

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION  
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH**

**Petition No.59 of 2012  
Date of Order: 20.12.2013**

In the matter of : Petition under Section 86 of the Electricity Act, 2003, for signing of PPA and sale of power to PSPCL from 1.5 MW Solar Photovoltaic based Power Plant at Sahadra-Sahiba Balachaur in Punjab in order to promote cogeneration and generation of electricity from renewable sources of energy as envisaged under the NRSE Policy-2006 and specified by Suo Motu order of PSERC dated 31.10.2011.

AND

In the matter of: Enterprise Business Solutions Pvt. Ltd. and having its Regd. Office at 49, Green Park, Jalandhar, Punjab, through Mrs. Radha Krishnaswamy, Managing Director.

Versus

1. Punjab State Power Corporation Limited (PSPCL), The Mall, Patiala through its Chairman.
2. State of Punjab through its Principal Secretary, Government of Punjab, Department of Science, Technology, Environment and Non-Conventional Energy, Civil Secretariat, Chandigarh.
3. Punjab Energy Development Agency (PEDA) through its Director, Plot No.1 & 2, Sector 33-D, Chandigarh.

Present: Smt.Romila Dubey, Chairperson  
Shri Virinder Singh, Member  
Shri Gurinder Jit Singh, Member

**ORDER**

Enterprise Business Solutions Pvt. Ltd. (EBS) has filed this petition under Section 86 of the Electricity Act, 2003, seeking approval for signing of Power Purchase Agreement (PPA) and sale of power to PSPCL from 1.5 MW Solar Photovoltaic based Power Plant at Sahadra-Sahiba, Balachaur in Punjab in order to promote generation of electricity from renewable sources of energy

as envisaged under the NRSE Policy-2006 and specified by Suo Motu Order of the Commission dated 31.10.2011.

2. The Petitioner has submitted that it was shortlisted by Indian Renewable Energy Development Agency (IREDA) to design, construct, own, operate & maintain 1.5 MW Solar Photovoltaic based Power Plant at Sahadra-Sahiba, Balachaur in the State of Punjab and had executed and signed a MOU dated 09.07.2010 for sale of the energy generated from the Project to Punjab State Power Corporation limited (PSPCL), under the Roof top PV & Small Solar Power Generation Programme (RPSSGP) Scheme of Ministry of New & Renewable Energy (MNRE), GOI. Subsequently, EBS had entered into a PPA for sale of power to PSPCL on 18.08.2010.

3. The petitioner has submitted that the approval of installed electrical equipments and drawings for the project was granted in April 2012 and the plant was ready for injecting power into the grid with all approvals from PSPCL, Electrical Inspectorate and Plant safety departments of PSPCL. The petitioner also submitted that the line work from the local sub-station to the power plant was completed by PSPCL for a grid interface by 30.04.2012. The petitioner has further submitted that it made a representation to the MNRE regarding synchronization of the plant to the grid and MNRE vide its letter dated 25.07.2012 requested PSPCL to provide connectivity to the solar plant so that generated power is not wasted.

4. The petitioner has further submitted that it has invested crores of rupees for installing and completing the project. When the company could not commission the project as per the scheduled date under the RPSSGP scheme, IREDA withdrew the Registration Certificate and the letter issued to the company confirming the eligibility of the Solar Power Project to avail Generation Based Incentive (GBI) vide letter dated 24.08.2012 and the project could not be provided connectivity. The petitioner has further submitted that in response to the above referred letter of MNRE, PSPCL wrote to IREDA and sought clarification for providing connectivity to the power plant under any particular scheme. IREDA vide its letter dated 30.08.2012 advised PSPCL to

sign a fresh PPA and provide connectivity to the power plant on a mutually agreed rate.

5. The petitioner has submitted that, thereafter, it approached Punjab Energy Development Agency (PEDA) seeking connectivity to the already installed power plant under Renewable Energy Certification (REC) mode and expressed readiness to sign PPA at the Average Pooled Cost of Power (APPC) rate. The petitioner also submitted that during interaction with PSPCL, it was indicated that there was no scheme currently available for signing PPA at the APPC rate for solar projects, despite the fact that it has been so mandated under PSERC notification dated 03.06.2011 and CERC Regulations dated 14.01.2010.

