



9. Subsequent to the execution of the PSA, SJVNL has signed PPA dated 03.05.2024 with Tata Power Renewable Energy Limited (TPREL) for the contracted capacity of 460 MW FDRE from ISTS-Connected Renewable Energy Power Projects with Energy Storage System on long-term basis i.e., for 25 years at the tariff of Rs. 4.38/kWh discovered through transparent process of Competitive Bidding. Out of 460 MW, 100 MW is allocated to the NPCL while the remaining is allotted to other utilities. The above PPA dated 03.05.2024 was provided to the Petitioner by SJVNL vide its Letter dated 21.05.2024. As per Article 3.1.2(b) of the PSA, SJVNL has approached the CERC for adoption of tariff in Petition No 79/AT/2024.

Records of Proceedings:

10. On the hearing dated 20.08.2024, Counsel of NPCL submitted that CERC vide its Order dated 01.08.2024 in Petition No. 79/AT/2024 had already adopted the tariff for this power. The Commission admitted the Petition and allowed the Respondent/SJVNL to submit its response within two weeks' time with a copy to the Petitioner. SJVNL was also directed to submit its response on the justification for charging trading margin of 7 paise/unit even though the financial risk of SJVNL was almost mitigated by taking back-to-back PSM from end Discom/NPCL. On 05.09.2024, SJVNL filed its reply.
11. During the hearing dated 05.09.2024, Counsel of NPCL submitted that in response to its letter dated 22.08.2024 to SJVNL requesting reduction of trading margin, SJVNL vide letter dated 29.08.2024 categorically denied any such reduction. Counsel of SJVNL submitted that in terms of Regulation 8 of the CERC Trading Licence Regulations as well as TBCB guidelines, they were bound to charge mutually agreed trading margin of 7 paise/unit with the procurer. He further submitted that CERC has also adopted the tariff along with the agreed trading margin. Counsel of NPCL argued that TBCB guideline under Section 63 of the Electricity Act, 2003 were statutory and they would be requiring this cheaper power @CUF of over 70% to meet their RPO compliance as well. The Commission observed that in the consumer interest, Discom/NPCL should negotiate trading margin for future long-term power procurement with the intermediary procurer/Trading Licensee.
12. On 13.08.2024, NPCL filed its additional submissions wherein it stated that CERC vide its Order dated 01.08.2024 in Petition No. 79/AT/2024 has adopted the tariff of Rs.

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4.38/kWh for TPREL for initial contracted capacity of 200MW & under 'Greenshoe Option' for 260MW. On 05.09.2024, SJVNL filed its reply and has mainly submitted the following:

- a) In terms of Ministry of Power, Govt. of India Guidelines dated 09.06.2023, SJVNL has issued RfS dated 20.06.2023 for selection of RE Power Developers for supply of 1500MW FDRE power. Subsequently, the said RfS was further amended vide Amendment No.1 dated 04.08.2023 with "Greenshoe Option" of additional capacity up to 1500MW. The entire process of tendering is strictly governed by TBCB Guidelines issued under section 63 of the Electricity Act. 2003.
- b) In respect of the tendering process, the bidders have been selected by the process of e-bidding process followed by e-Reverse Auction. After following the due tendering process, SJVNL issued LoAs of total capacity of 2368 MW in favor of the following successful bidders:

Table-I: Towards initial allocated capacity

S. No.	Name of Successful Bidders	Contracted Capacity (MW)	Applicable Tariff including Trading Margin (Rs./kWh)
1.	M/s ACME Cleantech Solutions Pvt. Ltd.	250	4.45
2.	M/s Juniper Green Energy Pvt. Ltd.	200	4.45
3.	M/s Tata Power Renewable Energy Ltd.	200	4.45
4.	M/s Solar Craft Power India 16 Pvt. Ltd.	150	4.46
5.	M/s TEQ Green Power XVI Pvt. Ltd.	80	4.46
6.	M/s Hero Solar Energy Pvt. Ltd.	120	4.46
7.	M/s RENEW Solar Power Pvt. Ltd.	184	4.46

Table-II: Towards allocation of power under Greenshoe Option

S. No.	Name of Successful Bidders	Contracted Capacity (MW)	Applicable Tariff including Trading Margin (Rs./kWh)
1.	M/s ACME Cleantech Solutions Pvt. Ltd.	320	4.45
2.	M/s Juniper Green Energy Pvt. Ltd.	120	4.45
3.	M/s Tata Power Renewable Energy Ltd.	260	4.45
4.	M/s TEQ Green Power XVI Pvt. Ltd.	100	4.45
5.	M/s Hero Solar Energy Pvt. Ltd.	150	4.45
6.	M/s RENEW Solar Power Pvt. Ltd.	234	4.45

- c) The power procured by the SJVNL in terms of the RfS has been allocated to different Discoms. SJVNL has been appointed as an intermediary between supplier and buying entities for procurement and sale of such renewable energy on a back-to-back basis. SJVNL, as a trader/facilitator is charging trading margin of Rs. 0.07/kWh as envisaged under the RfS, strictly in accordance with the TBCB

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Guidelines as well as Regulation 8(1)(d) & (f) of the CERC Trading License Regulations, 2020.

