

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 255/AT/2024

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member**

Date of Order: 25th October, 2024

In the matter of

Petition under Section 63 of the Electricity Act, 2003 for adoption of the tariff of 1500 MW Solar Power Projects (Tranche XIII) connected to the Inter-State Transmission System and selected through competitive bidding process as per the Guidelines dated 28.7.2023 of the Ministry of Power, Government of India.

And

In the matter of

Solar Energy Corporation of India Limited

6th Floor, Plate-B, NBCC Office Block Tower-2,
East Kidwai Nagar
New Delhi 110023

.....Petitioner

Vs

- 1. JSW Neo Energy Limited**
Janpath, Bandra Kurla Complex
Bandra (East), Mumbai
Maharashtra – 400051
- 2. Sunsare Solarpark Fourteen Private Limited**
1101A, 11th Floor,
BPTP Park Centra,
Sector 30, Gurugram,
Haryana – 122001
- 3. Tejorupa Renewables India Project Private Limited**
Unit No. 208 & 209, Tower B
Pioneer Urban Square, 2nd Floor,
Sector 62, Gurgaon,
Haryana – 122005



4. NTPC Renewable Energy Limited

E-3, Main Market Rd,
Ecotech-II, Udyog Vihar,
Greater Noida,
Uttar Pradesh – 201306

Respondents

Parties Present:

Ms. Shikha Ohri, Advocate, SECI
Shri Kartik Sharma, Advocate, SECI
Ms. Ritika Singh, Advocate, SECI

ORDER

The Petitioner, Solar Energy Corporation of India Limited (hereinafter referred to as the 'SECI'), has filed the present Petition for the adoption of tariff of the 1500 MW Solar Power Projects (Tranche XIII) connected with the Inter-State Transmission System (ISTS) and selected through competitive bidding process as per the "Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects" dated 28.7.2023 ('the Solar Guidelines') issued by the Ministry of Power, Government of India as amended from time to time and interpreted and modified by the Central Government vide subsequent communications/ notifications. The Petitioner has made the following prayers:

- "a) Adopt the tariff discovered in the tariff based competitive bid process for the 1500 MW Solar Power Projects based on e-Reverse Auction (e-RA);*
- b) Approve Trading Margin of Rs. 0.07/kWh to be paid by the Distribution Companies/Buying Entity(ies) as specified in the Guidelines; and*
- c) Pass any other or further orders which this Commission may deem fit and proper in the facts and circumstances of the case."*

Submission of the Petitioner

2. The Petitioner, SECI, has submitted that on 29.12.2023, it issued a Request for Selection (RfS) along with the Standard Power Purchase Agreement (PPA) and the



Power Sale Agreement (PSA) documents for setting up the 1500 MW ISTS connected Solar PV Power Project(s) (Tranche XIII), under Competitive Bidding as per the Solar Guidelines dated 28.7.2023 on the ISN Electronic Tender System (ETS) e-bidding portal. In response, eleven bids were received, offering an aggregate capacity of 4030 MW, and all were found to fully meet the techno-commercial criteria. On 7.3.2024, as per the prescribed procedure in the RfS, the financial bids of the eleven technically qualified bidders were opened on the ISN ETS e-bidding portal in the presence of the Bid Evaluation Committee. As per the eligibility criteria mentioned in the RfS, ten bidders were shortlisted for participating in the e-reverse auction. The e-reverse auction was conducted on 7.3.2024 on the ISN ETS e-bidding portal, on the basis of which the final tariff was arrived at. Pursuant thereto, SECI, on 13.3.2024, issued a Letter of Award to the successful bidders, namely, JSW Neo Energy Limited (700 MW), Sunsire Solarpark Fourteen Private Limited (300 MW), Tejorupa Renewables India Project Private Limited (250 MW) and NTPC Renewable Energy Limited (250 MW). In view of the above, the Petitioner has prayed for the adoption of a tariff for the procurement of the 1500 MW Solar Power Projects (Tranche XIII) discovered through a competitive bidding process carried out by the SECI.

Hearing dated 8.8.2024

3. During the course of the hearing on 8.8.2024, learned counsel for the Petitioner, SECI, reiterated the submissions made in the pleadings and requested the Commission for the adoption of the tariff of the 1500 MW Solar PV Power Projects (Tranche XIII) connected with the Inter-State Transmission System and selected through the competitive bidding process as per the Solar Guidelines.



