

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2268 of 2023.

In the matter of:

Petition under Section 86(1) (b) of the Electricity Act, 2003 for approval of Power Usage Agreement signed by GUVNL with Solar Energy Corporation of India Limited (SECIL) for Procurement of 700 MW Power from their Solar PV Power Plant to be set up under MNRE's CPSU Scheme Phase-II, Tranche -III awarded by IREDA.

Petitioner : Gujarat Urja Vikas Nigam Limited
Represented by : Ms. Vaishali Dalal and Mr. Amit Chavda
V/s.
Respondent : Solar Energy Corporation of India Limited
Represented by : Mr. Sanjeev Singh

CORAM:

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

Date: 28/03/2024.

ORDER

1. The present Petition has been filed by the Petitioner Gujarat Urja Vikas Nigam Limited (GUVNL), under Section 86 (1) (b) of the Electricity Act, 2003 seeking approval of Power Usage Agreement (PUA) signed by the Petitioner GUVNL with Solar Energy Corporation of India Limited (SECIL) for Procurement of 700 MW Power from their Solar PV Power Plant to be set up under MNRE's CPSU Scheme Phase – II, Tranche -III awarded by IREDA *interalia* seeking following prayers:

(a) *To admit the present Petition.*

- (b) *To approve the Power Usage Agreement dated 16.10.2023 signed with SECI for procurement of 700 MW power from SECI's Solar PV Power Plant to be set-up under MNRE's CPSU Scheme Phase-II, Tranche-III, at the tariff of Rs. 2.57/kWh awarded by IREDA.*
- (c) *To condone any inadvertent omissions/errors/shortcoming and permit the Petitioner to make minor addition/change/modification/alter this filing and make further submissions as may be required at a future date.*
- (d) *To craves relief for filing any further submissions.*
- (e) *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 86 (1) (b) of the Electricity Act, 2003 seeking approval of the Power Usage Agreement by the Commission and hence, it is necessary to refer aforesaid Sections as under:

“.....

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. Thus, it is apparent from the aforesaid provisions that the Petition filed by the Petitioner is within the purview of the Commission's jurisdiction and in terms of the powers vested by the Electricity Act, 2003 and Regulations framed thereunder, the Commission decides to admit the present Petition.
4. Facts mentioned in the Petition in brief are as under:
 - 4.1. The present Petition is being filed by the Petitioner GUVNL, a company incorporated under the provisions of the Companies Act, 1956. The Petitioner is a licensee and the entity undertaking bulk purchase of electricity from generating companies and other sources and bulk sale of electricity to the State Distribution Licensees.
 - 4.2. 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.
 - 4.3. 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.

- 4.4. 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.
- 4.5. 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.
- 4.6. Section 3 (1) of the Electricity Act 2003 requires the Central Government to formulate National Electricity Policy in consultation with CEA & State Government for, *inter-alia*, development of renewable sources of energy. In compliance with this provision, the Central Government has notified the NEP 2005 and Tariff Policy 2016 elaborating the role of Regulatory Commissions, mechanism for promotion and harnessing of renewable source of energy, time frame for implementation etc.
- 4.7. Section 86(1) (b) of the Electricity Act 2003 provide that the State 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.
- 4.8. It is stated that the Respondent SECI vide its letter dated 17.12.2021 had offered 1200 MW Solar Power to GUVNL from Solar PV Projects to be set up under MNRE's CPSU Scheme Phase-II, Tranche-III at the Rs. 2.45/kWh which was awarded by IREDA (Nodal Agency for handling the CPSU Scheme on behalf of MNRE) to SECI through Competitive Bidding Process.
- 4.9. MNRE vide Order dated 05.03.2019 has notified Central Public Sector Undertaking (CPSU) Scheme Phase-II (Government Producer Scheme) for setting up 12,000 MW Grid-connected Solar PV Projects by the Government Producers with Viability Gap Funding (VGF) support for self-use or use by Government/Government Entities either directly or through DISCOMs. The

power procured from Solar PV Projects under the Scheme has to be consumed by the Government entities only, which is in line with the General Agreement on Tariffs and Trade (GATT), 1994, which permits Governments to purchase domestic products preferentially without violating World Trade Organization (WTO) norms.

4.10. The purpose of the CPSU Scheme is, *interalia*, to facilitate national energy security and environmental sustainability through use of domestically manufactured Solar PV cells and modules and for use of such power generated from solar energy sources by Government/Government entities, namely, the Solar Power Projects shall be set up by Central Public Sector Undertaking and the end use of electricity shall also by the Government/Government entities, sourced either directly or through distribution licensee where the end user's facilities are situated.

4.11. Subsequently, MNRE vide Notification dated 03.07.2019 has issued Scheme Modalities and Role of DISCOMs in the aforesaid CPSU Scheme. The Scheme envisages below mentioned four different scenarios for generation and consumption of power and role of DISCOMS under each of the scenarios:-

- (i) Scenario I – Government Producers consuming power themselves.
- (ii) Scenario II – Government Producers supplying power to other identified Government Entities.
- (iii) Scenario III – Government Producers supplying power to large pool of unidentified Government Entities through DISCOMs wherein DISCOMs shall facilitate supply of power to other user Government entities by ensuring that the billing reflects 'usage charges not more than Rs.3.50/unit in addition to other charges.
- (iv) Scenario IV – PSU DISCOMS themselves become Government Producers.

4.12. Thereafter, MNRE vide Order dated 13.04.2020 and subsequently through Order dated 10.05.2021 has issued certain amendments to implementation modalities wherein the rate of Rs. 3.50/Unit has been reduced to Rs. 2.45/Unit and it is specified that 'mutually agreed usage charges' of not more than Rs.

2.45/Unit (excluding any other third party charges like wheeling and transmission charges and losses, point of connection charges and losses, cross-subsidy surcharge, SLDC/RLDC charges etc as may be applicable).

