



याचिका संख्या/Petition No 556/AT/2025

कोरम/ Coram:

श्री जिशु बरुआ, अध्यक्ष / Shri Jishnu Barua, Chairperson

श्री रमेश बाबू व., सदस्य / Shri Ramesh Babu V., Member

श्री हरीश दुदानी, सदस्य / Shri Harish Dudani, Member

श्री रविन्द्र सिंह ढिल्लो, सदस्य / Shri Ravinder Singh Dhillon, Member

आदेश दिनांक/ Date of Order:- 19th March, 2026

In the matter of

Petition under section 63 of the Electricity Act, 2003, for adoption of usage charges for a 1000 MW Solar Photovoltaic (PV) power station (Tranche-III) connected to the inter-state transmission system (ISTS) and selected through a competitive bidding process under Central Power Sector Undertaking scheme phase-II as per the guidelines dated 05.03.2019 issued by the Central Government.

And

In the matter of:

1. SJVN Green Energy Limited

SJVN Corporate Office Complex

Shakti Sadan, Shanan

Shimla-171006

2. SJVN Limited,

Corporate Headquarters,

Shakti Sadan, Shanan,

Shimla, Himachal Pradesh- 171006

... Petitioners



Versus

1. Indian Renewable Energy Development Agency Limited,

Corporate office at 3rd Floor, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi – 110066

2. Uttarakhand Power Corporation Ltd

Victoria Cross Vijeyta Gabar Singh Urja Bhawan,
Kanwali Road, Balliwala Chowk, Dehradun
Uttarakhand- 248001

3. Jammu & Kashmir Power Corporation Limited

PDD Bemina Srinagar-190010, B/U SLDC Building
Gladni Grid Complex, Narwal
Jammu-180006

4. Rajasthan Urja Vikas and IT Services Limited

Vidyut Bhawan, Janpath,
Jyothi Nagar, Jaipur
Rajasthan- 302005

...Respondents

ORDER

The Petitioners, SJVN Green Energy Limited (SGEL) and SJVN Limited (hereinafter collectively referred to as the Petitioners), have filed the present Petition under Section 63 of the Electricity Act, 2003 (the Act) for Adoption of usage charges for 1000 MW Solar Photovoltaic (PV) Power Station (Tranche -III) connected to the Inter-State Transmission System (ISTS) and selected through competitive bidding process under Central Power Sector Undertaking (CPSU) Scheme Phase-II as per the Guidelines dated 05.03.2019 issued by the Central Government. The Petitioners have made the following prayers:



“(a) Admit the present Petition;

- b) Adopt the usage charges of Rs 2.57/kWh mutually agreed between SGEL and procurers with maximum quoted VGF of Rs 44, 72,000/- per MW by SGEL for 1000 MW of Solar PV Project of SGEL in competitive bidding process of IREDA in terms of Section 63 of the Electricity Act 2003 for procurement of 1000 MW Solar Power MNRE Central Power Sector Undertaking Scheme phase-II (Tranche-III), as per the Guidelines dated 05.03.2019 issued by the Central Government and its various amendments as issued from time to time along with Maximum usage charges of Rs 2.57/kWh as declared by MNRE/IRDEA.*
- c) Pass any other or further order which this Hon’ble Commission may deem fit and proper in the facts and circumstances of this case.”*

Submissions of the Petitioners

2. SJVN Limited, a generating company within the meaning of Section 79(1) (a) of the Act and SGEL is a wholly owned subsidiary of SJVN Limited, have submitted that on 05.03.2019, the Ministry of New and Renewable Energy (MNRE), Government of India, notified the CPSU Scheme for setting up the 12,000 MW grid-connected Solar PV Power Projects by the Government Producers with Viability Gap Funding (VGF) for self-use or use by Government/ Government entities, either directly or through Distribution Companies (Discoms). The said scheme was issued under the provisions of Section 63 of the Act for long-term procurement of electricity by the ‘Procurers’ from the grid-connected solar PV power projects through competitive bidding. Subsequently, the MNRE vide OM dated 13.04.2020 notified certain amendments, in which the Solar Energy Corporation of India Limited (SECI) was replaced by IREDA as the authority in charge of the bidding. Under the said CPSU scheme Phase-II, Respondent No. 1, IREDA issued the Request for Selection (RfS) for setting up the 5000 MW grid-connected Solar PV Projects in India (Tranche-III) on 29.01.2021.



3. On 14.05.2021, a corrigendum to the RfS was issued in accordance with which the usage charges were revised to INR 2.45/kWh and the maximum permissible limit for the VGF was reduced from INR 0.70 crore/MW to INR 0.55 crore/MW for the Projects.

