

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 7 of 2019

Case of Maharashtra State Electricity Distribution Co. Ltd. seeking approval for adoption of tariff for long term procurement of 180 MW Solar Power under ‘*Mukhyamantri Saur Krishi Vahini Yojana*’ with 2 to 10 MW Capacity projects connected to distribution network under Section 63 of the Electricity Act, 2003 for meeting the Solar Renewable Purchase Obligations.

Coram

Anand B. Kulkarni, Chairperson
I.M. Bohari, Member
Mukesh Khullar, Member

Maharashtra State Electricity Distribution Company Limited Petitioner
Giriraj Renewable Pvt Ltd Impleaded Respondent No.1
IBC Solar Ventures India Impleaded Respondent No.2

Appearance

For Petitioner : Shri. S.S. Rajput (Rep.)
For Impleaded Respondent No.1 : Shri Rajiv Mestry (Rep.)
For Impleaded Respondent No.2 : Shri Varun Singh (Rep.)

ORDER

Date: 15 February, 2019

1. Maharashtra State Electricity Distribution Co. Ltd (**MSEDCL**), has filed a Petition on 8 January, 2019 seeking approval for adoption of tariff for long term procurement of 180 MW Solar power under Section 63 of the Electricity Act, 2003 (EA) for meeting the Solar Renewable Purchase Obligations (**RPO**).
2. **MSEDCL’s Main prayers are as follows:**

To accord approval for adoption of tariff as mentioned in table under para 2.7 and signing of PPA with successful bidders for 180 MW solar power as discovered through Competitive bidding conducted by MSEDCL .

To accord approval to make this power eligible for meeting the Solar RPO requirement of MSEDCL.

To accord approval for revised conditions as mentioned in para 2.3

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

- a) The Commission in its Order dated 16.10.2018 in Case No. 270 of 2018 has accorded approval for initiating the competitive bidding process with deviation in the MoP's Bidding Guidelines relating to minimum project capacity for procurement of solar power under 'Mukhyamantri Saur Krishi Vahini Yojana' with 2 to 10 MW capacity projects connected to distribution network for a total quantum of 1400 MW.
- b) Accordingly, MSEDCL floated 30 District wise tenders for procurement of Solar Power from a cumulative capacity projects of 1400 MW individually ranging from 2 to 10 MW connected to distribution network in 30 Circles.
- c) During the pre-bid meeting the prospective bidders raised certain issues which were considered by MSEDCL and accordingly revised certain conditions for attracting better participations in the bidding process. Revised conditions are tabulated below:

Sr.No	Revised Condition	Justification
1	Attainment of Scheduled Commercial Operation Date (SCoD) changed from 13 months to 18 months	Considering the amendment to MoP guidelines dated 14.6.2018, for commissioning of project within 21 months.
2	Reduction in EMD amount from Rs.8 Lakhs/MW to 5 Lakhs/MW	Circle wise 30 tenders were floated and bidders had to give EMD for each tender being a security against the event of failure of the solar power generator during tendering process, the condition was relaxed.
3	Liability of MSEDCL to pay compensation as per PPA to solar generators due to congestion in evacuation network not attributable to generator. Revision in Off-take Constraint Compensation due to grid unavailability to 75% of PPA tariff if grid availability is for less than 98%.	To have clarity on availability of evacuation network to bidders and Considering Clause 57 (Norms for Operation) of MERC (MYT) Regulations, 2015, the Target availability for the Transmission Licensee is 98% for AC system while compensation for the lost generation has been fixed as 75 % of the PPA rate for the units lost.
4	Revision in Ceiling rate from Rs.3.10 to Rs.3.30 per unit	The Commission vide Order dated 27.11.2018 in Case No. 277 of 2018 adopted tariff rate ranging from Rs.3.09 to Rs.3.15 per kWh , for 235 MW quantum under Mukhyamantri Saur Krishi vahini Yojana. Now, MoP has issued notification regarding the levy of safeguard duty on 01.07.2018. Considering the impact of safeguard duty, distribution losses and Transmission wheeling charges, the ceiling rate is revised to Rs. 3.30 per unit at 11 kV Level.

