

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2224 of 2023.

In the Matter of:

Petition under Section 63 read with 86 (1) (b) of the Electricity Act 2003 for seeking adoption of tariff discovered under Competitive Bidding Process conducted vide RFS No. GUVNL/500 MW/Solar (Phase XIX) dated 04.02.2023 issued by GUVNL for procurement of power from 500 MW Grid connected Solar Photovoltaic Power Projects to be set up anywhere in India with Greenshoe option of additional 500 MW.

Petitioner : Gujarat Urja Vikas Nigam Limited

Represented By : Mr. H.N. Shah and Mr. Parthik Joshi

CORAM:

**Anil Mukim, Chairman
Mehul M. Gandhi, Member
S. R. Pandey, Member**

Date: 31/07/2023.

ORDER

1. This Petition has been filed by the Petitioner Gujarat Urja Vikas Nigam Limited (GUVNL), under Section 63 read with Section 86(1)(b) of the Electricity Act 2003 *inter alia* seeking following prayers:
 - (a) To admit the present petition.
 - (b) To adopt the tariff discovered by the Petitioner as stated in para 20 of the Petition, in the transparent procurement process conducted by the Petitioner through RFS No. GUVNL/500 MW/Solar (Phase XIX) dated 04.02.2023 within the time duration stipulated by the Ministry of Power, Govt. of India under the

Guidelines dated 03.08.2017 and subsequent amendments made thereto.

- (c) To allow the Petitioner to sign Power Purchase Agreement with the project developers for the capacity and tariffs as stated in para 20 of the Petition.
- (d) To condone any inadvertent omissions/errors/shortcomings and permit the Petitioner to make addition/change/modification to this Petition as may be required.
- (e) The Petitioner craves relief of the Commission to allow further submissions, prayers, additions and alterations to this Petition as may be necessary from time to time.
- (f) Pass any other Order as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case, to avoid further delay and in the interest of justice.

2. The Petitioner has filed this Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003 seeking adoption of tariff by the Commission and hence it is necessary to refer aforesaid Sections as under:

“.....

Section 63:

Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government;”

.....”

As per above Section, whenever transparent competitive bidding process is conducted under Section 63 of the Electricity Act, 2003 in accordance with the guidelines issued by the Central Government, the tariff discovered under such bidding has to be adopted by the Commission.

“.....

Section 86(1) The State Commission shall discharge the following functions, namely: -----

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating

companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.”
.....”

As per the aforesaid provision, the Commission has to regulate the power procurement of the Distribution Licensees, including the procurement process, the price at which electricity shall be purchased from the generating company or the Licensees or through other sources through agreement for purchase of power for distribution and supply within the State.

3. This Petition filed by the Petitioner is within the purview of the jurisdiction of this Commission and in terms of the powers vested by the Electricity Act, 2003 and Regulations framed thereunder, the Commission admits the present Petition.
4. Facts mentioned in the Petition in brief are as under:
 - 4.1. It is stated that the Government of Gujarat has notified the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003 in May, 2003 for reorganization of the entire power sector in the State of Gujarat and pursuant thereof, the Gujarat Electricity Industry Reorganization and Comprehensive Transfer Scheme, 2003 has been notified under the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003, whereby, erstwhile Gujarat Electricity Board was reorganized and its functions have been vested in different entities.
 - 4.2. As per the above re-organization scheme, the activities undertaken by erstwhile Gujarat Electricity Board of Generation, Transmission, Distribution, Bulk Power Purchase and Supply have been entrusted to separate seven functional entities. The generation activity is assigned to Gujarat State Electricity Corporation Limited (GSECL), transmission activity is assigned to Gujarat Energy Transmission Corporation Limited (GETCO) and the distribution activity is assigned to four distribution companies viz. Uttar Gujarat Vij Company Limited (UGVCL), Madhya Gujarat Vij Company Limited (MGVCL), Dakshin Gujarat Vij Company Limited (DGVCL) and Paschim Gujarat Vij Company Limited (PGVCL). Further, the function of bulk purchase and bulk sale of power is assigned to the Petitioner, Gujarat Urja Vikas Nigam Limited.