- d) As a trading licensee, SJVNL undertakes significant commercial risk for the entire duration of the PSA spanning over 25 years, which far exceeds any potential earnings over the same period. The intent of the Regulation, particularly the proviso is to cap the trading margin at 2 paise/kWh only in the instances where the Trading Licensee fails to provide the requisite payment security mechanism. In the present case, SJVNL has duly provided a Letter of Credit (LC) as a payment security mechanism under the PPA.
- e) Accordingly, the trading margin of Rs. 0.07/kWh has been mutually agreed between UPPCL and SJVNL, which is in consonance with Regulation 8(1)(d) of the Trading License Regulations as well as TBCB guidelines. Further, SJVNL has kept in mind the capping of Trading margin at Rs. 0.07/kWh as given in the Trading License Regulations 2020 itself. Regulation 8(1)(d) & (f) of the CERC Trading License Regulations, 2020 does not require any prior approval from the Commission rather, Regulation leaves it at the realm of the transacting parties to decide it mutually and amicably.

Analysis & Decision

13. NPCL has filed this Petition seeking approval of procurement of 100MW FDRE Power under Tariff-based Competitive Bidding on long-term basis of 25 years along with approval of PSA dated 15.03.2024. This FDRE power procurement shall facilitate meeting its rising power demand as well as the compliance of RPO targets of NPCL.
14. The CERC vide its Order dated 01.08.2024 in Petition No. 79/AT/2024 has adopted the tariff of Rs. 4.38/kWh for TPREL for total capacity of 460MW from which 100MW would be supplied to NPCL. The relevant extract of the quantum of power executed under the PSA by NPCL as observed in the CERC's Order dated 01.08.2024 are as follows:

"43. The Petitioner has further identified the end beneficiaries and has accordingly executed the Power Sale Agreements. The Petitioner vide affidavit dated 13.4.2024 has filed the Power Sale Agreements (PSAs) executed with the several Distribution Companies for onward sale of power from the successful Bidders. The Petitioner





further filed the amended memo of parties, making the Discoms party to the present Petition. The details of the PSAs executed by the Petitioner as under:

S. No.	Name of Beneficiary	Date of PSA	Quantum	Duration
1.	Maharashtra State Electricity Distribution Co. Ltd.	13.03.2024	534 MW	25 Years
2.	Maharashtra State Electricity Distribution Co. Ltd.	13.03.2024	934 MW	25 Years
3.	Noida Power Company Ltd.	15.03.2024	100 MW	25 Years
4.	Haryana Power Purchase Centre (HPPC)	15.04.2024	800 MW	25 Years
Total			2368 MW	

44. The Petitioner, vide its affidavit dated 28.5.2024, has submitted that the whole process was carried out with transparency, and that all essential compliance was achieved in accordance with the requirements for competitive bidding in 2023 while bearing in mind the mandate of Section 63 of the Act. In view of the aforementioned discussions, it emerges that the selection of the successful bidders has been done, and the tariff of the Firm and Dispatchable RE power projects has been discovered by the Petitioner, SJVN, through a transparent process of competitive bidding in accordance with the guidelines issued under Section 63 of the Act. Therefore, in terms of Section 63 of the Act, the Commission adopts the individual tariff for the firm and dispatchable RE power, including capacity under the Greenshoe option, as agreed by the successful bidders, and for which PPAs have been entered into by the Petitioner, SJVN on the basis of the PSAs with the distribution licensee, which shall remain valid throughout the period covered in the PPAs and PSAs.

