

**ODISHA ELECTRICITY REGULATORY COMMISSION
BUDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751021**

**Present: Shri G. Mohapatra, Officiating Chairperson
Shri S K Ray Mohapatra, Member**

Case No. 37/2022

GRIDCO Ltd.	Petitioner
Vrs.		
DoE, GoO & Others	Respondents

In the matter of: **Application under Section 86(1)(b) & (e) of the Electricity Act, 2003 read with Section 21 of the Odisha Electricity Reform Act, 1995 and other enabling provisions seeking for prior approval of the Hon'ble Commission with regards to the Power Sale Agreement (PSA) to be executed between GRIDCO and NTPC Limited for procurement of 200MW Solar power through the ISTS-connected Solar projects towards fulfilling Renewable Purchase Obligations.**

For Petitioner: Shri P. K. Das, CGM (PP) and Ms. Shaswati Mohapatra of GRIDCO Ltd.

For Respondents: Ms. Sonali Patnaik, ALO I/c., DoE, GoO; Ms. Sakie Jakharia, Advocate on behalf of NTPC Ltd.; Shri K. C. Nanda, GM (RA & Strategy), TPWODL; Ms. Malancha Ghose, DGM (RA), TPNODL; Shri Puneet Munjal, Chief (Regulatory & Govt. Affairs), TPCODL; and Ms. Sandhyarani Mohapatra, GEDCOL are present. Nobody is present on behalf of TPSODL.

ORDER

Date of Hearing: 06.09.2022

Date of Order: 13.09.2022

1. The petitioner-GRIDCO has filed the present petition under Section 86 of the Electricity Act, 2003 read with Section 21 of the Odisha Electricity Reforms Act, 1995 and other enabling provisions seeking prior approval of Power Sale Agreement (PSA) to be executed between GRIDCO Ltd. and NTPC Ltd. for procurement of 200 MW Solar power through Inter- State Transmission System (ISTS) connected solar projects towards fulfilling its Renewable Purchase Obligation.
2. NTPC is facilitating the development of solar power projects in India and sale of solar power so generated to the Distribution licensees in the States. NTPC is acting as an Intermediary Agency/ Procurer for the procurement of power from the Solar PV Power Developers in pursuance to a competitive bid process. The 200 MW solar power to be

procured by GRIDCO from NTPC is from solar PV power project to be set up by Solar Power Developer (SPD) in Jaisalmer district of Rajasthan.

3. The petitioner-GRIDCO has submitted the following:

- (a) Initially, NTPC, vide their letter dated 25.09.2021, had offered solar power capacity to the tune of 400 MW at an applicable tariff of Rs. 2.50/ kWh (including the trading margin of Rs.0.07/ kWh) to be available after 2024 towards RPO requirement of GRIDCO. Out of the 400 MW of Solar Power, it was decided to procure 200 MW of solar capacity considering the increased state consumption from FY 2024-25 onwards in first phase. The offered tariff was very competitive. Accordingly, the Power Sale Agreement (PSA) was executed between GRIDCO and NTPC on 18.04.2022 towards procurement of 200 MW solar power at the applicable tariff of Rs.2.50/kWh for a period of 25 years, as approved by the Commission vide its Order dated 30.03.2022 passed in Case No. 01/2022.
- (b) NTPC, vide mail dated 25.04.2022 had proposed the offer for additional quantum of 200 MW solar power to GRIDCO at the tariff of Rs.2.50/ kWh including the trading margin of Rs.0.07/ kWh at the same terms and conditions of the already signed PSA on 18.04.2022. As the offered tariff is very competitive without the impact of Basic Custom Duty (BCD) imposition and without any ISTS charges, GRIDCO, vide mail dated 17.05.2022, requested NTPC to provide the validity and availability of the offered additional quantum of 200 MW solar power. NTPC vide mail dated 17.05.2022 intimated that the additional 200 MW solar power is still available with NTPC and the validity of the bids is up to 15.07.2022.
- (c) With the Solar tied-up capacity of 1731 MW and non-Solar tied-up capacity of 479.15 MW, totaling to 2210.15 MW, GRIDCO will be able to meet the solar RPO of 9.75% by FY 2024-25, as per the OERC RPO Regulations, with an estimated state consumption of around 32721 MU. Since current solar power portfolio of GRIDCO is sufficient to meet the solar RPO till FY 2025-26, GRIDCO may not require this power for the period 2024-25 (as per target of OERC). However, as the landed cost of the power is Rs.2.50/ kWh for 25 years, it will be prudent to keep this power for the State. In absence of any RPO target beyond FY 2024-25, GRIDCO has assumed RPO target of 30% by FY 2029-30, which may be escalated further in view of the recent declaration of Government