- 4.3. The Distribution companies are mandated to procure power from Renewable Energy Sources as per the provision of Section 86(1)(e) of the Electricity Act, 2003 and in terms of the GERC (Procurement of Energy from Renewable Energy Sources) Regulations, 2010, as amended from time to time.
- 4.4. The Petitioner on behalf of its four Distribution companies has been entering into Power Purchase Agreement(s) amongst others with various Renewable Energy Generators for procurement of power from time to time.
- 4.5. Section 63 of the Electricity Act, 2003 provides that the Appropriate Commission shall adopt the tariff, if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government. Also, as per Section 86 (1) (b) of the Electricity Act, 2003, the Commission to regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.
- 4.6. The Ministry of Power (MoP) on 03.08.2017, has notified the “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects”. However, Standard Bidding Documents are yet to be published by MoP, Government of India. Clause 3.1.1 of the said Guidelines provides following conditions to be met by procurer:
- a) *Prepare the bid documents in accordance with these Guidelines and Standard Bidding Documents (SBDs) [consisting of Model Request for Selection (RfS) Document, Model Power Purchase Agreement and Model Power Sale Agreement], notified by the Central Government, except as provided in sub clause (c) below.*
 - b) *Inform the Appropriate Commission about the initiation of the bidding process.*
 - c) *Seek approval of the Appropriate Commission for deviations, if any, in the draft RfS draft PPA, draft PSA (if applicable) from these Guidelines and/ or SBDs, in accordance with the process described in Clause 18 of these Guidelines.*
 - (i). *“However, till the time the SBDs are notified by the Central Government, for purpose of clarity, if the Procurer while preparing the draft RfS, draft PPA, draft PSA and other Project agreements provides detailed provisions that*

are consistent with the Guidelines, such detailing will not be considered as deviations from these Guidelines even though such details are not provided in the Guidelines.

(ii). Further, in case of an ongoing bidding process, if the bids have already been submitted by bidders prior to the notification of these Guidelines and/or SBDs, then if there are any deviations between these Guidelines and/or the SBDs and the proposed RfS, PPA, PSA (if applicable), the RfS, PPA and the PSA shall prevail.

- 4.7. The above referred Guidelines dated 03.08.2017 issued by MoP have been amended from time to time on 14.06.2018, 03.01.2019, 09.07.2019, 22.10.2019 and lastly on 25.09.2020.
- 4.8. It is submitted that pending the issuance of the Standard Bidding Documents by the Central Government, the Petitioner is conducting the competitive bidding process for procurement of Solar power from time to time based on the bid documents containing detailed provisions that are consistent with the Guidelines as amended from time to time read with the deviations approved by the Commission vide Order dated 15.03.2018 in Petition No. 1706 of 2018, Order dated 13.01.2020 in Petition No. 1848 of 2019, Order dated 19.05.2022 in Petition No. 2069 of 2022, and Order dated 07.03.2023 in Petition No. 2139 of 2022 & IA No. 01 of 2013.
- 4.9. As per the amendment vide Resolution dated 22.10.2019 (notified on 23.10.2019) in the Guidelines, various provisions relating to adoption of tariff by Appropriate Commission have been modified and relevant provisions of the same are as under.

“Clause 10.4 – “Subject to provisions of the Act, the distribution licensee or the Intermediary Procurer, as the case may be, shall approach the Appropriate Commission for adoption of tariffs by the Appropriate Commission in terms of Section 63 of the Act. In case, the Appropriate Commission does not decide upon the same within sixty days of such submission, the tariffs shall be deemed to be have been adopted by the Appropriate Commission”.

Clause 12 (c) – “It is presumed that in terms of Clause 10.4 of these Guidelines, the tariff will be adopted by the Appropriate Commission within 60 days of such submission. However, notwithstanding anything contained in these Guidelines, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days, shall entail a corresponding extension in financial closure.”

Clause 14 (iii) - "It is presumed that in terms of Clause 10.4 of these Guidelines, the tariff will be adopted by the Appropriate Commission within 60 days of such submission. However, notwithstanding anything contained in these Guidelines, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days, shall entail a corresponding extension in scheduled commissioning date."