6. The petitioner has further submitted that it again approached PEDA, which advised it to go for connectivity under the Electricity Regulatory Commission's (ERC's) levellised tariff scheme, which is very well recognized by Government of India (GoI) for the implementation of National Solar Mission. However PSPCL declined to provide connectivity and signing of PPA under this scheme as well, citing ambiguity in the scheme available for connecting solar projects. The petitioner has also submitted that PSPCL vide letter dated 23.10.2012 requested PEDA to clarify the rate and policy under which power was proposed to be sold to PSPCL.

7. The petitioner has submitted that it may be allowed to sell power to PSPCL from its project as per Suo Motu Order of the PSERC dated 31.10.2011 or as deemed fit by the Commission inter-alia on the following grounds :-

- (i) The petitioner has invested huge funds for the successful commissioning of the project and is facing a colossal loss every day since April 2012. Hence, the Commission, keeping in view the completion of the project, the legitimate delay in commissioning the project, needs to take a considerate view of the matter in the interest of justice and fairplay.
- (ii) That the Commission in its Suo Motu Order dated 31.10.2011 has determined generic levellised tariff for Renewable power

projects including Solar power projects. As per this Order, the Commission has determined tariff for Solar PV Projects for which PPAs have been / to be signed after 31.03.2011 as ₹ 12.94 per kWh. The Commission in its earlier Suo Motu Order dated 07.07.2010, has also directed that the distribution licensee may, with the approval of the Commission, purchase power from a solar power generator who is not eligible for GBI under any of the schemes of MNRE/ JNNSM.

- (iii) As per para 4 of the PSERC Notification dated 03.06.2011 the commission may alternatively, allow the petitioner to sell power at APPC rate as per provisions of above mentioned Notification of PSERC.
- (iv) PSPCL has Renewable Purchase Obligation (Solar) of about 25 MW which was to be met before 31.03.2012. The Commission may therefore allow this petition, since the present project will meet part of this obligation and above all, the plant is completely built and is only awaiting grid connectivity.
- (v) That the Electricity Act, 2003 mandates licensees to provide suitable measures for connectivity and procure a minimum percentage of power from renewable sources. It is a very significant provision which underlines the need for accelerating the efforts in this direction.

8. The petitioner has prayed to :

- a. direct PSPCL to sign PPA with the Company for sale of power from the project to PSPCL as per Suo Motu order dated 31.10.2011,
- b. direct the respondents to extend all benefits and incentives as applicable under the NRSE policy, 2006 to the project in the interest of justice and fairplay,
- c. pass such order or orders, as may be deemed just and proper in facts and circumstances of the case and/or,
- d. constitute an appropriate Committee to examine the issue techno-commercially in order to arrive at a just decision.

9. The petition was taken up for admission on 06.11.2012 and was admitted. During hearing, the counsel for the petitioner prayed that PSPCL be directed to provide connectivity to the project so that it starts generating and supplying power. PSPCL, Govt. of Punjab and PEDDA were made respondents vide Order dated 07.11.2012. The Commission directed PSPCL to give connectivity to the grid after getting the requisite formalities completed and start receiving supply from the project at the tariff to be determined by the Commission as per law. Further hearing date was fixed on 23.11.2012.

