

Clause as per the SBD	Deviations	Reasons for deviations
	<i>Tariff Quoted and all statutory levies viz. Transmission Charges and Losses, etc. in (Rs. /kWh)) to be done at the Maharashtra State Transmission Utility (STU) Periphery.</i>	savings of the overall landed cost at Maharashtra STU Periphery in case of Bids are received at Inter-state as well as Intra-state

3.45. The salient features of RFP documents for Hydro and FDRE are as given below:

Particulars	Hydro Medium Term	Hydro Long Term	FDRE
Source of Power	Hydro – Run off the River with or without Pondage	Hydro – Run off the River with or without Pondage	Solar / Wind / Energy Storage System
Tenure of PPA	4 years	For the period of 5 to 10 years and / or any further extension of distribution licensee period or till useful life whichever is earlier	
Greenshoe Option	No	No	Yes
Hours of Supply	RTC or based on Availability RTC	RTC or based on Availability	RTC
SBD	Notification No. 23/17/2013-R&R (Vol-VI) Part 2 dated 29.01.2019	Notification No. 23/17/2013-R&R (Vol-VI) Part 2 dated 29.01.2019	Resolution no. 23/03/2023-R&R dated 09.06.2023
Model	Existing Plants	Existing Plants or Plants expected to be commissioned in 1 year from the date of notification of the RfP	Design, Build, Finance, Own and Operate (DBFOO)
Delivery Point	STU Periphery	STU periphery or CTU Periphery	STU periphery or CTU Periphery
Inter-State Transmission Charges	Covered under Change in Law	Covered under Change in Law	Covered under Change in Law
Performance Security by Developer	Rs. Two lakh per MUs of Contracted Capacity	Rs. Two lakh per MUs of Contracted Capacity	Performance Bank Guarantee = [INR 29,00,000 x Contracted Capacity of Solar component (MW) + INR 34,70,000 x Contracted capacity of Wind component (MW) + INR 12,00,000 x ESS Capacity (MWh)].
Tariff (Rs./kWh)	Single Part Tariff	Single Part Tariff	Levelised Tariff
Unutilised Capacity	Any profit or loss realised, through such sale shall be shared with the Procurer in the ratio of 50:50	Any profit or loss realised, through such sale shall be shared with the Procurer in the ratio of 50:50	Excess of the Contracted Capacity in any time- block, to any third-party or power exchange
Alternate Supply	Allowed at same tariff	Allowed at same tariff	Source up to 5% RE power (in energy terms), on annual basis, from the green market sources/other bilateral agreements, towards meeting the supply conditions.
Financial Closure	-	-	12 months
Payment Security	Letter of Credit/BG	Letter of Credit/BG	Letter of Credit/BG
Late Payment Surcharge	Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 notified by the Ministry of Power vide Gazette notification dated 3rd June 2022”		
Trader	Allowed	Allowed	Not allowed

Particulars	Hydro Medium Term	Hydro Long Term	FDRE
Landed cost Evaluation in (Rs./kWh)	Evaluation to be done at Maharashtra STU Periphery	Evaluation to be done at Maharashtra STU Periphery	Evaluation to be done at Maharashtra STU Periphery

- 3.46. With respect to Power Procurement from Bagasse, the Commission has approved MoU based purchase from bagasse for MSEDCL vide Order dated 30 September 2020 in Case No. 26 of 2020 and Case No. 27 of 2020. Accordingly, NUPLLP proposes to tie up bagasse-based power on MOU basis as per approval of the Commission for MSEDCL at same rate and terms/conditions.
- 3.47. MERC RE Tariff Regulations, 2019 allows signing of PPA based on recently discovered tariff for the project with threshold capacity.
- 3.48. The Commission vide its Order dated 21 January 2021 in Case No. 2 of 2021 has allowed the distribution licensee i.e. MSEDCL to enter into EPA/PPA through MoU with the new bagasse-based co-generation plants upto capacity of 1350 MW at the tariff of Rs. 4.75 per unit for a tenure of 20 years.
- 3.49. Based on the principles adopted in the above said order, NUPLLP proposed to procure power under MoU route from Bagasse Generator whose plant is yet to be commissioned or EPA is expired or going to expire with a ceiling tariff of Rs. 4.75/kWh.
- 3.50. The draft PPA is prepared on the similar line to the PPA as approved for MSEDCL, with certain following deviations submitted for the approval of the Commission:

