

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
GANDHINAGAR**

**Petition No. 2208 of 2023.**

**In the Matter of:**

**Petition under Section 63 read with 86 (1) (b) of Electricity Act, 2003 for seeking adoption of tariff discovered under Competitive Bidding process conducted vide RfS No. GUVNL/ 300 MW/ Wind (Phase IV) dated.18.10.2022 & addendums thereto issued by GUVNL for Procurement of Power from 300 MW Grid connected Wind Power Projects in Gujarat.**

Petitioner : Gujarat Urja Vikas Nigam Limited  
Sardar Patel Vidyut Bhavan  
Race Course Circle, Vadodara - 390007.

Represented By : Ld. Adv. Ms. Kirti Soni with Mr. Rahul Pareek

V/s.

Respondent No. 1 : Juniper Green Energy Pvt. Limited  
Plot No. 18, 1<sup>st</sup> Floor, Institutional Area  
Sector 32, Gurugram, Haryana - 122001.

Represented By : Mr. Shailesh Shekhar

Respondent No. 2 : WYN Renewables Pvt. Limited  
1<sup>st</sup> Floor, Eastern Wing, Thapar House  
124 Janpath, New Delhi-110001.

Represented By : Mr. Sibasis Panda

Respondent No. 3 : ACME Pokharan Solar Pvt. Limited  
Plot No. 1152, Sector 44,  
Gurugram, Haryana- 122022.

Represented By : Mr. Mridul Gupta

Respondent No. 4 : Solarcraft Power India 3 Pvt. Limited  
109, 1<sup>st</sup> Floor, Rishabh IPEX Mall  
IP xtension, Pratapganj, Near Max Hospital  
East Delhi- 110092.

Represented By : Mr. Sunil Pardeshi.

## **CORAM:**

**Anil Mukim, Chairman**  
**Mehul M. Gandhi, Member**  
**S.R. Pandey, Member**

**Date: 22/12/2023.**

## **ORDER**

1. The present Petition has been filed by the Petitioner Gujarat Urja Vikas Nigam Limited (GUVNL), under Section 63 read with 86(1)(b) of the Electricity Act, 2003 *interalia* seeking following prayers:

*(a) To admit the present petition.*

*(b) To adopt the tariffs discovered by the Petitioner and approve the procurement of power from 300 MW Grid connected Wind Power Projects in Gujarat under Competitive Bidding Process through RFS No. GUVNL /300 MW/Wind (Phase IV) dated 18.10.2022 and addendums thereto.*

*(c) To condone any inadvertent omissions/errors/shortcoming and permit the Petitioner to make addition/change/modification to this Petition as may be required.*

*(d) The Petitioner craves relief of the Commission to allow further submissions, prayers, additions and alterations to this Petition as may be necessary from time to time.*

*(e) Pass any other Order as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case, to avoid further delay and in the interest of justice.*

2. The Petitioner has filed this Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003 seeking adoption of tariff by the Commission and hence it is necessary to refer aforesaid Sections as under:

“.....

*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 has to 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.

3. This Petition filed by the Petitioner is within the purview of the jurisdiction of this Commission and in terms of the powers vested by the Electricity Act, 2003 and Regulations framed thereunder, the Commission admits the present Petition.
4. Facts mentioned in the Petition in brief are as under:

- 4.1. It is stated that the Government of Gujarat has notified the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003 in May, 2003 for reorganization of the entire power sector in the State of Gujarat and pursuant thereof, the Gujarat Electricity Industry Reorganization and Comprehensive Transfer Scheme, 2003 has been notified under the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003, whereby, erstwhile Gujarat Electricity Board was reorganized and its functions have been vested in different entities.
- 4.2. As per the above re-organization scheme, the activities undertaken by erstwhile Gujarat Electricity Board of Generation, Transmission, Distribution, Bulk Power Purchase and Supply have been entrusted to separate seven functional entities. The generation activity is assigned to Gujarat State Electricity Corporation Limited (GSECL), transmission activity is assigned to Gujarat Energy Transmission Corporation Limited (GETCO) and the distribution activity is assigned to four distribution companies viz. Uttar Gujarat Vij Company Limited (UGVCL), Madhya Gujarat Vij Company Limited (MGVCL), Dakshin Gujarat Vij Company Limited (DGVCL) and Paschim Gujarat Vij Company Limited (PGVCL). Further, the function of bulk purchase and bulk sale of power is assigned to the Petitioner, Gujarat Urja Vikas Nigam Limited.
- 4.3. The Distribution companies are mandated to procure power from Renewable Energy Sources as per the provision of Section 86(1)(e) of the Electricity Act, 2003 and in terms of the GERC (Procurement of Energy from Renewable Energy Sources) Regulations, 2010, as amended from time to time.
- 4.4. The Petitioner on behalf of its four Distribution companies has been entering into Power Purchase Agreement(s) amongst others with various Renewable Energy Generators for procurement of power from time to time. In accordance with the same, the Petitioner on behalf of its four Distribution companies has been entering into Power Purchase Agreement(s) amongst others with various Renewable Energy Generators for procurement of power from time to time.
- 4.5. The Electricity Act, 2003, the National Electricity Policy, 2005 and the Tariff Policy, 2016 envisages promotion of Renewable Energy Sources and Co-generation of electricity based on renewable generation sources. Section 3 (1) of the Electricity

Act, 2003, provides that the Central Government to formulate the National Electricity Policy in consultation with the Central Electricity Authority (CEA) and the State Governments *inter alia* for development of renewable sources of energy. Section 61 (h) of the Electricity Act, 2003 mandates the State Electricity Regulatory Commissions (SERCs) to specify the terms and conditions for determination of tariff bearing in mind the promotion of co-generation and generation of electricity from renewable sources of energy. Section 86 (1) (e) of the Electricity Act, 2003 mandates the SERCs to promote co-generation and generation of electricity based on Renewable Energy Sources. Also, as per Section 86 (1) (b) of the Electricity Act, 2003, the Commission to 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.

- 4.6. It is stated that promotion of competition in the electricity industry in India is one of the key objectives of the Electricity Act 2003. Power purchase costs constitutes the largest cost element for distribution licensees. Competitive procurement of electricity by the distribution licensees is expected to reduce the overall cost of procurement of power which lead to reduction in prices of electricity which ultimately resulted in significant benefits for consumers. Sections 61 and 62 of the Electricity Act, 2003 also empower the State Commissions to specify the terms and conditions for determination of tariff for generation, transmission, distribution and supply of electricity in their respective State. In order to promote further competition, Section 63 of the Electricity Act 2003 provides that the State Commission to adopt such tariffs which have been determined through a transparent process of Competitive Bidding in accordance with the guidelines issued by the Central Government.
- 4.7. It is stated that Clause 6.4(2) of the National Tariff Policy, 2016 notified by the Ministry of Power, Government of India has given specific guidance on purchase of power generated from renewable energy sources, which states that the States shall endeavour to procure power from renewable energy sources through competitive bidding to keep the tariff low, except from the waste to energy plants. Procurement of power by Distribution Licensee from renewable energy sources, from projects

above the notified capacity, shall be done through competitive bidding process, from the date to be notified by the Central Government. However, till such notification, any such procurement of power from renewable energy sources Projects, may be done under Section 62 of the Electricity Act, 2003.

4.8. The Ministry of Power (MoP), Government of India on 08.12.2017, has notified the “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects” and subsequent amendment has been made thereto on 16.07.20219. Clause 5.1 of the said Guidelines provides following conditions in respect to ‘Bid documentation’:

“.....

- a) *Prepare the bid documents in accordance with these Guidelines and Standard Bidding Documents (SBDs) [consisting of Model Request for Selection (RfS) Document, Model PPA and Model PSA], notified by the Central Government, except as provided in sub clause (c) below.*
- b) *Inform the Appropriate Commission about the initiation of the bidding process.*
- c) *Seek approval of the Appropriate Commission for deviations, if any, in the draft RfS, draft PPA, draft PSA (if applicable) from these Guidelines and/ or SBDs, in accordance with the process described in Clause 22 of these Guidelines.*
  - (i) *However, till the time the SBDs are notified by the Central Government, for purpose of clarity, if the Procurer while preparing the draft RfS, draft PPA, draft PSA and other Project agreements provides detailed provisions that are consistent with the Guidelines, such detailing will not be considered as deviations from these Guidelines even though such details are not provided in the Guidelines.*
  - (ii) *Further, in case of an ongoing bidding process, if the bids have already been submitted by bidders prior to the notification of these Guidelines and/or SBDs, then if there are any deviations between these Guidelines and/or the SBDs and the proposed RfS, PPA, PSA (if applicable), the RfS, PPA and the PSA shall prevail.”*

.....”

4.9. It is stated that the above Guidelines provides that till the time the Standard Bidding Documents (SBDs) are notified by the Central Government, if the provisions in the Tender Documents viz. RfS & Draft PPA are consistent with the Guidelines, then such detailing will not be considered as deviations from the Guidelines even though such

details are not provided in the Guidelines. It is further submitted that the Standard Bidding Documents are yet to be published by Ministry of Power, Government of India.

- 4.10. It is stated that the Commission vide its letter dated 18.03.2017 observed that as per provisions of National Tariff Policy, procurement of power from Renewable Energy Projects by the Distribution Licensees is recommended through Competitive Bidding to keep the tariff low. It was further observed that the Government of India and various other State Governments have initiated Competitive Bidding Process in which the discovered tariff has shown substantial reduction.
- 4.11. It is stated that the Commission vide the aforesaid letter also directed to the Distribution Licensees to procure electricity from the Wind/Solar Power Projects through Competitive Bidding Process under Section 63 of the Electricity Act, 2003 or by following the Competitive Bidding Process followed by SECI/MNRE. It was also directed that the tariff determined by the Commission in the respective category of renewable energy will act as ceiling tariff and the distribution licensees may approach the Commission for adoption of the tariff discovered through such Competitive Bidding Process.
- 4.12. It is stated that the Petitioner had previously undertaken three rounds of Competitive Bidding in the year of 2017, 2019 and 2022 for purchase of power from grid connected Wind Power Projects and had also obtained approval of some deviations from the Commission. The Petitioner had tied up 1262 MW Wind capacity (out of which 30 MW has been terminated and 40 MW capacity has been delayed inordinately). The present wind installed capacity comprising of PPAs tied up at preferential tariff, REC Mechanism and under Competitive Bidding undertaken by the Petitioner GUVNL which reached up to 4280 MW.
- 4.13. The Commission has notified the GERC (Procurement of Energy from Renewable Energy Sources) (Third Amendment) Regulations, 2022 on 08.04.2022 stipulating RPO percentage targets upto FY 2024-25, wherein the Wind RPO percentages are specified as 8.25% for FY 2022-23, 8.40% for FY 2023-24 and 8.55% for FY 2024-25 respectively.