10. PSPCL filed reply vide Memo No. 6080 dated 22.11.2012. PSPCL has submitted that the petitioner was allotted a project by IREDA as per GBI scheme of MNRE called JNNSM phase-1 for which PPA was signed on 18.08.2010 by PSPCL with EBS. As per this scheme, the project was scheduled to start operations in September, 2011 extendable up to March, 2012. However the project of the petitioner did not start operations till 31.03.2012. PSPCL has further submitted that as per Clause no. 2.1.1 of the PPA dated 18.08.2010, the applicable tariff was ₹17.91 per kWh and out of this tariff, Generation Based Incentive of ₹12.24 per kWh was to be provided by IREDA to PSPCL for the solar power supplied as per the scheme of GOI. The net tariff payable by PSPCL comes out to be ₹5.67 per kWh. PSPCL has also submitted that the work at the project site was not completed as per inspection report dated 29.03.2012 submitted by Dy. CE / DS circle, PSPCL Nawanshaher and a team of officers from IREDA, PEDDA and PSPCL visited the plant site on 02.04.2012 wherein it was reported that the project was not ready for injecting power while 11 KV line had already been completed by PSPCL up to the plant site. PSPCL further submitted that MNRE vide letter dated 25.07.2012 intimated that work relating to the power plant has been completed and asked PSPCL to provide connectivity to the Solar plant for injecting power to the grid. PSPCL submitted that as the project was allocated by IREDA under GBI scheme of JNNSM and it was to be completed by 31.03.2012, so IREDA and PEDDA were asked vide letter dated 03.08.2012 whether PPA signed with EBS is still valid as the extended date of commissioning of the project under the scheme was 31.03.2012. PSPCL further brought out that IREDA vide its letter dated 24.08.2012 intimated that it

has withdrawn the Registration Certificate of the firm, regarding covering the project under GBI scheme. IREDA vide e-mail dated 28.08.2012, asked PSPCL to sign fresh PPA with the developer at a mutually agreed rate for purchase of power from the project.

11. PSPCL submitted that it requested PEDDA vide letter dated 30.08.2012 to advise further course of action and in response PEDDA vide its letter dated 21.09.2012 informed that as advised by MNRE, GOI, grid connectivity be provided to the project so as not to let the solar power go waste. PEDDA further informed PSPCL that the firm has requested for allowing sale of power at APPC rates under REC mechanism and decision on the same will be conveyed later after this matter is decided by GoP and further advised that 'undertaking' in this regard be taken from EBS for abiding by the decision of the Govt. PSPCL further submitted that purchase of REC based solar power at APPC rates will not be in the interest of PSPCL as the cost of power will be higher than the generic tariff fixed by PSERC. PSPCL also submitted that the 'average pooled cost of purchase' (APPC) as approved by PSERC vide Tariff Order dated 16.07.2012 for the year 2012-13 is ₹3.11 per kWh and tradable price of Solar REC range from ₹9.30 to ₹13.40 per kWh whereas the Solar PV tariff as per PSERC Order dated 19.07.2012 for the year 2012-13 is ₹10.39/kWh only. As regards providing connectivity to the grid, as per Commission's order dated 07.11.2012, PSPCL submitted that it is settled principle of law that tariff cannot be made applicable retrospectively and it would be applicable from the date of Order and hence some interim tariff must be fixed / agreed and PPA signed for the power to be injected into the PSPCL system till the finalization of the applicable tariff against this project. PSPCL also submitted that to cover this project under NRSE policy, EBS may have to sign Implementation Agreement (IA) with PEDDA.

12. PSPCL further submitted that in case the Commission decides to allow tariff higher than ₹5.67/kWh, it is likely to interfere with the process of reverse bidding which PEDDA has proposed to carry out for bidding additional solar capacity in the State and would also put additional burden on the consumers and as such, the rates as finalized by PEDDA through reverse bidding may be

made applicable on the petitioner's project also. PSPCL also submitted that it is ready to purchase the electricity as per tariff decided at ₹5.67 (₹17.91-₹12.24) per kWh being paid to other Solar Project Developers commissioned in FY 2011-12 under JNNSM phase-1.

13. PEDA and GoP filed joint reply vide No. 4647-50 dated 22.11.2012. PEDA and GoP have submitted that EBS had been shortlisted by IREDA to set up 1.5 MW Solar PV project under RPSSGP scheme of MNRE, GoI and the guidelines under above scheme specified the time schedule for commissioning of solar power project as 12 months from the date of issuance of registration certificate which was issued on 17.09.2010 and commissioning with six months delay was allowed. PEDA and GoP further submitted that the petitioner has completed the project in FY 2012-13 and the Commission may determine tariff for this project.

