



**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION  
LUCKNOW**

**Petition No. 2047 of 2023**

**QUORUM**

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

**IN THE MATTER OF**

Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003 for approval of procurement of 710 MW of Wind Power in terms of the Power Sale Agreement dated 14.03.2023 on long term basis procured through tariff based competitive bidding process held under the Inter-State Transmission System Tranche-XII Scheme.

**AND**

**IN THE MATTER OF**

**Uttar Pradesh Power Corporation Ltd. (UPPCL),**

Shakti Bhawan, 14-Ashok Marg, Lucknow-226001.

..... Petitioner

**VERSUS**

**Solar Energy Corporation of India Limited (SECI),**

6<sup>th</sup> Floor, Plate-B, NBCC Office Block Tower-2,

East Kidwai Nagar, New Delhi-110023

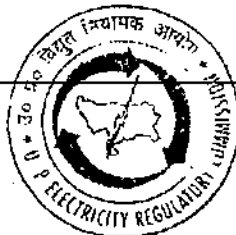
..... Respondent

**FOLLOWING WERE PRESENT**

1. Ms Akanksha Bhola, Advocate, SECI
2. Shri Divyanshu Bhatt, Advocate, UPPCL
3. Shri Manish Dwivedi, SE, UPPCL

**ORDER**

**(DATE OF HEARING: 09.05.2024)**





1. The Petitioner, UPPCL has filed this Petition under section 63 read with section 86(1)(b) of the Electricity Act, 2003 for approval of procurement of 710 MW of Wind Power in terms of the Power Sales Agreement (PSA) dated 14.03.2023 on long term basis procured through tariff based competitive bidding process held under the Inter State Transmission System Tranche XII scheme.

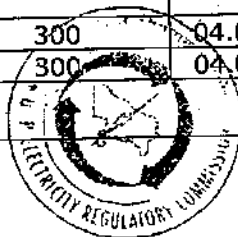
2. The prayer of the Petitioner(s) are as follows:

- a) Approve the procurement of 710MW of Wind Power on long term basis procured by UPPCL from SECI through tariff based competitive bidding process held under the Inter State Transmission System Tranche-XII Scheme.
- b) Approve the Power Sales Agreement executed on 14.03.2023 executed between Solar Energy Corporation of India Ltd. and Uttar Pradesh Power Corporation Ltd. and /or
- c) Pass any further order(s) as this Commission may deem fit in the facts and circumstances of the case.

**3. Brief facts of the case**

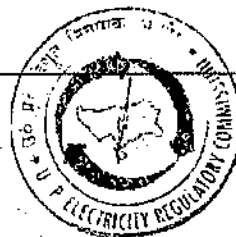
- a) SECI floated a Request for Selection ("RFS") document dated 22.10.2021 for the selection of Wind Power Developers on Build Own Operate (BOO) basis for Setting up of 1100 MW ISTS-connected Wind Power Projects in India under TBCB in compliance with the MoP Bidding Guidelines dated 08.12.2017.
- b) Pursuant to the floating of the RFS and scrutinizing the bids received by SECI from various Wind Power Developers (WPDs), SECI entered PPAs with three WPDs for 800 MW of capacity, the details of which are as follows:

S No.	WPD Name	Capacity (MW)	Date of PPA	Applicable Tariff (₹/kWh)
1.	NTPC Renewable Energy Limited	200	06.06.2023	2.89
2.	JSW Neo Energy Limited	300	04.05.2023	2.94
3.	Torrent Power Limited	300	04.05.2023	2.94





- c) A Power Sale Agreement dated 14.03.2023 was executed between UPPCL and SECI. In terms of Article 1.1 of the PSA it has been agreed that SECI shall be entitled to receive the tariff as indicated in the aforementioned table along with a trading margin of Rs 0.07/kWh fixed for the entire term of the PSA.
- d) Procurement of Wind Power from WPDs will also help UPPCL in fulfilling its obligation of non-solar RPO, thus, promoting green energy and also in optimizing the cost of power purchase.
- e) Section 63 of the Act requires this Commission to adopt the tariff discovered through TBCB for the procurement of power by a distribution licensee.
- f) It is evident from the Section 86(1)(a), 86(1)(b) & 63 of the Act that if the procurement of power is done through TBCB in accordance with the guidelines issued by the Central Government, it is mandatory upon this Commission to adopt the tariff determined during such process.
- g) SECI has already approached the CERC for adoption of tariff and Petition is pending for adjudication before the CERC in which the order for adoption of tariff has been reserved.
- h) SECI in addition to the PSA dated 14.03.2023 executed between SECI and UPPCL, has also entered PSA with M/s Grid Corporation of Odisha Ltd (GRIDCO) for procurement of 390 MW Wind Power under the same scheme, i.e., ISTS Tranche -XII Scheme.
- i) A communication was issued by SECI to UPPCL bearing communication no. SECI/PT/WIND/T-XII/SCD-Extn/UPPCL/2023/59225 dated 31.10.2023 vide which SECI had informed UPPCL that in terms of Article 2.1.3 read with 2.1.4 of the PPAs, the Financial Closure as well as the Scheduled date of commissioning for NTPC Renewable Energy Limited, JSW Renew Energy Three Ltd and Torrent Saurya Urja 2 Pvt Ltd, cumulatively amounting to 800 MW of wind power and a part of the WPDs of the instant ISTS Tranche -XII scheme, has been extended on the request of the aforementioned WPDs.