- 4.14. It is stated that the generation benefit from the PPAs executed under Competitive Bidding which may be made available after a lapse of about 24 months and that the same shall be useful in achieving RPO compliance of ensuing years which are in increasing trend as notified by the Commission, the Petitioner GUVNL contemplated to initiate Competitive Bidding Process for procurement of Wind power from 300 MW capacity. Considering recent Wind tender (Phase III) and Solar tenders of the Petitioner to tie-up additional power beyond the bucket-size of 300 MW at the L1 tariff, the Petitioner GUVNL also envisaged incorporating similar provision of 'Green-shoe Option' for upto additional 300 MW capacity.
- 4.15. It is stated that while inviting earlier Wind Tender(s) of the Petitioner, GUVNL had obtained approval of the Commission for certain deviations from MoP's Guidelines and the same were duly approved by the Commission vide Orders dated 15.03.2018 and 26.02.2019. Further, the MoP's Guidelines are silent on the aspect of incorporation of 'Green-shoe Option'.
- 4.16. It is further stated that the Petitioner GUVNL has proceeded with the Competitive Bidding Process followed by e-reverse auction for procurement of 300 MW Grid connected power from Wind Power Projects with additional allocation of upto 300 MW capacity under intimation to the Commission. The Petitioner had also forwarded Draft tender documents to the Commission wherein it is mentioned that in the draft tender documents of proposed Wind Tender (Phase IV), there are no other deviations taken by the Petitioner other than those earlier approved by the Commission. Moreover, the Petitioner has merely incorporated a requirement of submission of declaration by the bidders (in RfS) as per O.M. dated 23.07.2020 of Department of Expenditure, Ministry of Finance, Government of India regarding criteria for Foreign Bidder/Bidder sharing land border with India.
- 4.17. Thereafter, the Petitioner GUVNL has floated tender for procurement of 300 MW Grid connected Wind Projects (Phase-IV) with additional allocation of upto 300 MW capacity over and above the bucket-size under 'Green-shoe Option' through RfS No. GUVNL/300 MW/Wind dated 18.10.2022 & Addendums thereto. The Tender Documents and Addenda / Corrigenda thereto were also placed on the website of the Petitioner as well as on the web-based portal of M/s ISN Electronic Tender Services Pvt. Limited (ISN-ETS) for participation by prospective bidders in the e-



tender and e-reverse auction. The Petitioner had also published the Public Notice dated 19.10.2022 of 'Notice Inviting Tender in four English newspapers regarding the said Tender.

4.18. It is stated that a Pre-Bid Meeting was conducted with prospective bidders on 14.11.2022 to address the issues / queries of the Prospective Bidders. The Petitioner had received various queries/suggestions/recommendations from the prospective bidders and the Petitioner along with GETCO addressed the same at length during the meeting and also published the Minutes of Meeting duly incorporating a detailed list of queries & suggestions of the bidders, clarifications/replies thereto. It is also stated that in order to avoidance of doubt and for the sake of issuance of due clarification, the Petitioner also issued necessary addendum with regard to the modifications/amendments incorporated in RfS and Draft PPA. It is further submitted that various Wind Developers had requested for extension of timelines to enable them to undertake various activities as per the bid requirements viz. site identification, conducting wind assessment/feasibility study, negotiation with OEMs, etc. to formulate competitive tariff. In view of request received from several bidders and in the interest of wider participation and to have better competition, the Petitioner has extended the Bid deadline and reschedule the Bid deadline from 30.11.2022 to 16.01.2023.

4.19. It is stated that Technical Bid Opening was held on 17.01.2023 (15:00 hours). The Technical Bid Opening of online bids on the e-bidding portal of M/s ISN Electronic Tender Services Pvt Ltd (ISN-ETS) as well as offline bids was held in the presence of a committee comprising of the following members for opening and evaluation of the technical and financial bids:

<b>Bid Evaluation Committee</b>		
<b>Sr. No.</b>	<b>Name</b>	<b>Designation</b>
1.	Smt. Sailaja Vachhrajani	General Manager (RE & IPP)
2.	Shri Sanjay Mathur	Chief Finance Manager (RE & IPP)
3.	Shri Parthiv Bhatt	Company Secretary
4.	Shri Nilay Joshi	Controller of Accounts (F&A)

4.20. It is stated that the Petitioner received bids from 8 Bidders offering aggregate capacity of 589 MW. The Bid Evaluation Committee scrutinized the bids submitted

by the bidders and deliberated the issues in detail about responsiveness of the bids. Pursuant to the observation of discrepancies, queries were raised by the Petitioner on e-bidding portal of M/s ISN Electronic Tender Services Pvt Ltd (ISN-ETS) against the responsiveness issues. The responsiveness issues and queries raised by the Committee and the compliance / clarification / additional documents submitted by bidders were duly examined by the Committee for evaluation of their qualification. The Technical Bid Evaluation Report duly signed by the Members of Bid Evaluation Committee is also filed with the Petition.

4.21. Based on the techno-commercial bid evaluation by the Committee and their recommendation, the financial bids of all technically qualified 8 (Eight) No. of bidders were opened on 30.01.2023 (11:00 hours) on the ISN-ETS web-portal in the presence of Bid Evaluation Committee. Thereafter, in accordance with the terms of the RfS, 7 (seven) Bidders aggregating to 559 MW capacity were shortlisted by the Committee for e-reverse auction. The Financial Bid Evaluation Report duly signed by the Members of Bid Evaluation Committee is also filed with the Petition.

4.22. The e-reverse auction was conducted on the web-portal of ISN-ETS on 30.01.2023 @ 17.00 hours. The e-report generated at the closure of e-reverse auction pursuant to the bucket-filling concept is also filed with present Petition. The result generated at the closure of e-reverse auction on portal of ISN-ETS is tabulated herein below:-

<b>Sr. No.</b>	<b>Name of the Bidder</b>	<b>Capacity (MW)</b>	<b>Price Bid (Rs./ unit)</b>
L1	Juniper Green Energy Private Limited	50	2.96
L2	WYN RENEWABLES PRIVATE LIMITED	100	3.00
L3	ACME Pokhran Solar Private Limited	100	3.01
L4	Solarcraft Power India 14 Pvt Ltd	100	3.01
L5	Avaada Energy Private Limited	50	3.08
L6	Project Fourteen Renewables Power Pvt. Limited	60	3.22
L7	UPC Renewables India Management Pvt. Limited	99	3.27
	<b>Total</b>	<b>559</b>	

4.23. It is also stated that GUVNL has recently signed PPAs aggregating to 560 MW capacity at the tariff of Rs. 2.90 per unit under its Wind Tender (Phase III) in December 2022. The tariffs discovered at the end of e-RA under SECI's 1200 MW

Wind Tender (Tranche-XIII) were in the range of Rs. 2.90 to 2.95 per unit. It could be inferred that the L1 price (Rs. 2.96 per unit) under GUVNL's Wind Tender is close to the market price, however the remaining prices viz. L2 to L7 are not aligned with the market prices.

- 4.24. It is further stated that in the instant Wind Tender (Phase IV), the Petitioner has modified the e-RA methodology by incorporating a provision that only the Bidder falling within the range of L1 tariff and (L1 tariff + 2%) would qualify as successful bidders, similar to SECI's tenders so as to address the issue of lower competition in Wind Tenders. However, there was significant price difference between L1 and L7 prices discovered under GUVNL's tender and hardly there are any competition during real-time at the time of e-RA, predominantly on account of more no. of bidders individually offering lesser quantum (MW) falling under the bucket-list for reverse auction and thereby eligible for availing their quoted price (with adequate profit margin) and hence not exercising price reduction offering their best competitive price. Thus, the very essence of e-reverse auction enabling real-time competition and providing an opportunity to the Bidders to offer more competitive price was ineffective.
- 4.25. It is also stated that as per the provisions of the RfS, the Petitioner has right to short-close the capacity lower than 300 MW at its discretion, if the prices are abruptly high. Further, the discretion for allotment/non-allotment of additional capacity upto 300 MW under 'Green-shoe Option' is also solely vested with the Petitioner. Furthermore, as per the terms of the RfS, GUVNL's decision regarding selection of bidder through e-RA or otherwise based on tariff or annulment of tender process shall be final and binding on all participating bidders.
- 4.26. In the above scenario of discovery of higher price(s) under Petitioner GUVNL's Wind Tender (Phase IV), the competent authority of GUVNL had decided to constitute a "Negotiation Committee" comprising of members viz. (1) GM (RE) (2) GM (Commerce) and (3) GM (F&A) to undertake negotiation with the Bidders Nos. L1 to L4 with regard to their price bids to deliberate upon further course of action(s). Pursuant to above, a meeting with the L1 to L4 bidders was conducted in the presence of the Negotiation Committee constituted by GUVNL on 13.02.2023.

- 4.27. It is stated that the Petitioner negotiated with bidders and stating that there was practically no real time competition during e-RA. It was stated that the tariff of Rs. 2.96–3.01 per Unit discovered in the instant tender during January 2023 is not aligned with the recently concluded tender for which PPAs were executed in December 2022 at the tariff of Rs. 2.90 per Unit.
- 4.28. It is stated that all the bidders have expressed their concern over monopolistic attitude of the OEMs, increase in steel prices form December 2022 onwards, levy of export duty on steel, additional impact of GST and exposure to higher corporate tax rate of 22% compared to earlier rate of 15% for new manufacturing/generation units. In view of the above negotiation, M/s Juniper Green Energy Pvt. Limited (L1 bidder) vide its letter dated 02.03.2023 while expressing difficulties over the market condition and issue in project implementation, has conveyed their revise offer of Rs. 2.95 per unit for 100 MW capacity against their earlier quote of Rs. 2.96 per unit. Accordingly, the Petitioner GUVNL through letter(s) dated 28.03.2023 had sought consent from the remaining bidders for matching their quoted tariff with revised L1 tariff i.e. Rs. 2.95 per unit for their offered capacity and equivalent additional capacity under the 'Green-shoe Option'.
- 4.29. It is stated that the Petitioner has received the following responses as under:
- (a) M/s WYN Renewables Pvt. Limited (L2 bidder) vide letter dated 29.03.2023 stated to maintain the quoted tariff of Rs. 3 per Unit without any reduction.
  - (b) M/s ACME Pokhran Solar Pvt. Limited (L3 bidder) vide letter email dated 28.03.2023 requested to maintain discovered tariff of Rs. 3.01 per Unit.
  - (c) M/s Solarcraft Power India 14 Pvt. Limited (L4 bidder) vide email dated 29.03.2023 has maintained their quoted tariff of Rs. 3.01 per Unit for 50 MW base capacity and conveyed their acceptance of additional 50 MW under Green Shoe capacity at the same tariff of Rs. 3.01 per unit.
- 4.30. It is stated that the Petitioner has issued Letters of Intent (LOIs) under GUVNL's Wind Tender (Phase IV) and the response received from the Successful Bidders to the LOIs issued are as under:

- (a) M/s Juniper Green Energy Pvt. Limited (L1 Bidders) vide letter dated 18.04.2023 has accepted only base capacity of 50 MW.
- (b) M/s WYN Renewables Pvt. Limited (L2 bidder) vide letter dated 18.04.2023 has accepted only base capacity of 100 MW.
- (c) M/s ACME Pokhran Solar Pvt. Limited (L3 bidder) vide letter dated 25.04.2023 has accepted only base capacity of 100 MW.
- (d) M/s Solarcraft Power India 14 Pvt. Limited (L4 bidder) vide letter dated 14.04.2023 has accepted only base capacity of 50 MW.

