

Electricity Act, 2003. The Petitioner has sought the approval of the Commission for adoption of discovered tariff of Rs. 2.40 per unit quoted by successful bidder under bid No. RfS No. PGVCL/Project/DSM/PM-KUSUM-C-FLS/TN-02 dated 16.02.2022 as stated above.

- 4.1. The Commission has notified GERC (Procurement of Energy from Renewable Sources) (Third Amendment) Regulations, 2022 and specified the RPO% for every year to be fulfilled and achieved by the obligated entities towards their RPO as specified by the Commission in the aforesaid Regulations, 2022. In the said Regulations, the Commission has stipulated the RPO requirement of Distribution Licensees till FY 2024-25 as under:

Year	Minimum Quantum of purchase (in %) from renewable energy sources (in terms of energy in kWh)				
	Wind (%)	Solar (%)	Hydro Power Purchase Obligation (HPO) (%)	Others (Biomass, Bagasse & Bio-fuel based cogeneration, MSW and Small/Mini/Micro Hydro) (%)	Total (%)
(1)	(2)	(3)	(4)	(5)	(6)
2017-18	7.75	1.75		0.50	10.00
2018-19	7.95	4.25		0.50	12.70
2019-20	8.05	5.50		0.75	14.30
2020-21	8.15	6.75		0.75	15.65
2021-22	8.25	8.00		0.75	17.00
2022-23	8.25	8.00		0.75	17.00
2023-24	8.40	9.50	0.05	0.75	18.70
2024-25	8.55	11.25	0.10	0.80	20.70

From the above table it is apparent that the Petitioner is required to procure substantial quantum of solar power, since the Commission has increased the Solar RPO in view of the requirement stipulated by the Government of India. We note that although, the Petitioner had invited bids for setting up of Solar Power Project for implementation of feeder level solarization under Component C of PM KUSUM Scheme whereunder, agriculture feeders already segregated or feeders having major load for agriculture may be solarized using installation of grid connected Solar power plant to cater the annual power requirement(s) of feeder(s) under RESCO model through RFS dated 16.02.2022. Accordingly, the same may also enable the Petitioner to meet the Solar RPO target, if available.

- 4.2. The Petitioner has sought the Commission's approval under Section 63 read with

Section 86(1)(b) of the Electricity Act, 2003, which Sections are reproduced below:

“.....

*Section 63:*

*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;”*

.....”

As per above Section, whenever transparent competitive bidding process is conducted under Section 63 of the Electricity Act, 2003 in accordance with the guidelines issued by the Central Government, the tariff discovered under such bidding has to be adopted by the Commission.

“.....

*Section 86(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.”*

.....”

As per the aforesaid provision, the Commission shall regulate the power procurement of the Distribution Licensees, including the procurement process, the price at which electricity shall be purchased from the generating company or the Licensees or through other sources through agreement for purchase of power for distribution and supply within the State.

- 4.3. Thus, it is apparent from the aforesaid provisions that the Petition filed by the Petitioner is within the purview of the Commission’s jurisdiction and in terms of the powers vested by the Electricity Act, 2003 and Regulations framed thereunder, the Commission decides to admit the present Petition.
- 4.4. It is observed that the Petitioner started the competitive bidding process as per Section 63 of the Electricity Act vide RfS No. PGVCL/Project/DSM/PM-KUSUM-C-

FLS/TN-02 dated 16.02.2022 for solar power plant of 1.206 MW on 11 KV feeder through RESCO Model as a pilot project for solarisation of various 11 kV Feeders in PGVCL for implementation of Feeder Level Solarization under PM KUSUM Scheme Component C of Government of India and also provided the draft bid documents i.e., RFS & PPA alongwith present Petition. The Petitioner gave wide publicity to the said tender by publishing a notice on 17.02.2022 & 18.02.2022 in two newspapers i.e., Sandesh and Gujarat Samachar respectively having wide circulation to seek wide participation from the participating bidders. The Petitioner also hosted the Bid Documents & Addendums on its website as well as on the e-bidding portal. Further, the Petitioner also held a Pre-Bid Meeting on 25.02.2022, wherein key bid parameters, provisions of bid documents & timelines were discussed, and the queries raised by the Prospective Bidders were addressed by the Petitioner and subsequently made some of the acceptable changes in the tender documents in pursuant to such discussions with tenders. The last date of bid submission in the tendering process was 09.03.2022 which was subsequently extended up to 28.03.2022.

