



याचिका संख्या/Petition No 617/AT/2025

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
श्री रविन्द्र सिंह ढिल्लो, सदस्य / Shri Ravinder Singh Dhillon, Member

आदेश दिनांक/ Date of Order 24th of March, 2026

In the matter of

Petition under Section 79 (1) (a) of the Electricity Act, 2003 read with Part VII of the Electricity Act, 2003 (Section 63) for Adoption of the Usage Charges for 1200 MW Solar Photovoltaic (PV) Power Station (Tranche-III) Connected to the Inter-State Transmission System (ISTS)/State Transmission System (STU) under Central Power Sector undertaking Scheme Phase-II as per the guidelines dated 5.3.2019 as amended on 13.4.2020 issued by the Central Government.

And

In the matter of:

Solar Energy Corporation of India Limited (SECI)

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

... Petitioner

VERSUS

1. Indian Renewable Energy Development Agency Limited (IREDA)

Corporate office at 3rd Floor, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi – 110066

2. Gujarat Urja Vikas Nigam Limited (GUVNL)

Sardar Patel Vidyut Bhavan , Race Course,
Vadodara-390007

3. Madhya Pradesh Power Management Company Limited (MPPMCL)

Block No. 11, Shakti Bhawan, Jabalpur-482008,
Madhya Pradesh

...Respondents

Parties Present:

Shri M. G. Ramachandran, Sr. Advocate, SECI
Ms. Anushree Bardhan, Advocate, SECI
Ms. Ritika Singh, Advocate, SECI
Ms. Dalima Gupta, Advocate, SECI
Ms. Srishti Khindaria, Advocate, SECI
Shri Aneesh Bajaj, Advocate, SECI
Shri Mudit Jain, SECI

ORDER

The Petitioner, Solar Energy Corporation of India Ltd (hereinafter referred to as “SECI”), has filed the present Petition under Section 63 of the Electricity Act, 2003 (“the Act”) for the adoption of the usage charges for the 1200 MW Solar Photovoltaic (PV) Power Station (Tranche III) connected with the Inter-State Transmission System (hereinafter referred to as “ISTS”) / State Transmission System (hereinafter referred to as ‘STU’) selected through a competitive bidding process under the ‘Central Power Sector Undertaking Scheme Phase II (Government Producer Scheme) for setting up the 12,000 MW grid-connected Solar Photovoltaic (hereinafter referred to as “PV”) Power Projects by the Government Producers with Viability Gap Funding (hereinafter referred to as “VGF”) support for self-use or use by the Government/ Government entities, either directly or through the Distribution



Companies' dated 5.3.2019 ("CPSU Scheme Phase II") and as per the "Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power Grid Connected Solar PV Power Projects" (hereinafter referred to as "the Solar Guidelines") dated 3.8.2017 issued by the Ministry of Power, Government of India.

The Petitioner has made the following prayers:

- a. Adopt the usage charges of Rs 2.57/kWh with the VGF of Rs 44,72,000/- per MW, as per the L1 bidder tariff discovered in the competitive bid process, for 1200 MW of Solar PV Power Project to be established by SECI under the Central Power Sector Undertaking Scheme Phase-II (Tranche- III) as per the Guidelines dated 05.03.2019 as amended on 13.04.2020 and 10.05.2021 issued by the Central Government;*
- b. Pass any other or further order which this Hon'ble Commission may deem fit and proper in the facts and circumstances of this case.*

Submissions of the Petitioner

2. The Petitioner, SECI, has mainly submitted as under:

2.1. The Petitioner, being a Generating Company within the scope of Section 2 (28) of the Electricity Act, 2003, has filed the present Petition under Section 79 (1)(a) of the Electricity Act, 2003 read with Part VII of the Electricity Act, 2003 (Section 63) for adoption of the usage charges for 1200 MW Solar photovoltaic (PV) power station (TRANCHE-III) connected to the inter-state transmission system (ISTS)/state transmission system (STU) under the Central Power Sector Undertaking (CPSU) Scheme Phase-II (Government Producer Scheme) (hereinafter referred as "CPSU Scheme") issued by the Ministry of New and Renewable Energy (MNRE), Government of India on 05.03.2019 as amended on 13.04.2020 for setting up of 12,000 MW grid connected Solar Photovoltaic (PV) Power Projects by the Government Producers with Viability

Gap Funding support for self-use or use by Government/Government entities, either directly or through Distribution Companies (DISCOMS).

