

**IN THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION
AT RANCHI**

Case No. 05 of 2022

Damodar Valley Corporation (DVC) Petitioner

Versus

Solar Energy Corporation India Limited (SECI) & Anr.....Respondents

**CORAM: HON'BLE JUSTICE MR. AMITAV KUMAR GUPTA, CHAIRPERSON
HON'BLE MR. MAHENDRA PRASAD, MEMBER (LAW)
HON'BLE MR. ATUL KUMAR, MEMBER (TECH)**

For the Petitioner : Mr. Supriyo Bhowmick, SE (E), Commercial, DVC

For the Respondent: Ms. Anushree Bardhan, Advocate-SECI; and Mr. Mukhesh Kumar, Advocate-JREDA

Date- 28th February, 2023

1. The instant case has been brought by the Petitioner-Damodar Valley Corporation (DVC) under section 86(1)(b), 86(1)(e), and section 94 of the Electricity Act, 2003 read with clause 6.29 of the JSERC (Terms and Conditions of Determination of Distribution Tariff) Regulations, 2020 for approval of Power Sale Agreement (PSA) between Damodar Valley Corporation (DVC) and Solar Energy Corporation India Limited (SECI) for purchase of 200 MW Assured Peak Power by DVC which in turn is to be procured by SECI from ISTS-Connected RE Projects with storage to be Developed by Renewable Power Developers (RPD).
2. The Prayers of the petitioner-DVC are as under: -
 - (a) Approve the Agreement in terms of Regulation. 6.29 of JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020, and its amendments thereof.
 - (b) Pass such other order(s) as the Hon'ble Commission may deem fit and proper keeping in view the facts and circumstances of the case.

The factual matrix of the case as submitted by the parties may be appreciated in the following manner:

Submission of the Parties

3. The petitioner submitted that the Damodar Valley Corporation (DVC) and

Solar Energy Corporation of India Limited (SECI) had executed a Power Sale Agreement (PSA) for the purchase of 200 MW Assured Peak Power by DVC which in turn is to be procured by SECI from ISTS-Connected RE Projects with storage to be Developed by Renewable Power Developers (RPD).

4. It was pointed out that this Commission vide JSERC (Renewable Energy Purchase Obligation and its compliance) Regulations, 2016 and the amendments thereof specifies the year-wise RPO target and it is a regulatory obligation on the part of the DVC to consume certain quantum of electricity from renewable energy sources as a percentage of total consumption.
5. It was submitted that at the time of entering into the Agreement there was a gap of the Renewable Purchase Obligation (RPO) target vis-a-vis RPO fulfillment of DVC hence during the FY-2020-21, DVC could not fulfill its RPO targets to the fullest extent, in spite of its best efforts and DVC in order to bridge the gap executed the Agreement with the buyer on 20.08.2021 which shall remain operative upto twenty-five (25) years from the date of Commissioning of the project.
6. It was further submitted that SECI initiated a Tariff Based Competitive Bidding Process for the procurement of 1200 MW power generated from ISTS-Connected RE Projects with assured peak supply in India (ISTS-VI11) on the terms and conditions detailed in the Request for Selection (RfS) issued by RfSNo. SECI/ C&P/ HPD/ISTS-VII/RfS/1200MW/082019 dated 01.08.2019 under Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar Power Projects.
7. It was submitted that the buyer agreed to sell and make available 200 MW of electricity to DVC after procuring from the 900 MW (out of total 1200 MW bidding quantum) hybrid project to be developed by the RPDs and the Buying entity (DVC) agreed to purchase 200 MW Assured Peak Power, which in turn is to be procured by SECI from ISTS-Connected RE Projects with storage to be Developed by Renewable Power Developers (RPD) on the terms and conditions contained in the Agreement.
8. It was pointed out that the Applicable Tariff under the PSA shall be paid in two parts i.e. comprising of Peak Tariff and Off-Peak Tariff and mandated DVC to pay the **Off-Peak Tariff of Rs.2.88/kWh** fixed for the entire Term of this Agreement, for the energy supplied during the Off-Peak Hours and

the **Peak Tariff of Rs. 6.12/kWh** for the energy supplied during the Peak hours. However, it was pointed out that DVC shall choose any 6 hours within the specified 11 peak-hour window [Morning peak hours between (& including) 05:30 Hrs up to 09:30 Hrs and Evening Peak Hours between (& including) 17:30 Hrs up to 00:30 Hrs (day-2)]

