

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 44 of 2023
Date of Order: 18.12.2023

Petition under Section 86(1)(b) & (e) and Section 61(h) of the Electricity Act, 2003 read with the Punjab State Electricity Regulatory Commission (Power Purchase and Procurement Process of Licensees) Regulations, 2012 and Regulation 46 of the Punjab State Electricity Regulatory Commission (conduct of business) Regulations, 2005 seeking approval of the Power Procurement of 500 MW Solar Power from SJVN Green Energy Limited (SGEL) under TRANCHE-III of Phase II of CPSU scheme of MNRE.

In the matter of: Punjab State Power Corporation Limited , the Mall,
Patiala, Punjab147001.

..... Petitioner

Versus

SJVN Green Energy Limited, SJVN Corporate office
Complex, Shannan, Shimla, Himachal Pradesh-
171006.

...Respondent

Commission: Sh. Viswajeet Khanna, Chairperson
Sh. Paramjeet Singh, Member

Petitioner: Ms. Poorva Saigal, Advocate

Respondent: Sh. Ajay Gupta, SJVN

ORDER

1. The Petitioner, PSPCL has filed the instant petition for approval of the power procurement of 500 MW Solar Power from SJVN Green Energy Limited (SGEL) under Tranche-III of phase II of CPSU

scheme notified by the MNRE at a ceiling tariff of Rs. 2.55/kWh (Ex-bus bar) exclusive of any other third-party charges such as wheeling/transmission charges & losses, point of connection charges & losses, cross-subsidy surcharges, SLDC/RLDC charges etc. It has been submitted that:

1.1 PSPCL is undertaking the generation and distribution of electricity in the State of Punjab and is a distribution licensee under the provisions of the Electricity Act, 2003 and has been mandated to procure power from RE Sources as per the provisions of Section 86(1)(e) of the Electricity Act, 2003 and in terms of PSERC RPO Regulations.

1.2 On 05.03.2019, the MNRE, Government of India, approved the implementation of CPSU Scheme Phase-II for setting up 12000 MW grid-connected Solar Photovoltaic (PV) Power Projects by CPSUs/ State PSUs/ Government Organisations, with Viability Gap Funding (VGF) support for self-use or use by Government/ Government entities, either directly or through Distribution Companies. The CPSU Scheme was issued under the provisions of Section 63 of the Act for long term procurement of electricity by the 'Procurers', from grid-connected Solar PV Power Projects, through competitive bidding. The main objectives of the CPSU Scheme are as follows:-

“(a) To facilitate national energy security and environmental sustainability through use of domestically manufactured solar PV cells and modules for Government purpose;

(b) Scaling up of sizes of projects thereby leading to economies of scale;

(c) To leverage the existing infrastructure of Government Producers, including land, transmission facilities, etc., and their engineering capabilities;

(d) Provide long term visibility and road map for solar power development enabling creation of India as manufacturing hub in the Solar PV; and

(e) To create good business model and systems for various Central and State Government entities to take forward.”

1.3 On 29.01.2021, IREDA issued RfS No. 23016/1/2020-IREDA/RfS/5,000MW/012021 for selection of govt. power producers for setting up of 5 GW capacity of solar PV projects under Tranche-III of phase II of CPSU Scheme with the usage charges of not more than Rs. 2.20/kWh exclusive of any third party charges. On 10.05.2021, MNRE modified the usage charges under the Scheme to not more than Rs 2.45/kWh. Consequently, on 14.05.2021, IREDA issued Corrigendum to the its RfS and revised the ceiling usage charges to Rs 2.45/kWh.

1.4 On 05.07.2021, SJVN vide its letter to PSPCL, offered to sell solar power under CPSU scheme at a ceiling tariff of Rs.2.45/kWh exclusive of any third Party charges like wheeling /transmission charges & losses, point of connection charges & any SLDC/RLDC charges etc.