Clause	Deviations	Reasons for deviations
Definition	Expiry Date - to the expiry of the NUPLLP Distribution license i.e. till 18th February 2034 or till the useful life of the plant (if the period of the licensee is extended)	Considering that the distribution license of NUPLLP is getting expired on 18 th February 2034, the same is considered as the expiry date. In case the same is extended, the expiry date will be till useful life of the plant.
5.1.3	The generator shall not be entitled to claim benefits of Renewable Energy Certificate's (REC's) as power being supplied is Green Power to meet RPO of Buyer/NUPLLP.	Clarificatory clause as per RPO Regulations
5.6.1	In case the surplus power is available over and above the exportable power contracted in this PPA, Generator will be allowed to schedule the excess power upto 5% of the exportable contracted capacity with prior notice of 2 days and above 5% of the exportable contracted capacity with prior notice of 7 days, for which the tariff as specified in clause 5.9 will be payable.	The limit as per MSEDCL is 10% which is revised to 5% considering the demand of NUPLLP is low and the variation of 10% may have a huge impact on the load profile.
6.7	Payment Security Mechanism	Apart from Letter of Credit, an option of bank guarantee equivalent to the 100% of the average billing of the season generation corresponding to Contracted Capacity (exportable power during the season) at the tariff indicated in PPA is provided.
6.8	Performance Security Guarantee during operation	The provision for Performance Guarantee from Generator is included against the performance of

Clause	Deviations	Reasons for deviations
		generator obligation for a sum equivalent to Rs 2 Lakh per MW for 6 months (Seasonal period) and provision for renewal of such contract on seasonal basis is included, so as to avoid any additional working capital burden on generator.
20.3 / 20.6	Change in Contracted Capacity / First Right of Refusal	In case of any augmentation or increase in self-consumption results in change in contracted capacity, generator to sign the supplementary PPA for such variation and in case of increase in capacity, the first right of refusal to procure power remains with Distribution licensee.
Annexure F of the Draft PPA	Operation Procedure during the Contract Period	Clause related to “Scheduling of Power” modified for easiness in operation.

- 3.51. NUPLLP has proposed to tie up hydro, bagasse, and FDRE as it can be an ideal combination to meet the demand for several reasons such as Complementary Generation Profiles, Reliability and Stability, Cost-Effectiveness, Environmental Benefits and Seasonal and Geographical Suitability.
- 3.52. In view of the aforesaid, Overall, the mix of hydro, bagasse, and FDRE provides a robust, flexible, and environmentally friendly way to meet demand, ensuring reliable power supply across different times of the day and seasons.
- 3.53. NUPLLP will approach the Commission for approval of source specific quantum and most economic combination of multiple sources along with adoption of tariff for rates discovered during the competitive bidding process.
- 3.54. Considering that existing PPA of NUPLLP is expiring in January 2025 and for issue of medium / long term tender, many activities are required to be undertaken to ensure flow of power from Medium Term Contract from February 2025. Accordingly, NUPLLP has prepared a tentative timeline for the entire process of approval of PPAs under power procurement plan. NUPLLP requested the Commission to approve the power procurement plan on priority basis considering paucity of time.
- 3.55. Based on the power requirement, NUPLLP has planned to procure power in following phasing manner:
- Short Term Power Procurement** – 1 December 2024 to 30 June 2025. (Bidding process successfully concluded, NUPLLP in process to file the Petition for approval of the Commission shortly as per MERC RA Regulations) and for any additional quantum it shall initiate the short-term power procurement.
 - Medium Term Power Procurement** from 1 February 2025 to 31 January 2029 (will approach Commission for approval by December 2024) - 2 months for closing Tender.
 - Long Term Power Procurement** for period of around 9 years starting from 1st April 2025 to 18th February 2034 or 1 July 2025 to 18th February 2034.
- 3.56. The tentative timeline for completing the tender process for procurement of Hydro Power

under Medium/Long Term is proposed as T_0 (zero date) is considered as 28th October 2024 for Medium Term Hydro Tender so as to finalised the availability of the power by February 2025.

- 3.57. Post discussions with the SECI, it was understood that the procurement of such FDRE power would be feasible for the Long-Term arrangement i.e. minimum 15 year to 25 years. However, considering the balance licensee period of 9 years, at this stage it will be difficult for any developer to participate in FDRE bid. However, NUPLLP seeks approval of the Commission for issuance of tender documents for FDRE to test the market and seek response from interested developers to supply power under FDRE. The Draft RfP and PPA for FDRE have been prepared considering the Standard Bidding Guidelines and tender documents issued by SJVN and SECI.
- 3.58. In view of the aforesaid, NUPLLP requested the Commission to allow NUPLLP to proceed ahead with its power procurement through renewable sources such as Hydro, Baggage and FDRE based power procurement.
4. The Petitioner through IA No. 63 of 2024 in this Case, filed on 22 October 2024, requested for early hearing in the matter to receive approval to the PPA in the prescribed time, so that bidding processes can be initiated as per proposed procurement plan.
5. At the e-hearing held on 25 October 2024, the Petitioner reiterated its submission as made in its petition along with the IA. The Commission allowed the IA as well as the Petition and reserved the matter for final Orders.