4. The e-Reverse Auction was conducted on 23.09.2021. In response to the RfS, interested bidders submitted their bids and subsequently M/s SJVN Limited emerged as the L1 bidder. IREDA issued a Letter of Award (LoA) to SJVN Limited on 04.10.2021 and allocated 1000 MW capacity of Solar PV power projects to SJVN Limited, inter alia, as:

<i>Allotted Project ID</i>	<i>Allocated Capacity (MW)</i>	<i>Project Location</i>	<i>Maximum VGF Eligibility (INR/MW) in figures</i>	<i>Maximum VGF Eligibility (INR/MW) in words</i>	<i>Total Eligible Maximum VGF (INR)</i>
<i>CPSU-Ph2-Tr3-SSPD-1000 MW-I</i>	<i>1000 MW</i>	<i>Anywhere in India</i>	<i>44,72,000</i>	<i>Forty-four Lakhs Seventy-two thousand only</i>	<i>47,20,000.00</i>

5. SJVN Limited provided its acceptance of the Letter of Award issued by IREDA on 7.10.2021. SGEL, a wholly owned subsidiary of SJVN Limited, commenced development of the 1000 MW Solar Power Plant at Village Bandarewala/ Karnisar, Tehsil Poogal, Bikaner District, Rajasthan.

6. The Petitioner has stated that, on 16.09.2022, MNRE, through a letter addressed to IREDA, notified changes in the applicable Goods and Services Tax (GST) rates pursuant to Notification No. 8/2021-Central Tax (rate) dated 30.09.2021 issued by the Ministry of Finance (MoF), which revised the GST rate on specified renewable energy devices and their parts from 5% to 12%. In view of the said changes, IREDA, by its communication dated 07.10.2022, informed the concerned parties herein that the maximum permissible usage charges under the CPSU Scheme stood revised from Rs. 2.45/kWh to Rs. 2.57/kWh to account for the increased GST burden.

7. SGEL executed a Power Usage Agreement ('PUA') with Respondent No. 2, Uttarakhand Power Corporation Limited (UPCL) for the supply of 200 MW at a usage charge of INR 2.57/kWh on 03.01.2024. SGEL executed a PUA with Respondent No. 3, Jammu & Kashmir Power Corporation Limited ('JKPCL') for the supply of 300 MW at a usage charge of INR 2.57/kWh on 23.02.2024. SGEL executed a PUA with Respondent No. 4, Rajasthan Urja Vikas and IT Services Limited ('RUVITL') for the supply of 500 MW at a usage charge of INR 2.57/kWh. The Rajasthan Electricity Regulatory Commission approved power procurement under Section 86(1)(b) of the Electricity Act, 2003, under the PUA dated 10.03.2024 executed between RUVITL and SGEL, vide order dated 24.07.2024.

8. On 27.12.2022, MNRE wrote to IREDA to extend the Scheduled Commissioning Date (SCOD) and related milestones till 30.09.2024 for solar PV projects under Tranche-III of Phase-II CPSU Scheme affected by supply chain disruptions, whose SCOD was before 30.09.2024. On 15.01.2024, SGEL requested an extension for the project, and IREDA asked SGEL to extend the Performance Bank Guarantee. On 20.02.2024, SGEL wrote to IREDA regarding the request for an extension of the Project SCOD up to 30.09.2024. On 26.03.2024, IREDA extended SGEL's project SCOD to 30.09.2024 as per MNRE's letter dated 24.12.2022. Subsequently, on 20.08.2024, SJVN Limited requested an SCOD extension for SGEL's project till 31.03.2025. On 13.09.2024, IREDA granted an extension till 31.03.2025. On 06.01.2025, SGEL requested another extension until 30.09.2025 due to delays in DCR Module supply, for which a response from IREDA is awaited.

9. In view of the above, the Petitioners have preferred the instant petition under Section 63 of the Act, read with the Preamble under Section III of the RfS dated 15.03.2019 for adoption of usage charges.

Hearing dated 05.06.2025

10. During the course of the hearing on 05.06.2025, the learned counsel for the Petitioners reiterated the submissions made in the pleadings and requested the



Commission for the adoption of the usage charges for the 1000 MW Solar Photovoltaic (PV) Power Station (Tranche-III) connected with the Inter-State Transmission System selected through competitive bidding process under the Central Power Sector Undertaking (CPSU) Scheme Phase-II dated 05.03.2019 as amended from time to time. Learned counsel further submitted that Petitioner No.1, SGEL, is developing a 1000 MW Solar Power Plant pursuant to the Letter of Award dated 4.10.2021 issued by IREDA, which is the nodal agency responsible for the implementation of the said CPSU scheme in the present case. Learned counsel further added that previously, the Commission had adopted the usage charges for the Solar PV Power Stations of Tranche III selected through a competitive bidding process under CPSU Scheme Phase-II & Standard Bidding Guidelines vide order dated 4.9.2024 in Petition No. 154/AT/2024 (NHPC Ltd. v. IREDA and Ors.) and order dated 22.1.2025 in Petition No. 119/AT/2024 (NTPC Ltd. v. IREDA and Ors.).

