

**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. 96/2022

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

In the matter of: Application by GRIDCO Limited under section 86 (1) (b) and (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 Commission on the Power Sale Agreement (PSA) to be executed between GRIDCO and Solar Energy Corporation of India Ltd. (SECI) for procurement of 390 MW Wind Power under ISTS – Connected Wind Power Projects Scheme Tranche – XII towards fulfilling the Renewable Purchase Obligation.

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

For Respondents: Shri K. C. Nanda, GM (RA & Strategy), TPWODL; Ms. Malancha Ghose, DGM (RA), TPNODL; Shri Puneet Munjal, Head (Regulatory Affairs), TPCODL; and Shri V. Wagle, Head (Regulatory Affairs), TPSODL; Ms. Tanya Sareen, Advocate on behalf of SECI are present. Nobody is present on behalf of DoE, GoO.

ORDER

Date of Hearing: 27.12.2022

Date of Order: 27.01.2023

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 for procurement of 390 MW wind power and prior approval of Power Sale Agreement (PSA) between GRIDCO Ltd. & SECI Ltd.

2. The Petitioner-GRIDCO has prayed before this Commission for prior approval of Power Sale Agreement (PSA) to be executed between GRIDCO Ltd. and SECI Ltd. for procurement of 390 MW Wind Power for a period of 25 years under ISTS – connected Wind Power Projects Scheme Tranche – XII towards fulfilling “other non-solar Renewable Purchase Obligation”.
3. SECI has been designated as a Nodal Agency for developing and facilitating the establishment of the Grid connected Wind Power capacity in India as per the policy of Ministry of Power (MoP), Govt. of India (GoI). SECI has signed/ will sign Power Purchase Agreement (PPAs) with Wind Power Developers (WPDs) selected under the Request for Selection (RfS) for procurement 1100 MW wind power to be set up by WPD at various places in Gujarat, Karnatak. SECI, as an Intermediary, will Purchase Power from WPDs under SECI-WPD PPA and shall sale electricity to Buying Entity under SECI-Buying entity PSA. PPAs between SECI & WPDs will become integral part of SECI-GRIDCO PSA for procurement of 390 MW wind power on a long-term basis.
4. The petitioner-GRIDCO has submitted the following:
 - (a) With the intention to achieve the RPO target mandated by the Commission, GRIDCO, vide its letter dated 06.05.2022, requested SECI to indicate availability of 100 MW Wind Power under ISTS Wind Tranche-XI scheme. SECI, vide its letter dated 25.05.2022, has offered 10 MW Wind from ISTS Connected Wind Power Projects Tranche-XI and intimated that balance 90 MW Wind Power can be mapped from ISTS Connected Wind Tranche-XII Scheme. With the approval of Commission, vide Order dated 15.10.2022 passed in Case No. 43/2022, GRIDCO has executed the PSA with SECI on 07.11.2022 for procurement of 10 MW Wind Power from SECI under ISTS-Connected Wind Power Projects Scheme Tranche-XI.
 - (b) SECI, vide its letter dated 08.07.2022, had requested GRIDCO to provide in principle consent for procurement of 90 MW Wind Power under ISTS-Connected Wind Power Projects Scheme Tranche-XII. Further SECI, vide its letter dated 25.07.2022 and 29.07.2022, has offered Wind Power under 1100 MW ISTS-Connected Wind Power Projects Scheme Tranche-XII in a tariff range of Rs.2.96/kWh to Rs.3.01/kWh including trading margin of Rs.0.07/kWh of SECI. The State DISCOMs have offered their views on the proposal to

procure 90 MW Wind Power from SECI for 25 years. GRIDCO, vide its letter dated 29.08.2022 addressed to SECI, submitted its consent to procure 90 MW Wind Power subject to approval of Commission.

