

MSEDCL highlighted that apart from cluster wise approach, it is also adopting approach of developing multiple units corresponding to identified substation(s) and accordingly seeking deviations for power procurement in respect of such multiple units corresponding to identified substation(s). MSEDCL has also filed IA No. 11 of 2024 for listing of this case for urgent hearing.

2. MSEDCL's main prayers are as follows:

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a) To accord approval for conducting competitive bidding process through MSAPL for procurement of solar power.

a1) To accord approval to incorporate the deviation in the RfS and/or the PPA.

b) To consider the submission made by the Petitioner and consider the same positively while deciding the Petition as well as for further actions.

....”

3. MSEDCL in its Petition has stated as follows:

3.1. Procurement of Long-Term Solar Power Through Competitive Bidding:

3.1.1 The Government of Maharashtra (GoM) seeks to provide daytime electricity to agriculture consumers through decentralized solar power projects. To achieve this, the Industries, Energy and Labour Department, GoM has notified Mukhyamantri Saur Krushi Vahini Yojana 2.0 (MSKVY 2.0), under which at least 30% (thirty percent) of agricultural feeders are proposed to be solarised by December 2025 and faster capacity addition will be facilitated in the 'Distributed RE Mode'.

3.1.2 In addition to the seeking offers through tenders floated for bids in respect of predefined clusters on a district level, MSEDCL also proposed the approach of developing multiple units corresponding to identified substation(s). For such projects, MSEDCL seeks to implement a ceiling tariff of Rs. 3.10 per kWh both on a substation level as well as aggregated at the project level.

3.1.3 The successful bidder in respect of any individual unit shall be selected based on the lowest quoted fixed tariff for such individual unit.

3.1.4 The simultaneous approaches of project roll-out have been adopted to ensure speedy implementation of the projects under MSKVY 2.0 and to ensure that the tariffs achieved through such tenders are competitive and reasonable and in line with current market trends.

3.2. KUSUM Scheme and KUSUM Guidelines:

3.2.1 The bidders are expected to obtain benefits of any Central and State Government schemes that may be available to them under the 'Guidelines for Implementation of Pradhan Mantri Kisan Urja Suraksha Evam Utthan Mahabhiyan (PM KUSUM) Scheme issued by the Ministry for

New and Renewable Energy (MNRE) *vide* notification dated 22 July 2019, as may be amended, restated, or consolidated from time to time (KUSUM Scheme) and MSKVY 2.0.

- 3.2.2 In furtherance, MNRE has also issued the ‘Comprehensive Guidelines for Implementation of Pradhan Mantri Kisan Urja Suraksha Evam Utthan Mahabhiyan (PM KUSUM) Scheme’ *vide* notification dated 17 January 2024 consolidating and amending various guidelines issued under the KUSUM Scheme.
- 3.2.3 While roll-out of MSKVY 2.0, the bidders have been encouraged, under the Request for Selection (RfS), to obtain the CFA of 30% (thirty percent) of the estimated cost of installation of solar power plant subject to the bidders complying with the KUSUM Scheme and such other guidelines as may be set out by the MNRE from time to time.
- 3.2.4 Further, MNRE *vide* its notification dated 9 February 2024 has imposed the approved list of Models and Manufacturers of Solar Photovoltaic Modules with effect from 1 April 2024. While the ALMM Order has been kept in abeyance *vide* another notification issued by the MNRE on 15 February 2024, it is still imperative to maximize the capacity tendered out to enable maximum solarisation at feeder levels at the best possible rates, within the timelines envisaged under MSKVY 2.0.
- 3.3. Mukhyamantri Saur Krushi Vahini Yojana 2.0:
 - 3.3.1 GoM has notified MSKVY 2.0 for the purpose of increasing the supply of electricity generated through renewable resources for the agricultural sector.
 - 3.3.2 By virtue of implementation of MSKVY 2.0, it is envisaged that (i) MSEDCL will be able to procure additional power towards its renewable purchase obligations (RPO), (ii) the overall power procurement cost for MSEDCL will reduce; and (iii) the agriculture feeders will be solarised with an objective of supplying better quality of electricity to the agricultural consumers during the day-time.
 - 3.3.3 In pursuance of the afore-mentioned objectives, MSKVY 2.0 sets out certain incentives such as a fiscal incentive of Rs. 0.25/kWh for units injecting energy at 11/22 kV bus bar to encourage solar power developers to partake in generation of solar energy, in a decentralized manner. Such incentive will be granted for a period of (3) years from the date of commissioning of any unit forming part of the de-centralised project being established by an SPV. Such an incentive will be provided to the SPV if it achieves commissioning of at least 75% of the total contracted capacity prior to the scheduled commercial operation date.
 - 3.3.4 Pursuant to MSKVY 2.0, MSEB Solar Agro Power Limited (MSAPL) has been incorporated as a wholly owned subsidiary of MSEB Holding Company Limited under the Companies Act, 2013 to facilitate implementation of MSKVY 2.0 and to act as the nodal agency for facilitating implementation of MSKVY 2.0.
- 3.4. Competitive Bidding process under the MERC Order dated 11 August 2023 in Case No.164 of 2023:

- 3.4.1 MSAPL had floated tenders for ~ 4301 MW capacity on various dates in line with the Commission's Order dated 11 August 2023 in Case No. 164 of 2023, for certain clusters/districts.
- 3.4.2 Prospective bidders have raised following concerns in respect of tender conditions and practical difficulties:
- (a) Smaller bidders highlighted that the technical eligibility criteria are stringent (in respect of the minimum criterion of quantity of installed/commissioned capacity).
 - (b) The timelines are stringent (including for commissioning) under the floated tenders owing to the large number of sub-stations covered in each cluster.
 - (c) In demonstrating minimum CUF for least one month as per minimum CUF agreed in the PPA, within 2 (two) months of the commissioning of the project. This is difficult particularly in case of completion of the project in low radiation or rainy season.
 - (d) Difficulty in conducting feasibility studies as various sub- stations is spread over a district and aggregated under a cluster.
 - (e) Difficulties in obtaining right of way for transmission lines as project is spread across multiple locations spread across in a cluster.
 - (f) Difficulties in arranging logistics and streamlining operations on a sub-station level by the prospective bidders.
- 3.5. Resolution of Bidder concerns to increase Bidder participation and discovery of lower tariff:
- 3.5.1 With the objective of addressing the concerns of the bidders at large, achieving a more favorable tariff in accordance with the current market standards, ensuring the benefits sharing, enabling increased competition, receiving bids for larger quantum of solar power and discovery of lower tariffs, the tendering documents have been prepared with certain deviations from the standard bidding documents published by the MNRE.
- 3.5.2 Tender documents considered the revised KUSUM Guidelines and inputs received in meeting 'Review Planning and Monitoring Meeting' held on 18-19 February 2024 (RPM Meeting).
- 3.5.3 Due to the stringent timelines particularly with respect to the expiry of the waiver of the domestic content requirement (DCR) for solar cells used for feeder level solarisation under Component C of the KUSUM Scheme, which will expire on 31 March 2024, MSAPL has floated tenders with a condition that the completion of the process would be subject to the approval of the Commission.
- 3.6. Jurisdiction of the Commission:
- 3.6.1 The Ministry of Power (MoP), vide its Notification dated 03 August 2017 has issued guidelines under Section 63 of the Electricity Act (EA), 2003 for Tariff based Competitive Bidding for long-term procurement of power from 5 MW and above from grid- connected Solar PV Power Projects (MoP Guidelines).