1.5 Pursuant to the e-reverse auction conducted by IREDA, SJVN Limited was selected as the successful bidder for an allocated capacity of 1000 MW at a quoted VGF of Rs. 44,72,000/MW on 23rd Sept., 2021. On 04.10.2021, IREDA issued the LoA in favour of SJVN for 1000 MW.

- 1.6 On 23.11.2021 and 30.11.2021, MoP, *vide* Notification No. 23/12/2016-R&R allowed the waiver off ISTS charges for all Solar, Wind, Hydro PSP (Pump Shortage Hydropower) & BESS (Battery Energy Storage System) projects commissioned upto 30.06.2025, for a period of 25 years from their COD.
- 1.7 On 14.09.2022, SGEL *vide* its letter to PSPCL agreed to sell 700MW of Solar Power at a tariff of Rs. 2.44/kWh inclusive of GST and stated that there shall be no impact of increase in GST rates with regard to Ministry of Finance, GoI Notification No. 8/2021 dated 30.09.2021.
- 1.8 Subsequently, on 16.09.2022, MNRE *vide* its Notification No. 183/11/2017-Grid Solar, revised the maximum usage charges under the CPSU scheme from Rs. 2.45/kWh to Rs. 2.57/kWh on account of change in GST rates in view of the Notification No. 8/2021 dated 30.09.2021 issued by Ministry of Finance.
- 1.9 On 28.09.2022, PSPCL *vide* its letter to SGEL, granted 'in principal' consent for procurement of 700 MW Solar Power under CPSU Scheme on a long term basis on payment of mutually agreed usage charges not exceeding Rs. 2.44/kWh, exclusive of any other third party charges. However, on 14.11.2022, SGEL by relying on MNRE's letter dated 16.09.2022, revised the tariff of Rs. 2.44/kWh to Rs. 2.56/kWh. Thereafter, SGEL offered a discount of Rs. 0.01 on maximum usage charges of Rs. 2.57/kWh (as provided by MNRE) for procurement of 700 MW Solar power under CPSU Scheme.
- 1.10 In response to the above, PSPCL *vide* letter dated 01.12.2022 requested SGEL to adhere to its initial offer of Rs. 2.44/kWh and to not consider the impact of the increased GST, as already

agreed upon between PSPCL and SGEL, and as further clarified by SGEL *vide* letter dated 14.09.2022. The letter dated 01.12.2022, *inter-alia*, reads as under:

"In this regard it is brought out here that SGEL vide letter no. SJVN/SGEL/PSPCL/2022/79 dated 08.09.2022 had offered 700 MW Solar power under CPSU Scheme to PSPCL at the tariff of Rs. 2.44/KWh (Ex-bus bar) exclusive of any other third party charges like wheeling and transmission charges and losses, point of connection charges and losses, cross-subsidy surcharges, SLDC/RLDC charges etc. SJVN had further clarified vide letter no. SJVN/SGEL/PSPCL/2022/79 dated 14.09.2022 that the offered tariff of Rs. 2.44/kWh is inclusive of GST and there shall be no impact of increase in GST rates w.r.t. to Ministry of Finance Gol notification no. 8/2021 dated 30.09.2021. Subsequently PSPCL vide letter no. 1392/1PC-931 dated 28.09.2022 had given the "In-Principle" consent for procurement of 700 MW Solar Power under CPSU scheme on payment of mutually agreed usages charges not exceeding Rs. 2.44/MW (Ex-bus bar) considering the offer of SGEL and further aforementioned clarification by SJVN on account of increase in GST rates.

In view of above it is not justified to revise the tariff now which has already been agreed between PSPCL & SGEL without any impact of increase in GST as clarified By SGEL vide letter dated 14.09.2022 (copy enclosed). As such PSPCL cannot give the consent for revision in tariff from Rs. 2.44/kWh to Rs. 2.56/kWh for the procurement of 700 MW Solar Power under CPSU scheme. You are requested to review it and stick to your earlier stance."