14. EBS vide its letter dated 23.11.2012 submitted that it agrees to sell electricity at ₹ 5.67/kWh at present and later at the price discovered through reverse bidding and approved by the commission subject to payment of arrears payable from the date of supply.

15. After hearing the parties on 23.11.2012, the Commission in its Order of even date noted that the parties could not reach at any mutually agreed tariff for supply of power from the project and directed PSPCL to give immediate connectivity to the project after getting the requisite formalities completed and start receiving supply from the project at an interim rate of ₹5.67/kWh subject to the payment of arrears of power supplied to PSPCL at the rates discovered through reverse bidding process to be executed by PEDA and as approved by the Commission. The Commission also directed PSPCL and EBS to sign fresh PPA. The Commission also directed PEDA to make efforts to complete the reverse bidding process by 31.01.2013 and the rate so discovered through reverse bidding and subsequently approved by the Commission shall be applicable retrospectively from the date of injection of power by the petitioner in the PSPCL system.

16. PSPCL vide its letter dated 10.12.2012 submitted that as directed by the Commission in its Order dated 04.12.2012, connectivity has been granted to the project on 05.12.2012. Subsequently vide its letter dated 11.12.2012 also intimated that project was synchronized with grid on 07.12.2012. Further, PSPCL vide its letter dated 01.02.2013 intimated that a long term PPA has been signed with EBS on 09.01.2013.

17. During hearing on 25.06.2013, PEDDA submitted that process of reverse bidding has been completed and was presently under approval of the competent authority and the rates discovered through reverse bidding shall be intimated shortly. During hearing PEDDA filed the company wise detailed information on net quoted tariff by various firms through reverse bidding for Category – I (1-4 MW) and Category – II (5-30 MW).

18. PSPCL in its reply dated 15.07.2013 submitted that during hearing before the Commission on 25.06.2013, PEDDA had submitted the company wise detailed information on net quoted tariff by various firms through reverse bidding. The lowest net tariff quoted by various bidders under Category – I (1-4 MW) is ₹ 7.20 per kWh while in Category-II (5-30 MW) it is ₹7.67 per kWh. PSPCL also submitted that this Commission had decided petition No. 35/12 vide Order dated 19.07.2012 and petition No. 37/2013 vide Order dated 25.06.2013 and had determined generic levallised generation tariff for FY 2012-13 and 2013-14 respectively. PSPCL submitted that this Commission had held in para 11 of Order dated 25.06.2013 as under:-

*“11. Further, Para 6.4 (2) of the Tariff Policy notified by Ministry of Power, Govt. of India on 06.01.2006 provides that procurement of electricity from renewable sources of energy for future requirements shall be done, as far as possible, through competitive bidding under Section 63 of the Electricity Act, 2003. Accordingly, the Commission decides that if tariff based competitive bids are invited for purchase of electricity from RE Power Projects and the per unit tariff offered by the lowest bidder is less than the aforementioned tariff, a petition shall be filed by the procurer for consideration and adoption of tariff by the Commission under Section 63 of the Electricity Act, 2003.”*

PSPCL prayed that tariff for the project may be fixed at ₹ 7.20 per unit as discovered through reverse competitive bidding done by PEDDA for the Category – I (1-4 MW) Solar projects keeping in view tariff Orders of the Commission, mentioned above.

19. EBS vide its letter dated 18.07.2013 has filed the financial valuated project report with certification of cost done by K Dhanapathi Rao & Valuers Pvt. Ltd.. It has been concluded in the report that the total cost of the project works out to ₹18,75,00,000.00 inclusive of land leveling, installation and commissioning, testing, preliminary and preoperative expenses and profits etc. It has been further submitted that the prevailing cost of 1.5 MW solar power plant is ranging between ₹ 12.5 crore to ₹ 15 crore under EPC contract. Considering the opportunity cost, being a revenue generating facility which is readily available, the fair market value has been assessed at ₹ 15 crore and the realisable value as ₹ 12.5 crore.

