

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 87 of 2019

Case of Maharashtra State Electricity Distribution Co. Ltd. seeking approval for adoption of tariff for long term procurement of 1000 MW Solar Power under Section 63 of the Electricity Act, 2003 for meeting the Solar Renewable Purchase Obligations.

Coram

I.M. Bohari, Member
Mukesh Khullar, Member

Maharashtra State Electricity Distribution Company Limited Petitioner

Shiv Solar Pvt. Ltd Impleaded Respondent No.1
ACME Solar Holdings Limited Impleaded Respondent No.2
Renew Solar Power Pvt. Ltd. Impleaded Respondent No.3
Avaada Energy Pvt.Ltd Impleaded Respondent No.4

Appearance

For Petitioner	: Smt. Kavita Gharat (Rep.)
For Impleaded Respondent No.1	: None
For Impleaded Respondent No.2	: Shri Aditya K Singh (Adv.)
For Impleaded Respondent No.3	: Shri Ishan Nagpal (Rep.)
For Impleaded Respondent No.4	: Shri Rajiv Mestry (Rep.)

ORDER

Date: 27 May, 2019

1. Maharashtra State Electricity Distribution Co. Ltd (**MSEDCL**), has filed this Case dated 3 April, 2019 seeking approval for adoption of tariff for long term procurement of 1000 MW Solar power under Section 63 of the Electricity Act, 2003 (**EA**) for meeting the Solar Renewable Purchase Obligations (**RPO**).
2. **MSEDCL's Main prayers are as follows:**

a) To admit the Petition as per the provisions under Section 63 of the Electricity Act (EA), 2003.

b) To accord approval for adoption of tariff for 1000 MW solar power as stated in Para 3.9 discovered through Competitive bidding and the same to be made eligible for meeting the Solar RPO requirement of MSEDCL.

c) To accord approval for signing of PPA at discovered tariff.

3. **MSEDCL in its Petition has stated as follows:**

3.1 MSEDCL has floated the tender on TCIL web portal on 5 December, 2018 to procure 1000 MW Solar Power (Phase-II) on long term basis from Solar Power Projects through competitive bidding process in line with the Ministry of Power (MoP) guidelines dated 3 August, 2017, as amended from time to time. .

3.2 The pre-bid meeting was held on 19 December, 2018. The replies to queries were uploaded on TCIL portal on 28 December, 2018. The extended date of bid submission was 22 January, 2019. As requested by the bidders and based on the queries raised by the bidders during pre-bid meeting, the ceiling tariff rate was revised from Rs. 2.80 to Rs 2.90 per unit, period for financial closure was revised from 7 months to 10 months and commissioning period was revised from 13/15 months to 21/24 months in line with MoP bidding guidelines amendment dated 14 June, 2018. Also, clauses relating to liquidated damages in case of failure to commission the project by Scheduled Commercial Operation Date are revised from delay upto 6 months to delay upto 3 months to forfeit Performance Bank Guarantee (PBG) on per day basis. Further, maximum period to commission project was revised from 25 months to 27/30 months.

3.3 Total 7 number of bidders with cumulative capacity of 1900 MW submitted their bids. The technical bids were opened on 22 January, 2019 and all the bidders are found technically qualified. The Financial Bids of the qualified bidders were opened on 29 January, 2019 and the E-reverse auction conducted on 5 February, 2019. However, Reverse Auction (RA) process was interrupted due to technical problem of TCIL portal. After rectification of problem and restoration of TCIL portal the reverse auction was continued on 18 February, 2019. The final tariff discovered after the e-reverse auction is as follows:

Sr. No.	Name of Bidder	Bidding Capacity (MW)	Inter/ Intra	IPO Rate(INR)	Reverse action result		Remarks
					Quantum (in MW)	Price (Rs./kWh)	
1	Shiv Solar Pvt. Ltd	50	Intra	2.85	50	2.74	Successful
2	ACME Solar holdings Limited	300	Inter	2.9	300	2.74	Successful
3	Renew Solar Power Pvt. Ltd.	300	Inter	2.9	300	2.75	Successful
4	Avaada Energy Pvt. Ltd	500	Inter	2.9	350	2.75	* Bucket filling qualified

							quantum 350 MW
5	Adani Renewable Energy Park (Gujarat) Ltd	500	Inter	2.90	0	2.76	Unsuccessful
6	Green Horse Solar Private Ltd	100	Intra	2.90	0	2.80	Unsuccessful
7	Tata Power Renewable Energy Ltd	150	Inter	2.90	0	2.90	Unsuccessful
Total		1900			1000		

3.4 The final rates discovered after the e-reverse auction for 1000 MW Solar Power are Rs. 2.74 per unit and Rs. 2.75 per unit which are competitive rates considering the rates discovered for this year in other auctions of SECI and other States.

3.5 The Commission in its order dated 6 December, 2017 for Case No. 157 of 2017 has ruled that

In case the standard bidding document is used by MSEDCL then a specific petition shall be filed by MSEDCL after bidding process for adoption of tariff as is mandated under Sec-63 of EA 2003. The said Petition shall cover the following, for approval of the Commission. (i) quantum of power , (ii) Period of power flow, Tariff rate of the RE power to be procured, under Tariff Based Competitive Bidding Process for Short term/ Medium term /Long term basis for adoption under Section 63 of the Act.

3.6 MSEDCL requested the Commission to approve the final tariff discovered through the e-reverse auction conducted on 5 February, 2019 and 18 February, 2019 as under:

S. No.	Name of the Bidder	Quantum of Power offered (MW)	Reverse action result Rs/kWh	Capacity allocated in MW	Period of Power Flow
1	Shiv Solar Pvt. Ltd	50	2.74	50	25 Years
2	ACME Solar holdings Limited	300	2.74	300	25 Years
3	Renew Solar Power Pvt. Ltd.	300	2.75	300	25 Years
4	Avaada Energy Pvt. Ltd	500	2.75	350*	25 Years
Total		1150	-	1000	

* 350 MW quantum allocated due to bucket filling.

4. At the hearing held on 20 May, 2019, the representative of MSEDCL reiterated its submission as made in its Petition. Representative of Impleaded Party No-1 (Shiv Sagar Pvt. Ltd) was not present. Representatives of other three Impleaded Parties have supported MSEDCL's Petition.

Commission's Analysis and Rulings

5. MSEDCL under the instant Petition has sought approval for adoption of tariff for 1000 MW Solar power (Phase-II) on long term basis. The Tariff was discovered through tariff based competitive bidding (e-reverse auction) process and the same is prayed to be adopted and also that this procurement be made eligible for meeting the Solar RPO requirement of MSEDCL.
6. In the past, the Commission by its Order dated 6 December, 2017 in Case No. 157 of 2017 had permitted MSEDCL to procure Wind, Solar and Bagasse based cogeneration RE power on Short Term, Medium Term and Long Term basis at the rate discovered through Tariff based Competitive Bidding (e-reverse auction) process. In the same Order, the Commission directed MSEDCL to file Petition for adoption of under Section 63 of the EA after conducting competitive bidding process.
7. In the instant Case MSEDCL has not sought specific approval of the Commission for any deviation from competitive bidding guidelines. However, the Commission notes that MSEDCL in its Petition has stated that it has made following relaxation/changes in the conditions of Rfs and PPA document after pre- bid meeting:
 - i) Ceiling tariff rate revised from Rs. 2.80 to Rs 2.90 per unit.
 - ii) Commissioning period from 13/15 months to 21/24 months as per MoP guidelines.
 - iii) Period of financial closure revised from 7 months to 10 months.
 - iv) Liquidated damages clause for failure to commission the project, revised for the delay up to 6 months to 3 months for forfeiting of PBG.
8. As regards revision in ceiling rate from Rs 2.80 to Rs 2.90 per unit, the Commission notes that final rate proposed for adoption is lower than initial ceiling rate of Rs. 2.80 per unit. Further, the Commission in its earlier Orders has stated that MSEDCL should fix the ceiling rate as per its own due diligence. Similarly, change in commissioning period is based on amendment to Guideline dated 14 June, 2018 issued by MoP. Hence, it is not deviation to competitive bidding guidelines.
9. But, other changes in RFS are deviation from the competitive bidding guidelines. As per clause 18 of the Competitive Bidding Guidelines dated 3 August, 2017, any deviation from Guidelines or/ in SBD requires approval of the Commission. MSEDCL has never sought approval earlier or through present Petition for deviation mentioned at (iii) and (iv) mentioned above. Strictly speaking this action of MSEDCL is against the procedure prescribed under the competitive bidding guidelines. Further, the Commission notes that