4.31. The details of Successful Bidders of GUVNL's Wind Tender (Phase IV) are tabulated as under:

<b>Details of Successful Bidders under GUVNL's Wind Tender (Phase IV)</b>							
<b>Sr. No.</b>	<b>Successful Bidders</b>	<b>Base Capacity</b>		<b>Green-shoe Capacity</b>		<b>Total Capacity</b>	
		<b>MW</b>	<b>Rs. / Unit</b>	<b>MW</b>	<b>Rs. /Unit</b>	<b>Total Capacity (MW)</b>	<b>Aggregate Tariff (Rs / unit)</b>
1	Juniper Green Energy Pvt. Limited	50	2.95	-	-	100	2.95
2	WYN Renewables Pvt. Limited	100	3.00	-	-	100	3.00
3	ACME Pokhran Solar Pvt. Limited	100	3.01	-	-	100	3.01
4	Solarcraft Power India 3 Pvt. Limited	50	3.01	-	-	50	3.01
	<b>Total</b>	<b>300</b>		<b>-</b>		<b>300</b>	

4.32. It is stated that as per Clause 3.8.4 (vi) of the RfS, the successful bidders are required to sign PPA with the Petitioner within 30 days from the date of issuance of LoI and subsequent extension in this timeline (if required) may be finalized and agreed by GUVNL.

4.33. In view of above and in accordance with Section 63 read with Section 86 (1) (b) of the Electricity Act,2003 the Petitioner has filed the present Petition for adoption of tariff discovered in the Competitive Bidding Process conducted by the Petitioner through RfS No. GUVNL/300 MW/Wind (Phase IV) dated 18.10.2022 & Addendums

thereto issued by the Petitioner for procurement of power from Grid connected Wind Power Projects in the State of Gujarat.

5. The matter was heard on 21.06.2023. The Commission has passed Daily Order dated 31.07.2023 wherein the Commission has raised the query that how the methodology derived for matching the quote of L1 Bidder considering the L1 Bidder revised quote (rate) i.e., Rs. 2.95 + 2% as lowest bid and proceeded for matching the same for quote of the L2 to L4 Bidder. The relevant para of the said Daily Order dated 31.07.2023 is reproduced as under:

*“9. The Commission has raised the query that how the methodology derived for matching the quote of L1 Bidder considering the L1 Bidder revised quote (rate) i.e., Rs. 2.95 + 2% as lowest bid and proceeded for matching the same for quote of the L2 to L4 Bidder. Further whether such methodology is permissible as per the Competitive Bidding process for the Procurement of Wind Power and whether the same is aligned with the Guidelines for Tariff Based Competitive Bidding Process for the Procurement of Power from Grid Connected Wind Power Projects, needs also to be clarified. Whether any such provision has been incorporated in the RfS documents or not? If such provision is incorporated in the Bid documents, in that case whether Bid Evaluation Committee has verified for the same and has given certificate that the Bidding process has been conducted in transparent manner and whether in accordance with Bid documents, evaluation of Bid has been carried out by the Bid Evaluation Committee? Whether based on such Bid evaluation, the Committee has recommended that the bidding process is in accordance with the law and the Committee has recommended for approval of the same? The certificate of Bid Evaluation Committee shall require to specify its recommendation for the adoption of tariff and approval of PPA for arriving the Lowest Bid 4 for methodology of L1 Bid rate + 2%, which requires to be complied along with the other question raised herein above by the Commission within a weeks' time.....*

6. In compliance to the above, the Petitioner has filed the submissions vide its affidavit dated 07.08.2023 to the Commission on 08.08.2023. The relevant extracts of the said submissions is reproduced as under:

- (1) The Commission has raised a query on the methodology for L1 + 2%. At the outset it is stated that the L1 + 2% is not used for matching of the quote for other bidders. GUVNL had sought for matching of the quoted tariff with the revised L1 tariff i.e. Rs. 2.95. GUVNL had sought for matching of L1 bid in an attempt to minimise the cost of power purchase as being in consumer interest. However, this was not accepted by any of the other bidders who reiterated

their quoted tariff. The Letter of Intent was awarded based on the quoted tariff only.

- (2) The provision of L1 + 2% is a means for evaluation of the bid for consideration of successful bidders and to ensure that there is not too wide a price variation amongst the successful bidders. In the present case, the successful bidders were within the range of L1 + 2%. Even otherwise and without consideration of L1 + 2% also, the successful bidders for 300 MW would have been the same bidders for same capacity to qualify themselves as successful bidders.
- (3) Though not initially included in RfS, the provision of L1 + 2% was suggested by one of the participants during the pre-bid meeting. The bidder had suggested the modification of the reverse auction methodology to qualify only the bidders falling within the range of (L1 tariff + 2%) as successful bidders as provided in SECI's tenders. The Petitioner GUVNL in the interest of better competition and in order to have competitive tariff, accepted this suggestion.
- (4) Accordingly, the Addendum 2 dated 25.11.2022 to RFS provided as under:

*"The Clause 4.4.1 of the RfS shall stand modified and replaced as under: -*

*"Upon conclusion of e-RA process, the Bidders in the "Green Zone" and "Yellow Zone" shall be selected in the ascending order with lowest quoted tariff (being L1) till the tender capacity (300 MW) is exhausted. The bidders who fall within the range of (and including) the lowest tariff (L1 tariff) + 2% of the L1 tariff, hereinafter referred to as "the range" will be declared as Successful Bidders, subject to the conditions as enumerated in clauses herein below viz. Clause 4.4.2 to Clause 4.4.5."*

- (5) The above methodology of L1 + 2% is provided in the tender initiated by SECI and the same was incorporated by GUVNL in the present bidding process. The provision incorporated by GUVNL is based on the provisions in the SECI Bid Documents. This is also not inconsistent with the Guidelines. The purpose of the said provision is to evaluate the bids received by the Procurer and to decide whether to accept the bids or not, there is nothing in the Guidelines

which prevent the Procurer from adopting methodology for deciding on evaluation of the bids. Further, such provisions are provisions for detailed procedure which is permitted under Para 10.10 of the Guidelines:

*“10.10 The detailed procedure for evaluation of the bid and selection of the bidder shall be provided for in the RfS.”*

- (6) The above provision of  $L1 + x \%$  has also now been incorporated in the Competitive Bidding Guidelines for Wind Power Projects recently issued on 26.07.2023:

*“5.2. Bidding Parameters:*

*...*

*5.2.2. The capacity allocation shall be on the basis of Bucket filling i.e. capacity quoted by least quoted tariff bidder (called the L1 bidder) at the rates quoted (L1 rates) shall be allocated first, then the capacity quoted by the next lowest bidder (called the L2 bidder) at the rates quoted (called the L2 rates) may be allocated and so on.*

*However, the allocation will only be made to the bidders whose bid falls within a pre-defined “Range” from the L1 tariff, as stipulated in the RfS. Thus, after arranging the bidders in the ascending order of tariff, the Project capacities will be awarded only to those bidders whose final price bids are within a range of “ $L1+x\%$ ”, in terms of Rs/kWh; while the value of “x” generally be two (2) to five (5) and shall be fixed in the RfS.”*

- (7) Though the present competitive bid process was undertaken prior to the said Guidelines, the above is being referred to, in order to demonstrate the reasonableness of the provision.
- (8) In regard to the Certificate of the Bid Evaluation Committee, the applicable Guidelines dated 08.12.2017 to the present tender process provides as under:

*“12.2 After the conclusion of bidding process, the Evaluation Committee constituted for evaluation of RfS bids shall critically evaluate the bids and*



*certify as appropriate that the bidding process and the evaluation has been conducted in conformity to the provisions of the RfS.”*

(9) The provision for Certification by the Bid Evaluation Committee is provided in Para 12.2 of the Guidelines and the certification is to be done only for the above aspect and not on other aspects. The Certificate in compliance with Para 12.2 has been issued and a copies of the Certificate by the Bid Evaluation Committee and Board Resolution of GUVNL accepting the tariff as reasonable is also filed with this affidavit.

(10) Further, the Guidelines provide transparency clause which is stated as under:

*“12.3 For the purpose of transparency, the Procurer shall, after the execution of the PPA publicly disclose the name (s) of the successful Bidder(s) and the tariff quoted by them together with breakup into components, if any. The public disclosure shall be made by posting the requisite details on the website of the Procurer for at least 30 (thirty) days.”*

(11) In compliance to the provision of Para 12.3 of the Guidelines, GUVNL has published the requisite details of the Successful bidders on its website.

(12) It is stated that since the filing of the present Petition, the Petitioner has signed the PPAs with four Successful Bidders on 10.05.2023 subject to approval of the Commission.

7. Thereafter, the matter was heard on 09.08.2023. During the hearing on 09.08.2023, the counsel appearing for the Petitioner, while arguing on the aspect that how methodology derived for matching the quote of L1 Bidder considering the L1 Bidder revised quote (rate) i.e., Rs. 2.95 + 2% as lowest bid and proceeded for matching the same for quote of the L2 to L4 Bidder, has also submitted that the Hon'ble APTEL recently in one case relating to adoption of tariff discovered through competitive bidding process, has observed that the principle of natural justice has to be followed by providing opportunity of hearing to all bidders who have been selected as successful bidders in the competitive bidding process carried out by the procurer and accordingly, requested the Commission that prior to adopting the tariff in the present matter, may allow the Petitioner to join all bidders who have been selected

as successful bidders in the competitive bidding carried out vide RfS No. GUVNL/300 MW/Wind (Phase IV) dated 18.10.2022 & Addendums thereto by the Petitioner GUVNL. It is further requested the Commission to permit the Petitioner to amend memo of parties and to file amended memo of parties in the Petition. The Commission has duly considered the request of the Petitioner and passed the Daily Order dated 28.08.2023 and decided to provide an opportunity to all the bidders who were selected as successful bidder in the present competitive bidding process conducted by the Petitioner, to make their submissions in the present matter and hear them in the present matter. Accordingly, the Commission directed the Petitioner to implead all successful bidders as a party in the present Petition and to amend the memo of parties and file an amended memo of parties in the present matter. It was also directed to the Petitioner to provide a copy of the Petition with amended memo of parties along with all other documents, if any, to newly joined party within two weeks' time from the date of the Order and file proof of service in this regard and also provide liberty to the newly joined parties to file their reply within two weeks' time after receipt of Petition, with copy to the Petitioner.

