

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

Petition No. 20 of 2023
Date of Hearing: 20.07.2023
Date of Order: 21.07.2023

Petition under Section 86(1)(b) and 86 (1)(e) of the Electricity Act, 2003, as read with the applicable provisions under the Punjab State Electricity Regulatory Commission (Power Purchase and Procurement Process of Licensees) Regulations, 2012; Regulation 46 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 for approval of power procurement from the grid connected 200 kW Solar PV power Project at village khatkar Kalan in Punjab and approval of the supplementary power purchase agreement in respect thereof.

AND

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

.....Petitioner.

Versus

Punjab Genco Limited, Solar Passive Complex, Plot No. 1
& 2, Sector 33-D, Chandigarh-160020

...Respondent

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

Petitioner: Ms. Poorva Saigal, Advocate

Respondent: Sh. Aditya Grover, Advocate

ORDER

1. Punjab State Power Corporation Limited (PSPCL) has filed the present petition seeking approval of the power procurement process in terms of the Amendment No. 2, entailing an extension in the period to the PPA dated 31.01.2002, executed with the Punjab Genco Limited (PGL), in respect of the 200 kW Solar PV Project of PGL at village Khatkar Kalan in Punjab, for a period of 10 years at a mutually agreed fixed tariff of Rs. 2.65/kWh. The submissions of PSPCL are summarized as under:

1.1 The Petitioner 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, the respondent PGL is a wholly owned subsidiary of Punjab Energy Development Agency (PEDA).

1.2 On 31.01.2002, PSPCL (erstwhile PSEB) entered into a PPA with PGL for purchase of solar power from the 200 KW SPV Power Plant at Village- Khatkar Kalan (SPV Power Project) for a duration of 20 years. Further, on 08.02.2006, an 'Amendment No. 1' to the PPA was also executed between the parties which, *inter-alia*, provides as under:

"1.1.0 Sale of Energy by Company

"1.1.1 Board shall purchase and accept all energy made available at the interconnection point from the company's facility, pursuant to terms and conditions of the agreement dated 31.01.2002 at the rate of Rs. 3.01/kWh applicable for the year 2001-2002 with 3% Annual Escalation upto 2006-2007 i.e. upto 31.03.2007. Thereafter, no escalation will be

allowed. For the remaining duration of the agreement, the purchase price shall be equal to the purchase price applicable for the year 2006-2007....”

1.3 In terms of Article 11.0.0 of the PPA dated 31.01.2002 as read with the Amendment No. 1, the duration of the Agreement was 20 years from the date of execution, i.e., till 30.01.2022. Accordingly, on 18.01.2022, PGL requested PSPCL for an extension of the PPA for another ten years at the then prevalent tariff of Rs. 3.49/kWh. The request was declined by PSPCL as it was not in accordance with the prevailing market rates of solar power. Thereafter, on 31.01.2022, PGL offered the tariff of Rs. 2.748/kWh as approved by the Commission for the KUSUM Scheme. However, PSPCL informed PGL that the extension of the PPA can only be considered at the lowest tariff discovered in the tenders floated by PSPCL for procurement of solar power, i.e., Rs. 2.33/kWh.

1.4 On 24.05.2022, PGL filed a Petition No. 31 of 2022 before the Commission seeking determination of project specific levellised tariff. In the meanwhile, on 06.06.2022, PSPCL indicated its consent for the extension of the PPA at the tariff discovered in the tenders floated by it for procurement of solar power from projects located in Punjab, i.e. Rs. 2.65/kWh. On 27.10.2022, the Commission passed an Order, in Petition No. 31 of 2022 filed by PGL, disposing off the Petition as not maintainable on the grounds that the parties had not agreed upon any tariff and that PSPCL cannot be compelled to enter into an agreement.

- 1.5 Thereafter, on 17.01.2023, PGL provided its consent to PSPCL to sign the Supplementary PPA for a further duration of 10 years from 31.01.2022 at the mutually agreed tariff of Rs. 2.65/kWh. In reply thereof, on 30.01.2023, PSPCL sent an email to PGL with the draft amendment to the PPA dated 31.01.2002. And on 10.03.2023, PGL submitted consent to the draft amendment of the PPA to PSPCL.
- 1.6 The tariff of Rs. 2.65/kWh is in consonance with the tender issued by PSPCL on 18.05.2021 for Solar PV Projects located in the state of Punjab. The said tariff has been approved by the Commission in its Order dated 28.04.2022 in Petition No. 9 of 2022. Further, the said power shall enable PSPCL in fulfilling its RPO as notified by the Commission from time to time.
- 1.7 In the circumstances, PSPCL has filed the present petition before the Commission seeking the approval of the power procurement process and Amendment No. 2 to the PPA in respect of the 200 KW Solar PV Project of PGL for a period of 10 years at a tariff of Rs. 2.65/kWh.
- 1.8 Vide its additional submission on 02.06.2023, while submitting that the Amendment No.2 to the PPA for extension of duration of the existing PPA at a mutually agreed tariff of Rs. 2.65/kWh has been executed on 18.05.2023 subject to approval of the Commission, PSPCL requested that the Commission may be pleased to approve the Procurement process of PSPCL in terms of the same.
2. The petition was taken up for hearing on admission on 20.07.2023. In the hearing, Ld. Counsel for the Petitioner pleaded for an early

approval of its proposal. The Ld. Counsel appearing for the respondent PGL also seconded the Petitioner prayer for approval of the proposed arrangement.

3. Analysis and Decision

The Commission has examined the submissions made by the petitioner PSPCL and the respondent PGL. The petition is for approval of PSPCL's power procurement process and allowing Amendment No. 2 dated 18.05.2023 to the PPA dated 31.01.2002 executed with the PGL, entailing an extension for a period of 10 years at the mutually agreed fixed tariff of Rs. 2.65/kWh. The Commission refers to the Article 11.0.0 of the PPA, which reads as under:

"11.0.0 DURATION

Except where terminated by default, this agreement shall be for twenty (20) years from the date of execution of this agreement, which could be extended by another ten (10) years through mutual agreement"

As such, it is evident that the provision exists in the PPA executed between the parties for its extension by another ten (10) years through mutual agreement. Further, the Commission is mandated, under the Electricity Act 2003 and the PSERC Regulations framed thereunder for regulating the Power Purchase and Procurement process of the Licensee, to examine the long term power purchase arrangement and amendment to existing PPA entered into by Distribution Licensee primarily on the criteria of its 'Necessity' and 'Reasonability of cost'.

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, the uniform tariff of Rs. 2.65/kWh (i.e. same as the tariff discovered by PSPCL for solar power from the projects to be situated in Punjab and adopted by the Commission vide Order dated 28.04.2022 in Petition No. 09 of 2022) also appears to be reasonable.

In view of the above, the Commission decides to approve PSPCL's proposal for extension of its power procurement arrangement with the PGL's 200 kW Solar PV Project at Khatkar Kalan in Punjab, in terms of Amendment No. 2 dated 18.05.2023 to the PPA executed by the parties through mutual agreement, for a period of 10 years at the fixed tariff of Rs. 2.65/kWh.

The petition is disposed of in terms of the above.

Sd/-

(Paramjeet Singh)

Member

Sd/-

(Viswajeet Khanna)

Chairperson

Chandigarh

Dated: 21.07.2023