



Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017

F.11(1910)/DERC/2021-22/7186

Petition No. 50/2021

In the matter of: Petition u/S 86(1) of the Electricity Act, 2003 and other enabling provisions for seeking approval for the Bidding Documents, for long term procurement of 300MW capacity from grid connected Wind Solar Hybrid Power Projects through competitive bidding process for meeting the Renewable Purchase Obligation.

Tata Power Delhi Distribution Ltd.

.... Petitioner

Coram:

Hon'ble Shri Justice Shabihul Hasnain 'Shastri', Chairperson
Hon'ble Dr. A. K. Ambasht, Member

Appearance:

Mr. Anand K. Srivastava, Adv., TPDDL

ORDER

(Date of Order: 27.07.2022)

1. The instant Petition has been filed by Tata Power Delhi Distribution Ltd. (TPDDL) seeking approval of the following in the prayer;
 - a. To approve the Bidding documents i.e., Draft RFS and Draft PPA prepared for procurement of 300MW wind solar hybrid power from grid connected wind-solar hybrid power projects
 - b. To accord approval for initiation of competitive bidding process for procurement of 300MW Hybrid power from grid connected wind-solar hybrid projects;
 - c. To accord approval to the deviations in Draft RfS and Draft PPA from the Bidding Guidelines
 - d. To consider the procurement of such power from grid connected wind-solar hybrid power projects as purchase towards meeting the total Renewable Purchase Obligation of the Petitioner;

- e. To approve publishing of Notice to Invite tender through two national e-newspaper if the Petitioner is unable to publish it through print newspaper due to the current COVID-19 situation.
 - f. Condone any inadvertent omissions/errors/shortcomings and permit the Petitioner to add/change/modify/alter this filing and make further submissions as may be required at a future date.
2. The Petitioner has submitted the following:
- a) The Ministry of New and Renewable Energy ("MNRE") issued the National Wind-Solar Hybrid Policy on 14.05.2018 ("Hybrid Policy") along with subsequent amendments/clarifications from time to time. The primary objective of the Hybrid Policy is to provide a framework for the promotion of grid-connected wind-solar PV hybrid system. It aims at reducing the variability in renewable power generation, achieving better grid stability and increasing efficiency in operations.
 - b) Pursuant to the issuance of the Hybrid Policy, MNRE has released the competitive bidding guidelines for wind-solar hybrid dated 14.10.2020 ("Original Guidelines"). The Bidding Guidelines were subsequently amended on 23.07.2021 (Amended Guidelines") (collectively referred as ("Bidding Guidelines"))
 - c) The Petitioner, in the backdrop of the Hybrid Policy and Bidding Guidelines, vide the present Petition is seeking approval for the bid documents i.e. Draft Request for Selection ("**Draft RfS**") and Draft Power Purchase Agreement ("**Draft PPA**") (collectively referred as "**Bidding Documents**"), initiation of bidding process for the long term procurement of power from grid connected wind-solar hybrid power projects for meeting its Renewable Purchase Obligations ("**RPO**") and approval of certain deviations from the Bidding Guidelines.
 - d) The Commission has issued DERC (Renewable Purchase Obligation and renewable Energy Certificate Framework Implementation) Regulations, 2021 dated 13.04.2021 ("RPO Regulations") and DERC (Business Plan) Regulations, 2019 ("Business Plan Regulations") dated 27.12.2019 amended on 13.04.2021. As per these Regulations, obligated entity is required to fulfil a defined minimum percentage of the total procurement from eligible renewable energy sources i.e. the Petitioner as a Distribution licensee has to procure

certain percentage of its power requirement through renewable sources to meet its RPO.

- e) The Petitioner hereby proposes to procure 300 MW capacity from grid connected Wind-Solar Hybrid Power Projects under competitive bidding route for meeting its current and future RPO. As per RPO Regulations and the Business Plant Regulations, the targets of the RPO till FY 2022-23 are as follows:

S.No.	Particulars		FY 2020-21	FY 2021-22	FY 2022-23
1	Non Solar	Other Non-Solar RPO	10.25%	10.25%	10.50%
		HPO	-	0.18%	0.35%
2.	Solar		7.25%	8.75%	10.50%
	Total		17.50%	19.18%	21.35%

- f) The Petitioner shall enter into PPA with the successful bidder selected through the above-mentioned competitive bidding process for purchase of power from wind-solar hybrid power projects for a period of 25 years from the scheduled commissioning date (in case of new plants) or for remaining useful life (in case of already commissioned plants with untied capacity and remaining useful life of the plant is between 20 years to 25 years) based on the terms, conditions and provisions of RfS.