- 4.5. We note that according to submission made by the Petitioner, no bids were received in first round of bidding. Moreover, during second round, the Petitioner received online and physical bid from one (1) bidder and the technical bid opening was held on 05.04.2022 in the presence of Bid Evaluation Committee.
- 4.6. It is observed that aforesaid bid received from the aforesaid bidder was technically qualified and in accordance with said report, the Financial Bid of the said bidder was opened on 11.04.2022 on e-bidding portal in presence of Bid Evaluation Committee. As per the terms and conditions of the tender, negotiation was undertaken with the qualified bidder on 19.04.2022 but the said bidder vide letter dated 21.04.2022 shown its inability regarding the negotiation in the tariff.
- 4.7. The following price was discovered that was held on the e-bidding portal and e-report generated at the n-code portal is also filed with the Petition:

<b>Rank</b>	<b>Name of the Company</b>	<b>Levelized tariff for 25 years including applicable taxes including GST, duties etc. Rs. Per Kwh</b>
1	JJ PV Solar Pvt. Limited	2.40

- 4.8. It is also submitted by the Petitioner that the bid received were opened in presence of Bid Evaluation Committee and also evaluated by said Committee. Although, the Petitioner has not submitted certification of the Bid Evaluation Committee but has submitted following in respect of single bid received of M/s JJ PV Solar Private Limited alongwith the present Petition:
- (a) Preliminary Stages Documents i.e. Tender Fee & EMD are Pre-audited & Observations signed by (i) Dy. S.A. (Exp-1), (ii) S.A. (Exp-1), (iii) I/c A.O (Exp-1) and (iv) C.O.A. (Exp)
  - (b) Evaluation Criteria/Clause – Verification of various Annexures & clause-wise verification like Eligibility Requirement, Legal status, GST Registration, Electrical contractor license, Not insolvent/receivership/winding-up/blacklisted, No conflict of Interest etc.
  - (c) E.2 Qualification Requirement (i) Technical Criteria (ii) Financial Criteria
  - (d) Techno-Commercial document scrutiny period from 06.04.2022 to 08.04.2022 by EE-DSM & DE-DSM
  - (e) Technical Bid – Commercial Scrutiny Stage signed by i) Dy. S.A. (Exp-1), (ii) S.A. (Exp-1), (iii) I/c A.O (Exp-1) and (iv) C.O.A. (Exp)
- 4.9. As per Petition, the financial bid of bidder was opened on 11.04.2022 on e-bidding portal in presence of the Bid Evaluation Committee but the Petitioner has apart from filing documents stated in above para has not filed the certification of the Bid Evaluation Committee - Financial Evaluation report along with the Petition.
- 4.10. We also note that as per terms & conditions of the tender, the Petitioner PGVCL has received offer for 1.206 MW capacity from the above successful bidder at tariff of Rs. 2.40 per unit for period of 25 years.
- 4.11. As already recorded earlier, the Petitioner ensured wider participation and competition by publishing the Notice Inviting Tender in Newspapers having large readership, also organized pre-bid conference and further incorporated necessary changes suggested by the prospective bidders. Moreover, according to the Petition filed, the Bid Evaluation Committee evaluated the technical bids and declared one bidder as qualified for opening the financial bid and same was opened in presence of Bid Evaluation Committee. As per terms & conditions of tender, only one bidder offered capacity of 1.206 MW with quoted tariff of Rs. 2.40 per unit as per report

generated & filed with the Petition of 'n-Procure' Tender Management System. As per the criteria mentioned in the RfS document the Petitioner has submitted that the Petitioner has issued Letter of Intent (LOI) to successful bidder viz, JJ PV Solar Pvt. Limited for tender capacity of 1.206 MW with quoted tariff of Rs. 2.40 per unit.