- (c) Ministry of Power, Govt. of India, vide its Order Dtd.22.07.2022, has notified the RPO and Energy Storage Obligation (ESO) trajectory till FY 2029-30. Apart from RPO compliance a specified percentage of total energy consumption shall be from Solar/Wind Energy along with/through Storage called as Energy Storage Obligation (ESO). ESO to the extent of energy stored from RE Sources shall be considered as part of fulfilment of total RPO. As per the aforesaid order, any shortfall in 'HPO' and 'Other RPO' category in a particular year can be met with excess energy consumed from Wind Power Plants, which is in excess of 'Wind RPO' for that year and vice versa.
- (d) The Commission, vide its Order dated 15.10.2022 in Case No. 43/2022, for approval of 10 MW Wind Power from SECI under ISTS Connected Wind Tranche-XI, has mentioned the OERC's RPO Regulations, 2021, which does not specify wind RPO, is likely to be amended in line with the Order dated 22.07.2022 of MoP, GoI. In line with MoP Order, for an expected demand of 38,394 MU during FY 2025-26, GRIDCO may require additional 305 MW of Wind Power towards compliance of WPO. Further, any shortfall in HPO may be met from excess wind power after meeting WPO. The HPO requirement for FY 2025-26 is estimated to be 118 MW. In view of the above, GRIDCO, vide its letter dated 27.09.2022, requested SECI to furnish offer for supply of additional 200 MW Wind Power. SECI, vide its letter dated 12.10.2022, has offered Wind Power under 1100 MW ISTS Connected Wind Power Projects Scheme Tranche-XII within a tariff range of Rs.2.96/kWh to Rs.3.01/kWh including trading margin of Rs.0.07/kWh of SECI. The Project is likely to be commissioned during 3rd Quarter of FY 2024-25.
- (e) As per Order dated 23.11.2021 and 30.11.2021 of Ministry of Power (MoP), Govt. of India (GoI), the Inter State Transmission charges are waived up to 30.06.2025 in respect of RE Power including Wind power. However, Transmission Losses shall be applicable on the procurement of Wind power. In the letter dated 12.10.2022, SECI has clarified that ISTS Charges are waived off for a period of 25 years from the commissioning of the project. In the said letter,

SECI also mentioned that MoF (Revenue Department), GoI, vide notification no. 08/2021-Integrated Tax (Rate) dated 30.09.2022, had increased GST rates on RE generating plant and their parts from 5% to 12%. However, the said notification of MoF, GoI was notified prior to the SECI RfS and hence the Wind Power Developers (WPDs) will not be eligible to claim GST compensation from SECI/ DISCOM(s) under change in law clause.

- (f) The proposal to procure 200 MW Wind Power from SECI was placed before 206th meeting of Board of Directors of GRIDCO held on 09.11.2022. BoD while giving approval for procurement of the 200 MW Wind Power, keeping in view the lower cost and 100% waiver of ISTS Charges up to 30.06.2025, suggested to procure additional 100 MW Wind Power over and above the approved 200 MW Wind Power under the ISTS Connected Wind Tranche-XII.
- (g) Vide its letter dated 08.12.2022, GRIDCO has requested the DISCOMs to offer views on the proposal to procure 100 MW Wind Power over and above the earlier proposal for procurement of 200 MW Wind Power. GRIDCO has also requested the DISCOMs, for views on the earlier proposal for procurement of 200 MW Wind Power. TPWODL has conveyed its consent towards the proposal, vide letter dated 09.12.2022. GRIDCO, vide its letter dated 08.12.2022, addressed to SECI has provided in principle consent to procure 300 MW Wind Power under 1100 MW ISTS Connected Wind Power Projects Scheme Tranche-XII for 25 years subject to approval of Commission.
- (h) SECI, vide its email dated 05.09.2022, has clarified that the Wind Power shall be allotted proportionately from all the Projects. GRIDCO, vide its letter dated 17.10.2022, addressed to SECI has requested for clarification on Compensation to GRIDCO in case of termination of PPA between SECI & WPD and the PSM & State Govt. Guarantee. SECI, vide its letter dated 20.10.2022, clarified that the State Govt. Guarantee Clause (2.6 of PSA) is in line with Standard Bidding Guidelines of GoI and cannot be removed. In case of termination of PPA the following clause is added at 3.4 of PSA: *“Damages/Dues recovered by Intermediary procurer under SECI-WPD PPA, shall be Transferred to buying utility”*. Further GRIDCO vide its email dated 09.11.2022 requested SECI to offer views on the deviation in the ‘Draft PSA for procurement of Wind Power under ISTS Tranche-XII scheme’ from ‘MoP guidelines for Tariff Based

Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects'. SECI, vide letter dated 11.11.2022, has responded to the GRIDCO's clarifications which are satisfactory.