20. PEDDA vide letter dated 30.07.2013 submitted the rates discovered after discounted tariff based competitive bidding in ₹/kWh for allocation of 300 MW Solar PV power projects in the State under phase-1 and also intimated that the total 300 MW capacity to be allocated was divided into following two categories:-

- a) Category I (1-4 MW): maximum capacity to be allocated under this category is 50 MW.
- b) Category II (5-30 MW): maximum capacity to be allocated under this category is 250 MW.

21. During hearing on 13.08.2013 PEDDA submitted that vide its letter no. 2995/96 dated 13.08.2013, PSPCL has been advised to file the necessary petition under Section 63 of the Electricity Act 2003 for approval / adoption of the rates discovered, by this Commission. The Commission in its Order dated 14.08.2013 directed PSPCL to file the petition in this regard by 20.08.2013 and also directed petitioner to file written submissions with copy to PEDDA and PSPCL.

22. The petitioner in compliance with the Order dated 14.08.2013 of the Commission filed additional written submissions on 19.08.2013 and submitted that as per details of rates discovered by PEDDA, after discounted tariff based competitive bidding in ₹/kWh for allocation of 300 MW solar power projects, under category-1 (1-4 MW), the lowest net tariff quoted by the bidder is ₹7.20/kWh and highest is ₹8.71/kWh. While under category-II(5-30 MW), the lowest net tariff quoted by the bidder is ₹7.67/kWh and the highest is ₹8.74/kWh and has submitted that these results are contrary to law of economics of scale since the larger projects should have had a lower tariff and smaller projects a higher tariff. The petitioner has further submitted that lowest tariff rate of ₹7.20/kWh, which PSPCL was ready to accept, was not acceptable to the petitioner on the following grounds:-

- i. That the project was completed in April, 2012 and thereafter the plant has been delivering power to the PSPCL grid since 07.12.2012. The cost incurred by the company for setting up the plant was based on input cost prevalent in the year 2011 as against the 2013-14 cost which is the basis for the present round of pricing. It is well documented that the prices of solar plants have come down internationally and accordingly the tariff.
- ii. That the benchmark capital cost norms as stipulated under Regulation 57(1) for Solar PV Power Project, are applicable for solar power projects for FY 2012-13. The Commission under Regulation 57 had specified the normative capital cost for solar PV power projects as ₹1000 lac/MW for FY 2012-13. The CERC has determined the generic tariffs for the RE Projects for FY 2012-13 by taking into account various cost factors. The levellised total tariff for Solar PV Projects (FY 2012-13) is fixed at ₹ 10.39/kWh by CERC in its Suo Motu Order dated 27.03.2012. Similarly this Commission has determined the levellised tariff for Solar PV Projects (FY 2012-13) at ₹ 10.39/kWh in its Suo Motu Order dated 19.07.2012.
- iii. That the total cost for this project works out to around ₹19.0 crore which is more than the predetermined cost of ₹1000

lac/MW for FY 2012-13. This means that in case the process of reverse bidding is not followed, the project tariff rate works out to be ₹10.39/kWh as per the Suo Motu Orders passed by CERC and PSERC. However, the tariff rate has to be fixed in accordance with tariff based competitive bidding. PSPCL on the other hand has arbitrarily demanded the lowest net tariff of ₹7.20/kWh whereas, this project deserves a tariff rate of ₹8.74/kWh at the least, which is the highest bid rate and closest to ₹10.39/kWh

- iv. That now the capital cost norm for Solar PV Power Projects for FY 2013-14 is ₹800 lac/MW and levellised total tariff is fixed at ₹8.75/kWh as per the Suo Motu Orders passed by CERC and PSERC. As per the reverse bidding, the tariff rates may be justified for the bidders since their projects are most likely to come up next year when the capital cost would go further down. This project which is operational and presently delivering power to the grid cannot be equated with the future bidders and their associated quoted prices which may not deliver an operational plant in the near future.

The petitioner prayed that it may be awarded the best price after taking into account the above mentioned factors.