8. In compliance to the above directives of Daily Order dated 28.08.2023, the Petitioner has filed the affidavit of service dated 13.09.2023 alongwith amended memo of parties to the Commission on 14.09.2023.
9. Office of the Commission is in receipt of letter No. JGEPL/GUVNL/09/01 dated 22.09.2023 from the Respondent No. 1 M/s Juniper Green Energy Pvt. Limited (JGEPL) stating that JGEPL is one of the successful bidders in the competitive bidding process conducted vide RfS No. GUVNL/300 MW/Wind (Phase-IV) dated 18.10.2022 and addendums thereto by the GUVNL and setting up 50 MW capacity Wind Project at Surendranagar, Gujarat. It is also stated that JGEPL is one of the Respondents in the present Petition and through this Letter dated 22.09.2023 confirm and agree that JGEPL has no objection to approval of GUVNL seeking adoption of discovered tariff as per the present Petition.
10. The Respondent No. 3 ACME Pokharan Solar Pvt. Limited (APSPL) has filed its reply vide affidavit dated 23.10.2023 and submitted that the Respondent No. 3 APSPL is not disputing or challenging the tariff adoption petition filed by the Petitioner. However, at the stage of tariff adoption there are certain principles of equity that

require the specific approvals of the Commission and accordingly it is prayed for the indulgence of the Commission to approve and recognize the said principle. The relevant extracts of the said submissions is reproduced as under:

- (a) That ACME Pokhran Solar Pvt. Limited is a SPV incorporated under the provisions of the Companies Act, 213 for the development, generation and supply of electricity and accordingly it participated in the bidding conducted vide RfS issued by GUVNL. ACME Pokhran was declared a successful bidder in terms of RfS for development of wind power project of 100 MW capacity and accordingly, ACME Pokhran has entered into the PPA with GUVNL through its project company, i.e., ACME Eco Clean Energy Pvt. Limited.
- (b) GUVNL has initiated a tariff based Competitive Bidding Process for procurement of 300 MW grid connected power from the Wind Power Projects with additional allocation of upto 300 MW under intimation to the Commission as per terms and conditions of RfS No. GUVNL/300 MW/Wind (Phase-IV) dated 18.10.2022 and addendums thereto issued by the GUVNL.
- (c) Thereafter, GUVNL has issued a Letter of Intent (LoI) to ACME Pokhran vide letter No. GUVNL/COM/GM (RE)/394 dated 11.04.2023 for development and establishment of 100 MW Wind Power Project as per the terms and conditions of RfS issued by GUVNL.
- (d) On 10.05.2023, ACME Eco Clean Energy Pvt. Limited has executed the PPA with GUVNL in pursuant to the RfS & LoI issued by GUVNL for a period of 25 years from the scheduled commissioning date. In terms of the PPA, the scheduled commissioning date of the Project is 09.05.2025 and the Project capacity as per the said PPA dated 100 MW.
- (e) On 15.05.2023, GUVNL filed the present Petition under Section 63 read with Section 86 (1) (b) of the Electricity Act, 2003 for procurement of power and adoption of tariff discovered pursuant to the Competitive Bidding Process for procurement of power from Grid Connected Wind Power Projects through RfS No. GUVNL/300MW/Wind (Phase IV) dated 18.10.2022 & Addendums.

- (f) During the course of the proceedings dated 28.08.2023, this Commission directed the Petitioner to implead all the successful bidders as party to the present Petition and to file an amended memo of parties. It was further directed by the Commission to the Petitioner to provide a copy of the present Petition to all the successful bidders within two weeks from the date of Order dated 28.08.2023 so that the newly impleaded parties may file their Reply.
- (g) It is reiterated that AECPL is not disputing the Petition filed by the Petitioner and is agreeable to the adoption of the tariff of Rs. 3.01 per Unit in terms of the present Petition.
- (h) It is submitted that it is the duty of the Petitioner to get the tariff approved as soon as possible. The Commission may take into account that if there is any delay in tariff adoption, then Respondent No. 3 is entitled to a corresponding extension of the timeline to achieve financial closure and scheduled commissioning date equivalent to delay in adopting the tariff.
- (i) It is stated that regulatory certainty is essential for a project developer, as indeed for the other stakeholders. Furthermore, this Commission being the custodian of the power sector, in exercise of its regulatory powers, can issue any form of direction in furtherance to the object of the Electricity Act, 2003. In addition to this, the objectives of financial viability/sustainability and consumer interest are the cornerstone of the electricity sector as provided under the preamble of the Electricity Act, 2003.
- (j) In exercise of powers under Section 3 of the Electricity Act, the Central Government on 12.02.2005, issued the National Electricity Policy (NEP). The principles of regulatory certainty are enshrined in the NEP which are reproduced as under:

“.....

*4.0 Objectives Of The Policy*

.....

*(b) Ensure financial viability of the sector and attract investments*

*(c) Promote transparency, consistency and predictability in regulatory approaches across jurisdictions and minimise perceptions of regulatory risks.*

*....."*

(k) Further, Paragraph 5.8.8 of the National Electricity Policy provides as under:

*"5.8.8 of National Electricity Policy.*

*5.8.8 Steps would also be taken to address the need for regulatory certainty based on independence of the regulatory commissions and transparency in their functioning to generate investor's confidence.*

*....."*

(l) It is imperative that the principle of regulatory certainty is a statutorily recognized concept and has been reiterated by the Hon'ble Tribunal from time to time. In view of the same, it is submitted that this Commission may recognize the principle of equity and the provisions of NEP in order to ensure regulatory certainty for the power developers and other stakeholders.

(m) Based on the above, it is requested to adopt the discovered tariff for Respondent No. 3 in terms of para 36 of the present Petition and also to hold and declare that Respondent No. 3 is entitled to consequential relief on account of delay in adoption of the tariff.

11. Despite being liberty granted to the Respondents to file their respective reply, the Respondent No. 2 WYN Renewables Pvt. Limited and Respondent No. 4 Solarcraft Power India 3 Pvt. Limited have chosen not to file their reply in the present matter.

12. Thereafter, the matter was heard on 09.11.2023. During the hearing, the counsel appearing on behalf of the Petitioner GUVNL, reiterated the facts of the Petition and reply as stated in the above para and submitted that the Commission may adopt the aforesaid tariff discovered through transparent process of bidding process conducted vide RfS No. GUVNL/300 MW/Wind (Phase) dated 18.10.2022 and addendums thereto issued by the Petitioner.

13. We have considered the submissions made by the parties. The Petitioner has filed the present Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003. The Petitioner has sought the approval of the Commission for adoption of discovered tariff in the range of Rs. 2.95 – Rs. 3.01 per unit quoted by successful bidders under competitive bidding process followed by e-reverse auction of bid No. RfS No. GUVNL/300 MW/Wind (Phase IV) dated 18.10.2022 and addendums thereto, as stated in para above.

13.1. We note that the Petitioner is purchasing power in bulk for and on behalf of four Distribution Licensees, namely, DGVCL, MGVCL, PGVCL and UGVCL. The Petitioner also procures the renewable power by entering into agreements with the developers for its four Distribution Licensees towards fulfilment of their RPO as specified by the Commission in the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 as amended from time to time including the GERC (Procurement of Energy from Renewable Sources) (Third Amendment) 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 Wind power, since the Commission has increased the Wind RPO in view of the requirement stipulated by the Government of India. Accordingly, in order to meet the Wind RPO target, the Petitioner had initiated the competitive bidding process followed by e-reverse auction for procurement of 300 MW power (along with Greenshoe Option for 300 MW capacity) from the Wind

Power Projects to be set up in anywhere in India through RfS No. GUVNL/300 MW/Wind (Phase IV) dated 18.10.2022 and addendums thereto.

- 13.2. It is observed that the Petitioner initiated the competitive bidding process (followed by e-reverse auction) as per Section 63 of the Electricity Act vide RfS No. GUVNL/300 MW/Wind (Phase IV) dated 18.10.2022 & addendum thereto for procurement of 300 MW from Grid connected Wind Power Projects with Greenshoe Option of upto 300 MW to be set up anywhere in India, with an intimation to the Commission under Clause 5.1 (b) of the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects dated 08.12.2017 notified by MoP, Government of India.
- 13.3. We note that the Petitioner GUVNL had obtained approval of the Commission for certain deviations from MoP's Guidelines during its earlier Wind Tender(s), and the same were duly approved vide Orders dated 15.03.2018 and 26.02.2019. It is submitted by the Petitioner that in the draft tender documents of proposed Wind Tender (Phase IV), no other deviations has been taken by the Petitioner GUVNL. The Petitioner has also incorporated provision of requirement of submission of declaration by the Bidders (in the RfS) as per O.M. dated 23.07.2020 of Department of Expenditure, Ministry of Finance, Government of India regarding the criteria for the Foreign Bidder/Bidder sharing land border with India. Accordingly, the Petitioner had floated the tender for inviting bids through Competitive Bidding Process followed by e-reverse auction for procurement of power from grid connected Wind Power Projects.
- 13.4. We note that the Petitioner has also issued 'Notice Inviting Tender' so as to provide wide publicity of the said tender i.e., RfS No. GUVNL/300 MW/Wind (Phase IV) dated 18.10.2022 by publishing notice in four English National newspapers having wide circulation and to seek wide participation from the participating bidders. The Petitioner also hosted the Bid Documents on its website as well as on the web based portal of 'M/s ISN Electronic tender Services Pvt. Limited (ISN-ETS)'. Further, the Petitioner also held a Pre-Bid Meeting with prospective bidders on 14.11.2022, to address the issues/queries of the prospective bidders. The Petitioner had received various queries/suggestions/recommendations from the

prospective bidders and the Petitioner along with GETCO addressed the same during the meeting and also published the Minutes of Meeting duly incorporating a detailed list of queries & suggestions of the bidders, clarifications/replies thereto and in order to avoidance of doubt and for the sake of issuance of due clarification, the Petitioner also issued necessary addendum with regard to the modifications/amendments incorporated in RfS and Draft PPA.

13.5. We also note that the Petitioner GUVNL has received request from various Wind Developers for extension of timelines to enable them to undertake various activities as per the bid requirements viz. site identification, conducting wind assessment/feasibility study, negotiation with OEMs, etc. to formulate competitive tariff. The last date of bid submission in the tendering process initially was 30.11.2022 and in the interest of wider participation and to have better competition, the same was subsequently extended up to 16.01.2023.

13.6. We note that the Petitioner received the bids from 8 bidders offering aggregate capacity of 589 MW capacity and the technical bid opening of online bids on e-bidding portal of M/s ISN-ETS as well as offline bids was held on 17.01.2023 @ 15:00 hours in the presence of Bid Evaluation Committee consisting of following officials:

<b>Bid Evaluation Committee</b>		
<b>Sr. No.</b>	<b>Name</b>	<b>Designation</b>
1.	Smt. Sailaja Vachhrajani	General Manager (RE & IPP)
2.	Shri Sanjay Mathur	Chief Finance Manager (RE & IPP)
3.	Shri Parthiv Bhatt	Company Secretary
4.	Shri Nilay Joshi	Controller of Accounts (F&A)

13.7. It is also submitted by the Petitioner that the aforesaid bids received from 8 bidders were opened in the presence of Bid Evaluation Committee and also evaluated by said Committee. We also note that the bids submitted by the bidders were scrutinized by the Bid Evaluation Committee and the issues were also deliberated in detail about responsiveness of the bids. Moreover, in respect of observation of discrepancies, the Petitioner GUVNL had raised queries on e-bidding portal of M/s ISN-ETS against the responsiveness issues. In response to the responsiveness issues and queries raised by the Committee, the compliance/



clarification/additional documents submitted by Bidders which were duly examined by the Bid Evaluation Committee for evaluation of the qualification. As per technical evaluation report of the said Committee, it is observed that all the 8 bids received were technically qualified and technical evaluation report signed by the Members of the Bid Evaluation Committee is filed by the Petitioner, which is reproduced below:

*“TECHNICAL BID EVALUATION REPORT  
WIND TENDER (PHASE IV) RFS DATED 18.10.2022*

***RFS NO. TENDER FOR PROCUREMENT OF 300 MW GRID CONNECTED WIND PROJECTS  
(PHASE- IV) WITH ‘GREENSHOE OPTION’ OF ADDITIONAL UPTO 300 MW***

.....

