

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 135/AT/2024

Coram:

Shri Jishnu Barua, Chairperson

Shri Arun Goyal, Member

Shri Ramesh Babu V., Member

Date of order: 10th July, 2024

In the matter of

Petition under Section 63 of the Electricity Act, 2003 for the adoption of tariff for the cumulative capacity of 18 MW Ground Mounted Solar Photo Voltaic (PV) Project connected to BBMB inter-state transmission system and selected through competitive bidding process in terms of the Standard Bidding Guidelines dated 3.8.2017 and amendments/clarifications thereof.

And

In the matter of

Bhakra Beas Management Board,
SLDC Complex, Industrial Area Phase-1,
BBMB, Chandigarh-160 002

.....Petitioner

Vs

1. SJVN Green Energy Limited,
Corporate Headquarters, Shakti Sadan,
Shimla- 171006, Himachal Pradesh

2. Punjab State Power Corporation Limited,
The Mall, Patiala-147 001, Punjab

3. Haryana Power Purchase Centre
UHBVN, IP 3&4, 4th Floor, Sector-14
Panchkula-134113, Haryana

3. DHBVNL,
Vidyut Sadan,
Vidyut Nagar, Hisar-125005, Haryana

4. Rajasthan Urja Vikas Nigam Limited,
Vidyut Bhawan, Janpath,



Jaipur-302 005, Rajasthan

5. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Shimla-171 004,
Himachal Pradesh

6. Chandigarh Electricity Department (CED),
Electricity "OP" Circle, Room No. 511, 5th Floor,
UT Secretariat (Deluxe) Building
Sector 9D, U.T., Chandigarh- 160009

7. Punjab Energy Development Agency,
Solar Passive Complex,
Plot. No: 1&2, Sector-33D, Chandigarh-60020

.....Respondents

The following were present:

Shri M. G. Ramachandran, Sr. Advocate, BBMB
Ms. Poorva Saigal, Advocate, BBMB
Shri Divyanshu Sharma, Advocate, BBMB
Shri Aditya Grover, Advocate, PEDA
Shri Arjun Grover, Advocate, PEDA
Ms. Nisha Rani, Advocate, PEDA
Ms. Manisha, Advocate, PEDA

ORDER

The Petitioner, Bhakra Beas Management Board ('BBMB') has filed the present Petition under Section 63 of the Electricity Act, 2003 (hereinafter referred to as 'the Act') for the adoption of tariff for the cumulative capacity of 18 MW ground mounted Solar PV Power Projects connected with the BBMB inter-State transmission system and selected through the competitive bidding process in terms of the "*Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects*" dated 3.8.2017 (hereinafter referred to as 'the Solar Guidelines') notified by the Ministry of Power, Government of India, vide Resolution dated 3.8.2017 along with the subsequent amendments thereto under Section 63 of the Act. The Petitioner has made the following prayers:



“a) Admit the present Petition;

b) Approve the single bid as received from SJVN/SGEL after three rounds of bidding conducted by the Petitioner;

c) Approve/adopt the tariff of Rs. 2.63/kWh discovered in the tariff based competitive bid process for the cumulative capacity of 18 MW power from the Grid Connected Ground Mounted Solar PV Projects at 4 different locations of BBMB on the terms and conditions contained in the PPA dated 08.09.2023 signed with SEGL; and

d) Pass any other or further order which this Commission may deem fit and proper in the facts and circumstances of this case.”