2.2. On 5.3.2019, the Ministry of New and Renewable Energy (hereinafter referred to as “the MNRE”) notified the CPSU Scheme Phase-II under Section 63 of the Act for setting up of the 12,000 MW grid-connected Solar PV Power Projects by Government Producers, with Viability Gap Funding (hereinafter referred to as “VGF”) support, for self-use or for use by the Government/ Government entities, either directly or through the Distribution Companies (hereinafter referred to as “DISCOMs”). As per Clause 2.2.4.1 of the CPSU Scheme, the VGF amount was prescribed as the bid parameter for selecting the project proponent. Later, on 3.7.2019, the MNRE issued the Scheme Modalities to streamline the implementation of the CPSU Scheme. Thereafter, MNRE, vide Office Memorandum dated 13.4.2020, notified the amendments to the Scheme

2.3. On 13.04.2020, the MNRE, Government of India, vide an Office Memorandum issued an Amendment to the CPSU Scheme, making Indian Renewable Energy Development Agency Limited (‘IREDA’), the designated Nodal Agency responsible for implementation of the said scheme.

2.4. An additional clause was also added whereby IREDA (being Nodal Agency under the scheme) could allot up to 50 MW of solar PV power project capacity under the scheme to a willing government entity at the L1 rate from the recent last bidding (within 4 months of such last bidding), without the requirement of participation in the bidding process, provided the entity meets all qualification criteria and agrees to abide by applicable rules.

2.5. Indian Renewable Energy Development Agency Limited (hereinafter referred to as “IREDA”), on behalf of the MNRE, issued the Request for

Selection ("RfS") on 29.1.2021 for setting up the 5000 MW grid-connected Solar PV Power Projects in India (Tranche-III) under the CPSU Scheme. Subsequently, vide Office Memorandum dated 15.4.2021, the Ministry issued directions for review of usage charges under the said Scheme. Thereafter, on 14.5.2021, IREDA issued a Corrigendum to the RfS, revising the ceiling usage charges to Rs. 2.45/kWh and reducing the maximum permissible VGF from Rs. 0.70 crore/MW to Rs. 0.55 crore/MW.

2.6. The interested bidders submitted their bids, and an e-Reverse Auction was conducted on 30.09.2021, and M/s SJVN Limited emerged as the L1 bidder. In the bidding process, the Petitioner, SECI, participated in the competitive bidding and applied for a capacity of 1200 MW at an initial quoted VGF of Rs 55,00,000/ per MW but was not successful in the Reverse Auction held on 30.09.2021. A list of the selected bidders for the quantum of 5000 MW is as under:

Sr. No.	Applicant Name	Quoted VGF (by Bidder at end of e-RA)	Capacity Being Allocated (MW)
1.	SJVN Limited	Rs. 44,72,000/- per MW	1000
2	NLC India Limited	Rs. 44,74,990/- per MW	510
3.	NHPC Limited	Rs. 44,90,000/- per MW	1000
4.	IRCON International Limited	Rs. 44,94,000/- per MW	500
5.	NTPC Limited	Rs. 44,95,000/- per MW	1990
		Total	5000

2.7. The tariff in the competitive bidding process, as per the RfS issued by IREDA, was fixed at Rs 2.45/kWh with the maximum permissible limit for VGF

at Rs 0.55 crore/MW for the Projects. The VGF requirement discovered in the competitive process for 5000 MW is in the range of Rs 44,72,000/- to Rs 44,95,000/- per MW.

2.8. The policy of the Government of India was to maximise the utilisation of solar power by the Central Public Sector Units (CPSUs) up to an aggregate capacity of 12000 MW or more grid-connected solar PV Projects, and the Government of India had agreed to allocate VGF up to the above capacity for the implementation of the scheme. As against the target of 12,000 MW capacity, with the completion of the e-reverse auction for 5000 MW initiated by IREDA and the earlier 2026 MW, the balance capacity under the envisaged 12,000 MW was 4974 MW.

2.9. Considering the above, the Central Government has been desirous of authorising 1200 MW additional capacity being developed at the same terms and conditions as are applicable to the L1 bidder mentioned hereinabove, namely, SJVNL Limited, with VGF of Rs. 44,72,000/- per MW.

2.10. In the Union Budget for the FY 2021-22, the Central Government had allocated and approved specific funds to be infused as equity in SECI of Rs. 1000 Crore (and also to IREDA for an amount of Rs.1500 Crore) and hence the Petitioner was placed in a position to fund and establish the Solar PV project to the extent of 1200 MW based on the equity infusion by the Central Government from the budget allocation.

2.11. Accordingly, the Petitioner requested the MNRE, Government of India, to allocate a 1200 MW Solar PV Project on the basis of the usage charges of the L1 bidder discovered in the e-reverse auction and on the same terms and conditions as per the CPSU Scheme, etc., applicable to the L1 bidder. MNRE, vide a letter dated 06.12.2021, decided to allocate 1200 MW to the Petitioner

under the CPSU Scheme, Phase-II. Accordingly, IREDA, on 07.12.2021, issued a Letter of Award (LoA) to the Petitioner allocating 1200 MW capacity at *L1 VGF discovered in the e-Reverse Auction conducted on 23.09.2021*

2.12. The Petitioner submitted that the above increase in the capacity by 1200 MW allocated to the Petitioner is consistent with the Guidelines dated 05.03.2019, wherein the Government of India envisaged a total aggregate capacity of 12,000 MW or more, and that capacity is being implemented in a phased manner.