of India's target of 500 GW non-fossil energy and 50% of total energy consumption from RE sources by 2030 in COP-26 summit. To meet such escalated RPO target, GRIDCO may need this 200 MW of Solar power towards RPO even in FY 2025-26.

- (d) As per Clause 4.4 of CERC (Terms and Conditions for Renewable Energy Certificates for Renewable Energy Generation) Regulations, 2022, a Distribution Licensee, which purchases electricity from RE sources in excess of the RPO as determined by the State Commission shall be eligible for issuance of REC. In view of above, any surplus green power can be consumed by the State and earn RECs if it is commercially viable. The low cost surplus solar energy can be traded through Green Market which has been operative since October 2021, considering the encouraging green market trend in Power Exchanges if it is more attractive in comparison to RECs.
- (e) This Solar power from NTPC shall be delivered at Odisha periphery at the applicable tariff of Rs 2.50/ kWh without levy of any ISTS charges, as MoP, GoI has extended waiver of ISTS charges to this ISTS-connected Solar Project up to June 2025. GRIDCO has issued In-principle consent to NTPC on 13.06.2022 for procurement of additional 200 MW solar power, applicable for 25 years from CoD without any burden towards ISTS charges and without imposition of BCD as per the MoP, GoI's Office Memorandum dated 09.03.2021. As clarified by NTPC in mail dated 30.06.2022, there will be waiver of losses for the 200 MW solar project as the bidding was completed prior to 15.01.2021 as per the MoP Order dated 23.11.2021. As per the above mentioned MoP Order, to have long term visibility and certainty to the RE power generation, ISTS charges will be levied for the RE projects commissioned after 30.06.2025 gradually.
- (f) Pursuant to the Vesting Orders of the Commission, GRIDCO had requested all four (4) DISCOMs of the state to convey their views towards procurement of this 200 MW solar power from NTPC through the ISTS-connected Solar power projects at the applicable tariff of Rs. 2.50/ kWh (including NTPC margin of Rs. 0.07/ kWh) for 25 years from CoD to be available by 2024. The draft PSA for additional 200 MW solar power is in line with the earlier PSA executed between GRIDCO & NTPC on 18.04.2022 for availing 200 MW solar power through ISTS-connected Solar power projects.