- 3.6.2 MSAPL, being the nodal agency under MSKVY 2.0, is entrusted with duty to execute the bidding process on behalf of MSEDCL.
- 3.6.3 Accordingly, MSAPL has prepared a bidding document (RfS) considering the deviations proposed in the present Petition. The stipulations in RfS documents are in line with MSKVY 2.0 guidelines, MNRE guidelines, and the draft PPA provided as part of PM KUSUM Scheme guidelines.
- 3.6.4 The Commission in its Order dated 06 December 2017 in Case No. 157 of 2017 categorically ruled that MSEDCL shall approach the Commission through a specific a Petition prior to the bidding process only if MSEDCL requires any further deviation with respect to the bidding documents.
- 3.6.5 MSEDCL has filed the present Petition for necessary approval to the deviations, as per Clause No. 3.1(b) and Clause 18 of the MoP Guidelines for procurement of Solar Power.
- 3.6.6 MSEDCL will approach the Commission for adoption of tariff offered under Section 63 of the EA, 2003, and/or for approval of any minor changes/modifications which may be required to be made to the draft of the RfS and/or the PPA, for any reason, if so required, after completion of bidding process.
- 3.7. The Commission has already accorded approval to certain set of deviations for MSKVY 2.0 project in its Order dated 11 August 2023 in Case No. 164 of 2023. Now in this Petition, MSEDCL has sought approval to additional (3) deviations. Details of the same are as below:

Amendment:

Clause Ref.	Position under KUSUM Guidelines	Current Clause in RfS	Remarks
Incorporation of SPV	The KUSUM Guidelines provides that DISCOMS <i>may</i> incorporate SPVs.	‘Project SPV’ shall mean either (i) the Successful Bidder itself, in case the Project is being implemented directly by a Successful Bidder that is a Company; or (ii) a Company established by the Successful Bidder for executing the Project, as the context may require.	In the RfS, a successful bidder is required to incorporate its own 100% wholly owned Indian company or designate an existing Indian company as the Project SPV and all clearances and land aggregation is the responsibility of the Project SPV. Further, considering that the bidders can bid for multiple substations spread across territories, the concept of a specific pre-established Project SPV has been removed.

Clause Ref.	Position under KUSUM Guidelines	Current Clause in RfS	Remarks
			This would also provide the bidder greater operational flexibility.
Scheduled Commercial Operation Date	‘SCOD’ or ‘Scheduled Commercial Operation Date’ shall mean the date that falls upon the expiry of a period of (12) months from the effective date of the PPA or a date as extended in accordance with the provisions of the PPA.	‘SCOD’ or ‘Scheduled Commercial Operation Date’ shall mean the date that falls upon the expiry of a period of (18) months from the effective date of the LOA or a date as extended in accordance with the provisions of the PPA.	Under the KUSUM Guidelines, the SPV was responsible for ensuring the connectivity of the Project. While some part of the land is being provided to the SPV, the SPV will be responsible to arrange for any additional land as may be required for the Project from private parties. Further, it was indicated in the RPM Meeting that the time provided for commissioning of projects under the KUSUM Scheme would be increased to (18) months. Accordingly, the time period in the PPA has been set at 18 months in anticipation of an official notification from the MNRE in this regard.

Addition:

Clause Ref.	Clause in the PPA	Remark
Central Financial Assistance	The CFA upto 100% of the total eligible CFA will be released to the SPV after successful operation and performance of the Project for (2) months after the Commercial Operation Date, with at least (1) month CUF as per minimum CUF agreed in the PPA. It is however clarified that the (2) months timeline post COD for release of CFA for the Project shall be a period of (2) months within a period of (6) months from the COD of the Project. The Bidder shall note that the timelines and associated parameters (if any) shall be subject to the	These additions were also discussed in the RPM Meeting and would also provide the bidders with additional time and more importantly, greater certainty of being able to resolve any issues in implementation and actually complete the projects within the timelines undertaken under their respective PPAs and therefore actually receive the CFA, which in turn will allow the bidders to provide lower tariffs to the power procurers.

Clause Ref.	Clause in the PPA	Remark
	extant guidelines issued by the MNRE until the Bid Due Date.	