2.13. The Central Government has considered that with the additional equity of INR 1000 crores being infused into the Petitioner, it will be appropriate for 1200 MW to be allocated to the Petitioner, as a part of the above competitive bidding process at the L1 terms and Usage Charges, which can be considered as the result of the competitive bidding process under Section 63 of the Electricity Act, 2003.

2.14. Meanwhile, the Ministry of Finance on 30.09.2021, issued the statutory notification , Notification No. 8/2021- Central Tax (Rate), which revised the GST rates on specified renewable energy devices and their parts from 5% to 12 %. Accordingly, the Petitioner on 23.12.2021, wrote to IREDA requesting that it provide a suitable compensation mechanism to offset the impact of revised GST rates.

2.15. Subsequently, the MNRE, vide communications dated 16.9.2022 and 27.12.2022, revised the ceiling usage charges from Rs. 2.45/kWh to Rs. 2.57/kWh on account of a change in GST rates and permitted IREDA to extend the Scheduled Commissioning Date and associated milestones up to 30.9.2024 for projects with earlier Scheduled Commissioning Dates (hereinafter referred to as "SCDs").

2.16. The Petitioner entered into a Power Usage Agreement (“PUA”) with Madhya Pradesh Power Management Company Limited (**‘MPPMCL’**) for the supply of 500 MW Solar PV Power and with Gujarat Urja Vikas Nigam Limited (**‘GUVNL’**) for the supply of 700 MW Solar PV Power, on 11.07.2023 and 16.10.2023, respectively. The applicable usage charges for both GUVNL and MPPMCL are Rs. 2.57 per kWh

2.17. Accordingly, the Petitioner is developing the 1200 MW in three separate projects at three different locations: 300 MW in Andhra Pradesh (Ramagiri), 200 MW in Madhya Pradesh (Dhar) and 700 MW in Gujarat (Raghanesda). The PUA was signed with MPPMCL for 500 MW from the first two projects, and the PUA was signed with GUVNL for 700 MW from the last project location.

3. The Petitioner has also referred to the Orders in Petition 154/AT/2024 and Petition No. 119/AT/2024, wherein this Commission has allowed such petitions for the adoption of Solar power projects under Tranche III of the CPSU Scheme Phase-II.

4. According to the Petitioner, the present Petition can be considered and approved by this Commission under Section 63 read with Section 79(1)(a) of the Electricity Act, 2003, and that the usage charges of Rs. 2.57/kWh at the VGF of Rs 44,72,000/- per MW are conducive, market aligned.

5. The Petitioner has submitted that the adoption of the above-mentioned Tariff by this Commission will be consistent with the scheme and provisions of the Act as provided in the preamble and Section 63 of the said Act.

Hearing on 05.06.2025 and 3.07.2025

6. The Petition was admitted on 05.06.2025, and notices were issued to the Respondents to file their respective replies.

Hearing on 03.07.2025

7. During the course of the hearing, the Petitioner submitted that the present Petition has been filed under the CPSU Scheme for the adoption of a tariff for the 1200 MW Solar Power Projects, and that the scheme is similar in nature to that in Petition No. 556/AT/2025. It was submitted that SECI is implementing the project and the applicable Guidelines issued by the MNRE, which provide that if, within four months of completion of a competitive bidding process, a CPSU is willing to match the L1 discovered tariff, then such CPSU may be allotted the project. It was submitted that the Petitioner is implementing the 1200 MW project under this provision and that MNRE has accordingly allotted the project to the Petitioner. The Petitioner also submitted that it entered into a PUA with GUVNL and MPPMCL at Rs. 2.57/kWh, instead of Rs. 2.45/kWh. The Commission directed the Petitioner to provide clarification regarding the appropriate Commission for adjudication of the Change in Law event.
8. In response, the Petitioner submitted an additional affidavit on 22.07.2025, detailing the facts and circumstances wherein the IREDA issued a Letter of Award to the Petitioner on 07.12.2021, allocating 1200 MW capacity at a quoted VGF of Rs. 44,72,000 per MW. The Petitioner also submitted that the MNRE, Government of India, wrote to IREDA that the GST Notification dated 30.09.2021 constitutes a change in law event and thus increased the maximum usage

charges by 4.9% to Rs. 2.57/kWh (from Rs. 2.45/kWh). According to the Petitioner, the Commission has jurisdiction to deal with the present matter for the adoption of the usage charges for the 1200 MW Solar PV Project of the Petitioner, including the increase in the usage charges from Rs. 2.45/kWh to Rs. 2.57/kWh on account of the GST Notification dated 30.09.2021 as duly notified to IREDA by the MNRE on 16.09.2022.