4. The salient features of PSA are as follows:

- a) *NTPC has agreed to sell and make available to GRIDCO the agreed contracted capacity agreed to between NTPC and the Solar Power Developer (SPD) which is 200 MW entirely on a back-to-back basis of the terms and conditions contained in the NTPC-SPD PPA to be entered into between NTPC and SPD.*
- b) *The liquidated damages are payable by SPD under the NTPC-SPD PPA for the delay in the commissioning of the solar PV projects and for short supply of the contracted capacity of the solar power. The amount of such Liquidated Damages for delay shall be payable to GRIDCO only upon the receipt of the amount from the SPD. GRIDCO shall not be entitled to make any deductions towards the claim of Liquidated Damages against any payment due to NTPC and all such other payments shall be made by GRIDCO by the Due Dates, notwithstanding the status of the pending claims on Liquidated Damages.*
- c) *The applicable Tariff for the sale of power by NTPC to GRIDCO shall be Rs 2.50/ kWh including trading margin of Rs 0.07/ kWh.*
- d) *Any compensation as applicable under the provisions of NTPC-SPD PPA but not limited to compensation of backing down, grid unavailability, change in law, applicability of safeguard duty etc. shall be payable by GRIDCO only without any monitory liability on NTPC.*
- e) *NTPC shall issue to the GRIDCO a monthly bill on the first business day of the month based on provisional solar energy supplied in the preceding month (except for first month which shall be computed based on designed CUF and capacity of project).*
- f) *The GRIDCO shall pay the amount payable under the monthly bill on or before the due date i.e. without 45 days of presentation of bill to such account of NTPC.*
- g) *In the event of payment of Monthly Bill by the GRIDCO beyond forty five (45) days from the date of presentation of bill i.e. due date, Late payment surcharge @ 1.5% per month shall be payable by the GRIDCO to NTPC on the outstanding amount calculated on a day to day basis.*
- h) *Rebate of 2% shall be payable to buying entity for the payments made within a period of three (3) days of the presentation of bill through e-mail and payments made after three (3) days of the date of presentation of bill through e-mail up to the 30th day shall be allowed a rebate of 1%.*
- i) *For payment security mechanism, provisions for Letter of Credit (LC), State Govt. Guarantee/Tri-partite Agreement (TPA), Collateral Arrangement and Payment Security Fund are there.*
- j) *In case of termination of NTPC-SPD PPA, PSA shall automatically terminate in the event of termination of PPA/PSA, any damages or charges payable to the STU/CTU, shall be borne by the GRIDCO.*
- k) *Other terms and conditions like Third party sale by NTPC, Disputed Bill, Events of Default and Termination, Amendment, waiver and Compliance of Law have been incorporated as per the prevailing standard procedure.*

5. The Respondent TPNODL submitted that:

- a) *MoP, GoI has notified the RPO from 2022-23 upto 2029-30, vide order dated 22.07.2022. As per the Order, renewable capacities contracted to meet solar*

RPO, Wind RPO (Projects commissioned prior to 31st March, 2022), Large Hydro commissioned prior to 08.03.2019 and from sources like Biomass, etc. will qualify to meet the other RPO. It is understood that adequate capacity tie ups are there to meet the above RPOs.

- b) The petitioner has mentioned that this solar power from NTPC shall be delivered at state periphery at the tariff of Rs.2.50/ kWh without any levy of ISTS charges as MoP has extended waiver of ISTS charges to this project upto June, 2025. However, there is discrepancy between Para 13 & 18(iii) of petition, which are reproduced below:

“Solar power from NTPC shall be delivered at Odisha periphery at the applicable tariff of Rs.2.50/kWh without levy of any ISTS charges, as MoP, GoI has extended waiver of ISTS charges to this ISTS-connected Solar Project up to June 2025.”

“NTPC shall be selling the solar power to DISCOM(s)/end procurers at the weighted average of tariffs discovered and finalised for different bids over a period 1st July to 31st December. MNRE may change this duration/dates. The weighted average tariff shall be calculated for the tariff discovered for all the bids issued by NTPC during the period as mentioned above.”

Above discrepancy may be clarified.

- c) Keeping in view the above points, additional 200 MW solar power may be procured from NTPC subject to approval of the Commission.

6. Another Respondent TPCODL has submitted that:

- a) The tariff of Rs.2.50/ kWh inclusive of trading margin of Rs.0.07/ kWh has been discovered through competitive bidding and it has been confirmed that tariff is firm and insulated from the impact of BCD charges. Hence the said tariff is agreeable to TPCODL. In the para 18(iii) of the petition, it is not clear about the tariff that would be applicable and is contradictory to para 14 of the petition. The tariff should be firm at Rs.2.50/ kWh for purchase of power from the 200 MW subject solar projects. GRIDCO may like to clarify the matter to the Commission.
- b) The Petitioner has not mentioned the date of bidding. However, it is understood that the bidding was completed before 15.01.2021. Hence, as per MoP's Order dated 23.11.2021, this additional quantum of 200 MW qualifies for waiver of losses.
- c) Solar RPO had been rising over the years. However, MoP, GoI in its Order dated 22.07.2022 has stipulated revised RPO trajectory. TPCODL's

computation indicates that category under 'Other RPO' is adequately met with the present approved tie up and there might not be any need for further tie up under this category including solar. Hence, in light of this major change in regime, the Commission may consider the above while taking a decision on approval of this capacity.