4. After hearing the learned counsel for the Petitioner, notices were issued to the Respondents to file their respective replies, if any. However, no reply has been filed by them. Vide Record of Proceedings for the hearing dated 8.8.2024, the Petitioner was also directed to file details/information as to (a) the reason for the delay in approaching the Commission as per Clause 10.4 of the Solar Guidelines and (b) the status of execution of the PPAs and PSAs and the anticipated timeline for tying up the entire awarded capacity.

Hearing dated 5.9.2024

5. During the course of the hearing, learned counsel for the Petitioner, SECI, sought permission to file the details/information called for by the Commission vide Record of Proceedings for the hearing dated 8.8.2024.

6. None was present on behalf of the Respondents despite the notice.

7. Considering the request of the learned counsel for the Petitioner, the Commission permitted the Petitioner to file the details/information called for within a week. Further, the Commission directed the Petitioner to also furnish the document/certificate indicating that the bid evaluation authority satisfied itself that the price of selected offers is reasonable and consistent with the requirement as per Clause 10.2 of the Solar Guidelines. Subject to the above, the Commission reserved the matter for order.

8. Pursuant to the direction of the Commission vide Record of the Proceedings for the hearing dated 8.8.2024, the Petitioner vide affidavit dated 29.8.2024 (filed on 13.9.2024) has submitted that on previous occasions, this Commission had directed



the Petitioner to only seek adoption of tariff once capacity is tied up and the PPAs and PSAs for that capacity have been executed. The Petitioner has placed reliance on the order of this Commission dated 8.3.2022 in Petition No. 211/AT/2021. Subsequently, this Commission vide order dated 1.6.2024 in Petition No. 68/AT/2024 has clarified that unlike the earlier guidelines issued by the Ministry of Power in regard to the adoption of tariff, the new guidelines now include a specific timeline for the distribution licensees or intermediary procurers to seek the tariff adoption from the Appropriate Commission. When the Petitioner was apprised of the latest position, as was made clear by the above order, the Petitioner filed the present Petition on 20.6.2024, without awaiting the execution of the PPAs. Further, this Commission, vide order dated 24.07.2024 in Petition No. 71/AT/2024 filed by NTPC Limited for the adoption of tariff of Hybrid Power Projects under the RfS concluded based on newly issued Guidelines dated 21.08.2023, adopted the tariff based on the e-RA result without awaiting tying up of the awarded capacity under the PPAs and PSAs. Considering the order dated 24.7.2024 passed by this Commission, the Petitioner further undertakes to file the Petitions within the prescribed timeline in future without awaiting execution of the PSAs and PPAs based on the e-RA result. It was further submitted by the Petitioner that the Petitioner is under discussions with the various State Utilities/Discoms regarding the sale of power. All Renewable Energy Implementation Agencies (REIAs) are approaching the State utilities for the sale of RE power tendered under developer mode, and therefore, the Discoms are evaluating the tariff discovered in such tenders. It is expected that the Discoms would sign the PSA after evaluating the tariff submitted by the REIAs. Further, the PPA will be signed with the selected developers after the signing of the PSA with the Discoms/ State Utilities.



9. In response to the direction of the Commission vide Record of the Proceedings for the hearing dated 5.9.2024, the Petitioner vide affidavit dated 13.9.2024 has furnished the certification indicating that the prices discovered under the subject tender are reasonable, in line with the market trends, and consistent with the requirements specified in the Request for Selection (RfS) document.

Analysis and Decision

10. We now proceed to consider the prayer of the Petitioner as regards the adoption of tariff under Section 63 of the Act in respect of the solar power projects as discovered pursuant to the competitive bid process carried out in terms of the Guidelines issued by the Government of India.

11. Section 63 of the Act provides as under:

“Section 63. Determination of tariff by bidding process: Notwithstanding anything contained in Section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”

12. Thus, in terms of Section 63 of the Act, the Commission is required to adopt the tariff on being satisfied that the transparent process of bidding in accordance with the Guidelines issued by the Government of India under Section 63 of the Act has been followed in the determination of such tariff.