Submissions of the Petitioner

2. The Petitioner, BBMB, has submitted that the Bhakra Beas Management Board has been constituted under the provisions of Section 79(1) read with Section 80(6) of the Punjab Re-Organization Act, 1966, by the Central Government. It is submitted that its Bhakra Nangal and Beas Projects were set up pursuant to the arrangement entered into between the erstwhile composite States of Punjab and Rajasthan and after the re-organization of the composite State of Punjab on 1.11.1966, the successor States of Punjab viz. Punjab, Haryana, and Himachal Pradesh, along with the State of Rajasthan became the partner States of the Bhakra Beas Management Board. Two entities, namely, Beas Construction Board and Bhakra Management Board, were constituted by the Central Government under the provisions of Sections 79 and 80 of the Punjab Re-Organisation Act, 1966, for the construction of Bhakra Nangal & Beas Projects and the Administration, Operation, and Maintenance of Bhakra Nangal & Beas Projects respectively. Bhakra Beas Management Board, which was constituted as per the provisions of Section 79(1) of the Punjab Re-Organisation Act by the Government of India vide Notification dated 1.10.1967, was later renamed as Bhakra Beas Management Board



as per the provisions of Section 80(6) of the Punjab Re-Organisation Act by the Government of India vide Notification dated 15.7.1976 when the first completed component of the Project by Beas Construction Board was transferred to it.

3. BBMB has submitted that all expenses for the operation & maintenance of the BBMB projects (currently, the total installed capacity of the BBMB Hydro Power Projects is 2936.73 MW) are borne by all partner States in the agreed ratio. Also, energy generated at BBMB power houses is apportioned amongst the partner/ beneficiary States in the agreed ratio. All the receipts and expenditures incurred by the BBMB are passed on to the Partner States/Power Utilities as per their agreed shares. It has been further submitted that the Ministry of New & Renewable Energy, Government of India, vide Reference No. 283/20/2019-Grid Solar dated 6.9.2019, has assigned the Petitioner with the Solar Power Project target of 500 MW.

4. In the above backdrop, the Petitioner, BBMB, had designated/appointed the Punjab Energy Development Agency (hereinafter 'PEDA') for the Project Management Consultancy Services for the implementation of the 18 MW Grid Connected Ground Mounted Solar PV Power Plants at four different locations of BBMB, being the State Nodal Agency for development of the New and Renewable Sources of Energy (NRSE) under the Department of New and Renewable Energy, Government of Punjab as per the Solar Guidelines. The Solar Guidelines have been formulated for the long-term procurement of solar power at a tariff to be determined through a transparent process of bidding under Section 63 of the Act by the "Procurer(s)" from the grid-connected Solar Power Projects having a size of 5 MW and above through competitive bidding. BBMB has submitted that



as per the arrangements, BBMB is to procure the power by entering into the Power Purchase Agreement (PPA) with the successful bidder for the apportionment of power to the Partner States/beneficiaries of BBMB, viz. Punjab, Haryana, Rajasthan, Himachal Pradesh, and the Union Territory of Chandigarh in the agreed ratio.

5. Accordingly, PEDA, in line with the Solar Guidelines, issued the Request for Proposal ('RfP') dated 10.12.2021 – on behalf of the Petitioner – inviting bids for the selection of bidders for setting up the grid-connected ground mounted solar PV power projects with a cumulative capacity of 18 MW at four different locations of BBMB, namely, (i) 10 MW at opposite Sector 3 GT Road, Talwara-Mukerian Road & Land adjoining to the office of Chief Engineer Beas Dam, Talwara, Punjab, (ii) 4 MW at Counter Toe Wright Land, Pong Dam, BBMB, Himachal Pradesh, (iii) 2 MW near bypass tunnel T1-T2 Pong Dam, Himachal Pradesh and (iv) 2 MW at Village Neilla, Bhakra Dam, Distt. Bilaspur, Himachal Pradesh. On 9.12.2021, PEDA also issued an e-tender notice inviting bids for the above grid-connected ground mounted solar PV power projects on *eproc.punjab.gov.in*. In terms of the said notice, the last date for submission of the bids was 30.12.2021. However, by Corrigendum to the RfP dated 30.12.2021, the last date for bid submission was revised from 30.12.2021 to 12.1.2022. Subsequently, by the second Corrigendum to the RfP dated 12.1.2022, the last date of bid submission was again revised from 12.1.2022 to 21.1.2022. On 24.1.2022, PEDA sent an email to the Petitioner informing that only one company - SJVN Limited had participated in the tender. In regard to the same, PEDA sought the Petitioner's permission to open the bid. After obtaining approval from the Petitioner, Part-I of the Bid was opened on 31.1.2022 and thereafter, on 3.2.2022, a meeting of the e-tender evaluation committee was held, wherein the