- 4.12. In view of the foregoing, the Commission is satisfied with the tendering process conducted by the Petitioner in a transparent manner and discovered tariff of successful bidder with quoted capacity and allocated capacity to them as stated below:

<b>Sr. No.</b>	<b>Bidder's Name</b>	<b>Capacity (MW)</b>	<b>Tariff (Rs / Unit)</b>
1	JJ PV Solar Pvt. Limited	1.206	2.40

- 4.13. The Commission, therefore, decides to adopt the above discovered tariff of Rs. 2.40 per unit quoted by above referred the bidder, viz., JJ PV Solar Pvt. Limited, for allocated capacity as stated above, as prayed by the Petitioner.
- 4.14. We note that the Ministry of Power had notified the Electricity (Late Payment Surcharge and Related Matters) Rules, 2021 on 22.02.2021. The said Rules are superseded by the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 on 03.06.2022. The aforesaid Rules, 2022 provide that these Rules are in supersession of the earlier Electricity (Late Payment Surcharge and Related Matters) Rules, 2021 except as respects things done or omitted to be done before such supersession. The said Rules would apply for the outstanding dues of generating companies, Inter-State transmission licensees and electricity trading licensees after the notification of the Rules on 03.06.2022. We note that the Petitioner has initiated and conducted the competitive bidding process through RfS No. PGVCL/Project/DSM/PM-KUSUM-C-FLS/TN-02 dated 16.02.2022 by issuing the 'Notice Inviting Tender' on 17/18.02.2022 i.e., prior to issuance of notification of the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 on 03.06.2022 by Ministry of Power, Government of India. Thereafter, the Petitioner has completed bidding process and also issued LoI on 07.05.2022 and approached the Commission for adoption of tariff discovered through competitive bidding process conducted by the Petitioner vide RfS dated 16.02.2022. It is stated in the said Rules, 2022 that the Central Government in exercise of powers conferred by Section 176 (1) of the Electricity Act, 2003 and in supersession of the Electricity

(Late Payment Surcharge) Rules, 2021 except as respects things done or omitted to be done before the supersession has notified Electricity (Late Payment Surcharge) Rules, 2022 which has to come in force on the date of its publication in the Official Gazette. i.e., from 03.06.2022 onwards. Hence, we are of view that the Electricity (Late Payment Surcharge) Rules needs to be incorporated correctly by the Petitioner in the PPA to be signed with the successful bidder.

4.15. We also note that the Petitioner has issued the LoI to the successful bidder and is yet to sign the PPA with them. Hence, we direct that the Electricity (Late Payment Surcharge) Rules notified by the Ministry of Power to be incorporated correctly by the Petitioner in the PPA to be signed with the successful bidder.

5. In view of above, this Petition is allowed and as the Petitioner has issued the LoI to the successful bidder and is yet to sign the PPA with them, the Petitioner is directed to execute the PPA with the successful bidder as per decision in this Order. We note that the Petitioner is required to submit the copy of the signed PPA and therefore, the Petitioner is directed to submit copy of duly executed PPA to the Commission alongwith an affidavit stating that the Articles/provisions of the PPA are as per the directions as stated above, provisions of Act, Rules, bidding guidelines and deviations approved by the Commission from time to time. We also direct the Petitioner that for the purpose of transparency, after execution of the PPA, to publicly disclose the name of the successful bidder and the tariff quoted by them together with the break up with the component, for 30 days on its website in terms of Clause 10.3 of the bidding guidelines as amended for knowledge and information of the stakeholders.

6. **SUMMARY OF DECISIONS:**

6.1 We decide to adopt the tariff discovered under the transparent competitive bidding process conducted by the Petitioner through RfS No. PGVCL/Project/DSM/PM-KUSUM-C-FLS/TN-02 dated 16.02.2022 as under:

Sr. No.	Bidder's Name	Capacity (MW)	Tariff (Rs / Unit)
1	JJ PV Solar Pvt. Limited	1.206	2.40

- 6.2 Apart from the directives of the Commission in this Order, the Petitioner to sign the Power Purchase Agreement with the successful bidder with allocated capacity and tariff as per above table.
- 6.3 We direct the Petitioner to submit the copy of duly executed PPA to the Commission alongwith an affidavit stating that the Articles/provisions of the PPA are as per the directions as stated above, provisions of Act, Rules, bidding guidelines and deviations approved by the Commission from time to time. We also direct the Petitioner that for the purpose of transparency, after execution of the PPA, publicly disclosed the name of the successful bidder and the tariff quoted by them together with the break up with the component, for 30 days on its website in terms of Clause 10.3 of the bidding guidelines as amended for knowledge and information of the stakeholders.
7. We order accordingly.
8. With this order the present petition stands disposed of accordingly.

**Sd/-**  
**[S. R. Pandey]**  
**Member**

**Sd/-**  
**[Mehul M. Gandhi]**  
**Member**

**Sd/-**  
**[Anil Mukim]**  
**Chairman**

Place: Gandhinagar.  
Date: 22/08/2022.