13. The Ministry of Power, Government of India, has notified the Solar Guidelines under Section 63 of the Act vide Resolution No.27/01/2023-RCM on 28.7.2023. The salient features of the Guidelines are as under:

(a) The Guidelines are applicable for the procurement of power from grid connected solar PV power projects, with or without Energy Storage, through tariff based competitive bidding to be conducted by ‘Procurer’, which includes



distribution licensees, or the Authorized Representative(s), or Intermediary procurers.

(b) The procurer shall prepare the bid documents in accordance with the Guidelines. The principles outlined in the Guidelines may be suitable expanded and made exhaustive in the Standard Bid Documents. In case of any deviation from the provisions of the Guidelines and/or Standard Bid Documents, approval of the Appropriate Government would be necessary prior to initiation of the bid process.

(c) Bids shall be invited in Power Capacity (MW) terms specifying the total quantum to be contracted by the Procurer. The minimum quantum of power that can be offered by the bidder should be 50 MW for projects connected of inter-State transmission systems. The bidder can quote for a part of the total quantum to be procured by the Procurer. A maximum of 50 percent of the total capacity as specified in the RfS can be allocated to a single bidder. The bid evaluation parameter shall be the tariff per unit supply of solar power fixed for the entire term of the PPA.

(d) The procurement of power - shall be in power (MW) terms. The range of the Capacity Utilisation Factor (CUF) will be indicated in the bidding documents. Calculation of the CUF will be on a yearly basis.

(e) The Draft PPA proposed to be entered into with the successful bidder and the draft PSA, if applicable, shall be issued along with the RfS. Standard provisions to be incorporated as part of the PPA shall include, *inter-alia*, the PPA period, Power Procurement, Payment Security Mechanism (PSM), Force Majeure, Generation Compensation for off-take Constraints, Event of default and consequences thereof, and Change in Law and shall be provided for, on back-to-back basis, in the PSA.

(f) The adequate payment security shall be provided as per the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 including amendments and clarification, if any, thereof, issued from time to time. In addition, the Intermediary Procurer may maintain a payment security fund. To

be eligible for the coverage from the fund, the developer will undertake to pay the PSM charges at the rate of 2 paise per unit.

(g) The Procurer/intermediate procurer shall call for the bids adopting a single stage, two part (Technical Bid & Financial Bid), bidding process to be conducted through electronic mode (e-bidding). The technical bid shall be opened first. The financial bids of only those bidders who qualify in the technical bid shall be opened. E-procurement platforms with a successful track record and with adequate safety, security, and confidentiality features will be used.

(h) The RfS notice shall be issued in at least two national newspapers and on the websites of the procurer to provide wide publicity. Standard provisions to be provided by the Procurer in the RfS document shall include Bid Responsiveness, Technical Criteria, Financial Criteria, Quantum of the Earnest Money Deposit (EMD), and Compliance of FDI Laws by foreign bidders, etc.

(i) The bidders shall be required to submit the separate technical and price bids. The bidders shall also be required to furnish the necessary bid-guarantee in the form of an Earnest Money Deposit (EMD) along with the bids. The technical bids shall be evaluated to ensure that the bids submitted meet the eligibility criteria set out in the RfS document on all evaluation parameters. Only the bids that meet the evaluation criteria set out in the RfS document shall be considered for further evaluation on the price bids. To ensure competitiveness, the minimum number of the qualified bidders should be two. If the number of qualified bidders is less than two, even after three attempts of the bidding, and the Procurer still wants to continue with the bidding process, the same may be done with the consent of the Appropriate Commission.

(j) The Procurer shall constitute a committee for evaluation of the bids (Evaluation Committee), with at least three members, including at least one member with expertise in financial matters / bid evaluation. After the conclusion of bidding process, the Evaluation Committee constituted for the 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 with the provisions of the RfS document. The Evaluation Authority should also satisfy

itself that the price of the selected offer is reasonable and consistent with the requirement.

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

(l) After the execution of the PPA, publicly disclose the name(s) of the successful bidder(s) and the tariff quoted by them together with the 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.

