



याचिका संख्या/Petition No. 222/AT/2024

कोरम/ Coram:

श्री जिशु बरुआ, अध्यक्ष / Shri Jishnu Barua, Chairperson

श्री रमेश बाबू व., सदस्य / Shri Ramesh Babu V., Member

श्री हरीश दुदानी, सदस्य / Shri Harish Dudani, Member

आदेश दिनांक/ Date of Order 13th of March, 2025

IN THE MATTER OF:

The Petitioner, NTPC Limited ("NTPC"), has filed the present petition for the adoption of tariff for the procurement of 1500 MW from Inter-State Transmission System (ISTS) connected Wind-Solar Hybrid Power Projects under the "*Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind-Solar Hybrid Projects*" dated 21.08.2023 issued by the Ministry of Power, Government of India.

AND

IN THE MATTER OF:

NTPC Limited
NTPC Bhawan,
Core – 7, Scope Complex,
7, Institutional Area, Lodhi Road,
New Delhi – 110003

...Petitioner

VERSUS

1. M/s ABC CleanTech Private Limited
Through its Authorized Signatory
P.No. 03, 2nd Floor, PMR Plaza Thakur Mansion Lane,
Somajiguda, Hyderabad,
Telangana- 500082
2. M/s Juniper Green Energy Private Limited
Through its Authorized Signatory

F-9, First Floor, Manish Plaza-1,
Plot No. 7 MLU, Sector-10
Dwarka, New Delhi- 110075

3. M/s ACME CleanTech Solutions Private Limited
Through its Authorized Signatory
Plot No. 152, Sector-44
Gurugram, Haryana- 122002
4. M/s Renew Solar Power Private Limited
Through its Authorized Signatory
ReNew Hub, Commercial Block-1,
Zone 6, Golf Course Road, DLF City Phase-V,
Gurugram-122009, Haryan

. . . Respondents

Parties present:

Ms. Shikha Ohri, Advocate, NTPC
Shri Kartik Sharma, Advocate, NTPC

ORDER

The Petitioner, NTPC Limited ("NTPC"), has filed the present petition for the adoption of tariff for the procurement of 1500 MW from Inter-State Transmission System (ISTS) connected Wind-Solar Hybrid Power Projects under the "*Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind-Solar Hybrid Projects*" dated 21.08.2023 issued by the Ministry of Power, Government of India, *The Petitioner has made the following prayers:*

"a) *Adopt the tariff discovered in the tariff based competitive bid process for the power projects as stated above on the terms and conditions contained in the LoAs dated 23.04.2024 issued to the successful bidders, and;*

b) *Approve the trading margin of INR 0.07/kWh;"*

Submission of the Petitioner:

2. The present Petition had been filed for the adoption of the tariff of the 1500 MW Wind-Solar Hybrid Power Projects Connected to the ISTS and selected through a



Competitive Bidding Process as per the MoP guidelines dated 21.8.2023. She further submitted that Petitioner had issued the Request for Selection on 6.12.2023, which was subsequently amended. Six bidders were shortlisted in the bidding process, and the e-reverse auction was conducted on 13.3.2024. Based on the e-reverse auction, LoAs were issued to four successful bidders on 23.4.2024.

Hearing dated 25.07.2024

3. During the course of the hearing on 25.7.2024, the learned counsel for the Petitioner, NTPC, reiterated the submissions made in the pleadings and requested the Commission adopt tariff of the 1500 MW Wind Solar Hybrid Projects connected with the ISTS and selected through the competitive bidding process as per the Hybrid Guidelines.

4. Considering the submissions made by the learned counsel for the Petitioner, the Commission admitted the matter and permitted the Respondents to file their replies to the Petition, if any. The Commission also directed the Petitioner to furnish the details/information, viz., the status of the PPAs and PSAs.

5. Pursuant to the directive issued by the Commission as recorded in the proceedings for the hearing dated 25th July 2024, the Petitioner, through an affidavit dated 20th August 2024, has primarily submitted that the Petitioner is engaged in negotiations with multiple state utilities and distribution companies concerning the sale of electricity and the utilities are currently assessing the tariffs established through such tenders. The expectation is that the Distribution Companies will execute the Power Sale Agreement subsequent to the assessment of the tariff presented by the

Renewable Energy Implementing Agencies. Subsequently, the Power Purchase Agreement shall be executed with the chosen developers following the execution of the Power Sale Agreement with the Distribution Companies or State Utilities.

Hearing dated 05.09.2024

6. During the course of the hearing, learned counsel for the Petitioner submitted that the Petitioner had filed a compliance affidavit furnishing the additional details/information as called for vide Record of Proceedings for the hearing dated 25.7.2024.

7. Considering the submissions of the learned counsel for the Petitioner, the Commission deemed it appropriate to permit the Respondents a final opportunity to file their respective reply, if any, within a week with a copy to the Petitioner, who may file its rejoinder, within a week thereafter. The Commission also directed the Petitioner to furnish the following details/information on an affidavit within two weeks:

(i) Document/certification indicating that the Bid Evaluation Committee satisfied itself that the price of a selected bidder is reasonable and consistent with the requirement as per Clause 12.2 of the Hybrid Guidelines.

(i) In compliance with the direction given by the Commission vide Record of Proceedings for the hearing dated 05.09.2024, the Petitioner, vide affidavit dated 18.9.2024, has provided the Relevant document/certification indicating that the Bid Evaluation Committee satisfied itself that the price of a selected bidder is reasonable and consistent with the requirement as per Clause 12.2 of the Hybrid Guidelines.

Hearing Dated 26.09.2024

8. During the course of the hearing, learned counsel for the Petitioner submitted that the Petitioner had filed a compliance affidavit furnishing the additional details/information as called for vide Record of Proceedings for the hearing dated 05.09.2024. Considering the request of the learned counsel for the Petitioner, the Commission reserved the matter.

Analysis and Decision:

9. 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 Wind-Solar Hybrid Power Projects discovered pursuant to the competitive bid process carried out in terms of the Guidelines issued by the Government of India.

10. 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.”

11. 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.

12. The Ministry of Power, Government of India, has issued the Hybrid Guidelines under Section 63 of the Act on 21.8.2023. The salient features of the Hybrid Guidelines are as under:

(i) *These Guidelines are applicable for the procurement of power from the Hybrid Power Projects having (a) bid capacity of 10 MW and above for projects connected with the intra-State transmission system; and (b) bid capacity of 50 MW and above for projects connected with the inter-State transmission system, subject to the condition that the rated power capacity of one resource (wind or solar) shall be at least 33% of the total contracted capacity.*

(ii) *The solar and wind projects of the hybrid project may be located at the same or different locations. Storage may be added to the hybrid power project to reduce the variability of output power from wind solar hybrid project, for providing higher energy output for a given capacity (bid/ sanctioned capacity) at delivery point, by installing additional capacity of wind and solar power in a wind solar hybrid project and to ensure availability of firm power for a particular period.*

(iii) *The Procurer shall prepare the bid documents in accordance with these Guidelines and any deviations from these Guidelines and/or Standard Bidding Documents (SBDs) in the draft RfS, PPA, PSA (if applicable) need to be approved by the Government in accordance with the process described in Clause 19 of these Guidelines.*

(iv) *The Procurer will invite the bids in Power Capacity (MW) terms. A bidder is allowed to bid for a minimum bid capacity as per Clause 3.1 of the Guidelines. The Procurer may also choose to specify the maximum capacity that can be allotted to a single bidder, including its Affiliates. A maximum of 50 percent of total capacity as specified in the RfS can be allocated to a single bidder.*

(v) *For procurement of wind solar hybrid power, the tariff quoted by the bidder shall be the bidding parameter. The tariff quoted shall be a fixed tariff in Rs./kWh for the PPA period. The capacity allocation shall be on the basis of Bucket filling, i.e., capacity quoted by the least quoted tariff bidder (called the L1 bidder) at the rates quoted (L1 rates) shall be allocated first, then the capacity quoted by the next lowest bidder (called the L2 bidder) at the rates quoted (called the L2 rates) may be allocated and so on.*

(vi) *The draft PPA proposed to be entered into with the successful bidder and the draft PSA shall be issued along with the RfS. Standard provisions to be incorporated as part of the PPA shall include inter alia the PPA Period, Quantum of Power, Deviation Settlement Mechanism (DSM), Payment Security Mechanism (PSM), Change in Law, Force Majeure, Generation Compensation for Off-take Constraints, Event of Default, and consequences thereof.*

(vii) *Adequate payment security shall be provided as per the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022, including amendments and clarifications, if any, thereof, issued from time to time. In addition, the intermediary procurer may maintain a payment security fund. To be eligible for coverage from the fund, the developer will undertake to pay the PSM charges at the rate of 2 paise per unit.*

(viii) *The procurer/intermediary procurer shall call for the bids by adopting a single stage two-part (Technical Bid & Financial Bid) bidding process to be conducted through electronic mode (e-bidding). The procurer may also opt for an e-reverse auction for the final selection of bidders, in such a case, this will be specifically mentioned in the notice inviting bids and bid document. E-procurement platforms with a successful track record and with adequate safety, security, and confidentiality features will be used.*

(ix) *The bidding documents, including the RfS, draft PPA and PSA (if applicable) shall be prepared by the Procurer(s) in consonance with these Guidelines and the SBDs, if any. The Procurer(s) shall publish the RfS notice in at least two national newspapers or its own website, to accord the wide publicity. The standard provisions to be provided by the Procurer in the RfS shall include the Technical Criteria, Financial Criteria, Net Worth, Liquidity, Quantum of the Earnest Money Deposit (EMD), and Compliance of Laws by foreign bidders.*

(x) *The Procurer(s) shall constitute committee for the evaluation of the bids (Evaluation Committee), with at least three members, including at least one member with expertise in financial matters/ bid evaluation. The price bid shall be rejected if it contains any deviation from the bid conditions.*

(xi) *The bidders shall be required to submit separate technical and price bids. Bidders shall also be required to furnish the necessary bid-guarantee in the form of an EMD along with the bids. To ensure competitiveness, the minimum number of qualified bidders should be two. If the number of qualified bidders is less than two, even after three attempts of bidding, and the Procurer still wants to continue with the bidding process, the same may be done with the consent of the Appropriate Commission. The detailed procedure for the evaluation of the bid and selection of the bidder shall be provided for in the RfS.*

(xii) *After the conclusion of the bidding process, the Evaluation Committee constituted for evaluation of the RfS bids shall critically evaluate the bids and certify as appropriate that the bidding process and the evaluation have been conducted in conformity with the provisions of the RfS document. The evaluation authority should satisfy itself that the price of the selected offer is reasonable and consistent with the requirement.*

(xiii) *The PPA shall be signed with the successful Bidder/ Project Company or an SPV formed by the successful Bidder. After the execution of the PPA, the procurer shall publicly disclose the name(s) of the successful Bidder(s) and the tariff quoted by them together with breakup into components, if any.*

(xiv) *The distribution licensee or the Intermediary Procurer, as the case may be, shall approach the Appropriate Commission for the adoption of tariff by the Appropriate Commission in terms of Section 63 of the Act within 15 (fifteen) days of the discovery of the tariffs in the transparent competitive bidding process conducted in accordance with these Guidelines.*

13. In terms of the provisions of Section 63 of the Act, we have to examine whether the process as per the provisions of the Hybrid Guidelines has been followed in the

present case for arriving at the lowest tariff and for the selection of the successful bidder(s).

14. The Ministry of New and Renewable Energy ('MNRE') vide Office Memorandum ('OM') number 283/24/2023-GRID SOLAR/Pt dated 31.3.2023 directed the Bidding Trajectory that Renewable Energy Implementing Agencies (REIAs) were required to follow for renewable energy power projects. By means of the aforementioned OM dated 31.3.2023, REIAs were instructed to submit the bids for renewable energy capacity of fifty gigawatts (GW) annually beginning in the fiscal year 2023-2024. Subsequently, the MNRE vide another OM number 283/24/2023-GRID SOLAR dated 24.4.2023 announced the Bidding calendar for the fiscal year 2023-24 for each of the REIAs by another official notification (OM) number 283/24/2023- GRID SOLAR. According to the Bidding Calendar, NTPC was obligated to solicit bids for the selection of a variety of renewable energy producers for a capacity of 15 gigawatts (GW) during the fiscal year 2023-24. The Petitioner has been designated as the nodal agency for the implementation of the MNRE Schemes to establish the inter-State Transmission Systems connected/State-specific wind/solar power/wind-solar hybrid power projects, inviting bids through a tariff-based competitive bidding process, entering into the Power Purchase Agreements (PPAs) with the developers at the tariff discovered in the competitive bid process, and entering into the Power Supply Agreements (PSAs) with the distribution licensees on a back-to-back basis. NTPC functions as an intermediary agency in the process of purchasing and selling power under the PPAs and PSAs.

15. The Hybrid Guidelines offer a framework for the long-term procurement of wind-solar hybrid power at a tariff that will be decided through a transparent process of

bidding held by the Procurer(s) from the ISTS-connected Wind-Solar Hybrid Power Projects.

16. In accordance to the Guidelines, NTPC issued the Request for Selection (RfS) RfS No. NTPC/RE-CS/2023-24/HYBRID/BOO-13 along with Standard draft of PPA and PSA documents for setting up of 1500 MW ISTS connected Wind Solar Power project, as per the Guidelines. This tender was floated on the ISN Electronic Tender System (ISN ETS) e-Tender portal, followed by an e-reverse auction, on an International Competitive Bidding (ICB) basis. Additionally, NTPC issued Amendment No.1 to the RfS dated 05.01.2024.

17. NTPC published the RfS Document on the Central Public Procurement Portal Website of the Government of India ('e-publishing system') on 06.12.2023(NIT Publishing Date).

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

Sr. No.	Particulars	Details
1	Date of Publication of Tender	06.12.2023
2	Last Date of Bid Submission	01.01.2024
3	Opening of Technical Bid	12.01.2024
4	Opening of Financial Bid	12.03.2024
5	e-Reverse Auction Conducted	13.03.2024
6	Issuance of Letter of Awards to Successful Bidders	23.04.2024

19. Subsequently, NTPC constituted a Standing Tender Committee to evaluate the bids and submit award recommendations for the tenders invited by NTPC. A Standing Tender Committee has been constituted comprising of the following members from RE-CS, Corp. Commercial and Corp. Finance Departments to evaluate the bids and submit Award recommendations for the tenders invited by NTPC as REIA under developer mode for sale of power to End Procurer(s):



Sl. No.	Department	Name & Designation of Tender Committee member
1	RE-CS	Sh. Dhananjay Mohapatra, AGM (RE-CS)
2	Commercial	Sh. Manish Kumar Verma, AGM (Commercial)
3	Finance	Sh. Abhishek Tandon, AGM (Fin)

20. The Standing Tender Committee examined the bids based on the Qualifying Requirements in the RfS. After completion of the Techno-Commercial evaluation process, the Standing Tender Committee, in its report dated 29.02.2024, recommended the following six bidders be techno-commercially qualified and eligible for opening the financial bids:

S.No.	Bidder Name	Bid Capacity (MW)
1.	M/s Avaada Energy Pvt. Ltd.	750
2.	M/s Juniper Green Energy Private Limited	300
3.	M/s ABC CleanTech Private Limited	750
4.	M/s Renew Solar Power Private Limited	600
5.	M/s Acme CleanTech Solutions Private Limited	150
6.	M/s Tata Power Renewable Energy Limited	300
7.	M/s Teq Green Power XX Private Limited	300
Total		3150

21. The total bid capacity of all the techno commercially qualified bidders was 3150 MW. Based on the bids received, the shortlisting of the bidders for the e-reverse auction was completed in line with Clause 3.12.4.3 of the RfS based on the financial bids submitted by the bidders. Pursuant to the shortlisting, a total of 6 out of 7 techno commercial eligible bids were held eligible for the e-reverse auction. Accordingly, on 12.03.2024, the Standing Tender Committee submitted its report on financial bid evaluation and details of the shortlisted bidders for e-reverse auction (e-RA) for the

Wind Solar Hybrid Power Projects under the RfS. The details of the 6 bidders are as below:

S. No.	Name of the Bidders	Quoted tariff in Rs/kWh	Capacity selected	Ranking of Bidder
1.	ABC	3.27	750 MW	Rank -1 (L1)
2.	JUNIPER	3.29	300 MW	Rank -2 (L2)
3.	ACME	3.39	150 MW	Rank -3 (L3)
4.	TEQ	3.47	300 MW	Rank -4 (L4)
5.	RENEW	3.49	600 MW	Rank -5 (L5)
6.	AVAADA	3.53	750 MW	Rank -6 (L6)

22. The e-RA for the 1500 MW capacity commenced on 13.03.2024 at 14:00 Hrs. Thus, based on the result of e-RA, the bidders were selected. The details of the list of successful bidders are tabulated below:

S. No.	Name of the Bidders	Capacity of Solar Component (MW)	Capacity of Wind component (MW)	Capacity of Hybrid Projects for allotment (in MW)	Tariff discovered after e-reverse auction (INR/kWh)
1.	M/S Abc Cleantech Private Limited (Abc)	750	250	750	3.27
2.	M/S Juniper Green Energy Private Limited (Juniper)	260	100	300	3.29
3.	M/S Acme Cleantech Solutions Private Limited (Acme)	150	50	150	3.32
4.	M/S Renew Solar Power Private Limited (Renew)	300	100	300	3.32
Total Quoted Capacity				1500	

23. On 23.04.2024, the Petitioner issued the Letters of Award to M/s ReNew Solar Power Private Limited, M/s ABC CleanTech Private Limited, M/s ACME Cleantech Solutions Private Limited, M/s Juniper Green Energy Private Limited.

24. The relevant portion of the Letter of Award issued to one of the successful bidders, namely ABC CleanTech Private Limited, is as under:

“1.0 “This has reference to the following:

(A) The “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects” vide Gazette Resolution dated 21.08.2023 issued by Ministry of Power (MoP) (hereinafter referred to as “Guidelines”)

(B) Our Invitation For Bids (IFB) bearing Ref. no. NTPC/RE-CS/2023-24/Hybrid/BOO-13 Dated 06.12.2023.

(C) Request for Selection Document (including Draft Power Purchase Agreement i.e. PPA and Draft Power Sale Agreement i.e. PSA) bearing ref. no. NTPC/RE-CS/2023-24/Hybrid/BOO-13 issued to you/downloaded from ETS Portal (<https://www.bharat-electronicstender.com>) 'side TSC No. NTPC-2023-TN000012

(D) Various Amendments / Clarifications / Errata to the RfS documents for the subject package uploaded on ETS Portal prior to Envelope-I (Technical Bid) Opening, as per details given below

Sl. No.	Description of base Bidding Documents	Amendment(s)/Clarification(s) issued to Base Documents prior to Stage-I Bid opening
1.	Request for Selection Documents (RfS)	Amendment No. 01 to RfS dtd 05.01.2024, NTPC/RE-CS/2023-24/HYBRID/BOO-13- AMNDT-01 (Published as Addendum-1) (ii) Clarification No. 01 to RfS dtd 05.01.2024, NTPC/RE- CS/2023-24/HYBRID/BOO-13-CLRF-01 (Published as Addendum-1)
2.	Power Purchase Agreement (PPA)	(i) Amendment No. 01 to PPA dated 07.01.2024 (Published as Addendum-2) (ii) Clarification No. 01 to PPA dtd 10.01.2024, NTPC/RE- CS/2023-24/HYBRID/BOO-13-CLRF-02 (Published as Addendum-3)
3.	Power Sale Agreement (PSA)	(i) Addendum No.-1 to PSA dtd 07.01.2024 (Published as Addendum-2)

Aforesaid documents attached as Annexure-I.

Request for Selection Document including PPA & PSA and various Amendments / Clarifications / Errata as mentioned above shall be hereinafter referred to as "RfS"

(E) Your response to RfS by way of submission of offline documents in NTPC office, your Technical Bid (Envelope I) and Financial Bid (Envelope II) submitted online on ETS website against TSC No.- NTPC-2023-TN000012 and opened on 23.01.2024, enclosed at Annexure-II.

(F) NTPC email dated 21.02.2024 seeking clarifications on your technical bid, enclosed at Annexure-III.

(G) Your e-mail dated 16.02.2024 & 22.02.2024 submitting therewith clarifications / additional documents, enclosed at Annexure-IV

(H) NTPC email message dated 29.02.2024 intimating you the date and time of start of e-Reverse Auction and email message dated 07.03.2024 intimating you the postponement of date and time of start of e-Reverse Auction enclosed at Annexure-V.

(I) System Generated entail messages dated 13.03.2024 inviting you for participation in e- Reverse Auction. enclosed at Annexure-VI.

(J) The result of online e-Reverse Auction held on 13.03.2024 at 14:00 hrs and concluded on the same day 15:00 hrs on ETS website.

2.0 NTPC is pleased to accept your Response to Request for Selection for the subject tender read in conjunction with all the terms & conditions of the RfS Documents including its Amendments & Clarifications and letters/emails referred to in Para 1.0 above and issue this Letter of Award (LoA) for setting up of 750 MW ISTS connected Wind-Solar Hybrid and Supply of Hybrid Power from this project to NTPC subject to the terms and conditions



contained in RfS mentioned at para 1.0 above.

Further, the Power Purchase Agreement (PPA) shall be signed with you only after signing of Power Sale Agreement (PSA) with the end procurers and NTPC shall not be liable on any account for any delay / inability in signing of PSA and PPA.

3.0 In line with the terms and conditions of RfS, before signing of PPA, you have the option to form Special Purpose Vehicle (hereinafter called "Project Company") under Indian Companies Act. The company (Bidding Company or Project Company) executing the project (hereinafter called "Hybrid Power Generator / HPG") shall enter into Power Purchase Agreement (PPA) as per the format given along with RfS within 90 days of issue of this Letter of Award (LOA) subject to signing of Power Sale Agreement (PSA) with the End Procurer(s) for identified capacity. All the documents referred to at para 1.0 above shall form integral part of the Power Purchase Agreement to be entered into between Project Company / Hybrid Power Generator (HPG) and NTPC so far these are not repugnant to the terms and conditions contained in the RfS referred to in para 1.0 above.

The signing of PPA shall constitute the agreement for setting up of the project. As specified in Clause No 3.14 of RfS, irrespective of the date of signing of PPA, the Effective Date of the PPA shall be the date as on 90th day from the date of issuance of LOA. In extraordinary cases of unavoidable delays on the part of NTPC in signing the PPAs, the Effective Date of the PPA shall then be the date of signing of PPA.

4.0 As per clause 3.26 of RfS document, you shall ensure that the Shareholding of Bidding Company ABC Cleantech Private Limited in the SPV/ project company executing the PPA shall not fall below 51% (fifty one per cent) at any time prior to One (01) year from the Scheduled Commencement of Supply Date (SCSD), except with the prior approval of NTPC. Further, in case, you yourself shall be executing the PPA, you shall also ensure that the promoters shall not cede control of ABC Cleantech Private Limited till One (01) year from the SCSD except with the prior approval of NTPC. Any change in the shareholding after the expiry of One (01) year from the SCSD can be undertaken under intimation to NTPC.

5.0 The Tariff for electricity generated from the Wind-Solar Hybrid Power Project to be developed by the HPG for the entire period of twenty five (25) years of Power Purchase Agreement (PPA) to be entered into between the HPG and NTPC for this project shall be INR 3.27/kWh (Indian Rupees Three and Twenty Seven paise only per Kilowatt hour) subject to the provisions of RfS.

6.0 You along with your Project Company (if formed by your Company) are required to submit the following documents along with originals for verification within 15 days of issuance of this Letter of Award (LOA):

- (i) Original Response to RfS referred to in para 1.0 (E) above.
- (ii) If Project Company is formed by your company for this project, Board Resolutions from your Company and your Parent and/or Affiliates duly certified by the Company Secretary or the Director, as applicable, regarding fulfilment of equity investment obligations of Project Company in the same manner as provided by you and your Affiliates in your favour at the time of submission of RfS.
- (iii) Copy of the Certificate of Incorporation along with Memorandum & Article of Association of HPG highlighting the relevant provision of Power/Energy/Renewable energy/Solar/Wind Energy Power Plant development as per clause 3.15 (A 12) of RfS duly certified to be True copy by Company Secretary.
- (iv) Details of promoters and current shareholding pattern of the Bidding Company and Project Company (if formed) developing the project, duly certified by the Company Secretary in original along with a copy of Return filed with Registrar of Companies (ROC) for registering the shareholding and its terms and conditions which became due



for filing during this period.

- (v) If Project Company is formed by your company to execute the project, a fresh Integrity Pact between Project Company and NTPC has to be signed. Certificate for Compliance to all Provisions of RfS Document is also to be submitted by Project Company.

7.0 Vide Covering letter of your bid submitted against the RfS (copy enclosed at Annexure-II), you have indicated that you shall develop one (01) project of 750 MW with details as under:

Si NO.	Capacity of Project (MW)	Location of Project	Interconnection point details
A	Details of solar project		
1	400	Nokh Village, Nokh Tehsii, Pokhran District, Rajasthan	Bhadla-III
2	350	Nossam Village, Sanjamala Mandal, Kurnool District, Andhra Pradesh	Kurnool-III
Total of Solar Component- 750 MW			
B	Details of wind project		
1	250	Maddikera Village, Maddikera Mandal, Kurnool District, Andhra Pradesh	Anantapuramu SS
Total Contracted Capacity of Hybrid Power Project (MW)		750 MW	Declared CUF-39%

In line with clause 3.6.3 of RfS documents, HPG shall have option to change the Project location and/or Delivery Point upto the deadline for Financial Closure as per clause no.-3.27 of the RfS. The above change in Delivery Point shall be allowed by NTPC only in case the scheduled commissioning date of the ISTS-substation of the proposed revised Delivery Point is on or before the scheduled commissioning date of the existing Delivery Point of the Project, at the time of seeking approval from NTPC by the HPG. Implications of any delay in obtaining connectivity and subsequently, commencement of supply of power on account of the above, will be borne by the HPG.

8.0 In line with the provisions of RfS, the HPG shall submit Performance Guarantee of Rs. 29 Lakh/MW to NTPC within 70 days from the date of issue of Letter of Award or before signing of PPA, whichever is earlier, either in form of Bank Guarantee (BG) from any bank listed in the RfS for this purpose or Payment of Order Instrument (POI) issued by IREDA/PFC/REC as per the Performa available in RfS document. The total value of the Performance Guarantee for the project of 750 MW capacity shall be INR 217.50 Crore. The Performance Guarantees shall be valid for a period of six (06) months beyond SCSD. Further, the PPA shall be signed only upon successful verification of the PBG of requisite value submitted by the HPG.

As per provision of RfS, the confirmation of PBG shall be through secure Structured Financial Messaging System (SFMS). In this regard, while issuing the physical BG, your Bank shall also send electronic message to NTPC's Beneficiary Bank whose details are provided below:

Bank Details:

- (i) Bank Name: ICICI Bank Limited
- (ii) Branch: Connaught Place Branch, New Delhi
- (iii) Bank Address: 9A, PHELPS BUILDING, INNER CIRCLE, NEW DELHI- 110001
- (iv) IFSC Code: ICIC0000007

All BGs/POIs except BG issued by a Bank outside India outside India, shall be received from issuing Bank/authority directly through post/ courier, by Unified



Treasury, Dadri at the address mentioned at clause no.-3.24 (ii) of RfS documents.

The Bank Guarantee towards Earnest Money submitted by you along with your Response to RfS shall be released only after receipt & verification of the Performance Guarantee.

9.0 The HPG shall pay to NTPC, success charge of Rs 1 lakh/MW +18% GST prior to signing of PPA in line with the provisions of clause no.-3.24.3 of RfS.

10.0 The Scheduled Commencement of Supply Date (SCSD) for supplying power from the full Project capacity shall be within a period of 24 (twenty-four) months from the Effective Date of the PPA in line with clause no.-3.28.1 of RfS.

11.0 All disputes arising out of and / or in connection with this "Selection of Hybrid Power Generators for Supply of 1500 MW Power from ISTS Connected Wind-Solar Hybrid Power Projects Anywhere in India" and Supply of Hybrid Power therefrom and execution of PPA thereto shall be governed by laws of India and Courts of Delhi shall have exclusive jurisdiction.

12.0 This Letter of Award (LOA) is being issued to you in duplicate. You are kindly requested to return the duplicate copy of this LOA including all Annexure, duly signed on each page by your authorized signatory in token of your unequivocal acknowledgement of the same within 7 days from the date of this LOA.

Thanking you,"

25. The Petitioner submitted that the Power Purchase Agreement signed between the successful bidders and the Petitioner and the Power Sale Agreement signed between the Petitioner and the Buying Entity shall be for a period of 25 years.

26. As per Clause 12.2 of the Hybrid 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. Also, the Evaluation Authority should satisfy itself that the price of the selected offer is reasonable and consistent with the requirement. Pursuant to the direction of the Commission vide Record of the Proceedings for the hearing dated 05.09.2024, the Petitioner has filed a conformity certificate indicating that the bidding process and evaluation criteria as specified in the RfS document has been strictly complied with and the entire process of evaluation has been transparent. It is further indicated that the levelized tariff quoted by the bidders



for the supply of hybrid power for 25 years has been discovered through the International Competitive Bidding process under Open Tender mode followed by a reverse auction, and the tariff discovered in the present tender appears to be reasonable and consistent with the requirement of the tender. The relevant extract of the said conformity certificate is as under:

“CERTIFICATE BY BID EVALUATION COMMITTEE

It is certified that:

A. The bidding process and evaluation criteria as specified in the RfS document has been Strictly complied with add the entire process of evaluation has been transparent.

B. The levelized tariffs quoted by the bidders for supply of wind- solar hybrid power for 25 years have been discovered through International Competitive Bidding process under Open Tender mode followed by Reverse Auction. Total number of bidders who have participated in the tender was seven (07) with cumulative quoted contracted capacity of 3150 MW against the total bid capacity of 1500 MW, from which it can be considered that there has been adequate participation of the bidders in the aforesaid tender. Considering above, the tariff discovered in the present tender appears to be reasonable and consistent with the requirement of the tender.”

27. Further, as per Clause 12.4 of the Hybrid Guidelines, 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 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 e-RA was conducted on 13.03.2024. Whereas, the present Petition, even on the e-filing portal of the Commission, was filed only on 27.04.2024 (Diary No. Generation). In this regard, NTPC has submitted that the tariff was discovered by way of an e-Reverse Auction on 13.03.2024, and thereafter, the Standing Tender Committee, constituted in accordance with Clause 10.2 of the Bidding Guidelines, evaluated the bids and prices discovered in the e-reverse auction



as per the requirement of Clause 12.2 of the Bidding Guidelines, and recommended the issuance of the LoAs to the successful bidders, i.e., Respondents herein. Pursuant to the recommendation, approval was granted by the Competent Authority for awarding the selected project capacity to the Selected Bidders. The time taken for requisite approvals was unavoidable to ensure proper compliance with the provisions of the Bidding Guidelines. Immediately thereafter, i.e., on 23.04.2024, NTPC issued the LoAs to the Respondents in the manner as stated in the captioned Petition. Soon after the issuance of the LoAs, NTPC completed all the activities involved in the filing of the petition, i.e., preparation of the Petition, compilation of relevant documents, and processing of the filing fees, etc., in the best possible time. In view of the above, the present Petition could not be filed within the prescribed period of time, which may be condoned by this Commission. Keeping in view that the Commission has already issued suitable directions to the Petitioner in the order dated 24.7.2024 in case No. 71/AT/2024 (NTPC Ltd. v. Solalite Power Pvt. Ltd. and Ors.) regarding 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.

28. The Petitioner submitted that the tariff discovered from the Wind-Solar Hybrid Power developers under the present bidding process is competitive and will be beneficial to the Procurer as well as the consumers of the Procurer. The Petitioner further submitted that the tariff discovered in the competitive bid process, as mentioned above, is required to be adopted by the Commission under Section 63 of the Electricity Act, 2003.



29. We have considered the submissions made by NTPC. In the past, the Commission has been proceeding with the adoption of tariffs only to the extent of the awarded capacity being tied up under the PPAs and PSAs with the successful bidders/developers and the distribution licensees, respectively. However, keeping in view the overall emphasis of the Hybrid Guidelines on the expeditious adoption of the tariff, we consider it appropriate to proceed with the adoption of the tariff without waiting for the tying up of the awarded capacity under the PPAs and PSAs, albeit such adoption shall be subject to the Petitioner tying up the awarded capacity under the PPAs and PSAs.

30. In light of the aforesaid discussion, it emerges that the selection of the successful bidders has been made, and the tariff of the Wind-Solar Hybrid Power Projects has been discovered by the Petitioner, NTPC, 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 following individual tariff in terms of the LOAs dated 23.04.2024 for the Hybrid Power Projects, as agreed to by the successful bidder's subject to the Petitioner tying up the awarded capacity under the PPAs and PSAs.

31. Prayer (a) of the Petitioner is answered in terms of paragraph 28 above. Moreover, as soon as the 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.

32. The Petitioner, NTPC, 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 depicted in the RfS document and specified in the Hybrid Guidelines.

33. 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.”

34. The above provision gives a 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.”

35. 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.”

36. 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 NTPC and the distribution licensees. However, in case of failure by the NTPC to provide an escrow arrangement or irrevocable, unconditional, and revolving letter of credit to the wind-solar hybrid 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.

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

38. The Petition No. 222/AT/2024 is disposed of in terms of the above

Sd/-
(श्री हरीश दुदानी)
सदस्य

Sd/-
(श्री रमेश बाबू व.)
सदस्य

Sd/-
(श्री जिशु बरुआ)
अध्यक्ष