45. In view of the aforesaid discussions, it emerges that the selection of the successful bidders has been done, and the tariff of the Renewable Energy Power Developers has been discovered by the petitioner through a transparent process of competitive bidding in accordance with the "Guidelines for Tariff Based Competitive Bidding Process for Procurement of Firm and Dispatchable Power from Grid Connected Renewable Energy Power Projects with Energy Storage Systems" dated 09.06.2023, issued by the Ministry of Power, Government of India under Section 63 of the Act. Therefore, in terms of Section 63 of the Act, the Commission adopts the individual tariff for the RE power Developer, as agreed to by the successful bidder(s) as under:

Table-I: Towards initial allocated capacity

S. No.	Name of Successful Bidder	Contracted Capacity	Applicable Tariff (INR/kWh)
1.	M/s ACME Cleantech Solutions Pvt. Ltd.	250 MW	4.38
2.	M/s Hero Solar Energy Pvt. Ltd.	120 MW	4.39
3.	M/s Juniper Green Energy Pvt. Ltd.	200 MW	4.38
4.	M/s Tata Power Renewable Energy Ltd.	200 MW	4.38
5.	M/s Renewable Solar Power Pvt. Ltd.	184 MW	4.39
6.	M/s Solar Craft Power India 16 Pvt. Ltd.	150 MW	4.39
7.	M/s TEQ Green Power XVI Pvt. Ltd.	80 MW	4.39

Table-II: Towards allocation of power under Green shoe Option

S. No.	Name of Successful Bidder	Contracted Capacity	Applicable Tariff (INR/kWh)
1.	M/s ACME Cleantech Solutions Pvt. Ltd.	320 MW	4.38
2.	M/s Hero Solar Energy Pvt. Ltd.	150 MW	4.38

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3.	M/s Juniper Green Energy Pvt. Ltd.	120 MW	4.38
4.	M/s Tata Power Renewable Energy Ltd.	260 MW	4.38
5.	M/s Renewable Solar Power Pvt. Ltd.	234 MW	4.38
6.	M/s TEQ Green Power XVI Pvt. Ltd.	100 MW	4.38

15. The Commission vide its Order dated 06.03.2024 in Petition No. 1526/2019 filed by NPCL granted in principle approval of this 100MW power. The relevant extract of the said Order dated 06.03.2024 are as under:

"24. The Commission observed that vide its Order for FY 2023-24 dated 24.05.2023, NPCL has approved the **APPC of Rs. 6.06/kWh** in the True up of FY 2021-22 & Rs. 5.84/kWh for the ARR/Tariff of FY 2023-24 at NPCL periphery. As informed by the Petitioner that landed cost at NPCL periphery would be around **5.17/kWh** for the **100MW** Firm and Dispatchable RE RTC power from SJVNL. Hence the procurement of this power will bring down the APPC of the Petitioner.

25. Therefore, taking into consideration the "Guidelines for Resource Adequacy Planning Framework for India" (Resource Adequacy Guidelines) and the submission & arguments of the Petitioner, the Commission grants in principle approval to the procurement of Long-Term Power by the Petitioner. These will be subject to the approval of the Commission. The immediate long term proposal of 100MW of SJVNL on long term basis is also approved in principle & the petitioner is directed to file a separate petition for adoption of Tariff u/s 63 of the Electricity Act, 2003."

16. Section 63 of the Electricity Act, 2003, states that the Commission shall adopt the tariff arrived through transparent process of bidding in accordance with guidelines issued by Central Government. The said provision is reproduced below:

"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."

Commission's View

17. The Commission observes that though NPCL and SJVNL both have relied on CERC Trading Licensee Regulations, 2020 while arguing on 7 paise trading margin, but Regulation 8(1)(d) & (f) leaves it at the realm of the transacting parties to decide it mutually and amicably within the ceiling of 7 paise per unit. This arrangement between Supplier and Procurer through the intermediary being on back-to-back basis, the intermediary's payment risk to the Project Developer would be mitigated through Payment Security Mechanism from Procurer, thus reduction in trading margin may reduce the burden cost of supply to the State consumers. However, the State

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Commission is incapacitated to take any call on interstate trading margin in face of legal dispensation as submitted by the parties. Hence, DURA LEX SED LEX – The law is hard but it is the law.

18. In view of above, the Commission approves the power procurement of 100 MW FDRE power at the tariff of Rs. 4.38/kWh (@ CUF of 75%) along with trading margin of Rs.0.07/kWh. However, in case of failure by SJVNL to provide an Escrow arrangement or irrevocable, unconditional revolving letter of credit to the Renewable Energy generator, trading margin shall be limited to Rs.0.02/kWh in terms of Regulation 8 of the CERC Trading license Regulations, 2020. The Commission also approves the PSA dated 15.03.2024 executed between NPCL & SJVNL. Further, in the consumer's interest, NPCL should keep in mind the Commission's observations at para 17 above while entering into such power procurement arrangement in future.

The Petition stands disposed of in terms of above.

(Sanjay Kumar Singh)

Member

(Arvind Kumar)

Chairman

Place: Lucknow

Dated: 26 .09.2024