(m) The distribution licensee or the Intermediary Procurer, as the case may be, shall approach the Appropriate Commission for the adoption of the tariffs discovered, in terms of Section 63 of the Act, within 15 (fifteen) days of the discovery of the tariffs through e-reverse auction or otherwise, in the transparent competitive bidding process conducted in accordance with these Guidelines. In case, the Appropriate Commission does not decide upon the same within 60 (sixty) days of such submission or within 120 (one hundred and twenty) days from the date of the PSA, whichever is more, the Procurer shall grant the appropriate extension of time in Scheduled Commencement of Supply Date (SCSD) to the generators corresponding to the delay (beyond 60 days of submission or 120 days of PSA, whichever is more) in the adoption/ approval by the Appropriate Commission till the date of the adoption/ approval by the Appropriate Commission.

14. In terms of the provisions of Section 63 of the Act, we have to examine whether the process as per provisions of the Solar Guidelines has been followed in the present case for arriving at the lowest tariff and for the selection of the successful bidder(s).

15. The Petitioner, SECI, has been designated as the nodal agency for the implementation of the scheme for setting up of the ISTS connected/ State specific solar/ wind power projects with the mandate to invite bids under the Tariff Based Competitive Bidding process to enter into the PPAs at the tariff discovered in the



competitive bid process and enter into the PSAs with the distribution licensees to enable them to fulfil their Renewable Purchase Obligations under Section 86(1)(e) of the Act.

16. The Solar Guidelines provide for the procurement of solar power at a tariff to be determined through a transparent process of bidding by the procurer(s) from the grid-connected solar power projects with or without energy storage. As per the Guidelines, SECI, in the capacity of intermediary procurer, invited proposals for the selection of Solar Power Developers for setting up the 1500 MW ISTS connected Solar Power Projects (Tranche XIII). As per the arrangements, SECI is to procure the power by entering into the PPAs with the successful bidder with back-to-back PSAs for the sale of power to the distribution licensees.

17. The key milestones in the bidding process were as under:

S. No.	Event	Date
1.	RfS issued by SECI	29.12.2023
2.	Pre-bid meeting held	05.01.2024
3.	Corrigendum-01 to the RfS documents uploaded	29.12.2023
4.	Corrigendum-02 to the RfS documents uploaded	17.01.2024
5.	Corrigendum-03 to the RfS documents uploaded	23.01.2024
6.	Corrigendum-04 to the RfS documents uploaded	31.01.2024
7.	Corrigendum-05 to the RfS documents uploaded	08.02.2024
8.	Amendment-01 to the RfS documents uploaded	08.02.2024
9.	Corrigendum-06 to the RfS documents uploaded	08.02.2024
10.	Last date of bid submission	15.02.2024
11.	Opening of techno-commercial bids	20.02.2024
12.	Opening of financial bids	07.03.2024
13.	e-Reverse Auction conducted	07.03.2024
14.	Issuance of Letters of Award (LoAs) to successful bidders	13.03.2024

18. On 29.12.2023, SECI issued the RfS documents, along with the draft PPA and PSA, for the selection of the Solar Power Developers for setting up the 1500 MW

ISTS connected Solar Power Projects (Tranche XIII) under tariff based competitive bidding. The said tender/ RfS document was floated on the ISN Electronic Tender System (ISN ETS) e-Tender portal. As per Clause 7.5 of the Guidelines, RfS notice is required to be published in at least two national newspapers and its own website to accord wide publicity. In this regard, SECI has placed on record the documents demonstrating the publication of the RfS on the e-publishing system, Government of India. According to SECI, it did not publish the notices in the newspapers as per the advisory of the Ministry of Information and Broadcasting, Government of India, dated 17.5.2017, mandating the e-publishing of the advertisements on the relevant portal. Accordingly, on 3.7.2018, SECI issued a notification in the newspapers indicating that tenders of the SECI would be published on its website and the Government Portal but not in the newspapers.

19. The Bid Evaluation Committee (BEC) comprising of the following was constituted for the opening and evaluation of bids under RfS No. SECI/C&P/IPP/11/0016/23-24 dated 29.12.2023:

Tender	Dept.	Offline and Online Techno- commercial and Financial Bid Opening	Techno-commercial and Financial evaluation and post-e-RA recommendation
1500 MW ISTS-connected Solar PV Power Projects (SECI-ISTS- XIII)	Solar	Jyoti Martoliya, Sr. Engineer	Sunil, Manager
	Contracts	Jayansh Gaur, Dy. Manager	Jayansh Gaur, Dy. Manager
	Finance	Jyoti, Dy. Manager/ Mohit Singhal, Dy. Manager J	Jyoti, Dy. Manager