11. In response to the specific query of the Commission regarding the delay in approaching the Commission for the adoption of the usage charges, the learned counsel for the Petitioner submitted that the requisite approvals for the Power Usage Agreements ('PUAs') took time, and the Petitioner approached the Commission thereafter.

12. Considering the submissions made by the learned counsel for the Petitioner, the Commission admitted the matter and permitted the Respondents to file their response to the Petitioner's submissions.

Hearing dated 03.07.2025

13. The matter was again heard on 03.07.2025. Learned counsel for the Petitioners submitted that the RUVNL has filed its reply. It was further submitted that the Petitioner is the selected generator under the bidding process conducted by IREDA, wherein the Petitioner emerged as the L1 bidder. The learned counsel submitted that the bidding was conducted for a cumulative capacity of 1000 MW and that the adoption of tariff for other successful bidders, such as NHPC Limited and NTPC Limited, who were L3 and L5 bidders, has already been granted by the Commission under the same scheme. It was added that the Petitioner has tied up



the awarded capacity with three DISCOMs. The learned counsel for the RUVNL supported the Petition and prayed for the adoption of the tariff.

14. Considering the submissions made by the learned counsels for the parties, the Commission reserved the matter for order.

Analysis and Decision

15. We now proceed to consider the prayers of the Petitioners as regards the adoption of usage charges for 1000 MW Solar Photovoltaic (PV) Power Stations (Tranche-III) in terms of the CPSU Scheme Phase-II issued by the Ministry of New and Renewable Energy, Government of India, under Section 63 of the Act.

16. Section 63 of the Act provides as under: -

“Section 63. Determination of tariff by bidding process: Notwithstanding anything contained in Section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”

17. Thus, in terms of Section 63 of the Act, the Commission is required to adopt the tariff upon being satisfied that the transparent process of bidding is in accordance with the guidelines issued by the Government of India under Section 63 of the Act, and that the guidelines have been followed in the determination of such tariff.

18. In the present case, the bid process for Tranches-III was conducted under the CPSU Scheme Phase-II issued by the Ministry of New and Renewable Energy, Government of India, on 5.3.2019. The salient features of the scheme are as under:

(a) The CPSU Scheme Phase-II has been envisaged to provide the necessary policy framework and mechanism for the selection and implementation of 12,000 MW or more grid-connected solar PV power projects with VGF by various Government Producers. 12,000 MW grid connected solar PV power projects are proposed to be set up through the Government Producers with a budgetary support of Rs.8580 crore as VGF.



(b) The scheme will mandate the use of both solar photovoltaic cells and modules manufactured domestically as per the specifications and testing requirements fixed by the MNRE.

(c) Power produced by the Government Producer can be used for self-use or use by Government/ Government entities, either directly or through Discoms on payment of mutually agreed usage charges of not more than Rs.3.5/unit, 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 surcharge and State Load Despatch Centre (SLDC)/Regional Load Despatch Center (RLDC) charges etc. as may be applicable.

(d) The solar PV power project capacity under the Government Producer Scheme would be allocated to the Government Producers by way of bidding, who, in turn, will secure an arrangement for the usage of power for self-use or use by Government/ Government entities, either directly or through Discoms.

(e) With the objective of covering the cost difference between the domestically produced solar cells and modules and imported solar cells and modules, VGF shall be provided under the scheme. While the maximum permissible VGF has been kept at Rs. 0.70 crore/MW, the actual VGF to be given to a Government Producer under the scheme would be decided through bidding using the VGF amount as a bid parameter to select project proponent.

(f) SECI will handle the scheme on behalf of the MNRE, including conducting bidding on a VGF basis amongst Government Producers, for the selection of Government Producers for implementing this scheme. SECI will ensure that the proposed projects comply with the WTO provisions, and also the compliance by Government Producers on the mandatory requirement of domestic content under the scheme.

19. The MNRE, vide Office Memorandum dated 13.4.2020, entrusted the task of conducting bidding to Indian Renewable Energy Development Agency Limited (IREDA) in place of SECI.

20. Accordingly, we proceed to examine whether the usage charge has been discovered in terms of the provisions of Section 63 of the Act and whether the selection of the successful bidder(s) has been made through a competitive bidding process as per the provisions of the CPSU Scheme Phase-II.

21. Accordingly, on 29.01.2021, based on the Bidding Guidelines, IREDA issued a Request for Selection for setting up the 5000 MW grid-connected to SPVP in India (Tranche-III) under the CPSU Scheme Phase-II. Notably, IREDA issued RfS on behalf of MNRE.

