

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

CORAM

Ms. Jyoti Prasad, Member (Law)

Petition No. 72/2021

Date of Hearing: 05.04.2022

Date of Order: 20.05.2022

In the matter of:

Petition for approval of long-term procurement of power by Electricity Department, Government of Goa for 50 MW Wind Power under ISTS Wind Tranche VI

And in the matter of:

Electricity Department, Government of Goa,
Vidyut Bhavan, Panaji, Goa

..... **Petitioner**

And in the matter of:

Solar Energy Corporation of India Limited (SECI)

.....**Respondent**

Present

For the Petitioner

Mr. Stephen Fernandes, Chief Engineer

For the Respondent

1. Mr. M. G Ramachandran, Senior Advocate
2. Ms Shikha Sood, Advocate
3. Ms Srishti Khindaria, Advocate
4. Ms Anushree Bardhan, Advocate
5. Ms. Tanya Sareen, Advocate
6. Mr. Shibasish Das, Senior Manager
7. Mr. Mudit Jain, Senior Manager
8. Ms Neha Singh, Legal Manager

ORDER

1. The Commission heard the Petitioner and the Respondent at length.
2. The Petitioner advanced his arguments in detail. The arguments made on behalf of the Petitioner in brief are as under: -
 - i. That the Petitioner has filed the Petition before this Hon'ble Commission for approval of the procurement of 50 MW Wind Power, PSA including procurement of power from the Respondent at a fixed tariff of Rs. 2.83/kWh plus trading margin of Rs. 0.07/kWh fixed up to commissioning of the cumulative awarded capacity/accepted cumulative capacity by the Respondent under the Request for Selection (RfS) and subsequently, the applicable tariff payable by Petitioner at pooled tariff of the commissioned Project Capacity of all the Projects accepted by the Respondent, till the end of the Term of the Agreement of 25 years.
 - ii. That the Respondent has been identified by Government of India (GOI) as the nodal agency for implementation of scheme for setting up of Inter-State Transmission System (ISTS) connected Wind Power Projects with the mandate to call for bids under a Tariff Based Competitive Bidding process, enter into Power Purchase Agreements (PPAs) at the tariff discovered in the competitive bid process, enter into Power Sale Agreements (PSAs) with the Distribution Licensees/Buying Entities to enable them to fulfil the Renewable Purchase Obligations under Section 86 (1)(e) of the Act, acting as an Intermediary Agency in purchase and sale of power under the PPAs and PSAs on a back-to-back basis.
 - iii. That for implementation of MNRE scheme for setting up of 1200 MW ISTS connected Wind Power Projects (Tranche-VI), SECI acts as the Intermediary Procurer under the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects issued by Ministry of Power vide Gazette Resolution dated 8thDecember, 2017.
 - iv. That as per the Guidelines, SECI, in the capacity of intermediary agency, invited proposals for setting up of ISTS-connected Wind Power Projects on a pan India basis, on "Build Own Operate" basis for an aggregate capacity of 1200 MW and procurement of wind power from the projects being set up in relation thereto.
 - v. That the Respondent by issuance of RfS, had invited bids for setting up the ISTS connected Wind Power Projects with the stipulation that the maximum tariff payable to each Wind Power Developer is INR.2.85/kWh. The Selection of bidders for setting up the Wind Power Projects was undertaken through a Competitive Bidding process in terms of the Guidelines notified by the Central Government. The criteria of Competitive Bidding process was the tariff quoted by the Bidder. The bidder wise

tariffs discovered through the e-reverse auction for the cumulative awarded capacity of 1200 MW has been set out as under:

BIDDERS	TARIFF (Rs./kWh)	AWARDED CAPACITY (MW)
Adani Renewable Energy Park (Gujarat) Limited	2.82	250
Ostro Energy (P) Limited	2.82	300
Srijan Energy Systems Pvt. Limited	2.82	150
Powerica Limited	2.82	50.60
Zenataris Renewable Energy (P) Limited	2.83	125
SBESS Services Project Co. Two (P) Ltd.	2.83	324.40
TOTAL		1200