20. Last date of submission of the bid was 15.02.2024, and the techno-commercial part of the bid was opened on 20.02.2024. Response to RfS was received from eleven bidders, and all of them fully met the technical criteria and, consequently, were found to be qualified for the opening of the financial bid. On 7.3.2024, financial bids of eleven

technically qualified bidders were opened on the ISN ETS e-bidding portal in the presence of members of the Bid Evaluation Committee. As per the eligibility criteria mentioned in the RfS document, out of eleven, only ten bidders for aggregating the 3730 MW were shortlisted for e-reverse auction.

21. The e-reverse auction was carried out on 7.3.2024 in the presence of the members of BEC. After completion of the e-reverse auction, the following were declared as successful bidders:

S. No	Name of the Successful Bidder	Bid Capacity (MW)	Final Tariff (INR/kWh)	Allotted Capacity (MW)
1	JSW Neo Energy Limited	700	2.56	700
2	Sunsure Solarpark Fourteen Private Limited	300	2.56	300
3	Tejorupa Renewables India Project Private Limited	250	2.56	250
4	NTPC Renewable Energy Limited	600	2.57	250
Total awarded capacity				1500

22. Accordingly, on 13.3.2024, SECI issued the Letter of Award (LoAs) to the above successful bidders. Relevant extract of the Letter of Award issued to one of the successful bidders, namely, JSW Neo Energy Limited, is as under:

"In reference to above and subject to the provisions of RfS, we confirm having accepted your final offer concluded as a result of e-RA and issue this letter of award as per the following details:

Allotted Project ID	Project Capacity (MW)	Interconnection Point Details	Applicable Tariff (INR/kWh) figures	Applicable Tariff (INR/kWh) in words
SPD-ISTS-T13-JNEL-P1-700MW	700	Bikaner-IV ISTS	₹2.56/-	Rupees Two and Fifty-Six paise only

It is to be noted that the SPD is allowed to change the project location and interconnection point for the awarded project subsequent to issuance of LoA, up to the deadline for Financial Closure, as per Clause 21 of the RfS.

SECI shall purchase the power generated from the proposed ISTS-Connected Solar Power Project under the above scheme subject to the following terms and conditions as stated in various documents referred above and briefly brought out hereinafter.

1.0 The applicable tariff as mentioned above for power generated from the proposed Solar Power Project for the term of Power Purchase Agreement (PPA) to be entered into between Project Company or the Solar Power Developer (SPD) and M/s SECI, for the Project, shall be firm for the entire term of the PPA.

1.1 The SPD will be free to avail fiscal incentives like Accelerated Depreciation, Concessional Customs and Excise Duties, Tax Holidays, etc. as available for such projects. No claim shall arise on SECI for any liability if the SPD is not able to avail fiscal incentives and this will not have any bearing on the applicable tariff.

1.2 The award of the above Project is subject to the Guidelines including amendments/ clarifications issued by Government of India and terms and conditions of the RfS document including its clarifications/ amendments/ elaborations/ notifications issued by SECI.

1.3 No change in the controlling shareholding of the Bidding Company or Bidding Consortium shall be permitted from the date of submission of response to RfS till the execution of the PPA. However, in case the Project is being set up by a listed Company, this condition will not be applicable.

1.4 In case of the Selected Bidder itself executing the PPA, it shall ensure that its promoters shall not cede control (Control shall mean the ownership, directly or indirectly, of more than 50% of the voting shares of such Company or right to appoint majority Directors) of the Bidding Company/Consortium until 01 (one) year after the SCSD, except with the prior approval of SECI.

1.5 In case of companies having multiple promoters (but none of the shareholders having more than 50% of voting rights and paid up share capital), it shall be considered as a company under joint control. In such cases, the shareholding pattern in the company as submitted at the time of bidding, shall be maintained for a period of 01 (one) year after SCSD.

1.6 In case of Project being executed through SPVs, the Selected Bidder executing the project, if being a single company, shall ensure that its shareholding in the SPV/ Project Company executing the PPA, shall not fall below 51% at any time prior to 01 (one) year after the SCSD, except with the prior approval of SECI. In the event the selected Bidder is a consortium, then the combined shareholding of the consortium members in the SPV/ Project Company executing the PPA, shall not fall below 51% at any time prior to 01 (one) year after SCSD, except with the prior approval of SECI. Further, the Successful Bidder shall ensure that its promoters shall not cede control of the bidding company till 01 (one) year from the SCSD, except with the prior approval of SECI.

