Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017.

F.11(2274)/DERC/2024-25/8277

MA No. 8/2025
In
Petition No. 12/2025

In the matter of: **Miscellaneous Application for Amendment of the Petition.**
and
Petition No. 12/2025

In the matter of: **Petition u/S 86(1)(b) and (e) of the Electricity Act, 2003 and other enabling provisions for seeking in-principle approval of the Bidding Documents of 200MW firm and dispatchable renewable energy with energy storage systems, with additional 200MW greenshoe option under 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 for meeting its RPO.**

Tata Power Delhi Distribution Ltd. **….Petitioner/Applicant**

Coram:

Sh. Ram Naresh Singh, Member
Sh. Surender Babbar, Member

Appearance:
Mr. Buddy Ranganadhan, Ld. Sr. Advocate for the Petitioner
Mr. Anand Srivastava, Counsel for the Petitioner
Mr. Ankit Bhandari, Counsel for the Petitioner
Mr. Mudassir, Counsel for the Petitioner
Ms. Ishita Jain, Counsel for the Petitioner

ORDER

(Date of Order: 03.11.2025)

1. The Instant Petition has been filed by the Petitioner, Tata Power Delhi Distribution Ltd. (TPDDL) *inter alia* praying:

   i. To approve the Bidding Documents i.e., Draft RfS and Draft PPA, as prepared for procurement of 200 MW Firm and Dispatchable Renewable Energy with Energy Storage System with additional 200MW greenshoe option;

   ii. To accord in-principle approval for procurement of 200 MW Firm and Dispatchable Renewable Energy with Energy Storage System with additional 200 MW greenshoe option through competitive bidding process; and

   iii. To accord approval of the deviations in the Draft RfS and Draft PPA from the 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.

2. Further, the Petitioner filed Miscellaneous Application No. 08/2025 on 13.03.2025 seeking amendments in the Petition on the ground that the Principal Guidelines were amended by the Ministry of Power (MoP) vide Notification dated 12.02.2025 ("Amended Guidelines"), which was published in the Gazette on 15.02.2025 and uploaded on the website of the MoP on 19.02.2025, i.e., pursuant to filing of the captioned Petition on 17.02.2025 which were taken on record.

3. The Petitioner has made the following prayers in its Miscellaneous Application:
   i. Take on record the Revised Bidding Documents i.e., the Draft Request for Selection and Draft Power Purchase Agreement, revised in terms of the Amended Guidelines dated 12.02.2025; and
   ii. Replace the Bidding Documents annexed as Annexure P-2 (Colly)of the Petition with the Revised Bidding Documents annexed as Annexure C of the Application.

<u>Petitioner's Submission</u>

4. The Petitioner has submitted the following:
   i. The Petitioner herein is distribution licensee in terms of Section 14 of the Electricity Act, 2003 ("Electricity Act") read with the Delhi Electricity Reforms Act, 2000 ("DERA 2000") and operates in terms of the distribution license issued by the Commission with effect from 01.07.2002 in its respective area of supply as defined in Schedule H, Part-III of the Delhi Electricity Reform (Transfer Scheme Rules), 2001 and the distribution and retail supply license issued by the Commission.
   ii. On 09.06.2023, the Ministry of Power, Government of India ("MoP") issued the 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 ("MoP Guidelines"), which were amended on 17.11.2023, 02.02.2024 and 12.02.2025. The primary objectives of the MoP Guidelines are (a) to provide firm and dispatchable power to DISCOMs from Renewable Energy ("RE") sources and (b) to facilitate renewable capacity addition and fulfilment of Renewable Purchase Obligations ("RPO") requirement of Distribution Companies.
   iii. Further, the Commission has on 13.04.2021 issued DERC (Renewable Purchase Obligation and Renewable Energy Certificate Framework Implementation) Regulation, 2021 which was amended on 29.03.2023 ("RPO Regulations"), as well as the DERC Business Plan Regulations, 2023 on 29.03.2023 ("Business Plan Regulations"). The RPO Regulations and the Business Plan Regulations cast an obligation on every Distribution Licensee operating in NCT of Delhi to procure certain percentage of its power requirement through RE sources to meet its RPO. As per RPO Regulations and Business Plan Regulations, the targets of the RPO till FY 2025-26 are as follows:

Sr. No.	RPO Targets	FY 2023-24	FY 2024-25	FY 2025-26
1.	Wind RPO	1.60%	2.46%	3.36%
2.	Other RPO	24.81 %	26.37%	28.17%
3.	HPO Target (only for Distribution Licensee)	0.66%	1.08%	1.48%
4.	Total RPO Target	27.07%	29.91%	33.01%

iv. That in order to combat pollution and promote the purchase of electricity from RE sources by Distribution Companies, MoP vide its order dated 22.07.2022 has prescribed the following RPO trajectory beyond 2021-22 as per NTP:

Year	Wind RPO	HPO	Other RPO	Total RPO
2022-23	0.81%	0.35%	23.44%	24.61%
2023-24	1.60%	0.66%	24.81%	27.08%
2024-25	2.46%	1.08%	26.37%	29.91%
2025-26	3.36%	1.48%	28.17%	33.01%
2026-27	4.29%	1.80%	29.86%	35.95%
2027-28	5.23%	2.15%	31.43%	38.81%
2028-29	6.16%	2.51%	32.69%	41.36%
2029-30	6.94%	2.82%	33.57%	43.33%

v. Even Guidelines for Resources Adequacy Planning Framework of India' ("Resource Adequacy Guidelines") issued by the MoP mandate that resource planning needs to be done on a long-term basis. Moreover, the Resource Adequacy Guidelines are to be followed by all the institutions and stakeholders.

vi. The Resource Adequacy Guidelines impose a duty upon the Distribution Companies to tie up sufficient capacity to meet the demand of its consumers. The Guidelines further provide that the capacity for which the DISCOMs shall tie up should be a judicious mix of long, medium and short-term contracts to ensure security of reliable supply to the consumers. It provides that procurement actions for resource adequacy must be taken up by the Distribution Companies in a timely manner so that generation capacity becomes available well before its requirement to meet the projected growth.

vii. The Government of India has set an ambitious target to achieve 500 GW of non-fossil based installed energy capacity by the year 2030. The commitment regarding non-fossil fuel capacity is proposed to be met primarily from installation of solar, wind and hybrid power capacities. Further, ESS can prove useful in combating the challenges associated with intermittent RE generation sources connected to the grid and stability issues due to large fluctuations in demand, to ensure quality of supply on real time basis by storing excess generation over different time horizons.

viii. In view of the aforesaid, considering the initiatives in the NTP & NEP, orders of MoP, Regulations of the Commission to undertake the procurement of RE power through competitive bidding route and the extant statutory framework, the Petitioner has proposed to procure 200 MW of FDRE with ESS, with greenshoe option of contracting additional 200 MW.

<u>Commission's Analysis</u>

5. The instant Petition has been filed by TPDDL under Section 86(1)(b) and (e) of the Electricity Act, 2003, and other enabling provisions, seeking in-principle approval for the bidding of 200 MW Firm and Dispatchable Renewable Energy (FDRE) with Energy Storage Systems, with an additional 200 MW green-shoe option, under the Guidelines for Tariff Based Competitive Bidding for procurement of power from Grid-connected Renewable Energy Projects with storage for meeting its Renewable Purchase Obligation (RPO).

6. The Petition was admitted and reserved for Orders vide Commission's Record of Proceedings dated 06.08.2025. Meetings with the Officers of the Petitioner were held, wherein facts and figures of the Petition were deliberated and it was noted that:

   a) The Guidelines for Resource Adequacy Planning Framework of India mandates utilities to plan capacity additions based on short, medium, and long-term projections.
   b) The Petitioner has projected a shortfall of 1493 MW by 2034-35 and has currently proposed the following arrangements:

      - 200 MW Long Term Hydro with CUF@85% = 170 MW
      - Current petition of FDRE (200 + 200 MW) with CUF@70% = 280 MW
      - Biomass WTE (TOWMCL) = 6 MW

      Total tied-up = 456 MW, leaving a shortfall of 1037 MW

   c) The Petitioner has also submitted its RPO trajectory till 2034-35, which reflects the need to procure additional renewable power to meet compliance targets. Also, in the absence of proposed FDRE tie-up, there will be a shortfall in meeting RPO obligations in future years.