9. It was agreed upon that there shall be a **trading margin of Rs. 0.07/kWh** to be paid by DVC to SECI for the entire 200 MW power procurement in line with the guideline dated 25th June, 2020 of Ministry of New and Renewable Energy (MNRE).
10. It was further submitted that SECI shall approach CERC for getting approval of the tariff determined under the competitive bidding process and the Power procured from the above agreement is to be utilized for sale to the DVC consumers in accordance with the ratio of renewable purchase obligation in the DVC command area of the respective state i.e. Jharkhand and West Bengal.
11. Hence, the Petitioner has filed the present petition for approval of the Agreement (and its addendum thereof) between Damodar Valley Corporation and Solar Energy Corporation India Limited, in terms of Regulation 6.29 of JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2020, and the amendments thereof.
12. The Respondent-SECI added that this PSA is on a back to back basis to the Power Purchase Agreement dated 02.02.2022 entered into by SECI with Greenko AP01 IREP Private Limited which emerged as one of the successful bidder in the competitive bid process for development of 900 MW ISTS-connected Renewable Energy Project with assured Peak Power Supply and the PPA with Greenko is identified and mapped for supply of 200MW power to DVC.
13. The Respondent JREDA submitted that the petitioner has not mentioned anywhere in the petition as to what proportion of the Solar power shall be made available to the State of Jharkhand for meeting its RPO targets.
14. The petitioner in its reply submitted that the quantum of power available under this PPA for the State of Jharkhand will be based on ratio of sales in Jharkhand to total firm sale in entire DVC for the respective period. It was added that ratio of sales in Jharkhand to total firm sale in entire DVC varies year to year based on the actuals.

Commission’s observation and findings

15. The Commission has considered the submissions made by the parties and perused the materials available on records.

16. Under Section 86(1)(b) and 86 (1)(e) of the Electricity Act, 2003, the State Commission has the responsibility to regulate the electricity purchase and procurement process of distribution licensees, and promote co-generation and generation of electricity from renewable sources of energy. The relevant Sections of the Electricity Act, 2003 reads as under: -

“Section 86 Function of State Commission: - (1) The state Commission shall discharge the following functions, namely: -

(a).....

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the state;

.....

(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

17. Hence, under section 86(1)(b) of the Act, the distribution licensee is obligated to get the Power Usage Agreement, approved by the Commission, and under section 86(1)(e) of the Act, the Commission discharges the function of promoting the generation of electricity from renewable sources and also specifies a percentage of renewable purchase by a distribution licensee.

18. It is observed that the aforesaid PSA is meant to meet the obligation of renewable purchase by the Petitioner as specified by the Commission vide the JSERC (Renewable Energy Purchase Obligation and its Compliance) Regulations, 2016.

19. In the result, it is ordered as;

ORDER

20. Considering the facts and circumstances of the case, the prayers of the Petitioner are allowed. The Commission in order to promote procurement of renewable energy by DVC to fulfill their Renewal Energy Purchase obligation and further keeping in mind Section 86 (1) (e) of the Electricity Act, 2003, approves the Power Sale Agreement dated 20.08.2021 executed by and between DVC and SECI for purchase of 200 MW assured Peak RE Power with storage by DVC from SECI.

21. The petition is disposed off, accordingly.

Sd/-
Member (T)

Sd/-
Member (L)

Sd/-
Chairperson