

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 119 of 2023

Case of MSEDCL for adoption of the tariff discovered through the competitive bidding process held for long term procurement of 76.55 MW wind power from the wind generators whose EPAs with MSEDCL have expired.

Coram

Sanjay Kumar, Chairperson
Anand M. Limaye, Member
Surendra J. Biyani, Member

Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) :

Petitioner

- 1 M/s. KRBL Ltd.
- 2 M/s. B.S.Channabasappa and Sons
- 3 M/s. Morries Enegy Ltd
- 4 M/s.Siva Electric Generation Pvt. Ltd
- 5 M/s. Oswal Cables Private Limited
- 6 M/s.Vikram Tea Processor Private Limited
- 7 M/s.Ultra Mega Power Private Limited
- 8 M/s. Harshita Sales Sales Corporation
- 9 M/s. CTR Manufacturing Industries Private Limited
- 10 M/s. Magma Fincorp Ltd
- 11 M/s. Karad Power India Pvt. Ltd.
- 12 M/s. Rajendra Exim Pvt. Ltd
- 13 M/s. Geeta Rani Agrawal
- 14 M/s. Rajasthan Gum Private Limited
- 15 M/s. Bhagwan Energy
- 16 M/s. Sterling Agro Industries Ltd.
- 17 M/s. Venkateswara Wires Private Limited
- 18 M/s. K. K. Enterprises
- 19 M/s. Elektrolites Power Pvt Ltd
- 20 M/s. Agarwal Industrial Corporation Ltd.
- 21 M/s. Krishna Power
- 22 M/s. Fashion Suitings Private Limited

: Respondents

- 23 M/s. National Steel And Agro Industries Limited
24 M/s. General Industrial Controls Private Limited
25 M/s. Godavari Corporation Pvt. Ltd.
26 M/s. Kumar Company
27 M/s. Gandhi & Associates
28 M/s. Gandhi & Associates
29 M/s. S G Assocites
30 M/s. Pradeep Bandhu
31 M/s. Quantum Equipment Co Ltd
32 M/s. Sagar Powertex Private Limited
33 M/s. Osho Developers
34 M/s. Goutham Industries Unit-II
35 M/s. AD- Manum Finance Limited

: Respondents

Appearance:

For Petitioner

: Mr. Nikhil Meshram (Rep.)

For Respondents

:1. Mr. Shankar Singh KRBL Ltd.

2. Geeta Rani Agrawal

3. Mr. Sachin kumar , M/s sterling Agro

ORDER

Dated: 23 December 2023

1. Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) has filed the present Petition on 15 May 2023 seeking approval for adoption of tariff for long term procurement of 76.55 MW wind power from the wind generators whose Energy Purchase Agreement (EPA) with MSEDCL have expired.
2. **The Petitioner's main prayers are as follows:**
 - (a) *To admit the Petition as per the provisions of the Regulation 19 of MERC (RPO, Its Compliance and Implementation of REC Framework) Regulations, 2019.*
 - (b) *To adopt the Tariff discovered through competitive bidding process held by MSEDCL for Procurement of 76.55 MW wind Power from Intra-state wind projects whose EPAs with MSEDCL are expired or going to expire till 31.03.2024 with the minimum bid capacity of 0.225MW.*
 - (c) *To accord approval for signing of the Power Purchase Agreement with the successful bidders at the competitively discovered Tariff effective for period up to 12 years/*

balance useful life of the WTG (provided that such balance period qualifies for long term power purchase agreement period) from the date of execution of PPA or from the date of expiry of EPA/STPPA/OA for existing wind power projects. However the effective date shall be prospective with regard to floating of this tender.