**1. Background**

Gujarat Urja Vikas Nigam Limited (GUVNL) intends to procure wind power of 300 MW through Competitive Bidding Process (conducted through electronically facilitated online web based portal followed by reverse auction) and additional capacity upto 300 MW under ‘Green-shoe Option’ as notified vide RfS No. GUVNL/300 MW/Wind (Phase IV) dated 18.10.2022.

GUVNL has uploaded the tender documents (RfS and Draft PPA) on its own website as well as on the e-bidding portal of M/s ISN Electronic Tender Services Pvt. Limited (ISN-ETS).

GUVNL had constituted a committee comprising of the following members for opening and evaluation of the technical and financial bids:-

<b>Bid Evaluation Committee</b>		
<b>Sr. No.</b>	<b>Name</b>	<b>Designation</b>
1.	Smt. Sailaja Vachhrajani	General Manager (RE & IPP)
2.	Shri Sanjay Mathur	Chief Finance Manager (RE & IPP)
3.	Shri Parthiv Bhatt	Company Secretary
4.	Shri Nilay Joshi	Controller of Accounts (F&A)

This Report outlines the responses of all the bidders in respect of Techno-commercial (Non-Financial) Bid Evaluation and recommendations of committee.

## 2. Details of the Bid

<i>RfS Reference No.</i>	<i>RfS No. GUVNL/300 MW/ Wind (Phase IV) dated 18.10.2022</i>
<i>Tender Code</i>	<i>ETS: GUVNL-2022-TN000014</i>
<i>Tender Description</i>	<i>Purchase of power through competitive bidding process (followed by e-reverse auction) from 300 MW grid connected wind projects to be setup in Gujarat (Phase IV) with Green-shoe Option for additional capacity allotment upto 300 MW.</i>
<i>Tender Type</i>	<i>Single Stage – Double Envelope Auction followed by e-RA</i>
<i>Tender Fees</i>	<i>Rs. 29,500/- (Rs. 25,000 plus 18% GST)</i>
<i>Processing Fees</i>	<i>Rs. 3,54,000/- (Rs. 3,00,000 plus 18% GST)</i>
<i>Earnest Money Deposit (EMD)</i>	<i>Rs. 10 Lakhs per MW (inclusive of 18% GST)</i>
<i>Pre-Bid Meeting</i>	<i>Monday, 14.11.2022</i>
<i>Bid Submission deadline</i>	<i>Monday, 16.01.2023 (17 hours)</i>
<i>Technical Bid Opening</i>	<i>Tuesday, 17.01.2023 (15 hours)</i>
<i>Financial Bid Opening &amp; e-RA</i>	<i>To be intimated later on</i>
<i>Project Completion Period</i>	<i>24 months from date of execution of PPA</i>
<i>Term of PPA</i>	<i>25 years from SCOD of the project or date of full commissioning of project, whichever is earlier.</i>
<i>Technology</i>	<i>Revised List of Models &amp; Manufacturers (RLMM) of Wind Turbines prepared by MNRE as updated until SCOD of Project</i>

## 3. Response to RfS

A total of 8 (eight) bid responses, aggregating to total capacity of 589 MW were received. The details of Bidders and the capacity offered by them are tabulated below:

<b>Sr. No.</b>	<b>Name of bidder</b>	<b>Capacity Offered (MW)</b>
1.	<i>Avaada Energy Pvt. Ltd.</i>	<i>50</i>
2.	<i>Juniper Green Energy Pvt. Ltd.</i>	<i>50</i>
3.	<i>ACME Pokhran Solar Pvt. Ltd.</i>	<i>100</i>
4.	<i>NHPC Renewable Energy Ltd.</i>	<i>30</i>
5.	<i>WYN Renewables Pvt. Ltd.</i>	<i>100</i>
6.	<i>UPC Renewables India Management Pvt. Ltd.</i>	<i>99</i>
7.	<i>Solarcraft Power India 14 Pvt. Ltd.</i>	<i>100</i>
8.	<i>Project Fourteen Renewable Power Pvt. Ltd.</i>	<i>60</i>
	<b>Total</b>	<b>589</b>

## 4. Principles of Evaluation

*As per the terms of the tender documents, the techno-commercial evaluation of the bids is to be done in accordance with the bid evaluation methodology specified in the RfS.*

*The Technical Bids of only those Bidders are to be considered whose bids/documents have been received on or before the due date and time of submission of bids as per the terms of the RfS.*

*Due examination of the documents submitted by the Bidders is to be done ascertaining the eligibility criteria specified under the RfS. In case of a perceived non-responsiveness, queries are to be raised by GUVNL on the ISN-ETS web-portal and clarifications/additional documents are to be sought from the concerned bidders within 2 days from the date of such intimation from GUVNL.*

*Upon due submission of clarifications/additional documents sought (if any) and careful examination of the same by the Members of the Bid Evaluation Committee, the Financial Bids of only such qualified Bidders are to be opened as per the terms and conditions of the RfS.*

*The response to the RfS submitted by the bidders are to be scrutinized to established techno-commercial eligibility criteria as per the RfS which are as under:*

*(i) Technical Eligibility Criteria: - Declaration regarding prior (pre-bid) OEM/EPC tie-up with not less than three manufacturers for Design, Engineering, Supply & Procurement, Construction, Operation & Maintenance.*

*(ii) Financial Eligibility Criteria: - The Net-Worth of the Bidder or its Affiliate or Parent / Ultimate Parent as on date of financial year ending i.e. 31.03.2022 or 31.03.2021 or 31.12.2021 as the case may be, shall not be less than INR 1.20 Crores per MW (of the capacity quoted).*

- The 'net-worth' to be considered for the above purpose shall be the cumulative net-worth of the bidding company or consortium together with the net-worth of those Affiliates of the Bidder(s) that undertake to contribute the required equity funding and performance bank guarantees in case the bidder(s) fail to do so in accordance with the RfS.*

- *For avoidance of doubt, 'net-worth' as per section 2 (57) of the Companies Act 2013 means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.*
- *For meeting the above financial eligibility criteria, if data is provided by the Bidder in USD, equivalent rupees of 'net-worth' and other financial parameters will be calculated by Bidder using Reserve Bank of India's reference rates prevailing on the date of closing of accounts for the respective financial year. For currency other than USD, Bidders shall convert such currency into USD as per the exchange rates certified by their banker prevailing on the relevant date and used for such conversion.*
- *Certificate from Chartered Accountants, certifying the 'net-worth' of the bidder per MW of quoted capacity as on date of financial year ending i.e. 31.03.2022 or 31.03.2021 or 31.12.2021 as the case may be, or in case the Bidder is a newly formed company, supported by documentary evidence of its recent formation at ROC or in case the 'net-worth' of the Bidder as on date of financial year ending is not meeting the criteria, then the Certificate issued by a Chartered Accountant computing 'net-worth' based on certified copy of Balance Sheet, Profit & Loss account, Schedules and cash flow statement as on latest available date supported with bank statement shall be required to be submitted.*
- *In case a bidder submits the net-worth credentials of its Parent/Affiliate, a Board Resolution from such Parent/Affiliate shall be submitted, undertaking that in case the bidder(s) fails to contribute required equity funding and performance bank guarantee, the same shall be contributed by such Parent/Affiliate.*
- *Pursuant to evaluation of 'net-worth criteria' as part of the technical bid, if it is found by GUVNL that the bidder is eligible for lesser quantum than the quantum for which bid has been submitted, then the bidder shall be qualified*

for such lesser quantum, provided that such quantum is not less than minimum bid capacity i.e. 25 MW.

(iii) Disclosure regarding complying with the requirements of O.M. issued by the Dept. of Expenditure, Ministry of Finance, Govt. of India, vide No. 6/18/2019- PPD dated 23.07.2020 and subsequent amendments & clarifications thereto, pertaining to restriction on procurement from countries sharing land border with India.

## **5. Technical Bid Opening**

The Technical Bid Opening was convened at 15 hours on 17.01.2023 before the Bid Evaluation Committee at GUVNL, Vadodara. The Technical Bids (online as well as offline) were opened before the below mentioned Members Nominee Members of the Bid Evaluation Committee.

<b>Sr. No.</b>	<b>Name &amp; Designation of the Members / Nominee Members of the Bid Evaluation Committee constituted by GUVNL</b>
1.	Smt. Sailaja Vachhrajani, General Manager (RE & IPP)
2.	Shri Sanjay Mathur, CFM (RE & IPP)
3.	Shri Parthiv Bhatt, Company Secretary
4.	Shri Nilay Joshi, COA (F&A)

The Members of the Bid Evaluation Committee scrutinized the bids, documents enclosed thereunder, as well as the electronic responses submitted by the Bidders and deliberated on the issues in detail about responsiveness of the submitted bids.

Earlier, the last date of bid submission (bid deadline) was 30.11.2022, which was extended by GUVNL upto 16.01.2023. As per the terms of the RfS, the Earnest Money Deposit (EMD) validity/expiry date is required to be 180 days from bid deadline i.e. 15.07.2023 (as per revised deadline).

One Bidder i.e., M/s NHPC Renewable Energy Pvt. Ltd. through e-mail dated 17.01.2023 had informed GUVNL that they had sent the requisite offline documents through courier, however the confirmation of delivery is awaited. Accordingly, they had requested GUVNL to consider their offline bid by sharing the pass-phrase for opening their technical bid on the ETS portal. Meanwhile, prior to the Technical Bid Opening scheduled at 15:00 hours on 17.01.2023, GUVNL also received the offline bid

*submission (EMD and pass-phrases) of M/s NHPC Renewable Energy Pvt. Ltd. Hence, in the interest of wider participation, it was deliberated to consider the bid of M/s NHPC Renewable Energy Pvt. Ltd.*

## **6. Responsiveness Issues**

*Upon scrutiny of the bid documents of the Bidders, the following observations were made by the Members of the Bid Evaluation Committee.*

- The online bid documents (pdf/zip files) uploaded by M/s WYN Renewables Pvt. Ltd. and M/s UPC Renewables India Management Pvt. Ltd. on the ISN-ETS portal were not being opened and/or downloaded.*
- M/s Project Fourteen Renewable Power Pvt. Ltd. had mentioned bid validity date as 11.07.2023 in the Covering Letter instead of the requisite date of 15.07.2023 (180 days from bid submission deadline i.e. 16.01.2023).*
- The Bank Guarantee submitted by M/s Project Fourteen Renewable Power Pvt. Ltd. towards Earnest Money Deposit was not in line with the Format 6.3 A of the RfS.*
- There was issue with the Net-Worth (NW) Certificate submitted by M/s UPC Renewables India Management Pvt. Ltd. and the supporting documents viz. certified copy of Balance Sheet, Profit & Loss account, Schedules, cash flow statement and bank statement. The CA Certificate was showing NW as on 30.09.2022 and they had enclosed certified copy of annual for the year ending on 31.12.2021 as supporting document(s).*
- The Board Resolution submitted by M/s Project Fourteen Renewable Power Pvt Ltd. did not cover approval for using Net-Worth credentials of its Affiliate Company – M/s Ayaana Renewable Power Pvt. Ltd.*
- The Board Resolution submitted by M/s Solarcraft Power India 14 Pvt Ltd did not cover approval for using Net-Worth credentials of its Parent Company – M/s Blupine Energy Pvt. Ltd.*

Pursuant to the observation of discrepancies, queries were raised by GUVNL on e-bidding portal of M/s ISN Electronic Tender Services Pvt Ltd (ISN-ETS) against the responsiveness issues.

