

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 189 of 2020**

**Case of Maharashtra State Electricity Distribution Company Limited seeking approval to float Open tenders and taking land on lease by paying rent under Mukhyamantri Saur Krishi Vahini Yojana (MSKVY) Scheme.**

Maharashtra State Electricity Distribution Co. Ltd. .... Petitioner

Maharashtra Energy Development Agency .... Respondent

**Coram**

**I.M. Bohari, Member**  
**Mukesh Khullar, Member**

**Appearance**

For the Petitioner : Smt. Kavita Gharat (Rep.)  
For the Respondent : Dr. J. V Torane (Rep.)

**ORDER**

**Date: 29 October, 2020**

1. Maharashtra State Electricity Distribution Company Limited (**MSEDCL**) has filed the present Petition on 21 September 2020 under Regulation 85 of Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 and Regulations 18 & 19 of Maharashtra Electricity Regulatory Commission (RPO, Its Compliance And Implementation of REC Framework) Regulations, 2019 (RPO-REC Regulations 2019), seeking approval to float Open tenders and taking land on lease by paying rent under Mukhyamantri Saur Krishi Vahini Yojana (MSKVY) Scheme.

2. **MSEDCL's main prayers are as follows:**

- a) To allow MSEDCL to adopt this new methodology for implementing Open tender policy under Mukhyamantri Saur Krishi Vahini Yojana with ceiling rate of Rs 3.30 per unit.
- b) To consider the procurement of power through this process for fulfillment of RPO Targets.

**3. MSEDCL in its Case has stated as follows:**

- 3.1. The Commission has set up Solar RPO Targets through RPO-REC Regulations 2019, as below:

| FY 2020-21 | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 |
|------------|------------|------------|------------|------------|
| 4.50%      | 6.00%      | 8.00%      | 10.50%     | 13.50%     |

- 3.2. In line with Maharashtra Electricity Regulatory Commission (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) Regulations, 2016, (RPO-REC Regulations 2016) MSEDCL has achieved the Solar RPO target up to FY 2015-16. The status of the RE procurement shortfall (Solar) is as mentioned under:

| <b>Period</b>            | <b>Solar (MUs)</b> |
|--------------------------|--------------------|
| FY 2016-17               | 671                |
| FY 2017-18               | 1476               |
| FY 2018-19 (Provisional) | 1321               |
| FY 2019-20 (Provisional) | 853                |
| <b>Total</b>             | <b>4321</b>        |

- 3.3. At present, MSEDCL has contracted 4057 MW Solar Capacity and 1133 MW solar Capacity is under signing process. Also, in view of the requirement for fulfilling RPO targets in future years and the accumulated shortfalls, MSEDCL has to procure around 5000 MW Solar Power in next 2 years. Out of this 5000MW, 3000MW capacity is planned through the MSKVY.
- 3.4. MSEDCL had faced difficulties in purchasing RECs due to non-availability of sufficient quantities of RECs and increased rates of RECs in the market during FY 2019-20. Further, MSEDCL always intends procurement of actual RE power instead of purchasing RECs.
- 3.5. To achieve the RPO targets set by the Commission, MSEDCL has been aggressively floating tenders through transparent competitive bidding since December 2017, under Solar

category (Inter/Intra State grid connected projects and de-centralized projects under MSKVY).

- 3.6. Considering the benefits associated with decentralized generation under MSKVY such as day time power supply to agriculture consumers, reduction of distribution losses and avoided cost of transmission infrastructure, etc, MSEDCL has floated tenders for procurement of solar power through competitive bidding under MSKVY as per Ministry of Power's (MoP) guidelines issued for tariff based competitive bidding process in last two years.
- 3.7. The Government of Maharashtra (GoM) vide Government Resolution (G.R) dated 14 June 2017 and its amendment dated 17 March 2018 has issued Policy under "MSKVY" to provide power to Agricultural (AG) Consumers during day time by installation of Solar Projects and appointed Maharashtra State Power Generation Company Limited (MSPGCL) and MSEDCL as implementation agency.
- 3.8. The details of tenders floated by MSEDCL under MSKVY through competitive bidding are as shown below:

| <b>Sr. No.</b> | <b>Date of Tender</b> | <b>Capacity of Tender (MW)</b> | <b>Bids received (MW)</b> | <b>Tariff discovered (Rs/kWh)</b> | <b>PPAs signed (MW)</b> |
|----------------|-----------------------|--------------------------------|---------------------------|-----------------------------------|-------------------------|
| 1              | 27.04.2018            | 1000                           | 235                       | 3.09 to 3.15                      | 235                     |
| 2              | 15.09.2018            | 1400                           | 180                       | 3.29 to 3.30                      | Nil                     |
| 3              | 07.01.2019            | 1400                           | 1170                      | 3.16 to 3.30                      | 10                      |
| 4              | 20.09.2019            | 1350                           | 5                         | 3.14                              | 5                       |
| 5              | 31.12.2019            | 1350                           | 283                       | 3.28 to 3.30                      | Under Process           |
|                |                       | <b>6500</b>                    | <b>1873</b>               |                                   | <b>250</b>              |