(d) To allow MSEDCL to claim such procurement for the fulfilment of RPO of MSEDCL

3. The Petition states as follows:

- 3.1. The Commission in its Order in Case No. 21 of 2020 dated 01 January 2021 opined that the ceiling rate shall be determined by the utilities as per its own due diligence. MSEDCL may draw a cue to cap the ceiling rate to the tariff discovered for the new wind projects in the State of Maharashtra or at national level by agencies like SECI. The Competitiveness of such rate shall be dealt with by the Commission at the time of adoption of tariff.
- 3.2. In Dec-2022, during auction for SECI's Tranche-XIII wind tender, the lowest tariff discovered is Rs.2.90 to Rs. 2.95 per unit and GUNVL tender, Jan 2023 is Rs. 2.97 to Rs. 3.01 per unit. MSEDCL then decided to keep ceiling tariff of Rs.2.65 per unit i.e. Rs. 0.10 PU less than latest SECI's discovered tariff.
- 3.3. In past, MSEDCL floated three tenders for procurement of power from Post Expiry Wind Energy Purchase Agreement projects with ceiling tariff of Rs. 2.65 per unit and has contracted 185.25 MW with the approval of the MERC. Hence, there was balance capacity of 314.75 MW (=500-185.25) out of 500 MW capacity of the initial tender.
- 3.4. Considering the above facts, MSEDCL on 06 December 2022 floated the tender Procurement of 300 MW wind Power from Intra-state wind projects whose EPAs with MSEDCL are expired or going to expire till 31 March 2024 with ceiling tariff of Rs. 2.65 per unit and PPA tenure of 12 years along with the deviations approved by the Commission vide Order dated 05 July 2019 in Case No. 110 of 2019.
- 3.5. The pre-bid meeting in respect of the said tender was conducted on 12 December 2022. The last date of submission of bid was 13 January 2023 which was extended from 06 January 2023. Technical bids were opened on 16 January 2023. Thirty-five (35) bids were received with a total cumulative capacity of 76.55 MW. All thirty five (35) bidders are found to be technically qualified. Financial bids opened on 02 February 2023.

Sr. No.	Name of Bidder	Eligible Capacity in MW	Bid rate in Rs/Unit
1	KRBL Limited	12.5	2.65
2	B S Channabasappa And Sons	1.4	2.65
3	Morries Enegy Ltd	0.75	2.65
4	Siva Electric Generation Private Limited	3.25	2.65

Sr. No.	Name of Bidder	Eligible Capacity in MW	Bid rate in Rs/Unit
5	Oswal Cables Private Limited	0.6	2.64
6	Vikram Tea Processor Private Limited	1.25	2.65
7	Ultra Mega Power Private Limited	23.1	2.65
8	Harshita Sales Sales Corporation	0.6	2.65
9	CTR Manufacturing Industries Private Limited	1.25	2.65
10	Magma Fincorp Ltd	2.5	2.65
11	Karad Power India Pvt. Ltd.	1.65	2.65
12	Rajendra Exim Pvt. Ltd	0.6	2.64
13	Geeta Rani Agrawal	0.6	2.65
14	Rajasthan Gum Private Limited	1.5	2.65
15	Bhagwan Energy	0.6	2.64
16	Sterling Agro Industries Ltd.	1.65	2.65
17	Venkateswara Wires Private Limited	0.6	2.65
18	K. K. Enterprises	1.25	2.65
19	Elektrolites Power Pvt Ltd	0.6	2.65
20	Agarwal Industrial Corporation Ltd.	1.25	2.65
21	Krishna Power	2.4	2.65
22	Fashion Suitings Private Limited	3.9	2.65
23	National Steel And Agro Industries Limited	1.25	2.65
24	General Industrial Controls Private Limited	1.25	2.65
25	Godavari Corporation Pvt. Ltd.	0.6	2.65
26	Kumar Company	1.5	2.65
27	Gandhi & Associates	1.25	2.65
28	Gandhi & Associates	1.25	2.65
29	S G Associates	0.6	2.65
30	Pradeep Bandhu	0.6	2.65
31	Quantum Equipment Co. Ltd.	0.5	1.18
32	Sagar Powertex Private Limited	0.6	2.65
33	Osho Developers	1.5	2.65
34	Goutham Industries Unit-II	1.25	2.65
35	AD-Manum Finance Limited	0.6	2.65
	Total	76.55	

3.6. As the total quoted quantum was only 76.55 MW against the 300 MW Tender Capacity, e-reverse auction could not be happened for this Tender.

