

**JOINT ELECTRICITY REGULATORY COMMISSION FOR THE STATE OF GOA
AND UNION TERRITORIES GURUGRAM**

CORAM

Shri M.K. Goel, Chairperson

Petition No: 52/2021

Date of Hearing: 05.08.2021

Date of Order: 09.09.2021

In the matter of:

Petition for approval of the Hon'ble Commission for purchase of solar power of capacity 50 MW from ISTS connected power projects of MNRE through M/s. SECI and to adopt the price as determined through competitive bidding process and to ratify the action taken for signing of power sale agreement with M/s SECI, in anticipation of approval by Hon'ble Commission.

And in the matter of:

The Electricity Department,
Government of Puducherry (EDP)

.....Petitioner

Present

For the Petitioner

1. Shri T. Chanemougam, Superintending Engineer, Electricity Department, Puducherry

ORDER

The Petitioner through this petition sought the Commission's approval for the power sale agreement (PSA) executed between SECI and EDP on 24th OCT 2019

The Commission heard the Petitioner in detail during the hearing dated 5th Aug 2021 and gave directions to provide additional information within four days. The said information by the Petitioner was submitted on dated 9th August 2021. The same is taken on record.

The Petitioner has advanced his arguments in detail. The same are as under: -

1. That with the objective to comply with the RPO and as advised by Ministry of New and Renewable Energy, Government of India, during the meeting held under the chairmanship of the Secretary, MNRE, for reviewing the progress of master plan for meeting the energy demand of the UTs through Renewable Energy, the Electricity Department of Puducherry, has requested M/s SECI for allocation of 50 MW Solar power from the ISTS connected Renewable Energy power projects being developed under various MNRE Schemes.
2. That SECI has offered 50 MW of Solar Power under ISTS connected Solar Power Project-Tranche-II of MNRE Scheme, to the petitioner for fulfilling the RPO compliance requirement.
3. That EDP has signed the PSA with M/s SECI for purchase of 50 MW of solar power on 24th Oct 2019.
4. That SECI had floated RfS for setting up of 3000 MW ISTS -connected Solar PV Power Projects in India vide RfS No. SECI/NSM/SPD/RfS/3000MW/022018 dated 27.02.2018 along with subsequent amendments and clarifications.

5. That in response to the above tender notice the following bidders were considered for E-reverse auction: -

SNo.	Bidder Name	Capacity (MW)
1.	ACB (India) Power Limited	200
2.	ACME Solar Holdings Limited	600
3.	Azure Power India Private Limited	300
4.	Hero Solar Energy Private Limited	250
5.	Mahindra Susten Private Limited	250
6.	Mahoba Solar (UP) Private Limited	300
7.	Mytrah Energy (india) Private Limited	200
8.	Renew Solar Energy (Jharkhand Four) Private Limited	500
9.	Rutherford Solarfarms Private Limited	200
10.	SBE Renewables Ten Private Limited	1800
11.	Sprng Vaayu Urja Private Ltd.	250
12.	Tata Power Renewable Energy Limited	250
	Total	5100

6. That the following bidders were confirmed after final result of e-Reverse Auction:

SNo.	Bidder Name	Capacity won after e-RA (MW)	Final Tariff (INR/kWh)
1.	ACME Solar Holdings Limited	600	2.44
2.	Azure Power India Private Limited	300	2.64
3.	Rutherford Solar farms Private Limited	200	2.70
4.	Mahoba Solar (UP) Private Limited	300	2.71
5.	Renew Solar Energy (Jharkhand Four) Private Limited	500	2.71
6.	SBE Renewables Ten Private Limited	1100	2.71
	Total	3000	