Commission's Analysis and Ruling:

6. The present Petition has been filed by NUPLLP, deemed Distribution Licensee in its specific SEZ area, seeking approval to the Power Procurement Plan for FY 2025-26 to FY 2033-34 as per MERC (Framework for Resource Adequacy) Regulations, 2024 along with the Tender documents for procuring power through Renewable Energy Sources such as Bagasse, Hydro or Firm Despatchable Renewable Energy (FDRE) on Medium / Long Term basis.
7. Considering the submission made in the matter, the Commission deals the frames following issues for its considerations:
- I. Sales/demand Projections of NUPLLP
 - II. Approval of Power Procurement Plan for FY 2025-26 to FY 2033-34
 - III. Approval to tender documents for procuring Hydro Power on Medium/Long Term basis with certain deviations.
 - IV. Approval to tender documents for procuring Firm Despatchable Renewable Energy (FDRE) Power on Long Term basis.

- V. Approval to Draft PPA for procuring power through Bagasse based generator on MoU basis.

The Commission is addressing these issues in the following paragraphs.

8. Issue I: Sales/Demand Projections of NUPLLP:

- 8.1. NUPLLP in its Petition has projected sales for 10 years i.e. FY 2024-25 to FY 2033-34, till 18th February 2034 (i.e. date of expiry end of License). NUPLLP, while seeking approval for procurement plan has considered the sales as projected in its Resource Adequacy Plan submitted to the Office of the Commission.
- 8.2. The Commission notes that vide its letter dated 18 November 2024, it has returned RA Plans submitted by SEZ based Distribution Licensees with direction to resubmit the same along with MYT Petition after incorporating various points mentioned in that letter.
- 8.3. The Commission also notes that NUPLLP has not filed any MYT Petition under MYT Regulations, 2024. Its earlier tariff Petition filed under Case No. 19 of 2022 was rejected by the Commission on account of the following:

13. In the present case, initial notification of SEZ was for 139.83 hectares. However, SEZ's Board of Approval in its meeting held on 9 November, 2016 directed to de-notify part of SEZ area. Although NUPLLP was well aware of this fact during the proceeding in Case No. 128 of 2016, it did not disclose such factual position before the Commission and hence the Commission notified special conditions of Licence on 26 May 2017 with original area of SEZ i.e. 139.83 hectares. As SEZ gets Distribution Licensee status under the Electricity Act, 2003 on the basis of its SEZ status, on 9 November 2016 itself NUPLLP was not eligible to act as Distribution Licensee for entire original area of SEZ. But still on 1 October 2018, NUPLLP has commenced its operation as Distribution Licensee in original SEZ area, even though the part of the original SEZ area stood denotified on that day.

14. During proceeding of taking on record of de-notification of SEZ in Case No 111 of 2019, in order to ensure continuity of supply to consumers which are being served by NUPLLP, the Commission has ruled as follows:

.....

In above quoted paras of Order dated 15 March, 2021, the Commission has observed that to give effect to de-notification of SEZ area in licence conditions, concerned developer has to approach the Commission for modification of its licence and during that proceeding the Commission shall ensure continuity of electricity supply to the consumers in de-notified area. Accordingly, in present case, the Commission directed NUPLLP to continue supplying electricity in de-notified area till alternate arrangement is finalised based on petition to be filed by NUPLLP by 30 April, 2021.

15. However, Hon'ble APTEL on the appeal filed by NUPLLP has stayed the Commission's direction of filing of petition and for alternate arrangement for supplying power to the consumers in de-notified area. Relevant extract of the same is as follows:

"Heard the learned senior counsel, Mr. Sajan Poovayya representing the applicant/appellant and also the learned counsel, Mr. Ashish Singh representing the second respondent/MSEDCL on the interim application (IA no. 611 of 2021). Having heard the learned counsel for both sides, we are of the opinion that the directions given in the impugned Order dated 15.03.2021 by the State Commission for petition to be filed by the appellant by 30.04.2021 be suspended till further orders. We order accordingly."

16. The Interim Order is limited to the filing of the petition. NUPLLP is continuing to supply electricity to those consumers in the de-notified area. By relying on this aspect, NUPLLP is stressing that the Commission should admit its tariff Petition which includes these consumers in de-notified area also. NUPLLP is thus requesting relaxation in the MYT Regulations wherein the process has been stipulated. The Commission cannot go beyond the stipulated Regulations and NUPLLP will be required to submit the data in the formats as stipulated and/or as sought through the data gaps. The Electricity Act provides for a very transparent tariff determination process through Public participation for which the relevant data has to be in the Public domain. Thus, NUPLLP among other things, will be required to submit the category wise data separately for the notified and the de-notified area.

