

**KERALA STATE ELECTRICITY REGULATORY COMMISSION**  
**THIRUVANANTHAPURAM**

**Present: Adv. A.J Wilson, Member (Law)**

**OP No 50 /2022**

In the matter of : Petition under Section 86(1)(b) seeking approval for the short-term solar power procurement through DEEP portal to meet Solar RPO for the financial year 2022-23.

Petitioner : Kerala State Electricity Board Limited (KSEBL)  
KSEB Ltd represented by : Sri. Rajan, Deputy Chief Engineer,  
Smt. Latha S.V, Asst: Executive Engineer

Respondent : Cial Infrastructure Limited. (CIAL)  
Respondents represented by : Smt. Mini Joseph, Chief Financial Officer

Date of the hearing : 29.9.2022,12 Noon  
Venue : e-hearing through video conferencing

**Order dated 10.11.2022**

1. M/s Kerala State Electricity Board Ltd (herein referred as KSEB Ltd or Petitioner) filed a petition before the Commission on 02.09.2022, with the prayer to approve the *procurement of 10 MW of Solar power from M/s. CIAL Infrastructure Limited, @Rs.2.37/Unit for meeting solar RPO and also request to approve the initialed PPA between M/s. CIAL and KSEBL.*
2. Summary of the petition filed by M/s KSEB Ltd is given below;
  - (i) The Commission had notified the KSERC (Renewable Energy and Net Metering) Regulations, 2020 and its amendments on 15.07.2022. The said Regulations specifies the Renewable Energy Obligation (RPO) targets to be met by the distribution licensees and other obligated entities in the State. RPO approved by the Commission for the year 2022-23 and 2023-24 is given below;

Year	RPO fixed by the Commission (% of the total consumption excluding large hydro)	Target to be achieved based on consumption (in MU) (excluding consumption from large hydro)	
	SOLAR	Consumption qualified for RPO	Solar target
2022-23	10.5	17245.7	1810.80
2023-24	10.5	17943.1	1884.03

- (ii) KSEB Ltd further submitted that, even after accounting the purchase of RE power from the all-approved contracts and own RE generation, KSEB Ltd expected to have solar RPO short fall of about 443 MW and 737 MU in the year 2022-23 and 2023-24.
- (iii) In order to meet the short fall in RPO, KSEB Ltd had invited tender for procuring 150 MW solar power from 15.06.2022 to 31.03.2022, on short term basis through DEEP portal on 20.05.2022. The details are as given below;

Requisition No	Period		Required quantity MW	Minimum Bid quantity MW
	From	To		
1	15.06.2022	31.03.2023	150	10

The minimum bid quantum for participation was 10 MW and the delivery point was Kerala Periphery.

- (iv) The technical bids were opened on 30.05.2022, the Initial Price Offers (IPO) and e-reverse auction were conducted on 06.06.2022. Only one bidder- M/s CIAL. Infrastructure Ltd submitted the bid for 10MW of power. The source of power is at Kinarumukku, Etukudukka PO, Payyannur, Kannur and the pooling substation is 110kV Payyannur substation of KSEB Ltd. The CUF declared at the time of bidding is 17.5%.
- (v) KSEB Ltd further submitted that the power flow is on short term basis and the power procurement is for meeting the RPO target for the current FY 2022-23. Hence, KSEB Ltd proceeded with the single tender.

The Clause 4.1 of the tender provide as follows regarding single tender.

“Clause 4.1 of Bid document states that *“To ensure competitiveness, the minimum number of Bidders should be at least two. If the number of Bidders responding to the RfP is less than two, and Procurer still wants to continue with the selection process, the selection of that single Bidder may be done with the consent of the Appropriate Commission.”*

In anticipation of the approval of the Commission, KSEB Ltd proceeded with the tender.

