

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO NO. 220-21, SECTOR 34 A, CHANDIGARH**

Petition No. 35 of 2017
Date of Order: 09.08.2017

Present: Shri D.S. Bains, Chairman
Shri S.S. Sarna, Member

In the matter of: Petition under section 86(1)(b) and 86(1)(e) and other applicable provisions of the Electricity Act, 2003 for purchase of electricity from 15.0 MW solar power from Vijay Printing Press Pvt. Ltd. (7.5 MW) and Canal Solar Energy Pvt. Ltd. (7.5 MW) under Canal Top Scheme in the State of Punjab.

AND

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

.....Petitioner

Versus

1. Punjab Energy Development Agency, Solar Passive Complex, Sector-33 D, Chandigarh.
2. Vijay Printing Press Pvt. Ltd., Civil Lines, Jalandhar-144001
3. Canal Solar Energy Pvt. Ltd., Faridkot Road, Guruharsahai, Distt. Ferozepur-152022

.....Respondents

ORDER

Punjab State Power Corporation Limited (PSPCL) filed this petition under section 86(1)(b) and 86(1)(e) and other applicable provisions of the Electricity Act, 2003 seeking approval of the Commission to procure electricity including the tariff from two 7.5 MW Grid Connected Solar PV Power Projects on Canal Tops

(projects) to be established by Vijay Printing Press Pvt. Ltd. and Canal Solar Energy Pvt. Ltd. in the State of Punjab.

2. The petition was admitted on 15.06.2017. Both the project developers i.e. Vijay Printing Press Pvt. Ltd. and Canal Solar Energy Pvt. Ltd. were impleaded as necessary parties. Notices were issued to PEDDA and the project developers. PSPCL was directed to supply a copy of the notice and the petition to the project developers. PEDDA and project developers were directed to file reply to the petition with a copy to PSPCL by 22.06.2017. Next date of hearing was fixed as 29.06.2017.

3. PEDDA filed reply on 22.06.2017. In response to the notice, Vijay Printing Press Pvt. Ltd. vide e-mail dated 28.06.2017 informed that its presence is not necessary in the hearing scheduled for 29.06.2017 and requested to intimate, if any submissions are required to be filed. The other developer Canal Solar Energy Pvt. Ltd. failed to respond and also did not attend the hearings.

4. During the hearing on 29.06.2017, PEDDA requested for filing an additional/amended reply. The Commission allowed PEDDA to file the same by 06.07.2017 with a copy to PSPCL. PSPCL was directed to file rejoinder to the additional/amended reply with a copy to PEDDA by 20.07.2017. In its interim Order dated 06.07.2016, the Commission held that the final Order would be passed after the receipt of additional/amended reply by PEDDA and rejoinder from PSPCL.

5. The submissions made by PSPCL in the petition are summarised as under:

- i) Government of Punjab (GoP) issued the New and Renewable Sources of Energy (NRSE) Policy, 2012, which is aimed at the development of renewable energy sources particularly solar energy generation in the State of Punjab. GoP has designated Punjab Energy Development Agency (PEDA) as the nodal agency for development of renewable energy projects in the State under the said NRSE Policy. Ministry of New & Renewable Energy, Govt. of India (MNRE), under its programme “Pilot-cum-Demonstration Project” for Grid Connected Canal Top Solar PV Power Projects sanctioned 20 MW canal top projects to PEDA vide its sanction no.32/8/2014-15/GSP dated 03.12.2014. Out of 20 MW, 5 MW capacity was allocated to Sam Solar Pvt. Ltd. and PPAs signed for commissioning the projects by 31.03.2017, which were duly commissioned.
- ii) PEDA conducted e-bidding for allotting the remaining 15 MW capacity. Based on the bids received, two 7.5 MW capacity projects were allocated to two developers i.e. Vijay Printing Press Pvt. Ltd. and Canal Solar Energy Pvt. Ltd. (formed by bidding consortium of Universal Infra Pvt. Ltd. and Sukhbir Agro Energy Limited as approved by PEDA). The projects were allocated at the tariff of ₹ 4.73 per kWh and ₹ 4.82 per kWh respectively. The respective projects are to be set up on Ghaggar Branch Canal offtaking from Rohti Bridge near Nabha, District Patiala and Ghaggar Link Canal Jalkheri Headworks to Rohti Bridge, District Fatehgarh Sahib.
- iii) PEDA signed the Implementation Agreements (IAs) with the selected bidders as envisaged in the bidding documents.