4.10. The Commission has notified the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 dated 17.04.2010. Thereafter, the said Regulations have been amended vide First Amendment dated 03.03.2014, Second Amendment dated 20.04.2018 and Third Amendment dated 08.04.2022. In accordance with the GERC (Procurement of Energy from Renewable Sources) (Third Amendment) Regulations, 2022 dated 08.04.2022, the stipulated RPO percentage targets for the obligated entities of Gujarat from FY 2021-22 onwards are as under:

Year	Minimum Quantum of Purchase (%) from RE Sources				Total (%)
	Wind RPO (%)	Solar RPO (%)	Large Hydro HPO (%)	Other RPO% (Biomass, Bagasse & Bio-fuel Cogeneration, MSW and Small/Mini/Micro Hydel) (%)	
2021-22	8.25	8.00	-	0.75	17.00
2022-23	8.25	8.00	-	0.75	17.00
2023-24	8.40	9.50	0.05	0.75	18.70
2024-25	8.55	11.25	0.10	0.80	20.70

4.11. Considering the fact that the generation benefit from the PPAs executed under Competitive Bidding shall be made available after a lapse of about 18-24 months and that the same shall be useful in achieving RPO compliance of ensuing years which are in increasing trend as notified by the Commission and MoP as well as for keeping overall power purchase cost under control as the tariffs of thermal power is on increasing trend whereas the tariffs of RE power are fixed for the period of 25 years, the Petitioner GUVNL on behalf of its subsidiary distribution companies had invited Tender dated 04.02.2023 through Competitive Bidding Process followed by e-reverse auction for procurement of 500 MW grid connected power from Solar PV projects to be set up anywhere in India with Greenshoe option of additional capacity upto 500 MW through Competitive Bidding Process followed by e-reverse auction vide RfS No. GUVNL/500 MW/Solar (Phase XIX) dated 04.02.2023 in accordance with advance intimation of initiation of said bidding process to the Commission vide letter dated 03.02.2023 by the Petitioner.

- 4.12. The Petitioner had also published a public notice dated 05.02.2023/06.02.2023 of 'Notice Inviting Tender' in two national newspapers regarding the aforesaid tender.
- 4.13. It is stated that the Tender/Bid Documents viz. RfS and PPA were hosted on the website of GUVNL for information as well as on e-bidding portal for downloading the official copy of the Tender Documents for participation in bidding procedure including e-reverse auction. Further, the Petitioner also held a Pre-Bid Meeting through video conference on 23.02.2023 at GUVNL, Vadodara, wherein key bid parameters, provisions of bid documents & timelines were discussed. The Minutes of Pre-bid meeting were also issued and hosted on websites of GUVNL and on e-bidding portal. The copy of Notice Inviting Tender with relevant extract of newspapers, Bid Documents including RfS, Draft PPA, Corrigendum & Addendums are filed with the Petition.
- 4.14. The last date of bid submission in the tendering process initially was 13.03.2023 and the same was extended up to 03.04.2023. The Technical Bid Opening was held on 10.04.2023 in presence of the Bid Evaluation Committee constituted by the Petitioner GUVNL consisting of (i) Shri H.N. Shah, General Manager (RE), (ii) Smt. Bhavani Ghattamaneni, Chief Finance Manager (Trading), (iii) Shri Parthiv Bhatt, Company Secretary, and (iv) Shri Nilay D. Joshi, COA, (F&A) as members for technical evaluation. The report of the Bid Evaluation Committee signed by the members is also filed with the Petition. The Petitioner had received online bids from 6 bidders offering aggregate capacity of 1260 MW, which were technically qualified by the Bid Evaluation Committee.
- 4.15. These 6 bidders who had submitted bids were technically qualified as per the report of the Bid Evaluation Committee and in accordance with the said report, the Financial Bids of all 6 bidders were opened on 20.04.2023 on e-bidding portal in presence of the Bid Evaluation Committee.
- 4.16. As per terms and conditions of tender, 5 bidders with aggregate capacity of 960 MW qualified for e-reverse auction and e-reverse auction was conducted by the Petitioner GUVNL on 20.04.2023. Accordingly, the Petitioner GUVNL conducted e-reverse auction for allocating 500 MW capacity from amongst 960 MW capacity qualified for

e-reverse auction out of the capacity of 1260 MW for which bids were received.

