

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

**Petition No. 52 of 2013
Date of Order: 03-12-2013**

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 solar energy generators in the State of Punjab.

AND

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

AND

In the matter of: Punjab Energy Development Agency (PEDA), Chandigarh.

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

Order

Punjab State Power Corporation Limited (PSPCL) filed this petition seeking approval of the Commission to procure electricity including the tariff from solar power projects to be established in the State of Punjab and the draft Power Purchase Agreement (PPA) to be signed with the solar energy generators attached as Annexure- E to the petition. PSPCL in its submission dated 11.11.2013, requested that in order to expedite the process of approval of procurement of electricity from solar energy generators at the tariff discovered in the competitive bidding process conducted by Punjab Energy Development Agency (PEDA) and approval of PPA, the present petition may be considered by the Commission in two parts. Firstly for approval of procurement of electricity from solar energy generators at the tariff discovered in the competitive bidding process and thereafter the approval of PPA to be signed by PSPCL with the project developers. In the hearing on 12.11.2013 and as brought out in its Order of even date, the Commission considered the proposal of PSPCL and decided that Order in respect of the first part shall be issued separately. As regards second part, PEDA was directed in the said Order to first take up the draft PPA with the bidders/project developers and obtain their consent/concurrence to the variations/deviations in the draft PPA from corresponding provisions in Request for

Proposal (RfP) and Implementation Agreement (IA) and file the same within two/three days.

2. The Commission decided the petition in respect of first part in its Order dated 14.11.2013 as under:

“....the Commission approves the procurement of electricity by PSPCL from the solar energy generators at the tariff discovered in the competitive bidding process conducted by PEDDA as per details in the attached Annexure-1. The cost of power purchase from the projects enlisted in Annexure-1 would be considered as pass through in the ARR of PSPCL. The tariff period for the said projects would be twenty five (25) years as per Regulation 6(c) of the Central Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2012 adopted by the Commission in its Order dated 19.07.2012 in Petition No. 35 of 2012 (Suo-Motu) with State specific modifications. Further, the tariffs approved above would be applicable upto 31.03.2015 provided that (i) the PPAs are signed on or before 31.03.2014 and the entire capacity covered in each PPA is commissioned on or before 31.03.2015, in line with Regulation 8 of the said Regulations.”

3. PSPCL in its submissions dated 11.11.2013 with regard to second part of the petition for approval of PPA has submitted that a meeting was held with PEDDA on 05.11.2013 to deliberate upon the deviations / variations in clauses of PPA submitted by PSPCL with this petition from the standard PPA annexed as part of bid document/RfP issued by PEDDA, and the same were agreed upon by PEDDA. PSPCL has annexed the deviations in annotated form with its submissions dated 11.11.2013, brought out in brief hereunder:

i) Implementation Agreement and Power Purchase Agreement

In the PPA annexed with the bid document/RfP by PEDDA, it is mentioned that PPA shall be treated as an integral part of the IA whereas in the PPA to be signed by PSPCL with the selected developers, it is mentioned that IA signed by project developers with PEDDA shall be treated as an integral part of the PPA.

ii) Definition of 'Site'

In the definition of 'Site' in the standard PPA annexed with bid document, it has been mentioned that details regarding location of Site are to be submitted by project developer within 180 days from signing of PPA

whereas in the PPA submitted by PSPCL with the petition, Site details are to be mentioned in the PPA.

iii) Definition of 'Tariff Period'

Definition of 'Tariff Period' has been amended by PSPCL in the PPA and the words 'as per the MW capacity mentioned in the Power Purchase Agreement' have been deleted.

iv) Energy Purchase and Sale

In the clause 2.1.1 (i) of the PPA, the words 'commissioned during year____' have been replaced by the words 'as per competitive bidding done by PEDDA'.

v) Payment Security Mechanism for Payment Dues to the Seller

A new clause 'Payment Security Mechanism for Payment Dues to the Seller' along with related definitions of 'Receivables' and 'Incremental Receivables' has been included in the PPA by PSPCL.

vi) Disputes and Arbitration

The language of 'Disputes and Arbitration' Clause has been amended by PSPCL.