7. The Petitioner has also sought approval of the deviations in the draft Rfs and Draft PPA from the 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 for meeting its RPO. However, there were some discrepancies in the table of deviations provided in the Petition, for which necessary clarification were sought from the Petitioner in the Meeting scheduled on 29.09.2025. Response to the same was received from the Petitioner

vide email dated 29.09.2025. Based upon the same, the deviations sought by the Petitioner are deliberated as follows:

Sr. No.	Bidding Guidelines	Deviation	Decision taken by Commission
1.	Clause 6.3 of the MoP Guidelines provides that a maximum of 50% of bid capacity can be allocated to a single bidder	Draft RfS/Draft PPA does not provide for such restriction.	Although this deviation may restrict no. of bidders, but may increase Bidders with large capacity, which may increase economies of scale and finally may bring down the tariff discovered during competitive bidding. **In view of above, the said deviation is allowed.**
2.	Clause 7.6(b) of the MoP Guidelines provide that in the event the Generator fails to maintain energy supply corresponding to the minimum CUF as declared in the PPA for 2 (two) consecutive years excluding the first Contract year ending on 31st March immediately after Project CoD, the Generator shall be in default. The Generator's yearly minimum CUF obligation shall get reduced to the average of actual CUF for the 2 default years and the Generator shall be obligated to pay to the Procurer lump-sum damages equivalent to 24 (twenty-four) months or balance PPA period whichever is less, of the tariff, for the reduction in yearly minimum CUF obligation. The proviso to the clause provides that in case the Generator fails to pay the lump sum damages then, such failure of the Generator may be treated as an event of default and the PPA may be terminated. In the event of termination of PPA, the Generator shall be liable to pay to the Procurer, damages, equivalent to 24 (twenty-four) months, or balance PPA period whichever is less, of tariff	Draft PPA provides as follows: 4.5.2. If for any Contract Year, it is found that the RPD/REPG has not been able to supply minimum energy corresponding to the value of annual CUF within the permissible lower limit of CUF declared by the RPD/REPG, on account of reasons primarily attributable to the RPD/REPG, such shortfall in performance shall make the RPD/REPG liable to pay the liquidated damages as per criteria mentioned at Clause 4.4.4. It is to be noted that penalty for short supply shall be calculated separately for both summer season and winter season specified by TPDDL under these bidding documents. ***Subsequent deviation is highlighted in RFP Clause No 6.7.11.1 (ii). The same is reproduced below for ease of reference –*** *The Bidders will declare the annual CUF for the Contracted*	**Clause 4.5.2:** **The deviation is allowed** since it is to ensure firm CUF and appropriate penal provisions so that TPDDL is able to get the contracted supply up to the limit provided in the PPA.