22. The key dates of the event in the bidding process were as under:

Sr No	Milestone	Date
1	RfS issued by IREDA	29.01.2021
2	Corrigendum to the RfS	14.05.2021
3	Pre-bid meeting held	18.02.2021
4	Last date for Bid Submission	31.08.2021
5	Technical Bid Opening Date	01.09.2021
6	Date of opening of financial bids	16.09.2021
7	e-Reverse Auction conducted	23.09.2021
8	Issuance of Letter of Awards	04.10.2021

23. On 29.01.2021, based on the Guidelines, IREDA issued a Request for Selection (RfS) for setting up a 5000 MW grid-connected to SPVP in India (Tranche III) under the CPSU Scheme. Pursuant to the issuance of the OM dated 15.04.2021, by the MoP regarding review of usage charges for development of Solar Power Projects under CPSU Scheme Phase-II, Tranche-III, on 14.05.2021, IREDA issued a Corrigendum to RfS, as per which the Usage Charges were revised to 2.45/kWh and the maximum permissible limit for VGF was reduced from Rs. 0.70 Crore/MW to Rs. 0.55 Crore/MW for projects.

24. On 23.09.2021, in response to the RfS, the interested bidders submitted their bids and an e-Reverse Auction was conducted and subsequently M/s SJVN Limited emerged as the L1 bidder. Following are the details of the successful bidders [along with the quoted VGF] with the allocated capacity as under:

Sr. No.	Applicant Name	Quoted VGF (by Bidder at end of e-RA)	Capacity Being Allocated (MW)
1.	SJVN Limited	INR 44,72,000/- per MW	1000
2	NLC India Limited	INR 44,74,990/- per MW	510
3.	NHPC Limited	INR 44,90,000/- per MW	1000
4.	IRCON International Limited	INR 44,94,000/- per MW	500
5.	NTPC Limited	INR 44,95,000/- per MW	1990
		Total	5000

25. Pursuant to its selection as the successful bidder under RfS, on 04.10.2021, IREDA issued a Letter of Award to the Petitioners, allocating 1000 MW capacity of Solar PV Power Projects to SJVN Limited. On 07.10.2021, SJVN Limited provided its acceptance of the Letter of Award issued by IREDA. The relevant portion of the said Letter of Award is extracted as under:

Sub: 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): Letter of Award for allocated capacity of 1000 MW (Project ID: CPSU-Ph2-Tr3-SSPD-1000 MW-I)

This has reference to the following:

- A. *Your response to the RfS document submitted through ETS portal vide Organization ID (ETS- IN-2020-RS0000202) against RfS for Selection of Solar Power Developers for 5000 MW Grid- Connected Solar PV Power Projects in India (Tranche-III) under CPSU Ph-II Scheme (Government Producer Scheme).*
- B. *Final VGF (INR/MW} as quoted by you at the end of the e-Reverse Auction conducted on ETS portal on 23.09.2021 for the referred RfS for selection of Grid-connected Solar PV Power Projects.*



In reference to above and subject to the provisions of RfS, we confirm that your final VGF price quoted by your organisation during the e-RA concluded on September 23, 2021, is accepted and issue this letter of award with the following details:

Allotted Project ID	Allotted Capacity (MW)	Project Location	Maximum VGF Eligibility (INR/MW) in figures	Maximum VGF eligibility (INR/MW) in words	Total Eligible Maximum VGF (INR)
CPSU-Ph2-Tr3-SSPD-1000 MW-1	1000 MW	Anywhere in India	44,72,000/-	Forty Four Lakhs Seventy two thousand only	447,20,00,000.00

In alignment with the Guidelines of the scheme, the abovementioned project shall supply power solely for either self-use or use by Government/Government entities, either directly or through Discoms under the CPSU Ph-II scheme. Further such supply shall be subject to the following terms and conditions as stated in various documents referred above. The same terms and condition are also being briefly brought out hereinafter.