1.11 On 01.02.2023, in response to the above, SGEL *vide* its letter stated that it had requested MNRE and MoP to compensate

SJVN with additional VGF instead of increasing maximum usage charges/tariff to Rs. 2.57/kWh, however, the MoP did not consider the said request of SJVN. Further, SJVN indicated its inability to adhere to the tariff of Rs. 2.44/kWh as offered earlier to PSPCL and requested PSPCL to give its consent for purchase of this 700 MW Solar Power at a tariff of Rs. 2.56/kWh with 1 paisa discount on maximum usage charges of Rs. 2.57/kWh.

1.12 On 27.03.2023, PSPCL constituted a committee to explore the possibility of reduction in tariff of Rs. 2.56/kWh for the procurement of Solar Power under CPSU Scheme by negotiating with SGEL. After detailed deliberations and negotiations, SGEL agreed to reduce the offered tariff from Rs. 2.56/kWh to Rs. 2.55/kWh for procurement of 500 MW Solar Power by PSPCL which is exclusive of any other third-party charges like wheeling/transmission charges & losses, point of connection charges & losses, cross-subsidy surcharges, SLDC/RLDC charges etc. as may be applicable under CPSU Scheme of MNRE on long term basis.

1.13 On 04.04.2023, SGEL *vide* its letter offered PSPCL 500MW solar power at a final tariff of Rs. 2.55/kWh under CPSU scheme and further requested PSPCL to give its consent for the same at the earliest in order to proceed with process for signing the Power Usage Agreement (PUA). On 28.04.2023, PSPCL granted its 'In-Principle' consent to SGEL for the same. And, on 26.06.2023, PSPCL and SGEL executed the PUA. The salient features of the PUA are as under:

(i) Capacity (**Clause 2.1**): 500 MW (AC);

- (ii) *Scheduled Commercial Operation Date (SCOD) (Clause 1.1 – xxxi and Clause 2.2): 30 months from the date of LoA, i.e., 03.04.2024 or any further date as per extension granted by IREDA.*
- (iii) *Term of the Agreement (Clause 2.3): 25 years from SCOD/actual COD.*
- (iv) *Usage Charges (Clause 6.1): Fixed tariff of @ Rs. 2.55/kWh, which shall be exclusive of any other third-party charges like wheeling and transmission charges and losses, point of connection charges and losses, cross-subsidy surcharges, SLDC/RLDC charges etc. as may be applicable for the entire term of the agreement.*
- (v) *Payment Term (Clause 1.1 xv): PSPCL shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date of 45 days from the date of presentation of bill to the designated office of PSPCL.*
- (vi) *Capacity Utilization Factor (CUF)(Clause 3.6): The maximum Annual CUF against the contracted capacity (i.e.500 MW) is 28.5%(1249.15 MU on Annual Basis).*
- (vii) *Interconnection Point/ Metering Point/Delivery Point (Clause 1.1 – xxv): CTU at 400/220 kV Substation at Bikaner Pooling Substation-II at 400 kV Voltage level for 500 MW Solar Power & CTU.*
- (viii) *Extensions of Time (Clause 3.8): Extension, if any, sought by SGEL shall be dealt as per Clause 15 of RfS of IREDA tender published for CPSU scheme along with corrigendum & addendum if any and clause 3.3 of PUA.*
- (ix) *Change in Law (Article 10): Change in Law shall be admissible as per Article 10 of the PUA. There shall be no impact of increase in GST rates on the negotiated tariff of Rs.2.55/Kwh w.r.t Ministry of Finance GoI Notification No.8/2021 dated 30.09.2021 under change in law.*

1.14 It is submitted that, by way of the Notification dated 12.12.2022, the Commission had notified the RPO Regulations, 2022, wherein, the RE Energy RPO of 30% is required to be met for

the FY 2024-25. The RPO shall increase every year up to 43% for the FY 2029- 30. The RPO are set to increase for the ensuing period as well. The SCOD of the Projects is 30.09.2024 and should be achieved in FY 2024-25. The same would enable PSPCL to meet its RPO requirements. Further, the tariff of Rs. 2.55/kWh (exclusive of third party charges) for procurement of solar power is competitive and beneficial to the consumer of PSPCL.