17. The Commission notes that NUPLLP supplying electricity in de-notified area is just an interim arrangement. Such interim arrangement cannot be used to claim Distribution Licence status in de-notified area in perpetuity. Hon'ble APTEL has only stayed direction to submit alternate arrangement for de-notified area, APTEL has not set aside Order of the Commission rejecting NUPLLP petition requesting distribution licence outside notified area of SEZ. As stated earlier, SEZ gets Distribution Licensee status based on SEZ notification, once such notification is revoked, distribution licensee status also gets revoked after ensuring continuity of supply to consumers.

18. In present MYT Petition, along with true up figures for past period, NUPLLP has projected ARR and tariff till FY 2024-25 by including consumers in de-notified area. This means NUPLLP is assuming itself as a Distribution Licensee in de-notified area for future period also. As the Commission cannot determine tariff for area outside distribution licence, the office of the Commission had initially raised data gaps and asked NUPLLP to provide segregated data for de-notified area (134.79 hectares) and remaining area (5.04 hectares) in SEZ. But NUPLLP refused to submit the same and is insisting on processing of the present Petition as it is.

19. As the Commission cannot determine the distribution tariff for area outside the licence area, and it is incorrect on the part of NUPLLP to presume that NUPLLP will continue to supply electricity in de-notified area as an interim arrangement till FY

2024-25, therefore, the Commission cannot admit this tariff Petition in the present form. NUPLLP is at liberty to approach afresh once pending litigation regarding its area of supply is finalised.

20. Meanwhile, as ruled in its earlier Order dated 3 August, 2017 in Case No. 47 of 2017, NUPLLP is allowed to charge its consumers the tariff applicable to the respective categories of MSEDCL's (parallel licensee in that area) consumers as the ceiling tariff, and apply the same Schedule of Charges as is applicable to the consumers of MSEDCL.

Thus, as noted in above quoted area, some part of NUPLLP's licence area has been de-notified and in order to ensure continuity of supply to the consumers in de-notified area, as an interim arraignment, the Commission directed NUPLLP to continue supplying power in that area till such area is handover to MSEDCL following due process. Further in the above Order, the Commission also stated that such interim arrangement cannot be treated as long-term arrangement and accordingly, NUPLLP cannot consider sales in de-notified area for purpose of tariff determination.

- 8.4. In present matter also, it is observed that NUPLLP has included sales in de-notified area for purpose of long-term demand projection. This is not consistent with the Commission's observations in above quoted Order. NUPLLP is supplying power to such consumers as an interim arrangement and on account of stay by the APTEL on Commission's direction to file petition for alternate arrangement of supply to de-notified area. Therefore, post issuance of final Order by the APTEL, possibility of NUPLLP not supplying power in that de-notified area cannot be ruled out. In that case, demand projections and power required may undergo change. Under such circumstances, just like Tariff Petition, present Petition filed by NUPLLP can also be rejected. But such decision would impact supply of power to licence area also, hence the Commission is considering the present Petition with a condition that any changes in power procurement and its implications on account of de-licence area shall be at the risk on NUPLLP.
- 8.5. While forecasting the future demand, NUPLLP acknowledged its inability of providing load projections for the future years due to lack of business visibility at present, however has considered that certain new consumers may be added in Commercial Building (Data Centre) whereby demand of 0.5 MW to 2 MW will be an additional load to be catered every quarter and no adjustment of open access consumers is considered.
- 8.6. Accordingly, the demand has been forecasted after considering the distribution loss of 0.81% as per actual loss for FY 2023-24 and Transmission loss of 3.18% as approved in Commission's InSTS Order in Case No. 239 of 2022. The Actual demand of 11.92 MW is proposed to increase upto 48.63 MW in February 2034 till the expiry of license period. Based on the above, the Energy sales projected by NUPLLP are as follows:

Sales in MU										
Particulars	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29	FY 29-30	FY 30-31	FY 31-32	FY 32-33	FY 33-34
Sales till EoY	8.72	13.54	16.35	20.87	23.88	25.74	27.14	28.53	29.93	31.32

- 8.7. As no Tariff Order has been issued for NUPLLP, the sales cannot be compared with any already approved sales.
- 8.8. The intent of present proceeding is to approve the power procurement plan for NUPLLP as its existing tie-up are only for short term and NUPLLP has to conduct frequent bidding processes. Therefore, time being without going into correctness of sales projections submitted in present Petition, the Commission has considered energy sales, load as projected by NUPLLP to evaluate its power procurement plan.