1.7 The Selected Bidder shall pay to SECI, Success Charges @ INR 1,00,000/MW (Indian Rupees One Lakh/MW) + 18% GST, corresponding to the capacity awarded as per the LoA, towards administrative overheads, project monitoring activities, coordination with State Authorities and others including the DISCOM/STU/CTU, etc. 1st installment of the Success Charges, i.e. 50% of the above amount shall be paid to SECI within 30 days after issuance of LoA, and remaining 50% amount (i.e. the 2nd installment of the Success Charges) shall be paid prior to signing of PPA (PPA signing date to be intimated by SECI), in line with Clause 18.1 and 18.2 of the RfS. For the second instalment, the due date shall be the date as intimated by SECI, which shall be at most 7 days prior to signing of PPA.

1.8 Performance Bank Guarantee(s)/ Payment on Order Instrument (POI) for a value of @ INR 23.20 Lakh/MW/Project shall be submitted by the SPD prior to signing of PPA. in line with Clause 17 of the RfS.

1.9 PPA will be executed between SECI and the SPD as per the breakup of the cumulative Contracted Capacity awarded to the Bidder. This LoA is being issued in line with the Project breakup of the cumulative capacity quoted in the Covering Letter as part of your response to RfS and amended subsequently, as applicable.

1.10 The project breakup for the cumulative contracted capacity quoted by the Bidder in the Covering Letter may be changed by the SPD subsequent to issuance of LoA up to the date as on 30 days from issuance of LoA. Delay in meeting the PPA timelines on account of such changes in Project parameters,



which differ from the details provided in the Covering letter, shall be at the risk and cost of the Successful Bidder. The PPAs shall be valid for a period of 25 years from the Scheduled Commencement of Supply Date (SCSD).

1.11 The SPD will have to submit the required documents as mentioned below to SECI within 70 days from the issue of this LoA or 30 days prior to the date of signing of PPA as intimated by SECI, whichever is earlier. In case of delay in submission of documents beyond the period as mentioned above, SECI shall not be liable for delay in verification of documents and subsequent delay in signing of PPA:

1) In line with Clause 36.3 of the RfS, in the case of submission of letter from CEO/Managing Director of the respective Affiliate(s), undertaking to contribute the required equity funding and Performance Bank Guarantees/POI in case the Bidder fails to do so, at the time of bid submission, the requisite Board Resolution from the Affiliate(s) shall be required to be submitted prior to signing of PPA. [Wor required if requisite documents already submitted at the bidding stage]

2) Copy of the Certificate of Incorporation of the SPD.

3) The details of promoters and their shareholding in the SPD, duly certified by the practicing Chartered Accountant/ Company Secretary in original at least 7 (seven) days prior to date of their document submission (certificate date should be after the date of LoA) along with latest documents filed with ROC.

4) Copy of the Memorandum, of Association (MoA) of the SPD highlighting the object clause related to generation of Power/ Energy/ Renewable Energy/ Solar Power plant development.

5) In case the project being executed by a Special Purpose Vehicle (SPV) incorporated by successful bidder, such SPV shall be at least 51% shareholding subsidiary, in line with provisions of the RfS. Further, the Successful Bidder shall submit a Board Resolution prior to signing of PPA with SECI, committing total equity infusion in the SPV as per the provisions of RfS. Also, the SPV shall submit a Board Resolution for execution of the Project.

6) Copy of Board Resolution of SPD for authorization of signing of PPA and subsequent relevant documents.

Further, the PPA shall be signed with SPDs subsequent to the signing of Power Sale Agreements with the Buying Entities for the cumulative awarded capacity and upon submission of the Success Charges along with total Performance Guarantees/ Payment on Order Instrument of requisite value.

1.12 SECI shall have the right to verify original documents of the SPD for which copies have been submitted from the date of submission of response to RfS till date, if required. Effective Date of the PPA shall be the date of signing of PPA. In case SECI intimates to the Successful Bidder, a particular date as the date for signing of PPA and the PPA signing gets delayed on account of reasons attributable to the SPD, the date as specified by SECI shall become the Effective Date of the PPA, irrespective of the date of signing of PPA.