PSPCL signed the Power Purchase Agreements (PPAs) with the solar power generators on 13.02.2017. The scheduled date of commissioning of both the projects is 29.03.2018. The electricity generated by these projects shall be procured by PSPCL at the said tariff discovered in the bidding process.

- iv) Solar energy generation has been promoted by other States and the Central Govt. through policies issued by the Govt. of India. GoP has taken proactive steps to ensure development of solar energy generation capacity and tariff discovery through competitive bidding process. The total available solar capacity in the State of Punjab is about 800 MW which includes 65 MW from NTPC Vidyut Vyapar Nigam Limited (NVVN) and Solar Energy Corporation of India Limited (SECI). Pursuant to the bidding process conducted by PEDA in the previous year, power from about 230 MW solar PV projects was expected to be procured additionally by PSPCL upto 31.03.2017 as per PPAs signed with various developers.
- v) PSPCL, being the distribution licensee, is required to fulfil its Renewable Purchase Obligation (RPO) specified by the Commission. The quantum of electricity procured from these solar projects would ensure that Solar RPO is adequately met and also sufficiently encouraged. In view of the revised Tariff Policy dated 28.01.2016 notified by Govt. of India for revising the RPO targets of Solar Power to 8% by 2022 and also keeping in view that canal top solar projects being one

of the novel initiatives of Govt. of India, PSPCL decided to procure this power with approval of the Commission.

- vi) The cost of electricity from solar energy generation is higher than conventional power. However, as per the mandate of the Act, renewable sources of energy including solar are to be promoted and electricity generated by these projects is to be procured. The tentative financial implication from purchase of 15 MW capacity from solar energy generation is ₹ 10.74 crore annually from FY 2018-19 onwards. The average tariff for procurement of power from these projects works out to ₹ 4.775 per kWh. As per the IAs, if the commercial operation date spills over beyond 31.03.2018, the developer will be bound to get the tariff re-determined from the Commission.
- vii) In terms of sections 86(1)(b) and 86(1)(e) of the Act, the procurement of electricity by PSPCL including from renewable sources is to be regulated by the Commission. The regulatory jurisdiction includes giving approval to the procurement of electricity, the terms & conditions for such procurement and also approving the tariff at which the electricity is to be procured by PSPCL. The cost of power so purchased by PSPCL will be a pass through in its Annual Revenue Requirement (ARR). It is incumbent upon PSPCL to seek the approval of the Commission for the proposed procurement of electricity.
- viii) It is prayed as under:
- a) approve the procurement of electricity from the projects including the PPA forming part of the tender documents at

the tariff discovered in the competitive bidding process conducted by PEDDA as per the details attached with Annexure-A to the petition (Annexure-I of this Order).

b) approve the pass through of the cost of the said power purchase in the ARR of PSPCL.

6. PEDDA in its reply dated 22.06.2017 submitted that it carried out a fair and transparent bidding process by way of e-tendering for which a detailed RfP document was issued. Prior to it, due consultation of PSPCL was sought and its comments incorporated in the RfP. PSPCL was aware of the entire process of the bidding and the allocation made thereunder. PSPCL was also member of the project allotment committee which recommended approval of the said projects.