9. Issue II: Approval of Power Procurement Plan for FY 2025-26 to FY 2033-34:

- 9.1. NUPLLP has submitted the Petition for approval of power procurement plan as per Regulation MERC (Framework of Resource Adequacy) Regulations, 2024. Regulation 15.2 of the MERC (Framework of Resource Adequacy) Regulations, 2024 specifies as follows about the Power Procurement Plan to be submitted by a Distribution Licensee

“15.2. The distribution licensee shall prepare a power procurement plan which shall comprise of the following:

- a) Demand forecast as per Regulation 6 and 7;*
- b) An estimate of the quantities of electricity supply from the identified sources of power purchase, including own generation if any;*
- c) An estimate of availability of power to meet the RAR as per Regulation 12;*
- d) Standards to be maintained with regard to quality and reliability of supply, in accordance with the relevant Regulations of the Commission;*
- e) Measures proposed for energy conservation, energy efficiency, and Demand Side Management.*
- f) The requirement for new sources of power procurement, including augmentation of own generation capacity, if any, and identified new sources of supply, based on (a) to (e) above;*
- g) The sources of power, quantities, and cost estimates for such procurement...” (emphasis added)*

- 9.2. Regulations 14 and 17 of MERC (Framework of Resource Adequacy) Regulations, 2024 (RA Regulations) allows the Distribution Licensee as below:

“14.5. The power procurement from Wind, Solar PV, Wind Solar Hybrid, Round the Clock (RTC) generations shall be carried out as per the guidelines for tariff based competitive bidding process notified by the Ministry of Power.

14.6. The distribution licensee shall contract storage capacity corresponding to the results of MT- DRAP capacity addition requirement for future years from Battery Energy Storage System (BESS) and/or Pump Storage Projects (PSP) or any other storage technology based on the availability of resources as per the guidelines for tariff based competitive bidding process notified by the Ministry of Power.

14.7. The distribution licensee may contract power through State Generating Stations / Central Generating Stations / Independent Power Producers (IPPs) / Captive Power Plants (CPPs) / Renewable Power Plants including Co-Generation Plants / Central Agencies / State Agencies / Intermediaries / Traders / Aggregators / Power Exchanges or through bilateral agreements / Banking arrangements with other distribution licensees, Over-the-counter (OTC) or any other platform recognized and approved by the Central Electricity Regulatory Commission and any other sources as may be approved by the Commission under Section 62 or Section 63 of the Act in compliance with competitive bidding guidelines.

14.8 The distribution licensee may procure power on Short-term and Medium-term basis through DEEP and PUSHP portal ...”

9.3. Regulation 20.1 of the MYT Regulations, 2024 specifies as follows about the Power Procurement Plan to be submitted by a Distribution Licensee:

“20.1 The Distribution Licensee shall prepare a plan for procurement of power to serve the demand for electricity in its area of supply considering the provisions of the MERC (Framework for Resource Adequacy) Regulations, 2024 and submit such plan to the Commission for approval:

Provided that while preparing power procurement plan, the Distribution Licensee shall ensure availability of adequate inter-state and intra-state transmission network as per STU transmission plan or highlight transmission constraints or network augmentation requirements to cater to its proposed power procurement arrangements outlined under their procurement plan.

Provided further that such power procurement plan approved under MERC (Framework for Resource Adequacy) Regulations, 2024 for the Control Period commencing on April 1, 2025, shall be filed along with the Petition for determination of Tariff for the Control Period from April 1, 2025 to March 31, 2030, in accordance with Part A of these Regulations. ...”

The Commission has evaluated NUPLLP’s power procurement plan in terms of the above provisions of Regulations.

9.4. The Commission further notes that Regulations 12.10 of RA Regulations, 2024 mandated licensee to procure minimum 70% of Resource Adequacy requirement (RAR) through Long-term contracts and minimum 20% of RAR from Medium Term and rest from short term contracts. However, only 9 years of License period for NUPLLP is left, therefore, post FY 2026-27, certain quantum of total power requirement is proposed to be procured under short term and medium term basis.