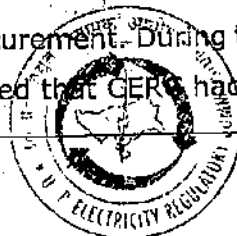
- j) As per the observation of this Commission in Petition no. 1629/2020 which was jointly filed by UPPCL as well as SECI for approval of procurement of power, it was held that unless the tariff gets adopted by the appropriate Commission, the approval of PPA as well PSA cannot be justified. However, contrary to this, the Odisha Electricity Regulatory Commission (OERC), vide order dated 27.01.2023 in Petition No. 96 of 2022, filed by GRIDCO, has granted an in-principle approval for such procurement of 390 MW Wind Power under the aforementioned SECI scheme.

#### 4. Reply of SECI filed on 29.01.2024

- a) SECI filed Tariff Adoption Petition No. 334/AT/2023 before the CERC for adoption for Tariff of 800 MW discovered through TBCB.
- b) Initially, SECI and UPPCL entered into PSA for supply of 710MW wind power under Treche-XII and UPPCL was mapped to receive power from 4 WPD on pro-rata basis as provided under Article 1.1 of PSA, Recital XV of PSA and Schedule B to PSA.
- c) Subsequently, SECI vide letter dated 27.12.2023 cancelled the LoA of 300 MW issued in favor of Halvad Renewables Pvt. Ltd. in terms of letter dated 03.08.2023 from the bidder that it would not be in a position to sign the PPA due to reasons beyond their control.
- d) Accordingly, as per Article 3.4 of the PSA, the contracted capacity under the PSA will be reduced to 516MW from 710MW and consequently, Article 2.11.3 will get modified.
- e) As per Article 1 of the PSA, tariff applicable for the sale of wind power to the buying entity will be as applicable for payment by SECI to WPD under the PPA and additional trading margin of Rs. 0.07/kWh.

#### 5. Record of proceedings

During the hearing on 6.2.24, the Commission allowed UPPCL to file detailed justification for wind power procurement. During the next hearing on 05.03.2024, SECI, the intermediary submitted that GERC had reserved its order for adoption





of tariff and the case was pending for final disposal. The counsel also submitted there was no deviation in the bid documents from MoP Guidelines and a certificate to this effect has been submitted before CERC. UPPCL sought time to file revised PSA as one of the bidder's LOA of 300 MW was cancelled by SECI.

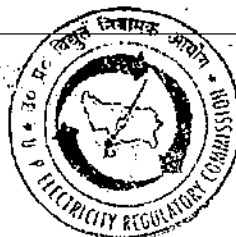
During the next hearing on 04.04.2024, the Commission allowed further 3 weeks' time to UPPCL & SECI for filing revised PSA. UPPCL, on 01.05.2024, has filed its additional affidavit regarding justification for procurement of wind power and SPSA dated 23.04.2024 executed between UPPCL & SECI. The Commission, after hearing the parties, on 09.05.2024 concluded the hearing.

#### 6. UPPCL additional affidavit dated 01.05.2024.

On 01.05.2024, UPPCL filed its additional affidavit on the following:

- On 08.01.2024, SECI informed UPPCL that PPA for supply of 300MW wind power with Halvad Renewables Pvt. Ltd. has been cancelled by SECI. Accordingly, quantum of contracted power between SECI and UPPCL shall be revised to 516 MW. Therefore, Supplementary PSA dated 23.04.2024 has been executed between UPPCL and SECI.
- The tariff in the instant case has already been adopted by the CERC vide Order dated 14.03.2024 in Petition No. 334/AT/2023.
- The CEA has proposed the following (for state of Uttar Pradesh) considering year on year increase of 7% in demand up to FY 2032 and thereafter 5.50% in FY 2033 and 5% in FY 2034.