7. That the offer of 50 MW of solar power has been made by SECI from the 300 MW ISTS connected solar power plants being set up by M/s ACME solar Holdings, Gurugram, in the State of Rajasthan.
8. Further, that the price of the solar power offered for 50 MW is Rs. 2.44 per Kwhr plus the trading margin of Rs. 0.07 per Kwhr, aggregating to Rs. 2.51 per Kwhr for twenty-five years.
9. That the tariff for solar power has been adopted by CERC under Sec 63 of the act vide its order in the matter of Petition No. 396/AT/2019 dated 26th Feb, 2020.
10. That the solar power plant being set up by the developers has been awarded by SECI through competitive bidding process and the plant will be put into commercial operation before June 2023. The solar energy purchased from this project will be utilised towards compliance of its RPO. Therefore, the project should qualify for waiver of interstate transmission charges and losses on transmission of the renewable energy up to the peripheral grid of the Electricity Department, Puducherry.
11. That the power from the project is likely to be made available at the periphery of UT of Puducherry by 03.03.2022 (Modified SCOD).
12. That the Petitioner submits that necessary administrative approval vide G.O. No. 24 20th

November 2019 of the Government of Puducherry has been obtained for purchase of 50 MW of solar power through M/s SECI and for signing the Power Sale Agreement with M/s SECI, New Delhi.

13. That the Petitioner submits that the cost of solar power offered including trading margin levelized for twenty-five years are much less than that of present average power purchase cost i.e., Rs. 3.89/Kwhr (2021-22). Therefore, purchasing physical power towards RPO compliance, rather than purchase of Renewable Energy Certificates from Exchange would be cheaper and economical.
14. That the availability of RE Power at the periphery, equal quantum of thermal/conventional power from the CGS power plant having higher variable cost will be surrendered on real time basis.
15. The petitioner further submitted that there would be a saving of Rs.1.22/Kwh for 50 MW solar power as per the following details: -

I. For Allocation of 50 MW solar power mapped from M/s ACME Solar Holdings Limited

SL. No.	Particular	Charges/Unit																				
I	Existing Scenario																					
A	APPC (Excluding RPO Cost and Transmission Charges)	3.89																				
B	REC	1.00																				
C	Total Cost for purchasing including Renewable	4.89																				
II	On receipt of 50 MW Solar Power from SECI																					
D	Solar Power Cost (including Trading Margin)	2.51																				
E	Surrendered Fixed Cost of Thermal	1.16																				
	<table border="1"> <thead> <tr> <th>Source</th> <th>Power surrendered in Million units</th> <th>Total Cost incurred in surrendering power (FC) (Rs. Cr.)</th> <th>INR/Unit</th> </tr> </thead> <tbody> <tr> <td>NLC TPSI(Expn)</td> <td>57.00</td> <td>6.55</td> <td></td> </tr> <tr> <td>NLC TPSII(Expn)</td> <td>34.00</td> <td>3.74</td> <td></td> </tr> <tr> <td>New NLC Ts-I</td> <td>20.00</td> <td>2.58</td> <td></td> </tr> <tr> <td></td> <td>111.00</td> <td>12.87</td> <td>1.16</td> </tr> </tbody> </table>		Source	Power surrendered in Million units	Total Cost incurred in surrendering power (FC) (Rs. Cr.)	INR/Unit	NLC TPSI(Expn)	57.00	6.55		NLC TPSII(Expn)	34.00	3.74		New NLC Ts-I	20.00	2.58			111.00	12.87	1.16
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F	Total Cost RE procurement through SECI (D+E)	3.67																				
3	Net Saving (C-F)	1.22																				

Fixed cost details

SNo.	Plant Details	INR/Unit
1	NLC TPSI (Expn)	1.15
2	NLC TPSII (Expn)	1.1
3	New NLC Ts-I	1.29

16. That the M/s SECI is undertaking the purchase of power from solar power developer under the PPA (for 25 years) for sale of the procured power to the Buying entity (ED-Puducherry) under the PSA, in its capacity as intermediary procurer and is entitled to consideration, namely trading margin of INR 0.07 /kWh payable to the petitioner (buying entity) i.e., ED-Puducherry.