Committee observed that the bidder - SJVN Limited fulfilled the techno-commercial bid parameters, and recommended the opening of the price bid of SJVN Limited. On 7.2.2022, a financial bid of SJVN Limited was opened, and thereafter, on 17.2.2022, a meeting of the e-tender evaluation committee was held, wherein the Committee viewed that the tariff quoted by the bidder, i.e., SJVN Limited may be forwarded to BBMB for further action on its part. On 16.3.2022, the 241st Board Meeting of BBMB (which is represented by its members from the partner States) was held, wherein it was decided that the tariff of Rs. 2.66/kWh offered by SJVN Limited may be further negotiated. On 6.6.2022, a meeting was held between BBMB and SJVN Limited for negotiation of the levelised tariff wherein the levelised tariff was decreased by 3 paise, i.e., from Rs. 2.66 per unit (as quoted earlier) to Rs. 2.63 per unit. Accordingly, on 5.5.2023, PEDDA issued a Letter of Intent ('LoI') to the successful bidder, namely, SJVN Limited, for setting up of the grid-connected Ground mounted solar PV power projects with a cumulative capacity of 18 MW at four different locations of BBMB on a Build-Own-Operate ('BOO') basis, at the levelised tariff of Rs. 2.63/kWh. Thereafter, SJVN Green Energy Limited (SGEL) – a wholly owned subsidiary of SJVN Limited – vide its letter dated 11.5.2023, indicated its acceptance of the LoI dated 5.5.2023, and consequently, PPA was entered into between the Petitioner and SGEL on 8.9.2023.

Hearing dated 8.5.2024

6. During the course of the hearing, the representative of the Petitioner mainly reiterated the submissions made in the Petition, as already captured above. After hearing the Petitioner, the Commission directed the Petitioner to clarify, on an affidavit, the reason for seeking the approval of the Commission in terms of Clause 8.6 of the Solar Guidelines



for a single bid only after the conclusion of the bid process and execution of PPA. The Commission further granted the liberty to Respondents to file their respective replies to the Petition.

7. In compliance with the above direction, the Petitioner, BBMB, vide its affidavit dated 23.5.2024, has reiterated the submissions made in the Petition and mainly submitted that in the first two attempts, namely, 9.12.2021 and 30.12.2021, no bid was submitted. Pursuant to the Corrigendum dated 12.1.2022, SJVN Limited/SJVN Green Energy Limited on 20.1.2022 submitted its bid. As evident from the chronology of events indicated in the petition, in order to ensure transparency, fairness, and equitability in the bidding process, the bid deadlines were revised three times, and the Corrigenda issued extending the bid submission deadlines were in due compliance with the requirement of Clause 8.6 of the Solar Guidelines, i.e., to conduct/attempt three rounds of bidding in case there is a single bid received. BBMB has submitted that BBMB proceeded to open the technical bid as well as conduct the financial evaluation of the bid prior to obtaining the concurrence of this Commission in order to verify whether SGEL satisfies the eligibility criteria laid down in the Solar Guidelines as well as the RfP documents. In case the bidder SGEL had submitted a defective bid and/or if SGEL was not eligible, then BBMB would not have proceeded with the bid process. Further, if the financial bid of SGEL disclosed a tariff that was not aligned with the market forces at all, BBMB would not have proceeded with the bid process. These aspects would become known to BBMB only upon opening the technical and commercial bids. However, BBMB had clearly taken the position that notwithstanding the above, the process will be only subject to the approval by this Commission in terms of Clause 8.6 of the Solar Guidelines and also Article 2.1.2 & 2.1.3