- d) Total 180MW bids are received for 5 districts from two bidders which are scrutinized and their financial bids were opened on 27.12.2018. The details are as below:

Sr. No	Name of Bidder	District/Circle	Capacity(MW)	Quoted tariff/Tariff Discovered (Rs./Per Unit)
1	IBC Solar	Solapur	10	3.29
		Buldhana	10	3.29
		Osmanabad	10	3.29
2	Giriraj Renewables Pvt. Ltd	Satara	50	3.30
		Buldhana	50	3.30
		Jalgaon	50	3.30
Total			180	

- e) The reverse auction for Buldhana Circle/District was carried out on 03.01.2019 as capacity received was more than District wise capacity requirement. The Reverse auction ended up with the same rates quoted by them in financial bid. In the approved tender documents, there is a provision to increase the maximum capacity limit from 50 MW to 100 MW for a District/circle. Therefore, MSEDCL decided to procure total 60 MW capacity at the Tariff discovered after e-reverse auction.
- f) The Commission in its Order dated 16.10.2018 in Case No. 270 of 2018 directed that MSEDCL shall approach the Commission for adoption of final Tariff after completion of Competitive Bidding Process.
- g) In view of above, MSEDCL is seeking approval for adoption of tariff offered under Section 63 of the EA after completion of bidding process for approval of final tariff discovered/offered through the Competitive bidding as follows:

Sr.No	Name of Bidder	District/Circle	Capacity(MW)	Quoted tariff/Tariff Discovered (Rs./Per Unit)
1	IBC Solar	Solapur	10	3.29
		Buldhana	10	3.29
		Osmanabad	10	3.29
2	Giriraj Renewables Pvt. Ltd	Satara	50	3.30
		Buldhana	50	3.30
		Jalgaon	50	3.30
Total			180	

- h) Subsequent to approval of the Commission, MSEDCL shall sign the PPA for a period of 25yrs with successful bidders at the tariff discovered through competitive bidding for procurement of 180 MW solar power.
4. The proceedings of the hearing held on 19 January, 2019, the representative of MSEDCL reiterated its submission as made in its Petition and its subsequent additional submission. M/s IBC Solar and M/s Giriraj Renewables Pvt. Ltd (Impleaded Respondents) gave their consent to the PPA.

Commission's Analysis and Rulings

5. MSEDCL under the instant Petition has sought approval for Adoption of tariff for 180 MW Solar power under the '*Mukhyamantri Saur Krishi Vahini Yojana*' with 2 to 10 MW Capacity projects connected to distribution network. The Tariff was discovered following the competitive bidding process and the same is prayed to be made eligible for meeting the Solar RPO requirement of MSEDCL.
6. The Commission notes that under the scheme of "*Mukhyamantri Saour Krishi Vahini Yojana*" GoM vide its revised Resolution dated 17 March, 2018, has appointed MSEDCL as implementation agency in addition to MSPGCL for flexibility and speedy implementation of the scheme for giving day time power to AG consumers. In accordance with this Resolution, MSEDCL is willing to procure Solar Power on long term basis with 2 to 10 MW capacity projects connected to its distribution network (11 KV/22 KV level) to supply power during day time to AG consumers
7. In the past, the Commission by its Order dated 6 December, 2017 in Case No. 157 of 2017 had permitted MSEDCL to procure Wind, Solar and Bagasse based cogeneration RE power on Short Term, Medium Term and Long Term basis at the rate discovered through Tariff based Competitive Bidding (e-reverse auction). Further, the Commission in that Order dated 6 December, 2017 had also ruled that in case the standard bidding document is used by MSEDCL then a specific Petition shall be filed by MSEDCL after bidding process for adoption of tariff as is mandated under Section 63 of EA . The said Petition shall cover the following, for approval of the Commission. (i) Quantum of power, (ii) Period of power flow, Tariff rate of the RE power to be procured, under Tariff Based Competitive Bidding Process for Short term/ Medium term /Long term basis for adoption under Section 63 EA.
8. Accordingly, MSEDCL had approached in Case No. 270 of 2018 seeking approval for deviation in Standard bidding document for long term procurement of solar power under '*Mukhyamantri Saur Krishi Vahini Yojana*' from 2 to 10 MW Capacity projects connected to distribution network with total quantum of 1400 MW of installed capacity. The Commission by its Order dated 16 October, 2018 had accorded approval for

initialisation of the competitive bidding process with deviation in standard bidding document as below:

- i) *The Commission approves the initiation of District wise/ Circle wise competitive bidding process for procurement Solar power under 'Mukhyamantri Saur Krishi Vahini Yojana' from Solar power projects to be connected at 11/22 KV level of MSEDCL with individual project capacity of 2 to 10 MW.*
- ii) *The Commission has no objection to MSEDCL deciding the lower ceiling rate of Rs. 3.10/unit based on its own due diligence.*
- iii) *The Commission approves the increase in maximum capacity limit from 50 MW to 100 MW for District/circle.*
- iv) *The Commission rules that the proposed Solar Power generation would be counted towards fulfillment of MSEDCL' RPO for the respective periods.*
- v) *MSEDCL shall approach the Commission for adoption of final Tariff after completion of Competitive Bidding Process.*

