

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

**Petition No. 42 of 2021**  
**Date of Order:15.03.2022**

Petition under Section 86 (1) (b) of the Electricity Act, 2003 seeking approval for procurement on long term basis of 30 MW Solar Power under the Power Sale Agreement dated 31.03.2015 and 150 MW & 200 MW Wind Power under the Power Sale Agreements dated 24.11.2017 and 23.03.2018.

AND

In the matter of: Punjab State Power Corporation Limited, The Mall,  
Patiala-147001, Punjab.

.....Petitioner

Versus

Solar Energy Corporation of India (SECI), 1<sup>st</sup> Floor, D-3, A- Wing, Platinum, Building District Centre, Saket, New Delhi-110017.

.....Respondent

Present: Sh. Viswajeet Khanna, Chairperson  
Ms. Anjali Chandra, Member  
Sh. Paramjeet Singh, Member

**Order**

1. Punjab State Power Corporation Limited (PSPCL) has filed the instant petition, seeking approval for the following Power Procurement Arrangements on long term basis from SECI:

- a) 30 MW Solar power in accordance with PSA dated 31.03.2015 at a tariff of Rs. 5.45/kWh plus trading margin of Rs. 0.05/kWh,

- b) 150 MW Wind power in accordance with PSA dated 24.11.2017 at a tariff of Rs. 2.65/kWh plus trading margin of Rs. 0.07/kWh, and
- c) 200 MW Wind power in accordance with PSA dated 23.03.2018 read with supplementary PPA dated 22.03.2021 at a tariff of Rs. 2.44/kWh plus trading margin of Rs. 0.07/kWh.

It was submitted that, the tariff under the corresponding PPAs for the wind/solar power procurements stands adopted by the CERC and the PSAs with the respondent have been signed by the Petitioner. It was also submitted that the tariff including trading margin was much cheaper than the prevalent generic tariff/price of REC and the same is being procured by PSPCL to meet its RPO compliance. However, the commissioning of project of M/s Adani Green Energy Limited for supply of 50 MW wind power got delayed for 10 months, beyond the project SCOD. As per the said WPD, the delay was due to occurrence of force majeure events and for which the respondent granted extension till 3.01.2020. In the PPA, there is a provision for reduction of tariff in the event of project commissioning getting delayed. And, since the PPA and PSA are back-to-back agreements, the provisions of the PPA apply mutatis mutandis to the PSA, so PSPCL is entitled to the said reduction in tariff for the power purchased under the PPA-PSA arrangement qua M/s Adani Green Energy Limited, for which PSPCL would be filing a separate petition seeking reduction in tariff as aforesaid.

2. In view of the above and the justification given by PSPCL regarding the rates of power procurement under consideration vis-à-vis prevalent generic tariff/price of REC at the time of execution of PSAs,

the Commission vide its Interim Order dated 07.09.2021, approved the PSPCL's proposal for procurement of 30 MW Solar Power, 100 MW Wind Power and 200 MW Wind Power referred in Para1above. However, with regard to the proposal for procurement of balance 50 MW Wind Power referred at 1(b) above, the Commission observed as under:

*“....the project of M/s Adani Green Energy Limited for 50 MW actually got commissioned on 07.03.2020, 10 months after SCOD. SECI granted extension of commissioning till 03.01.2020. Had the delay been attributable exclusively to the force majeure events, the developer should have commissioned the project on or before 03.01.2020. Therefore, PSPCL may take action in line with the remedies available to it for reduction in tariff in terms of the PSA and PPA qua the 50 MW wind power from M/s Adani Green Energy Limited. The petition will be heard again on 23.02.2022 at 11.00 AM after PSPCL takes required action as directed above.”*

3. In the hearing held on 23.02.2022, the learned counsel for PSPCL submitted that petition for reduction in tariff was filed on 18.01.2022 before the CERC but the same has not yet been fixed for hearing and requested that the hearing in the present petition may be fixed after two months. However, the learned counsel appearing for SECI requested that since power was already being injected from this project onto the grid, approval for procurement of wind power from M/s Adani Green Energy Limited may be given and the issue of reduction in tariff can be considered by PSPCL later on. In response to thereof, the learned counsel for PSPCL sought time to seek

instructions from the Petitioner. Accordingly, the petition was listed for hearing on 02.03.2022.