- (vi) The financial bids, i.e., IPOs (Initial Price Offers) submitted by the bidders were opened on 06-06-2022 at 1 pm, followed by e-RA auction was started at 15 hrs on 06-06-2022. On completion of the bid process the following rates were discovered through bucket filling in DEEP portal;

From	To	Bid (MW)	Qtm	Offered (MW)	Qtm	Price Discovered (Rs/Kwh)	Trader/ Generator
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15-06-2022	31-03-2023	150	10	2.44	CIAL Infrastructure Limited
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(vii) The Standing Committee constituted by KSEB Ltd for evaluating short term power procurement through DEEP e-bidding portal, offered the following observations;

- (1) Only one bid was received with the offer of 10MW as against the requisition of 150MW for Solar power purchase.
- (2) The rate offered at Kerala periphery was Rs.2.44/Unit.
- (3) The tariff at which the latest solar renewable power procurement agreement executed by KSEB Ltd with SECI (intermediary procurer) is Rs.2.44/Unit, which is inclusive of trading margin. Thus, the net per unit rate after excluding trading margin of Rs.0.07/Unit is Rs.2.37/Unit.
- (4) The bidder being an intrastate generator and not involving any intermediary procurer, there is scope for further reduction of offered price on negotiation with the bidder.
- (5) The purpose for the solar short-term purchase was to compensate for the estimated short fall in Solar RPO for the current financial year and the same was only partially achieved by this tender.

(viii) As recommended by the standing committee, KSEB Ltd requested the bidder to reduce the rate of Rs.2.44/Unit. M/s. CIAL Infrastructure Limited vide letter dated 20-7-2022 has agreed to reduce the quoted rate to Rs.2.37/Unit from Rs.2.44/Unit.

3. M/s KSEB Ltd has also submitted that the draft initialled PPA to be signed between M/s CIAL and KSEB Ltd for approval. In the draft PPA, M/s KSEB Ltd had proposed the following deviations from the guidelines notified by Ministry of Power, Government of India dated 30.03.2016 for short term procurement of power through tariff based competitive bidding.

#### **Deviation-1**

##### Clause in the guideline

Clause 6.4(vi(d)) of the guideline, "***Bidders may raise bills on weekly basis or at the end of the contract period for the energy scheduled***"

##### Clause in the draft PPA

Clause (8) it is proposed to modify as follows.

***"Sellers shall raise bills on monthly basis"***.

#### **Deviation-2**

##### Clause in the guideline

Clause 6.4(vi(f)) of the guideline, "***The procurer may be required to provide revolving Letter of Credit(LC) equivalent to 100% of the weekly energy corresponding to contracted capacity at the tariff indicated in PPA***"

#### Clause in the draft PPA

Clause (13) it is mentioned that "***KSEBL may provide revolving LC/BG equivalent to 100% of the monthly energy (30 days) corresponding to contracted capacity at the tariff indicated in PPA***".

4. The Commission admitted the petition as OP No. 50/2022. The hearing on the petition was held on 29.09.2022 through video conference. Sri. Rajan, Deputy Chief Engineer and Smt Latha S.V, presented the matter on behalf of KSEB Ltd. Smt. Mini Joseph, Chief Financial Officer presented the matter on behalf of the respondent CIAL. The summary of the deliberations during the hearing is given below.
  - (1) KSEB Ltd submitted that, it had invited tender for procuring 150 MW solar power on short term basis through DEEP portal on 20.05.2022, for the purchase of power for the period from 15.06.2022 to 31.03.2023. The technical bids were opened on 30.5.2022 and e-RA auction conducted on 06.06.2022.
  - (2) M/s CIAL. Infrastructure Ltd, was the only bidder who submitted the bid and the quantum of power offered was 10MW. The source of power is at Kinarumukku, Etukudukka PO, Payyannur, Kannur and the pooling substation is 110kV Payyannur substation of KSEB Ltd. The CUF offered at the time of bidding was 17.5%.
  - (3) On completion of the bidding process, the rate discovered through bucket filling in DEEP portal was Rs 2.44/unit. After negotiation, the bidder agreed to reduce the rate to Rs 2.37/unit. Since there is only 1 bidder, as per clause 4.1 of bid document, KSEB Ltd can only proceed further with the approval of the Commission.
  - (4) M/s KSEB Ltd also submitted the draft initialled PPA with M/s CIAL for approval with 2 minor deviations.
  - (5) M/s CIAL Infrastructure submitted that they have already agreed to supply power at Rs 2.37/unit and all terms and conditions of the PPA were acceptable to them.