3.7. The rate offered by successful bidders in this tender is in the range of Rs. 2.64-2.65 per unit are competitive to meet the RPO target of MSEDCL & ultimately will benefit the common consumers of MSEDCL. However M/s Quantum Equipment Co Ltd has informed that the rate quoted of Rs. 1.18 p.u. by them was by mistake and requested to consider it as Rs. 2.65 p.u. In this regard, the bid submitted cannot be altered in the later

stage being a competitive bidding process. Therefore, MSEDCL has continued with the rates quoted in the financial bid by M/s Quantum Equipment Company.

3.8. MSEDCL in this Petition prayed to the Commission for adoption of Tariff for 76.55 MW wind Power discovered through competitive bidding process under Section 63 of the Electricity Act, 2003.

4. **Respondent No. 16 (Sterling Agro Industries) in its reply dated 26 September 2023 stated as under:**

4.1. Sterling Agro is an eligible bidder participated in the competitive bidding process and was declared a successful bidder vide Letter of Award dated 13 April 2023 issued by MSEDCL for procurement of power from its 1.65 MW wind power project located at GP-09, Village Bhurbhushi, Tal Shirala, District Sangli, Maharashtra at the discovered per unit tariff of Rs. 2.65/kWh on long term basis.

4.2. The Commission may please allow the Petition by adopting the tariff of Rs.2.65/kWh discovered pursuant to competitive bidding and direct MSEDCL to execute power purchase agreement with Sterling for a period of Twelve years from the date of expiry of short term open access contract i.e., with effect from 01 June 2023.

5. **At the e-hearing held on 3 November 2023**, the representative of MSEDCL re-iterated its submission as stated in the Petition. The Commission directed MSEDCL to submit additional submission on following points:

(i) Competitiveness of rate discovered in present matter viz-viz rate discovered in the Inter-State project.

(ii) Policy regarding publication of tender notice in the Newspapers and whether it is followed in the present case.

6. **MSEDCL in its reply dated 24 November 2023 stated as under:**

6.1. Competitiveness of rate discovered in present matter viz-viz rate discovered in the Inter-State project:

(i) The said tender was floated on dated 06 December 2022. Around same time, i.e. in December 2022, during the auction for SECI's Tranche-XIII Wind tender, the lowest wind tariff discovered was Rs. 2.90 to Rs. 2.95 per unit and in GUNVL tender, January 2023 lowest wind tariff discovered was is Rs. 2.97 to Rs. 3.01 per unit.

(ii) The ceiling tariff for MSEDCL's Wind tender for post expiry of wind generators was Rs. 2.65 p.u. which is less than price discovered through bidding by other agencies around same time period.

(iii) In view of above, the rates discovered in the present matter are competitive viz-viz rate discovered in the Inter-State project.

6.2. Policy regarding publication of tender notice in the Newspapers.

(i) Board Resolution No. 1124 dated 13 January 1992 has laid down the directives regarding publication of advertisement in newspapers.

(ii) Further as per MSEDCL. “Delegation of Powers (w.e.f. 01.08.2006)”, Director (Human Resource) in consultation with the Director (Finance) shall be the competent Authority for “Fixing Advertisement rates and revision / inclusion / deletion of the newspapers in the approved list.”

(iii) As per the settled practice of Corporate Office, MSEDCL, the Public Relation Office suggests the names of newspaper/s in which the advertisement shall be published.

(iv) In view of above, advertisement for tender regarding procurement of 300 MW wind power was published in following newspapers:

(a) Lokmat (Mumbai, Pune, Nagpur, Aurangabad, Kolhapur, Nasik, Solapur, Ahmednagar, Jalgaon, Akola Edition).

(b) Economic Times (Mumbai Edition).