- vi. That the Respondent has issued Letter of Awards (LOAs) to the selected bidders on 17th June, 2019. The allocated capacity for 1200 MW ISTS-connected Wind Power Projects under Tranche VI provided as 350 MW for Bihar State Power (Holding) Co. Limited, 200 MW for Kerala State Electricity Board Limited, 460 MW for Uttar Pradesh Power Corporation Limited, 50 MW for BSES Rajdhani Power Limited, 40 MW for Electricity (OP) Circle, U.T. Chandigarh, 50 MW for GRIDCO and 50 MW for the Petitioner.
- vii. That the Respondent has signed a Power Sale Agreement (PSA) of 50 MW with the Petitioner under ISTS Wind Tranche VI on 16th August, 2019, which is mapped to receive power from Wind Power Developer (WPD) named M/s Morjar Windfarm Development Private Limited.
- viii. That the Respondent has signed a Power Purchase Agreement (PPA) with M/s Morjar Windfarm Development Private Limited on 29th October, 2019.
- ix. That the Petitioner does not have its own generating sources and therefore, most of the power requirement for the State is met through procurement of power from Central Sector Power Stations of NTPC Ltd. as allocated to the Petitioner by the Central Government. In terms of this allocation, the Petitioner is currently receiving 418.28 MW of power from the Western Region (WR) and 100 MW from the Southern Region (SR). The total firm allocation from the Ministry of Power ("MoP") is 518.28 MW. In contrast, the peak demand in the State for FY 2019-20 was approximately 625 MW. Due to the shortfall in firm allocation of power, the Petitioner procures power from co-generation power generating stations within the State and Short-term procurement from the market, Traders, DEEP portal, etc.

- x. That the present proposal seeking approval from this Hon'ble Commission furthers the objectives of the Electricity Act with economical use of resources for the ultimate benefit of the consumers in the State while promoting renewable generation.
- xi. That in terms of the JERC (Procurement of Renewable Energy), Third Amendment Regulations, 2016, the Renewable Purchase Obligation ("RPO") targets for the Petitioner are as below:

Year	Minimum Quantum of Renewable Purchase Obligation (RPO) of Renewable Energy (in kWh)(% of total energy mix of consumption, excluding Hydro Power)		
	Solar (%)	Non-Solar (%)	Total (%)
FY 2020-21	6.10	8.00	14.10
FY 2021-22	8.00	9.00	17.00

- xii. That in order to comply with these stringent targets (Non-Solar RPO), the Petitioner has contracted Non-Solar Power from long-term tied –up sources of 50 MW (Wind Tranche II) from the Respondent. Additionally, the Petitioner also procures Non-Solar Power through Short term markets like traders and Hindustan Waste treatment plant within State to meet its Non-Solar RPO Compliance for FY 2020-21 as provided below:

Period	Non-Solar RPO Target MUs	Non-Solar RPO Target Met from Power Purchase in MUs	(Excess)/ Shortfall in MUs
FY 2020-21	329.31	362.53	(33.22)
FY 2021-22	353.85	258.69 (H1)	95.16

- xiii. That the Respondent has proposed a fixed tariff of Rs. 2.83/kWh plus trading margin of Rs.0.07/kWh fixed up to commissioning of the cumulative awarded capacity/accepted cumulative capacity by SECI under the Request for Selection (RfS) and subsequently, the applicable tariff payable by the Petitioner at pooled tariff of the commissioned Project Capacity of all the Projects accepted by the Respondent, till the end of the Term of the Agreement of 25 years for long term procurement of power through the Petitioner, for capacity of 50 MW from Wind Power Project (under ISTS Wind Tranche VI). It is submitted that the same is competitive and aligned with/below the market rate owing to the following reasons:

- (a) In terms of GENERIC TARIFF ORDER FOR RENEWABLE ENERGY SOURCES FOR FY 2021-22, Order Dated: 28th April, 2021 passed by this Hon'ble Commission, Rs. 4.92/kWh has been approved by this Hon'ble Commission for a period of 25 years (upon adjustment of accelerated depreciation benefit of Re. 0.36/unit, if availed).
- (b) The recent market rates for procurement of Non-Solar Power from Short Term Markets are in the range of Rs. 4.30/kWh to Rs. 4.50/kWh.
- (c) The proposed tariff will have significant saving to the DISCOMs in financial terms.
3. The submissions of the Respondent in brief are as under: -