5. GRIDCO, in consultation with SECI, has finalized the draft PSA towards procurement of 390 MW Wind Power under ISTS-Connected Wind Power Projects Scheme Tranche-XII. The salient features of PSA are as follows:

- a) *SECI shall sign the Power Purchase Agreement (PPA) with the Wind Power Developers (WPD) and that PPA shall become integral part of the PSA. Any change in the draft PPA will be subject to the consent of GRIDCO and approval of OERC thereafter.*
- b) *Damages/Dues recovered by intermediary procures under SECI-WPD PPA, shall be Transferred to buying utility.*
- c) *The term of the agreement shall be for a period of 25 years from the Scheduled Commissioning Date (SCD) or from the date of Commissioning of the Projects whichever is earlier. In case Utility opt to take power from SCD then 25 years start from SCD.*
- d) *The SCD of the Project shall be the date as on 24 months from the effective date of the PPA or from the effective date of PSA whichever is later.*
- e) *As per Schedule-B of the PSA, the tariff shall be in the range of Rs. 2.89/kWh to Rs. 2.94/kWh plus SECI trading margin of Rs. 0.07/kWh.*
- f) *Energy supplied under the Agreement shall be allocated on a pro-rata basis from all the WPDs which shall sign the PPA with SECI.*
- g) *Wind Power Developers (WPD) are permitted for Commissioning as well as Part commissioning of the Project even prior to the SCD. In case of commissioning or Part commissioning prior to SCD of the Project(s), the Buying Entity may purchase the generation at the Applicable Tariff.*
- h) *Any excess generation than as mentioned in the PSA can be purchased at 75% of the PPA tariff plus SECI trading margin.*
- i) *There shall be Payment Security Mechanism (PSM) in terms of Letter of Credit (LC).*
- j) *The buying entity (GRIDCO) has to provide a State Govt. Guarantee. In absence of State Govt. Guarantee, the buying entity may choose for Payment Security Fund.*
- k) *Electricity (Late Payment Surcharge and related matters) Rules, 2022 notified by Ministry of Power, Govt. of India vide Gazette Notification dated 03.06.2022 shall be applicable for both GRIDCO and SECI.*
- l) *The WPD is allowed to revise the CUF once within first 03 years after COD. The CUF cannot be less than 22%, in terms of the guidelines.*
- m) *For less generation, GRIDCO (buying entity) is entitled to get compensation calculated @ 50% of the PPA tariff for the shortfall of energy.*

- n) *On occurrence of a Change in Law, the monthly tariff or charges shall be adjusted and be recovered in accordance with the formula given in the PPA at 12.2.5.*
 - o) *GRIDCO has to deal with the Developer, RLDCs and other authorities in all respect.*
 - p) *The energy procured from the WPD by GRIDCO, to meet its Renewable Purchase Obligation shall be considered to be met only if there is no payment default for such energy procured by GRIDCO. SECI shall provide a certificate identifying the quantum of wind energy supplied by SECI and being met by GRIDCO towards RPO for each year within thirty (30) days after the end of such year.*
6. In the interim Order dated 27.12.2022, the parties were directed to file written note of submissions along with their queries, if any, by 02.01.2023. However, no response has been received from any of the Respondents.
7. Heard the Petitioner and Respondents through hybrid mode, (i.e. through video conferencing and physical mode) and considered their arguments and written submissions. The Commission observes that:
- a) GRIDCO intends to procure 390 MW of Wind Power under ISTS – connected Wind Power Projects Scheme Tranche – XII (1100 MW wind power) for fulfilling its RPO and accordingly Power Sale Agreement (PSA) will be executed with SECI Ltd. The project is likely to be commissioned during 3rd Quarter of the FY 2024-25.
 - b) Ministry of Power, Govt. of India, vide its Order dt.22.07.2022, has notified the RPO and Energy Storage Obligation (ESO) trajectory till FY 2029-30. Apart from RPO compliance, a specified percentage of total energy consumption shall be from Wind Energy and any shortfall in ‘HPO’ and ‘Other RPO’ category in a particular year can be met with excess energy consumed from Wind Power Plants, which is in excess of Wind RPO for that year and vice versa.
 - c) GRIDCO, has been nominated by DoE, GoO (vide notification dated 15.12.2022) as Nodal Agency for implementation of Odisha Renewable Policy-2022 and facilitation of implementation of RE Projects in the State. GRIDCO has estimated energy requirement of about 35,138 MU by FY 2024-25 and 38,394 MU by 2025-26 for which there may be shortfall of about 230 MW for meeting “other non-solar” RPO target of 7.71% by FY 2024-25 as per OERC’s RPO Regulations-2021. The current OERC’s RPO Regulations, 2021 does not specify wind RPO separately and is likely to be amended in line with the Order