1.15 In the above background and in accordance with Section 86(1)(b) and (e) of the Electricity Act 2003, it is prayed that the Commission may:

- a) *To admit the instant Petition;*
- b) *Approve the procurement of 500 MW of Solar Power by PSPCL from SGEL at the tariff of Rs. 2.55/kWh (exclusive of any other third-party charges) on the terms and conditions under the PUA dated 26.06.2023; and*
- c) *Pass any other Order as the Commission may deem fit and appropriate under the circumstances of the case.*

2. The petition was admitted vide Commission's Order dated 02.08.2023 with directions that:

- a) PSPCL shall submit whether tariff has been adopted by CERC. Further, PSPCL shall submit justification of 'Necessity' and 'Reasonability' of the proposal as mandated under the Punjab State Electricity Regulatory Commission, (Power Purchase and Procurement Process of Licensee) Regulations, 2012.
- b) The respondent SJVN Green Energy Limited to file its reply to the petition within two weeks with a copy to PSPCL who may

file rejoinder thereto, if any, within one week thereafter with a copy to the SJVN Green Energy Limited.

3. SJVNL submitted its reply on 16.08.2023 submitting that:

3.1 The Hon'ble President of India has accorded approval for implementation of CPSU Scheme, Phase-II for setting up 12,000 MW Grid connected Solar Photovoltaic (PV) Power Projects by the Government Producers with Viability Gap Funding (VGF) support for self-use or use by Government/Government entities, either directly or through DISCOMS.

3.2 Under this approval, IREDA floated tender for Phase-II Tranche-III, for setting up 5,000 MW Grid connected Solar Photovoltaic (PV) Power Projects by the Government Producers with Viability Gap Funding (VGF) support for self-use or use by Government/Government entities, either directly or through DISCOMS.

3.3 Subsequent to techno commercial evaluation of the Bids, IREDA conducted VGF based e-RA and later issued award for 1000 MW to SJVN. Further as per the provisions of RfS, this project is being developed by SJVN Green Energy Limited (A wholly owned subsidiary of SJVN Limited).

3.4 Since there was no such provision for CERC approval in the approved Scheme, thus CERC approval has not been obtained for this 1000 MW Project.

3.5 It is prayed that the Commission may be pleased to :

- i) Approve the procurement of 500 MW of Solar Power by PSPCL from SJVN Green Energy Limited at the tariff of Rs. 2.55/kWh;

ii) Pass any order as the Commission may deem fit and appropriate under the circumstances of the case.

4. On 21.08.2023, PSPCL filed an additional affidavit in response to the clarifications sought by the Commission, submitting that:

4.1 No approval from the Central Commission has been obtained till date in respect of the procurement of 500 MW solar power from SGEL under Tranche-III of Phase-II of the CPSU Scheme of MNRE, as per the knowledge of PSPCL.

4.2 The Tariff of Rs. 2.55/kWh, offered by the Respondent after 2 paise/kWh discount on the ceiling tariff of Rs.2.57/kWh (which is exclusive of any other third party charges like wheeling/transmission charges & losses, point of connection charges & losses, cross-subsidy surcharges, SLDC/RLDC charges etc) under the scheme is competitive and beneficial to PSPCL as well as the consumers of PSPCL. In contrast, the tariffs discovered in March/April 2023 through tenders issued for solar power by the other States is in excess of Rs. 2.71/kWh. Further, vide the Commission's Order dated 21.07.2023 in Petition Nos. 41 & 42 of 2023 following rates were approved:

State/Utility	Capacity (MW)	Tariff (Rs./kWh)	Tender result date
PSPCL (anywhere in India)	1000	2.53	July, 2023
PSPCL (Within Punjab)	200	2.75	July, 2023

5. In the hearing held on 23.08.2023, it was observed that the proposed tariff of Rs. 2.55/kWh (exclusive of any other 3rd party charges) is comparably higher than that proposed in Petition No. 36 of 2023 under the same CPSU Scheme. On this both the parties sought time to review the same. In response, PSPCL submitted an Additional Affidavit on 10.10.2023, stating that:

- 5.1 The deliberations were carried out between SGEL and PSPCL on 03.10.2023 at PSPCL Head office Patiala, where SGEL expressed inability to offer further discount on tariff of Rs. 2.55/kWh.
- 5.2 On 05.10.2023, SGEL wrote a letter to PSPCL informing that the tariff determined for the 1000 MW power under the CPSU scheme was Rs. 2.57/kWh, however, a discount of Rs. 0.02/kWh was offered to PSPCL as a goodwill gesture. Further, SGEL stated that the tariff of Rs. 2.55/kWh, being determined after considering the current market scenario, is quite competitive and justified and further discount is not feasible. Accordingly, SGEL informed that any further reduction in the tariff is not possible.
6. In the hearing held on 11.10.2023, the Commission observed that despite the increase in GST rates notified by the Ministry of Finance (GOI) on 30th Sep, 2021, SGEL vide its letter dated 19th Sep, 2022 gave a specific undertaking to PSPCL that, “the offered tariff of Rs.2.44/kWh is inclusive of GST and there shall be no impact of increase on GST rates w.r.t. MoP notification No. 8/2021 dated 30.09.2021”. However, subsequent to MNRE (GOI) letter dated 16th Sept., 2022, it resiled from the said commitment and revised the offered rate. On being asked how it justifies the said action of the respondent, particularly so, when other developers such as NHPC and NTPC selected under the same bidding process are supplying solar power at the already stated tariff of Rs.2.45/kWh specified in the bidding documents, the Counsel for PSPCL sought time to obtain instructions from her client. Accordingly, the Commission vide Order dated 16.10.2023 allowed the same and also directed PSPCL to

submit whether the said facts have been considered by its BoD, if so, copy of BoD's decision be also supplied.

7. In response to the Commission's above directions, PSPCL filed an Additional Affidavit dated 26.10.2023 submitting as under:

7.1 The BoD of PSPCL passed a Resolution on 11.08.2023 according approval for procurement of 500 MW solar power under the CPSU Scheme at the negotiated tariff of Rs. 2.55/kWh after due consideration of the correspondence exchanged between the parties with respect to the implications of the increase in GST rates.

7.2 In so far as the tariff for NTPC under the CPSU Scheme is concerned, it is relevant to note that NTPC has subsequently executed a Supplementary PPA with Northern & Southern Power Distribution Company of Telangana at the tariff of Rs. 2.57/kWh, on account of the implications of the increase in GST rates as notified and recognised by MNRE Notification dated 16.09.2022.

7.3 The Undertaking given by SGEL was prior to the Notification dated 16.09.2022 issued by the MNRE revising the usage charges from Rs. 2.44/kWh to Rs. 2.57/kWh. SGEL had also informed PSPCL *vide* its letter dated 01.02.2023 that it was taking steps to seek an adjustment in the VGF from MoP and MNRE. However, MoP and MNRE refused the request of SGEL and it was constrained to revise the usage charges.

7.4 SGEL *vide* letter dated 05.10.2023 has informed PSPCL that it has alternate takers for the power at Rs. 2.57/kWh and it is not

feasible/commercially viable for SGEL to supply at a lower usage charge.

7.5 Even otherwise, the CPSUs have entered into Power Usage Agreements ('PUA') at a usage charge of Rs. 2.57/kWh as detailed below:

- (i) PUA executed between SECI and GUVNL.
- (ii) PUA executed between SECI and the Distribution Companies of Madhya Pradesh.
- (iii) Supplementary PUA executed between NTPC and Northern & Southern Power Distribution Company of Telangana.

7.6 The process for procurement of solar power by floating the tender takes more than one year and if the procurement process is started again by floating a new tender, it may again take significant time. In terms of MoP Notification dated 23.11.2021, the transmission charges are waived off for the projects commissioned till 30.06.2025. There is, therefore, a possibility that the impact of the ISTS transmission charges may be loaded in the tariff under any fresh tenders which may lead to significant financial impact. Further, it is unlikely to discover the tariff under consideration or lower tariff, considering the latest tariffs discovered under various bids all across India.