- 4.13. Apparently from the Scheme, the role of DISCOMS is to facilitate open-access to Government producers for self-use of the generated solar power or to supply the same to other user Government entities through open access and if the successful bidders SECI (or any other Agency) are offering power under Scenario III of the Scheme, then GUVNL/DISCOMS has to specifically mention in their bills to the User Government Entities/Government Consumers that "this includes supply of power at usage charges of not more than Rs. 2.45/unit, in addition to other regulatory mandated charges".
- 4.14. Ministry of New and Renewable Energy (MNRE), Government of India vide Office Memorandum dated 13.04.2020 has identified Indian Renewable Energy Development Agency Limited (IREDA) as the Nodal Agency for handling the CPSU Scheme on behalf of MNRE.
- 4.15. IREDA issued the RfS No. 23016/1/2020-IREDA/RfS/5000 MW/012021 on 29.01.2021 for selection of Solar Power Developers for setting up of 5,000 MW Grid Connected Solar PV Power Projects in India (Tranche-III) under Central Public Sector Undertaking (CPSU) Scheme Phase-II (Government Producer Scheme). Pursuance to this, IREDA has issued the Letter of Award [LoA No 23016/1/2020-IREDA/RfS/5000MW/012021/1412] dated 07.12.2021 to SECI for development of a Solar PV Power Project of 1200 MW and to make available the quantum of electricity for the end use of the electrical energy by the Government/Government entities through the Distribution Licensee.
- 4.16. SECI is a Government Producer within the scope of the CPSU Scheme being a Generating Company within the meaning of Section 2(28) of the Electricity Act, 2003 and a Government of India Enterprise, with more than 50% of its shareholding being owned and controlled by the Central Government.

- 4.17. SECI vide letter dated 03.11.2022 has informed GUVNL that IREDA has revised the maximum usage charges for the scheme from Rs. 2.45/kWh to Rs. 2.57/kWh due to increase in GST rate from 5% to 12% on solar module as notified by Government of India. Accordingly, revised tariff shall be Rs. 2.57/kWh.
- 4.18. SECI vide e-mail dated 28.06.2023 has revised the capacity from 1200 MW to 700 MW at the tariff of Rs. 2.57/kWh and also clarified that there is no trading margin applicable as project is developed by SECI as a generator.
- 4.19. SECI vide letter dated 13.07.2023 conveyed that GUVNL may issue the undertaking in the given format instead of mentioning on each and every bill that “the bill includes usage charges not more than Rs. 2.57/unit in addition to other charges”.
- 4.20. It is stated that earlier in February 2017, GUVNL has executed PPA with SECI for procurement of 250 MW power from Solar PV Projects located in Charanka Solar Park with mutually agreed terms & conditions. Accordingly, final draft PUA was finalized and signed in line with the terms & conditions of earlier PPA under the VGF Scheme of Government of India.
- 4.21. GUVNL vide letter dated 14.09.2023 has submitted the proposal to Energy & Petrochemicals Department, Government of Gujarat for its approval. In response to the same, Energy & Petrochemicals Department, Government of Gujarat vide letter dated 04.10.2023 has accorded the approval for Procurement of 700 MW Power from SECI's Solar PV Power Plant under MNRE CPSU Scheme Phase-II, Tranche-III, at a tariff of Rs. 2.57/kWh, subject to regulatory approval.
- 4.22. Accordingly, GUVNL has signed Power Usage Agreement (PUA) on 16.10.2023 with SECI for Procurement of 700 MW power from SECI's Solar PV Power Plant under MNRE CPSU Scheme Phase-II, Tranche-III, at the tariff of Rs. 2.57/kWh.
- 4.23. GUVNL intends to utilize the purchased energy for supply to various Government connections of State DISCOMs.

4.24. The Petitioner GUVNL has highlighted the salient features of the PUA executed with SECI are as under:

- (a) The Usage Charges for the power made available by SECI from Solar PV Station shall be payable by GUVNL @ Rs 2.57/kWh which shall be exclusive of any other third-party charges like Wheeling and Transmission Charges and Losses, Point of Connection Charges and Losses, Cross-Subsidy Surcharges, SLDC Charges etc. as may be applicable.
- (b) PUA term is 25 years from the SCD /actual COD whichever is later of the entire Solar PV Station.
- (c) Capacity Utilization Factor (CUF) is 22%.
- (d) The project shall be connected with STU grid and located in Gujarat.
- (e) The Schedule Commissioning Date or SCD of the project is 30.09.2024 or as extended by IREDA/MNRE, if any.
- (f) In cases of early part-commissioning as well as full commissioning of the project, till SCD, GUVNL shall purchase the power at PUA tariff.
- (g) Minimum capacity for acceptance of first and subsequent part(s) commissioning shall be 10 MW or balance project capacity whichever is lower.
- (h) Late Payment Surcharge shall be payable on the outstanding payment as per the provisions of Late Payment Surcharge Rules, 2022 and subsequent amendments thereof.
- (i) "Change in Law" shall mean any statutory change in tax structure or introduction of any new tax made applicable for setting up of Solar Power Project and generation of energy including change in any additional duties under Customs like Anti-Dumping Duty, Countervailing duty on subsidised articles, Safeguard duty etc. and any other taxes including GST, levies, cess etc. applicable on such additional duties resulting into any

additional recurring/non-recurring expenditure by SECI or any income to SECI.

4.25. It is stated about the National targets for RE that the Government of India has commitment in revised Nationally Determined Contribution (NDC) at global level, 50% of total electrical installed capacity of the Country is to be tied up from non-fossil fuel based energy sources by 2030. GUVNL has been tying-up the wind and solar power considering the RPO targets notified by the Commission & MoP, Government of India from time to time.

4.26. It is stated that the Ministry of Power, Government of India, vide Office Order dated 20.10.2023 has specified the long term RPO trajectory till 2029-30 and has fixed the minimum percentage of total consumption of electricity from RE sources. This trajectory is higher than the RPO trajectory notified by the Commission. The comparison of RPO Trajectory as notified by MoP vis-à-vis the Commission is tabulated as under (minimum percentage of total consumption of electricity):

FY	MoP RPO Trajectory (%)					GERC RPO Trajectory (%)				
	Wind	Hydro	Distributed RE	Other	Total	Wind	Solar	Hydro	Others	Total
2022-23	0.81	0.35	--	23.44	24.60	8.25	8.00	0.00	0.75	17.00
2023-24	1.60	0.66	--	24.81	27.07	8.40	9.50	0.05	0.75	18.70
2024-25	0.67	0.38	1.50	27.35	29.91	8.55	11.25	0.10	0.80	20.70
2025-26	1.45	1.22	2.10	28.24	33.01	Yet to be notified				
2026-27	1.97	1.34	2.70	29.94	35.95					
2027-28	2.45	1.42	3.30	31.64	38.81					
2028-29	2.95	1.42	3.90	33.10	41.36					
2029-30	3.48	1.33	4.50	34.02	43.33					

4.27. Accordingly, in order to fulfil RPO requirement notified by MoP, Government of India, there is requirement of substantial RE capacity addition. The details of RE capacity tied up by GUVNL and commissioned as on date is as under:

	Tied up	Commissioned	Under Construction
Solar total tied up	12432	4468	7964
Wind total tied up	5132	4274	858
Other RE	162	66	96.50
Total	17726	8808	8918

4.28. It is stated that Government of Gujarat has come out with Kisan Suryodaya Yojana – a scheme for supplying day power to Agricultural Consumers in the State of Gujarat. The objective of the scheme is to meet the agriculture demand during solar hours through comparatively cheaper solar generation. In order to meet the above objective of catering Agriculture demand during day time, extensive solar capacity addition is required.