- i. Power generated from above Project(s) shall be solely for self-use or use by Government/Government entities, either directly or through Discoms on payment of mutually agreed usages charges of not more than Rs. 2.45/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, State Load Dispatch Centre (SLDC)/ regional Load Dispatch Centre (RLDC) Charges, etc. as may be applicable. Waiver of ISTS charges and losses, for use of ISTS network, shall be available to Projects set-up under the CPSU Phase-II Scheme.
- ii. As the selected Government Producer under the scheme, SJVN Limited can use the VGF provided under the Scheme as your equity in solar power project(s) being set up under this scheme.
- iii. If the proposed solar PV power project(s) under CPSU Scheme Phase-II is being set up in an UMREPP/ Solar Park, then such projects will be eligible for both, the Central Financial Assistance (CFA) as per UMREPP/ Solar Park Scheme as well as VGF under the CPSU Scheme Phase-II.
- iv. As the selected Government Producer/ Solar Project Developer (SPD), you would also be free to avail other fiscal incentives, if any, as per the extant rules. IREDA will not have any liability if the SPD is not able to avail fiscal incentives and this will not have any bearing on the maximum eligible VGF per MW.
- v. The award of the above allotted capacity is subject to the Guidelines including amendments/ clarifications issued by Government of India and terms and conditions of the RfS document including its clarifications/amendments/elaborations/ notifications issued by IREDA.
- vi. A Bidder which has been selected as Successful Bidder under this RfS can also execute the Project(s) through a Special Purpose Vehicle (SPV) i.e. a Project Company especially incorporated as a subsidiary Company of the successful bidder for setting up of the Project(s), with at least 76% shareholding in the SPV which has to be registered under the Indian Companies Act, 2013, before signing of EPC agreement with EPC Contractor. Multiple SPVs may also be incorporated for executing more than one Project.



- vii. *The SPD shall pay to IREDA, Success Charges of Rs. 1 lakh/MW/project+18% GST within 30 days from the date of this Letter of Award (LoA) towards administrative overheads, coordination with State Authorities and monitoring of Projects' compliance with WTO norms, in line with Clause 12, Section-III of the RfS. Performance Bank Guarantee(s) for an amount equal to 50% of total VGF sanctioned as per this Letter of Award shall be submitted by the SPD before disbursement of first tranche of VGF, in line with Clause 11.1, Section-III of the RfS. The validity of any such PBG being submitted to IREDA shall not be less than 39 months.*
- viii. *The SPD shall confirm the configuration of the total allocated capacity at the time of disbursement of second tranche of VGF. The SPD, if he wishes so, may affix separate PPA tariffs for each Project, based on its own arrangements with the Procurer(s), if applicable.*
- ix. *The Projects can be located anywhere in India. It is clarified that the projects may be implemented as ground mounted, or rooftop mounted or floating or canal top/canal bank etc., or a combination thereof, as per the requirements of the SPD.*
- x. *Schedule Commissioning Date (SCD) for commissioning of the full capacity of the Project shall be the date as on 30 months from the date of issuance of LoA. The Maximum time period allowed for commissioning of the full Project Capacity shall be limited to 36 months from the date of issuance of LoA.*
- xi. *In case of delay in commissioning of the Project beyond the SCD until the date as on 36 months from the issue date of the LoA/LoI, as part of the penalty for delay in commissioning the amount of VGF sanctioned to be the project shall be reduced by 0.15% (zero-point one five percent) of the sanctioned VGF, on per day basis, for the period of such delay, and proportionate to the capacity delayed or not commissioned.*
- xii. *All disputes arising out of and/ or in connection with the selection of Solar Power Projects under the said RfS and execution of project(s) thereto shall be governed by laws of India and shall be subject to the jurisdiction of Courts of New Delhi.*
- xiii. *This LoA is being issued in duplicate and you are requested to kindly acknowledge receipt and acceptance of this LoA by sending the duly stamped and signed duplicate copy of LoA to IREDA within 07 days from date of this LoA.*

26. The Petitioner has submitted that in accordance with the Letter of Award (LoA), SGEL, a wholly owned subsidiary of SJVN Limited, commenced the development of the 1000 MW Solar Power Plant at Village Bandarewala/ Karnisar, Tehsil Poogal, Bikaner District, Rajasthan.

27. The Petitioner has stated that, on 16.09.2022, MNRE, through a letter addressed to IREDA, notified changes in the applicable Goods and Services Tax (GST) rates pursuant to Notification No. 8/2021-Central Tax (rate) dated 30.09.2021 issued by the Ministry of Finance (MoF), which revised the GST rate



on specified renewable energy devices and their parts from 5% to 12%. In view of the said changes, IREDA, by its communication dated 07.10.2022, informed the concerned parties herein that the maximum permissible usage charges under the CPSU Scheme stood revised from Rs. 2.45/kWh to Rs. 2.57/kWh to account for the increased GST burden.

28. The Petitioner, SGEL, has entered into separate Power Usage Agreements ('PUAs') for the supply of electricity at a uniform usage charge of INR 2.57/kWh, with the following Respondents:

- Respondent No. 2 – Uttarakhand Power Corporation Limited ('UPCL'): A PUA was executed on 03.01.2024 for the supply of 200 MW.
- Respondent No. 3 – Jammu & Kashmir Power Corporation Limited ('JKPCL'): A PUA was executed on 23.02.2024 for the supply of 300 MW.
- Respondent No. 4 – Rajasthan Urja Vikas and IT Services Limited ('RUVITL'): A PUA was executed for the supply of 500 MW. The said agreement, dated 10.03.2024, was approved by the Rajasthan Electricity Regulatory Commission under Section 86(1)(b) of the Electricity Act, 2003, vide order dated 24.07.2024 in Petition No. RERC/2231/2024.