- i. That the tariff to be considered by the Commission is the tariff of Morjar Windfarm Development Private Limited (plus Trading Margin of Rs 0.07/kWh) which has been mapped for supply of power to Goa.
- ii. That the mapping of the projects for supply of power to the Government of Goa and other similarly placed buying utilities has been done based on the Long-Term Open Access Availability to the inter-state transmission system from the place of generation to the Goa Periphery.
- iii. That The State of Goa will not be getting power from other wind power developers under the present PSA. The approval should not therefore be based on the pooled tariff as stated by the Electricity Department of Goa but to the specific tariff of Rs 2.82/kWh plus trading margin of Rs 0.07/kWh.
- iv. That Article 5 of the PSA dated 16.08.2019 providing for the applicable tariff for the procurement of Wind Power by Government of Goa from SECI is reproduced as under:-

ARTICLE 5: APPLICABLE TARIFF

5.1.1 From SCD and subject to the provision of the Article 6.7, the Buying Entity shall pay the fixed tariff of Rs 2.83/kWh plus trading margin of Rs 0.07/kWh fixed up to commissioning of the cumulative awarded capacity / accepted cumulative capacity by SECI under the RfS.

5.1.2 Until the commissioning of the cumulative awarded capacity / cumulative capacity commissioned as accepted by SECI under the RfS, the applicable tariff payable by Buying Entity shall be the Tariff as per Article 5.1.1 Plus trading margin of Rs 0.07/kWh.

Subsequently, the applicable tariff payable by Buying Entity shall be the pooled tariff arrived as per Schedule – 1 of this Agreement of the commissioned Project Capacity of all the projects accepted by SECI, till the end of the Term of the Agreement. The Buying Entity shall make the Tariff Payments to Buyer as per the provisions of this Agreement.

Trading Margin of Rs 0.07/kWh will be applicable over and above discovered pooled tariff.

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1. SCHEDULE 1: LIST OF LOAs ISSUED TO WPDs

SL NO.	WPD NAME	PROJECT CAPACITY (MW)	APPLICABLE TARIFF AS PER SECI – SPD PPA (RS/KWH)
1.	Adani Renewable Energy Park (Gujarat) Ltd.	250	2.82
2.	Ostro Energy (P) Ltd.	300	2.82
3.	Srijan Energy Systems (P) Ltd.	150	2.82
4.	Powerica Ltd.	50.60	2.82
5.	Zenataris Renewable Energy (P) Ltd.	125	2.83
6.	SBESS Services Projecto Two (P) Ltd.	324.4	2.83
Weighted Average Tariff (kWh)			2.8237*

(*Note: The Pooled Tariff is liable to changes depending on actual commissioning achieved by the respective projects, leading to changes in applicable tariffs. Example-Formula: = Capacity (MW individual (Sl no. 1+2.....6))*Tariff (Individual)/(Total commissioned capacity). It is clarified that in case last accepted capacity (MW) is coming within a month then pooled tariff shall be applicable from subsequent month)

- v. That the pooled tariff / weighted average tariff mentioned above is a derivative from the individual Tariff discovered in the competitive bid process and is indicative only. The pooled Tariff is liable to changes depending on actual commissioning achieved by the respective projects leading to changes in the applicable tariffs.
- vi. That the Central Commission in its Order dated 20.11.2019 in Petition No. 215/AT/2019 filed by SECI for the adoption of tariff for ISTS Tranche – VI Wind Scheme, under which the power is being sold to the Government of Goa in terms of PSA dated 16.08.2019, has considered and approved the adoption of the tariff of the generators in pursuance to the competitive bid process and the tariff of each of the generators has been adopted. The Central Commission has not adopted the tariff at the pooled rate. In this regard the relevant extract of decision is as under:

27..... Accordingly, in terms of Section 63 of the Act, the Commission adopts the following tariff for the projects as agreed to by the successful bidders to signing of the PPAs with the WPDs, which shall remain valid throughout the

period covered in the PSAs and PPA

SUCCESSFUL BIDDERS	BIDDERS' QUANTITY MW	TARIFF (INR/kWh)
<i>Adani Renewable Energy Park (Gujarat) Ltd.</i>	250	2.82
<i>Ostro Energy Private Limited</i>	300	2.82
<i>Srijan Energy Systems Private Limited</i>	150	2.82
<i>Powerica Limited</i>	50.60	2.82
<i>Zenataris Renewable Energy Private Limited</i>	125	2.83
<i>SBESS Services Projecto Two Private Limited</i>	324.4	2.83