- 3.9. The above table shows that the tenders floated under MSKVY have been undersubscribed and has shown the same pattern for last two years. Out of total tendered capacity of 6500 MW under MSKVY, bids for only 1873 MW capacity received and PPA for 250 MW Solar capacity have been executed so far and 283 MW is under process. In addition to this under MSKVY, MSEDCL executed PPA with M/S Energy Efficiency Services Limited (EESL) for 500MW capacity to develop solar projects at spare lands of MSEDCL/MSETCL substation and Govt. land and executed Power Supply Agreement (PSA) with MSPGCL for a capacity of 129MW. The commissioned capacity under MSKVY till date is around 223MW.

- 3.10. From bidders who had participated in these tenders it is clear that the bidders are small investors and for selection of successful bidder and completion of present tendering process, it has its own time line. Also, many times once the bidder misses time line, he has to wait till second bids starts and it restricts the bidder participation in process. In order to contract the decentralized solar generation capacity on fast track and to encourage higher/continuous participation of project developers, MSEDCL proposes to adopt open tender policy by publishing distribution sub-station wise solar evacuation capacity in Agriculture dominated districts.
- 3.11. It is proposed to implement Open tender procedure wherein MSEDCL shall utilise the tender documents prepared on the basis of Ministry of New and Renewable Energy's (MNRE) guidelines of decentralized solar plants issued on dated 13 December 2019 and subsequent amendments and the deviations approved by the Commission in previous Orders related to MSKVY.
- 3.12. Methodology for implementing Open tender under MSKVY:
- a. MSEDCL will publish an open tender with the distribution substations wise solar power evacuation capacity in Ag dominated area with ceiling tariff of Rs. 3.30 per unit (discovered tariff in latest MSKVY tender Commission in recent Order dated 16 May 2020 in Case No. 80 of 2020 under MSKVY).
  - b. On 5th (or next working day) of every month, MSEDCL will publish list of substations with available capacity for which developers can bid with terms and conditions as mentioned in the RFS.
  - c. For any queries regarding tender, bidders may send an email within 5 days from the date of tender publication. MSEDCL will upload the replies to queries within 10 days from the date of publication of tender. Last date of receipt of technical and financial bids will be 25th (or next working day) of every month.
  - d. Technical bids will be opened and evaluated on the same day of bid submission. The financial bids of technically qualified bidders will be opened on 28/29th day of every month.
  - e. E-reverse auction will be conducted for substation locations where the cumulative capacity of the bids received is more than the published available capacity.
  - f. Letter of Awards to the successful bidders will be issued after adoption of tariff by the Commission.

- g. The remaining capacity of each substation shall be updated and the revised substation wise evacuation capacity is published for every month.
  - h. The process described above from b to g will be repeated till balance capacity at the published sub-station is exhausted or the proposed capacity of 3000 MW is fulfilled.
  - i. If there is no response from bidders at particular substations for more than three months, MSEDCL will explore the possibility of providing lands to solar developers by taking it on lease from private/Govt department on lease basis. with the lease rate of Rs. 30000 per acre per annum with escalation of 3% or at ready reckoner rate or through tendering process. The monthly tender will be floated with availability of land and in such cases the ceiling tariff for these tenders will be Rs 3.11 per unit (including Land development charges & Evacuation arrangement) with the provision of reverse auction.
4. **MEDA in its submission dated 21 October 2020 has stated below key points:**
- 4.1. Individual solar power projects to be installed under open tender of MSKVY should be Registered with MEDA as per Government of Maharashtra RE Policy 2015 dated 20 July 2015 and its Methodology dated 9 September 2015.
  - 4.2. The lease rent may be enhanced to Rs. 35,000/- per acre if sufficient bids/response is not received. This will not increase the rate of supply of power as it forms only 5% of the project cost.
5. At the e-hearing through video conferencing held on 22 October 2020, the representative of MSEDCL and MEDA reiterated their submissions as made in the Petition.

### **Commission's Analysis and Rulings**

- 6. MSEDCL has filed the present petition seeking approval to float Open tenders and taking land on lease by paying rent under MSKVY Scheme. MSEDCL has highlighted that in order to comply with its Solar RPO shortfall for previous years and also to comply with the future targets, it needs to procure ~5000 MW of Solar power in next two years, of which, about 3000 MW of Solar capacity has been planned through MSKVY.
- 7. MSEDCL has highlighted that on various occasions, the tenders floated by it under MSKVY have been undersubscribed. It has tendered about 6500 MW of solar projects under MSKVY, however, it received bids for only 1873 MW capacity and so far, PPA for 250 MW Solar capacity have been executed.