List of Points not incorporated in RfS from the KUSUM Guidelines

Para Ref.	Para	Reason
6.4.3 i.	Estimation of Plant Capacity and eligible CFA under FLS 9) No restrictions to be made on installing DC capacity higher than total contracted AC capacity of the plant to help achieve higher CUF.	As per the MERC Order and the RfS, the Project SPV is not permitted to add any DC capacity in any Unit after the COD for such Unit has been achieved. Any addition of such DC capacity shall be at sole risk and cost of the Project SPV without any recourse to MSAPL or MSEDCL.
6.4.6	System specifications and Quality Control	Not included specifically. However, Clause “ 5.7.1. of the RfS provides that, “ <i>The Project SPV shall comply with the KUSUM Scheme and any other compliances that may be mandated in terms of applicable law, from time to time and such compliances shall be the sole responsibility of the Project SPV.</i> ”

4. MSEDCL in its Additional submission dated 1 March 2024 submitted following:

- 4.1. MSAPL had floated (7) tenders bearing reference numbers MSKVY-SPV15-AMR-01, MSKVY-SPV16-LAT-01, MSKVY-SPV17-HIN-01, MSKVY-SPV18-PAR-01, MSKVY-SPV19-BEE-01, MSKVY-SPV20-NSK-01 and MSKVY-SPV21-SOL-01 on 4 January 2024 for procurement of power from projects that would be established in predefined clusters on a district level, modelled on the RfS and other tender documents that was approved by the Commission vide its Order in Case No.164 of 2023.
- 4.2. While the above-mentioned tenders were still open for bidding and in order to accelerate the pace of implementation of distributed renewable energy projects, MSAPL in consultation with MSEDCL, has floated tenders for solar power projects proposed to be established under MSKVY 2.0, comprising of multiple units corresponding to identified substation(s) (Open Tenders) in the State of Maharashtra having agricultural load on them. It is also expected that the tariffs discovered through such tenders will be competitive, reasonable and in line with current market trends.
- 4.3. In respect of the Open Tenders, MSEDCL has filed the present Petition before the Commission requesting for the approval of deviations from the Standard Bidding Documents published by the MNRE.

- 4.4. Upon floating the Open Tenders, MSAPL received positive responses from bidders and was able to attract bids for about 2299 MW under the same. Encouraged by such response, MSAPL in consultation with MSEDCL decided to cancel the process of cluster tender and re-float tenders for aggregated capacities (collectively the Cluster Tenders) as well, rather than only on a substation basis, in order to receive larger bids and tie up quantities in bulk on terms that were largely similar to the terms and conditions to the Open Tenders.
- 4.5. Accordingly, the Cluster Tenders floated had certain distinguishing factors, such as (i) a ceiling tariff of Rs.3.10 per kWh; (ii) an extended scheduled commercial operation date that falls upon the expiry of a period of (18) months from the effective date of the LOA; and (iii) provision of a (2) month timeline within a six month period, commencing on the commercial operation date of the project, for demonstrating the CUF agreed in the PPA.
- 4.6. Accordingly, MSAPL in consultation with MSEDCL, harmonized the terms and conditions of the Cluster Tenders in order to bring parity among the various tenders and bring the evaluation of the Cluster Tenders on an even platform. Therefore, MSAPL in consultation with MSEDCL, issued addendums to give effect to such proposed amendments to the RfS.
- 4.7. Pursuant to MNRE guidelines dated 17 January 2024, additional guidelines were discussed in the RPM meeting dated 18-19 January 2024, which was chaired by the Hon'ble Minister of Power, Government of India. In anticipation of the issuance of the revised guidelines so discussed in the RPM meeting and to save the tendering process time, the changes due to the proposed revisions to the guidelines were transparently included in the RfS/tender document of Cluster Tender also.
- 4.8. Subsequently, MNRE has issued the revised guidelines through its Office Memorandum dated 1 March 2024 ratifying the same.
5. At the E-hearing held on 4 March 2024, an representative appearing on behalf of MSEDCL presented deviations sought by MSEDCL while rolling out MSKVY 2.0. For justifying the deviations, MSEDCL relied upon MNRE Office Memorandum dated 1 March 2024.