The responsiveness issues raised by GUVNL, and the compliance / responses / documents submitted by such Bidders are discussed in the subsequent section.

## **7. Queries and responses/compliances thereto**

### **(i) WYN Renewables Private Limited**

**Query:** The online bid documents submitted by M/s WYN Renewables Pvt Ltd were not being opened and/or downloaded. Accordingly, they were asked to resubmit all bid documents.

**Response:** Query has been complied by submission of google-drive link/zip-file of all the documents pertaining to online-bid submission on 18.01.2023.

### **(ii) UPC Renewables India Management Pvt Ltd**

a) **Query raised by GUVNL:** The online bid documents submitted by M/s UPC Renewables India Management Pvt Ltd were not being opened and/or downloaded. Accordingly, they were asked to resubmit all bid documents.

**Response:** Query has been complied by submission of google-drive link/zip-file of all the documents pertaining to online-bid submission on 19.01.2023.

b) **Query raised by GUVNL:** Upon scrutiny of the bid documents submitted by M/s UPC Renewables India Management Pvt Ltd, it was observed that they had submitted the Certificate issued by Chartered Accountant computing Net Worth of the Parent Company (UPC Renewables Ltd) as on 30.09.2022. However, the supporting documents viz. certified copy of Provisional Accounts as on 30.09.2022 viz. Balance Sheet, Profit & Loss account, Schedules. cash flow statement and bank statement as on 30.09.2022 were not submitted. Besides, it was observed that they had enclosed the certified copy of Annual Audited Accounts of the Parent Company (UPC Renewables Ltd) for the year ending on 31.12.2021.

*In view of the same, they were asked to submit the requisite supporting documents for NW Certificate (computing NW as on 30.09.2022) or submit Revised NW Certificate (computing NW as on 31.12.2021) as per terms of the RfS.*

**Response:** *Query has been complied by submission of scanned copy of the revised Certificate issued by the Chartered Accountant computing Net Worth of the Parent Company (UPC Renewables Ltd) as on 31.12.2021 and enclosing certified copy of annual audited accounts for the year ending on 31.12.2021 in support of the same.*

**(iii) M/s Project Fourteen Renewable Power Pvt Ltd (PFRPPL)**

**a) Query:** *Upon scrutiny of the bid documents submitted by M/s PFRPPL, it was observed that they had inadvertently mentioned the bid validity date as 11.07.2023 in the Covering Letter instead of 15.07.2023 (180 days from bid submission deadline of 16.01.2023).*

*The revised Covering Letter was sought from M/s PFRPPL to be submitted within two days for ensuring the technical qualification.*

**Response:** *Query has been complied by submission of scanned copy of the revised Covering Letter on 19.01.2023.*

**b) Query:** *It was observed that the Board Resolution did not cover approval for using Net-Worth credentials of the Affiliate Company - M/s Ayaana Renewable Power Pvt. Ltd and hence not in line with the Format 6.4 of the RfS.*

*The revised Board Resolution in line with Format 6.4 was sought from M/s PFRPPL to be submitted within two days for ensuring the technical qualification.*

**Response:** *Query has been complied by submission of scanned copy of the revised Board Resolution on 19.01.2023.*

**c) Query:** *Having observed that the Bank Guarantee submitted by M/s PFRPPL towards Earnest Money Deposit was not in line with the Format 6.3 A of the RfS, the*



revised Board Resolution and/or necessary amendment thereof was sought from M/s PFRPPL.

**Response:** Query has been complied by submission of scanned copy of the revised Bank Guarantee (with replacement of earlier) on 19.01.2023.

**(iv) M/s Solarcraft Power India 14 Pvt Ltd**

**Query raised by GUVNL:** Upon scrutiny of the bid documents submitted by M/s Solarcraft Power India 14 Pvt Ltd, it was observed that the Board Resolution did not cover approval for using Net-Worth credentials of the Parent Company - M/s Blupine Energy Pvt Ltd and hence not in line with the Format 6.4 of the RfS.

The revised Board Resolution in line with Format 6.4 was sought from M/s Solarcraft.

**Response:** Query has been complied by submission of scanned copy of the revised Board Resolution on 20.01.2023.

**8. Evaluation of responses / compliances**

The brief status pursuant to bid evaluation and compliance to queries is indicated in the following table:-

<b>Sr. No.</b>	<b>Name of Bidder</b>	<b>Capacity Offered (MW)</b>
1	Avaada Energy Pvt Ltd	50
2	Juniper Green Energy Pvt Ltd	50
3	ACME Pokhran Solar Pvt Ltd	100
4	NHPC Renewable Energy Ltd	30
5	WYN Renewables Pvt Ltd	100
6	UPC Renewables India Management Pvt Ltd	99
7	Solarcraft Power India 14 Pvt Ltd	100
8	Project Fourteen Renewable Power Pvt Ltd	60
	<b>Total</b>	<b>589</b>

**9. Way forward**

Based on the techno-commercial bid evaluation, the Committee recommends that the Financial Bids of above 8 (eight) no. of qualified bidders may be opened.

<b>Sr. No.</b>	<b>Name</b>	<b>Designation</b>	<b>Signature</b>
1.	Smt Sailaja Vachharajani	General Manager (RE & IPP)	Sd/-
2.	Shri Sanjay Mathur	Chief Finance Manager (RE & IPP)	Sd/-

3.	<i>Shri Parthiv Bhatt</i>	<i>Company Secretary</i>	<i>Sd/-</i>
4.	<i>Shri Nilay Joshi</i>	<i>COA (Finance &amp; Accounts)</i>	<i>Sd/-</i>

From the Technical Evaluation Report, it is apparent that all the 8 bidders offering aggregate capacity of 589 MW were found to be responsive and hence were deemed qualified for opening of their financial bids. Accordingly, as per the Technical Report of the Bid Evaluation Committee and recommendation after technical bid evaluation of all the 8 bidders to be technically qualified, the financial bids of all 8 bidders were opened on 30.01.2023 on e-bidding portal in the presence of the Bid Evaluation Committee.

- 13.8. In accordance with aforesaid said report, the Financial Bids of all 8 bidders were opened on 15.07.2022 on e-bidding portal in presence of Bid Evaluation Committee. As per financial bid evaluation report of the said Committee it is observed that all the 8 bids received were financial qualified and financial bid evaluation report signed by the Members of the Bid Evaluation Committee is filed by the Petitioner, which is reproduced below:

***“FINANCIAL BID EVALUATION REPORT***

***RFS : Tender for Procurement of 300 MW grid connected Wind Projects  
(Phase – IV) with Green-Shoe option of additional upto 300 MW***

***1. Background***

*Gujarat Urja Vikas Nigam Limited (GUVNL) intends to procure wind power upto capacity of 300 MW through Competitive Bidding Process (conducted through electronically facilitated online web based portal followed by reverse auction) and additional capacity upto 300 MW under ‘Green Shoe Option’ as notified via RfS No. GUVNL / 300 MW / Wind (Phase IV) dated 18.10.2022.*

*GUVNL has uploaded the tender documents (RfS and Draft PPA) on its own website as well as on the e-bidding portal of M/s ISN Electronic Tender Services Pvt. Limited (ISN-ETS).*

GUVNL had constituted a committee comprising of the following members for opening and evaluation of the technical and financial bids:-

<b>Sr. No.</b>	<b>Name</b>	<b>Designation</b>
1.	Smt. Sailaja Vachhrajani	General Manager (RE & IPP)
2.	Shri Sanjay Mathur	Chief Finance Manager (RE & IPP)
3.	Shri Parthiv Bhatt	Company Secretary
4.	Shri Nilay Joshi	Controller of Accounts (F&A)

The Report outlines the Financial Bid Evaluation and recommendations of the Committee.

## **2. Financial Bid Opening**

The Technical Bid Opening was conveyed at 15 hours on 17.01.2023. Pursuant to the recommendations of the Committee vide “Technical Bid Evaluation Report”, the Financial Bid (Electronics Forms) of below mentioned 8 (eight) technically qualified bidders were opened on the e-bidding portal of M/s. ISN-ETS at 11 hours on 30.01.2023 before the bid evaluation committee at GUVNL, Vadodara.

<b>Sr. No.</b>	<b>Name of bidder</b>	<b>Capacity Offered (MW)</b>
1.	Avaada Energy Pvt. Ltd.	50
2.	Juniper Green Energy Pvt. Ltd.	50
3.	ACME Pokhran Solar Pvt. Ltd.	100
4.	NHPC Renewable Energy Ltd.	30
5.	WYN Renewables Pvt. Ltd.	100
6.	UPC Renewables India Management Pvt. Ltd.	99
7.	Solarcraft Power India 14 Pvt. Ltd.	100
8.	Project Fourteen Renewable Power Pvt. Ltd.	60
	<b>Total</b>	<b>589</b>

The Members of the Bid Evaluation Committee scrutinized the electronic responses submitted by the Bidders and evaluated shortlisted bidders qualified for e-reverse auction in terms of the RfS.

## **3. Principles of Evaluation**

As per the terms of the tender documents, the financial evaluation of the bids is to be done in accordance with the bid evaluation methodology specified in the RfS based on the tariff quoted by the Bidders in the Electronic Forms.

As per the terms of the RfS, the Total Eligible Bidders for e-reverse auction is to be decided as per illustration below: -

Assuming

$T$  = Total number of techno-commercially qualified bidders,

$ST$  = Capacity of the total number of techno-commercially qualified bidders

$SK$  = Cumulative capacity till the “k”th serial number bidder (not the ‘k’th rank bidder) after ranking is done in ascending order from L1 onwards

$SE$  = Eligible Capacity for Award

$n$  = No. of bidders shortlisted for e-RA

$SE$ = Eligible capacity for award	(i) In case $ST \leq 300$ MW; $SE = 0.8 \times ST$ , (ii) In case $ST > 300$ MW; $SE = 0.8 \times ST$ , subject to maximum eligible capacity being 300 MW.
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### **Total eligible bidders for e-Reverse Auction**

(i) In case  $(0.8 \times ST) \leq 300$  MW – All techno-commercially qualified bidders whose financial bids are in accordance with the provisions of the RfS, will be shortlisted for e-RA.

Accordingly, the no. of Bidders shortlisted for e-RA, i.e.,  $n=T$

(ii) In case  $(0.8 \times ST) > 300$  MW – The lowest ranked bidder i.e., the bidder quoting the highest tariff (H1 Bidder) shall be eliminated at this stage and remaining techno-commercially qualified bidders whose financial bids are in accordance with the provisions of the RfS, will be shortlisted for e-RA.

Accordingly, the no. of Bidders shortlisted for e-RA, i.e.,  $n=T - 1$

Note: -

(a) In case more than one bidder is ranked as H1 bidder (same tariff), then all such bidders will be eliminated at this stage.

(b) The above elimination will take place subject to the condition that the total bid capacity after such elimination remains more than 300 MW. In the contradictory scenario, no elimination will take place at this stage.