PEDDA further submitted that the total solar capacity available in the State of Punjab as on 31.05.2017 is 826.50 MW. About 175 MW is expected to be added by 31.12.2017 as per the PPAs signed with the various developers. The solar RPO as per the current PSERC Regulations will be adequately met by the commissioning of the said projects. Canal Top Solar PV Projects are one of the PMO's awarded initiatives being implemented by various states under the MNRE programme under which 20 MW was awarded to the State of Punjab. As per the present trend, the generation cost of the solar power is nearly achieving parity with generation cost of conventional power.

PEDDA requested the Commission to approve the terms of the purchase of power from the said projects at the tariff discovered in the competitive bidding process carried out by it.

7. PEDA vide letter dated 30.06.2017 submitted brief summary of the bidding process alongwith the following documents, in continuation to its reply dated 22.06.2017:

- i) Sanction letter of MNRE, Gol dated 03.12.2014 and 05.12.2014 and extension letter dated 28.10.2016;
- ii) Approval of Govt. to RfP document;
- iii) RfP document;
- iv) Newspaper cuttings of Notice inviting Tenders;
- v) Copies of letters dated 30.08.2016 sent to PSPCL & the Commission alongwith RfP document at the time of e-bidding;
- vi) Copies of Price e-bid and Minutes of meeting of the Price Bid Evaluation;
- vii) Minutes of meeting of Project Allotment Committee held under Chairmanship of Principal Secretary, NRES, Govt. of Punjab;
- viii) Approval of the Govt. for allocation of said projects;
- ix) Approval of PEDA to the project company namely Canal Solar Energy Pvt. Ltd. formed by consortium of Universal Infra Pvt. Ltd. and Sukhbir Agro Energy Ltd. for implementation of 7.5 MW canal top solar power project on Ghaggar Link Canal;
- x) Copies of letters dated 13.01.2017 forwarding IAs to PSPCL for signing of PPAs.

8. PEDA filed additional submissions dated 05.07.2017 in reference to the hearing held on 29.06.2017 and submitted that clause 2.1.1 (iii) in the PPAs provides that the developers would not avail the benefit of accelerated depreciation for the projects, which is contrary to the RfP and the IAs entered into between the developers and PEDA. In Article 3.A of the IAs, it was provided that the energy generated from the projects will be sold at a tariff of ₹ 4.73 per kWh and ₹ 4.82 per kWh from the projects being set up by Vijay Printing Press Pvt. Ltd. and Canal Solar Energy Pvt. Ltd. respectively which is the net availed tariff as per the bids submitted

by the companies in the accelerated depreciation category in terms of the RfP where the bidders could opt to bid in either of the categories i.e. with or without accelerated depreciation. The said tariff is applicable throughout the tariff period of 25 years from the date of commercial operation. Necessary correction is required to be carried out in the PPAs.

9. In its reply dated 14.07.2017 to the additional submissions dated 05.07.2017 of PEDDA, PSPCL submitted that clause 2.1.1 (iii) of the PPAs signed between PSPCL and the developers is exactly as per the draft PPA which was part of the RfP and PSPCL did not change the content of the same. Both the developers i.e. Canal Solar Energy Pvt. Ltd. and Vijay Printing Press Pvt. Ltd. in respective affidavits regarding Accelerated Depreciation benefit submitted to PSPCL before signing of PPAs affirmed that the company has not claimed/will not claim any Accelerated Depreciation benefit as per applicable Income Tax Regulation for the project during the period of PPA with PSPCL. The developers further affirmed that they shall submit the balance sheets as documentary evidence to PEDDA/PSPCL.

Observations, Findings & Decision

10. The Commission has carefully gone through the petition, reply of PEDDA, additional submissions made by PEDDA and PSPCL's reply to the same. PSPCL filed this petition to seek approval of the Commission for procurement of electricity by PSPCL from the two canal top based solar PV power projects at the tariff discovered in the competitive bidding process conducted by PEDDA as per the details attached with Annexure-I of this Order

and the draft PPA forming part of the RfP and allow pass through of the cost of the said power purchase in the ARR of PSPCL.