- 4.17. The e-auction report generated at the Bharat-electronic tender's portal is also filed with the Petition. Following prices were discovered at the closure of e-reverse auction held on Bharat-electronic tender's portal:

Rank	Bidder's Name	Rate (Rs. / KWH)	Quoted Capacity (MW)	Eligible Capacity (MW)
L1	ReNew Solar Power Private Limited	2.71	200	200
L2	Solarcraft Power India 21 Private Limited	2.74	60	60
L2	Mahindra Susten Private Limited	2.74	100	100
L3	Avaada Energy Private Limited	2.75	500	140
Total			860	500

- 4.18. It is stated that as per terms and conditions of the tender, there is allocation of additional 500 MW capacity through Greenshoe Option at L1 tariff to the successful Bidders to the extent of their respective quoted capacity. Also, the tender provides that in case any of the successful bidder does not accept the additional quantum offered under the Greenshoe Option, the same can be offered to other successful bidders. The Petitioner GUVNL has adopted the L1 priority principle for allocation of additional Greenshoe capacity not accepted by any of the successful bidder (s) in line with GUVNL's previous tender.
- 4.19. It is stated that M/s ReNew Solar Power Private Limited vide letter dated 26.04.2023 conveyed its willingness for 200 MW Greenshoe Capacity and M/s Solarcraft Power India 21 Private Limited vide letter dated 28.04.2023 conveyed its willingness for 60 MW Greenshoe Capacity, whereas M/s Mahindra Susten Private Limited vide letter dated 27.04.2023 expressed its willingness for additional 100 MW Greenshoe Capacity and M/s Avaada Energy Private Limited vide letter dated 27.04.2023 conveyed willingness for 140 MW Greenshoe Capacity.
- 4.20. Accordingly, the Petitioner GUVNL has issued Letter of Intents (LoIs) to L1, L2, L2, and L3 Bidders at the tariff of Rs. 2.7100-2.7300 per unit. In view of above, the total allotment of 1000 MW capacity under the tender is 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)	Weighted average tariff for total capacity
L1	ReNew Solar Power Private Limited	200	2.71	200	2.71	400	2.71
L2	Solarcraft Power India 21 Private Limited	60	2.74	60	2.71	120	2.7250
L2	Mahindra Susten Private Limited	100	2.74	100	2.71	200	2.7250
L3	Avaada Energy Private Limited	140	2.75	140	2.71	280	2.7300
Total		500		500		1000	

- 4.21. The Petitioner has issued Letters of Intent (LoIs) to the above successful bidders on 02.06.2023 for total capacity of 1000 MW as mentioned in the above table at the corresponding rates. As per terms and conditions of tender, the PPAs are to be signed with above successful bidders within 30 days from issuance of LOIs unless extended as per RfS. However, it has been mentioned in the LoIs that PPAs shall be signed with successful bidders or its SPV only after the approval of the Commission (GERC) and in accordance with such approval.
- 4.22. It is also stated that Clause No. 3.3.4 of RfS provides that in case the bidder wishes to set up projects at more than one location, then they would need to be physically identifiable with separate delivery points/interconnection points and metering arrangement. Further, successful bidder can sign different PPAs for different projects to be set up at different locations under the bidding company or its SPVs. Accordingly, the successful bidders have been given option to sign different PPAs for different projects to be set up at different locations in the LoIs issued.
- 4.23. In addition to the above, the Petitioner GUVNL also submitted the following aspects to be considered in relation to tie up of Solar Power from these projects.
- 4.23.1. As per GoI's commitment in revised Nationally Determined Contribution (NDC) at global level, 50% of total electrical installed capacity is to be tied up from non-fossil fuel based energy sources by 2030. The Petitioner has been undertaking Competitive Bidding Process for procurement of Wind and Solar power considering the RPO targets notified from time to time. Further, the Ministry of Power, Government of India, vide its Office Order dated 22.07.2022, has specified long term RPO trajectory

till FY 2029-30 which is higher than the RPO trajectory notified by the Commission.