#### **Analysis and Decision of the Commission**

5. The Commission has examined in detail the petition filed by KSEB Ltd for the approval of the short-term solar power procurement through DEEP portal to meet Solar RPO for the financial year 2022-23 as per the provisions of the Electricity Act, 2003, KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, and other relevant Rules and Regulations in force, hereby decide as follows.
6. As per the Section 86(1)(b) of the Electricity Act, 2003 (Central Act 36 of 2003), regulating the power purchase and procurement process of distribution

licensees including the price at which electricity shall be procured through agreements and supply within the State, is one of the statutory functions of the State Electricity Regulatory Commissions. The relevant Section of the Electricity Act, 2003 is extracted below.

*“86 Functions of the State Commission. - (1) The State Commission shall discharge the following functions, namely: -*

*.....*

*(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;”.*

7. Ministry of Power (MoP), Government of India (GoI), vide the resolution No. 23/25/2011-R&R (Vol-III) dated 30.03.2016 had notified the Guidelines for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process.
8. KSEB Ltd on 20.05.2022 had invited bid for the procurement of 150MW Solar power on short term basis through DEEP portal, as per the bidding guidelines notified by MoP dated 30.03.2016, for the period from 15.06.2022 to 31.03.2023 for meeting its short fall in solar RPO during the year 2022-23.
9. As against the tender invited by KSEB Ltd, M/s CIAL Infrastructure Ltd is the only bidder who participated in the bid and offered 10MW solar power from the plant at Kinarumuthu, Etukudukka PO, Payyannur, Kannur District, Kerala. The rate offered was Rs 2.44/unit. Subsequently after negotiation, M/s CIAL agreed to reduce the rate and offered to supply power @ Rs 2.37/unit to KSEB Ltd.
10. The Commission has examined the provisions in the Guidelines dated 30.03.2016 for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process. The relevant portion of the guidelines is extracted below.

*“7. Bid submission and evaluation*

*7.1. To ensure competitiveness, the minimum number of Bidders should be at least two for each requisition. If the number of Bidders responding to the RfP is less than two, and Procurer still wants to continue with the selection process, the selection of that single Bidder may be done with the consent of the Appropriate Commission.”*

11. As extracted above, the bidding guidelines stipulate that, in the event the number of bidders participated in a bid is less than two, but the procurer still want to proceed with the selection, the procurer can proceed with the selection of the single bidder with the consent of the Appropriate Commission.
12. In the present case, M/s CIAL Infrastructure Limited is the only bidder who participated in the bid invited by KSEB Ltd for procurement of 150MW Solar

Power. The quantum of power offered by M/s CIAL is 10 MW, which is the minimum bid quantum specified in the bidding documents. Further M/s CIAL Infrastructure Ltd is a generator situated within the State of Kerala. Regarding the preference for procurement of RE power from the power plants established within the State, the Regulation 7 of the KSERC (Renewable Energy & Net Metering) Regulations, 2020 provide as follows.

***“7. Preference for the purchase from the renewable energy generating units within the State. -***

*Every distribution licensee shall purchase the quantum of renewable energy required to meet its renewable purchase obligation preferentially from the renewable energy generating units within the State if available, with the prior approval of the Commission, and at the tariff approved by the Commission.”*

The Commission further notes that, KSEB Ltd is yet to be achieve the Solar RPO specified by the Commission. Further the rate offered by CIAL is very competitive and comparable with the rate offered by SECI in their recent offer for 300MW Solar power to KSEB Ltd.

***Considering all these aspects in detail, the Commission decided to grant consent to KSEB Ltd to proceed with the selection of the single bidder M/s CIAL in the present tender.***

13. The Commission has examined the procedure followed by KSEB Ltd for selecting the bidders through DEEP portal for the procurement of power on short-term basis to meet Solar RPO for for the period from 15.06.2022 to 31.03.2023. The paragraph-5 of the bidding guidelines dated 30.03.2016 notified by the Central Government specifies the tariff structure to be quoted by the bidders, which is extracted below for ready reference.