4.29. The Petitioner GUVNL also stated its discovered tariffs in previous tenders wherein e-RA were conducted in the year 2023 as under

Sr. No.	Tender Phase	Tender capacity (Base+Greenshoe) (MW)	Capacity (MW)	Tariff discovered in e-RA (INR/kWh)	Month of e-RA
1	XVI	750+750 (Non-park)	520	2.49 - 2.66	Sep-22
2	XVIII	500+500 (Non-park)	860	2.51 - 2.52	Jan-23
3	XIX	500+500 (Non-park)	1000	2.71 - 2.75	April-23
4	XVII	600+600 (Park)	1200	2.73 - 2.89	May-23
5	XX	800+800 (Park)	1600	2.70 - 2.71	June-23

Looking to the discovered tariff of last three e-RA from Rs.2.70 to Rs.2.89 per unit, SECIL's offered tariff of Rs. 2.57/kWh which is supported by Central Government VGF under the CPSU scheme, seems to be very much reasonable, considering STU connectivity.

4.30. Based on the above, it is submitted that the Petitioner has filed present Petition under Section 86(1)(b) of the Electricity Act, 2003 seeking approval of Power Usage agreement (PUA) dated 16.10.2023 signed by GUVNL with Solar Energy Corporation of India Limited (SECIL) for Procurement of 700 MW Power from SECI's Solar PV Power Plant to be set-up under MNRE's CPSU Scheme Phase-II,

Tranche-III, at the tariff of Rs. 2.57/kWh awarded by IREDA, for Procurement of Power by GUVNL on behalf of four state DISCOMs.

5. The matter was heard on 22.12.2023. The representative appearing on behalf of the Petitioner and Respondent, reiterating the facts of the Petition & IA as stated in above para.
- 5.1. After hearing the parties, the Commission has passed Daily Order dated 19.02.2024. The Commission recorded the submissions of the Petitioner that they have filed an IA being IA No. 64 of 2023 seeking impleadment of Solar Energy Corporation of India Limited as a party Respondent in the present Petition and accordingly requested to the Commission to implead Solar Energy Corporation of India Limited as Respondent and to take the amended memo of Solar Energy Corporation of India Limited on record. The Commission also recorded the submissions of the Petitioner GUVNL that SECI had initially offered 1200 MW Solar Power to GUVNL from the Solar PV Projects to be set up under MNRE's CPSU Scheme Phase-II, Tranche-III at the rate of Rs. 2.45/kWh which was awarded by IREDA through Competitive Bidding Process. Thereafter, SECI has informed that IREDA has revised the maximum usage charges for the Scheme was from Rs. 2.45 per kWh to Rs. 2.57 per kWh which is exclusive of other charges such as Wheeling and Transmission Charges and losses, Cross Subsidy Surcharges, SLDC charges and the reason for increase in usage charges is due to increase in GST rate from 5% to 12% on solar module as notified by Government of India. Accordingly, revised tariff shall be Rs. 2.57 per kWh. Further, SECI has also reduced the capacity from 1200 MW to 700 MW at the tariff of Rs. 2.57/kWh. SECI has clarified that no trading margin is applicable as project is developed by SECI as a Generator.
- 5.2. The Commission further noted the submissions of the representative appearing on behalf of the Respondent SECI that there is no objection to impleadment of SECI in the present matter and made the request to the Commission to approve the PPA dated 16.10.2023 executed with the Petitioner GUVNL. Accordingly, the Commission has decided to implead SECI as a party Respondent and to take the amended memo of SECI on record.

6. We have considered the submissions made by the Petitioner and the Respondents. The Petitioner has filed the present Petition under Section 86 (1) (b) of the Electricity Act, 2003. The Petitioner has sought the approval of the Commission for Power Usage Agreement (PUA) dated 16.10.2023 executed between the Petitioner GUVNL and the Respondent SECI for Procurement of 700 MW power from SECI's Solar PV Power Plant under MNRE CPSU Scheme Phase – II, Tranche – III at the tariff of Rs. 2.57 per kWh.
- 6.1. The Respondent SECI vide letters dated 06.01.2021 & 16.08.2021 had offered the Petitioner GUVNL for procurement of Solar power from various SECI's ISTS Solar Tranche schemes. Thereafter, SECI vide letters dated 02.09.2021, 09.09.2021 and 17.09.2021 conveyed the Petitioner GUVNL that Government of India has waived off imposition of ISTS charges on the transmission of electricity generated from power plants using solar and wind sources of energy including Solar-Wind Hybrid Power Plants with or without storage which have been commissioned on or before 30.06.2025. It is also conveyed that the aforesaid waiver of transmission charges will be applicable on all of these projects based on MoP's Order No. 23/12/2016-R&R-Part (1) (239444) dated 21.06.2021 and as amended from time to time and waiver of transmission charges for the projects under Manufacturing linked solar scheme is available beyond 30.06.2025 as per the said MoP's Order dated 21.06.2021. The Respondent SECI also made a request to the Petitioner to accept the aforesaid offered ISTS connected Solar power by giving its consent for procurement of power as per list on merit order basis as SECI offered these power to all the buying utilities with lower tariff based on first come first served basis.
- 6.2. The Petitioner GUVNL vide its letter No. GUVNL/COM/GM (RE&IPP)/1335 dated 07.10.2021 informed the Respondent SECI that the Petitioner is willingness to procure 1000 MW power from SECI's ISTS Solar Tranche IX projects having waiver of change in law on account of BCD, i.e., 700 MW and 300 MW capacity at the tariff of Rs. 2.37 per unit and Rs. 2.38 per unit respectively excluding SECI's trading margin. It is also stated that as the proposed trading margin of Rs. 0.07 per unit being substantially high, request has been made to

SECI to reduce the same so as to enable GUVNL to pass on the benefit of reasonable tariff to the end-consumers. It is also stated that as there shall be an additional impact of inter-state transmission losses to the tune of Rs. 0.03-0.04 per unit approximately, the Petitioner further requested that the implication of applicable transmission loss may be borne by SECI. The aforesaid letter is reproduced as under:

“

Ref. No. GUVNL/COM/GM (RE& IPP)/1335

Date: 07.10.2021

To,
Shri Atulya Kumar Naik
General Manager (Power Trading Dept.)
Solar Energy Corporation of India Ltd
6th Floor, Plate-B, NBCC Office Block Tower 2
East Kidwai Nagar
New Delhi 110023

Sub: Procurement of ISTS grid-connected solar power from SECI's Scheme

**Ref: (i) GUVNL's letter dated 23.11.2020
(ii) Your letters dated 02.09.2021, 09.09.2021 & 17.09.2021**

This has reference to your letter dated 17.09.2021 offering solar power from below mentioned various ISTS grid-connected Solar Tranches and requesting GUVNL to indicate its consent for procurement of power from the list on merit-order basis.