FY	Thermal (MW)	Hydro (MW)	Wind (MW)	Solar (MW)	Distributed RE (MW)	Total (MW)
2026-27	5027	250	800	8000	-	14077
2027-28	2131	250	800	8000	-	11181
2028-29	-	250	800	8000	-	9050
2029-30	-	250	1800	3624	710	6384
2030-31	-	-	800	5444	1617	7861
2031-32	458	-	800	4895	1801	7954
2032-33	1186	-	800	4104	1808	7898
2033-34	3199	-	800	2484	1896	8379
<b>Total</b>	<b>12001</b>	<b>1000</b>	<b>7400</b>	<b>44551</b>	<b>7832</b>	<b>72784</b>



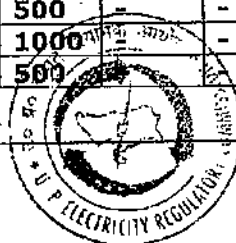


- d) The forecasted demand and availability up to FY 2034 have been reproduced below:

Apr-Mar (Average)			
Year	Avg. Supply (MW)	Avg. Demand (MW)	Surplus/Deficit (MW)
2024-25	21596	19421	2175
2025-26	24408	20781	3627
2026-27	24592	22236	2356
2027-28	24592	23792	800
2028-29	24592	25458	-866
2029-30	25219	27240	-2021
2030-31	29126	29147	-21
2031-32	29126	31187	-2061
2032-33	29126	33370	-4244
2033-24	29126	35706	-6580

- e) In view of MoP vide notification dated 20.10.2023, the RPO of the Discoms have doubled from 15% (FY 2023-24) to 29.91% (FY2024-25) and therefore, UPPCL has no option but to substantially increase the purchase of renewable power. RPO further increases to 41.36% (FY 2028-29).
- f) MoP has also directed Discoms to plan ahead in order to comply with the renewable energy consumption norms as stated in the Energy Conservation (Amendment) Act, 2022. In accordance with section 12(3) of the Act, for non-compliance of the directions as mentioned, a penalty shall be levied from the Discoms which shall not exceed Rs. 10 lakhs for each failure.
- g) MNRE vide notification dated 01.02.2024 has further notified that additional penalty shall also be levied to the tune of Rs. 3.72/- unit for each unit of shortfall in meeting RE consumption norms.
- h) The RPO projection analysis by UPPCL reveals a significant shortfall in the Wind and other RPO categories spanning from FY 2024-25 to FY 2033-34. Recognising the 100% fungibility permitted among Wind, Hydro and other RPO categories, a strategic roadmap has been proposed below to address this deficit:

Capacity (MW) to be contracted in respective year to meet RPO (with fungibility)										
Category / (FY)	2023 -24	2024 -25	2025 -26	2026 -27	2027 -28	2028 -29	2029 -30	2030 -31	2031 -32	Total
Solar	3000	2000	2000	1000	500	-	-	-	-	8500
Wind	-	2000	2000	1500	1000	-	-	-	-	6500
Hydro	-	4000	1000	1000	500	-	-	-	-	6500





Cumulative	3000	8000	5000	3500	2000	-	-	-	-	21500*
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\*Out of 21500MW as proposed, UPPCL has already contracted 3000MW RE power in FY 2023-24 and remaining 18500MW is to be contracted in upcoming years.

#### Commission's analysis and decision:

7. The Present Petition has been filed by UPPCL seeking approval of procurement of 710 MW of Wind Power in terms of the Power Sales Agreement (PSA) dated 14.03.2023 on long term basis with SECI under section 63 of the Act. As the power got reduced to 516MW from 710 MW for UPPCL, the parties have signed a Supplementary PSA dated 23.04.2024 for the same. This Wind power procurement shall facilitate the fulfilment of RPO trajectory of UPPCL.
8. CERC, vide its order dated 14.3.24 has adopted the individual tariff for wind power projects, in terms of section 63 of Act, and for which the PPAs have been entered into by SECI on the basis of PSAs with distribution licensee, which shall remain valid throughout period covered in PPAs and PSAs as under:

S No.	Name of successful bidder	Project company as formed by successful bidder for execution of PPA	Date of PPA signing of contracted capacity (MW) PPA	Applicable Tariff (₹/kWh)
1	NTPC Renewable energy Ltd.	-	6.6.2023 (200 MW)	2.89
2	JSW NEO Energy Ltd.	JSW Renew Energy Three Ltd.	4.5.2023 (300 MW)	2.94
3	Torrent Power Ltd.	Torrent Saurya Urja 2	4.5.2023 (300 MW)	2.94

9. UPPCL and SECI have agreed to a trading margin of Rs.0.07/kWh as agreed in PSA, which is in consonance with CERC Trading License Regulations, 2020. However, in case of failure by SECI to provide an Escrow arrangement or irrevocable, unconditional, and revolving letter of credit to wind generators, the trading margin can be limited to Rs.0.02/kWh in terms of aforesaid trading license Regulations, 2020.



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**Commission's View**

10. In view of above, the Commission approves the power procurement of 516 MW wind power at the tariff as mentioned at Para 8 above along with trading margin of Rs.0.07/kWh in terms of CERC Trading License Regulations, 2020. The Commission also approves the PSA dated 14.3.23 read with Supplementary PSA dated 23.4.24 executed between UPPCL & SECI.



(Vinod Kumar Srivastava)

**Member (Law)**



(Arvind Kumar)

**Chairman**

Place: Lucknow

Dated: 22.05.2024