7.7 Thus, the tariff of Rs 2.55/kWh is economical, considering that the said power shall be available in 2024 and will not carry any ISTS charges. Even otherwise, the tariff of Rs 2.55/kWh is lesser than the prevalent tariff of Rs 2.60-2.61/kWh, as discovered in the SECI Pan India Solar Tranche XI in July, 2023. Further, PSPCL is expected to be in deficit of the RPO

and the power generated from the 500 MW Solar Project would enable PSPCL to meet its RPO obligations.

7.8 In light of the above, the Commission may approve the impugned power procurement arrangement from solar power plant of SGEL at the tariff of Rs. 2.55/kWh.

8. SGEL filed an additional affidavit on 04.12.2023 submitting that it is the process of signing of PUA with other State Discoms at the tariff of Rs. 2.57/kWh enclosing the copies of the correspondence with other State Discoms and requested for approval of power procurement from SGEL at a discounted usage charge of Rs. 2.55/kWh.

9. After hearing the parties on 06.12.2023, the Commission reserved the Order.

10. Observations and Decision of the Commission:

The Commission has examined the submissions made by the parties. The observations and decision of the Commission is as under:

a) The Commission observes that:

- (i) The respondent SGEL, after getting successful with the quoted VGF of Rs. 44.72 Lakh/MW in the VGF based e-RA conducted by IREDA on 23rd September 2021, under Tranche-III of phase II of CPSU Scheme with the usage charges of not more than Rs. 2.45/kWh (exclusive of any other third-party charges such as wheeling/transmission charges & losses, point of connection charges & losses, cross-subsidy surcharges, SLDC/RLDC charges etc.), vide its letter dated 08.09.2022 offered to supply grid-connected Solar Photovoltaic (PV) Power to PSPCL at the rate of Rs. 2.44/kW (i.e. at the discount of Rs. 0.01/kwh on the ceiling

usage charge of Rs. 2.45/kWh exclusive of any other third-party charges applicable as per the provisions of the bidding documents).

- (ii) It was further clarified by SGEL on 14.09.2022, i.e. much after the issuance of Gol Notification No. 8/2021 dated 30.09.2021 effecting change in GST rates, that the offered tariff of Rs. 2.44/kWh is inclusive of GST and there shall be no impact of increase in GST rates w.r.t. to the Gol Notification No. 8/2021 dated 30.09.2021. On 28.09.2022, PSPCL granted its 'in principal' consent for the same. However, on 14.11.2022, SGEL resiled from its commitment and revised the offered rate of Rs. 2.44/kWh to Rs. 2.56/kWh (i.e. With a discount of Rs. 0.01 on maximum usage charges of Rs. 2.57/kWh), citing MNRE's letter dated 16.09.2022 revising the maximum usage charges from Rs. 2.45/kWh to Rs. 2.57/kWh on account of change in GST rates by virtue of Notification No. 8/2021 dated 30.09.2021.
- (iii) In reply, PSPCL vide letter dated 01.12.2022, referring to SJVN letter dated 14.09.2022 wherein it has specifically stated that the offered tariff of Rs. 2.44/kWh is inclusive of GST and there shall be no impact of increase in GST rates w.r.t. to Ministry of Finance Gol notification no. 8/2021 dated 30.09.2021, pointed out that it is not justified to revise the tariff already agreed and requested it to review and stick to its earlier stance. It was also informed that PSPCL cannot give the consent for revision in tariff from Rs. 2.44/kWh to Rs. 2.56/kWh.
- (iv) However, subsequently the parties reconciled to a tariff of Rs. 2.55/kWh (i.e. a 2 paise/kWh discount on the revised

ceiling tariff of Rs.2.57/kWh exclusive of any other third-party charges) for 500 MW Solar Power. Further, SGEL vide letter dated 05.10.2023 has informed PSPCL that it has alternate takers for the power at Rs. 2.57/kWh and it wouldn't be commercially viable for SGEL to supply at a lower usage charge.