4. In the hearing held on 02.03.2022, the learned counsel for PSPCL submitted that it is entitled for reduction in tariff for the 50 MW Wind Power from M/s Adani Green Energy Limited and has accordingly filed a petition before the CERC. The learned counsel for SECI requested that the said power procurement may be approved subject to the order of CERC regarding reduction in tariff. On enquiring, learned counsel for PSPCL informed that at present it is making payments without any deductions and hence had no objection to the request made by learned Counsel for SECI, subject to the final decision on reduction of Tariff by CERC. After hearing the learned counsel for the parties on 02.03.2022, Order was reserved.

**5. Findings and Decision of the Commission:**

- 5.1 The Commission vide its Order dated 07.09.2021 has already approved the PSPCL's proposal for procurement of 30 MW Solar Power, 100 MW Wind Power and 200 MW Wind Power referred in Para 1 above. However, the proposal for procurement of balance 50 MW Wind Power referred at 1(b) above, was pending for action by PSPCL regarding its claim for reduction in tariff due to delay in commissioning beyond the project SCOD, as per the provisions of PPA dated 29.12.2017 executed between M/s Adani Green Energy Limited and SECI.

- 5.2 The Commission refers to the provisions of said PPA, which provides as under:

*"1.1 Definitions*

*"Scheduled Commissioning Date" shall mean 03.05.2019;*

*4.6.1 The selected projects shall be commissioned within 18 months from date of issuance of Letter of Award.....*

*4.6.2 In case the commissioning of the project is delayed over Six (6) months, the tariff discovered after e-Reverse Auction shall be reduced at the rate of 0.50 paise/kWh per day of delay for the delay in such remaining capacity which is not commissioned. .... ..*

*4.6.3 However, if as a consequence of delay in commissioning, the Applicable Tariff changes, that part of the capacity of the Project for which commissioning has been delayed shall be paid at the tariff as per Article 9.2 of this Agreement.*

.....

*9.1 The WPD shall be entitled to receive the Tariff of Rs. 2.65/ kWh for the power sold by the Buyer to the Buying Entity for the scheduled energy as reflected in the REA with effect from the COD subject to the Article 4.6.3 of this Agreement.*

*9.2” Provided further that in case the commissioning of the project is delayed over Six (6) months beyond the Scheduled Commissioning Date, subject to Article 4, the tariff discovered after e-Reverse Auction shall be reduced at the rate of 0.50 paise/kWh per day of delay for the delay in such remaining capacity which is not commissioned.”*

In view of the above and the fact that the project of M/s Adani Green Energy Limited got commissioned on 07.03.2020 i.e. 10 months after the scheduled COD, even exceeding the extended

time granted by SECI till 03.01.2020, the Commission agrees with the view of PSPCL that it is entitled to reduction in tariff from the said project in terms of the PSA read with the PPA. PSPCL has also submitted that it has filed a petition before CERC for the same but the same has not yet been fixed for hearing. The Commission has also noted the request by the counsel of SECI that the proposal for said power procurement may be approved subject to the Order of CERC regarding the reduction in tariff, which was not objected to by PSPCL.

**In view of the above, the Commission decides to also approve PSPCL's proposal for procurement of 50 MW wind Power from SECI having back to back PSA with M/s Adani Green Energy Limited subject to the outcome of the Order of CERC in the petition filed by PSPCL on 18.01.2022 for reduction in tariff as per the provisions of the PPA for the delay in commissioning.**

The petition is disposed of in terms of the above.

Sd/-

(Paramjeet Singh)  
Member

Sd/-

(Anjuli Chandra)  
Member

Sd/-

(Viswajeet Khanna)  
Chairperson

Chandigarh

Dated: 15.03.2022