Sr. No.	Bidding Guidelines	Deviation	Decision taken by Commission
	for its contracted capacity with the stipulated minimum CUF.	*Capacity at the time of submission of response to RfS. The declared annual CUF shall in no case be less than 70% (Seventy percent). The RPDs will be allowed to revise the same once within first year after commencement of SCSD. Thereafter, the CUF for the Contracted Capacity shall remain unchanged for the entire term of the PPA. It shall be the responsibility of the RPDs, entirely at its cost and expense set up adequate RE capacity or ESS/tie up the capacity as may be necessary to achieve the required CUF. The RPDs shall maintain generation so as to achieve annual CUF within + 10% and - 15% of the declared value till the end of the PPA duration of 25 (twenty-five) years* ****** 4.5.4. It is hereby clarified and agreed that in case the RPD makes the payment for liquidated damages/penalty, for shortfall in supplying the Contracted Capacity during peak hours, the energy corresponding to payment of such liquidated damages by the RPD shall be considered as deemed to have been supplied by the RPD in accordance with the provisions of the PPA. The calculation of penalty/liquidated damages corresponding to annual shortfall in terms of the PPA,	**Clause 4.5.4:** **The said deviation is allowed in the following form: -** *"**4.5.4** It is hereby clarified and agreed that in case the RPD makes the payment for liquidated damages / penalty, for shortfall in supplying the Contracted Capacity during peak hours, the energy corresponding to payment of such liquidated damages by the RPD shall be considered as deemed to have been supplied by the RPD in accordance with the provisions of the PPA. The calculation of penalty / liquidated damages corresponding to annual shortfall in terms of the PPA, peak hour availability shall be considered as 90% for the period for which liquidated damages are levied and*

Sr. No.	Bidding Guidelines	Deviation	Decision taken by Commission
		peak hour availability shall be considered as 90%, for the period for which liquidated damages are levied and paid by RPD. (It is further clarified that such deemed Availability shall only be considered for the period for which, peak power shortfall liquidated damages/ penalty is already paid or settled by RPD). In case of shortfall in the Availability of Contracted Capacity during peak hours and the supply of energy corresponding to minimum CUF as specified in Clause 4.5.2 for reasons attributable to RPD, the RPD shall be liable to pay to the TPDDL, penalty for such shortfall in Availability. Penalty for not meeting the stipulated Availability shall be equal to the cost of alternate power procured by TPDDL for the number of units not supplied by the RPD. In case of shortfall in the supply of energy corresponding to minimum CUF as specified in Clause 4.5.2, for reasons attributable to RPD, the RPD shall be liable to pay to the TPDDL, penalty for such shortfall in supply of energy. Penalty for not meeting the stipulated supply of energy shall be equal to one and a half times the PPA Tariff for the number of units not supplied. An illustration for determination of liquidated damages for the above-mentioned scenarios	*paid by RPD. (It is further clarified that such deemed availability shall only be considered for the period for which, peak power shortfall liquidated damages / penalty is already paid or settled by RPD). In case of shortfall in the supply of energy corresponding to minimum CUF as specified in Clause 4.5.2, for reasons attributable to RPD, the RPD shall be liable to pay to the TPPDL, penalty for such shortfall in supply of energy. Penalty for not meeting the stipulated supply of energy shall be equal to one and a half times the PPA Tariff for the number of units not supplied. An illustration for determination of liquidated damages for the above mentioned scenarios are mentioned in Schedule-3."*

Sr. No.	Bidding Guidelines	Deviation	Decision taken by Commission
		are mentioned in Schedule-3. ***Subsequent deviation is highlighted in RFP Clause No 6.7.12 (iv). The same is reproduced below for ease of reference –*** *It is hereby clarified and agreed that in case the RPD makes the payment for liquidated damages/penalty, for shortfall in supplying the Contracted Capacity during peak hours, the energy corresponding to payment of such liquidated damages by the RPD shall be considered as deemed to have been supplied by the RPD in accordance with the provisions of the PPA. The calculation of penalty/liquidated damages corresponding to annual shortfall in terms of the PPA, peak hour availability shall be considered as 90%, for the period for which liquidated damages are levied and paid by RPD. (It is further clarified that such deemed Availability shall only be considered for the period for which, peak power shortfall liquidated damages/ penalty is already paid or settled by RPD). In case of shortfall in the Availability of Contracted Capacity during peak hours and the supply of energy corresponding to*	