1.13 In case, the SECI offers to execute the PPA with the SPD and the selected Bidder refuses to execute the PPA within the stipulated time period, then the Bank Guarantee equivalent to the amount of the EMD shall be encashed by SECI from the Bank Guarantee available with SECI (i.e. EMD or PBG) as penalty, the selected Project shall stand cancelled, and the selected Bidder expressly waives off its rights and objections, if any, in that respect.

1.14 The SPD shall meet financial closure requirements for the Project in line with clause 21 of the RfS document, by the date as on 6 months prior to the SCSD/extended SCSD. Accordingly, the SPD shall furnish the documents pertaining to compliance of financial closure as per the above provisions.

1.15 The SPD/Project Company shall commence supply of power from full Project Capacity within 24 months from the Effective Date of the PPA, as per the conditions stipulated in Clause 9 of the RfS and



relevant articles of PPA. In case of failure to achieve this milestone, penalty for delay in commencement of supply shall be levied on the SPD as per the above provisions.”

23. As per Clause 10.2 of the Solar Guidelines, the Evaluation Committee is required to certify that the bidding process and the evaluation have been conducted in conformity with the provisions of the RfS document. Also, the Evaluation Authority should satisfy itself that the price of the selected offer is reasonable and consistent with the requirement. In compliance with the above, the Petitioner has furnished the various conformity certificates on record. *Vide* conformity certificate-1 dated 4.6.2024, the Petitioner has certified that applicable Guidelines and amendments /clarifications thereof, if any, issued by the Government of India were followed for the bidding process in the above tender, and no deviation was taken from the Guidelines in the RfS documents for the above tender. The relevant extract of the aforesaid conformity certificate is as under:

“CONFORMITY CERTIFICATE – 1

With respect to the RfS no. SECI/C&P/IPP/11/0016/23-24 dated 29.12.2023, it is hereby declared as follows:

1. Applicable Guidelines and amendments/clarifications thereof, if any, issued by Government of India were followed for the bidding process in the above tender and no deviation was taken from the Guidelines in the RfS documents for the above tender.”

24. Moreover, *vide* conformity certificate 2, the Petitioner has stated that after the conclusion of the bid submission, the Evaluation Committee constituted for evaluation of the bids has conducted the techno-commercial as well as financial bid evaluation in conformity with the provisions of the RfS. The relevant extract of the above conformity certificate is as under:

“CONFORMITY CERTIFICATE - 2



With respect to the RfS no. SECI/C&P/IPP/11/0016/23-24 dated 29.12.2023, it is hereby declared as follows:

1. After the conclusion of bid submission, the Evaluation Committee constituted for evaluation of bids has conducted the techno-commercial as well as financial bid evaluation in conformity to the provisions of the RfS.”

25. Pursuant to the direction of the Commission *vide* Record of the Proceedings for the hearing dated 5.9.2024, the Petitioner also filed a conformity certificate-3 dated 12.9.2024 indicating that the prices discovered under the subject tender are reasonable, in line with the market trends, and consistent with the requirements specified in the Request for Selection document. The relevant extract of the said conformity certificate is as under:

“CONFORMITY CERTIFICATE – 3

With respect to the RfS no. SECI/C&P/IPP/11/0016/23-24 dated 29.12.2023, it is hereby declared as follows:

1. After the conclusion of bid submission, the Evaluation Committee constituted for evaluation and review of the bids has found that the prices discovered under the subject tender are reasonable, in line with the market trends, and consistent with the requirements specified in the Request for Selection (RfS) document.”