28. That the Petitioner has prayed to adopt the tariff at the pooled rate of Rs 2.8237/kWh. Since the tariff at the pooled rate of Rs 2.8237/kWh is not the tariff discovered through competitive bid process, we are not inclined to adopt the tariff at the pooled rate. We are adopting the tariff discovered through the tariff based competitive bid process for the individual power project.

- vii. That it is respectfully prayed that the Commission may be pleased to allow procurement of 50 MW Wind Power under the PSA at the individual tariff of the WPD identified for supply of Wind Power (Rs 2.82/kWh) plus trading margin of Rs 0.07/kWh payable to SECI, as has been mutually agreed to between the parties.
4. The Commission has examined in depth the arguments advanced by the Petitioner and the Respondent. It has also carefully examined the entire record placed before it along with additional information filed by both the parties. It has also examined the relevant provisions of the Electricity Act, 2003, Rules and Regulations made there under, the relevant order of CERC in the petition filed by the SECI for adoption of tariff under section 63 of Electricity Act and the guidelines issued by the Government of India 08.12.2017 for Tariff based competitive bidding process for procurement of power from grid connected wind power projects for setting up of ISTS connected wind power projects.
5. Section 86 (1) (b) provides as under:-
- (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;

- 6. The Commission has noted that the Petitioner has entered into the power sale agreement (PSA) with the Respondent for 50 MW wind power under 1200 MW ISTS Trench-6. The said PSA was signed with the Respondent on 16.08.2019 subject to final approval by the Commission. The Petitioner further submitted that they would pay the maximum possible tariff of Rs 2.83/kWh plus trading margin of Rs 0.07/kWh fixed with commissioning of the cumulative awarded capacity/ accepted cumulative capacity by the Respondent under the request of selection (Rfs).

- 7. The Commission has further noted that the Petitioner has justified the purchase of the said 50 MW of wind power as it has to fulfill its non-solar RPO obligations from long-term tied – up sources of 50 MW (Wind Tranche II & III) from SECI. Additionally, it also procures Non-Solar Power through Short term markets like traders and Hindustan Waste treatment plant within the State. The State of Goa entirely depends on Central Sector allocation of NTPC and NPCIL. Goa being eco-sensitive, no thermal energy capacity can be installed in the State. The challenge before it is not only to meet the ever-growing demand for power but also to progressively increase the share of Renewable Sources of energy so as to achieve overall energy security and also to meet the RPO as per the target fixed by appropriate authorities from time to time.

- 8. According to the Petitioner SECI's proposal appears to be in order to further the statutory objectives of:
 - (a) Increasing the share of renewables in the State.
 - (b) Enabling RPO compliance for the Petitioner.
 - (c) Providing modern energy services to consumers with numerous economic and social benefits since SECI's proposal is lower than the benchmark price prescribed by this Hon'ble Commission in the generic tariff order for wind power procurement.

- 9. The Commission has observed that the Respondent has been designated as the Nodal Agency for implementation of scheme for setting up of Inter-State Transmission System (ISTS) connected Wind Power Projects with the mandate to call for bids under a Tariff Based Competitive Bidding process. Further to enter into Power Purchase Agreements (PPAs) at the tariff discovered in the competitive bid process and also enter into Power Sale Agreements (PSAs) with the Distribution Licensees/Buying Entitles to enable them to fulfill the Renewable

Purchase Obligations under Section 86 (1)(e) of the Act. The SECI will act as an Intermediary Agency in purchase and sale of power under the PPA and PSA on back-to-back basis.