- g) The Petitioner while ensuring reliable power supply to its consumers, has to meet RPO as mandated by the Commission from time to time. The Petitioner currently has tie up of around 500MW solar power, 100 MW wind Power, 60MW small hydro-power and around 20MW waste to energy. The projects are at different stages of commissioning i.e. few have been commissioned and few are yet to be commissioned, the information of the same is provided on quarterly basis to the Commission in line with the directives issued. In order to ensure compliance of the RPO as stipulated under the extant statutory framework primarily through renewable power the Petitioner has worked out its requirement of 300MW Hybrid Power.

3. As per Clause 6.1 read with Clause 23 and 3.4 of the Bidding Guidelines, It is required that the procurer shall inform the Appropriate Commission and seek approval of deviation from the Bidding Guidelines. Accordingly, the Petitioner in the instant Petition is also seeking approval of following deviations:

Sr. No.	Bidding Guidelines	Deviation	Rationale
1.	Guideline 8.2.1 stipulates that the Generator shall achieve annual CUF not less than 90% of the declared value (i.e. Minimum CUF) and not more than 120% of the declared CUF value (i.e. Maximum CUF)	Draft RFS and Draft PPA stipulates minimum CUF to be 80% of the declared value. [Please refer to Clause 3.9A of the RfS and Clause 4.4.1 of the PPA]	The minimum CUF has been kept 80% of the declared value in order to attract greater participation of the bidders. This will also lead to a competitive tariff which in turn will be beneficial for the consumers. However, Annual Declared CUF has been kept a 30% in line with the Bidding Guidelines.
2.	Guidelines 8.5 [Change in Law] – provides for increase/ decrease in cost and provides expeditious manner through a formula. The Appropriate Commission shall only verify the computation and true-up the rate.	Draft RFS and Draft PPA stipulate that any change in law event has to necessarily be approved by the appropriate commission [Please refer to Clause 1.3.2 of the RFS and Article 12 of the PPA]	The necessary approval of the commission for any 'change in law' shall ensure greater transparency in operations without any subjectivity and minimizing the scope for any dispute in this regard.
3.	Guidelines 15.2 states that in case the Generator is unable to attain Financial Closure within 12 months from the execution of the PPA, the Procurer shall encash the PBG/ LoU unless the delay is on account of delay in allotment of land by	Under the Draft RFS and Draft PPA the only exception for encashment of PBG is a 'Force Majeure' event. Please refer to Clause 3.16 (ii) of the RFS and Clause 3.2.1 of the PPA	The removal of exception to encashment of PBG in case of failure of the generator in achieving financial closure within 12 months from the execution of the PPA shall ensure greater accountability on the part of the generator.

Sr. No.	Bidding Guidelines	Deviation	Rationale
	the Government not owing to any action or inaction on the part of the Generator or caused due to a Force Majeure		The generator's compliance with the timeline as stipulated under the Draft PPA shall further ensure that the procurer is able to meet the RPO obligations on time and also procuring the power in order to supply it to its consumers in an efficient manner.
4.	Guideline 17.3 (i) stipulates that the projects shall be commissioned, within a period of 18 (eighteen) months from the date of execution of the PPA.	Under the Draft RFS and Draft PPA the SCD of the project is 24 months from the effective date. [Please refer to Clause 3.17 of the RFS and Definition of "SCD" in the PPA]	SCD has been kept as 24 months in order attract greater participation from the bidders.
5.	Guidelines 6.2(A) provides for documents pertaining to land acquisition that a bidder will have to submit documents establishing possession and right to use the 100% of the land on or before SCOD	Under the Draft RfS, the requirement pertaining to land acquisition is required to be provided at least 3 months prior to SCOD. (Please refer to clause 3.10 of the RfS)	This would allow higher surety of power availability to TPDDL.
6.	Guidelines 8.6 pertains to Force Majeure and intimation of a force majeure event. According to the guideline, the	Under the Draft PPA, the affected party has to give notice to the other party of a force majeure event within 7 days of such an event	Informing force majeure event as soon as possible will help both parties mitigate damages. Moreover, a 15 day period on the part of the

Sr. No.	Bidding Guidelines	Deviation	Rationale
	Generator has to intimate the procurer within 15 days of occurrence of a force majeure event and the procurer shall take a decision on the claim within 15 days of the receipt of the intimation.	happening (please refer to clause 11.4 of the PPA)	procurer to take decision on the claim of Force Majeure is practically difficult to be complied with.
7.	Guidelines 8.8.1 (c) provides that in case of an event of default, the procurer may terminate the PPA and acquire the project assets for an amount equivalent to 90% of the debt due, failing which, the lenders may exercise their mortgage rights and liquidate the project assets.	Under draft RfS and draft PPA, this requirement has not been mentioned.	The procurer operates as a distribution company in terms of the provisions of the Act and therefore, its entire business model is based upon it performing its duties as a distribution licensee. It does not make any economic sense for the Petitioner to takeover the generation plant as it does not operate the business of generation.
8.	Guidelines 17.1 provides that part commissioning of a project can be accepted by the procurer subject to the condition that the minimum capacity for acceptance of first part commissioning shall be at least 50MW and the	Under the draft RfS and draft PPA, the minimum capacity provided for acceptance of first part commissioning at one project site can be 50% of the allocated Project Capacity or 50MW, whichever is lower.	As the project is hybrid, small part commissioning (say 25MW) would require certification of multiple projects of small size in 1:2 ratios of resources (Solar and Wind). To avoid complication associated, higher