Hearing on 07.08.2025

9. The matter was heard again on 07.08.2025. The Petitioner submitted that the Petitioner has already filed its compliance affidavit in terms of the Record of Proceedings for the hearing dated 3.7.2025, furnishing all the information/clarification as called for therein, and prayed to adopt the tariff discovered through the competitive bidding process. Considering the Petitioner's submission, the Commission reserved the matter for Order.

Analysis and Decision

10. We now proceed to consider the prayers of the Petitioner as regards the adoption of usage charges for the 1200 MW of solar power projects in terms of the CPSU Scheme Phase-II issued by the Ministry of New and Renewable Energy, Government of India, under Section 63 of the Act.

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 Central Government has been followed in the determination of such tariff.

13. In the present case, the bid process for Tranche III was conducted under the CPSU Scheme Phase II issued by the MNRE, Government of India, on 5.3.2019 and the Standard Bidding Guidelines dated 03.08.2017. The salient features of the scheme are as under:

(a) The CPSU Scheme Phase-II has been envisaged to provide the necessary policy framework and mechanism for the selection and implementation of the 12,000 MW or more grid-connected solar PV power projects with VGF by various Government Producers. The 12,000 MW grid connected solar PV power projects are proposed to be set up through the Government Producers with a budgetary support of Rs. 8580 crore as VGF.

(b) The scheme will mandate the use of both solar photovoltaic cells and modules manufactured domestically as per the specifications and testing requirements fixed by the MNRE.

(c) Power produced by the Government Producer can be used for self-use or use by the Government/ Government entities, either directly or through DISCOMs on payment of mutually agreed usage charges of not more than Rs.3.5/unit, which shall be exclusive of any other third-party charges like wheeling and transmission charges and losses, point of connection charges and losses, cross-subsidy surcharge, and State Load Despatch Centre (SLDC)/ Regional Load Despatch Center (RLDC) charges etc., as may be applicable.

(d) The solar PV power project capacity under the Government Producer Scheme would be allocated to the Government Producers by way of bidding, who, in turn, will secure an arrangement for the usage of power for self-use or use by the Government/ Government entities, either directly or through DISCOMs.

(e) With the objective of covering the cost difference between the domestically produced solar cells and modules and imported solar cells and modules, VGF shall be provided under the scheme. While the maximum permissible VGF has been kept at Rs. 0.55 crore/MW, the actual VGF to be given to a Government Producer under the scheme would be decided through bidding using the VGF amount as a bid parameter to select project proponent.

(f) SECI will handle the scheme on behalf of the MNRE, including conducting bidding on a VGF basis amongst Government Producers, for the selection of Government Producers for implementing this scheme. SECI will ensure that the proposed projects comply with the WTO provisions, and also the compliance by Government Producers with the mandatory requirement of domestic content under the scheme.

14. On 13.04.2020, the MNRE, Government of India, vide an Office Memorandum issued an Amendment to the CPSU Guidelines, making Indian Renewable Energy Development Agency Limited ('IREDA') the designated nodal agency responsible for implementation of the said scheme. An additional clause was also added whereby IREDA could allot up to 50 MW of solar PV power project capacity under the scheme to a willing government entity at the L1 rate from the recent last bidding (within 4 months of such last bidding), without the requirement of participation in the bidding process, provided the entity meets all qualification criteria

and agrees to abide by applicable rules. Relevant clauses from the Office Memorandum have been reproduced hereunder for ready reference:

“ ...

3.2.3 Usage Charges:

Power produced by the Government Producers can be used for self-use or use by Government/ Government entities, either directly or through DISCOMS on payment of mutually agreed usage charges of not more than ₹2.80/unit, which shall be exclusive of any other third party charges like wheeling and transmission charges and losses, point of connection charges and losses, cross-subsidy surcharge, State Load Despatch Centre (SLDC)/ Regional Load Despatch Centre (RLDC) charges, etc. as may be applicable.

...

3.5 Role of Indian Renewable Energy Development Agency Limited (IREDA):

IREDA will handle the scheme on behalf of MNRE including conducting bidding on VGF basis, amongst Government Producers, for selection of Government Producers for implementing this Scheme. IREDA will be given a fee of 1% of the VGF disbursed for conducting bidding, handling the funds, monitoring of the projects and managing all aspects of the Scheme. IREDA will ensure that the proposed projects comply with the WTO provisions, and also the compliance by Government Producers on the mandatory requirement of DCR under the Scheme.

...