23. After hearing the petitioner, PSPCL and PEDDA on 10.12.2013, the Commission directed all parties to file written submissions by 17.12.2013. The hearing of petition was closed. Order was reserved.

24. The petitioner has filed written submissions on 12.12.2013 and has submitted that capital cost of the project is ₹18.75 crore which is certified by an external State Bank of India empanelled chartered accountant. The petitioner has also submitted that subsequent to JNNSM and RPSSGP scheme, Electricity Regulatory Commissions have notified levellised tariff and has submitted a comparison of levellised tariff notified by Central Electricity Regulatory Commission (CERC), Gujrat Electricity Regulatory Commission (GERC), PSERC and Rajasthan Electricity Regulatory Commission (RERC)

for FY 2011-12, FY 2012-13 and FY 2013-14. The petitioner has further submitted that the Solar Power tariff for FY 2013-14 as per CERC / GERC / PSERC, is around ₹8.75/kWh. The petitioner has also submitted that number of States have come up with a tariff structure that is lower but then the projects have not been delivered as per the estimates. The petitioner has submitted that it has an operating plant, generating and supplying power and has requested to consider current Solar tariff of ₹8.75/kWh as viable.

25. PSPCL has also filed the written submissions dated 16.12.2013. PSPCL has submitted that the Commission has passed an Order dated 23.11.2013 in this petition directing as under:

“Commission directs PSPCL to give immediate connectivity to the Generating Company (Petitioner) after getting the requisite formalities completed and start receiving supply from the project at an interim rate of Rs.5.67 / kWh **subject to the payment of arrears of power supplied to PSPCL at the rates discovered through reverse bidding process to be executed by PEDDA and as approved by the Commission.** Accordingly, PSPCL and the petitioner are directed to sign the fresh PPA”. (emphasis supplied)

PSPCL has argued that the petitioner has fully accepted the ibid Order and has taken advantage of the Order, signed PPA and supplied electricity to PSPCL. The claim of the petitioner of the highest bid tariff of ₹8.70 per kWh or for any tariff higher than the lowest bid tariff of ₹7.20 per kWh is untenable. The petitioner can not be allowed to have any advantage over persons who had participated in the reverse bidding process carried out by PEDDA.

26. **Findings and decision of the Commission**

The Commission notes that the petitioner in its submissions dated 23.11.2012 agreed to sell electricity from the said project to PSPCL at ₹ 5.67 per kWh for the present and later at the price discovered through reverse bidding process to be carried out by PEDDA as approved by the Commission,

subject to payment of arrears from the date of supply. The Commission in its Order dated 23.11.2012 allowed the same as hereunder:

*“..... In view of the above and to facilitate injection of Solar Power into the State Grid, Commission directs PSPCL to give immediate connectivity to the Generating Company (Petitioner) after getting the requisite formalities completed and start receiving supply from the project at an interim rate of ₹5.67/kWh subject to the payment of arrears of power supplied to PSPCL at the rates discovered through reverse bidding process to be executed by PEDDA and as approved by the Commission. Accordingly PSPCL and the petitioner are directed to sign the fresh PPA. PEDDA is also directed to make efforts to complete the reverse bidding process by 31.01.2013 and the rate so discovered through reverse bidding and subsequently approved by the Commission shall be applicable retrospectively from the date of injection of power by the petitioner in the PSPCL system.”*

The Commission notes that PEDDA in its submissions dated 30.07.2013, received in the Commission on 05.08.2013, informed the rates discovered after completion of the competitive bidding process on the basis of discount offered by the bidders on the levelled tariff of ₹ 8.75 per kWh for FY 2013-14 as determined by Central Electricity Regulatory Commission and this Commission. As per Annexures-I&II of PEDDA's ibid letter, 19 projects of total capacity 50 MW in Category-I (1-4 MW) have been allotted with tariff ranging from ₹ 7.20 per kWh to ₹ 8.70 per kWh. These projects are of capacities 1 MW, 2 MW and 4 MW. Along with this, 13 projects of total capacity 200 MW in Category-II (5-30 MW) have been allotted with tariff ranging from ₹ 7.67 per kWh to ₹ 8.74 per kWh.