Sr. No.	Bidding Guidelines	Deviation	Rationale
	projects can be commissioned in parts of 25MW batch size, wherein the last part will be the balance capacity.	(Refer to Clause 3.17 A of the draft RfS).	capacity of 50MW is taken.
9.	Guideline 22 provides for performance monitoring of all hybrid power projects to measure wind and solar resources data, other weather parameters and electrical parameters.	Under the draft RfP and draft PPA, the provisions for performance monitoring has been omitted.	The regular status update and monitoring of the project by the procurer will already done via fulfilment of the contractual obligation by the bidder, hence monitoring performance separately will not be required.

COMMISSION ANALYSIS

4. While deliberating upon the Petition it was observed that there was need to seek additional information and clarifications from the Petitioner, including the reasonableness of procuring 300MW of power in the subject bidding process. Accordingly, certain observations were raised to TPDDL by the office of DERC. TPDDL vide its email dated 12/05/2022 had submitted their responses which are illustrated as follows:

a. It was observed by the office of DERC that future capacity addition through SECI (ACME Solar) for 100 MW quantum was not considered in the supply side of TPDDL in their Demand Supply Analysis. TPDDL agreed to revise the capacity from 300 MW to 255 MW tabulated as follows:

Revised Capacity (MW)		
Solar	Non Solar	Total
85	170	255

- b. In the RfS, it was observed that the Petitioner had given an option to submit bids considering Battery Energy Storage System (BESS). To ensure level playing field for bidders the Petitioner had agreed to drop this clause and restrict their tender to Hybrid mode without BESS.
 - c. It was further observed that TPDDL has sought deviation in Guideline 8.2.1 related to CUF that minimum CUF has to be 80% of the declared value. However, Guideline 8.2.1 mandates the range of CUF to be 90% to 120% of the declared CUF. It has also been mentioned in the Guideline that lower limit will be relaxable only to the extent of non-availability of Grid for evacuation of hybrid power which is beyond the control of Hybrid Power Generator. The Petitioner had agreed to the same.
 - d. Provisions for Performance Monitoring is retained in RfP in respect of MNRE guidelines dated 14/10/2020.
 - e. Technical Criteria related to Revised List of Module and Manufacturers (RLMM) issued by MNRE not to be amended/ modified.
 - f. Further, it is observed that MNRE vide its 2nd Amendment dated 9/03/2022 in its Guideline has revised the Scheduled Commissioning Date (SCD) as Twenty-Four (24) months from the date of execution of PPA or PSA, whichever is later. The Petitioner agreed that Amendment related to SCD will be incorporated in RfS/ PPA by them. Hence, deviation sought related to Guideline 17.3 (i) of MNRE Guidelines dated 14/10/2020 for Commissioning period of 18 months from execution of PPA has not been accepted.
5. Considering above, only the following deviations sought by the Petitioner from MNRE Guidelines dated 14/10/2020 and subsequent amendment dated 09/03/2022 are approved by the Commission for procurement of 255 MW of capacity of Wind Solar Projects by the Petitioner:

Sr. No.	MNRE Guideline	Remarks
1	Guideline 8.5	Approval of the Commission for any 'Change in Law' is accepted to minimize the scope for any dispute
2	Guideline 6.2 (a)	Since, MNRE vide its second amendment in guidelines dated 09/03/2022 has increased the period of SCD from 18 months to 24 months therefore, deviation in guideline 15.2 and 6.2(a) has been accepted by the Commission.
4	Guideline 8.6	Intimation of Force Majeure event shall be within "seven days" instead of within 15 days.

5	Guideline 8.8.1 (c)	In event of default by the HPG, clause related to termination of PPA & acquisition of the project assets by Distribution Licensee stands omitted.
6	Guideline 17.1	The minimum capacity provided for acceptance of first part commissioning at one project site can be 50% of the allocated Project Capacity or 50MW, whichever is lower against minimum 50 MW of first part as mandated under Clause 17.1.

6. Accordingly, the Petition is disposed of as per the directions and decisions contained in para 4, 5 and 6 cumulatively of this Order. In addition to above, the Commission further directs the Petitioner to comply with clauses related to LPSC and rebate as per DERC, Tariff Regulations, 2017 and amendments thereof.

7. Ordered accordingly.

Sd/-
(Dr. A.K. Ambast)
Member

Sd/-
(Justice Shabihul Hasnain 'Shastri')
Chairperson