

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 275/MP/2024 along with IA Nos. 63/2024 and 64/2024**

- Subject : Petition under Section 79(1)(b) and 79(1)(f) of the Electricity Act, 2003, filed pursuant to the liberty granted by this Commission *vide* order dated 2.8.2024 in Petition No. 193/AT/2024, seeking declaration that (i) Petitioner's bid dated 17.9.2023 stands expired on 30.6.2024 and Petitioner is not required to execute PPA with Respondent No. 1 and (ii) directions to Respondent No. 2 for return of the Bank Guarantee deposited by Petitioner towards Earnest Money Deposit.
- Petitioner : Juniper Green Energy Private Limited (JGEPL)
- Respondents : Damodar Valley Corporation (DVC) and Ors.
- Date of Hearing : **22.8.2024**
- Coram : Shri Jishnu Barua, Chairperson  
Shri Ramesh Babu V., Member  
Shri Harish Dudani, Member
- Parties Present : Shri Vishrov Mukerjee, Advocate, JGEPL  
Shri Janmali Manikala, Advocate, JGEPL  
Ms. Shreya Sundararaman, Advocate, JGEPL  
Shri Kartikey Trivedi, Advocate, DVC  
Shri Shashank Singh, RECPDCL  
Shri Ritam Biswas, RECPDCL  
Ms. Sahiba Soni, RECPDCL

**Record of Proceedings**

The learned counsel for the Petitioner submitted that the present Petition had been filed *inter alia* seeking a declaration that the Petitioner's bid dated 17.9.2023 stands expired on 30.6.2024 and the Petitioner is not required to execute a Power Purchase Agreement (PPA) with the Respondent No.1, DVC and further direction to Respondent No.2, RECPDCL for return of the Bank Guarantee deposited by the Petitioner towards Earned Money Deposit. Learned counsel mainly submitted as under:

(i) On 31.7.2023, Respondent No.2, RECPDCL, acting as Bid Process Coordinator, issued the RfS for the selection of the 100 MW ISTS connected Wind Power Projects in India under the Tariff Based Competitive Bidding under the Flexibility Scheme at the behest of Respondent No.1, DVC. As per Clause 26 of the RfS, the bid in response to the RfS was to remain valid up to 180 days from the last date of submission of response to the RfS. Also, Clause 11.7 of the RfS required the signing of the PPA with DVC within 60 days from the issuance of the Letter of Award, subject to the tariff adoption.

(ii) The Petitioner submitted its bid on 17.9.2023, which was originally valid till 15.3.2024. Pursuant to the bidding process, the Petitioner became a successful bidder and was issued the Letter of Award (LoA) by RECPDCL on 6.2.2024. Thus,

as per Clause 11.7 of the RfS, the PPA with DVC ought to have been signed by 6.4.2024. Also, it is well settled that LoA does not amount to a concluded contract, and in the present case, LoA itself was contingent upon the fulfilment of the RfS conditions within the stipulated timeframe, including the signing of the PPA pursuant to the adoption of tariff.

(iii) DVC filed Petition No. 193/AT/2024 *inter alia* seeking the adoption of tariff qua successful bidders, including the Petitioner, belatedly only on 23.4.2024.

(iv) Initially, the Petitioner had extended the bid validity till 30.6.2024 based on the request of RECPDCL dated 12.3.2024. However, the subsequent request of RECPDCL dated 14.6.2024 for further extension of bid validity till 30.9.2024 was specifically rejected by the Petitioner. Pertinently, there is no provision under the RfS which obliges the bidder to extend the bid validity.

(v) Also, the above conduct of RECPDCL itself indicates that the bid validity was required to be extended till the signing of the PPA between the Petitioner and DVC. Thus, it cannot now be permitted to take an inconsistent stand and contend that bid validity ceases to operate once the LoA has been issued to the successful bidder.

(vi) The above aspects were brought to the notice of the Commission during the tariff adoption proceedings in Petition No.193/AT/2024. However, by order dated 1.8.2024, the Commission *inter alia* granted liberty to the Petitioner to approach the Commission for the adjudication of the above issued by way of a separate Petition.

(vii) Pursuant to the above order, the Petitioner has received a communication from RECPDCL dated 5.8.2024 for the execution of the PPA with DVC and for submitting the Performance Bank Guarantee for approximately Rs 9.94 crore along with success charges of Rs 50 lakhs with applicable GST.

(viii) The Petitioner cannot be compelled to execute a PPA, post the expiry of its bid validity, after a lapse of approximately 10 months from the bid submission date.

(ix) The Petitioner has also moved IA Nos. 63/2024 and 64/2024 for urgent listing and for grant interim relief(s). The Petitioner is pressing for interim relief i.e. stay on Respondent No.2's letter dated 5.8.2024 and direction to the Respondent No. 2 not to take any coercive action, including encashment of its Bank Guarantee during the pendency of the Petition.

2. Learned counsel for Respondent No.1, DVC, accepted the notice and sought liberty to file a reply in the matter. Learned counsel also submitted that since the relief(s) sought by the Petitioner concern with Respondent No.2, RECPDCL, views of RECPDCL be considered prior to granting any such relief.

3. Considering the submissions made by the learned counsel for the Petitioner and Respondent No. 1, DVC, the Commission ordered as under:

(a) Admit and issue notice to all the Respondents.

(b) The Respondents to file their reply, including on IA No. 64/2024, if any, within two weeks with a copy to the Petitioner, who may file its rejoinder within two weeks thereafter.

(c) Keeping in view that so far, no action has been initiated by the Respondent, RECPDCL, which may prejudice the Petitioner, the Commission declined to grant any interim relief at this stage. However, in view of the concerns raised by the

Petitioner, the Commission granted liberty to the Petitioner to mention the matter if any such action is initiated by RECPDCL prior to the next date of the hearing.

(d) IA No. 63/2024, filed for the urgent listing of the matter, having served its purpose, stands disposed of.

4. The Petition will be listed for hearing on **8.10.2024** along with I.A. No. 64 of 2024.

**By order of the Commission**  
**Sd/-**  
**(T.D. Pant)**  
**Joint Chief (Law)**