The comparison of both the RPO Trajectories is tabulated as under:

Fin. Year	MoP RPO Trajectory (% of energy consumption)				GERC RPO Trajectory (% of energy consumption)				
	Wind	Hydro	Other	Total	Wind	Solar	Hydro	Other	Total
22-23	0.81	0.35	23.44	24.60	8.25	8.00	0.00	0.75	17.00
23-24	1.60	0.66	24.81	27.07	8.40	9.50	0.05	0.75	18.70
24-25	2.46	1.08	26.37	29.91	8.55	11.25	0.10	0.80	20.70
25-26	3.36	1.48	28.17	33.01	Yet to be notified				
26-27	4.29	1.80	29.86	35.95					
27-28	5.23	2.15	31.43	38.81					
28-29	6.16	2.51	32.69	41.36					
29-30	6.94	2.82	33.57	43.33					

4.23.2. It is stated that the working of year wise requirement of minimum installed capacity of power from Wind and Solar Projects for meeting RPO as per trajectory notified by MoP is under:

Year	Total Energy (Mus)	Wind RPO (%)	Wind (Mus)	Wind (MW)	Solar RPO (%)	Solar (Mus)	Solar (MW)	Total RE (MW)
23-24	128972	1.6	2064	942	24.81	31998	14611	15553
24-25	138001	2.46	3395	1550	26.37	36391	16617	18167
25-26	147661	3.36	4961	2265	28.17	41596	18994	21259
26-27	157997	4.29	6778	3095	29.86	47178	21542	24637
27-28	169057	5.23	8842	4037	31.43	53134	24262	28300
28-29	180891	6.16	11143	5088	32.69	59133	27001	32089
29-30	193553	6.94	13433	6134	33.57	64976	29669	35803

From the above working, it is transpires that RPO of "other" category will have to be predominantly met from solar projects. Further, the projected growth rate in energy has been considered at 7% on the energy purchased in FY 2022-23 (Provisional) and CUF of 25%. However, this is the minimum capacity that would be required and actual requirement is likely to further increase in coming years on account of increase in demand from sectors such as Electric Vehicle, Green Hydrogen etc.

4.23.3. The Petitioner GUVNL has stated the details of Solar and Wind Capacity tied up and commissioned as under:

	Tied up*	Commissioned /Synchronized	Expected by Mar-24	Expected by Mar-25
Solar				
Solar - preferential tariff	877	877	-	-
SSDSP	359	196	163	-
SECI / SJVN	255	255	-	-

Solar Comp bidding	6730	2875	2475	1380
Wasteland Scheme	811	176	540	95
Solar total tied up	9032	4379	3178	1475
Wind				
Wind - Comp bidding	1493	635	-	560
Wind - preferential tariff	3680	3680	-	-
REC Mechanism	205	205	-	-
Wind total tied up	5378	4520	-	560
Total	14410	8899	3178	2035
				5213

**excluding projects terminated.*

As per RPO notified by MoP, there is a minimum requirement of 18167 MW RE power by FY 2024-25 against which the present tie up is only of 14410 MW wherein 5213 MW RE capacity is in pipeline which includes about 1153 MW RE capacity which is presently facing the following issues.

- (a) 40 MW (Vena) indicated in FY 2023-24 is facing land related disputes pending in High Court.
- (b) 330 MW indicated in FY 2023-24 at tariff of Rs 1.99/unit has raised issue of BCD.
- (c) 355 MW indicated in FY 2024-25 at tariff of Rs 2.20/unit has raised issue of supply chain disruption.
- (d) 265 MW indicated in FY 2024-25 under wasteland scheme has raised issue of BCD.
- (e) 163 MW indicated in FY 2023-24 under SSDSP Scheme is having Subsidy issue.

Therefore, additional RE capacity would be required in FY 2023-24 and FY 2024-25 if the capacities under pipeline are delayed. In addition to above, the process for tie up of 1000 MW Solar Capacity and 480 MW wind capacity (after considering unsubscribed capacity) in the latest tenders is underway and these projects are expected to be commissioned in FY 2024-25.

4.23.4. Moreover, the Petitioner GUVNL has also given “In-Principle” approval to GSECL and GIPCL for purchase power from total 5700 MW capacity to be developed in GSECL & GIPCL solar parks at Khavda and the said 5700 MW capacity is proposed to be tied up in the FY 2023-24 with a target for getting generation from this capacity before