Further, the Commission notes that as requested by PEDDA vide letter dated 13.08.2013 addressed to Chief Engineer/PP&R, PSPCL with a copy to the Commission, PSPCL, being the procurer of power, filed a petition (52 of 2013) in the Commission for adoption of tariff rates discovered in the bidding process, which had earlier been approved by the Govt of Punjab, besides seeking approval of the draft PPA to be signed with the selected developers. On request by PSPCL to bifurcate the petition in two parts, the Commission in its Order dated 14.11.2013 firstly approved the procurement of electricity by PSPCL from the solar energy generators at the tariff discovered in the competitive bidding process conducted by PEDDA. Further, the Commission in

its Order dated 03.12.2013 approved the deviations in the PPA to be signed by PSPCL with the developers vis-a-vis that appended with the bid documents and allowed PSPCL to sign the PPAs with the selected developers within 30 days.

The Commission notes that PSPCL in its letter dated 15.07.2013 and written submissions dated 16.12.2013 averred that the petitioner needs to be allowed the lowest bid tariff of ₹7.20 per kWh and that it has no case for higher tariff as it would affect the fairness and sanctity of the bidding process. The petitioner cannot be allowed to have any advantage over the bidders who participated in the bidding process.

On the other hand, the Commission notes that the petitioner has requested for allowing the highest bid tariff of ₹8.74 per kWh for its project as it is closest to the levelled tariff of ₹10.39 per kWh for FY 2012-13, the year of commissioning of petitioner's project, granted by CERC as well as this Commission. The petitioner has submitted that this tariff corresponds to normative capital cost of ₹1000 lac per MW for solar PV power projects and the total cost of the petitioner's project works out to ₹1875 lac i.e. ₹1250 lac per MW. The petitioner has further submitted that the project was completed in April, 2012 and is delivering power to PSPCL since 07.12.2012. The petitioner has also submitted that it is well documented that the prices of solar projects have come down internationally and accordingly the tariffs. The cost of the petitioner's project is based on year 2011 prevalent prices as against the 2013-2014 costs applicable for the projects to be set up under the competitive bidding and therefore deserves higher tariff.

The Commission is mandated under the Electricity Act, 2003, National Electricity Policy and the Tariff Policy to promote generation of electricity from renewable sources of energy, adopt suitable promotional measures for encouraging higher generation from renewable energy sources and determine preferential tariff for such projects. The Electricity Act, 2003 vests in the Commission the responsibility to balance the interest of the consumers with the interest of the project developers while regulating the tariff of the generating companies and transmission licensees. Financial viability of the generating stations is an important consideration to enable them to continue

to supply power to the consumers. The Commission notes that in the instant case, the project of the petitioner was initially allocated by Indian Renewable Energy Development Agency Limited (IREDA) under RPSSGP Scheme eligible for Generation Based Incentive (GBI) and was to be completed by 31.03.2012 whereby it was eligible for a tariff of ₹17.91 per kWh with GBI of around ₹12.24 per kWh by IREDA whereby the effective tariff to PSPCL would have been ₹5.67 per kWh. As per the petition, the project was ready for synchronization on 30.04.2012 as also the work of the evacuation line by PSPCL for connection to its grid. On petitioner's representation to the Ministry of New and Renewable Energy, the Ministry requested PSPCL to provide connectivity vide its letter dated 25.07.2012. However, IREDA vide its letter dated 24.08.2012, withdrew the Registration Certificate and the letter confirming the eligibility of petitioner's project to avail GBI under RPSSGP Scheme with immediate effect stating that the project could not be commissioned as per the scheduled date/extended time provided as per the said Scheme. IREDA vide its e-mail dated 28.08.2012 asked PSPCL to sign a fresh PPA with the petitioner at a mutually agreed rate.

