BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT PANCHKULA

Case No. HERC/Petition No. 23 of 2022

Date of Hearing	**:**	**08.06.2022**
Date of Order	**:**	**09.06.2022**

In the Matter of

Petition under Section 86(1)(b) of the Electricity Act, 2003 read with Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019 seeking approval of source as well as approval of the Draft Power Supply Agreement (PSA) for procurement of 800 MW ISTS connected Wind Solar Hybrid Power under Tranche IV scheme of Solar Energy Corporation of India Limited (SECI) at a levellized tariff of Rs. 2.34/kWh for 700 MW and Rs. 2.35/kWh for 100 MW plus a trading margin of Rs. 0.07/kWh for a period of 25 years.

Petitioner

Haryana Power Purchase Centre, Panchkula (HPPC)

Present on behalf of the Petitioner

1. Smt. Sonia Madan, Advocate, HPPC
2. M/s Tanya Sareen, Advocate, SECI
3. Shri Amit Dewan, Dir/Fin, UHBVNL
4. Shri Gaurav Gupta, XEN / HPPC
5. Shri Tarun Mukhija, SECI

Quorum

Shri R.K. Pachnanda	**Chairman**
Shri Naresh Sardana	**Member**

ORDER

Brief Background of the case

1. The present petition has been filed by HPPC, seeking approval for procurement of 800 MW Wind Solar Hybrid Power under ISTS (Tranche-IV) Scheme, from SECI (Trading Licensee under control of MNRE), for 25 years, at a levelized tariff of Rs. 2.34/kWh for 700 MW and Rs. 2.35/kWh for 100 MW, plus a trading margin of Rs. 0.07/kWh.

2. Petitioner's submissions are as under: -

i) That SECI, under the administrative control of the Ministry of New and Renewable Energy (MNRE) is the implementing agency for various schemes of MNRE/GoI. SECI is a Category I Trading Licensee from Central Electricity Regulatory Commission (CERC) to carry out power trading on a pan-India basis.

ii) That SECI had made an offer for sale of 800 MW Wind Solar Hybrid Power under ISTS (Tranche-IV) Scheme, detailed as under: -

a. On 22.02.2022, SECI vide its letter to HPPC made an offer for allocation of 1200 MW Wind Solar Hybrid Power under ISTS (Tranche-IV) Scheme. It was mentioned that the Hybrid Power Developers (HPD) have been selected through a transparent competitive bidding process.

b. On 03.03.2022, HPPC vide its letter to SECI sought information regarding the tentative date by which the RE power will be available with respect to the offers/proposals. HPPC also enquired if there's any availability of RE power for supply on short-term basis.
c. SECI answered the queries of HPPC vide its letter dated 04.03.2022. SECI further stated that it is looking for possibilities of trading the power on a short-term basis and shall intimate HPPC once it is finalized.
d. On 07.03.2022, SECI sent another letter to HPPC containing the revised offer for the quantum of power available under different schemes.
e. On 08.03.2022, HPPC emailed SECI requesting it to provide the tentative impact of Basic Custom Duty (BCD), Goods and Services Tax (GST) etc, if any, on the projects. Further, it sought information on the applicability of ISTS losses on power from respective projects in terms of the MoP order dated 23.11.2021.
f. On 09.03.2022, the HPPC received a letter from SECI wherein it provided the details with respect to ISTS losses, impact of BCD, GST and comfort provided by developers on the projects for various available schemes.
g. HPPC deliberated all the four schemes/offers of SECI in the 62nd and 63rd meetings of the Steering Committee of Power Planning (SCPP) which considered the proposals and decided to obtain information from SECI if the offered schemes are being procured through competitive bidding.
h. Pursuant to the decision of SCPP, HPPC vide its letter dated 16.03.2022 intimated SECI to clarify the issue that whether the power offered by SECI has been/is being procured through competitive bidding as per the mandate of the National Tariff Policy. SECI via letter dated 17.03.2022 clarified that the tenders are brought out under the standard bidding guidelines formulated under the National Tariff Policy.
i. After considering the competitiveness of the offer made by SECI, HPPC vide letter dated 24.03.2022 intimated its consent to procure 1200 MW of Wind Solar Hybrid Power at Rs. 2.34/kwh (levelised) including SECI's Trade Margin. It was explicitly stated that the said tariff is inclusive of the impact of BCD imposed on solar modules/panels etc. and is eligible for ISTS waivers. SECI was further requested to consider reducing its trade margin from 0.07/kwh.
j. On 05.04.2022, SECI intimated to HPPC that it can only supply 800 MW power out of the total capacity of 1200 MW of that particular scheme since it had already consented to supply the rest of the power to other buyers. It was further stated that

the applicable tariff including the trading margin under the PSA will be Rs. 2.41/kwh for 700 MW and Rs. 2.42/kwh for 100 MW, as it is a composite scheme.

k. Subsequently, on 15.04.2022, HPPC subject to the approval of this Hon'ble Commission, gave its consent to procure 800 MW ISTS Connected Wind Solar Hybrid Power under Tranche IV Scheme of SECI at a levellized tariff of Rs. 2.34/kwh for 700 MW and Rs. 2.35/kwh for 100 MW plus a trading margin of Rs. 0.007/kwh.

l. On 19.04.2022, the Steering Committee of Power Planning (SCPP) in its 65th meeting deliberated regarding the procurement of 800 MW power from SECI and accorded approval for the same subject to the approval of this Hon'ble Commission.

m. On 22.04.2022, SECI vide an email forwarded the draft Power Supply Agreement (PSA) to be executed between the HPPC & SECI for the sale of 800 MW Hybrid Power under the ISTS Hybrid Tranche-IV Scheme.

n. The SECI vide its letter dated 27.04.2022 conveyed its acceptance for HPPC's consent to procure 800 MW Wind Solar Hybrid Power under ISTS Hybrid Tranche IV-Scheme.

iii) That Section 63 of the Electricity Act, 2003 provides provision for adoption of tariff determined through competitive bidding process 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."

The Ministry of Power, Government of India has notified the Guidelines under Section 63 of the Act. SECI has been designated as the nodal agency for implementation of scheme for setting up of ISTS connected/ State specific solar/ wind power projects with the mandate to invite bids under Tariff Based Competitive Bidding process, enter into Power Purchase Agreements (PPAs) at the tariff discovered in the competitive bid process conducted and enter into Power Sale Agreements (PSAs) with the distribution licensees to enable them to fulfil their Renewable Purchase Obligations under Section 86(1)(e) of the Act.

iv) That in the instant case, SECI has clarified that the offered tariff has been discovered through transparent competitive bidding process. The selection of the successful bidder and determination of tariff of the Projects has been carried out by SECI through a transparent process of competitive bidding in accordance with Guidelines issued by Ministry of Power, Government of India under Section 63 of the Act.

v) That HERC (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021 has set the solar and non-solar RPO targets as under: -

FY	RPO (%) as per HERC RE Regulations, 2021			
	Other Non Solar	Large Hydro	Total Non Solar	Solar
2021-22	3.00	0.00	3.00	8.00
2022-23	5.00	0.35	5.35	9.00
2023-24	6.00	0.66	6.66	10.00

vi) That the Commission in its ARR order dated 30.03.2021 had approved 1088.1 MUs and 2901.8 MUs from Non-solar and Solar sources for compliance of RPO for the FY 2021-22. The Commission has allowed carrying forward the RPO backlog of FY 2020-21 to FY 2021-22. The Commission in its *ibid* order has mentioned that the RPO backlog for the FY 2020-21 shall form part of the total power purchase volume approved for the FY 2021-22 and set off against the costliest power in the merit order.

vii) That the Government of India has set a target of installing 175 GW of renewable energy capacity by the year 2022, which includes 100 GW from solar, 60 GW from wind, 10 GW from bio-power and 5 GW from small hydro-power. From a pure macro-economic perspective, reaching 175 GW RE by 2022 could dramatically reduce the coal import bill in 2022. Then there are environmental benefits (less pollution), social benefits (local employment opportunities) and investment inflows, which may need to be monetized to assess the complete range of benefits. Accordingly, the MoP on the other hand vide notification dated 14.06.2018 has pegged the RPO targets for both solar and non-solar RE power at 10.50% each by FY 2021-22.

viii) That the Central Government has raised the target to 450 GW RE installed capacity by 2030. Considering the above, the Renewable Purchase Obligations are expected to increase to 30% and 24% for solar and other non-solar respectively in order to enable the achievement of the above goal by 2030. Ministry of Power, Government of India (MoP) in its Order dated 17.04.2020 has proposed an amendment to the Electricity Act, 2003 wherein heavy penalties have been imposed as brought out hereunder:

"(2) *Notwithstanding anything contained in sub-section (1), in case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person, with effect from such date as may be notified by the Central*

Government, has not purchased power from renewable or hydro sources of energy as specified by it using its powers under the Act, the Appropriate Commission shall after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, a sum calculated at the rate of fifty paise per kilowatt-hour for the shortfall in purchase in the first year of default, one rupees per kilowatt-hour for the shortfall in purchase in the second successive year of default and at the rate of two rupees per unit for the shortfall in purchase continuing after the second year."

ix) That the existing solar power capacity available with Haryana Discoms through long-term agreements is 618.8 MW with a solar rooftop having a capacity of about 384 MW. Whereas, 617.2.07 MW is currently available from non-solar RE sources. Break up of current RE sources as on date i.e. 30.04.2022 is as under: -

Source	**Contracted Capacity in MW**
Small Hydro	73.20
Wind	413
Biomass	131
Solar Ground Mounted	618.8
Solar Rooftop	384
Total	**1620**

In addition to the above, the following tie-ups are also made by HPPC for the procurement of RE Power in order to fulfill the mandated RPOs:

NON SOLAR

Sr. No.	**Name of the firm and or Scheme**	**Contracted Capacity (MW)**	**Date of Signing of PPA**	**Expected Commissioning of Project**
Wind Power Projects				
1.	SECI, ISTS Wind T-II 1000 MW Scheme	150	13.12.2017	20 MW Commissioned. 30 MW expected by 15.05.2022 100 MW FY-2022-23
2.	SECI, ISTS Wind T-III 2000 MW Scheme	350	17.05.2018	Already commissioned 262.5 MW rest 87.5 MW expected by 30.06.2022
3.	SECI, ISTS Wind T-V 2000 MW Scheme	590	2I.0I.2019	175 MW by 15.05.2022 300 MW by 19.08.2022 115 MW by 05.09.2022
4.	SECI, ISTS Hybrid (Wind+Solar) T-I1200 MW Scheme	110	11.07.2019	25 MW commissioned on 29.08.2021 under STOA, Rest 85 MW by 30.06.2022
Waste to Energy Projects				
5	Ecogreen Energy Gurgaon Faridabad Pvt. Ltd	25	06.08.2020	FY 2022-23
Biomass-Based Projects				
6.	Small Biomass projects (10 Nos)	60.3	2018 &2019	30MW commissioned up to 15.02.2022 and Rest Expected by FY

				2022-23
	Total Expected Capacity (in MW)	**947.8**		

SOLAR

Sr. No.	Name of the firm	Contracted Capacity (MW)	Date of Signing of PPA	Expected Commissioning of Project
1.	SECI, ISTS Solar T-II 3000 MW Scheme.	400	28.05.2019	30.03.2023
2.	SECI (ISTS Hybrid (Wind+Solar) T-I 1200 MW Scheme)	330	11.07.2019	122 MW commenced on 29.08.2021 under STOA, rest expected by FY 2022-23
3.	SECI (ISTS Solar T-IV 1200 MW Scheme)	250	19.3.2020	12.05.2022
4	NIT-77 (241 MW on long term basis) (240 MW from Avaada and 1 MW from Geotech Power Pvt. Ltd.)	241	06.07.2020 (240MW) 19.06.2020 (1 MW)	151.35 MW out of 240 MW commissioned and the rest 88.65 MW is expected by 11.05.2022. 1 MW by the end of August-22.
5.	PM KUSUM	10.57	01.07.2020 (2 MW) under UHBVN, 8.57 MW on dated 21.08.2020 under DHBVN	31.12..2022
	Total (in MW)	**958.22**		

In addition to the above, 50 MW to 100 MW per year is expected to be added every year through the solar rooftops.

x) That with the above arrangements/tie-ups, the total installed capacity to the tune of 2050 MW (including about 450 MW from rooftop solar under net metering) solar and 1565 MW non-solar (including 1300 MW wind generation) respectively shall be available with Haryana Discoms by the end of FY 2022-23. Solar and Non-Solar RPOs to the level of 9.80 % and 11.04% respectively are expected to be achieved through current sources during the FY 2022-23. Considering the anticipating upward revision of solar RPO targets beyond 10.5%, additional solar power shall be required for the fulfilment of anticipated solar RPOs of Discoms for FY 2022-23 and thereafter. Further, additional Wind Power shall enable Discom's to meet Non-Solar RPO obligations.

xi) That HPPC has negotiated with SECI for trading margin. However, SECI has been providing for such trading margin at Rs 0.07/kWh for all the Procurers. It is appropriate to mention that the trading margin of Rs 0.07/kWh has been approved by Kerela State Electricity Commission, Joint Electricity Regulatory Commission for the State of Goa as well as by Hon'ble CERC for procurement of power by Rajasthan Discoms. SECI has also entered into PSA with Odisha, UP and Chhattisgarh for the sale of power with the trading margin of Rs 0.07/unit. Therefore, the trading margin quoted by SECI is the uniformly charged trading margin.

xii) That the Hon'ble CERC in its Order dated 20.11.2019 in Petition No. 215/AT/2020 in the matter of SECI vs MNRE & Others, while adopting the tariff discovered under Tranche-VI Wind Scheme in terms of Section 63 of the EA-2003 has dealt with the trading margin at Para 29 as under;

"29. The Petitioner has prayed to adopt the Trading Margin of Rs. 0.07/kWh. It is observed that Section 79(1)(j) of the Act requires the Commission "to fix the Trading Margin in the inter-State trading of electricity, if considered, necessary". Accordingly, the Commission, being of the opinion that it was necessary to fix Trading Margin for inter State trading in electricity, exercised the powers conferred under Section 178 of the Act and conceived Central Electricity Regulatory Commission (Fixation of Trading Margin) Regulations, 2010 8 (hereinafter referred to as „Trading Margin Regulations") applicable to the short-term-buy-short-term sell contracts for the inter-State trading in electricity undertaken by a licensee. Trading Margin Regulations provide for the ceiling of the Trading Margin in short term-buy-short-term-sell contracts for the inter-State trading. Trading Margin Regulations do not provide for any Trading Margin for long term transactions and, therefore, it is upto the contracting parties to mutually agree on Trading Margin, if any, in such cases. In any case, the Commission does not fix Trading Margin on case to case basis. The spirit of the Act read with the Trading Margin Regulations gives freedom and choice to the contracting parties to mutually agree on Trading Margin for any kind of trading transaction, subject to the ceiling Trading Margin, whenever applicable. Accordingly, the Commission cannot fix or adopt any Trading Margin for long-term transactions under the provisions of the present Trading Margin Regulations. In view of the above, the prayer of the Petitioner to adopt the Trading Margin is decided accordingly."

xiii) That considering the foregoing, the power procured from SECI would be considered for meeting solar and non-solar renewable purchase obligations (RPO) and will help provide green and clean electricity to Haryana at economical rates. Hybrid power will lead to optimum cost utilization and will enable Discom's to fulfill its Renewable Solar and Non-Solar Purchase Obligation.

xiv) That the tariff offered by SECI is lower than the variable cost of the power sourced from thermal stations and lower than the short-term power procured from other sources. The excess power would help Discom's to lower its procurement cost and meet future RPO targets.

xv) That the Petitioner-HPPC is making constant efforts to arrange reliable and feasible power supply. Considering the position of power deficit in the State, growing requirement of power over the years, the unreliability of procurement of thermal power under Long term PPA, HPPC considers that the sourcing of hybrid power from SECI will be in the overall interest of all concerned including consumer of Discom's.

xvi) Following prayers have been made: -

a. Grant source approval for procurement of 800 MW ISTS connected Wind Solar Hybrid Power under Tranche IV Scheme of Solar Energy Corporation of India Limited (SECI)at a levellized tariff of Rs. 2.34/kwh for 700 MW and Rs. 2.35/kwh for 100 MW plus trading margin of Rs. 0.07/kwh for a period of 25 years.

b. Grant approval to draft Power Supply Agreement (PSA); and

c. Pass any other order(s) and or direction(s), which the Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

Commission's Analysis and Order

3. The Commission has considered the submission and justification of the petitioner for procurement of 800 MW ISTS connected Wind Solar Hybrid Power under Tranche IV Scheme of Solar Energy Corporation of India Limited (SECI)at a levellized tariff of Rs. 2.34/kwh for 700 MW and Rs. 2.35/kwh for 100 MW plus trading margin of Rs. 0.07/kwh for a period of 25 years. The Commission has taken on record the averments of the learned counsel M/s. Tanya Sareen, putting in appearance for SECI i.e. the intermediary buyers and inter-state trading licensee, that the Power Sale Agreement (PSA) to be entered into between SECI and HPPC is a mirror image of the Power Purchase Agreement (PPA) to be signed by SECI with the Hybrid Project Developers (HBD). The learned counsel brought to the notice of the Commission that in the present case there are four developers located in Rajasthan, Gujarat, Karnataka and Tamil Nadu and the beneficiates are also the Discoms of more than one State.

On a query from the Commission, it was submitted by the learned counsels for HPPC and SECI, that PPA is still to be signed between SECI and HBDs. However, these i.e. PSA and PPA are part of the Standard Bidding Documents and the same has been considered without any deviations for inviting bids. Further, as directed by the Commission a draft PPA was submitted by the petitioner herein to be read as part and parcel of the present petition.

4. The Commission observes that HPPC has to meet the Solar RPO targets fixed by the Commission, under Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021 (HERC RE Regulations, 2021). The shortfall in fulfillment of RPO Solar targets by HPPC, for the FY 2021-22, as

reported by HAREDA, is 1246 MUs. Considering the backlog of shortfall in RPO by HPPC for the FY 2020-21, the cumulative shortfall in compliance of Solar and Non-Solar RPO, as on 31.03.2022 comes to 2505 MUs and 605 MUs, respectively.

5. In view of the above, the Commission has considered the prayer of HPPC and approves the PSA as well as the source of power, as prayed for. The draft PPA shall be construed as an essential part and enclosure to the PSA as approved by the Commission taking into consideration the fact that SECI is a Govt. of India Enterprise, working on behalf of the Ministry and Renewable Energy (MNRE) and the PSA / PPA are standard documents signed by many Distribution licensees as beneficiaries with SECI with a back to back PPA between SECI and project developers.

6. The Commission observes that the trading margin considered in the present case is Rs. 0.07 per unit of scheduled energy, in conformity to the Regulation 8(1)(d) of the Hon'ble CERC's Trading Margin Regulations, in vogue. Hence, in case SECI do not meet with the conditions specified in Regulation 8(1)(f) of these Regulations, then the trading margin of Rs. 0.02 / kWh as specified in the regulation 8(1)(f) ought to trigger in unless otherwise decided by the Hon'ble Central Commission.

7. HPPC shall, within seven days from the date of signing of the PSA, submit a copy of the signed PSA for record of the Commission.

8. The present petition is disposed of in terms of the above order.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 09.06.2022.

Date: 09.06.2022	(Naresh Sardana)	(R.K. Pachnanda)
Place: Panchkula	Member	Chairman