26. As per Clause 10.4 of the Solar Guidelines, the distribution licensee or the Intermediary Procurer, as the case may be, shall approach the Appropriate Commission for the adoption of the tariff discovered, in terms of Section 63 of the Act, within fifteen days of the discovery of the tariffs through e-RA or otherwise, in the transparent, competitive bidding process conducted in accordance with the Guidelines. In the present case, the financial bids were opened on 7.3.2024, and the Bid Evaluation Committee submitted its e-RA report on 8.3.2024. Whereas, the present Petition, even on the e-filing portal of the Commission, was filed only on 20.6.2024 (Diary No. generation). In this regard, SECI has submitted that in the past,



the Commission directed the Petitioner to only seek the adoption of a tariff once the capacity is tied up under the PPA and PSA. However, recently the Commission, in its order dated 1.6.2024 passed in Petition No. 68/AT/2024, has clarified that unlike the earlier Guidelines issued by the Ministry of Power, the new Guidelines now issued include a specific timeline for distribution licensee or intermediary procurer to seek the adoption of tariff from the Appropriate Commission and as soon as the Petitioner was apprised of the aforesaid position as made clear by the Commission, it filed the present Petition on 20.6.2024 without waiting for the execution of the PPAs. The Petitioner undertakes to file the Petition within the prescribed timeline in the future without waiting for the execution of the PSAs and PPAs. Keeping in view that the Commission has already issued suitable directions to the Petitioner in its order dated 1.6.2024 in Petition No. 68/AT/2024 in regard to approaching the Appropriate Commission for the adoption of tariff within the timelines specified in the relevant Guidelines in future, we are not repeating such directions in the present case.

27. In light of the aforesaid discussion, it emerges that the selection of the successful bidders has been made, and the tariff of the Solar Power Projects (Tranche XIII) has been discovered by the Petitioner, SECI, through a transparent process of competitive bidding and in accordance with the Guidelines issued by the Ministry of Power, Government of India. Therefore, in terms of Section 63 of the Act, the Commission adopts the individual tariff in terms of the LoAs dated 13.3.2024 for the Solar Power Projects (Tranche XIII), as agreed to by the following successful bidders, subject to the Petitioner tying up the awarded capacity under the PPAs and PSAs:



S. No.	Name of the Successful Bidder	Allotted Capacity (MW)	Final Tariff (INR/kWh)
1.	JSW Neo Energy Limited	700	2.56
2.	Sunsure Solarpark Fourteen Private Limited	300	2.56
3.	Tejorupa Renewables India Project Private Limited	250	2.56
4.	NTPC Renewable Energy Limited	250	2.57
	Total awarded capacity	1500	

28. Prayer (a) of the Petitioner is answered in terms of paragraph 27 above. Moreover, as soon as the balance awarded capacity is tied-up under the PPAs and PSAs, the Petitioner shall place on record the copies of such PPAs and PSAs in the present case. Also, in the event that the awarded capacity does not fructify into PPAs and PSAs, the Petitioner shall also place on record such development(s) on the file of the present case.

29. The Petitioner, SECI, has also prayed to approve the trading margin of Rs.0.07/kWh to be charged to the End Procurer or any other entity over & above the PPA tariff on the sale of power as specified depicted in the RfS document and specified in the Solar Guidelines.

30. In this regard, Clause (1)(d) of Regulation 8 of the Trading Licence Regulations provides as under:

“For transaction under long term contracts, the trading margin shall be decided mutually between the Trading Licensee and the seller.”

31. The above provision gives the choice to the contracting parties to mutually agree on trading margin for long term transactions. However, proviso to Regulation 8(1)(d) of the Trading Licence Regulations provides as under:

*“8(1) (d) * * * * **



Provided that in contracts where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause (10) of Regulation 9 is not provided by the Trading Licensee in favour of the seller, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.”

32. Regulation 8(1)(f) of the Trading Licence Regulations provides as under:

“For transactions under Back to Back contracts, where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause (10) of Regulation 9 is not provided by the Trading Licensee in favour of the seller, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.”

33. The above two provisions are exceptions to the main provision as regards trading margin. In the present case, awarded capacity is yet to be tied up with the distribution licensees, and accordingly, the trading margin shall be as per the provisions of the PSAs to be entered into between SECI and the distribution licensees. However, in case of failure by the SECI to provide an escrow arrangement or irrevocable, unconditional, and revolving letter of credit to the solar generators, the trading margin shall be limited to Rs.0.02/kWh specified in Regulation 8(1)(d) and Regulation 8(1)(f) of the Trading Licence Regulations.

34. Prayer (b) of the Petitioner is answered accordingly.

35. Petition No. 255/AT/2024 is disposed of in terms of the above.

Sd/-
(Harish Dudani)
Member

sd/-
(Ramesh Babu V.)
Member

sd/-
(Jishnu Barua)
Chairperson

