

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 222 of 2022

Petition seeking permission to procure of 500 MW Solar Power through MAHAPREIT's Decentralised Solar Power Project under Mukhyamantri Saur Krishi Vahini Yojana (MSKVY) at pre-decided tariff.

M/s Maharashtra State Electricity Distribution Company Ltd. (MSEDCL)... Petitioner

M/s. Mahatma Phule Renewable Energy and Infrastructure Technology Ltd. ... Respondent (MAHAPREIT)

Coram

Sanjay Kumar, Chairperson
I.M. Bohari, Member
Mukesh Khullar, Member

Appearance:

For the Petitioner : Smt. Kavita Gharat (Rep.)

For the Respondent : Shri. Ghanshyam Thakkar (Rep.)

ORDER

Date: 17 March 2023

1. Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) has filed the present Petition on 28 November 2022 seeking in-principle approval for procurement of 500 MW power from decentralised solar power projects as per the proposal from MAHAPREIT under Mukhyamantri Saur Krishi Vahini Yojana (MSKVY). MAHAPREIT is keen to supply at tariff of Rs 3.10 Per Unit (P. U.) or as per the latest discovered tariff at the time of PPA. Initially MAHAPREIT intends to develop project in one district/circle of MSEDCL.

2. **MSEDCL's main prayers are as follows:**

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A. *To accord in-principle approval for procurement 500 MW Decentralised Solar Power as per the request proposal from MAHAPREIT at Rs 3.10 p.u. or as per the latest discovered tariff at the time of PPA, in one district/circle for solarisation of agricultural feeders.*

B. *To accord approval for aforementioned procurement as per decentralized guidelines dated 13.12.2019 on nomination basis or in the manner as deemed fit by Hon Commission.*

C. *To allow MSEDCL to consider this solar power for meeting the Solar RPO requirements.*

...”

3. **MSEDCL in its Petition has stated as follows:**

3.1 MAHAPREIT intends to develop 500 MW decentralised solar power project in one district/Circle of MSEDCL.

3.2 For the purpose of power procurement by the Distribution Licensees, the tariff is either determined under Section 62 of the Electricity Act, 2003 by the appropriate Commission or adopted under Section 63 of the Electricity Act, 2003 as discovered through competitive bidding process.

3.3 In case the Distribution Licensee intends to procure power under bilateral agreement, then the Commission is empowered to determine tariff of a generation company under Section 62 of the Electricity Act, 2003. Further, in case the Distribution Licensee prefers to conduct competitive bidding for procurement of power, then under Section 63 of the Electricity Act,2003 the Commission is empowered to adopt discovered tariff.

3.4 Considering provisions of Section 86(1) (a) & (b), Section 62 of the Electricity Act 2003 read with Regulation 21.1 of the MERC MYT Regulation, 2019, MSEDCL has filed this instant Petition for approval for power procurement at pre-decided tariff form MAHAPREIT's 500 MW planned decentralised Solar generating plants in one District/Circle of MSEDCL.

3.5 MSEDCL is in shortfall for fulfilment of solar RPO target of around 5189 MU till FY 2021-22 and the Commission has set up solar RPO targets of 13.5% for FY 2024-25 as

against 3.5% in FY 2019-20. Therefore, it is essential for MSEDCL to procure solar power.

- 3.6 The ‘Mukhyamantri Sour Krishi Vahini Yojana’ (MSKVY) was launched in 2017. MSEDCL narrated following benefits of MSKVY:
- a) This project is most beneficial to Agricultural consumers as they will get daytime power supply and also during the peak hours.
 - b) As per the current load position, there is huge demand recorded during the daytime. Due to this scheme the peak energy demand will be reduced as Agricultural consumers will be operated on Solar power.
 - c) Reduction in breakdown resulting in consumer satisfaction.
 - d) Saving on the transmission & distribution network cost.
 - e) Reduced T&D losses.
 - f) Reducing the revenue subsidy burden of the state by enabling procurement of cheaper renewable electricity.
- 3.7 This program will also help in improving the financial health of MSEDCL in the long term.
- 3.8 MSKVY envisages installation of decentralized solar plants of capacity ranging from 2 MW to 10 MW (2 x 5 MW) connecting agricultural dominated sub-stations on the land parcels located within the radial distance of up to 5 km at 11 kV voltage level.
- 3.9 Central Government has also adopted this scheme and published decentralized solar projects guidelines and launched PM- KUSUM scheme.
- 3.10 MSEDCL called bids for procurement of solar power from decentralized solar projects under MSKVY. The details of the bids and its response is tabulated as under:

Tender	Tender date	Tender Capacity (MW)	Successful bids (MW)	Contracted Capacity (MW)	Tariff rate per unit (Rs./kWh)
1	27.04.2018	1000	235	235	3.09 to 3.15
2	07.01.2019	1400	1130	10	3.15
3	31.08.2019	1350	5	5	3.14
4	31.12.2019	1350	283	277	3.28-3.30
5	24.04.2021	1300	111	34	3.00-3.05
6	28.10.2021	1250	386.4	5	3.05-3.10
7	31.01.2022	865	535	-	3.10

Tender	Tender date	Tender Capacity (MW)	Successful bids (MW)	Contracted Capacity (MW)	Tariff rate per unit (Rs./kWh)
8	27.06.2022	1000	-	-	-
9	18.08.2022	1000	52	-	4.0-4.10
10	11.11.2022	230	-	-	-
	Total	10745	2737.4	566	

3.11 500 MW quantum has been sanctioned under PM- KUSUM(A) for MSEDCL and the details of the bids and its responses are tabulated as under:

Sr. No	Capacity (MW)	Tender date	Bids capacity received (MW)	Quantum Awarded (MW)	Tariff Discovered (Rs/Unit)
1	50	01.06.21	12.5	12.5	3.0-3.10
2	487	18.08.21	46.75	31.75	2.93-3.10
3	444	28.10.21	13	10.5	3.10
4	445	17.02.22	15	14	3.05-3.10
5	431	06.05.22	139.25	132.75	3.10
6	298	03.08.22	11.7	8.7	3.29- 4.12
			226.5	201.5	

3.12 Further, 500 MW is sanctioned under PM-KUSUM (C) and the details of the bids and its responses are tabulated as under:

Sr. No	Capacity (MW)	Tender date	Bids capacity received (MW)	Quantum Awarded (MW)	Tariff Discovered (Rs/Unit)
1	500	28.12.21	-	-	-
2	500	22.06.22	137.25	120	3.40-4.49

3.13 Considering the inherent advantages of the decentralized solar projects, GoM, in meeting dated 13 July 2022 has directed solarisation of at least 30% of AG feeders in each district. MAHAPRIET has intended to extend its support to MSEDCL for achieving this milestone.

3.14 On dated 11 October 2022, MAHAPREIT submitted letter of interest for development of 500 MW decentralized solar projects under MSKVY for solarization of Agricultural feeders in one district /circle. The proposal put forth by MAHAPREIT states following:

- a. MSEDCL shall identify and allocate one district/circle for solarization of Agricultural feeders, which will be further enhanced beyond 500 MW upon mutual acceptance.

- b. Solar projects will be developed as per GoM MSKVY guidelines and MoU will be signed between MAHAPREIT and MSEDCL separately with all terms and conditions.
 - c. The project shall be allocated to MAHAPREIT on nomination basis with last tender derived rates approved by the Commission for PPA under MSKVY but not below Rs. 3.10/- per unit.
- 3.15 Vide letter dated 11 November 2022, MSEDCL requested MAHAPREIT to furnish the details of lands identified for the proposed 500 MW, so that further necessary action in this regard can be initiated. It was also requested to ensure that these lands are within 2-5 kms of MSEDCL substation to solarize the feeders as proposed under MSKVY.
- 3.16 MAHAPREIT vide its letter dated 15 November 2022, informed that it is in process of finalizing the suitable locations for decentralized solar projects and further stressed for in-principal approval for finalization of land parcels.
- 3.17 MSEDCL vide letter dated 21 November 2022, to convey its consent for a tariff rate of Rs. 2.82/- per unit, as consented earlier by MAHAPREIT in connection with 125 MW procurement of solar power for projects to be executed by MAHAPREIT in Sangli district.
- 3.18 MAHAPREIT, in response, proposed tariff rate of minimum Rs. 3.10/- per unit or latest discovered tariff rate under MSKVY for MSPGCL as on date with standard PPA. Hence, requested MSEDCL to give in-principal approval to the proposed tariff rate.
4. At the e-hearing through video conferencing held on 27 December 2022, Advocate of the MSEDCL submitted that the proposed procurement is MoU based bilateral power procurement at tariff of Rs. 3.10 per unit under Section 62 of the Electricity Act 2003. The Representative of MAHAPREIT submitted that it was planning projects of 2 MW to 10 MW capacity at individual locations and the total quantum worked out to be 500 MW. He suggested that present Petition would need to be amended for including specific prayer seeking relaxation in Regulations for enabling such power procurement under Section 62. Advocate of MSEDCL agreed with the suggestion of MAHAPREIT and sought time to take considered view in the matter as regards to amending the present Petition or filing a fresh one by withdrawing the present Petition. Accordingly, the Commission adjourned the proceedings and allowed MSEDCL to file additional submission on its stand.

5. **MSEDCL's additional submission dated 9 January 2023 stated following:**

- 5.1 MSEDCL procures power from renewable energy sources for RPO fulfilment. This power

is procured by executing PPA under Section 62 or Section 63 of the Electricity Act, 2003.