4. PSPCL has also submitted that as per IA, petitioner has to sign the PPA within 30 days from the date of signing of IA and has requested that PSPCL may be allowed to sign the PPA within 30 days of the approval by the Commission. PSPCL has further submitted that as per RfP, the land documents are to be submitted by project developers within 180 days of signing of PPA. A Supplemental PPA shall be required to be signed by PSPCL with project developers providing details of the land. The transmission/evacuation facilities shall be provided by PSPCL accordingly.

5. In compliance to Commission's Order dated 12.11.2013, PEDDA in its written submissions dated 18.11.2013 submitted that the Standard Power Purchase Agreement was part of the bid document issued by PEDDA and considered by the prospective solar power developers while submitting their bids. PEDDA has further submitted that during the pre-bid conference on 03.04.2013, the prospective bidders suggested to provide Payment Security Mechanism (Default Escrow Agreement) in the PPA. The same was agreed to and approved by the Project Allotment Committee

headed by Secretary, Power and Non-conventional Energy, Government of Punjab. PEDDA has also submitted that as per direction of the Commission, the final draft of the PPA with variations/deviations as per PSPCL including provision of Payment Security Mechanism with related definitions of receivables and incremental receivables was sent to all the selected solar power developers and their acceptance to the same has been received. PEDDA has further confirmed that no further variations/deviations will be made in the PPA.

After hearing PSPCL and PEDDA on 26.11.2013, the hearing of the petition was closed and Order was reserved vide Commission's Order dated 28.11.2013.

6. The Commission notes that the 'Guidelines for Tariff Based Competitive Bidding Process for Grid Connected Power Projects Based on Renewable Energy Sources' issued by Ministry of New and Renewable Energy (MNRE), Government of India in December, 2012, for the process to be adopted in the event of any deviations, provide that approval of Appropriate Regulatory Commission shall be obtained unless the bid documents are as per the Standard Bid Documents (SBD) issued by the Central Government in accordance with the guidelines. In the instant case, the Commission notes that PEDDA has confirmed vide its letter dated 26.11.2013 that the bid document (RfP) including the Standard Power Purchase Agreement was approved by the Project Allotment Committee headed by the Secretary, Power and Non-conventional Energy, Government of Punjab.

7. With regard to the deviations in the PPA submitted by PSPCL as brought out in para 3 above, the Commission observes that the deviations at (i), (iii) and (iv) are rational in nature. As regards (ii), considering that all the developers may not be able to submit the details of the land and location of the project within 180 days from signing of PPA as provided in the standard PPA, the amended clause alongwith the provision for signing a supplemental PPA as per PSPCL, appears to be in order. Further, the amendment in the 'Disputes and Arbitration' clause, makes it concise and simplified. With regard to 'Payment Security Mechanism' clause, it has been brought out that the same was included as requested by the prospective bidders in pre-bid conference and had been duly approved by the Project Allotment Committee. As the same had been approved earlier, PEDDA should have included this clause in the standard PPA as part of the bid document. Even the other deviations as per PSPCL were ideally required to be got approved from the Commission before the bidding. Nevertheless, the Commission notes that the selected developers have given their consent to the PPA as submitted by PSPCL with the petition.

8. Accordingly, in view of the above the Commission approves the deviations as brought out above and PSPCL may sign the PPAs with the selected developers. Further, as requested by PSPCL, the Commission allows PSPCL to sign the PPAs within 30 days from the date of this Order.

Petition No. 52 of 2013 is finally disposed of in terms of the above, to be read alongwith Commission's Order dated 14.11.2013 passed in this petition.

Sd/-

(Gurinder Jit Singh)
Member

Sd/-

(Romila Dubey)
Chairperson

Chandigarh

Dated: 03-12-2013