3.6.1 Timelines for project commissioning:

The solar power projects under this scheme shall be commissioned within a period of:

- (i). For projects upto 500 MW capacity: Projects to be commissioned within 24 (twenty four) months from the date of letter of award.*
- (ii). For projects more than 500 MW capacity: Capacity upto 500 MW must be commissioned within 24 (twenty four) months from the date of letter of award and balance capacity to be commissioned within next six months.*

However, in order to expedite implementation of the Scheme and to give impetus to domestic solar PV manufacturing, a shorter timeline can also be specified by MNRE.

New Clause

5. Notwithstanding anything contained in these Guidelines, Indian Renewable Energy Development Agency Limited (IREDA) shall be permitted to allot/ sanction solar PV power project capacities under CPSU Scheme Phase-II (Government Producer Scheme) of upto 50 MW, to any willing Government entity at the L1 rate (VGF amount bid by L1 bidder) discovered in the most recent last bidding, within four months of such last bidding, without the need for such entity to participate in bids, subject to the said Government entity meeting all other qualification requirements as otherwise prescribed by MNRE/ Scheme Guidelines and the said Government entity giving consent to abide by all other rules and procedures, as otherwise applicable to projects allotted through bidding under Central Public Sector Undertaking (CPSU) Scheme Phase-II (Government Producer Scheme). The limit of 50 MW is with respect to project capacities being allotted to one government entity for the duration between the two bids under CPSU Scheme by IREDA. There shall be no limit on project capacities that can be allotted through this route, subject to any single Government Entity not being allotted more than 50 MW capacity in the period between two consecutive bids by IREDA under CPSU Scheme Phase-II (Government Producer Scheme)."

15. The aforesaid Scheme Guidelines have been modified by the MNRE vide Office Memorandum dated 10.05.2021, *inter alia*, revising the ceiling of usage charges to Rs. 2.45/kWh and entrusting the task of conducting the bidding process to IREDA in place of SECI. Thereafter, vide corrigendum dated 14.5.2021 to the Request for Selection (RfS) issued on 29.1.2021, the ceiling usage charges were further revised to Rs. 2.45/kWh and the maximum permissible Viability Gap Funding (VGF) was reduced from Rs. 0.70 crore/MW to Rs. 0.55 crore/MW, while the commissioning schedule of the projects was extended from 24 months to 30 months from the date of the LoA. Subsequently, the MNRE, vide communications dated 16.9.2022 and 27.12.2022, revised the ceiling usage charges from Rs. 2.45/kWh to Rs. 2.57/kWh on account of the change in GST rates and permitted, IREDA, to extend the Scheduled Commissioning Date and associated milestones up to

30.9.2024 for projects with earlier SCDs. Further, vide letter dated 5.7.2024, MNRE allowed IREDA to extend the SCD by six months, i.e. up to 31.3.2025, and accordingly, IREDA, vide its letter dated 13.9.2024, granted such extension.

16. Accordingly, we proceed to examine whether the usage charges have been discovered in terms of the provisions of Section 63 of the Act and whether the selection of the successful bidder(s) has been made through a competitive bidding process as per the provisions of the CPSU Scheme Phase-II.

17. As per the scheme guidelines, only the Government Producers were eligible to avail the VGF under the CPSU Scheme Phase-II, and the setting up of the solar PV power projects. Further, the solar PV power project capacity allocated to the Government Procurers through bidding was required to secure an arrangement for the usage of power for self-use or use by the Government/ Government entities, either directly or through DISCOMs.

18. As per the CPSU Scheme Phase II, IREDA issued the RfS document for the selection of the Solar Power Developers for setting up the 12,000 MW grid-connected solar PV project (Tranche III) on 29.1.2021. The last date of bid submission, as per the RfS dated 29.1.2021 issued by IREDA, was initially fixed as 25.3.2021 and subsequently extended to 31.8.2021 through various addenda/corrigenda. Further, in pursuance of the MNRE Office Memorandum dated 15.4.2021 and the Corrigendum to the RfS issued by IREDA on 14.5.2021, the ceiling of the usage charges was revised to Rs. 2.45/kWh, and the limit of maximum permissible VGF was reduced to Rs. 0.55 crore/MW from the earlier Rs. 0.70 crore/MW.

19. In response to the RfS, the following bids were received from the various Government Producers:

Sl. No.	Name of the Bidder	Quoted VGF Rs. per MW (By bidder as part of bid submission)	Capacity Applied for (MW)
1	SJVN Limited	54,50,000/-	1000
2	NLC India Limited	55,00,000/-	510
3	NHPC Limited	54,00,000/-	1000
4	IRCON International Limited	55,00,000/-	500
5	NTPC Limited	55,00,000/-	2500
6	Solar Energy Corporation of India Limited	55,00,000/-	1200
7	Indian Oil Corporation Limited	55,00,000/-	250

20. The tariff in the competitive bidding process as per the RfS issued by IREDA was fixed at Rs 2.45/kWh with the maximum permissible limit for VGF at Rs 0.55 crore/MW for the Projects. The VGF requirement discovered in the competitive process for 5000 MW is in the range of Rs 44,72,000/- to Rs 44,95,000/- per MW.

21. Thereafter in view of the amendment the CPSU Scheme, the Petitioner vide letters dated 01.10.2021 and 06.10.2021 to the MNRE, had proposed to establish the Solar PV Project initially of 600 MW and thereafter revised the quantum to 1200 MW at the usage charges of L1 bidder discovered in the e-reverse auction and on the same terms and conditions as per the CPSU Scheme applicable to the L1 bidder.

22. The MNRE vide letter dated 06.12.2021, noted that the present CPSU Scheme Guidelines allow additional allocation up to 50 MW capacity to any willing Government entity at the L1 rate (VGF amount bid by L1 bidder) discovered in the most recent bidding, within four months of such last bidding, without the need for

such entity to participate in bids. Further, given that price discovery has already occurred through a competitive bidding process, and the country has to achieve 500 GW of installed capacity by 2030, it was decided that 1200 MW would be allocated to the Petitioner under the CPSU Guidelines. Accordingly, the MNRE directed IREDA to allocate 1200 MW capacity to the Petitioner. In pursuance of the directions by the MNRE, IREDA issued a Letter of Award to the Petitioner on 07.12.2021. The relevant portion of the said Letter of Award is extracted as under:

“ This has reference to the following:

A. Your response to the RfS document submitted through ETS portal vide Organization ID (ETS-IN-2020-RS0000202) against RfS for Selection of Solar Power Developers for 5000 MW Grid-Connected Solar PV Power Projects in India (Tranche-III) under CPSU Ph-II Scheme (Government Producer Scheme) and MNRE letter referred above

B. L1 VGF discovered in the e-Reverse Auction conducted on ETS portal on 23.09.2021 for the referred RfS for selection of Grid-connected Solar PV Power Projects.

In reference to above, IREDA is pleased to award to your organisation 1200 MW of capacity by issuing letter of award with the following details:

<i>Allotted Project ID</i>	<i>Allocated Capacity (MW)</i>	<i>Project Location</i>	<i>Maximum VGF Eligibility (INR/MW) in figures</i>	<i>Maximum VGF Eligibility (INR/MW) in words</i>	<i>Total Eligible Maximum VGF (INR)</i>
<i>CPSU-Ph2-Tr3-SSPD-1200 MW</i>	<i>1200MW</i>	<i>Anywhere in India</i>	<i>44,72,000/-</i>	<i>Forty-four Lakhs Seventy two thousand only</i>	<i>536,64,00,000.00</i>

...

I. Power generated from above Project(s) shall be solely for self-use or use by Government/Government entities, either directly or through Discoms on payment of mutually agreed usages charges of not more than Rs. 2.45/kWh, which shall be exclusive of any other third-party charges like wheeling and transmission charges and losses, point of connection charges and losses, cross-subsidy surcharges, State Load Dispatch Centre (SLDC)/ regional Load Dispatch Centre (RLDC) Charges, etc. as may be applicable. Waiver of ISTS

charges and losses, for use of ISTS network, shall be available to Projects set-up under the CPSU Phase-II Scheme.

XIV. VGF will be released in two tranches as follows:

1. 50% on award of Contract to the EPC Contractor (including in-house EPC Division) by the SPD. The SPD is required to sign the EPC agreement with EPC Contractor within twelve months from date of this LoA.

2. Balance 50% on successful commissioning of the full capacity of Project.

XVI. Schedule Commissioning Date (SCD) for commissioning of the full capacity of the Project shall be the date as on 30 months from the date of issuance of LoA. The maximum time period allowed for commissioning of the full Project Capacity shall be limited to 36 months from the date of issuance of LoA.

In case of delay in commissioning of the Project beyond the SCD until the date as on 36 months from the issue date of the LoA/Lol, as part of the penalty for delay in commissioning the amount of VGF sanctioned to be the project shall be reduced by 0.15% (zero-point one five percent) of the sanctioned VGF, on per day basis, for the period of such delay, and proportionate to the capacity delayed or not commissioned.”

23. Subsequently, the Ministry of Finance, on 30.09.2021, issued the statutory notification being Notification No. 8/2021- Central Tax (Rate), increasing the Goods and Services Tax rate from 5% to 12% w.e.f. 01.10.2021. Accordingly, on 16.09.2022, the MNRE wrote to IREDA that the GST Notification dated 30.09.2021 is a change-in-law event and, as a result, increased the maximum usage charges by 4.9% to Rs. 2.57/kWh.

24. In the present case, after careful consideration of the submissions made by the Petitioner, the Commission observes that the e-reverse auction was conducted on 30.09.2021 with the VGF amount as the bidding parameter, and the Petitioner had participated in this competitive bidding process but was not declared as a successful bidder. The Commission also observes that the said CPSU scheme was amended on 13.04.2020 with additional clause whereby the Nodal Agency (IREDA in the present) could allot up to 50 MW of solar PV power project capacity under the

scheme to a willing government entity at the L1 rate from the recent last bidding (within 4 months of such last bidding), without the requirement of participation in the bidding process, provided the entity meets all qualification criteria and agrees to abide by applicable rules. The relevant Clause of the CPSU scheme is reproduced below for ready reference:

“ New Clause

5. Notwithstanding anything contained in these Guidelines, Indian Renewable Energy Development Agency Limited (IREDA) shall be permitted to allot/ sanction solar PV power project capacities under CPSU Scheme Phase-II (Government Producer Scheme) of upto 50 MW, to any willing Government entity at the L1 rate (VGF amount bid by L1 bidder) discovered in the most recent last bidding, within four months of such last bidding, without the need for such entity to participate in bids, subject to the said Government entity meeting all other qualification requirements as otherwise prescribed by MNRE/ Scheme Guidelines and the said Government entity giving consent to abide by all other rules and procedures, as otherwise applicable to projects allotted through bidding under Central Public Sector Undertaking (CPSU) Scheme Phase-II (Government Producer Scheme). The limit of 50 MW is with respect to project capacities being allotted to one government entity for the duration between the two bids under CPSU Scheme by IREDA. There shall be no limit on project capacities that can be allotted through this route, subject to any single Government Entity not being allotted more than 50 MW capacity in the period between two consecutive bids by IREDA under CPSU Scheme Phase-II (Government Producer Scheme).”

25. In terms of the above provision in the scheme, the Petitioner requested the MNRE to allow the establishment of the Solar PV Project initially of 600 MW and thereafter revised the quantum to 1200 MW at the usage charges of L1 bidder discovered in the e-reverse auction and on the same terms and conditions as per the CPSU Guidelines, etc. applicable to the L1 bidder. The MNRE, vide a letter dated 06.12.2021, directed IREDA to allocate a 1200 MW capacity to the Petitioner under the CPSU Scheme, Phase-II, at an L1 VGF rate of Rs. 44.72 Lakhs/MW. The IREDA,

accordingly, on 07.12.2021 issued the Letter of Award (LoA) to the Petitioner for 1200 MW capacity. It is noted that the Petitioner was not the successful bidder in the competitive bidding process conducted by IREDA for the same 1200 MW capacity, as it had quoted a higher VGF requirement (i.e., Rs. 55.0 Lakhs/MW) than the other successful bidders. However, the Petitioner subsequently agreed to develop the same 1200 MW of solar capacity by matching the L1 bidder's VGF rate (i.e., Rs. 44.72 Lakhs/MW). The Petitioner has not provided any reason why the same could not have been achieved during the e-reverse auction. Furthermore, the Nodal Agency, IREDA, in the present petition, has not provided any comments, reply, or reasoning as to which clause of the bidding guidelines permitted the Petitioner to develop a 1200 MW Solar Power Project. Based on the information provided in the present petition, the Commission observes that the said CPSU scheme allows the Nodal Agency (in this case, IREDA) to allocate only 50 MW of additional capacity to any willing Government entity at the L1 VGF rate of the successful bidder. The RFS issued by the IREDA during the e-reverse bidding process also provides for the allocation of up to 50 MW of additional capacity.

26. In the present case, the Petitioner and the Nodal Agency have not referred to a specific provision of the Guidelines for the allocation of the Petitioner's 1200 MW Solar power Project. However, the Commission observes that the said guidelines issued on 05.03.2019 provide that MNRE will be the competent authority to make any amendments, with the approval of the Minister in charge, without increasing the financial requirements or VGF limits in the event of any relaxation or implementation of the scheme. The relevant excerpt of the guidelines dated 05.03.2019 is reproduced below for ready reference:

“ 5. Power to remove difficulties:

If there is need for any amendment to the Government Producer Scheme for better implementation or any relaxation is required in the norms due to operational problems, MNRE will be competent to make such amendments with the approval of Minister-in-charge, without increasing the financial requirements and VGF limit.”

27. The Commission would like to record its displeasure that the Petitioner has not referred to the above specific provision in the submission under which the said capacity of 1200 MW was allotted to it, subsequent to the bidding process. The Commission directs the Petitioner not to repeat such procedural mistakes in the future, which could vitiate the sanctity of the transparent bidding process.

28. Further, the communication between the Petitioner and the Ministry reveals that the MNRE, vide letter No 302/4/2017-GRID SOLAR-Part (1) dated 06.12.2021 under the above clause, allocated an additional 1200 MW of capacity (which exceeds the limit of 50 MW) to the Petitioner, subject to the condition that the Petitioner has to match the L1 rate discovered in the competitive bidding process. Accordingly, the Petitioner has been issued a letter of award (LOA) by the Nodal Agency, in this case, the IREDA, at an L1 VGF rate of Rs. 44.72 Lakhs/MW. In view of the Petitioner's readiness to match the L1 rate determined in the competitive bidding process, and taking note of the specific provision in the said Scheme empowering the MNRE to relax its provisions, the Commission would like to adopt the usage charge in the instant case.

29. Insofar as the adoption of usage charges under the PUAs is concerned, the said aspect has been dealt by this Commission in Petition 154/AT/2024 and Petition No. 119/AT/2024, wherein the Petitioners had prayed for the adoption of usage charges for the solar PV power project selected through a competitive bidding process under Tranche III of the CPSU Scheme Phase-II.

30. The Commission notes that, pursuant to the issuance of the LoA, the Petitioner has executed PUAs with Madhya Pradesh Power Management Company Ltd (**MPPMCL**) for 500 MW and Gujarat Urja Vikas Nigam Limited (**'GUVNL'**) for 700 MW for the supply of solar power to be generated through its solar PV power projects set up under the CPSU Scheme Phase-II. The Petitioner has submitted that under the various PUAs, power generated by the Petitioner from its solar PV projects, as Government Producer, is to be procured by the Respondents i.e., MPPMCL and GUVNL solely for the end user, namely Government or Government entities, in compliance with World Trade Organization (WTO) Regulations on mutually agreed terms and conditions as mentioned in the CPSU Scheme Phase-II. The details of the PUAs are as follows:

Sr. No,	Project	Quantity	Discom/State	Details of PUAS
1	Solar PV Project of 300 MW in Andhra Pradesh (Ramagiri), and 200 MW in Madhya Pradesh (Dhar)	500 MW	MPPMCL	14.02.2025 at 2.57 per kWh
2	Solar PV Project of 700 MW in Gujarat (Raghanesda)	700 MW	GUVNL	16.10.2023 at 2.57 per kWh

31. The Petitioner has submitted that the usage charges of Rs. 2.57/kWh at the VGF of Rs 44,72,000/- per MW for a 1200 MW Solar PV project are conducive,

market-aligned and on the same terms and conditions as applicable to that of the L1 bidder.

32. We observe that the tariff in the competitive bidding process was conducted with the VGF amount as the bidding parameter, and as per the RfS issued by IREDA, the tariff was fixed at Rs 2.45/kWh with the maximum permissible limit for VGF at Rs 0.55 crore/MW for the Projects. However, subsequently, the MNRE, in continuation of the CPSU scheme Phase-II, enhanced the ceiling of maximum usage charges to Rs. 2.57 /kWh pursuant to the Ministry of Finance Notification No. 8/2021, dated 30.9.2021, whereby the GST rates applicable to specified renewable energy devices and parts were revised from 5% to 12%.

33. We are of the considered view that the parameters prevailing on the date of bidding are to be treated as the reference point and cannot be varied thereafter, as any such post-bidding alteration would undermine the sanctity of the competitive process. A change in the usage charges subsequent to the bidding can be considered only on account of a Change in Law, as per the provisions of the Power Usage Agreements.

34. Accordingly, at this stage, only the parameters notified to the bidders at the time of bidding, namely, the maximum permissible VGF of Rs. 0.55 Crore/MW and the usage charges of Rs. 2.45/kWh, can be considered. We, therefore, adopt the usage charges of Rs. 2.45/kWh in respect of the 1200 MW Solar PV Power Project of the Petitioner under Tranche-III of the CPSU Scheme Phase-II.

35. As regards the compensation due to the Change in Law as stated by the Petitioner, the PUAs require the Petitioners to approach the Commission for approval for relief for the Change in Law. Accordingly, liberty is granted to the Petitioners to approach the Commission through a separate Petition within a period of six weeks from the issuance of this order for seeking any relief as per Articles 10 & 11 of the PUAs/ Supplementary PUAs. However, in the interim, we allow the Change in Law compensation, as communicated by the MNRE, to be charged by the Petitioners on a provisional basis, pending the final decision of the Commission on the petition to be filed in this regard.

36. Accordingly, the Petition No. 617/AT/2025 is disposed of in terms of the above.

Sd/-	Sd/-	Sd/-	Sd/-
(श्री रविन्द्र सिंह ढिल्लो)	(श्री हरीश दुदानी)	(श्री रमेश बाबू व.)	(श्री जिश्नु बरुआ)
सदस्य	सदस्य	सदस्य	अध्यक्ष