8. MSEDCL has further highlighted the protracted timelines faced by any interested bidder, if it fails to participate in the initial bid. In order to expedite the process of bidding, MSEDCL has proposed the Methodology for implementing Open tender under MSKVY with monthly frequency. MSEDCL has submitted that it has prepared the tender document as per the Guidelines issued by MNRE for decentralized solar plants dated 13 December 2019 and subsequent amendments and also in accordance with the deviations approved by the Commission in previous Orders related to MSKVY. MSEDCL has detailed out the methodology for Open Tender in the above para 3.12.
9. The Commission notes that MSEDCL has submitted ceiling rates for the bidding process as per the methodology submitted by it. The Commission underscores that in its various previous orders, the Commission has directed that utility shall prescribe ceiling rate at their own due diligence and the rate aspect shall be dealt by the Commission at the time of adoption of tariff.
10. The Commission acknowledges the proactive proposal of MSEDCL to accelerate the bidding process under MSKVY and is principally inclined towards the proposal of MSEDCL to conduct Open Tender i.e. continuous re-bidding till targeted capacity is fulfilled, for procurement of Solar power under MSKVY. However, the Commission postulates that, as traced below, there may be certain operational challenges which needs to be addressed while inviting the bids on monthly basis:
  - 10.1. As per methodology proposed by MSEDCL, initial tender (RfS) document will form base for all future continuous bidding process to be conducted in each month till targeted capacity is fulfilled. Such process may take several months. In case, there is any amendment or issuance of new guideline by the Central Govt. or any other substantial market development which requires revisions in RfS, there needs to be provision for the same.
  - 10.2. Due to proposed methodology of continuous bidding till fulfillment of targeted capacity, there is possibility that bidders will quote only the ceiling tariff which will vitiate the intent of competitive bidding. To avoid this, MSEDCL may adopt the approach of other agencies like Solar Energy Corporation of India (SECI) wherein it initially invites the Expression of Interest (EOI) to assess the scale of bids which may be received and if EOI received is less than the anticipated capacity, then bids are called for less capacity (usually 80%) of the EOI received. This process may safeguard against any gaming/cartel formation.

- 10.3. MSEDCL has proposed the option of providing land to bidders only if 3 months of continuous bidding process do not provide satisfactory response. However, MSEDCL already has enough experience of low response in last 2 years, hence instead of waiting for 3 months, if land is available, MSEDCL may include it upfront from day one. MEDA has submitted that MSEDCL may enhance the lease rent rate of the land to be developed for solar projects. As stated in above para 9, the Commission opines that such rates shall be offered by the utility as per their own commercial analysis.
- 10.4. It is also important to incorporate changes in bid conditions to reflect learning from recent disputes adjudicated by the Commission in respect of competitively bided solar projects. One of such prominent disputes is DC capacity to be considered for allowing Change in Law compensation. Such dispute has arisen because of industrial practice of providing oversized DC module capacity vs-a-vis contracted AC capacity. Although, providing DC oversizing is commercial decision of bidder, while allowing compensation towards Change in Law, inefficiencies on account of such decision cannot be allowed as passthrough. Hence, MSEDCL in its RfS document shall specify the formula for DC capacity to be considered for Change in Law computation as follows:
- $$\text{DC Capacity for Change in Law} = \text{AC Contracted Capacity} \times (\text{Declared CUF/Minimum CUF stipulated in RfS})$$
- 10.5. Further, MSEDCL shall also include formula for arriving at per unit impact of such Change in Law compensation to be recovered over the tenure of PPA. While providing for such formula, appropriate interest rate (which should be lower than DPC) shall be allowed on differed payment of Change in Law compensation. This inclusion shall assist in providing clarity to the potential bidders and will minimize future litigations.
11. In view of above, the Commission directs MSEDCL to make necessary changes in RfS document to address above issues and submit through fresh Petition for approval of the Commission. During such process, MSEDCL shall also submit operational details of already commissioned projects under MSKVY and whether they have faced or facing any operational difficulty, if any. Such review of commissioned projects would only assist in modifying the RfS document so as to attract more bidders in future bid process.
12. Hence, the following Order.


### **ORDER**

- 1. Case No. 189 of 2020 is partly allowed.**

2. Maharashtra State Electricity Distribution Company Limited shall file modified RfS document after addressing the issues and directions as provided in above paras 10 and 11 for approval of the Commission.

Sd/-  
(Mukesh Khullar)  
Member

Sd/-  
(I.M. Bohari)  
Member

  
(Abhijit Deshpande)  
Secretary