said competitive bidding guidelines also requires following conditions to be fulfilled by MSEDCL:

“10. CONTRACT AWARD AND CONCLUSION

10.1. The PPA shall be signed with the successful bidder/ project company or an SPV formed by the successful bidder.

10.2. After the conclusion of bidding process, the Evaluation Committee constituted for evaluation of RfS bids shall critically evaluate the bids and certify as appropriate that the bidding process and the evaluation has been conducted in conformity to the provisions of the RfS.

10.3. For the purpose of transparency, the Procurer shall, after the execution of the PPA, publicly disclose the name(s) of the successful bidder(s) and the tariff quoted by them together with breakup into components, if any. The public disclosure shall be made by posting the requisite details on the website of the Procurer for at least 30 (thirty) days.”

MSEDCL in its Petition for tariff adoption has not mentioned about compliance of above clauses of competitive bidding guidelines. For the present, Commission assumes that MSEDCL would have complied with all above conditions of competitive bidding guidelines and directs MSEDCL to ensure that in all its future petitions for tariff adoption it should cover above aspects of competitive bidding guidelines.

10. As far as deviation in period for financial closure and time period for forfeiting of PBG is concerned, these are not major deviations, hence the Commission is allowing the same. However, in future, MSEDCL should ensure that it has prior approval for any deviation from competitive bidding guidelines.
11. The Commission notes that a total number of 7 bidders with cumulative bidding capacity of 1900 MW submitted their bids. Three bidders with a bidding capacity of 750 MW were unsuccessful in reverse auction. Out of remaining 1150 MW capacity, one bidder who offered 500 MW was allocated 350 MW due to bucket filling approach. Hence total 1000 MW capacity was allocated to 4 bidders.
12. The Commission further notes that for procurement of Solar Power, though some changes are incorporated in the bidding documents after pre-bid meeting the same were based on the queries/difficulties discussed during the said meeting. Also, these changes were made after due consultations with the prospective bidders in a transparent process. However, as stated in Para 10 of this Order, MSEDCL in future should obtain prior approval for any deviation from competitive bidding guidelines.

13. The discovered tariffs are within the vicinity of the rates earlier approved by the Commission and are also comparable with the rates discovered for this year in other auctions of SECI and in other States.
14. In view of the foregoing, and in line with the mandate under Section 63 of the EA, the Commission is inclined to accord its approval for procurement and adoption of tariff as proposed by MSEDCL. Hence following Order.

ORDER

1. **The Case No. 87 of 2019 is allowed.**
2. **The Commission accords approval for procurement of Solar Power from following Bidders for 25 Years at the rate discovered through the competitive bidding process as under:**

S. No.	Name of the Bidder	Capacity allocated in MW	Rate Per unit in Rs.
1	Shiv Solar Pvt. Ltd	50	2.74
2	ACME Solar holdings Limited	300	2.74
3	Renew Solar Power Pvt. Ltd.	300	2.75
4	Avaada Energy Pvt. Ltd	350	2.75
Total		1000	

3. **The Commission accords approval for signing the PPAs with the above Bidders as per the rates discovered through the competitive bidding process.**
4. **The Solar power procured from these projects shall be counted towards fulfilment of its Solar RPO for the respective periods.**

Sd/
(Mukesh Khullar)
Member

Sd/-
(I.M. Bohari)
Member



(Abhijit Deshpande)
Secretary