Commission's Analysis and Rulings

6. The Commission by its Order in Case No. 164 of 2023 dated 11 August 2023 has approved the modalities proposed by MSEDCL for Draft RfS and PPA for all the Solar projects being installed under MSKVY 2.0. During the proceedings in Case No.164 of 2023, the Commission noted that for roll-out of MSKVY 2.0, SPV driven model has been adopted. Hence, suitable modifications in bidding documents are warranted. Accordingly, allowed deviations based on merits, as they were related to operational performance, billing, procedural and contractual aspects.
7. During the hearing and in additional submission, MSEDCL pointed out that in line with approved modalities in Case No.164 of 2023, MSAPL had floated (7) tenders based on predefined cluster level (on a district level) approach (Cluster Tenders). Apart from above, MSEDCL envision to adopt another approach of simultaneous development of multiple units corresponding to identified substation(s) (Individual substation-based tenders). The

simultaneous approaches of project roll-out have been adopted to ensure speedy implementation of the projects under MSKVY 2.0 and to ensure that the tariffs achieved through such tenders are competitive and reasonable and in line with current market trends.

8. MSEDCL while filing the present Petition, has proposed to limit the approval of deviations to Individual substation-based tenders. Based on rationale mentioned in the Petition, MSAPL in consultation with MSEDCL revised the RfS conditions. Further, to test the market, MSAPL floated the tenders. These tenders were subject to the approval of the Commission. MSEDCL highlighted that it received positive responses from bidders and was able to attract bids for about 2299 MW. Encouraged by such response, MSAPL in consultation with MSEDCL decided to cancel the process of cluster tender and re-floated tenders for clusters based on same tender conditions as proposed for Individual substation-based tenders.
9. Considering above development, the Commission notes that although MSEDCL has filed this Petition initially seeking approval for deviations in respect of individual substation-based tenders, but through subsequent submission have requested similar deviation for re-floated cluster-based tender also. Therefore, ruling in this Order will be applicable for Individual Substation based tenders and Cluster based Tenders also.
10. With this background, the Commission is dealing with relief sought by MSEDCL in the present Petition. Based on submissions on record, the Commission frames following issues for its consideration:
 - a. Whether deviations sought from competitive bidding guidelines by MSEDCL in present Petition are justified?
 - b. Other Issues for effective implementation of MSKVY 2.0

The Commission is addressing the above issues in the following paragraphs.

11. **Issue A: - Whether deviations sought from competitive bidding guidelines by MSEDCL in present Petition are justified?**
 - 11.1. The Commission notes that MSEDCL has prepared the bidding documents i.e. Draft RfS and PPA based on Guidelines for Tariff based Competitive Bidding for long-term procurement of grid-connected Solar PV, KUSUM PPA and modalities approved by the Commission in its Order dated 11 August 2023 in Case No.164 of 2023. MSEDCL in the present Petition has sought additional (3) deviations from approved modalities i.e. (2) amendment to clauses and (1) new additions. Further, (2) stipulations from KUSUM guidelines have not been factored in to bidding documents. The same have been dealt as under:
 - 11.2. Incorporation of SPV: The Commission notes initially roll-out of MSKVY 2.0 was based on SPV driven model. Now, MSEDCL proposed that a successful bidder is required to incorporate its own 100% wholly owned Indian company or designate an existing Indian company as the

Project SPV and all clearances and land aggregation is the responsibility of the Project SPV. Further, considering that the bidders can bid for multiple substations spread across territories, the concept of a specific pre-established Project SPV has been removed. This would also provide the bidder with greater operational flexibility. The Commission takes note of these factual aspects and accordingly considers the defining of Project SPV in explicit terms is appropriate and hence approved such deviation.