That upon hearing the arguments advanced by the petitioner during hearing on date 05.08.2021 and the written submission dated 9th Aug 2021, the Commission further observed that the Central Commission is empowered under Section 79 (j) of the Electricity Act, 2003, to fix the trading margin in respect of Inter-State trading of electricity if considered necessary.

That, on 02.01.2020, the Central Commission had notified Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2020 [Trading license Regulations, 2020]. The aforesaid regulations repealed the Trading Margin Regulations, 2010.

That the Chapter-IV of the Trading License Regulations, 2020 deals with Trading Margin. The relevant provisions of the Trading License Regulations, 2020 have been reproduced as under;

7. Applicability of Trading Margin:

Trading margin shall be applicable to the following transactions undertaken by the Trading Licensee:

.....

(b) Transactions under long term contracts (where period of the contract of the Trading Licensee with either the seller or the buyer or both is more than one year);

8. Trading Margin:

(1) Trading Licensee shall comply with the trading margin as given below:

.....

(d) For transactions under long term contracts, the trading margin shall be decided mutually between the Trading Licensee and the seller:

Provided that in contracts where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause (10) of Regulation 9 is not provided by the Trading Licensee in favour of the seller, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.

That the Central Commission in a subsequent decision dated 28.02.2020, in Petition No.382/AT/2019 filed by SECI for adoption of tariff for Tranche-VII Wind Scheme, has considered the aspect of trading margin in light of the Trading License Regulations 2020, inter-alia, as under:

27. SECI has prayed to adopt the trading margin of Rs. 0.07/kWh. Regulation 8(1)(d) of the Trading Licence Regulations provides as under:

"8(1)(d) For the transactions under long-term contracts, the trading margin shall be as mutually decided between the Trading licensee and the seller:

28 The above provision gives choice to the contracting parties to mutually agree on Trading Margin for long-term transaction. Accordingly, the Commission cannot adopt any Trading Margin. The Petitioner shall be governed by the above provisions of the Trading Licence Regulations. In view of the above, the prayer of SECI to adopt the Trading Margin is decided accordingly.

That the Hon'ble Appellate Tribunal in the recent decision dated 27.02.2020 passed in Appeal Nos. 368, 369, 370, 371, 372 and 373 of 2019 in the matter of Ayana Ananthapuramu Solar Private Limited-vs-Andhra Pradesh Electricity Regulatory Commission & Ors, while considering the issue of trading margin in context of a similar PSA executed between SECI and Andhra Pradesh Discoms has held as under:

70. It is also seen from the reply of AP Discoms that APERC (Intra-State Electricity Trading) Regulations of 2005 have not provided any trading margin for long term transactions. The Judgment of CERC dated 20.11.2019 above, actually says that trading margin regulation gives freedom and choice to the contracting parties to mutually agree on trading margin for any kind of trading transaction, subject to the ceiling whenever applicable. There are no trading margin regulations of the State of Andhra Pradesh Regulatory Commission for long term transactions.

Therefore, the only reliance that can be placed is on the mutually agreed upon terms which are spelt out as rights and obligations of the parties under PSA. Therefore, in the light of the PSA indicating Rs.0.07 as trading margin and in the absence of any Regulations that are applicable to the case on hand, we are of the opinion that trading margin of 7 paise per kWh has to be paid. The PSA between AP Discoms and NTPC/SECI is the final binding document which speaks about tariff and also trading margin on the transaction of sale of power to AP Discoms.

The parties i.e., SECI and ED-Puducherry had voluntarily agreed to and accepted the trading margin of Rs.0.07/kWh when they entered into the PSA dated 24.10.2019.

That in terms of the above, the trading margin of Rs.0.07/kWh as mutually agreed between the parties in the contract i.e., PSA, is applicable and payable by the ED-Puducherry to SECI.

The Commission has examined in depth the arguments advanced by the Petitioner. It has also carefully examined the PSA along with additional information filed by the petitioner. It has also examined the relevant provisions of the Electricity Act, 2003 rules and regulations made thereunder.

