station to meet their RPO target.

- b) In response to the reply of TPWODL, the Petitioner stated that re-negotiation of the tariff of Rs.7.28/kWh with the solar developer at par with the current market trend cannot be given effect without mutual consent of both the parties.
 - c) In response to Shri R.P. Mohapatra, the Petitioner submitted that it has been mandated by the Commission to meet RPO target given from time to time. To meet such target & to avoid any penalty for shortfall in RPO compliance, the petitioner entered into several PPA/PSAs with RE developers for procurement of RE power, most of which have already been approved by the Commission and remaining few, are being placed before the Commission for approval.
 - d) Further, the Commission have been allowing to procure power from the said solar station in their ARR & BSP orders w.e.f. the CoD to meet the RPO target and it is monitoring the same from time to time.
 - e) In view of the above facts and circumstances, for development of RE in the State, the petitioner prays before the Commission to condone the delay in filing the petition and approve the PPA to meet the RPO compliances as stipulated under Section 86(e) of the Electricity Act,2003.
7. During hearing the Commission raised the queries regarding present CUF, reason for shift of location of plant from Sonapur district to Bolangir district, and approximate O&M cost per MW and change in variation of contract capacity from ($\pm$)10% to ($\pm$) 20% to ($-$) 10%. The Respondent, M/s. ACME Odisha Solar Power Pvt. Ltd. has submitted the following response to the above queries of the Commission.
- a) It has been generating and supplying solar power to GRIDCO under long-term PPA with a Capacity Utilization Factor (CUF) of 20.6% in FY 2022-23 till date.
 - b) Initially the Solar Project of ACME was proposed to set up in Sonapur and Sambalpur Districts of Odisha. However, due to non-availability of contiguous land required for setting up of Solar Plant, the location was changed to Bolangir District as ACME found the appropriate land of 225 acres in village- Sikuan and Mursingh, Thana-Tusra, Tehasil-Deogaon as per letter dated 30.9.2013 of the Science & Technology Department, Govt of Odisha, All the terms and conditions of PPA remained same and change of location did not affect any obligation of ACME under the PPA.
 - c) The contracted capacity under PPA is 25MW AC which did not change due to change of location. GRIDCO, vide its letter dated 23.9.2013, approved to procure the solar power with +20% CUF variation with no change in lower slab of ($-$)10%

variation considering the fact that the available solar power was less in the State during 2013 to meet the RPO targets of GRIDCO.

- d) Further the base O&M cost at the time of commission was Rs.8 lakh/MW with 5% escalation. Accordingly, the present O&M cost is equivalent to Rs.10.5 lakhs/MW as the size of solar projects is comparatively small.

8. The Commission heard the Petitioner and Respondents in virtual mode and also considered their written submissions and argument advanced during the hearing. The documents filed by the parties have been referred to by the Commission. Thereafter we observe as under:

- a) M/s. ACME Odisha Solar Power Pvt. Ltd. has set up 25 MW SPV power plant at Mursingh & Sikuan village in Bolangir district of Odisha under OREDA State bidding Scheme (Phase II) after being selected by OREDA (the State Nodal Agency) through a competitive bidding process in order to meet the RPO target of the State. The price discovered through bidding process is Rs.7.28/kWh (inclusive of charges and taxes) which was less than the CERC benchmark tariff in 2012 (Rs.10.39/kWh) and market solar tariff (in the range of Rs.10-12/kWh) at that point of time, as per submission of OREDA. The developer shall have to pay at a uniform rate of Rs.0.01/kWh on quarterly basis to OREDA for various services being rendered by OREDA.
- b) Further, the change of location of the project from village Biramaharajpur/Tarabha (in Sonepur district) or at Hatibari/ Dhama/ Khanadokata (in Sambalpur district) to Mursingh and Sikuan village (under Deogaon Tahasil in Bolangir district) and change of range of power procurement as per the contacted capacity from ($\pm$) 10% to $\pm$ 20% & (-) 10% variation were incorporated in PPA and accordingly the PPA was executed between GRIDCO and M/s. ACME Odisha Solar Power Pvt. Ltd. on 06.03.2013 for a period of 25 years from the CoD (22.06.2015) as per terms and condition of the RfS based on the advice of OREDA communicated, vide letter dated 18.02.2013. The change in location for shifting of solar project was due to non-availability of contiguous land (about 225 acres).
- c) The name of the firm was changed from M/s. ACME Bikaner Solar Power Pvt. Ltd. to M/s ACME Odisha Solar Power Pvt. Ltd. with due approval of the Ministry of Corporate Affairs on 15.01.2013, which is as per the Company Law and have no bearing on the RfS & PPA.

- d) The above project got synchronized and commissioned in the State on 22.06.2015 and the power is being exported from the said solar station since then through OPTCL network [through 132 kV Bolangir-Tusura (Saintala) LILO lines] to meet the solar RPO target. The present O&M cost is about Rs.10.5 lakhs/MW which was about Rs.8 lakhs/MW at the time of commissioning and CUF is 20.6% for FY 2022-23 (as on December 2022).
- e) The Respondents-M/s OREDA, OPTCL & DISCOMs (TPCODL, TPNODL & TPSODL) have no objection for regularization of the PPA as the power is being availed from the said solar power plant by the petitioner (GRIDCO) and the Commission have been allowing it to procure power from the said plant in its ARR w.e.f. the CoD to meet RPO target.
- f) The solar power station shall be treated as MUST RUN and shall not be subject to merit order dispatch.
9. In view of the above facts and observations, the Commission decides to approve the PPA dated 06.03.2013, executed between GRIDCO Ltd. and M/s. ACME Odisha Solar Power Pvt. Ltd. for procurement of 25 MW solar power at Mursingh and Sikuan village in Bolangir district of Odisha for a period of 25 years from the CoD (22.06.2015) at a tariff of Rs.7.25/kWh (inclusive of taxes and charges) discovered through a competitive bidding process to meet the RPO target of GRIDCO, the petitioner herein.
10. The petitioner has prayed for *post-facto* approval of PPA executed between GRIDCO and M/s. ACME Odisha Solar Power Pvt. Ltd. on 06.3.2013 after a gap of more than 9 years. In this regard, the letter No.114 dated 19.01.2021 of the Commission should be strictly followed.
11. The Case is accordingly disposed of in the light of the above findings.

Sd/-
(S.K. Ray Mohapatra)
Member

Sd/-
(G. Mohapatra)
Officiating Chairperson