10. Guidelines notified by Government of India on 08.12.2017, for setting up of ISTS connected Wind Power Projects (Tranche-VI) provides for the pooled tariff as under;

1.3.4. Buying Entities which require wind power to fulfil their non-solar RPO under respective RPO Regulations will be eligible to buy wind power under this scheme. SECI shall sign PPAs with the WPDs at the respective tariffs discovered after reverse auction and back-to-back Power Sale Agreements (PSAs) with the Buying Entities at a pooled price of the total capacity allotted (rounded off to two decimal places)

11. That the aspect of pooled tariff/ weighted average tariff forms part of the PSA dated 16.08.2019, executed between SECI and State of Goa, which governs the rights and obligations of parties in regard to sale and purchase of 50 MW capacity of Wind Power.
12. The Commission has noted that the Central Commission in terms of Section 63 of the Electricity Act, 2003, has adopted the individual tariff determined through transparent process of bidding by the successful bidder. Though the Petitioner has prayed to adopt the tariff at the pooled rate of Rs 2.8237/kWh but the Central Commission did not adopt the tariff of the pooled rate since the tariff at the pooled rate of Rs 2.8237/kWh was not the tariff discovered through competitive bidding process. Accordingly, the SECI has prayed to the Commission to approve the said Power Sale Agreement for 50 MW Wind Power at the individual tariff of Rs 2.82/kWh plus trading margin of Rs 0.07/kWh adopted by the CERC for the WPD identified for supply of Wind Power to the Petitioner.
13. The Commission has further noted that sub Clause 5.1.1 under article 5 of the Power Sale Agreement provides that from SCD and subject to the provision of the Article 6.7, the Buying Entity shall pay the fixed tariff of Rs 2.83/kWh plus trading margin of Rs 0.07/kWh fixed up to commissioning of the cumulative awarded capacity / accepted cumulative capacity by SECI under the RfS.
14. Further sub Clause 5.12 provides that:

Until the commissioning of the cumulative awarded capacity / cumulative capacity commissioned as accepted by SECI under the RfS, the applicable tariff payable by Buying Entity shall be the Tariff as per Article 5.1.1. Subsequently, the applicable tariff payable by Buying Entity shall be the pooled tariff arrived as per Schedule – 1 of this Agreement of the commissioned Project Capacity of all the Projects accepted by SECI, till the end of the Term of the Agreement. The Buying Entity shall make the Tariff Payments to seller as per the provisions of this Agreement. Trading margin of Rs 0.07/kWh will be applicable over and above discovered pooled tariff.

15. The Commission is of the view that since the Central Commission has adopted the individual discovered tariff of Rs 2.82/kWh and refused to adopt the pool tariff of Rs 2.83/kWh, therefore in sub Clause 5.1.1 the fixed tariff of Rs 2.83/kWh shall be substituted by Rs 2.82/kWh. Accordingly the Commission has modified sub Clause 5.1.1 under Article 5 of the Power Sale Agreement.
16. Further, the Commission is of the view that second sentence under sub Clause 5.1.2 starting from subsequently in line 3 shall be deleted. Accordingly, the Commission has modified sub Clause 5.1.2 under Article 5 of the Power Sale Agreement.
17. The Commission feels that in order to fulfill its RPO obligations in near future the purchase of 50 MW power will be of advantage to the Petitioner and will also help in reducing the level of pollution in the State of Goa. Keeping in mind the national policy for promotion of power from renewable energy sources, Commission is of the considered view that the purchase of the said 50 MW wind power from SECI at a price of Rs 2.82 per kWh plus trading margin of Rs 0.07/ kWh is quite reasonable.
18. The Commission is inclined to accept the arguments advanced by the Respondent in favour of selling of the said 50 MW wind power at a rate of Rs2.82 per kWh plus trading margin of Rs.0.07 per kWh to the Petitioner in accordance with the Central Electricity Regulatory Commission's Order dated 20.11.2019 wherein it has adopted the tariff of each of the generators discovered through competitive bidding process and at the same time has refused to adopt the pooled tariff as it is not the tariff discovered though competitive bidding process.
19. In view of the above Commission exercises its power under section 86 (1)(b) and accords its approval to the said modified Power Sale Agreement for 50 MW of wind power from SECI. The modified Power Sale Agreement dated 16.08.2020 for 50 MW of wind power is an integral part of this Order.
20. Ordered accordingly.

Sd/-

(Jyoti Prasad)
Member (Law)

(Certified Copy)



(Rakesh Kumar)
Secretary