(v) Under the preferential tariff regime i.e. prior to December 2017, MSEDCL executed the EPA with such wind generators for period of 13 year / 20 years as per the orders/ Regulations framed by the Commission. The useful life of wind generators is of 25 years. Hence after the expiry of such EPA, the wind machines are still in operation. The tender under consideration was specifically for such wind turbines whose earlier long term EPA has been expired but are in operation till its balance useful life.

(vi) The wind turbines under preferential tariff as notified by the Commission were installed in the state of Maharashtra only and accordingly the tender under consideration is mainly for intra-state wind turbines. MSEDCL has published the advertisement in newspapers accordingly.

(vii) The details of the tender were also made available on MSEDCL’s portal.

Commission’s Analysis and Rulings:

7. This Petition has been filed by MSEDCL for adoption of tariff of Rs. 2.65 per unit discovered through competitive bidding for procurement of wind power from wind generators whose EPAs with MSEDCL have expired. Before conducting such competitive bidding process, MSEDCL has approached the Commission on several occasions on the issue of mode of procurement, ceiling tariff and deviation in bidding documents. Relevant Orders in these matters are summarized below:

7.1. MSEDCL through its Petition in Case No. 50 of 2019 had approached the Commission for allowing MoU based power procurement from Wind Generators whose EPA with MSEDCL are expired. In that matter vide Order dated 9 April 2019, the Commission has directed MSEDCL to undertake such power procurement through competitive bidding only at a ceiling rate to be decided by MSEDCL after proper due diligence at their end but the same shall not be more than the rates (Rs. 2.25 – 2.52 P.U.) approved for the short-term procurement of wind energy.

7.2. Thereafter, MSEDCL filed Petition in Case No.110 of 2019 seeking approval for deviation in bidding guidelines on the issues of minimum installed capacity, minimum bid capacity, relaxation from Performance Bank Guarantee & Financial Closure, relaxing minimum CUF requirement and providing clarity on repowering of Wind Turbines. Considering the fact that said bidding process is to be conducted for already commissioned project whose EPA with MSEDCL has expired, the Commission vide Order dated 5 July 2019 has allowed such deviation sought by MSEDCL.

7.3. In Case No. 21 of 2020, amongst other issues related to other RE technologies, MSEDCL has requested to allow increase in ceiling rate for procurement from post expiry Wind power generators as its repeated bidding attempts have failed to attract Wind generators. On this issue the Commission reiterated its stand that ceiling tariff has to be decided by the Distribution Licensee after due diligence and the Commission will consider its competitiveness only at the time of tariff adoption. The Commission in that Order dated 1 January 2021 has made following suggestions on the issue of ceiling tariff:

“

*21.11. In view of above, the Commission is of the opinion that MSEDCL may conduct separate competitive bidding process for the wind projects with expired EPAs and for new projects. **The Commission in various Orders has iterated that the ceiling rate shall be determine by the utilities as per its own due diligence. MSEDCL may draw a cue to cap the ceiling rate to the tariff discovered for the new wind projects in the State of Maharashtra or at national level by agencies like SECI. The Competitiveness of such rate shall be dealt with by the Commission at the time of adoption of tariff. More critical factor is providing secured payment mechanism to the generators which could be covered in the Bid document itself**”*

8. Thus, after initial capping of tariff to approved tariff for short term power procurement, after considering the fact that MSEDCL's repeated attempt of bidding did not yield fruitful results, the Commission advised MSEDCL to consider rate discovered for new wind project as ceiling tariff.
9. Prior to procurement envisaged in this case, MSEDCL has already conducted three (3) bidding exercises based on ceiling rate of Rs. 2.65 per unit. The Commission vide its Order dated 16 February 2022 in Case No. 08 of 2022, 7 June 2022 in Case No.67 of 2022 & 6 January 2023 in Case No. 202 of 2022 has accorded approval for procurement of 157.9 MW, 15.85 MW & 18.36 MW respectively on long term basis at the discovered tariff rate of Rs. 2.65 per unit.
10. Post bidding exercise in the present matter, MSEDCL has received following responses:

Sr. No.	Name of Bidder	Eligible Capacity in MW	Bid rate in Rs/Unit
1	KRBL Limited	12.5	2.65
2	B S Channabasappa And Sons	1.4	2.65
3	Morries Enegy Ltd	0.75	2.65
4	Siva Electric Generation Private Limited	3.25	2.65
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33	Osho Developers	1.5	2.65
34	Goutham Industries Unit-II	1.25	2.65
35	AD-Manum Finance Limited	0.6	2.65
	Total	76.55	

11. As bids received are lower than the bid capacity of 300 MW, e-reverse auction was not undertaken, and above quoted rate thus become final.
12. As directed during the e-hearing, MSEDCL filed submission demonstrating competitiveness of discovered tariff and has also clarified that bid is restricted to Wind Generators whose EPA under generic tariff route have been expired i.e. for intra-state projects, by following its policy of publication of advertisements in newspapers. Therefore it has published bid/tender notice in Newspapers having circulation in Maharashtra, only. Further, such advertise of tender notice was also published on MSEDCL's website.
13. The Commission further notes that after quoting rate of Rs. 1.18 per unit in bidding process, M/s Quantum Equipment Co. Ltd. has informed MSEDCL that it has quoted such rate by mistake and requested to consider it as Rs. 2.65 per unit. MSEDCL in its Petition has stated that rate quoted in bidding process cannot be changed and hence requested the Commission to consider it as Rs 1.18 per unit only. In this context, the Commission notes that to maintain sanctity of bidding process, the bid submitted cannot be altered in the later stage. It is the responsibility of the bidder to take proper precautions while submitting the bid. Also, M/s Quantum Equipment Co. Ltd. who is Respondent No. 31 in the present matter, has not filed any submission before the Commission on this count. In view of the above, the Commission continue with the rates of Rs. 1.18 per unit quoted in the financial bid by M/s Quantum Equipment Co. Ltd.
14. The Commission notes that MSEDCL has conducted transparent bidding process after seeking approval for deviation from bidding guidelines. Further, tariff of Rs. 1.18 to 2.65 per unit discovered through competitive bidding process is lower than Rs. 2.69 per unit discovered by SECI in September 2021 for Tranche-XI Wind tender. Although such tariff comparison is not strictly comparable, as SECI's bidding is for new Wind Generators whereas MSEDCL's bid is for existing Wind Generators with expired EPA, but still for MSEDCL as a Distribution Licensee any of this energy would meet its non-Solar RPO and hence tariff of Rs. 1.18 to 2.65 per unit would be beneficial to MSEDCL to that extent. The

Commission also notes that said discovered tariff is higher than Rs. 2.52 per unit discovered earlier for similar type of Wind Generators. But Wind Generators are not responding to MSEDCL's repeated bids at such lower tariff of Rs. 2.52 per unit. Under such circumstances, the Commission considers tariff of Rs. 2.65 per unit discovered through present competitive bidding process is reflective of market trends.

15. The Commission also notes that the PPA tenure of 12 years has been worked out by considering useful life of Wind Turbine as 25 years, which is as per RE Tariff Regulations, and 13 years of EPA period which has expired.
16. Accordingly, in line with the mandate under Section 63 of the Electricity Act 2003, the Commission deems it fit to adopt and approve the tariff as highlighted in above para (10) for 76.55 MW cumulative Wind projects on long term basis.
17. Hence, the following Order.

ORDER

1. **Case No. 119 of 2023 is allowed.**
2. **The Commission accords its approval for procurement of 76.55 MW on long term basis from wind generator as stated in Para (10) and allows MSEDCL to enter into Power Purchase Agreement with the successful bidder for a period of Twelve years.**
3. **The Wind Power procured from these projects shall be eligible towards fulfilment of Maharashtra State Electricity Distribution Co. Ltd.'s Non-Solar RPO for the respective periods.**

Sd/-
(Surenndra J. Biyani)
Member

Sd/-
(Anand M. Limaye)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Dr. Rajendra G. Ambekar)
Secretary