- (v) On the issue of adoption of tariff by the appropriate Commission, while SGEL has submitted that there was no provision for same in the approved Scheme; PSPCL has submitted that no approval from the Central Commission has been obtained till date as per the knowledge of PSPCL.

b) The Commission refers to Section 63 of the Electricity Act, which reads as under:

“63. Determination of tariff by bidding process:

Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”

Further, Regulation 13 of the Punjab State Electricity Regulatory Commission (Power Purchase and Procurement Process of Licensee) Regulations 2012 specifies that:

“13. Power Purchase Arrangements or Agreements

Any new long term power purchase arrangement or agreement and amendments to existing PPA entered into by Distribution Licensee(s), shall be subject to prior approval of the Commission under section 86 of the Act, in respect of:-

- (i) Necessity;*
- (ii) Reasonability of cost;*
- (iii) Promoting efficiency, economy, equitability and competition ;*

.....”

The Commission observes that in the prevailing circumstances, when PSPCL is finding it hard to meet its RPO targets specified by the Commission under Sections 86(1)(e) of the Electricity Act 2003, there cannot be any issue with regard to the criteria of 'Necessity' in case of procurement of power from the RE sources. Further, considering the VGF support of Rs. Rs. 44.72 Lakh/MW the ceiling tariff of Rs. 2.45/kWh as stated in the bidding documents would have been a reasonable proposition. Also, considering PSPCL's submissions on the increasing trend in recently discovered solar tariffs by some of the States, purportedly on account of gap between the demand and supply of Solar Panels caused due to the imposition of BCD, the tariff of Rs. 2.55/kWh can also be considered reasonable. However, the reasonability of the revised offer does not justify the breach of written commitment and the change in stance by both the parties, which will result in additional cost to the consumers running into several hundred crores and unjustified windfall/ profits to the developer.

The Commission notes that PSPCL, after taking a stand that the consent for revision in tariff from Rs. 2.44/kWh to Rs. 2.56/kWh cannot be given, has surprisingly revised its stand and subsequently agreed to a tariff of Rs. 2.55/kWh. This change of stance by PSPCL is not justified and cannot be accepted on the test of equitability and fairness. Also, the respondent after getting successful with its quoted VGF of Rs. 44.72 Lakh/MW in the VGF based e-RA conducted by IREDA with the usage charges of not more than Rs. 2.45/kWh and after giving its specific undertaking to PSPCL that the offered tariff Rs. 2.44/kWh (i.e. the ceiling tariff of Rs. 2.45/kWh with a discount of Rs. 0.01/kWh) is inclusive of GST and there shall be no impact of increase in the GST rates w.r.t. to Ministry of Finance (MoP) Gol

notification no. 8/2021 dated 30.09.2021, vide its letter dated 14.09.2022 i.e. much after the Government notification on change in GST rates, has now resiled from its said commitment by seeking an upward revision in the offered tariff on account of the same notification. Whereas some of other developers including NHPC selected under the same bidding process are supplying solar power at the ceiling tariff of Rs.2.45/kWh as stated in the bidding documents.

The Commission also observes that the discovered tariffs would keep on changing under different bidding processes at different times depending on the market conditions prevailing at that time. However, the sanctity of the process once undertaken should not be compromised.

Thus, the instant proposal cannot be said to be passing the test of 'transparency/fairness' or 'equitability and competition', particularly so, when the Commission has recently approved the PSPCL's proposal of power procurement of 400 MW Solar Power from NHPC Limited at a ceiling fixed tariff of Rs. 2.45/kWh under the very same scheme i.e. Tranche-III of phase II of CPSU in Petition No. 36 of 2023. The Commission feels that the law as laid down in Section 63 of the Act read with PSERC Regulations would be violated if PSPCL's proposal is allowed in the present form.

The petition is dismissed in terms of the above observations.

Sd/-

(Paramjeet Singh)
Member

Chandigarh
Dated: 18.12.2023

Sd/-

(Viswajeet Khanna)
Chairperson