Sr. No.	Bidding Guidelines	Deviation	Decision taken by Commission
		minimum CUF as specified in Clause 6.7.12 (ii) for reasons attributable to RPD, the RPD shall be liable to pay to the TPDDL, penalty for such shortfall in Availability. Penalty for not meeting the stipulated Availability shall be equal to the cost of alternate power procured by TPDDL for the number of units not supplied by the RPD. In case of shortfall in the supply of energy corresponding to minimum CUF as specified in Clause 6.7.12 (ii), for reasons attributable to RPD, the RPD shall be liable to pay to the TPDDL, penalty for such shortfall in supply of energy. Penalty for not meeting the stipulated supply of energy shall be equal to one and a half times the PPA Tariff for the number of units not supplied. An illustration for determination of liquidated damages for the above-mentioned scenarios are mentioned in Annexure-D. *(The foregoing is not a deviation per se, as it is not mentioned in the applicable guidelines, however, the same has been included by TPDDL on the basis of similar tenders issued by other procurers).* 13.1.1. The occurrence and/or continuation of any of the following events, unless any such event occurs as a	**Clause 13.1.1:** **The said deviation is not allowed and it should be as per MOP Guidelines.**

Sr. No.	Bidding Guidelines	Deviation	Decision taken by Commission
		result of a Force Majeure Event or a breach by TPDDL of its obligations under this Agreement, shall constitute an RPD/REPG Event of Default: (iii) failure to maintain minimum availability requirement as per article4.4.1 for a period of six consecutive months after the commencement of supply of power throughout the term of the Agreement; or 13.3.5 Subject to the terms of this Agreement, upon occurrence of an RPD/REPG Event of Default under this Agreement, the RPD/REPG shall be liable to pay to TPDDL, liquidated damages, as provided in Clause 4.7 of the PPA for failure to commence supply of power of Contracted Capacity within stipulated time and under Clause 4.4. for failure to supply power in terms of the PPA. For other cases, the RPD/REPG shall be liable to pay TPDDL damages, equivalent to 24 (twenty-four) Months, or balance PPA period whichever is less, of charges calculated at applicable Tariff for its Contracted Capacity with stipulated Availability. TPDDL shall have the right to recover the said damages by way of forfeiture of bank guarantee, if any, without prejudice to resorting to any other	 **Clause 13.3.5:** **The deviation is allowed** since, the proposed deviation has been added with a view to protect the interest of TPDDL consumers by mitigating consequential risk, in case the bidder may fail to maintain minimum availability.

Sr. No.	Bidding Guidelines	Deviation	Decision taken by Commission
		legal course or remedy. In addition to the levy of damages as aforesaid, the lenders in concurrence with TPDDL, may exercise their rights, if any, under Financing Agreements, to seek substitution of the RPD/REPG by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the RPD/REPG and performing the obligations of the RPD/REPG. [Please refer Articles 4.5.2., 4.5.4, 13.1.1 & 13.3.5 of the Draft PPA] ***Explanation -*** *Clause 13.1.1 and 13.3.5 of the PPA have been added pursuant to changes made in the Clause 4.5.2. and 4.5.4 of the PPA. The same is not a deviation per se, it has been added by TPDDL on the basis of similar tenders issued by other procurers keeping interest of consumer at large and flexibility given in the MOP guidelines dated 9.6.2023 under Clause 4.1.* ******	