29. On 27.12.2022, MNRE wrote to IREDA to extend the Scheduled Commissioning Date (SCOD) and related milestones till 30.09.2024 for solar PV projects under Tranche-III of Phase-II CPSU Scheme affected by supply chain disruptions, whose SCOD was before 30.09.2024. On 15.01.2024, SGEL requested an extension for the project, and IREDA asked SGEL to extend the Performance Bank Guarantee. On 20.02.2024, SGEL wrote to IREDA in reference to the request for extension of the Project SCOD up to 30.09.2024. On 26.03.2024, IREDA extended SGEL's project SCOD to 30.09.2024, as per MNRE's letter dated 24.12.2022. Subsequently, on 20.08.2024, SJVN Limited requested an SCOD extension for SGEL's project till 31.03.2025. On 13.09.2024, IREDA granted an extension till 31.03.2025. On 06.01.2025, SGEL requested another extension till

30.09.2025 due to delays in the supply of the DCR Module; a response from IREDA is awaited.

30. Vide Record of Proceedings (ROP) for the hearing dated 05.06.2025, in response to the specific query of the Commission regarding the delay in approaching the Commission for the adoption of the usage charges, the learned counsel for the Petitioner submitted that the requisite approvals for the Power Usage Agreements ('PUAs') took time, and the Petitioner approached the Commission thereafter. RUVNL filed its reply after the Commission permitted the Respondents to file their reply to the Petitioner. Thereafter, learned counsel for the RUVNL supported the Petition and prayed to adopt the tariff.

31. Vide Record of Proceedings (ROP) for the hearing dated 03.07.2025, learned counsel submitted that the bidding was conducted for a cumulative capacity of 1000 MW and that the adoption of tariff for other successful bidders, such as NHPC Limited and NTPC Limited, who were L3 and L5 bidders, has already been granted by the Commission under the same scheme. It was also apprised that the Petitioner has tied up the awarded capacity with three DISCOMs.

32. In view of the above, we are of the view that the selection of the Petitioner, out of various Government Producers, has been done on the basis of a transparent, competitive bid process with VGF as the bid parameter and in accordance with the provisions of the CPSU Scheme Phase II.

33. Further, as informed by the Petitioner, NHPC Limited and NTPC Limited filed their tariff adoption petitions before this Commission vide Petition No. 154/AT/2024 and Petition No. 119/AT/2024, and the Commission was pleased to allow the petitions inter alia holding as under:

A. NHPC Limited: Petition No. 154/AT/2024 decided vide order dated 04.09.2024

32. In view of the above, we are of the view that the selection of the Petitioner, out of various Government Producers, has been done on



the basis of a transparent, competitive bid process with VGF as the bid parameter and in accordance with the provisions of the CPSU Scheme Phase II.

33. Insofar as the adoption of usage charges under the PUAs is concerned, the said aspect also came up for consideration before this Commission in Petition No. 174/AT/2021 in the matter of NTPC Limited v. Solar Energy Corporation of India Limited and Ors., wherein NTPC had prayed for the adoption of usage charges for 1692 MW Solar PV Projects selected through the competitive bid process under the CPSU Scheme Phase II Tranche I & II. The Commission, in its order dated 13.12.2021, inter alia, observed as under:

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34. The above observations of the Commission in the case of CPSU Scheme Phase II Tranche I & II squarely apply to the present case. However, in the case of Tranche I & II, the usage charge agreed upon between the parties under the PUAs on the mutually negotiated basis were lower than the prevailing ceiling usage charges of Rs.3.50/kWh and accordingly, the Commission after recognizing that the bid process had been conducted with VGF as a bid parameter against the predetermined ceiling usage charge of Rs. 3.50/kWh, deemed it appropriate to adopt the ceiling usage charge of Rs. 3.50/kWh under Section 63 of the Act. Whereas, in the present case, the usage charges agreed upon between the parties under the PUAs, i.e., Rs 2.45/kWh, are the ceiling usage charges prevailing at the time of the conclusion of the bid process. It is also noticed that the MNRE had subsequently increased this maximum usage charges to Rs. 2.57/kWh for the Projects awarded under Tranche III on account of an increase in GST rates vide Ministry of Finance's Notification No. 8/2021 dated 30.9.2021 whereby the GST rates for specified renewable energy devices and parts for their manufacture were revised. However, keeping in view that in this case, the Petitioner, NHPC, has not sought to rely upon the aforesaid MNRE OM or its implications and has prayed for the adoption of usage charges to the extent of Rs. 2.45/kWh – the

ceiling usage charges prevailing at the time of bid process, the Commission deems it fit to adopt the usage charge of Rs. 2.45/kWh, under Section 63 of the Act in respect of the 1000 MW Solar PV Power Projects of the Petitioner under Tranche III of the CPSU Scheme.”