- 9.5. The details of the Power Procurement Plan proposed by NUPLLP as mentioned above at para 3.37. The Commission notes that NUPLLP has proposed to issue RFP for procurement power of Hydro and through FDRE to meet the demand till licensee period by way of Long/Medium and Renewable Energy/Thermal Power for Short-Term considering the licensee term, market scenario, interest of the bidder and obligations as per RA Regulations, 2024.
- 9.6. The Commission further notes the submission of NUPLLP that it shall approach the Commission separately for grant of 25-year licensee period from the issuance of Order for taking on record NUPLLP's Deemed Distribution Licensee status vide its Order dated 10 February 2017 in Case No. 128 of 2016 [i.e. 25 years, from 10.02.2017 to 09.02.2042). Based on the outcome of the said Petition, NUPLLP may extend the duration of the PPA for procurement of power under Long Term PPA upto the extended License Period or the useful life of the generator, whichever is earlier.
- 9.7. In view of foregoing, the Commission allows NUPLLP for the procurement of power under medium and long term for the base load and under short term for the incremental load during the year. Further, in case of any variation in demand forecast by 10-15%, NUPLLP shall separately approach the Commission for revision in the power procurement plan.
10. **Issue III: Approval to tender documents for procuring Hydro Power on Medium/Long Term basis with certain deviations.**
- 10.1. The Commission notes the submission of NUPLLP that Tender documents prepared by it for Hydro are in line with the Competitive Bidding Guidelines issued by Ministry of Power. However, the deviations are pertaining to the removal of the provisions relating to Financial Closure, Deed of Hypothecation and Escrow Account, since, NUPLLP is considering the procurement from the existing generating station or the generating stations expected to be commissioned within 1 year from the date of notification of the RfP. This deviation is due to the existing license period ending 18 February 2034, therefore the long-term procurement cannot be up to the useful life of the generating station i.e. 30 or 35 years, unless extended by the Commission.
- 10.2. The Commission notes the Central Government vide its letter No. 23/17/2013-R&R-Vol-VI (Part 2) dated 29th January 2019, has issued the revised bidding documents (i) a single document as the "Standard Bidding Document" comprising both the Model Request for Qualification and the Model Request for Proposal and (ii) Model Agreement for Procurement of Power to be adopted by distribution licensees for Procurement of Electricity from the Power Producers/Traders/Distribution Licensees through a process of open and transparent competitive bidding conducted by Distribution Licensees through an electronic platform (DEEP e-Bidding Portal) based on offer of the lowest tariff from power generating stations constructed and/or operated on FOO basis.
- 10.3. Further Ministry of Power vide resolution dated 30th January, 2019 issued revised Guidelines for Procurement of Electricity for Medium Term from Power Stations set up on Finance, Own and Operate (FOO) basis. According to which, any deviation in the model bidding

documents shall be approved by the appropriate Commission. Related clause is reproduced below:

“4. Any deviation from the Model Bidding Documents shall be made by the Distribution Licensees only with the prior approval of the Appropriate Commission. Provided, however, that any project specific modifications expressly permitted in the Model Bidding Documents shall not be construed as deviations from the Model Bidding Documents. ...”

10.4. The Commission notes that NUPLLP has utilized the said Standard Bidding Documents with certain deviations and therefore has approached the Commission for approval to the deviations. Proposed deviations are related to Tariff mechanism, billing, procedural and contractual aspects.

10.5. The Commission further notes that Standard Bidding Document (SBD) for the Long Term is considered same as the SBD for the Medium-Term procurement of power notified by the Central Government vide notification dated 30 January 2019, since the Long Term Procurement of power can be maximum around 9 (nine) years i.e., upto term of Distribution Licence.

10.6. Major deviation sought in the Standard bidding document are:

10.6.1. **Single Part Tariff as against Two Part Tariff as per SBD:** Since, the term of the Contract in the NUPLLP’s case is not more than 10 years in case of Long Term and not more than 5 years in case of Medium-Term contract and the proposed procurement is expected from Small Hydro Plants, hence, for the simplicity, Single Part Tariff (Rs/kWh) is proposed instead of two-part tariff as per the SBD viz. Fixed Charge and Variable Charges. RE Tariff Regulations also specifies a single part tariff for Small Hydro Generators and will result in more participation from the Generators.

10.6.2. **Removal of provision regarding Escrow Account and Deed of Hypothecation:** NUPLLP has proposed non-consideration of the Escrow Account on account of the provision of Letter of Credit would be sufficient for the Payment Security. Deed of Hypothecation is removed as is part of Escrow Agreement related provisions under the SBD

10.6.3. **Term of PPA:** NUPLLP has proposed the same document to be used for the long-term procurement, therefore, Term of PPA left blank as “XX” instead of 5 years as per SBD.

10.6.4. **Third Party Sale:** treatment given in SBD for the Dispatch of unutilised Contracted Capacity has been made consistent with MoP’s vide notification dated 8 October 2021, providing the sharing of profit and loss in the ration of 50:50.

10.6.5. **Discount for early payment:** 2.00% (two per cent) discount for early payment within 7 (seven) days of the date of submission of the invoice and 1.00 % (one percent) for the payment made in the following week (i.e. within 8th to 15th day) and no rebate for the payment made between 16th day to 30th Day, has been proposed as against 1.00 % (one percent) for the payment made within 5 days, as per SBD. This deviation is proposed for early remittance of

the outstanding dues to get maximum rebate and delay in payment would impact the rebate realization.

