

- 16) However, NREL vide letter dated 12.06.2023 (**Annexure-H**) has reiterated that proposal is intended for finalization under bilateral mode, the standard provisions as acceptable to all the other DISCOMS under Bilateral PPAs shall be applicable for the subject proposal.
- 17) As NREL did not agree to GUVNL's standard PPA, meetings were conducted between GUVNL & NREL during June-July 2023 to finalize terms and conditions of draft PPA.
- 18) **The following are the major changes mutually agreed by GUVNL & NREL in final Draft PPA:**

a) Liquidated Damages, PBG and SCOD period:

Main concern for GUVNL was absence of Liquidated Damages clause in PPA for delay in commissioning of project. After various rounds of negotiations, on GUVNL's request, NREL has agreed to include LD clause subject to conditions that LD amount shall be Rs 5 Lakhs per MW instead of Rs 8 Lakhs / MW, the provisions regarding submission of Performance Bank Guarantee shall be waived and SCOD period shall be 24 months from the date of signing of PPA instead of 18 months (original proposal).

SCOD of 24 months was falling beyond the timeline of 100% waiver of ISTS charges, i.e. 30.06.2025. Therefore, it was not agreeable to GUVNL. Finally, it was mutually agreed that SCOD period shall be 21 months as per the GUVNL's Khavda Tenders where SCOD period is maximum 21 months. It was also agreed that LD amount, if any, shall be recovered from the future energy invoices of NREL.

b) Change in law:

Another important clause was change in law. In the GUVNL's standard PPA, GUVNL has taken deviation from the earlier MoP Guidelines dated 03.08.2017 in the existing Change in Law clause which is limited to specific events like taxes & levies on generation and sale of electricity (leviable on final output in the form of energy), and Introduction /



modification / changes in the rates of safeguard duty and/or antidumping duty and/or custom duty and / or Goods and Services Tax including surcharge thereon which has direct effect on the Project cost.

However, as per NREL's Draft PPA, the rules applicable for change in law shall be as per The Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 as notified by Ministry of Power shall apply along with all amendments thereafter. Rate Rs.2.78 / unit offered by NREL is inclusive of BDC & GST and 'effective date' of change in law is after the date of signing of PPA, therefore GUVNL agreed to the change in law clause of NREL.

c) Early Commissioning

As per the GUVNL's standard PPA and prevailing TBCB Guidelines, in cases of early part-commissioning, till SCOD, GUVNL shall reserve the right to purchase the generation till SCOD, at 75% (seventy-five per cent) of the PPA tariff. However as per NREL's draft PPA, in case of early part commissioning, the right of power procurer to purchase the generation till SCOD is at 100% of PPA tariff.

However, since it is a bilateral PPA, it is mutually agreed between both the parties during the discussions that in case of early part commissioning, the right of GUVNL to purchase the generation at shall be at 75% of the PPA tariff upto 3 months prior to SCOD and at 100% of the PPA tariff if the capacity is commissioned within 3 months before SCOD.

d) Rebate

As per the GUVNL's standard PPA, the maximum rebate that can be deducted from the monthly invoice is 1.19%. However, as per NREL's terms, GUVNL can deduct maximum 1.5% of rebate, which is favourable to GUVNL.

In view of above, GUVNL had agreed for the same.



e) Payment Security

As per the GUVNL's standard PPA, all cost related to establishment of maintenance of LC are to be borne by Power Producer. However, NTPC has requested GUVNL to bear the cost of opening and maintenance of LC.

It is to mention that as per bilateral PPA executed with SECI in 2017, the cost of opening and maintenance of LC are borne by GUVNL.

In view of above and taking into consideration the fact that higher percentage of rebate is offered by NREL, GUVNL had agreed to NREL's request of bearing the LC opening and maintenance charges.

f) Regulation of Power

As per the GUVNL's standard PPA, it does not provide for the clauses regarding Regulation of Power.

However, during the discussions NREL emphasised on inclusion of clause regarding right to regulate the power in case of default in payment of Tariff Charges beyond due date and further added that this is the standard clause of bilateral PPA they have signed with other DISCOMS as well as GUVNL for procurement of power from conventional sources.

In view of above, GUVNL had accepted NREL's request for inclusion of above clause in Draft PPA.

g) Dispute Resolution

As per the existing terms of GUVNL's PPA, the adjudication of disputes is in the purview of GERC.

It was discussed with NREL that petition for approval of PPA under section 86(1) (b) of the Electricity Act-2003 will be filed by GUVNL before GERC. However, since this is a bilateral PPA, GUVNL had accepted NREL's request to replace "GERC" with "Appropriate Commission".



- 19) Accordingly, the draft PPA (**Annexure-I**) was finalized with mutual consent of both the parties and NREL accepted the same vide e-mail dated 09.08.2023 (**Annexure-J**).
- 20) The final draft PPA was put up before the GUVNL's Board for procurement of power at mutually agreed terms and conditions wherein SCOD of the project was defined as 21 months from the date of signing of PPA, taking into consideration the aspect that even if the PPA is signed in October 2023; SCOD of the project would fall in June 2025 i.e. during the regime of 100% ISTS Transmission charges waiver.
- 21) GUVNL's Board vide B. R. No.125.07/2043 dated 14.09.2023 has accorded approval for the same, subject to approval of State Government and GERC.
- 22) GUVNL vide letter dated 26.09.2023 (**Annexure-K**) has submitted proposal to EPD-GoG for approval for procurement of 500 MW power from NREL from their Solar PV Project to be set up in their RE Park at Khavda at tariff of Rs.2.78 / kWh at ISTS ex-bus basis (landed rate of Rs.2.89 / kWh at GETCO Periphery), under bilateral mode at the mutually agreed terms and conditions between GUVNL & NREL.
- 23) State Govt. vide EPD letter dated 03.11.2023 (**Annexure-L**) has granted approval to GUVNL for the same subject to approval of GERC. By the time of receipt of approval from State Govt., SCOD timelines as per PPA were falling beyond the ISTS waiver regime.
- 24) GUVNL intended to execute the PPA as early as possible with SCOD as 30.06.2025 (i.e. prior to ISTS waiver regime). Therefore, GUVNL vide e-mail dated 04.11.2023 (**Annexure-M**) and letter dated 09.11.2023 (**Annexure-N**) had requested NREL to consider SCOD of the Project as 30.06.2025 (i.e. One month prior), so that benefit of ISTS transmission charges waiver can be availed and financial implication of ISTS transmission charges can be averted. In reply, NREL vide e-mails dated 08.11.2023 (**Annexure-O**) and 01.12.2023 (**Annexure-P**) stated that any change regarding SCOD Period may not be possible to be incorporated in the PPA. However, on best