- 11.3. Scheduled Commercial Operation Date: MSEDCL proposed that SCOD shall mean the date that falls upon the expiry of a period of (18) months from the effective date of the LOA or a date as extended in accordance with the provisions of the PPA. MSEDCL supplemented deviation with the argument that in the RPM Meeting, issue of SCOD in respect of KUSUM projects has been deliberated. It has been decided to provide a period of (18) months for commissioning projects under the KUSUM Scheme. Accordingly, the period in the PPA has been set at (18) months in anticipation of an official notification from the MNRE in this regard. The Commission notes that MNRE has issued the Office Memorandum dated 1 March 2024 wherein it has categorically provided maximum timeline of (18) months from date of issuance of LoA. Relevant part of said Office memorandum is reproduced below:

“2. In this regard, it has been decided to amend the scheme guidelines under the Component C (FLS) of PM KUSUM as follows:

- a) The maximum timeline allowed for **commissioning of solar power plant under Component C (FLS) has been increased to 18 months from date of issuance of LOA. However, the overall sanction timeline would be as per Clause 6.5 (i) of scheme guidelines issued on 17.1.2024.**”*

Considering the above, the Commission finds it appropriate to consider revised definition of Scheduled Commercial Operation Date.

- 11.4. Central Financial Assistance: MSEDCL proposed that for CFA upto 100% of the total eligible CFA will be released to the SPV after successful operation and performance of the Project for (2) months after the Commercial Operation Date, with at least (1) month CUF as per minimum CUF agreed in the PPA. It is also clarified that the (2) months’ timeline post COD for release of CFA for the Project shall be a period of (2) months within a period of (6) months from the COD of the Project. The Commission notes that the above provision will enable the project developer to demonstrate the performance, even if project gets commissioned during monsoon period and it will not get deprived CFA. Further, said condition has been stipulated in recent Office Memorandum dated 1 March 2024 issued by the MNRE. Relevant part of said Office memorandum is reproduced below:

“2. In this regard, it has been decided to amend the scheme guidelines under the Component C (FLS) of PM KUSUM as follows:

.....

*c) Final instalment of 40% as per Para 2b(iii) above shall be released through DISCOM in successful operation and performance of the solar plant **for six months after the commissioning, with achievement of at least one-month CUF** as per the minimum CUF agreed in PPA. The SIA need to submit PCR and other related documents, as prescribed by MNRE.”*

Considering the above, the Commission finds it appropriate to consider changes proposed by MSEDCL in this respect.

11.5. As far as (2) points which were not incorporated in RfS from the KUSUM Guidelines is concerned, it is pertinent to note that same have not been considered by the Commission in its Order dated 11 August 2023. Hence, not considered for procurement under MSKVY 2.0.

12. Issue B: Other Issues for effective implementation of MSKVY 2.0

12.1. The Commission notes that MSAPL has already initiated the tendering process, considering the deviations for testing the market. These tenders have been with condition of approval of the Commission.

12.2. It is pertinent to note that approval of the Commission is mandatory pre-requisite before the issuance of the tenders. In future, Petitioner should avoid such incidences of going ahead with bidding process without seeking approval of deviations.

12.3. Considering the process followed and participation received, the Commission in-principally approves the tender documents and initiation of procurement process under MSKVY 2.0.

13. In view of the above, the Commission accords approval to Request for Selection (RfS) document & draft Power Purchase Agreement (PPA) with proposed deviations filed by MSEDCL under the present Case. At the time of adoption of tariff as mandated under Section 63 of the EA, 2003, the Commission will scrutinize its market reflectiveness and deal with it appropriately in separate Order.

14. Hence, the following Order.

ORDER

- 1. The Petition in Case No. 28 of 2024 is allowed. IA No 11 of 2024 is also disposed off accordingly.**
- 2. Request for Selection (RfS) document and draft Power Purchase Agreement (PPA) are approved.**

3. The Commission accords its approval for the process already initiated for procurement of solar power under MSKVY 2.0.

Sd/-
(Surendra J. Biyani)
Member

Sd/-
(Anand M. Limaye)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Dr. Rajendra G. Ambekar)
Secretary