***“5. Tariff Structure***

*5.1. The Procurer based on its requirement may invite the bids on round the clock (RTC) basis or for different time slots. Procurer may also provide flexibility to the Bidder(s) to bid for a part of the tendered quantity, subject to a given minimum quantity. Bid capacity offered by the Bidder shall have to be constant for the entire contract period.*

*5.2. The Bidder shall quote the single tariff at the Delivery Point upto three (3) decimals which shall include capacity charge, energy charge, trading margin (in case of Bidder being a Trader), applicable Point of Connection (POC) charges upto Delivery Point and all taxes, duties, cess etc. imposed by Central Govt. / State Govt. / Local bodies. Tariffs shall be designated in Indian Rupees only.*

*5.3. For inter-State transmission of power, state/regional periphery of the Procurer to be taken as Delivery Point. For intra-state transmission of power, inter-connection point of seller with STU/ CTU to be taken as Delivery Point.*

*5.4. For avoidance of doubt, Intra-state open access charges, transmission charges and losses along with POC injection charges and loss up to the POC interface are on Seller’s account and POC drawl charges and losses along with intra-state open access, transmission charges and losses are on Procurer’s account.*

5.5. The tariff should be constant and there shall be no escalation during the contractual period. If Bids are invited for different time slots, then tariff may be different for each time slot.

5.6. If the power is being supplied through alternate source, additional charges and losses if any, due to cancellation of existing corridor and booking of new corridor etc., shall be to the account of Bidders.”

In the present case, the tariff offered by M/s CIAL Infrastructure Limited was Rs 2.37/unit. The tariff is firm and constant for the entire period of supply from 15.06.2022 to 31.03.2023. Since the bidder is within the State of Kerala, there is no transmission charges and losses associated with the transaction. The tariff offered is competitive and comparable with the approval granted by this Commission vide Order dated 15.11.2021 for the procurement of 300MW Solar Power under ISTS connected Solar Projects under Tranche-IX scheme, through SECI on long term basis @Rs 2.44/unit including trading margin.

**Considering these aspects in detail, the Commission decided to approve the short-term procurement of 10MW Solar power from M/s CIAL @Rs 2.37/unit for the period from 15.06.2022 to 31.03.2023.**

14. The Commission also examined the deviations proposed by KSEB Ltd in the draft PPA initialed between KSEB Ltd and CIAL. The details are given below.

(1) **Deviation-1**

Clause in the guideline

Clause 6.4(vi(d))) of the guideline, "***Bidders may raise bills on weekly basis or at the end of the contract period for the energy scheduled***"

Clause in the draft PPA

Clause (8) it is proposed to modify as follows.

***"Sellers shall raise bills on monthly basis"***.

***The Commission noted the deviation proposed by KSEB Ltd and the same agreed by the respondent M/s CIAL. KSEB Ltd proposed to change the periodicity of raising the invoice on monthly basis instead of weekly basis specified in the bidding guidelines. The Commission after examining the proposal in detail, hereby approve the deviation as proposed by KSEB Ltd.***

(2) **Deviation-2**

Clause in the guideline

Clause 6.4(vi(f))) of the guideline, "***The procurer may be required to provide revolving Letter of Credit(LC) equivalent to 100% of the weekly energy corresponding to contracted capacity at the tariff indicated in PPA***"

Clause in the draft PPA

Clause (13) it is mentioned that "***KSEBL may provide revolving LC/BG equivalent to 100% of the monthly energy (30 days) corresponding to contracted capacity at the tariff indicated in PPA***".

Commission noted that the above deviation proposed is consequent to the change in periodicity of raising the invoice from weekly basis to monthly basis as detailed above. The Commission after examining the details, hereby approve the deviation as proposed by KSEB Ltd.

### **Order of the Commission**

15. The Commission, after examining the petition filed by KSEB Ltd dated 31.08.2022, with provisions of the Electricity Act, 2003, Guidelines for short-term Procurement of Power by Distribution Licensees through Tariff based bidding process notified by the Ministry of Power, Government of India, dated 30.03.2016, KSERC (Terms and Conditions for Determination of Tariff) Regulations, 2021, and other relevant Rules and Regulations, hereby orders the following;
- (1) Approve the short-term procurement of 10MW Solar power from M/s CIAL Infrastructure Limited @Rs 2.37/unit for the period from 15.06.2022 to 31.03.2023 to meet the Solar RPO for the financial year 2022-23.
  - (2) Approve the draft initialed PPA to be signed between KSEB Ltd and M/s CIAL with the deviations proposed by KSEB Ltd as discussed under paragraph-14 above.
  - (3) KSEB Ltd shall submit a copy of the signed PPA before the Commission for information and record.

The petition disposed of. Ordered accordingly.

**Sd/-  
Adv. A J Wilson  
Member (Law)**

Approved for issue

**Sd/-  
C R Satheeshchandran  
Secretary**