of the PPA dated 8.9.2023. BBMB has submitted that the Letter of Intent has been awarded, and the PPA has been entered into subject to the approval of this Commission. It has also been submitted that it is open for this Commission to adopt the tariff at this stage if it is established to the satisfaction of this Commission that there has been substantive compliance with the Solar Guidelines and the evaluation process conducted by the Petitioner, BBMB. It was with a view to secure an economical bid, that BBMB proceeded to enter into the PPA with SGEL, subject to the approval of this Commission. The Petitioner also proceeded to negotiate with the single bidder, i.e., SGEL, with a view to protecting the interest of the Partner States and, consequently, their consumers. The Commission may, therefore, take the same into consideration while deciding the adoption of a tariff for BBMB. The Petitioner, BBMB, has transparently followed the process of evaluation and negotiation as prescribed in the Solar Guidelines. Moreover, the tariff of Rs. 2.63 per unit is market aligned and is lesser than the procurement cost of the conventional power for the Procurers, and will be beneficial for the distribution licensees of the Partner States and the consumers at large. The adoption of the tariff of Rs. 2.63 per unit, arrived through a transparent competitive bidding process, is consistent with the tender, the Solar Guidelines, the scheme of the Act, and the National Electricity Policy and National Tariff Policy as notified by the Central Government.

8. Pursuant to the liberty granted by the Commission in terms of the Record of Proceedings for the hearing dated 8.5.2024, Respondent No.2, PEDDA vide its affidavit dated 4.6.2024 has mainly submitted that PEDDA has framed the bid document, which stood duly approved by the Petitioner, BBMB. As per the bid document, the scope of work

allocated to PEDDA was confined to the extent of facilitation, where PEDDA has to facilitate in the areas, more particularly, as mentioned in clause 5 of the bid document and all the compliances to be made in the instant matter fell under the scope and responsibility of the Petitioner, BBMB, i.e., Principle employer.

Hearing dated 5.6.2024

9. The matter was finally heard on 5.6.2024. During the course of the hearing, learned senior counsel for the Petitioner, concluded its argument in the matter. Considering the submissions made by the learned senior counsel for the Petitioner, the Commission reserved the matter for order.

Analysis and Decision

10. In the present case, PEDDA, on behalf of the Petitioner, issued the RfP documents based on the “*Guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid Connected Solar Power Projects*” (‘Solar Guidelines’) dated 3.8.2017 and subsequent amendments thereof issued by the Ministry of Power, Government of India under Section 63 of the Act. Accordingly, we now proceed to consider the prayer of the Petitioner as regards the adoption of tariff under Section 63 of the Act in respect of the Solar Power Project(s) as discovered pursuant to the competitive bid process carried out in terms of the above Guidelines issued by the Government of India.

11. Section 63 of the Act provides as under:

“Section 63: Determination of tariff by bidding process: 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.”



12. Thus, in terms of Section 63 of the Act, the Commission is required to adopt the tariff on being satisfied that the transparent process of bidding in accordance with the guidelines issued by the Central Government has been followed in the determination of such tariff.

13. The Ministry of Power, Government of India, has notified the Solar Guidelines under Section 63 of the Act vide Resolution No. 23/27/2017-R&R on 3.8.2017. The said Guidelines have also been subsequently amended by the Resolutions dated 14.6.2018, 3.1.2019, 9.7.2019, 22.10.2019, and 25.9.2020. The salient features of the Guidelines are as under:

(a) The Guidelines are applicable for procurement of power from the grid connected solar PV power projects having size of 5 MW and above through tariff based competitive bidding to be conducted by the procurers which includes distribution licensees, or the Authorized Representative(s), or Intermediary procurers.

(b) The procurer shall prepare the bid documents in accordance with the Guidelines and the Standard Bid Documents notified by the Ministry of Power, Government of India. If any deviation is proposed to be made in the Guidelines and Standard Bid Documents, approval of the Appropriate Commission would be necessary. Intimation about initiation of the bid process shall be sent by the procurer to the Appropriate Commission.

(c) Bids shall be designed in terms of a package. The minimum size of a package should be 50 MW in order to have economies of scale. The bidders shall quote for entire package.