- 10.6.6. **Tender evaluation criteria:** A new clause has been added to the tender evaluation criterion for evaluating the Landed Cost (inclusive of Tariff Quoted and all statutory levies viz. Transmission Charges and Losses, etc. in (Rs. /kWh)) to be done at the Maharashtra STU Periphery. The said clause has been added to the RFP for comparing the savings of the overall landed cost at Maharashtra STU Periphery in case of Bids are received at Inter-state as well as Intra-State.
- 10.6.7. There are several other deviations proposed are of the clarificatory nature and removal of clauses due to abovesaid deviations, to make consistent for eligibility to existing operational plant or expecting the commissioning in the one year, removal of clause from settlement of UI to the Deviation Settlement Mechanism, due to introduction of DSM Regulations, addition of clause for debarring the seller from participating in Power Exchanges and on the Discovery of Efficient Electricity Pricing portal and scheduling of any new short-term contracts, in case of schedule of tied up power to other, etc.
- 10.6.8. The Commission notes that the existing contracts of procurement of power are under short term and had to face frequent bidding process and facing the challenges of uncertainty of availability of low-cost short-term power for the shorter capacity.
- 10.6.9. The Commission in its Order dated 6 March 2024 in Case No. 213 of 2023 had directed NUPLLP to initiate the process of procurement of power for the base load quantum through medium/long term PPA. Accordingly, NUPLLP has approached the Commission for approval of the procurement plan.
- 10.6.10. The Commission observes that being a small licensee with very less demand, higher rates for shorter quantum in the market, limitation of the end of license period in February 2034, NUPLLP have its own limitations for providing power to its consumer at competitive rates. However, to overcome these challenges, for increasing tender participation which may lead to a competitive Tariff, NUPLLP has proposed above mentioned deviations. Therefore, the Commission deems it appropriate to accept the deviation proposed by NUPLLP.
- 10.6.11. In view of the above, the Commission accords approval to deviations proposed in RFP and Draft PPA for procurement of Hydro power on Medium/Long term basis.
11. **Issue IV: Approval to tender documents for procuring Firm Despatchable Renewable Energy (FDRE) Power on Long Term basis.**
- 11.1. The Commission notes the submission of NUPLLP that RFP documents prepared by it for procuring FDRE power on long term are in line with the Competitive Bidding Guidelines issued by the Ministry of Power.
- 11.2. The Commission notes the Central Government vide its letter No. 23/03/2023-R&Rdated 9th

June 2023 has issued Guidelines for Tariff Based Competitive Bidding Process for Procurement of Firm and Dispatchable Power from Grid Connected Renewable Energy Power Projects with Energy Storage Systems (FDRE Guidelines). According to these guidelines, the bidder shall prepare the bid documents in accordance with these Guidelines.

- 11.3. The objective of Guidelines dated 9th June 2023 is to bring standardization & uniformity in processes for fairness & transparency in procurement and no bid, under section 63 of the Electricity Act, for procurement of Firm and Dispatchable RE power from grid-connected Renewable Energy (RE) power projects, with Energy Storage System shall be issued in contravention to the mentioned Guidelines. In case it becomes imperative for the Procurer to deviate from the said Guidelines, the same shall be subject to approval by the Appropriate Commission before the initiation of the bidding process itself.
- 11.4. In the present Petition, NUPLLP is seeking approval for the bidding documents i.e. RfS and Draft PPA and according to NUPLLP, these bidding documents are in line with the competitive bidding guidelines.
- 11.5. The Commission observes that NUPLLP has not been seeking approval for deviations in the FDRE Guidelines. Approval of the bidding documents requires only if there is deviation from the guidelines.
- 11.6. In view of the forgoing, the Commission allows NUPLLP to conduct the bidding process with the bidding documents to be prepared in line with the FDRE Guidelines dated 9th June 2023.
- 12. Issue V: Approval to Draft PPA for procuring power through Bagasse based generator on MoU basis.**
- 12.1. The Commission notes the submission of NUPLLP that the Commission vide Order dated 30 September 2020 in Case No. 26 of 2020 and Case No. 27 of 2020 has approved MoU based purchase from bagasse generator for MSEDCL and NUPLLP also proposes to tie up bagasse-based power on MOU basis at same rate and terms/conditions, as approved by the Commission for MSEDCL.
- 12.2. The Commission further vide Order dated 21 January 2021 in Case No. 2 of 2021 allowed MSEDCL to enter into EPA/PPA through MoU with the new bagasse-based co-generation plants up to capacity of 1350 MW at the tariff of Rs. 4.75 per unit for a tenure of 20 years.
- 12.3. Based on the principles adopted in the above said order, NUPLLP proposed to procure power under MoU route from Bagasse Generator whose plant is yet to be commissioned or EPA is expired or going to expire with a ceiling tariff of Rs. 4.75/kWh.
- 12.4. Through the present Petition, NUPLLP is seeking approval to the draft PPA for procurement of power under MoU route from Bagasse generator, with certain deviations in the MSEDCL's PPA document.
- 12.5. The Commission notes that the present applicable RE Tariff Regulations, 2019 do not have

provision for determination of generic tariff except under case of project specific tariff. Therefore, generic tariff determination under Section 62 cannot be undertaken. At the same time, RE Tariff Regulations, 2019 allows signing of PPA based on recently discovered tariff for the project with threshold capacity which cannot participate in bidding process as follows:

“7.3 The tariff for RE Power Projects below threshold limit of eligibility for participating in Competitive Bidding shall be considered equal to the following cases, in order of priority:

(a) Latest Tariff discovered through Competitive Bidding by concerned Distribution Licensee for similar RE project and adopted by the appropriate Commission;

(b) The Tariff discovered through Competitive Bidding for similar RE project by Other Distribution Licensee(s) in the State and adopted by the appropriate Commission;

(c) The Tariff discovered through Competitive Bidding for similar RE project in the Country and adopted by the appropriate Commission.”

Thus, although RE Tariff Regulations 2019 do not envisage generic tariff determination, but Regulation 7.3, reproduced above, allows signing of PPA at recently discovered tariff for capacities which cannot participate under competitive bidding process.

12.6. The Commission vide Order dated 21 January 2021 in Case No. 2 of 2021 allowed MSEDCL for MoU based power procurement from new bagasse-based power plants for achieving target set by GoM's RE Policy 2020, under removal of difficulties as a special case. Relevant part of the said Order, is reproduced below:

9.8. In normal circumstances, new bagasse-based co-generation projects could have participated under competitive bidding initiated by MSEDCL and the Commission opines that procurement of power through Competitive bidding for discovery of tariffs should be a preferred option. However, due to specific provision of GoM's RE Policy 2020 mandating MoU route for capacities upto 1350 MW, MSEDCL is required to and would be resorting to MoU route till the power upto target of 1350 MW is procured. Therefore, above quoted Regulation 7.3 which is applicable only for the projects having threshold capacity lower than that is eligible for participating in competitive bidding process, is required to be extended to all capacities of new bagasse-based co-generation plants till the policy target of 1350 MW is achieved.

9.9. As explained above, there is difficulty in giving effect to the provisions of RE Tariff Regulations, 2019 due to provisions of subsequently notified GoM's RE Policy, 2020.....

Accordingly, using its power under Regulation 77 of MERC RE Tariff Regulations, 2019, the Commission rules that provision of Regulation 7.3 of the RE Tariff Regulations would be applicable to all capacities of new bagasse-based power plants till the policy

target of 1350 MW is achieved. However, such relaxation would be applicable subject to terms & conditions stipulated in later part of this Order. This would also be consistent with GoM's RE Policy 2020, which requires the Commission to specify terms & conditions of such procurement.

9.10. Accordingly, the Commission allows MoU based power procurement from new bagasse-based power plants for achieving target set by GoM's RE Policy 2020.

Thus, in above Order, for achieving targets in RE Policy 2020, as a special dispensation, the Commission has allowed MSEDCL for MoU based power procurement from new bagasse-based power plants for achieving target of 1350 MW set by GoM's RE Policy 2020.

- 12.7. Above Order is squarely applicable to any other Distribution Licensee in the State including Ing NUPLLP subject to condition that such MoU based EPAs with new bagasse-based power plant are signed before achieving the RE policy targets of 1350 MW.
- 12.8. The Commission observes that in the present case, NUPLLP have the period of license till February 2034, so maximum tenure for the PPA will be around 9 years. The Commission also observes that the rate of Rs. 4.75/kWh is discovered by MSEDCL for the tenure of 20 years, which cannot be made applicable to the PPA for tenure of 9 years. Even if, as stated by NUPLLP, the License tenure has been considered as 25 years, from 10 February 2017 to 9 February 2042, it will still be 17 years.
- 12.9. However, if any generator is ready to sign EPA at above tariff but at reduce EPA period, then NUPLLP may sign the same. Alternately, NUPLLP may sign EPA with bagasse-based generator whose EPA under generic tariff mode has been expired at the tariff approved by the Commission for such expired EPA.
- 12.10. All the other terms and conditions of MERC RE Tariff Regulations 2019 shall be complied with without any deviations.
13. Hence, following Order:

ORDER

- 1. The Petition in Case No. 170 of 2024 is allowed and IA No. 63 of 2024 is disposed of accordingly.**
- 2. The Commission accords approval to deviations proposed in RFP and Draft PPA for procurement of Hydro power on Medium/Long term basis.**
- 3. The Commission allows NUPLLP to conduct the bidding process with the bidding documents to be prepared in line with the FDRE Guidelines dated 9th June 2023.**
- 4. The Commission allows NUPLLP for entering into PPA with new bagasse-based power**

plants on MoU basis till targets of 1350 MW under the RE policy 2020 are met.

Sd/-
(Surendra J. Biyani)
Member

Sd/-
(Anand M. Limaye)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Dr. Rajendra G. Ambekar)
Secretary