B. NTPC Limited: Petition No. 119/AT/2024 decided vide order dated 22.01.2025

41. From the above, we observe that the bidding took place on 23.09.2021, considering the VGF amount as a parameter. As per the bidding documents, the maximum permissible limit for VGF @ Rs. 0.55 Crore/MW was to be considered, keeping in mind the Usage Charges @ 2.45/kWh. We are of the view that these parameters as on the date of the bidding have to be taken as reference and cannot be altered post bidding, or else the whole process of bidding will get vitiated. Any change in the usage charge post-bidding can be allowed due to a change in law only in terms of the provisions of the PUAs. Hence, at this stage, we can take into consideration only the parameters as notified to the bidders as on the date of bidding, viz., the maximum permissible limit for VGF @ Rs. 0.55 Crore/MW and the Usage Charges @ 2.45/kWh. Hence, we adopt the usage charges of Rs. 2.45/kWh in respect of the 1990 MW Solar PV Power Projects of the Petitioners under Tranche III of the CPSU Scheme Phase -II.

42. As regards the compensation due to the Change in Law, the PUAs require the Petitioners to approach the Commission for approval for relief for the Change in Law. Accordingly, we give liberty to the Petitioners to approach the Commission through a separate Petition within a period of six weeks from this order for seeking any relief as per Articles 10 & 11 of the PUAs/ Supplementary PUAs. However, in the interim, we allow the Change in Law compensation, as communicated by MNRE, as interim relief to be charged by the Petitioners on a provisional basis pending the final decision of the Commission on the Petition to be filed in this regard.



43. *Petition No. 119/AT/2024 is disposed of in terms of the above.*”

34. The above observations of the Commission squarely apply to the present case.

35. In the present case, the parties have submitted that the RfS dated 29.01.2021 was issued by IREDA under Section 63 of the Electricity Act, 2003, following the principles of standard bidding guidelines issued by the Ministry of Power and the CPSU Scheme for grid- connected Solar PV Power Projects by the Government Producers with VGF for self-use or use by Government/Government entities, either directly or through Distribution Companies, issued by the MNRE vide No. 302/4/2017-GRID SOLAR dated 05.03.2019.

36. The relevant clauses of the CPSU Scheme dated 05.03.2019 stipulate as under:

“3. Proposal for setting up of 12,000 MW capacity under Government Producer Scheme ...

3.2.3 Usage Charges: Power produced by the Government Producers can be used for self-use or use by Government/Government entities, either directly or through DISCOMS on payment of mutually agreed usage charges of not more than Rs. 3.5/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 surcharge, State Load Despatch Centre (SLDC)/ Regional Load Despatch Centre (RLDC) charges, etc. as may be applicable.

4. Power to remove difficulties: If there is need for any amendment to the Government Producer Scheme for better implementation or any relaxation is required in the norms due to operational problems. MNRE will be competent to make such amendments with the approval of Minister-in-charge, without increasing the financial requirements and VGF limits.”

37. The relevant Change in law Article of the PUAs is as under:



“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 NTPC REL or any income to the NTPC REL:

- 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 NTPC REL;*
- 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 NTPC REL 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/on-recurring expenditure by the NTPC REL or any income to the NTPC REL

11.0 RELIEF FOR CHANGE IN LAW

11.1 NTPC REL 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 NTPC REL 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”

38. We observe that the last date for submission of bids was on 31.08.2021, and the conduct of e-RA was on 23.09.2021. IREDA issued a Letter of Award (LoA) to SJVN Limited on 04.10.2021, taking into account the maximum usage charges of Rs. 2.45/kWh and allocating 1000 MW of Solar PV power project capacity to SJVN Limited. SGEL, a wholly owned subsidiary of SJVN Limited, commenced development of the 1000 MW Solar Power Plant at Village Bandarewala/Karnisar, Tehsil Poogal, Bikaner District, Rajasthan.

39. On 16.09.2022, MNRE increased the maximum usage charges to Rs. 2.57/kWh in view of the Ministry of Finance's Notification No. 8/2021 dated 30.9.2021, whereby the GST rates for specified renewable energy devices and parts for their manufacture were revised.

40. We also observe that the Petitioner, SGEL, has entered into separate Power Usage Agreements ('PUAs') for the supply of electricity at a uniform usage charge of INR 2.57/kWh, with the following Respondents:

- Respondent No. 2 – Uttarakhand Power Corporation Limited ('UPCL'): A PUA was executed on 03.01.2024 for the supply of 200 MW.
- Respondent No. 3 – Jammu & Kashmir Power Corporation Limited ('JKPCL'): A PUA was executed on 23.02.2024 for the supply of 300 MW.
- Respondent No. 4 – Rajasthan Urja Vikas and IT Services Limited ('RUVITL'): A PUA was executed for the supply of 500 MW. The said agreement, dated 10.03.2024, was approved by the Rajasthan Electricity Regulatory Commission under Section 86(1)(b) of the Electricity Act, 2003, vide order dated 24.07.2024 in Petition No. RERC/2231/2024.