#### 4. Evaluation of shortlisted bidders qualified for e-RA

As per the terms of the tender documents, the Total Eligible Bidders shortlisted for e-reverse auction are as per details tabulated herein below: -

<b>Sr. No.</b>	<b>Name of bidder</b>	<b>Price Bid (Rs./unit)</b>	<b>Capacity (MW)</b>	<b>Remarks</b>
1	Juniper Green Energy Pvt. Ltd.	2.96	50	Shortlisted for e-RA
2	Avaada Energy Pvt. Ltd.	3.13	50	Shortlisted for e-RA
3	ACME Pokhran Solar Pvt. Ltd.	3.15	100	Shortlisted for e-RA
4	Project 14 Renewable Power Pvt. Ltd.	3.22	60	Shortlisted for e-RA
5	WYN Renewables Pvt. Ltd.	3.25	100	Shortlisted for e-RA
6	UPC Renewables India Management Pvt. Ltd.	3.27	99	Shortlisted for e-RA
7	Solarcraft Power India 14 Pvt. Ltd.	3.37	100	Shortlisted for e-RA
8	NHPC Renewable Energy Ltd.	3.55	30	Eliminated

Based on the financial bid evaluation in term of the RfS, the above mentioned 7 (seven) numbers of bidders aggregating to 559 MW capacity are short listed for participating in the e-reverse auction.

#### 5. Way forward

Based on the financial bid evaluation, the Committee recommends that the above mentioned 7 (seven) numbers of bidders are shortlisted for participating in the e-reverse auction to be convened at 15 hours on 30.01.2023.

<b>Sr. No.</b>	<b>Name</b>	<b>Designation</b>	<b>Signature</b>
1.	Smt Sailaja Vachhrajani	General Manager (RE & IPP)	Sd/-
2.	Shri Sanjay Mathur	Chief Finance Manager (RE & IPP)	Sd/-
3.	Shri Parthiv Bhatt	Company Secretary	Sd/-
4.	Shri Nilay Joshi	COA (Finance & Accounts)	Sd/-

13.9. As per above, 7 bidders with aggregate capacity of 589 MW qualified for e-reverse auction and the Petitioner had conducted e-reverse auction. We note that the

Petitioner GUVNL after the conclusion of bidding process has also certifying that the Evaluation Committee constituted for evaluation of RfS bids has critically evaluated the bids and that the bidding process and the evaluation has been conducted in conformity to the provisions of the RfS.

13.10. In the E-Reverse auction of 30.01.2023 a report generated on the web-portal of ISN-ETS is reproduced below:

Sr. No.	Bidder's Name	Quoted value	Loaded value	Currency	Date/Time of Bidding	Bidder's quantity	Special Remarks	Difference in % (Bid-value vs. Start-Price)
1	Juniper Green Energy Pvt. Ltd.	2.96	2.96	Indian Rupee	30-Jan-2023 12:39:37 RTZ	50.00	Field Not Filled	0%
2	WYN Renewables Pvt. Ltd	3.00	3.00	Indian Rupee	30-Jan-2023 16:51:07 RTZ	100.00	Field Not Filled	-1.35%
3	ACME Pokhran Solar Pvt Ltd.	3.01	3.01	Indian Rupee	30-Jan-2023 15:10:12 RTZ	100.00	Field Not Filled	-1.69%
4	Solarcraft Power India 14 Pvt Ltd	3.01	3.01	Indian Rupee	30-Jan-2023 16:47:27 RTZ	100.00	Field Not Filled	-1.69%
5	Avaada Energy Pvt Ltd.	3.08	3.08	Indian Rupee	30-Jan-2023 16:23:46 RTZ	50.00	Field Not Filled	-4.05%
6	Project Fourteen Renewable Power Pvt Ltd.	3.22	3.22	Indian Rupee	30-Jan-2023 12:39:37 RTZ	60.00	Field Not Filled	-8.78%
7	UPC Renewables India Management Pvt Ltd.	3.27	3.27	Indian Rupee	30-Jan-2023 12:39:37 RTZ	99.00	Field Not Filled	-10.47%

13.11. It can be observed from above that at the end of E-Reverse auction, the quoted tariff value and quantum in MW of seven bidders i.e., (i) Juniper Green Energy Pvt. Limited, (ii) WYN Renewables Pvt. Limited, (iii) ACME Pokhran Solar Pvt. Limited, (iv) Solarcraft Power India 14 Pvt. Limited, (v) Avaada Energy Pvt. Limited, (vi) Project Fourteen Renewable Power Pvt. Limited and (vii) UPC Renewables India Management Pvt. Limited as per result generated at the closure of E-Reverse Auction on ISN-ETS portal for 589 MW. Moreover, as per above ranking, the total offered/bidder capacity by (i) Juniper Green Energy Pvt. Limited of 50 MW at the tariff of Rs. 2.96 per unit, (ii) WYN Renewables Pvt. Limited of 100 MW at the tariff

of Rs. 3.00 per unit, (iii) ACME Pokhran Solar Pvt. Limited of 100 MW at tariff of Rs. 3.01 per unit (iv) Solarcraft Power India 14 Pvt. Limited of 100 MW at the tariff of Rs. 3.01 per unit, (v) Avaada Energy Pvt. Limited of 50 MW at the tariff of Rs. 3.08 per unit, (vi) Project Fourteen Renewable Power Pvt. Limited of 60 MW at the tariff of Rs. 3.22 per unit and (vii) UPC Renewables India Management Pvt. Limited of 99 MW at the tariff of Rs. 3.27 per unit works out to 559 MW. However, since the tender was for base capacity of 300 MW, allocation of said capacity was to be for 300 MW only and hence in case of Solarcraft Power India 14 Pvt. Limited, there is partial capacity allocation of 50 MW against quoted quantum of 100 MW with quoted tariff of Rs. 3.01 per unit in terms of the RfS document. Accordingly, the Petitioner has stated in the Petition as under:

<b>Sr. No.</b>	<b>Name of the Bidder</b>	<b>Capacity (MW)</b>	<b>Price Bid (Rs./unit)</b>
L1	Juniper Green Energy Private Limited	50	2.96
L2	WYN RENEWABLES PRIVATE LIMITED	100	3.00
L3	ACME Pokhran Solar Private Limited	100	3.01
L4	Solarcraft Power India 14 Pvt Ltd	100	3.01
L5	Avaada Energy Private Limited	50	3.08
L6	Project Fourteen Renewables Power Pvt. Limited	60	3.22
L7	UPC Renewables India Management Pvt. Limited	99	3.27
	<b>Total</b>	<b>559</b>	

13.12. Against the quoted capacity of 100 MW allocation of partial base capacity of 50 MW with quoted tariff of Rs. 3.01 per unit in case of Solarcraft Power India 14 Pvt. Limited is undertaken by the Petitioner in accordance with Clause 4.4 of the RfS document. Clause 4.4 of the RFS document pertains to 'Selection of Successful Bidders' and pertains to partial capacity allocation. It is therefore, necessary to refer Clause 4.4 of the RFS documents which reads as under:

*"..... 4.4 Selection of Successful Bidders*

*4.4.1 (not used)*

*4.4.2 The lowest quoting bidder will be allotted its qualified project capacity and then, next higher bidder will be allotted its qualified project capacity and so on, till the total capacity is exhausted.*

*4.4.3 In case of the last selected bidder, if the balance project capacity is less than the total project capacity mentioned by the bidder, then the balance capacity shall be awarded to the bidder till the total capacity is exhausted subject to a minimum allocation of 25 MW/50 MW, as the case may be.*

*Provided that, in case the partial capacity (balance capacity till the total capacity on offer is exhausted) offered to the last Bidder after completion of the e-reverse auction is lower than 50% of the total quoted capacity by such Bidder, the Bidder shall have an option to refuse such offered partial capacity within seven days of issuance of Letter of Intent (LOI) and the BG against EMD submitted by such Bidder shall be returned alongwith with those of the unsuccessful Bidders.*

*Further, in case the partial capacity offered is greater than or equal to 50% of the total quoted capacity by such Bidder, then it shall be mandatory for the last Bidder to accept such partial capacity offered against its quoted capacity, subject to the total cumulative capacity awarded after e-RA to the successful Bidders not exceeding 300 MW. In case the last bidder refuses to accept such partial capacity offered by GUVNL, the Bank Guarantee against EMD submitted by such Bidder shall be encashed by GUVNL.*

*.....*

*4.4.6 At the end of selection process, Letter of Intent (LOI) may be issued to all the Successful Bidders. In case of Consortium being selected as Successful Bidder, the LOI shall be issued to the Lead Member of the Consortium.*

*In all cases, GUVNL's decision regarding selection of bidder through Reverse Auction or otherwise based on tariff or annulment of tender process shall be final and binding on all participating bidders.*



*Also, GUVNL reserves the right to short close the capacity lower than 300 MW at its discretion, if the prices are abruptly high. Additionally, the discretion to allot or not to allot the additional upto 300 MW capacity under Greenshoe option shall be vested solely with GUVNL.*

*.....”*

13.13. We also note that in the instant Wind Tender (Phase IV), the Petitioner has modified the e-RA methodology by incorporating a provision that only the Bidder falling within the range of L1 tariff and (L1 tariff + 2%) would qualify as successful bidders, similar to SECI's tenders so as to address the issue of lower competition in Wind Tenders. However, there was significant price difference between L1 and L7 prices discovered under GUVNL's tender and hardly there are any competition during real-time at the time of e-RA, predominantly on account of more no. of bidders individually offering lesser quantum (MW) falling under the bucket-list for reverse auction and thereby eligible for availing their quoted price (with adequate profit margin) and hence not exercising price reduction offering their best competitive price. Thus, the very essence of e-reverse auction enabling real-time competition and providing an opportunity to the Bidders to offer more competitive price was ineffective. It is also stated that as per the provisions of the RfS, the Petitioner has right to short-close the capacity lower than 300 MW at its discretion, if the prices are abruptly high. Further, the discretion for allotment/non-allotment of additional capacity upto 300 MW under 'Green-shoe Option' is also solely vested with the Petitioner. Furthermore, as per the terms of the RfS, GUVNL's decision regarding selection of bidder through e-RA or otherwise based on tariff or annulment of tender process shall be final and binding on all participating bidders.

13.14. We further note that in the aforesaid scenario of discovery of higher price (s) under GUVNL's Wind tender (Phase IV), the competent authority of GUVNL had decided to constitute a "Negotiation Committee" comprising of members viz. (a) GM (RE) (b) GM (Commerce) and (c) GM (F&A) to undertake negotiation with the Bidders Nos. L1 to L4 with regard to their price bids to deliberate upon further course of action. Pursuant to above, a meeting with the L1 to L4 Bidders was conducted in the presence of the Negotiation Committee constituted by the Petitioner GUVNL on 13.02.2023. The Petitioner negotiated with Bidders stating that there was

practically no real time competition during the e-RA. The Petitioner even conveyed that the tariff of Rs.2.96 – 3.01 per unit discovered in the instant tender during January 2023 is not aligned with the recently concluded tender for which PPAs were executed in December 2022 at the tariff of Rs. 2.90 per Unit. We note the submissions of the Petitioner GUVNL that all the bidders have expressed their concern over monopolistic attitude of the OEMs, increase in steel prices from December 2022 onwards, levy of export duty on steel, additional impact of GST and exposure to higher corporate tax rate of 22% compared to earlier rate of 15% for new manufacturing/generation units. In view of such negotiation, M/s Juniper Green Energy Pvt. Limited (L1 bidder) vide its letter dated 02.03.2023 while expressing difficulties over the market condition and issue in project implementation, has conveyed their revised offer of Rs. 2.95 per unit for 100 MW capacity against their earlier quote of Rs. 2.96 per unit. Accordingly, the Petitioner GUVNL vide its letters dated 28.03.2023 had sought consent from the remaining bidders for matching their quoted tariff with revised L1 tariff i.e. Rs. 2.95 per unit for their offered capacity and equivalent additional capacity under the 'Green-shoe Option'.