9. The Commission notes that MSEDCL had approached the Commission for certain deviation for procurement of Solar Power in Case No. 270 of 2018, the Commission considering the difficulty had approved those deviations in the Bid Documents. Subsequently after bidding, now MSEDCL is seeking further deviation in the Guidelines for Tariff Based Competitive Bidding Process, for some some conditions which were relaxed by MSEDCL during the bidding process. The Clause 18 of the Guidelines for Tariff Based Competitive Bidding Process categorically states that the deviation from these guidelines in the Standard Bidding Guidelines shall be subject to approval by the Commission.. The relevant extract of the Clause is reproduced below:

“18 DEVIATIONS FROM PROCESS DEFINED IN THE GUIDELINES

In case there is any deviation from these Guidelines and/or the SBDs, the same shall be subject to approval by the Appropriate Commission. The Appropriate Commission shall approve or require modification to the bid documents within a reasonable time not exceeding 90 (ninety) days.

10. The Commission notes that MSEDCL has taken all the sincere efforts for attracting the participations, however during pre bidding meeting with the prospective bidders, MSEDCL responding to the queries decided to provide further relaxation in the conditions that were approved by Commission. Revision made after pre bid meeting with the prospective bidders are as follows:

- a. Scheduled Commercial Operation Date (SCoD) from 13 months to 18 months
- b. Reduction in EMD amount from Rs.8 Lakhs/MW to 5 Lakhs/MW

- c. Revision in Off-take Constraint Compensation due to grid unavailability to 75% of PPA tariff if grid availability is for less than 98%.
 - d. Revision in Ceiling rate from Rs.3.10 to Rs.3.30 per unit
11. As regards the SCOD, MSEDCL has revised the period from 13 months to 18 Months citing the amendments dated 15.06.2018 to MoP guidelines. Relevant Extract of the Order are reproduced below:

2.3 *The Para at point No.14.3: "Commissioning Schedule:*

The Projects shall be commissioned within a period of 13 (thirteen) months from the date of execution of the PPA.

.....

May be read as under: "Commissioning Schedule:

The Projects shall be commissioned within a period of 21 (twenty one) months from the date of execution of the PPA.....

The Commission notes that MoP has again amended vide its circular dated 3 January,2019 the Commissioning schedule from 21 months to 15 months from the date of execution of PPA. Since the bidding process was completed before issuance of the this amendment, , the Commission considers the Commissioning Schedule as per prevailing circular at the time of bidding and allows the revision in SCOD from 13 to 18 Months.

12. As regards reduction in Earnest Money Deposit (EMD) amount, the Clause 11.1 of the SBD states that:

11.1. Earnest Money Deposit (EMD), to be fixed by the Procurer [but not to be more than 2% (two percent) of the Solar PV power project cost, as determined by CERC, if any, for the financial year in which the bids are invited or the estimated project cost], to be submitted in the form of a bank guarantee along with response to RfS.

MSEDCL revised the EMD amount from 8 Lakhs/MW to 5 Lakhs/MW stating that Circle wise 30 tenders were floated and bidders had to give EMD for each tender being a security against the event of failure of the solar power generator during tendering process, the condition was relaxed. The Commission notes that quantum of the EMD in the form of a bank guarantee is a security deposit and the same would stand forfeited in the event of failure of the Solar Power Generator to execute the PPA within the stipulated time period. MSEDCL has reduced this EMD amount considering this factor and based on its own due diligence, hence the Commission does not have any objection on the reduction

of EMD amount, but shall not consider the deviation to this provision of Standard Bidding Documents(SBD) in future biddings.

13. As regards the revision in Off-take Constraint Compensation due to grid unavailability to 75% of PPA tariff if grid availability is for less than 98%. The Commission notes that, the Clause 5.5.1 (b) of the SBD on Generation Compensation due to any off take constraint was revised by MSEDCL considering the difficulty raised by bidders as per the proviso in the SBD Guidelines. The relevant Clause 5.5.1 (b) is reproduced below:

“5.51

b) Generation Compensation in off take constraints due to Grid Unavailability:

During the operation of the plant, there can be some periods where the plant can generate power but due to temporary transmission unavailability the power is not evacuated, for reasons not attributable to the Solar Power Generator. In such cases the generation compensation shall be addressed by the Procurer in following manner:

Duration of Grid unavailability	Provision for Generation Compensation
<p><i>Grid unavailability in a contract year as defined in the PPA: (only period from 8 am to 6 pm to be counted):</i></p>	<p>Generation Loss = [(Average Generation per hour during the contract year) × (number of hours of grid unavailability during the contract year)]</p> <p><i>Where, Average Generation per hour during the contract year (kWh) =</i></p> <p><i>Total generation in the contract year (kWh) ÷ Total hours of generation in the contract year</i></p> <p><i>The excess generation by the SPD equal to this generation loss shall be procured by the Procurer at the PPA tariff so as to offset this loss in the succeeding 3 (three) Contract Years.</i></p> <p><i>Contract Year, shall be as defined in PPA.</i></p>

Provided that as an alternative to the mechanism provided above in Clause 5.5.1, the Procurer may choose to provide Generation Compensation, in terms of PPA tariff, for the Generation loss as defined in Clause 5.5.1, and for Grid unavailability beyond 50 hours in a Contract Year as defined in the PPA.