Sr. No.	Bidding Guidelines	Deviation	Decision taken by Commission
3.	Clause 7.6.(e) of the FDRE Guidelines states that defaulting procurer shall pay to the Generator, damages, equivalent to 24 (twenty four) months, or balance PPA, whichever is less, of charges for its contracted capacity with the stipulated availability.	Draft PPA states RPD/REPG may terminate the PPA and at its discretion require TPDDL to pay to the RPD/REPG, damages, equivalent to 6 (six) months or balance PPA period, whichever is less. [Please refer Article 13.4.4 of the Draft PPA] Since it pertains to Event of Default in case of TPDDL, accordingly, no corresponding provision is there in RfS for this scenario.	Such a deviation may discourage participation of the bidders or otherwise may not result in a competitive tariff. **The same, therefore, is not allowed and, it should be as per the MOP Guidelines.**
4.	Clause 7.7. of the MoP Guidelines provides for provision for Change in Law which shall be in accordance with the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 notified by Ministry of Power vide notification dated 22.10.2021 including amendments and clarification thereof issued from time to time and shall refer to the occurrence of any event from 7 days prior to the last date of bid submission.	Draft RfS and Draft PPA stipulate that any change in law event has to necessarily be approved by the appropriate commission and would refer to occurrence of any specified event after the last day of bid submission. [Please refer Clause 1.3.3 of the Draft RfS and Article 12 of the Draft PPA]	**The said deviation is not allowed and, it should be as per the MOP Guidelines.**
5.	Clause 7.5.1 of the MoP Guidelines provides for Generation Compensation in off take constraints due to Grid Unavailability. Clause 7.5.1 further states that during the operation of the plant, there can be some periods where the plant can generate power but due to temporary transmission unavailability the power is not evacuated for reasons not attributable to the Generator. In such cases the Generation compensation shall be addressed by the Procurer.	Draft PPA doesn't specify the generation Compensation in off take constraints due to Grid Unavailability and only provides payment in case of reduced offtake. [Please refer Article 4.11 of the Draft PPA] No Corresponding provision in RfS has been mentioned for this clause.	As per draft PPA, no compensation is to be paid by TPDDL due to Grid Unavailability (which is, as per MOP Guidelines, otherwise, required to be paid by TPDDL) and compensation is to be paid only in case of the reduced offtake. However, the MoP Clause is a standard clause and the same also finds its mention in various other Bidding Guidelines issued by MOP**. In light of the same, the said deviation is not allowed**.

Sr. No.	Bidding Guidelines	Deviation	Decision taken by Commission
6.	Clause 10.3 of the MoP Guidelines provide that signing of PPA should be completed within 30 (thirty) days from the issuance of the LoA and this period may be extended up to 12 months from the LoA date, beyond which the LoA will be cancelled. Further, it is clarified that if the Procurer gives extended time, subject to adherence to clause 10.3, for any of the events in the bidding process, on account of delay in achieving the activities required to be completed before the event, or any other reason, such extension of time shall not in any way be construed as deviation from these Guidelines.	Draft RfS provides that TPDDL shall enter into PPA with Bidders selected based on the RfS and the PPA shall be signed within 30 (thirty) days from the date of issuance of LoA if not extended by TPDDL. Subsequent extension in this timeline shall be finalized as mutually agreed by TPDDL and the RPD. [Please refer Clause 6.12.1. of the draft RfS] This is relevant only for the draft RfS purpose and not for draft PPA.	**The said deviation is not allowed and, it should be as per the MOP Guidelines.**
7.	Clause 12.3 of the FDRE Guidelines provides that performance bank guarantee shall be returned to the generator within 45 days of the Actual Commencement of Supply Date of the project.	Draft RfS and Draft PPA provides that performance bank guarantee shall be kept valid and subsisting for the entire term of the PPA. The same shall be renewed by the successful bidder during the term of PPA. [Please refer Clause 6.11 of the Draft RfS and Article 3.3 of the Draft PPA]	Such a deviation shall discourage the bidders and may also impact the tariff. **Hence, the said deviation is not allowed and, it should be as per MOP Guidelines**
8.	Clause 12.4 of the MoP Guidelines provides that procurer(s) may release the bank guarantees submitted by the generator as 'performance bank guarantee (PBG)', if the generator is able to replace the same with 'payment on order instrument' /letter of undertaking to pay in case of default of generator in terms of PPA.	Draft RFS and Draft PPA do not stipulate any such condition	**The said deviation is not allowed and it should be as per MOP Guidelines**

8. In view of above, *in-principle* approval is hereby granted to the Petitioner for procurement of 200 MW FDRE with a 200 MW green-shoe option, through Tariff

Based Competitive Bidding, as per the Ministry of Power's Guidelines with such deviations, as approved in Para 7 of the instant Order.

9. The Petition along with Miscellaneous Application is disposed of in the above terms.

10. Ordered accordingly.

Sd/-	***Sd/-***
(Surender Babbar)	**(Ram Naresh Singh)**
Member	**Member**