- 5.2 Regulation 7.6 of RPO Regulations, 2019 states that an Obligated Entity may meet its RPO target by way of its own generation or procurement of power from another RE Project or by purchase from a Licensee or by purchase of RECs or by a combination of these options. The procurement of RE power by a Distribution Licensee at a Generic Tariff rate approved by the State Commission or at a rate discovered through transparent process of competitive bidding and duly approved/adopted by the Commission shall be considered as eligible quantum for fulfilment of the RPO of such Distribution Licensee.
- 5.3 MSEDCL referred to the Commission's Order dated 21 May 2020 in Case No 10 of 2020 and wherein it ruled as below:

“

*22. The Commission also notes that Solar Energy Corporation of India (SECI), which is also a Government Company, is conducting competitive bidding under Section 63 of the EA, 2003 and after discovery of Tariff, offers such competitively discovered tariffs to the Distribution Licensee which in turns approaches the Commission for adoption of such discovered tariff. MERC in the past has adopted such Tariff discovered by SECI for 2000 MW of Wind power in its Order dated 11 June 2018 in Case No. 185 of 2017. **Therefore, in future if EESL or any other agency wishes to sign PPA with Distribution Licensee in the State, it should be based on Tariff discovered under Section 63 of the EA, 2003, unless there is a strong justification otherwise**”*

Thus, the Commission has mandated to execute PPA only at tariff discovered under Section 63 of the Electricity Act, 2003. However, the said considerations can be relaxed in case there is a strong justification.

- 5.4 MSEDCL submits that power under MSKVY mode has manifold benefits. Apart from low tariff power, MSKVY supports MSEDCL in providing daytime power supply to Agricultural consumers.
- 5.5 Thus, MSEDCL requested the Commission to consider above justification for sourcing power from MAHAPREIT under Section 62 of the Electricity Act, 2003.
- 5.6 Further, present RE Tariff Regulations, 2019 pertaining to solar projects, also mandate competitive bidding. At the same time, RE Tariff Regulations, 2019 allows signing of PPA based on recently discovered tariff for the project with threshold capacity which cannot participate in bidding process. The projects capacities under consideration are at par with the capacity of solar projects made eligible under competitive bid and are not below the threshold capacity under the MSKVY tenders. Thus, MSEDCL is experiencing

difficulty to apply the provisions of Regulation 7.3 to the projects proposed by MAHAPREIT.

- 5.7 It is submitted that if route of competitive bidding is not to be adopted then only other option available is tariff determination under Section 62 of the EA, 2003.
- 5.8 MAHAPREIT has now informed MSEDCL that its proposal should not be restricted to only one district/ circle of MSEDCL.
6. At the e-hearing through video conferencing held on 14 February 2023, Representative of MAHAPREIT informed that it is participating in recent MSKVY tenders. Representative of MSEDCL informed that presently two (2) tenders are ongoing and in one (1) tender MAHAPREIT has already participated.

Commission's Analysis and Rulings

7. MSEDCL filed this Petition with intent to tie up solar power procurement with MAHAPREIT through bilateral contract without participation in competitive bidding process.
8. In additional submission dated 9 January 2023 MSEDCL has referred to earlier order (21 May 2020) of this Commission which clearly directed MSEDCL to undertake all future power procurement through competitive bidding only.
9. The Commission in its MYT Regulations, 2019 has stipulated modalities for future power procurement. Regulation 19.3 of MERC MYT Regulations, 2019 reads as below:

“
*19.3 **All future procurement** of short-term or medium-term or long-term power, **including Renewable Energy, shall invariably be undertaken through competitive bidding** in accordance with Guidelines notified by the Government of India under Section 63 of the Act:*

Provided that in case either no competitive bids are received or the bids received are higher than the prevailing market rates or on any other sufficient reason, then the Distribution Licensee may procure medium-term or long-term power under Section 62 of the Act, subject to fulfilling the conditions specified in Regulation 21.” (Emphasis added)

Thus the Distribution Licensee has to procure power through competitive bidding process for all types of power procurement.

10. The Commission in its RE Tariff Regulations, 2019 has categorically stated that procurement/tariff for solar power projects shall invariably be determined through a transparent process of competitive bidding.

11. In view of above Regulatory mandates, the Commission cannot allow MSEDCL to enter into power procurement contract without going for competitive bidding process.
12. Further, during last hearing held on 14 February 2023, MSEDCL representative categorically stated that MAHAPREIT has participated in its recent tender for MSKVY. In view of said submission, present Petition becomes infructuous.
13. Hence, the following Order.

ORDER

1. Case No. 222 of 2022 is dismissed.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Abhijit Deshpande)
Secretary