(d) The procurer has option to choose to invite the two bids, namely, (i) power capacity (MW) terms, or (ii) energy quantity (kWh or million units i.e. MUs) terms.



For procurement of power, the procurer may opt for either tariff or viability gap funding as a bidding parameter.

(e) Draft PPA proposed to be entered into with the successful bidder and the draft PSA, if applicable, shall be issued along with the RfS. Standard provisions to be incorporated as part of the PPA shall include *inter-alia*, PPA period, quantum of power/ energy to be procured, payment security, generation compensation of off-take constraint, event of default, and consequences thereof. Change in Law shall be provided for, on a back-to-back basis, in the PSA.

(f) The Procurer and Intermediary procurer shall provide payment security to the solar power developer through revolving Letter of Credit of an amount not less than one month average billing and Payment Security Fund for at least three months' billing of all the projects tied up with such fund. In addition, the procurer may also choose to provide the State Government Guarantee.

(g) End procurer shall provide the payment security to the intermediary procurer through the revolving Letter of Credit of an amount not less than one month's average billing from the project under consideration and State Government Guarantee. In addition, end procurer may also choose to provide the Payment Security Fund with at least three months' billing of all the projects tied up with such fund.

(h) The procurer shall call the bids adopting a single stage bidding process to be conducted through electronic mode (e-bidding). The procurers may adopt e-reverse auction, if it so desires. For this purpose, e-procurement platforms with a successful track record and with adequate safety, security and confidentiality features will be used. In case of solar park specific project, the procurer shall provide intimation to the solar power park developer about initiation of the bidding process and arrange the access of the bidders to the drafts of Implementation Support Agreement and land related agreement.

(i) RfS notice shall be issued in at least two national newspapers and on the websites of the procurer to provide the wide publicity. Standard documentation to



be provided in the RfS stage shall include technical criteria, financial criteria, quantum of earnest money deposit, and lock-in requirements for the lead members of the consortium.

(j) The procurer shall constitute committee for evaluation of the bids (Evaluation Committee), with at least three members, including at least one member with expertise in financial matters/ bid evaluation.

(k) The bidder shall submit non-refundable processing fee and/or project development fee as specified in the RfS, separate technical & price bids, and bid guarantee. To ensure competitiveness, the minimum number of qualified bidders shall be two. If the number of qualified bidders is less than two even after three attempts of bidding, and the procurer still wants to continue with the bidding process, the same may be done with the consent of the Appropriate Commission.

(l) The PPA shall be signed with the successful bidder or an SPV formed by the successful bidder. After the conclusion of the bidding process, the Evaluation Committee shall critically evaluate the bids and certify that the bidding process and the evaluation have been conducted in conformity with the provisions of the RfS. After execution of the PPA, the procurers shall disclose the name(s) of the successful bidder(s) and the tariff quoted by them on its website. Accordingly, the distribution licensee or the intermediary procurer shall approach the Appropriate Commission for the adoption of tariffs in terms of Section 63 of the Act.

14. In terms of the provisions of Section 63 of the Act, we have to examine whether the process as per the provisions of the Solar Guidelines has been followed in the present case for arriving at the lowest tariff and for selection of the successful bidder(s).

15. The Solar Guidelines provide a framework for procurement of solar power at a tariff to be determined through the transparent process of bidding by the procurer(s) from the grid-connected Solar Power Projects having a size of 5 MW and above. As already

noted above, the Ministry of New & Renewable Energy, Govt. of India, vide Reference No. 283/20/2019-Grid Solar dated 6.9.2019, assigned the Petitioner with Solar Power Project target of 500 MW, and in order to achieve this target, the Petitioner has been exploring the usage of surplus vacant land/ water bodies/ rooftops for the installation of the solar power projects and the benefits of this solar power generation will flow to its partner States in terms of meeting their Renewable Purchase Obligations. Consequently, the Petitioner entrusted the Punjab Energy Development Agency (PEDA) to invite the proposal on its behalf for setting up the 18 MW ground mounted Solar PV Power Projects as per the Solar Guidelines. As per the arrangement thereunder, the Petitioner is to procure the power by entering into the PPA with the successful bidder for the apportionment of power to the Partner States/beneficiaries of BBMB, viz. Punjab, Haryana, Rajasthan, Himachal Pradesh, and Union Territory of Chandigarh.