41. Further, on 27.12.2022, MNRE wrote to IREDA to extend the Scheduled Commissioning Date (SCOD) and related milestones till 30.09.2024 for solar PV projects under Tranche-III of Phase-II CPSU Scheme affected by supply chain disruptions, whose SCOD was before 30.09.2024. On 15.01.2024, SGEL requested an extension for the project, and IREDA asked SGEL to extend the

Performance Bank Guarantee. On 20.02.2024, SGEL wrote to IREDA with the request for extension of the Project SCOD up to 30.09.2024. On 26.03.2024, IREDA extended SGEL's project SCOD to 30.09.2024, as per MNRE's letter dated 24.12.2022. Subsequently, on 20.08.2024, SJVN Limited requested an SCOD extension for SGEL's project till 31.03.2025. On 13.09.2024, IREDA granted an extension till 31.03.2025. On 06.01.2025, SGEL requested another extension till 30.09.2025 due to delays in the supply of the DCR Module; a response from IREDA is awaited.

42. The relevant Clauses of the RfS dated 29.01.2021 are as under:

*7.0 The maximum permissible limit for VGF is kept at **Rs. 0.70 Crore/MW** (INR 70 lakhs per MW) for projects; the actual VGF to be given to a Government Producer under the RfS would be decided **through e-reverse auction using VGF amount as a bid parameter to select the SPD.***

*8.0 **Bidders shall be required to submit their bids by offering VGF amount in INR per MW. Bidders who do not want to avail VGF, can submit their bid by offering '0' (Zero) VGF.***

43. The relevant Clause of the CPSU Scheme dated 05.03.2019 is as under:

*"3.2.5 VGF: With the objective of covering the cost difference between the domestically produced solar cells and modules and imported solar cells and modules, VGF shall be provided under the Scheme. While the maximum permissible VGF has been kept at Rs. 0.70 cr./MW, the actual VGF to be given to a Government Producer under the Scheme would be decided through bidding using VGF amount as a bid parameter to select project proponent. The Solar Energy Corporation of India (SECI) will be entrusted with the task of **conducting the bidding amongst Government Producers for allocation of solar power project capacity under the Scheme, with VGF amount as a bid parameter to select project proponent.** **The maximum permissible VGF amount will also be reviewed from time to time, by MNRE, and will be reduced by MNRE if the cost difference comes down.** VGF will be released in two tranches as follows:*

- i) 50% on Award of contract to the EPC contractor (including in-house EPC Division); and*

ii) *balance 50% on successful commissioning of the full capacity of the project.”*

44. From the above, we observe that the bidding took place on 23.09.2021, considering the VGF amount as a parameter. As per the bidding documents, the maximum permissible limit for VGF was to be Rs. 0.55 Crore/MW, keeping in mind the Usage Charges @ 2.45/kWh. We are of the view that, as on the date of bidding, these parameters have to be taken as reference and cannot be altered post-bidding, or else the whole bidding process will be vitiated. Any change in the usage charge post-bidding can be allowed only due to a change in law, and only in accordance with the provisions of the PUAs. Hence, at this stage, we can consider only the parameters as notified to the bidders as on the date of bidding, viz., the maximum permissible limit for VGF @ Rs. 0.55 Crore/MW and the Usage Charges @ 2.45/kWh. Hence, we adopt the usage charges of Rs. 2.45/kWh in respect of the 1000 MW Solar PV Power Projects of the Petitioners under Tranche III of the CPSU Scheme Phase -II.

45. As regards the compensation due to the Change in Law, the PUAs require the Petitioners to approach the Commission for approval for relief for the Change in Law. Accordingly, we give liberty to the Petitioners to approach the Commission through a separate Petition within a period of six weeks from this order for seeking any relief as per Articles 10 & 11 of the PUAs/ Supplementary PUAs. However, in the interim, we allow the Change in Law compensation, as communicated by MNRE, as interim relief to be charged by the Petitioners on a provisional basis, pending the Commission's final decision.

46. Petition No. 556/AT/2025 is disposed of in terms of the above.

Sd/-
(श्री रविन्द्र सिंह ढिल्लो)
सदस्य

Sd/-
(श्री हरीश दुदानी)
सदस्य

Sd/-
(श्री रमेश बाबू व.)
सदस्य

Sd/-
(श्री जिशु बरुआ)
अध्यक्ष