Sr. No.	Status	Scheme	Capacity (MW)	Tariff (Rs. /kWh) (Excl. SECI's Trading)
1	BCD Waiver available (Change in law on account of imposition of BCD will not be claimed by either Party)	ISTS Solar Tranche VIII	300 MW	2.50
2			100 MW	2.50
3			200 MW	2.51
4		ISTS Solar Tranche IX	300 MW	2.37
5			300 MW	2.37
6			100 MW	2.37
7				300 MW
8		Manufacturing linked Solar Tranche I	1200 MW	2.54
9	BCD waiver not available	ISTS Solar Tranche VIII	600 MW	2.50
10		ISTS Solar Tranche IX	150 MW	2.36

GUVNL hereby conveys its willingness to procure 1000 MW power from SECI's ISTS Solar Tranche IX Projects having waiver of change in law on account of Basic Customs Duty (BCD) i.e., 700 MW and 300 capacity at the tariffs of Rs.

2.37/unit and Rs. 2.38/unit respectively (excluding SECI's trading margin). However, the proposed trading margin of Rs. 0.07/unit being substantially high, GUVNL requests SECI to suitably reduce the same so as to enable GUVNL to pass on the benefit of best possible reasonable tariff to the end-consumers of Gujarat. Moreover, it is understood that there shall be an additional impact of inter-state transmission losses to the tune of Rs. 0.03–0.04/unit approximately. It is requested the implication of applicable transmission loss may be borne by SECI or the Generator.

Further, as conveyed vide our earlier letter dated 23.11.2020, SECI is requested the align key-provisions of the proposed Power Sale Agreement (PSA) in line with the terms & conditions of GUVNL's Solar PPAs executed under Competitive Bidding viz. Force Majeure, Change in Law, Event of Default, Payment Security Mechanism, etc.

Furthermore, as you are aware, MNRE has come out with a Discussion Paper on "One Nation One Tariff" RE Power being bid out by Central Agencies viz. SECI etc. as an initiative for "Uniform RE Tariff for DISCOMs". It is not clear whether the proposed mechanism shall be applicable for the prospective PSAs executed between SECI / Central Agencies and DISCOMs or shall be imposed retrospectively. GUVNL therefore seeks clarification with regard to the proposed concept of "Uniform RE Tariff" and applicability of the same to the aforesaid Solar Projects.

Your prompt response and formal confirmation is solicited on the above aspects with regard to GUVNL's readiness for procurement of 1000 MW power from SECI's ISTS Customs Duty (BCD) i.e. 700 MW and 300 capacity at the tariffs of Rs. 2.37 / unit and Rs. 2/38 unit respectively.

Thanking You,

Yours faithfully,

Sd/-
(Sailaja Vachhrajani)
General Manager (RE & IPP)

.....”

- 6.3. In response to the same, the Respondent SECI vide its Letter No. SECI/PT/CPSU-II/T-III/GUVNL/2021/45641 dated 17.12.2021 had offered 1200 MW Solar Power to GUVNL from Solar PV Projects to be set up under MNRE's CPSU Scheme Phase-II, Tranche-III at the Rs. 2.45/kWh which was awarded by IREDA (Nodal Agency for handling the CPSU Scheme on behalf of MNRE) to SECI through Competitive Bidding Process. It is also stated that the scheme features suit the requirements of the Petitioner as no trading margin is applicable over the tariff of Rs. 2.45 per unit and requested to convey GUVNL's acceptance to

procure 1200 MW solar power under the proposed CPSU scheme at the earliest so that the PUA will be signed. The relevant portion of the aforesaid letter is reproduced as under:

“.....

To,
The General Manager (RE& IPP)
Gujarat Urja Vikas Nigam Limited (GUVNL)
Sardar Patel Vidyut Bhavan,
Race Course
Vadodara – 390007,Gujarat

Sub: Inviting consent for procurement of 1200 MW Solar Power from SECI under CPSU scheme Phase – II, Tranche – III

Ref: 1. GUVNL Letter No. GUVNL/COM/GM (RE&IPP)/1335 dated 07.10.2021

2. IREDA RfS No. 23016/1/2020-IREDA/RfS/5000 MW/012021 dated 29.01.2021

Ma'am,

This is with reference to Letter No. 1335 dated 07.10.2021 from your good office regarding procurement of solar power from SECI (ref.a). SECI has reviewed GUVNL's conditions conveyed vide above letter and SECI would like to offer GUVNL 1200 MW Solar Power awarded to SECI by IREDA through competitive bidding under MNRE's Central Public Sector Undertaking Phase – II, Tranche – III scheme.

The scheme features suit the requirements of GUVNL as no trading Margin is applicable over the Tariff of Rs. 2.45/KWh. Detailed comments of SECI on GUVNL's letter (ref 1) is enclosed as Annexure -A.

Considering the above, it is requested to convey GUVNL's acceptance to procure 1200 MW solar power under the proposed CPSU scheme at the earliest, so that the PSA will be signed at the earliest.

An early response in this regard is highly appreciated.

Thanking You,

*Yours sincerely,
Sd/-
17.12.2021
(Atulya Kumar Naik)
General Manager
Power Trading Department*

.....”

- 6.4. MNRE vide Order dated 05.03.2019 has notified Central Public Sector Undertaking (CPSU) Scheme Phase-II (Government Producer Scheme) for setting up 12,000 MW Grid-connected Solar PV Projects by the Government Producers with Viability Gap Funding (VGF) support for self-use or use by Government/Government Entities either directly or through DISCOMs. The power procured from Solar PV Projects under the Scheme has to be consumed by the Government entities only, in line with the General Agreement on Tariffs and Trade (GATT), 1994, which permits Governments to purchase domestic products preferentially without violating World Trade Organization (WTO) norms. The purpose of the CPSU Scheme is, interalia, to facilitate national energy security and environmental sustainability through use of domestically manufactured Solar PV cells and modules and for use of such power generated from solar energy sources by Government/Government entities, viz., the Solar Power Projects shall be set up by CPSU and the end use of electricity shall also by the Government/Government entities, sourced either directly or through distribution licensee where the end user's facilities are situated.
- 6.5. Subsequently, MNRE vide Notification dated 03.07.2019 has issued Scheme Modalities and Role of DISCOMs in the aforesaid CPSU Scheme. Thereafter, MNRE vide Orders dated 13.04.2020 & 10.05.2021 has issued certain amendments to implementation modalities wherein the rate of Rs. 3.50 per unit has been reduced to Rs. 2.45 per unit and also that 'mutually agreed usage charges' of not more than Rs. 2.45 per unit excluding third party charges such as wheeling and transmission charges and losses, point of connection charges and losses, Cross-Subsidy Surcharge, SLDC/RLDC charges etc. as may be applicable.
- 6.6. As per the Scheme, the role of DISCOMs is to facilitate open-access to Government producers for self-use of the generated solar power or to supply the same to other user Government entities through open access and if the successful bidders SECI (or any other Agency) are offering power under Scenario III of the Scheme, then GUVNL/DISCOMs have to specifically mention in their bills to the User Government Entities/Government Consumers that "this

includes supply of power at usage charges of not more than Rs. 2.45 per unit, in addition to other regulatory mandated charges.