11. The Commission notes that the RfP inviting bids for setting up the said projects for a total capacity of 15 MW was issued by PEDDA on 27.08.2016 after getting it approved by the competent authority. The same was uploaded on the e-tender website of Govt. of Punjab and advertisements published in leading newspapers on 28.08.2016/29.08.2016. The e-bids were required to be submitted on the basis of discount offered by the bidders on the generic tariff of ₹ 5.68 per kWh (without the benefit of accelerated depreciation) and ₹ 5.08 per kWh (with the benefit of accelerated depreciation). As per the allotment criteria, the bidder offering the lowest net availed tariff irrespective of the normal or accelerated rate of depreciation, was to be selected. The lowest net arrived tariff and applicable financial assistance to be availed by the project developer from MNRE i.e. ₹ 3 crore per MW or 30% of the project cost, whichever lower, were to be allowed to the developer(s).

The pre-bid conference was held by PEDDA on 09.09.2016. The last date for submission of e-bids was 23.09.2016 which was extended to 04.10.2016 after approval by the competent authority. Two bidders i.e. Vijay Printing Press Pvt. Ltd. and the consortium of Universal Infra Pvt. Ltd. & Sukhbir Agro Energy Limited submitted their bids for 7.5 MW capacity each. The techno-commercial bids were opened on the designated date i.e. 05.10.2016 and in the evaluation by the bid evaluation committee, both the bidders qualified. The price bids of both the bidders were opened on 07.10.2016. The net availed tariff quoted by Vijay

Printing Press Pvt. Ltd. was ₹ 4.73 per kWh and by Canal Solar Energy Pvt. Ltd as ₹ 4.82 per kWh. The Project Allotment Committee headed by Principal Secretary, NRES, GoP in its meeting held on 26.10.2016 recommended approval of allotment of the said two 7.5 MW projects. After approval of the allotment by the competent authority, letters of award were issued to the two project developers on 29.11.2016. IAs were signed by PEDDA with the developers on 13.01.2017 and PPAs signed with PSPCL on 13.02.2017.

The projects are to be commissioned within 13½ months from the date of signing the PPAs i.e. by 29.03.2018. The projects can be commissioned within 15½ months with forfeiture of performance bank guarantees and another three months thereafter i.e. upto 18½ months with payment of liquidated damages at the rate of ₹20,000/MW/day to PSPCL.

PSPCL submitted that it is obligated under the Act to comply with the RPO specified by the Commission. Keeping in view the long term benefits of solar power, PSPCL proposes to procure electricity from the said two projects. PSPCL has emphasized that this would also fulfill the provisions under the Act with regard to promotion of renewable energy sources.

12. The Commission is mandated under the Act, National Electricity Policy and the Tariff Policy notified by Ministry of Power, Govt. of India to promote generation of electricity from renewable sources of energy. The Commission in its earlier Orders in the matter of determination of generic levelled generation tariff for renewable energy power projects observed:

“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. The Commission further decides that till such time tariff based competitive bidding is resorted to, bidding may be carried out on the basis of discount to be offered by the prospective bidders on the generic tariffs determined by the Commission in this Order, which would be the maximum / ceiling tariff for the purpose.”

The revised Tariff Policy, 2016 also provides that States shall endeavour to procure power from renewable energy sources through competitive bidding to keep the tariff low, except from waste to energy plants.

13. The Commission observes that in the earlier Orders dated 03.12.2013 in petition no. 52 of 2013, 11.05.2015 in petition nos. 21 & 23 of 2015, 10.06.2016 in petition no. 31 of 2016 and 29.12.2016 in petition no. 56 of 2016 in similar matters, it had noted that as per the ‘Guidelines for Tariff Based Competitive Bidding Process for Grid Connected Power Projects Based on Renewable Energy Sources’ issued by MNRE, GoI in December, 2012, standard bid documents (SBD) shall be prepared and issued by the Central Govt. in accordance with the guidelines and approval of Appropriate Regulatory Commission shall be obtained unless the bid documents are as per the SBD. In the instant case,

the bid documents i.e. RfP including draft PPA was approved by Govt. of Punjab.