It would be seen that the petitioner/generating company was serious in setting up the project. The petitioner would have been eligible for a tariff of ₹17.91 per kWh had it been able to complete its project one month earlier i.e. by 31.03.2012 as per IREDA's registration. It agreed to supply power to PSPCL at ₹5.67 per kWh for the time being till the tariff could be discovered through the competitive bidding process initiated by PEDDA subject to arrears being paid from the date of supply of power to PSPCL. Having filed this petition prior to the initiation of bidding process by PEDDA (March, 2013), it possibly could not have participated in the bidding process. The Commission notes that PEDDA has allocated the solar PV projects after the conclusion of the competitive bidding process in two categories i.e. Category-I (1-4 MW) and Category-II (5-30 MW). The petitioner's project with a capacity of 1.5 MW falls in Category-I. The Commission observes that the lowest rate in this category is ₹7.20 per kWh and highest rate is ₹8.70 per kWh. PSPCL has pleaded for allowing the lowest rate whereas the petitioner has requested for allowing ₹8.74 per kWh which is the highest rate in Category-II. Keeping in

view the aforementioned discussion especially the mandate to the Commission to promote generation of power from the renewable energy sources, to balance the interest of the consumers with the interest of the project developers and important consideration of financial viability of the generating stations to enable them to continue to supply power to the consumers, **the Commission finds it just and reasonable to allow tariff to the petitioner based on the weighted average of the tariffs for the projects under Category-I (1-4MW), which works out to ₹8.247 per kWh. Accordingly, the tariff for the said project is determined in terms of above. This tariff will be applicable from the date of supply of power from the petitioner's project to PSPCL. Therefore, the petitioner is also eligible for payment of arrears of the difference of ₹8.247 per kWh and ₹5.67 per kWh being paid by PSPCL.**

**27. Carrying Cost**

Hon'ble APTEL in Appeal No. 72 of 2010 in the matter of Maharashtra State Power Generation Co. Ltd. Versus Maharashtra Electricity Regulatory Commission and Ors. in para 13.6 of the Order dated 27.04.2011 regarding carrying cost has decided as under:

*"13.6 The last issue is regarding carrying cost due to difference in provisional tariff and final tariff. The State Commission has determined the tariff w.e.f. 1.11.2007. Accordingly, the Appellant is entitled to the approved tariff w.e.f. 1.11.2007. In case the final tariff had been lower than the provisional tariff, the consumers would have been entitled to refund of carrying cost by the Appellant. On the same analogy if the final tariff is higher than the provisional tariff, the Appellant is also entitled to carrying cost. Accordingly, this issue is answered in favour of the Appellant."*

As per the Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2005 (as amended), the Commission may allow the carrying costs as determined by the Commission of such expenses/revenues. Carrying costs shall be limited to the interest rate approved for working capital borrowings. Regarding interest rate on working capital, Regulation 30 (5) of the said Regulations provides as under:

*"Regulation 30:*

*(5) The rate of interest on working capital shall be equal to the actual rate of interest paid/payable on loans by the licensee (s) or the State Bank of India Advance Rate as on April 1 of the relevant year, whichever is lower. The interest on working capital shall be payable on normative basis*

*notwithstanding that the licensee (s) has not taken working capital loan from any outside agency or has exceeded the working capital loan amount worked out on the normative figures.”*

The petitioner has not claimed any amount on account of carrying cost. As such, the rate of interest paid/payable on loans by the petitioner is not available. In the Tariff Order for PSPCL for FY 2013-14 dated 10.04.2013, the Commission has allowed interest on working capital as 11.24% to PSPCL for FY 2012-13 as well as FY 2013-14. **Accordingly, in view of the Hon’ble APTEL’s Order dated 27.04.2011 in Appeal No. 72 of 2010 brought out above, the Commission finds it expedient to allow the petitioner to claim carrying cost @ 11.24% on the arrears of the tariff payable to the petitioner as decided hereinbefore.**

Petition is disposed of in above terms.

Sd/-  
**(Gurinder Jit Singh)**  
Member

Sd/-  
**(Virinder Singh)**  
Member

Sd/-  
**(Romila Dubey)**  
Chairperson

**Patiala**  
**Dated: 20.12.2013**