The Commission has noted that the Petitioner has entered into the power sale agreement (PSA) with M/s SECI for 50 MW Solar power under 3000 MW ISTS Tranche-II. The said PSA was signed with M/s SECI on 24.10.2019 subject to final approval by the Commission. The Petitioner further submitted that they would pay tariff of Rs 2.44/kWhr plus trading margin of Rs 0.07/kWhr.

The Commission further analysed that the petitioner has worked out a saving of Rs 1.22/Kwh for 50 MW solar power. The APPC including REC Cost of the petition is Rs 4.89/Kwh. The average solar power cost (to be procured from SECI) is worked out to Rs. 2.51/kWh. In case, the solar power is procured from SECI then the power of 111.00 Mus will have to be surrendered and the impact of fixed cost towards surrender of conventional power is worked out at Rs. 1.16/Kwh for 50 MW thereby, the cost of solar power (including fixed cost of surrendered power) will be 3.67(2.51+1.16) for 50 MW. It is further analysed that there will be a saving of Rs. 1.22/Kwh for 50 MW in case the solar power is procured by petitioner from SECI.

The Commission has further noted that the Petitioner has justified the purchase of the said 50 MW of solar power as it has submitted that it is fulfilling its RPO obligations by purchasing RECs through power exchange which, after considering the APPC price of power, turns out to be much more expensive than INR 2.51/kWh. The purchase of the said solar power will help in reducing the burden on Electricity Department Puducherry and also substantially help it in meeting its RPO obligations in future. This will also support the mission of the Government of India to have target installed capacity of 175 GW by 2022 and also comply with the directions of GOI, for meeting the power demand of UTs 100% percent through Renewable energy sources.

According to the petitioner, SECI has discovered the economical rate of solar power i.e. INR 2.51 per unit inclusive of 7 paise trading margin which has been mutually agreed.

That the tariff discovered through competitive bidding process was adopted by the Central Electricity Regulatory Commission under Section 63 of the Electricity Act, 2003 by order dated 26th Feb, 2020 in Petition No. 396/AT/2019 of SECI for adoption of tariff for the 3000 MW (Tranche II) Solar Power Projects.

The Commission accepts the arguments advanced by the petitioner in favour of purchasing of the said 50 MW solar power at a rate of Rs 2.44 per kWh plus trading margin of Rs. 0.07 per kWh.

The Commission feels that in order to fulfil its RPO obligations in near future the purchase of 50 MW solar power will be of advantage to the Petitioner and will contribute in making Union Territory of

Puducherry 100% renewable energy powered Union Territory in future.

From the above provisions provided in the Electricity Act, 2003 particularly Section 86 1(b) it is clear that Commission's approval of the power purchase agreement is not only mandatory but without the said approval the power purchase agreements lack legal binding force.

Section 86 1(b) of Electricity Act, 2003 provides that (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;

The Commission noted that PPA was executed between the Petitioner and M/s SECI, New Delhi, for purchase of 50 MW Solar Power from ISTS connected solar power project on 24th Oct 2019 with a validity of 25 years from COD.


Quantum of Power	Name of the Firm	Modified date of Commissioning	Tariff	Tenure
50 MW of Solar Power	M/s SECI (SECI has signed the Power sale agreement with M/s ACME Solar Holdings (P) Ltd., New Delhi for procurement from 300 MW solar power plant)	3 rd March 2022	Rs. 2.51/kwhr (Tariff of Rs. 2.44/kWh + trading margin of Rs. 0.07/kWh)	25 years

The Commission exercising the power as laid down under section 86 (1)(b), accords its approval to the said power sale agreement as detailed above.

The said power sale agreement for 50 MW of solar power executed between the Electricity Department Puducherry and SECI on dated 24.10.2019 placed on record before the Commission in petition number 52/2021 is an integral part of this order.

Ordered accordingly.

Sd/-
(M.K. GOEL)
CHAIRPERSON

Certified Copy

(Rakesh Kumar)
Secretary