dated 22.07.2022 of MoP, GoI. Hence there may be additional requirement of 305 MW of Wind Power towards compliance of Wind Power Obligation (WPO) as per order dated 22.07.2022 of MoP, GoI.

- d) As per Schedule-B of the PSA, the tariff shall be in the range of Rs. 2.96/kWh to Rs. 3.01/kWh including trading margin of Rs. 0.07/kWh of SECI.
 - e) Any excess generation than as mentioned in the PSA can be purchased at 75% of the PPA tariff plus SECI trading margin.
 - f) The term of the agreement is for a period of 25 years from the Scheduled Commissioning Date (SCD) or from the date of Commissioning (COD) of the Projects whichever is earlier. The SCD of the Project shall be within 24 months from the effective date of PPA or PSA whichever is later.
 - g) The Wind Power Development (WPD) is allowed to revise the CUF once within first 03 years after COD. The CUF cannot be less than 22%, in terms of the guidelines.
 - h) As per order dated 23.11.2021 & 30.11.2021 of MoP, GoI, the Inter State Transmission charges shall not be applicable upto 30.06.2025, however, Transmission Losses shall be applicable on the procurement of such Wind power. SECI, vide its letter dated 12.10.2022, has clarified that ISTS charges are waived off for a period of 25 years from the commissioning of the project.
 - i) Board of Directors (BoDs) of GRIDCO, in its 206th meeting held on 09.11.2022, had approved the proposal for procurement of wind power from SECI.
 - j) TPWODL has conveyed its consent to GRIDCO for procurement of wind power from SECI under ISTS-Wind Trench-XII.
 - k) During hearing of the case, the other DISCOMs (TPNODL, TPCODL & TPSODL) stated that they have no objection to the proposal of GRIDCO in the present petition.
8. We are of the opinion that the tariff proposed in the said PSA seems to be quite competitive for a period of 25 years and the project also qualifies for waiver of ISTS transmission charges (transmission losses shall be payable) as per MoP (GoI) order of November, 2021 and there is waiver of ISTS charges for a period of 25 years from the commissioning of project as per SECI. Considering the revised RPO trajectory of MoP,

the Commission envisages the need for revision of the RPO Regulation and RPO trajectory for the state. Keeping in view the expected energy requirement by 2025-26 as per GRIDCO and revision in RPO trajectory including WPO of MoP, GoI, there might be additional requirement of wind power capacity over and above the current tied-up capacity to meet the Wind Power Obligation. Moreover, the tariff has been discovered by SECI through a competitive bidding process.

9. In view of the above observations, the Commission accords in-principle approval for procurement of 390 MW wind power by GRIDCO along with the draft PSA to be executed between SECI and GRIDCO, for a period of 25 years at an applicable tariff in the range of Rs.2.96/kWh to Rs.3.01/kWh (including SECI's trading margin of Rs.0.07/kWh) under ISTS – Connected Wind Power Projects Scheme Tranche – XII for fulfillment of RPO target of the State by GRIDCO. The PPA between SECI & WPDs shall be integral part of the PSA to be executed between SECI & GRIDCO for procurement of 390 MW Wind Power on a long-term basis (25 years).
10. The case is accordingly disposed of.

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

Sd/-
(G. Mohapatra)
Officiating Chairperson