7. Another Respondent TPWODL submitted that:

- a) As per the terms of vesting order, GRIDCO has sought the consent of DISCOMs for procurement of solar power (additional 200 MW) from NTPC, vide letter dated 06.07.2022. TPWODL has conveyed its consent vide letter dated 27.07.2022, for procurement of 200 MW of ISTS connected solar power from NTPC subjected to approval from the Commission.
- b) GRIDCO has computed its RPO for the period beyond FY 2024-25 considering this 200 MW solar power. As regards to RPO of GRIDCO, this additional 200 MW solar power may not be required, however, with this competitive tariff, such quantum of power is quite reasonable for a period of 25 years considering the volatile power market. Further, this power will reduce the carbon footprint by enhancing the renewable portfolio of the state of Odisha which is the need of the hour.

8. Heard the Petitioner and Respondents through virtual mode and considered their arguments and written submissions. The Commission, vide Order dated 30.03.2022 in Case No. 01/2022, had earlier approved the PSA executed between GRIDCO and NTPC on 18.04.2022 for procurement of 200 MW solar power at the applicable tariff of Rs.2.50/kWh for a period of 25 years. NTPC has offered additional quantum of 200 MW solar power to GRIDCO at the same tariff of Rs.2.50/ kWh (including the trading margin of Rs.0.07/ kWh) for 25 years under the same terms and conditions of PSA already signed on 18.04.2022. This power would be available by the year 2024 and GRIDCO has given consent on 13.06.2022 for procurement of this solar power of NTPC. GRIDCO has submitted that with estimated State consumption of about 32721 MU and solar tied-up capacity of 1731 MW & non-solar tied up capacity of 479.15 MW, totaling to 2210.15 MW, GRIDCO will be able to meet the solar RPO of 9.75% for the FY 2024-25 as per OERC (Procurement of Energy from Renewable Sources and its Compliance) Regulations, 2021 and may not even require additional solar power till FY 2025-26. But, considering the MoP Order dated 22.07.2022 relating to revised RPO trajectory and in absence of RPO target beyond 2024-25 in OERC RPO Regulation,

GRIDCO is anticipating further increase in RPO which is expected to be at least 30% by 2030. Accordingly, GRIDCO may need this additional 200 MW of Solar power for meeting RPO beyond the FY 2024-25 since the landed cost of the power proposed by NTPC is attractive, i.e. Rs.2.50/ kWh for 25 years, GRIDCO is inclined to procure this power for the State.

9. Regarding the query raised by TPNODL & TPCODL with respect to the confusion between Para 13 and Para 18 (iii) of GRIDCO's submission, it is observed that Para 1.1 & 1.2 of the draft PSA mentions clearly the applicable Tariff of Rs 2.50/ kWh (including trading margin of Rs 0.07/ kWh) and Para 18 (iii) is not a part of the proposed PSA.
10. We are of the opinion that the tariff proposed by NTPC seems to be quite competitive for a period of 25 years and tariff would be insulated from implication of BCD and qualify for waiver of ISTS transmission charges & losses. Moreover, considering the declaration made by India in COP-26 and revised RPO trajectory of MoP, the Commission envisages the need for revision of the RPO Regulation & RPO trajectory for the state and this Renewable Source of Power will reduce carbon footprint. Therefore, there might be additional requirement of renewable power beyond FY 2024-25 over and above the current tied-up capacity to meet enhanced RPO. Leaving apart the above, the proposed purchase will fulfill state's power demand at a cheaper rate.
11. In view of the above, the Commission approves the aforesaid PSA to be executed between NTPC and GRIDCO for procurement of additional 200 MW solar power at an applicable tariff of Rs.2.50/ kWh (including trading margin of Rs.0.07/ kWh) of NTPC through the ISTS-connected solar projects for fulfillment of increased RPO of GRIDCO beyond 2024-25.
12. The case is accordingly disposed of.

Sd/-
(S. K. Ray Mohapatra)
Member

Sd/-
(G. Mohapatra)
Officiating Chairperson