- 6.7. Ministry of New and Renewable Energy (MNRE), Government of India vide Office Memorandum dated 13.04.2020 has identified Indian Renewable Energy Development Agency Limited (IREDA) as the Nodal Agency for handling the CPSU Scheme on behalf of MNRE.
- 6.8. IREDA had issued RfS No. 23016/1/2020-IREDA/RfS/5000 MW/012021 on 29.01.2021 for selection of Solar Power Developers for setting up of 5000 MW Grid Connected Solar PV Power Projects in India (Tranche-III) under Central Public Sector Undertaking (CPSU) Scheme Phase-II (Government Producer Scheme). Pursuant to this, IREDA has issued the Letter of Award No. 23016/1/2020-IREDA/RfS/5000MW/012021/1412 dated 07.12.2021 to SECI for development of a Solar PV Power Project of 1200 MW and to make available the quantum of electricity for the end use of the electrical energy by the Government/Government entities through the Distribution Licensee.
- 6.9. The Commission notes that the power procurement by Petitioner GUVNL is followed by RfS No. 23016/1/2020-IREDA/RfS/5000 MW/012021 dated 29.01.2021 issued by IREDA and LOA issued to the Respondent SECI for development of a Solar PV Power Project of 1200 MW and to make available the quantum of electricity for the end use of the electrical energy by the Government/Government entities through the Distribution Licensee, as stated in above paras is towards fulfilment of RPO as specified by the Commission in the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 as amended from time to time including the GERC (Procurement of Energy from Renewable Sources) (Third Amendment) Regulations, 2022. In the said Regulations, the Commission has stipulated the RPO requirement of Distribution Licensees till FY 2024-25 as under:

Year	Minimum Quantum of purchase (in %) from renewable energy sources (in terms of energy in kWh)				
	Wind (%)	Solar (%)	Hydro Power Purchase	Others (Biomass, Bagasse & Biofuel based)	Total

			Obligation (HPO) (%)	cogeneration, MSW and Small/Mini/Micro Hydro (%)	(%)
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

6.10. From the above table it is apparent that the Petitioner is required to procure Solar power in order to meet its Solar RPO targets.

6.11. RPO fulfillment of the Petitioner on present requirement is met by either procuring renewable energy or procuring equivalent renewable energy certificates from Indian Energy Exchange (IEX) and therefore, this Solar procurement will also be helpful in meeting the RPO compliance for existing as well the upcoming load as envisaged in the license area of the Petitioner.

6.12. The Petitioner has also stated that the Ministry of Power vide its Notification dated 20.10.2023 has specified the long term RPO trajectory till 2029-30 and has fixed the minimum percentage of total consumption of electricity from RE sources as under:

FY	MoP RPO trajectory (%)				
	Wind	Hydro	Distributed RE	Other	Total
2022-23	0.81%	0.35%	--	23.44%	24.60%
2023-24	1.60%	0.66%	--	24.81%	27.07%
2024-25	0.67%	0.38%	1.50	27.35%	29.91%
2025-26	1.45%	1.22%	2.10	28.24%	33.01%
2026-27	1.97%	1.34%	2.70	29.94%	35.95%
2027-28	2.45%	1.42%	3.30	31.64%	38.81%
2028-29	2.95%	1.42%	3.90	33.10%	41.36%
2029-30	3.48%	1.33%	4.50	34.02%	43.33%

6.13. Considering the anticipated increase in requirement of the Petitioner as well as the increased RPO requirement, procurement of Solar Power Purchase will enable the Petitioner to meet its RPO as well as its increased demand from its consumers in its license area.

6.14. The Petitioner has stated and sought the approval of the Commission under Section 86(1)(b) & (e) of the Electricity Act, 2003, which reads as under:

“Section 86. (Functions of State Commission):

(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;

.....

(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

The aforesaid provision states the functions of State Commission regulating to electricity power procurement of the distribution licensee including the quantum of power, price and agreement between supplier of power and distribution licensee. Also, the State Government has to promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person and specify for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee. Therefore, the power procurement of the distribution licensee needs approval of the Commission.

6.15. Thus, it is apparent from the aforesaid provisions that the Petition filed by the Petitioner is within the purview of the Commission's jurisdiction and in terms of the powers vested by the Electricity Act, 2003 and Regulations framed thereunder, the Commission is empowered to decide the present Petition.

6.16. It is also necessary to refer the provisions of guidelines for procurement of power by distribution licensee notified by the Commission vide Notification No. 2 of 2013. The relevant provisions of the said guidelines are reproduced below:

“.....

7. In case of procurement of power through competitive bidding, the Distribution Licensees shall initiate the process for long-term / medium-term power procurement in accordance with the Ministry of Power's 'Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees' notified by the Ministry of Power on 19/01/2005 and in force from time to time. As provided in the MoP Guidelines:

- a) The bid documentation shall be prepared in accordance with the MoP guidelines and the approval of the GERC shall be obtained unless the bid documents are as per the standard bid documents issued by the Central Government. In the latter case, intimation shall be sent by the Distribution Licensee to the GERC about initiation of the bidding process.
- b) Approval of the GERC shall be sought in the event of any deviations from the bidding conditions contained in the MoP guidelines, and in following the process described in the MoP guidelines.
- c) Approval of the GERC shall be sought prior to initiating the bidding process with regard to the following aspects:
 - i. For the quantum of capacity / energy to be procured, in case the same exceeds the projected additional demand forecast for the next three years following the year of expected commencement of supply proposed to be procured. Such demand forecast shall be based on the latest available (at the time of issue of RFQ) Electric Power Survey published by the Central Electricity Authority (Both for Case 1 and Case 2).
 - ii. For the transfer price of fuel, in case of fuel specific procurement enquiry, if such price has not been determined by government, government approved mechanism or a fuel regulator (under Case 2).

