

IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION
AT RANCHI
Case No. 16 of 2018

Jharkhand Bijli Vitran Nigam Limited Petitioner

CORAM: HON'BLE MR. (DR) ARBIND PRASAD, CHAIRPERSON
HON'BLE MR. R.N. SINGH, MEMBER (ENGINEERING)

For the Petitioner : Mr. Navin Kumar, Advocate

ORDER

Date - 13th May 2019

1. The petitioner, Jharkhand Bijli Vitran Nigam Limited (**JBVNL**), has filed petition for approval of Power Purchase Agreement (**PPA**) signed on 15.09.2014 between JBVNL and Solar Energy Corporation of India (**SECI**) for procurement of 10 MW Solar Power, under Section 86 (1) (b) of the Electricity Act, 2003 and directives issued by JSERC in its tariff Order dated 21st June 2017 and vide letter no JSERC/Case (T) no. 08 & 10 of 2016/466 dated 06th Oct.2017.
2. This Petition is in compliance with the directives issued by Jharkhand Electricity Regulatory Commission (**JSERC**) to JBVNL in Tariff Order dated 21st June, 2018 as well as letter no. JSERC/Case (T) No. 08 & 10 of 2016/466 dated 6th October, 2017 to submit all the PPAs for approval which have not been approved by the Commission.
3. On examination of the petitions, the Commission found several discrepancies in the petition which are as under:-
 - (a) The Petitioner had not submitted the document certifying that the PPA was executed with due approval of the Board of Directors of JBVNL.
 - (b) The Petitioner had not submitted the copy of PPAs and VGF securitization agreements (VGFSAs) executed between SECI and the generators.
 - (c) The Petitioner had not provided the justification/approval of competent authority for giving Rs 0.05/kWh as trading margin to SECI.

- (d) The Petitioner had not certified that Guidelines for implementation of scheme for setting up of 750 MW of grid connected Solar PV power projects under Batch – I of phase – II of JNNSM with Viability Gap funding support from NCEF were followed.
- (e) The Petitioner had not certified that the PPA is within the JSERC's approved power procurement plan for JBVNL.

Accordingly, the Commission by Order dated 23.07.2018 directed the petitioner to give clarification in regard to the above discrepancies.

- 4. The matter was heard by the Commission on 16.04.2019.

Submission of the Petitioner:

- 5. The Petitioner submitted that the Board of Directors of the JBVNL in its 38th Meeting held on 25.02.2019 had given post facto approval for purchase of 10MW Solar Power at the rate of Rs. 5.50/- per unit from SECI plus transmission charge / SLDC charge of Rajasthan Transmission licensee, to meet Renewable energy Purchase Obligation of JBVNL.
- 6. The Petitioner submitted the PPA (on affidavit dated 27.08.2018) signed between SECI and Solar Power developer and VGF securitization agreements (VGFSAs) executed between SECI and the generator as mentioned in clause C of PPA dated 15.09.2014.
- 7. The Petitioner submitted copy of an Order dated 11.01.2010 passed by Hon'ble CERC regarding clarification for giving Rs 0.05/kWh as trading margin.
- 8. The Petitioner submitted a copy of letter no. SECI/C&P/WPD/T1/JBVNL/24309 dated 07.08.2018 received from SECI certifying that tendering for Solar and Wind Power projects were carried out under Government of India's guidelines.
- 9. The Petitioner in relation to certificate that the PPAs are within the JSERC's approved power procurement plan of JBVNL, submitted that 10 MW Solar power is being procured as per the RPO targets set under JSERC (Renewable Purchase Obligation and its Compliance – First Amendment) Regulations, 2012.
- 10. The petitioner submitted that SECI is designated as an implementing Agency by MNRE for purchase and sale of 33 kV and above grid connected Solar PV Power under phase II, Batch – I of the Jawahar Lal Nehru National Solar Mission of Govt. of India based on the concept of

providing Viability Gap Funding to make Solar Power available at a fixed tariff of Rs 5.50/kWh for a period of twenty five years. SECI has signed PPAs and VGF securitization Agreements (VGFSAs) with thirty eight (38) solar power developers for procurement of 700 MW Solar power on a long term basis. Jharkhand State was allocated 10 MW Solar Power from this scheme. The trading margin of Rs 0.05/kWh to SECI, as agreed upon, is well within the upper limit fixed by the relevant Regulations of CERC.

Commission's Observations:

11. JSERC in compliance of policy decisions by Ministry of Power, Govt. of India has set the target of RPO both for solar and non-solar plant to be fulfilled by all its obligated entities. Therefore, it is incumbent upon all the obligated entities of the State, to take sincere efforts to procure renewable energy from different sources to fulfil their RPO target. Therefore, the decision of the JBVNL to procure 10 MW Solar Power is in line to its power procurement plan to meet RPO.
12. The Solar power in question is being procured for 25 years by JBVNL through PPA signed between SECI and JBVNL and Since one of the signatories of the PPA is SECI, whose license has been issued by CERC and as such the disputes between the signatories, if any, would be adjudicated by CERC under section 79(1)(f) of the Electricity Act, 2003, the Commission is of the considered view that it is not empowered to approve PPA and as such this Commission cannot modify the terms and conditions of such documents. This stand is also in line with the APTEL order dated 04/09/2013 passed in Appeal No. 94 of 2012-BSES Rajdhani Power Limited & others Vs. DERC & NTPC.
13. As regards to adopt the rate of the Solar power which is on the concept of providing Viability Gap Funding to make Solar power available at a fixed tariff of Rs 5.50/ kWh for a period of 25 years, we are of the view that as SECI is procuring Solar power from different developers and sell it to Utilities (Discoms) of various States including JBVNL, the CERC is the appropriate Commission to adopt the instant tariff u/s 62 & 63 of the Electricity Act, 2003. The role of this Commission u/s 86(1)(b) of the Electricity Act is limited viz. whether to allow the JBVNL to purchase or not to purchase such power at such discovered rate from SECI through PPA for 25 years.
14. The Commission finds that the instant proposal for procurement of 10MW solar power from SECI has been duly approved by the Board of

Directors of JBVNL. JBVNL require such power to fulfill its Renewable Purchase Obligation (RPO) as per JSERC (Renewable Purchase Obligation and its Compliance – First Amendment) Regulations, 2012. The rate of such procurement of Solar power seems to be reasonable. JBVNL had already signed PPA with SECI and the PPAs & VGF securitization agreements (VGFSAs) signed between the SECI and the Generator are stated to be integral part of the PPA.

FINDINGS

15. Considering the facts and circumstances mentioned above, the Commission approves the proposal of procurement of 10 MW Solar power through SECI vide PPA dated 15.09.2014 (detailed in para 1) at the proposed tariff and trading margin for 25 years, subject to adoption of the discovered tariff by CERC.
16. The Commission also observe that since the JBVNL is fully aware of the need for approval of the PPA by the Commission, in future, no PPA should be acted upon without the approval of the Commission.
17. With the above observations, the petition is disposed off accordingly.

Sd/-
(R.N. Singh)
Member (Engg)

Sd/-
(Dr. Arbind Prasad)
Chairperson