16. The key milestones in the bidding process, as indicated by PEDA, were as under:

Sr.	Event	Date
1	RfP issued by PEDA on behalf of BBMB	09.12.2021
2	Corrigendum to the RfP document	20.12.2021
3	Last date of bid submission	30.12.2021
4	Corrigendum to the RfP document (Revising last date from 30.12.2021 to 12.1.2022)	30.12.2021
5	Corrigendum amending the clause in the RfP regarding the Earnest Money Deposit	12.01.2022
6	2 nd Corrigendum to the RfP document (Revising last date from 12.1.2022 to 21.1.2022)	12.01.2022
7	Part-I of the Bid opened	31.01.2022
8	Opening of Financial bid	07.02.2022
9	Issuance of Letters of Award (LoA) to successful bidder	05.05.2023

17. On 9.12.2021, PEDA issued a Request for Proposal document along with the

draft PPA for setting up the 18 MW ground mounted Solar PV Power Projects at 4 different locations of BBMB in line with the Solar Guidelines. As per Clause 3.1.1(b) of the Solar Guidelines, the procurer or intermediary procurer, as the case may be, is required to inform the Appropriate Commission about the initiation of the bidding process. In the present case, neither BBMB nor PEDDA has placed any document/letter indicating that the Appropriate Commission/ this Commission had been intimated about the initiation of the aforesaid bid process as envisaged in the Solar Guidelines. However, keeping in view that the bid process has already been completed long-back, we condone the said shortcoming on the part of the Petitioner and/or PEDDA in complying with the provisions of the Solar Guidelines. However, we instruct the Petitioner and/or PEDDA to strictly comply with the provisions of the Solar Guidelines, in respect of the future tenders/bid process.

18. As per Clause 6.4 of the Solar Guidelines, RfP notice is required to be published in at least two national newspapers and on the website of the procurer to provide wide publicity. In this regard, the Petitioner has placed on record the document demonstrating the publication of RfS on the website of PEDDA and the Govt. of Punjab's e-procurement website – eproc.punjab.gov.in. However, neither BBMB nor PEDDA has placed on record any document indicating the publication of the RfP in the newspapers. Keeping in view that the Commission has been considering the publication of the tender notice on their websites and Public Procurement Portal of Govt. in the case of other Renewable Energy Implementation Agencies such as SECI, NTPC, and others, we are inclined to consider the publication of RfP notice by the Petitioner and/or PEDDA as indicated above.

19. As per the RfP, the last date of submission of the bid was 30.12.2021. However,



since no bid was received in response thereof, the last date for the submission of the bid was extended from 30.12.2021 to 12.1.2022. Subsequently, the last date of the bid submission was again extended from 12.1.2022 to 21.1.2022 – enabling the bidders to participate so as to achieve healthy competition. Thus, in the aggregate, three attempts were made by the Petitioner for the bidders to participate in the bid (total window of 55 days), and while no bid was received in the first two attempts, a single bid from SJVN Limited was received in the third attempt. PEDDA has submitted that the aspect of receiving a single bid was referred to the Petitioner, and upon its consent, the technical bid of the single bidder was opened on 31.1.2022 and in a meeting held on 3.2.2022, the e-tender evaluation committee observed that the bidder - SJVN Limited fulfilled the techno-commercial bid parameters and recommended opening of the price bid of SJVN Limited. Subsequently, the financial bid of SJVN Limited was opened on 7.2.2022, and thereafter, in a meeting of the e-tender evaluation committee held on 17.2.2022, the Committee viewed that the tariff quoted by the bidder SJVN Limited may be forwarded to BBMB for further action on their part. In the 241st Board Meeting of BBMB held on 16.3.2022, it was decided that the tariff of Rs. 2.66/kWh offered by SJVN Limited may be negotiated, and after negotiation of levelized tariff for the grid connected Ground mounted solar PV power projects the levelized tariff was decreased as under:

Bidder	Capacity (MW)	Tariff (INR / kWh)
SJVN Limited	18	2.63

20. Thereafter, in the 242nd Board Meeting of BBMB as held on 15.7.2022, the Board *inter alia* approved as under:

“.....i. Subject to the waiver of LTA & SLDC charges by PSERC, to place an order on



M/s SJVN Limited to set up 10 MW Grid Connected Ground Mounted Solar Power Plant on Build-Own-Operate (BOO) basis for 25 years at a levelized tariff of Rs. 2.63 per Unit excluding the cost of transmission line and as per the terms and conditions of Power Purchase Agreement and Land Rent Agreement.

ii. To place an order on M/s SJVN Limited to setup 3 no. grid connected Ground Mounted Solar Power Plant with an aggregate capacity of 8 MWp (4MW + 2MW + 2MW) on Build-Own-Operate (BOO) basis for 25 years at a levelized tariff of Rs. 2.63 per Unit excluding the cost of transmission line and as per the terms and conditions of Power Purchase Agreement and Land Rent Agreement....”

21. Consequently, PEDA issued a Letter of Intent dated 5.5.2023 to the successful bidder, SJVN Limited. The relevant extract of the said Letter of Intent reads as under:

“In this context, we are please to issue this letter of intent for the above subject mentioned work at levelized tariff rate of Rs. 2.63/- per KWh for setting up of Ground Mounted solar photovoltaic power projects on BOO basis of cumulative capacity of 18 MW at 4 nos. different locations of BBMB on the terms and conditions as per DNIT. Kindly give your acceptance of this letter of intent on duplicate copy within seven days.”

22. Pursuant to the above, the Petitioner, BBMB, has also entered into the Power Purchase Agreement dated 8.9.2023 with SJVN Green Energy Limited (i.e. Project Company of Successful Bidder, SJVN Limited). According to the Petitioner, the procurers of the power generated from the Ground Mounted Solar PV power projects are the entities designated by the respective states, such as PSPCL, Haryana Discoms, Rajasthan Discoms, HPSEB Limited and Energy Department of Union Territory of Chandigarh and the Petitioner an agency statutorily recognised by the Punjab Reorganisation Act 1966 to act on their behalf and the actions of the Petitioner for all intents and purposes for procurement of electricity from SJVN Green Energy Limited (‘SGEL’) is the procurement by the respective entities for the above-mentioned states for their benefit.

23. In the event of a number of qualified bidders being less than two, Clause 8.6 of



the Solar Guidelines provides as under:

“8.6. To ensure competitiveness, the minimum number of qualified Bidders should be two. If the number of qualified bidders is less than two, even after three attempts of bidding, and the Procurer still wants to continue with the bidding process, the same may be done with the consent of the Appropriate Commission....”

24. As per the above, in the event the number of qualified bidders is less than two even after three attempts of bidding and the Procurer still intends to continue with the bidding process, it may do so with the consent of the Appropriate Commission. Accordingly, vide Record of Proceedings for the hearing dated 8.5.2024, the Petitioner was asked to clarify the reason for not seeking the approval of this Commission for the single bid only after the conclusion of the bid process and execution of the PPA. In response, the Petitioner has submitted that it proceeded to open the technical bid as well as conduct the financial evaluation of the bid prior to obtaining the concurrence of this Commission in order to verify whether the bidder/SJVNL satisfies the eligibility criteria laid down in the Solar Guidelines dated 3.8.2017 as well as the RfP documents. In case SJVNL had submitted a defective bid and/or if SJVNL was not eligible, then BBMB would not have proceeded with the bid process. Further, if the financial bid of SJVNL disclosed a tariff that was not aligned with the market forces at all, BBMB would not have proceeded with the bid process, and these aspects would become known to the Petitioner only upon opening the technical & commercial bids. However, BBMB had clearly taken the position that notwithstanding the above, the process will be only subject to the approval by this Commission in terms of Clause 8.6 of the Solar Guidelines and also Article 2.1.2 & 2.1.3 of the PPA dated 8.9.2023. It is also stated that the Letter of Intent has been awarded, and PPA has been entered into subject to the approval of this Commission. Further, it is

open for this Commission to adopt the tariff at this stage if it is established to the satisfaction of this Commission that there has been substantive compliance with the Solar Guidelines and the evaluation process conducted by BBMB.