8. *In case of long-term / medium-term procurement of power from generating sources, where tariff is to be determined / adopted by the Central Electricity Regulatory Commission, the Distribution Licensee shall take prior approval of the GERC before entering into any such arrangement.*
9. *In case of long-term / medium-term procurement of power from generating sources, where tariff is to be determined by the GERC, the Distribution Licensee shall enter into such arrangement or agreement only after getting prior approval of the power purchase agreement.*
10. *For getting approval of draft PPA, the Distribution Licensee shall submit an application along with the details of quantum of power, justification for selecting a particular source/technology and the draft PPA document.*
- a) *The Distribution Licensee shall, within 7 days after registration of the application, publish a notice of his application in at least two daily newspapers, one in English language and one in vernacular language, having wide circulation in the relevant area.*
- b) *The suggestions and objections, if any, on the proposal for procurement of power and draft PPA, may be filed before Secretary, GERC, by any person within 30 days of publication of this notice with a copy to the applicant.*
- c) *The GERC shall, within ninety (90) days from the date of registration of a complete application and after considering all suggestions and objections received from the public, issue Order approving/rejecting the proposal and draft PPA with such modifications or such conditions as may be specified in that Order.*

.....”

The aforesaid provision provides that the distribution licensee whenever initiate process for procurement of power on long term/medium-term basis the same shall be following MoP guidelines for determination of tariff by bidding

process. The bid documents shall be in accordance with the MoP guidelines. In case of any deviation from the standard bid documents prior approval of the Commission is required. Further, the prior approval with regard to quantum of the capacity/ energy to be procured also be obtain from the Commission. It also provides that in case of power procurement from the generating stations whose tariff determined by CERC in that case an approval of this Commission is needed prior to entering in the power procurement arrangement.

- 6.17. The Respondent No. 1 SECI is a Government of India Enterprise and has been incorporated in order to promote the renewable power in the country and facilitate to implement the policies of MNRE, Government of India. In the present case, SECI is a Government Producer within the scope of the CPSU Scheme being a Generating Company within the meaning of Section 2(28) of the Electricity Act, 2003 and having more than 50% of its shareholding being owned and controlled by the Central Government.
- 6.18. As noted above, the Respondent SECI vide letter dated 17.12.2021 had offered the Petitioner GUVNL to procure 1200 MW Solar Power from Solar PV Projects to be set up under MNRE's CPSU Scheme Phase-II, Tranche-III at the Rs. 2.45/kWh awarded by IREDA to SECI through Competitive Bidding Process in order to fulfil the Petitioner's demand and thereby RPO targets under the schemes of SECI.
- 6.19. Thereafter, the Respondent SECI vide its letter No. SECI/PT/CPSU-II/T-III/GUVNL/2022/52212 dated 03.11.2022 informed the Peittioner that IREDA has revised the maximum usage charges for the scheme from Rs. 2.45/kWh to Rs. 2.57/kWh due to increase in GST rate from 5% to 12% on solar module as notified by Government of India. Accordingly, applicable revised tariff shall be Rs. 2.57/kWh. The relevant portion of the said letter is reproduced as under:

“.....

No. SECI/PT/CPSU-II/T-III/GUVNL/2022/52212

Date: 03.11.2022

*The General Manager (RE & PP)
Gujarat Urja Vikas Nigam Limited (GUVNL)
Sardar Patel Vidhyut Bhavan,*

Race Course,
Vadodara – 390 007, Gujarat

Sub: Inviting consent for procurement of 1200 MW Solar Power from SECI under CPSU scheme Phase – II.

Ref: 1. SECI Letter No. SECI/PT/CPSU-II/GUVNL/2022/45641 dated 17.12.2021

Sir,

*This is reference to SECI's offer letter (ref 1), it is intimated that IREDA (Scheme Implementing Agency) has revised the maximum usage charges (applicable tariff) for the scheme from **Rs. 2.45/kWh to Rs. 2.57/kWh**, given the increase in GST rates from 5% to 12% on solar modules as notified by Government of India vide its Notification No. 8/2021 – Central Tax (Rate) dated 30.09.2021 (Annexure – 2).*

Accordingly, the revised applicable tariff as mentioned in SECI's offer letter dated 05.08.2022 will be Rs. 2.57/kWh. All the other conditions, as mentioned originally in said offer letter, remain unchanged.

Salient features of this Scheme are listed below for ready reference :-

- *Tariff include change in GST rates as notified by Government of India (GoI) vide its Notification No. 08/2021 – Central Tax (Rate) dated 30.09.2021.*
- *No impact of change in BCD rates imposed on imported modules as per GoI Order.*
- *ISTS Transmission Charges are waived off as per Ministry of Power (MoP) order dated 23.11.2021 & 30.11.2021*

In view of the above, it is requested to provide solar quantum required by GUVNL under the proposed CPSU scheme at the earliest, so that the Power Usage Agreement (PUA) may be signed at the earliest.

An early response in this regard is highly appreciated.

Thanking you,

*Yours Sincerely,
Sd/-
03.11.2022
(Atulya Kumar Naik)
General Manager
Power Trading Department*

.....”

From the above letter, it is observed that the Respondent No. 1 SECI has informed the Petitioner about the revised applicable tariff of Rs. 2.57 per kWh on account

of increase in GST rates on solar modules and other terms & conditions of letter dated 05.08.2022 remain changed and requested the Petitioner GUVNL to provide solar quantum required by GUVNL under the proposed CPSU scheme at the earliest.

- 6.20. The Respondent SECI also reduced the capacity of 500 MW i.e. from 1200 MW to 700 MW at the rate of Rs. 2.57 per unit and that there is no trading margin applicable as project is developed by the Respondent SECI as a generator. The Respondent SECI has also informed the same through email dated 28.06.2023 to the Petitioner GUVNL. The content of aforesaid email is reproduced as under:

“

From: Sanjeev Singh [mailto:sanjeev@seci.co.in]

Sent: 28 June 2023 18:20

To: depsp guvnl; decom guvnl; gmiip guvnl

Cc: Tarun Mukhija; Peram Aditya

Subject: SECI Offer for allocation of 1200 MW Solar Power under CPSU Scheme

Dear Sir,

This is in reference of telephonic discussion held today, Please find the attached SECI offer letter for 1200 MW Solar Power under CPSU Scheme sent earlier on dated 3rd Nov, 2022.

Under this CPSU Scheme, SECI would like to offer available 700 MW Power to GUVNL at a tariff of Rs. 2.57/kWh.

It is pertinent to mention that this project is to be developed by SECI as a Generator, so doesn't have any impact of trading margin, also doesn't have any implication of BCD on Solar Modules and imposition of GST as applicable vide Notification No. 8/2021.

.....”

- 6.21. We also note that the Respondent SECI vide letter dated 13.07.2023 conveyed the Petitioner GUVNL regarding the issuance of the undertaking in the given

format instead of mentioning on each and every bill that “the bill includes usage charges not more than Rs. 2.57/unit in addition to other charges”. The aforesaid letter dated 13.07.2023 is reproduced as under:

“.....

No. SECI/PT/CPSU-II/GUVNL/2023/57037

Date: 13.07.2023

To
The General Manager (RE & IPP)
Commerce Department
Gujarat Urja Vikas Nigam Limited)
Sardar Patel Vidyut Bhavan, Race Course,
Vadodara – 390 007

Sub: *Inviting consent for procurement of 500 MW Solar Power from SECI under CPSU Phase-II, Tranche III Scheme*

- Ref: 1. IREDA RfS No. 23061/1/2020-IREDA/RfS/5000 MW/012021 dated: 29.01.2021
2. SECI Letter No. SECI/PT/CPSU-II/GUVNL/2021/45641 dated: 17.12.2021
3. SECI Letter No. SECI/PT/CPSU-II/GUVNL/2022/52212 dated 03.11.2022
4. SECI Letter No. SECI/PT/CPSU/GPL/2023/55254 dated: 25.04.2023

Sir,

It is to inform that SECI was awarded 1200 MW Solar Power under CPSU Phase-II Tranche III Scheme, floated by IREDA vide referred RfS. Currently, SECI has 500 MW Solar Power available under the scheme and SECI would like to offer the same to GUVNL at a tariff of Rs. 2.57/kWh. This project is to be developed by SECI as own project, so doesn't have any applicability of trading margin, also doesn't have any implication of BCD on Solar Modules and imposition of GST as applicable vide Notification No. 8/2021 dated 30.09.2021

As per provisions of CPSU guidelines/Tender documents, "electricity produced from solar power project(s) implemented under CPSU scheme, will be used by Government/Government entities, either directly or through Distribution Companies (DISCOMS)". It is understood that GUVNL is a Govt. Entity and also have Government Entities as a substantial part of the consumers as Government Entities.

In regard of this, GUVNL is required to submit the enclosed undertaking (Annexure 1). It is to intimate that the same undertaking has been submitted by other DISCOMs in CPSU Phase-I Scheme.

It is submitted that out of awarded 1200 MW capacity, present status of project is as follows:

- a. 300 MW capacity will be developed at Ramagri, AP, and may be awarded by August 2023. (Modules tender finalized and EPC tender Published and under bidding stage, Land in possession and Connectivity approval in place).*
- b. Another 300 MW capacity is being developed at NP Kunta AP, and may also be awarded by Aug 2023. (Modules ready, Land acquisition under process. Connectivity will be obtained after land acquisition, BOS tender will be issued after land acquisition).*
- c. SECI vide letter dated 25.04.2023 (Ref 4) has requested GPCL, inter alia, to provide information on availability of land to set up 700 MW Solar PV project in State of Gujarat. Since the same is beneficial for GUVNL as well, the proposed option may be explored.*

Draft PUA, along with RfS documents is attached herewith as Annexure II. Please find the following terms & conditions in the draft PUA:

9. Force Majeure

Neither party shall be liable for any claim for any loss or damage whatsoever arising out of failure to carry out the terms of the Agreement to the extent that such a failure is due to Force Majeure Events such as war, rebellion, mutiny, civil commotion, riot, forces of nature, accident, act of God or terrorism or any other reason beyond the control of concerned party. Any party claiming the benefit of this clause shall reasonably satisfy the other party of the existence of such an event and give written notice within a reasonable time to the other party to this effect. Generation/Usage of power shall be started as soon as practicable by the parties concerned after such eventuality has come to an end or ceased to exist.

10. Change in Law

10.1 "Change in Law" shall mean the occurrence of any of the following events after the last date of bid submission (i.e. 31.08.2021), resulting into any additional recurring/non-recurring expenditure by the SECI or any income to the SECI:

- a) the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law:*
- b) a change in the interpretation or application of any Law by any Indian Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law:*

- c) *the imposition of a requirement for obtaining any Consents, Clearances, Permits and/or licenses which was not required earlier:*
- d) *a change in the terms and conditions prescribed for obtaining any Consents, Clearances and permits or the inclusion of any new terms or conditions for obtaining such Consents, Clearances and Permits; except due to any default of the SECI:*
- e) *any statutory change in tax structure or any change in the rates of any taxes or introduction of any new tax made applicable for setting up of Solar Power Project and supply of power by the SECI to the Distribution Licensee.*

10.2. Further, "Change in Law" shall also mean any statutory change in tax structure or introduction of any new tax made applicable for setting up of Solar Power Project and generation of energy including change in any additional duties under Customs like Anti-Dumping Duty, Countervailing duty on subsidised articles, Safeguard duty etc, and any other taxes including GST, levies, cess etc. applicable on such additional duties resulting into any additional recurring/non-recurring expenditure by the SECI or any income to the SECI.

10.3 Further, it is clarified that by virtue of Notification No. 8/2021 dated 30.09.2021, the GST rate for specified renewable energy devices and parts for their manufacture have increased from 5% to 12%. In this regard, the matter was examined at MNRE and considering change in GST rate as "Change in Law", the maximum usage charge has been revised to the Rs. 2.57 by MNRE, for Tranche-III of the CPSU Scheme phase-II. In case of any further Change in rate of GST post aforesaid notification no. No. 8 /2021 dated 30.09.2021, the same will be considered as Change in Law event and for occurrence of all other change in law events, cut-off date will be the bid submission date (i.e. 31.08.2021).

11 RELIEF FOR CHANGE IN LAW

11.1 SECI shall be required to approach the Central Commission for seeking approval of Change in Law.

11.2 The decision of the Central Commission to acknowledge a Change in Law and the date from which it will become effective, provide relief for the same, shall be final and governing on SECI and the Distribution Licensee.

11.3 While determining the consequence of Change in Law under Article 11, the Parties shall have due regard to the principle that the purpose of compensating the Party affected by such Change in Law, is to restore through Monthly Usage Charge payments, to the extent contemplated in this Article 11, the affected Party to the same economic position as if such Change in Law has not occurred.

It is requested to confirm the requirement of quantum of solar power under the proposed CPSU scheme at the earliest, so that the Power Usage Agreement (PUA) will be signed at the earliest.

An early response in this regard is highly appreciated.

Thanking you,

*Yours Sincerely,
Sd/-
13.07.2023
(Atulya Kumar Naik)
General Manager (PT)*

.....”