14. Accordingly, following revisions were made in the SBD Guidelines, In case the Availability of those lines (during 8 am to 6 pm) falls below 98%, i.e. 175.20 hours/annually (2% x 365 days x 24 hours), and the power is not evacuated, for reasons not attributable to the Solar Power Generator, then the generation loss shall be

compensated. (i.e. Generation compensation shall be payable, in case the availability of falls below 175.20 Hours Annually). The Commission notes that, MSEDCL considering the difficulty raised by the bidders during the pre bid meeting have relaxed the norms to 75% of the approved PPA tariff if grid availability is for less than 98% such a deviation has been done based on its own due diligence in favor of consumers, hence the Commission does not have any objection.

15. Further, the Commission notes that during the pre-bid meetings, the bidders contended to increase the ceiling rate citing reason relating to imposition of Safeguard duty on import of Solar Panel. MSEDCL informed the bidders that they have to consider the Safeguard Duty impact while bidding. Hence the above rates discovered by MSEDCL are inclusive of Safeguard Duty.
16. As regards the revision in ceiling rate from Rs 3.10/Unit to Rs 3.30/ Units. The Commission in earlier Order had stated that MSEDCL should fix the ceiling rate as per its own due diligence. Though, MSEDCL has justified the increased ceiling rate by computing the extra cost on account of Safeguard Duty, the Commission notes that the Ministry of New And Renewable Energy (MNRE) vide its letter dated 24.08.2018 had directed SECI that in the RfS the Maximum Permissible tariff including Safeguard Duty should be fixed with the condition that, if later it is found that no Safeguard duty has been paid by the bidder on the modules used in the project then the bid tariff will be reduced by Rs 0.18/Unit. In line with the approach taken by MNRE, in the instant case too, Commission allows the ceiling rate as fixed by MSEDCL subject to the condition that in case it is found that the safe guard duty is not paid by the bidders, then Rs 0.18/Unit may be reduced from there tariff. In the interest of expediting the installation of the solar plants without any further delay, Commission accepts the rates between Rs 3.29/Unit to Rs 3.30/Unit, MSEDCL shall submit the copy of invoices for verification of the Commission after SCOD of the projects clearly showing that the safe guard duty has been paid by the bidder.
17. The Commission notes that due process for procurement of solar power has been followed by MSEDCL and discovered tariff rates are within the vicinity of the rates earlier approved by Commission if one considers the transmission and distribution losses, plant size and the geographic spread. Rates were competitively obtained. The Commission is satisfied that MSEDCL has made prudent efforts for seeking approval for adoption of tariff rate of Rs. 3.29 and 3.30 per unit.
18. The Commission notes MSEDCL was able to get only 180 MW out of 1400 MW as proposed. Hence, the Commission directs MSEDCL to re tender for balance Quantity giving wider publication such as advertisement in local newspapers etc. to get the more response.

19. In view of foregoing, and in line with the mandate under section 63 of the EA, the procurement and rates as proposed by MSEDCL are approved by the Commission. Hence following Order.

ORDER

1. The Commission accords approval for procurement of Solar Power from following parties for 25 Years as rate discovered through the competitive bidding process as below:

Sr.No	Name of Bidder	District/Circle	Capacity(MW)	Quoted tariff/Tariff Discovered (Rs./Per Unit)
1	IBC Solar	Solapur	10	3.29
		Buldhana	10	3.29
		Osmanabad	10	3.29
2	Giriraj Renewables Pvt. Ltd	Satara	50	3.30
		Buldhana	50	3.30
		Jalgaon	50	3.30
Total			180	

2. The Commission accords approval for signing the PPAs with the above parties as per the rates discovered through the competitive bidding process.
3. MSEDCL is directed to submit the copy of invoices which underscores Safe guard Duty paid by the bidders after SCOD of the projects. In case the Safe guard duty is not paid by the bidders, MSEDCL shall reduce Rs 0.18/Unit from the discovered Tariff.
4. The Solar power procured from these projects shall be counted towards fulfilment of its Solar RPO for the respective periods.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member

Sd/-
(Anand B. Kulkarni)
Chairperson


(Abhijit Deshpande)
Secretary