14. PSPCL has not brought out any deviations in the PPAs signed by it with the developers and the model/draft PPA annexed with the RfP. The developers, Vijay Printing Press Pvt. Ltd. and Canal Solar Energy Pvt. Ltd., who were made a party by the Commission, have also not brought out any deviations in the draft PPA and the PPA signed with PSPCL. In fact, the developers did not attend the hearings in the petition held by the Commission pursuant to filing of the petition by PSPCL. PEDDA submitted that provision in clause 2.1.1(iii) in the PPAs signed by PSPCL with the developers is contrary to provision in the RfP/IAs with regard to the developers not availing the benefit of accelerated depreciation. However, PSPCL clarified that there is no deviation in clause 2.1.1(iii) as provided in the draft/ model PPA in the RfP and the PPAs signed with the developers. In support, PSPCL submitted copies of the Affidavits submitted by both the developers before signing the PPAs with PSPCL affirming that the company has not claimed/will not claim any Accelerated Depreciation benefit as per applicable Income Tax Regulation for the project during the period of PPA with PSPCL. The developers further affirmed that they shall submit the balance sheets as documentary evidence to PEDDA/PSPCL.

15. Considering the discussion above, submissions made by the parties and the statutory provisions, the Commission approves the procurement of power from the said two 7.5 MW Grid Connected Solar PV Power Projects on Canal Tops by PSPCL at the tariff determined in the competitive bidding

process conducted by PEDA on the basis of discount offered by the bidder(s) on the generic tariff for Solar PV Power Projects for FY 2016-17 as per details in Annexure-I of this Order.

The cost of power purchase from these projects would be considered as pass through in the ARR of PSPCL. The tariff period for supply of power from the said projects would be twenty five (25) years as provided in the PPAs. The PPAs have been signed on 13.02.2017 i.e. before 31.03.2017 and accordingly the tariffs approved above would be applicable upto 31.03.2018 provided the entire capacity covered in each PPA is commissioned on or before 31.03.2018, in line with Regulation 8 of the said Regulations. It is further clarified that barring force majeure/change in law etc., the applicability of the said approved tariff beyond the aforementioned date i.e. 31.03.2018 will not be allowed even if punitive clauses in the respective PPAs are made applicable.

The petition is disposed of in terms of the above.

Sd/-

(S.S. Sarna)
Member

Sd/-

(D. S. Bains)
Chairman

Chandigarh
Dated: 09.08.2017

Annexure-I

Details of Grid Connected Solar PV Power Projects on Canal Tops

Sr. No.	Name of the developer and Location of the project (RD in feet)	Capacity (MW)	Net availed Tariff (Rs. per kWh)
1.	Vijay Printing Press Pvt. Ltd.; Ghaggar Branch Canal offtaking from Rohti Bridge near Nabha towards Sullar Gharat, Distt: Patiala (RD 73772 to 88610)	7.50	4.73
2.	Canal Solar Energy Pvt. Ltd.;; Ghaggar Link Canal Jalkheri Headworks to Rohti Bridge, Distt: Fatehgarh Sahib (RD 0 to 14652)	7.50	4.82
Total		15.00	

Note:

The respective tariff for both the projects as mentioned above is the net availed tariff in terms of the RfP and as provided in the PPAs. Both the developers Vijay Printing Press Pvt. Ltd. and Canal Solar Energy Pvt. Ltd. submitted Affidavits dated 09.02.2017 to PSPCL affirming that the company has not claimed/will not claim any Accelerated Depreciation benefit as per applicable Income Tax Regulation for the project during the period of PPAs.