- 6.22. Earlier, in February 2017, the Petitioner GUVNL also has executed PPA with SECI for procurement of 250 MW power from Solar PV Projects located in Charanka Solar Park with mutually agreed terms & conditions. Accordingly, final draft PUA was finalized and signed in line with the terms & conditions of earlier PPA under the VGF Scheme of Government of India.
- 6.23. Upon the receipt of proposal from the Respondent SECI, the Petitioner vide its letter No. GUVNL/GM (RE)/Solar/1156 dated 14.09.2023 submitted the aforesaid proposal to the Energy & Petrochemicals Department, Government of Gujarat and requested to the Government to approve the proposal for procurement of 700 MW power from Solar Energy Corporation of India (SECI)'s Solar PV Power Plant to be set up under MNRE's CPSU Scheme Phase-II, Tranche-III at tariff of Rs. 2.57/kWh subject to change on account of Change in Law after the date of signing of PUA, under bilateral mode at proposed terms & conditions. In response to the same, Government vide letter No. EPCB/0302/09/2023 dated 04.10.2023 has stated that the proposal of the Petitioner GUVNL has been reviewed at government level and thereby approval was accorded for procurement of 700 power from SECI's Solar PV Power Plant under MNRE CPSU Scheme Phase – II, Tranche-III at the tariff of Rs. 2.57 per unit subject to regulatory approval.
- 6.24. Accordingly, the Petitioner GUVNL has executed Power Usage Agreement with the Respondent SECI on 16.10.2023 for Procurement of 700 MW Power from

SECI's Solar PV Power Plant under MNRE CPSU Scheme Phase – II, Tranche-III at the tariff of Rs. 2.57 per unit. The Petitioner GUVNL has intended to utilize the purchased energy for supply to various Government connections of State Discoms.

6.25. We note that the Petitioner GUVNL and the Respondent SECIL have submitted that SECI will approach CERC for tariff adoption under Section 63 of the Electricity Act, 2003. Hence, we direct both the Petitioner GUVNL and the Respondent SECIL to submit the Order/approval of CERC for adoption of tariff in the present case whenever the tariff adopted by the CERC.

6.26. We note the silent features of the PUA dated 16.10.2023 executed between the Petitioner GUVNL and the Respondent SECI as under:

- (a) The Usage Charges for the power made available by SECI from Solar PV Station shall be payable by GUVNL @ Rs 2.57/kWh which shall be exclusive of any other third-party charges like Wheeling and Transmission Charges and Losses, Point of Connection Charges and Losses, Cross-Subsidy Surcharges, SLDC Charges etc. as may be applicable.
- (b) PUA's term is 25 years from the SCD /actual COD whichever is later of the entire Solar PV Station.
- (c) Capacity Utilization Factor (CUF) is 22%.
- (d) The project shall be connected with STU grid and located in Gujarat.
- (e) The Schedule Commissioning Date or SCD of the project is 30.09.2024 or as extended by IREDA/MNRE, if any.
- (f) In cases of early part-commissioning as well as full commissioning of the project, till SCD, GUVNL shall purchase the power at PUA tariff.
- (g) Minimum capacity for acceptance of first and subsequent part(s) commissioning shall be 10 MW or balance project capacity whichever is lower.

- (h) Late Payment Surcharge shall be payable on the outstanding payment as per the provisions of Late Payment Surcharge Rules, 2022 and subsequent amendments thereof.
- (i) "Change in Law" shall mean any statutory change in tax structure or introduction of any new tax made applicable for setting up of Solar Power Project and generation of energy including change in any additional duties under Customs like Anti-Dumping Duty, Countervailing duty on subsidised articles, Safeguard duty etc. and any other taxes including GST, levies, cess etc. applicable on such additional duties resulting into any additional recurring/non-recurring expenditure by SECI or any income to SECI.

6.27. We also note that the Government of Gujarat has come out with Kisan Suryoday Yojana – a scheme for supplying day power to Agricultural Consumers in the State of Gujarat in order to meet the agriculture demand during solar hours through comparatively cheaper solar generation. Therefore, extensive solar capacity addition is required. Further, the Petitioner has tied up Solar capacity 12432 MW out of which 4468 MW is commissioned and 7964 MW capacity is under construction. Whereas in case of Wind, the total capacity tied up is 5132 MW out of which 4274 MW is commissioned and 858 is under construction, while in case of Other RE capacity, the Petitioner has total tied up 162 MW out of which 66 MW capacity is commissioned and 96 MW is under construction. Therefore, against the total RE capacity of 17726 MW, only 8808 MW capacity are commissioned and 8918 MW capacity are under construction. Moreover, in order to meet the objectives of catering agriculture demand during day time through comparatively cheaper solar generation, it is required for the Petitioner to tie up extensive solar capacity addition in order to comply with RPO targets and achieve an objective of National targets for RE.

6.28. It is stated about the National targets for RE that the Government of India has commitment in revised Nationally Determined Contribution (NDC) at global level, 50% of total electrical installed capacity of the Country is to be tied up from non-fossil fuel based energy sources by 2030. Moreover, RPO targets are notified by the Commission & MoP, Government of India from time to time. DISCOMs are mandated to fulfill the same and non compliance of the same

would result into penalties in accordance with the Regulations/Guidelines. Thus, substantial RE capacity addition would be required in future years to comply with the RPO targets.

6.29. Further, during the last year i.e., FY 2022-23, the Petitioner has floated various solar' tenders for procurement of power through competitive bidding process wherein the tariff is discovered in the range of Rs. 2.49-2.89 per unit whereas SECIL's offered tariff of Rs. 2.57 per unit which is supported by Central Government VGF under the CPSU Scheme seems to be reasonable considering at STU connectivity.

6.30. In view of the above, the Commission hereby approved the Power Usage Agreement executed between the Petitioner GUVNL and the Respondent SECI on 16.10.2023 for Procurement of 700 MW Power from SECI's Solar PV Power Plant to be set-up under MNRE's CPSU Scheme Phase - II, Tranche - III, at the tariff of Rs. 2.57 per unit awarded by IREDA.

6.31. We note that the Petitioner has already executed Power Supply Agreement (PSA) with Solar Energy Corporation of India Limited on 16.10.2023. We direct the Petitioner that for the purpose of transparency, to publicly disclose the duly executed the PPA dated 16.10.2023 with SECI and the tariff quoted by them together with the breakup with the component, for 30 days on its website for knowledge and information of the stakeholders.

7. With this Order, the present Petition stands disposed of accordingly.

8. Order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Sd/-
[Anil Mukim]
Chairman

Place: Gandhinagar.
Date: 28/03/2024.