13.15. We note that in response to the GUVNL's letter dated 28.03.2023, the Petitioner GUVNL has received responses from (a) M/s WYN Renewables Pvt Ltd. (L2 bidder) M/s WYN Renewables Pvt. Limited (L2 bidder) vide letter dated 29.03.2023 has maintained the quoted tariff of Rs. 3 per Unit without any reduction and M/s ACME Pokhran Solar Pvt. Limited (L3 bidder) vide letter email dated 28.03.2023 has maintained discovered tariff of Rs. 3.01 per Unit. Whereas M/s Solarcraft Power India 14 Pvt. Limited (L4 bidder) vide email dated 29.03.2023 has maintained their quoted tariff of Rs. 3.01 per Unit for 50 MW base capacity and conveyed their acceptance of additional 50 MW under Green Shoe capacity at the same tariff of Rs. 3.01 per unit.

13.16. Thereafter, the Petitioner has issued the Lols to the bidders who had conveyed their acceptance to the Petitioner under GUVNL's Wind Tender (Phase IV) dated 18.10.2022 and addendum thereto. In response to the same, the following responses have been received to the Petitioners from the successful bidders:

- (a) M/s Juniper Green Energy Pvt. Limited (L1 Bidders) vide letter dated 18.04.2023 has accepted only base capacity of 50 MW.
- (b) M/s WYN Renewables Pvt. Limited (L2 bidder) vide letter dated 18.04.2023 has accepted only base capacity of 100 MW.
- (c) M/s ACME Pokhran Solar Pvt. Limited (L3 bidder) vide letter dated 25.04.2023 has accepted only base capacity of 100 MW.
- (d) M/s Solarcraft Power India 14 Pvt. Limited (L4 bidder) vide letter dated 14.04.2023 has accepted only base capacity of 50 MW.

13.17. We also note the submissions of the Petitioner that methodology of L1 + 2% is provided in the tender initiated by SECI and the same was incorporated by the Petitioner GUVNL in the present bidding process. The provision incorporated by GUVNL is based on the provision in the SECI Bid Documents. As per submission made by the Petitioner that one of the bidder had suggested during the pre-bid meeting that the modification of the Reserve Auction methodology to qualify only the bidders falling within the range of (L1 tariff+2%) as a Successful bidders as per the SECI's Tender. Therefore, in the interest of better competition and to have competitive tariff, the Petitioner GUVNL has accepted the said suggestions and vide Addendum 2 dated 25.11.2022 to the RfS, has modified the Clause 4.4.1 as under:

*“Upon conclusion of e-RA process, the Bidders in the “Green Zone” and “Yellow Zone” shall be selected in the ascending order with lowest quoted tariff (being L1) till the tender capacity (300 MW) is exhausted. The bidders who fall within the range of (and including) the lowest tariff (L1 tariff) + 2% of the L1 tariff, hereinafter referred to as “the range” will be declared as Successful Bidders, subject to the conditions as enumerated in clauses herein below viz. Clause 4.4.2 to Clause 4.4.5.”*

13.18. We also note that in respect of query of the Commission on the methodology for L1+2% is concerned, it is submitted that L1+2% methodology is not used for matching of the quote for other bidders. The Petitioner has sought for matching of the L1 bid to an attempt to minimise the cost of power purchase being in consumer interest. However, this was not accepted by any of the other bidders who reiterated their quoted tariff. The LoI was awarded based on the quoted tariff only. The provision of L1 + 2% is a means for evaluation of the bid for consideration of

successful bidders and to ensure that there is not too wide a price variation amongst the successful bidders. In the present case, the successful bidders were within the range of L1 + 2%. Even without consideration of L1 + 2%, the successful bidders for 300 MW would have been the same bidders for same capacity to qualify themselves as successful bidders. Further, the Petitioner submitted that the said methodology of L1+2% is provided in the tender initiated by SECI and is in consistence with the competitive bidding guidelines. Moreover, the Petitioner submitted that as per guidelines dated 08.12.2017 and as per Clause 12.2, the provisions for certification by the Bid Evaluation Committee, the certification is done only for the above aspect. It is also submitted that Board Resolution of the Petitioner has also accepted the aforesaid tariff as reasonable. The Petitioner has also submitted that as per Para 12.3 of the Competitive Bidding Guideline, the Petitioner has complied with the provisions of Para 12.3 and publishing the requisite details of the successful bidders on the website of the GUVNL and signed the PPA with the four successful bidders on 10.05.2023.

13.19. We also note that the Respondent No. 1 M/s Juniper Green Energy Pvt. Limited (JGEPL) vide its letter No. JGEPL/GUVNL/09/01 dated 22.09.2023 stated that JGEPL is one of the successful bidders in the competitive bidding process conducted vide RfS No. GUVNL/300 MW/Wind (Phase-IV) dated 18.10.2022 and addendums thereto by GUVNL and setting up 50 MW capacity Wind Project at Surendranagar, Gujarat and is also one of the Respondents in the present Petition. JGEPL vide the aforesaid letter dated 22.09.2023 also confirmed and agreed that they have no objection to approval of GUVNL seeking adoption of discovered tariff as per the present Petition.

13.20. We further note that the Respondent No. 3 ACME Pokharan Solar Pvt. Limited (APSPL) is also agreeable to the adoption of the tariff of Rs. 3.01 per Unit in terms of the present Petition filed by the Petitioner GUVNL. Whereas the Respondent No. 2 WYN Renewables Pvt. Limited and Respondent No. 4 Solarcraft Power India 3 Pvt. Limited have not filed their reply in the present matter although the liberty was granted to them in the present matter.

13.21. We note that as per Clause 12.2 of the 'Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power

Projects' issued by the Ministry of Power, Government of India, after the conclusion of bidding process, the Evaluation Committee constituted for evaluation of RfS bids has to certify as appropriate that the bidding process and the evaluation has been conducted in conformity to the provisions of the RfS. As already noted above, the Petitioner in compliance to aforesaid clause has certifying that the Committee has critically evaluated the bids and that the bidding process and the evaluation has been conducted in conformity to the provisions of the RfS.

13.22. We also 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 provides that this Rules are in supersession of earlier notified 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 and accordingly, applicable in the present matter. We note that the Petitioner has initiated and conducted the competitive bidding process through RfS No. GUVNL/300 MW/Wind (Phase IV) dated 18.10.2022 by issuing the 'Notice Inviting Tender' on 19.10.2022. 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. In this regard, we are of view that as per Clause 12.4 of bidding guidelines, the distribution licensee or intermediary procurer has to approach the Commission for adoption of tariff discovered under competitive bidding process in terms of Section 63 of Electricity Act, 2003 and the Commission has to decide and adopt the discovered tariff within 60 days from such submissions by the distribution licensee or intermediary procurer. In the present case, the Petitioner has approached the Commission for adoption of tariff discovered through competitive bidding process conducted vide RfS No. GUVNL/300 MW/Winds(Phase IV) dated 18.10.2022. We also note that as per the submissions

of the Petitioner GUVNL that the LoIs have been issued to the successful bidders and the PPAs are signed with the successful bidders on 10.05.2023 subject to the approval of the Commission. Therefore, we are of view that the Electricity (Late Payment Surcharge) Rules needs to be incorporated appropriately by the Petitioner GUVNL in the PPAs to be signed with the successful bidders, if already not incorporated.

13.23. In view of the foregoing, the Commission is satisfied with the entire tendering process including the e-reverse bidding conducted by the Petitioner GUVNL in a transparent manner and discovered tariff of successful bidders with quoted capacity and allocated capacity to them as stated above.

13.24. The Petitioner has submitted that as per Clause 3.8.4(vi) of the RfS, the Successful Bidders are required to sign PPA with GUVNL within 30 days from the date of issuance LoI and subsequent extension in this timeline. As noted above, the Petitioner has signed the PPA subject to approval of the Commission with aforesaid four Bidders on 10.05.2023. Hence, the Petitioner is required to submit the copy of the signed PPAs and therefore, the Petitioner is directed to submit copies of duly executed PPAs with the successful bidders to the Commission alongwith an affidavit stating that the Articles/Provisions of the PPAs executed are as per the directions as stated above, provisions of Act, Rules, bidding guidelines and deviations approved by the Commission from time to time and that there are no other deviations taken by the Petitioner in the bidding documents other than those earlier approved by the Commission. We also direct the Petitioner that for the purpose of transparency, after execution of the PPAs, to publicly disclose the name (s) of the successful bidder(s) and the tariff quoted by them together with the breakup with the component, for 30 days on its website in terms of Clause 12.3 of the bidding guidelines as amended for knowledge and information of the stakeholders.

#### **SUMMARY OF DECISIONS:**

14. We decide to adopt the tariff discovered under the transparent competitive bidding process conducted by the Petitioner through RfS No. GUVNL/300 MW/ Wind (Phase IV) dated 18.10.2022 and addendums as stated above.

14.1. Apart from the directives of the Commission in this Order, the Petitioner to sign the Power Purchase Agreement(s) with the successful bidders with allocated capacity and tariff as per below table.

Sr. No.	Bidder's name	Base Capacity(MW)		Green-shoe Capacity(MW)		Total Capacity (MW)	Tariff (Rs./Unit)
1	Juniper Green Energy Pvt. Limited	50	2.95	-	-	50	2.95
2	WYN Renewables Pvt. Limited	100	3.00	-	-	100	3.00
3	ACME Pokharan Solar Pvt. Limited	100	3.01	-	-	100	3.01
4	Solarcraft Power India Pvt. Limited	50	3.01	-	-	50	3.01
	<b>Total</b>	<b>300</b>		<b>-</b>		<b>300</b>	

14.2. We direct the Petitioner to submit the copies of duly executed PPAs to the Commission alongwith an affidavit stating that the Articles/provisions of the PPAs executed are as per the directions as stated above, provisions of Act, Rules, bidding guidelines and deviations approved by the Commission from time to time and that there are no other deviations taken by the Petitioner in the bidding documents other than those earlier approved by the Commission in its Orders dated 15.03.2018 and 26.02.2019. We also direct the Petitioner that for the purpose of transparency, after execution of the PPAs, publicly disclosed the name (s) of the successful bidder(s) and the tariff quoted by them together with the break up with the component, for 30 days on its website in terms of Clause 12.3 of the bidding guidelines as amended for knowledge and information of the stakeholders.

15. Order accordingly.

16. With this order the present Petition stands disposed of.

**-sd-**  
**[S.R. Pandey]**  
**Member**

**-sd-**  
**[Mehul M. Gandhi]**  
**Member**

**-sd-**  
**[Anil Mukim]**  
**Chairman**

Place: Gandhinagar.  
Date: 22 /12/2023.