25. We have considered the clarification furnished by the Petitioner to the query posed by the Commission vide Record of Proceedings for hearing dated 8.5.2024. Keeping in view that the Petitioner, in aggregate, had made three attempts for the bidders to participate in the bid process and even after that the qualified bidder(s) were less than two (a single bidder – SJVNL) and upon the opening of its techno-commercial and financial bids, the Petitioner has found the tariff – as finally agreed upon by this lone bidder – to be market aligned and competitive, we do not find any reason not to give our consent as envisaged under Clause 8.6 of the Solar Guidelines to proceed with the single bid as received by the Petitioner.

26. Further, in accordance with Clause 10.2 of the Solar Guidelines, PEDDA has also furnished Certification from the Bid Evaluation Committee certifying that the applicable guidelines and amendments/Clarifications thereof, if any, issued by the Government of India were followed in the bidding process and there is no deviation from the guidelines in the RfS documents (barring Clause 8.6 of Solar Guidelines). The relevant extract of the said Conformity Certificate reads as under:

“

CONFORMITY CERTIFICATE

.....

With respect to the RFS no PEDDA/2021 -22/76 dated 10.12.2021 it is hereby declared as follows:-



Applicable guidelines and amendments/Clarifications thereof, if any issued by Government of India were followed in the bidding process for Grid Connected Ground Mounted Solar Photo Voltaic Power Projects of 18 MW Cumulative capacity at 4 number different locations for Bhakra Beas Management Board BBMB (barring Clause 8.6 of tariff based competitive bidding process). However, PEDDA has taken approval regarding opening of the single bid received in this tender from BBMB in this regard and there is otherwise no deviation from the guidelines in the RFS documents for above tender.”

27. In view of the aforesaid discussions, it emerges that the selection of the successful bidder has been done, and the tariff of the 18 MW ground mounted solar photovoltaic projects located at 4 different locations of BBMB connected to the BBMB Inter-State Transmission System has been discovered through a transparent process of competitive bidding in terms of the Solar Guidelines issued by the Ministry of Power, Government of India under Section 63 of the Act. Further, with a view to protecting the interest of its Partner States and their consumers at large, the Petitioner and the successful bidder, SJVN Limited, also proceeded to negotiate the tariff as originally quoted under the financial bid – Rs. 2.66/kWh and the parties have mutually agreed upon the levelized tariff of Rs. 2.63/kWh – a decrease of 3 Paise/kWh. Accordingly, the Commission adopts the tariff for the Solar Power Projects, as agreed to by the successful bidder, and for which the PPA has been entered into by the Petitioner and SJVN Green Energy Limited (i.e., Project Company of successful bidder SJVN Limited) for apportionment of such power to the Petitioner’s Partner States/their nominated entities (Discoms), which shall remain valid throughout the period covered in the PPA as under:

S. No.	Name of the Successful Bidder	Project Company of Successful Bidder	Date of PPA signing & Contracted Capacity (MW)	Applicable Tariff (Rs./kWh)
1.	SJVN Limited	SJVN Green Energy Limited (SGEL)	8.9.2023 (18 MW)	2.63



28. It is noted that there are certain procedural lapses while conducting the bid in terms of the Solar Guidelines. The Commission would like to advise the PEDAs including BBMB that they must invariably always comply with all the procedural and legal requirements in letter and spirit and not have lapses as in the present case.

29. Prayers (b) and (c) of the Petitioner are answered accordingly.

30. The Petition No. 135/AT/2024 is disposed of in terms of the above.

Sd/-
(Ramesh Babu V)
Member

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson

