

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT
PANCHKULA**

HERC/Petition No. 19 of 2024

**Date of Hearing : 06.06.2024
Date of Order : 06.06.2024**

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 and approval of the Power Supply Agreement (PSA) dated 05.04.2024 executed with Satluj Jal Vidyut Nigam (SJVN) Ltd. for procurement of 800 MW Firm and Dispatchable RE power from ISTS- Connected Renewable Energy (RE) Power Projects with Energy Storage System in India at a tariff of Rs 4.45/kWh including a trading margin of Rs. 0.07/kWh for a period of 25 years.

Petitioner

Haryana Power Purchase Centre, Panchkula (HPPC)

Respondent

Satluj Jal Vidyut Nigam Limited (SJVN)

Present on behalf of the Petitioner

1. Ms. Sonia Madan, Advocate
2. Sh. Manish Kumar, AEE, HPPC

Present on behalf of the Respondent

1. Sh. Adarsh Tripathi, Advocate

Quorum

**Shri Nand Lal Sharma
Shri Mukesh Garg**

**Chairman
Member**

ORDER

Brief Background of the case

1. The present petition has been filed by HPPC, a joint forum of Haryana Distribution licensees for power purchase/trading, seeking the source approval for procurement of 800 MW Firm and Dispatchable RE power from ISTS- Connected Renewable Energy (RE) Power Projects with Energy Storage System in India @ Rs 4.45/kWh including a trading margin of Rs. 0.07/kWh for a period of 25 years. HPPC has further prayed to grant ex-post facto approval to signed Power Supply Agreement (PSA) dated 05.04.2024.
2. **HPPC's submissions: -**
 - 2.1 That SJVN had initiated a Tariff Based Competitive Bid Process for Selection of RE Power Developers for Supply of 1500 MW Firm and Dispatchable RE (FDRE) Power from ISTS- Connected Renewable Energy (RE) Power Projects with Energy Storage

Systems in India under Tariff-based Competitive Bidding with GREENSHOE Option of additional capacity up to 1500 MW vide RfS No. SJVN/CC-Delhi/REIA/2023/FDRE-1 dated 20.06.2023.

- 2.2 That SJVN vide letter dated 15.07.2023 (Annexure P-1) requested UHBVN to provide mandate for supply of 1000 MW RE power/RTC power as per requirement of State of Haryana at tentative tariff of around Rs. 4.50/Kwh and the projects are expected to deliver RE power within 36 months after the signing of Power Sale Agreement (PSA) / Power Purchase Agreement (PPA).
- 2.3 That 69th SCPP meeting was held on 04.08.2023 wherein agenda as regards procurement of power from SJVN was deliberated. SCPP accorded consent for in-principle approval for procurement of 800 MW RTC RE power from ISTS- Connected Renewable Energy (RE) Power Projects with Energy Storage System in India under tariff based Competitive Bidding subject to approval of this Hon'ble Commission.
- 2.4 That Petitioner (HPPC) vide letter dated 04.08.2023 (Annexure P-2) intimated SJVN regarding in-principle approval for procurement of 800 MW Firm and Dispatchable RE power from ISTS- Connected Renewable Energy (RE) Power Projects with Energy Storage System in India under tariff based Competitive Bidding, subject to the following terms and conditions: -
- a) The ceiling for levelized tariff shall be kept at Rs.4.50/kWh (excluding trading margin of SJVNL).
 - b) SJVN will explore the solar component to be set up in the state of Haryana in order to minimize the impact of POC charges/GNA.
 - c) The in-principle approval shall be subject to the approval of HERC.
- 2.5 That SJVN vide letter dated 22.11.2023 (Annexure P-3) intimated Petitioner that they had concluded e-Reverse Auction and the tariff has been discovered @ Rs. 4.39/kWh. It was stated that the SJVN has the option to sell the power at applicable tariff of Rs. 4.46/kWh (i.e. Rs. 4.39/kWh + Rs. 0.07/kWh). SJVN further informed that 800 MW will be offered at annual CUF of approx. 70% along with 04 hours of peak power (02 hours in the morning and 02 hours in evening) with 90% availability.
- 2.6 That 71st SCPP meeting was held on 02.01.2024 wherein it was decided to negotiate trading margin with SJVN. In view thereof, HPPC invited SJVN for negotiations. A meeting was held on 19.02.2024 between the HPPC and SJVN for negotiation on the trading margin. HPPC requested for reduction of trading margin from 0.07/kWh to less than 0.04/kWh. SJVN intimated that trading margin has been kept as per Clause 2.2 (h)(ii) of the FDRE guidelines of MNRE which clearly provides that trading margin of Rs. 0.07/kWh shall be payable by procurer.

- 2.7 That 73rd SCPP meeting was held on 23.02.2024 in which SVJN proposal for supply of 800 MW RE power at Rs. 4.46/kWh was accepted subject to approval of this Hon'ble Commission. In view thereof, HPPC vide letter dated 05.03.2024 (Annexure P-5) conveyed to SVJN consent for procurement of 800 MW RE power at Rs. 4.46/kWh subject to approval of this Hon'ble Commission.
- 2.8 That SJVN vide letter dated 14.03.2024 (Annexure P-6) offered to sell power at the tariff of Rs. 4.45/kWh (i.e. Rs. 4.38/kWh discovered through e-RA + Rs. 0.07/kWh towards trading margin). It was requested that Power Supply Agreement be signed.
- 2.9 That the Power Sale Agreement (PSA) has been signed by HPPC and SJVN on 05.04.2024 for procurement of 800 MW firm and dispatchable RE power at a tariff of Rs. 4.45/kWh including the trading margin of Rs. 0.07/kWh for a period of 25 years subject to the approval of the Hon'ble Commission. HPPC vide letter of even date made it explicit that the signing of the PSA is subject to the approval of the Hon'ble Commission. A copy of signed PSA dated 05.04.2024 along with letter of HPPC dated 05.04.2024 is appended herewith marked as Annexure P-7 and Annexure P-8 respectively.

FEASIBILITY OF PROCUREMENT OF RE POWER THROUGH SJVN -

- 2.10 That the Ministry of Power, Government of India has notified the Guidelines under Section 63 of the Act. SJVN 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.
- 2.11 That in the instant case, the offered tariff has been discovered through transparent competitive bidding process and the trading margin is in terms of the guidelines issued by MoP. The selection of the successful bidder and determination of tariff of the Projects has been carried out by SJVN 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.
- 2.12 That the Government of India has set a target of installing 500 GW of renewable energy capacity by the year 2030. Considering the above, Ministry of Power (MoP) vide its order dated 22.07.2022 specified the RPO trajectory for obligated entities upto FY 2029-30 as 43.33% in order to enable the achievement of the above goal by 2030. From a pure macro-economic perspective, Renewable Energy shall dramatically reduce the coal import bill. 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. 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 for not purchasing renewable energy 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.”

- 2.13 That the existing solar power capacity available with Haryana Discoms through long-term agreements is 1202.77 MW with a solar rooftop having a capacity of about 596 MW. Whereas, 997.37 MW is currently available from non-solar RE sources. Break up of current RE sources as on date i.e. 31.03.2024 is as under: -

| Source | Commissioned Capacity in MW |
|----------------------|------------------------------------|
| Small Hydro | 73.2 |
| Wind | 756.6 |
| Biomass | 167 |
| Solar Ground Mounted | 1202.77 |
| Solar Rooftop | 596 |
| Total | 2795.57 |

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

- 2.14 That with the above arrangements/tie-ups, the total installed capacity to the tune of 2184 MW (excluding rooftop solar under net metering) solar and 1577 MW non-solar (including 1280 MW wind generation) respectively shall be available with Haryana Discoms by the end of FY 2024-2025. The addition of long-term power from SJVN Ltd. shall help Petitioner combat all RPO obligations in future.
- 2.15 That HPPC has negotiated with SJVN for trading margin. However, SJVN has been providing for such trading margin in accordance with MoP Guidelines for Tariff Based Competitive Bidding Process for procurement of firm and dispatchable Power from

Grid Connected Renewable Energy Power Projects with Energy Storage Systems at Rs 0.07/kWh for all the Procurers. Therefore, the trading margin quoted by SJVN is in consonance with the conditions of Guidelines and is a uniformly charged trading margin.

- 2.16 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.”

- 2.17 That considering the foregoing, the power procured from SJVN would be considered for meeting the 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 Purchase Obligation.
- 2.18 That the renewable power offered by SJVN shall be at a minimum CUF of 70% which is equivalent to PLF of a thermal power plant. The SJVN/RPD shall be obligated to supply the Contracted Capacity with the Firm and Dispatchable RE power configuration, keeping at least 90% availability during Peak Hours (04 hours – 2 hours in morning and 2 hours in evening) on monthly basis. In case of shortfall in Peak

availability of 90% and annual shortfall in supply of energy corresponding to minimum CUF of 70%, liquidated damages shall be paid by SJVN/RPD to Petitioner at the rate of 1.5 times of the applicable tariff for such shortfall. Considering all the above scenario, procurement of this 800 MW firm and dispatchable power is considered beneficial for Haryana Discoms.

- 2.19 That since the power under the PSA shall be an inter-state supply of power, the appropriate Commission for adoption of tariff is Hon'ble Central Electricity Regulatory Commission (CERC). Respondent – SJVN shall file petition before Hon'ble CERC for adoption of tariff.
- 2.20 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 SJVN will be in the overall interest of all concerned including consumer of Discoms.
- 2.21 The following prayers have been made: -
- a) Grant source approval for procurement of 800 MW Firm and Dispatchable RE power from ISTS- Connected Renewable Energy (RE) Power Projects with Energy Storage System in India @ Rs 4.45/kWh including a trading margin of Rs. 0.07/kWh for a period of 25 years
 - b) Grant ex-post facto approval to signed Power Supply Agreement (PSA) dated 05.04.2024; 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.

3. **SJVNL's Reply dated 29.05.2024**

The submissions of SJVNL are summarized as under: -

- 3.1 The Respondent (SJVNL) has issued RfS dated 20.06.2023 for selection of RE Power Developers for Supply of 1500 MW Firm and Dispatchable Power from ISTS Connected Renewable Energy (RE) Power Projects with Energy Storage System in India under Tariff-based Competitive Bidding. The said RfS was further amended vide Amendment No.1 dated 04.08.2023 and the 1500 MW power initially offered for allocation has been supplemented with "Greenshoe Option" of additional capacity up to 1500 MW.
- 3.2 The Respondent has throughout the process complied with all the necessary guidelines and regulations and taken all necessary steps for requisite approvals before the Hon'ble CERC. CERC has heard the matter on 22.05.2024 and reserved its order for adoption of tariff.

- 3.3 The Respondent without any objection has requested to consider the prayer of the Petitioner and approve the PSA and scheme as stated therein.

Proceedings in the Case

4. The case was heard on 06.06.2024, in the court room of the Commission, wherein the parties mainly reiterated the contents of their written submissions, which for the sake of brevity are not being reproduced here.

Commission's Order

5. The Commission heard the arguments of the parties at length as well as perused the written submissions placed on record by them. The Commission has considered the submissions of the petitioner herein that the Power Sale Agreement (PSA) between HPPC and SJVN has already been signed on 05.04.2024, for a period of 25 years from the date of scheduled commencement of supply and can be extended up to a period of 35 years. HPPC, vide its letter dated 05.04.2024, has qualified that the PSA is signed subject to the approval of the Commission.
6. The Commission has taken note of the Regulation 62 (12) of the Haryana Electricity Regulatory Commission (Terms and Conditions for determination of Tariff from Renewable Energy Sources, Renewable Purchase Obligation and Renewable Energy Certificate) Regulations, 2021, (2nd Amendment) 2022, which provides that 1.5% of the energy consumed during the FY 2024-25 (excluding consumption met from RE sources and hydro sources), shall be renewable energy along with/through storage, including pumped storage projects (PSPs) having capacity 25 MW. Thus, HPPC has a mandate to purchase renewable power along with/through storage. The Commission is of the considered view that the power proposed to be procured from SJVN would be considered for meeting the renewable purchase obligations (RPO) and will help to provide green and clean electricity to the electricity consumers of the State of Haryana at @ Rs. 4.45/unit (including trading margin), which prima-facie appears to be more affordable.
7. The Commission has considered the averments of HPPC that the renewable power offered by SJVN shall be at a minimum CUF of 70% which is equivalent to PLF of a thermal power plant. Further, the SJVN shall be obligated to supply the Contracted Capacity with the Firm and Dispatchable RE power configuration, keeping at least 90% availability during Peak Hours (04 hours – 2 hours in morning and 2 hours in evening) on monthly basis. The project is expected to come up within 3 years. The Discoms, in various petitions filed before the Commission, are projecting power deficit ranging from

500 MW in the year 2027-28 to 6000 MW in the year 2037-38. The power procurement from energy storage system will be helpful in meeting the power demand in the State of Haryana during the peak period and can ever serve its base load.

8. In view of the above, the Commission, in larger interest of the electricity consumers, so that they get un-interrupted supply of power, as well as RPO obligation associated with RE power with energy storage, has considered it appropriate to accord the approvals as prayed for by the petitioner. The Commission also grants ex-post facto approval to the signed Power Supply Agreement (PSA) dated 05.04.2024.
9. The present petition brought before the Commission is disposed of in terms of the above order.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 06.06.2024.

Date: 06.06.2024
Place: Panchkula

(Mukesh Garg)
Member

(Nand Lal Sharma)
Chairman