

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2347 of 2024.

In the matter of:

Petition under Section 63 read with 86 (1) (b) of the Electricity Act, 2003 seeking adoption of tariff discovered under Competitive Bidding Process conducted vide RfS No. GUVNL/500 MW/Hybrid RE (Phase I) dated 01.11.2023 issued by GUVNL for Procurement of Power from 500 MW Grid Connected Hybrid Power Projects (Phase I) to be set up anywhere in India with Greenshoe Option of additional capacity upto 500 MW.

Petitioner : Gujarat Urja Vikas Nigam Limited

Represented by : Mr. H.N. Shah and Mr. A.H. Chavda

V/s.

Respondent No. 1 : KPI Green Energy Limited

Represented by : Mr. Karmit Sheth

Respondent No. 2 : Juniper Green Energy Pvt. Limited

Represented by : Mr. Kovid Bhatt

CORAM:

Anil Mukim, Chairman

Mehul M. Gandhi, Member

S. R. Pandey, Member

Date: 25/06/2024.

ORDER

1. This Petition has been filed by the Petitioner Gujarat Urja Vikas Nigam Limited (GUVNL) under Section 63 read with Section 86(1)(b) of the Electricity Act 2003 *inter alia* seeking following prayers:

(a) *To admit the present petition.*

(b) *To adopt the tariffs discovered by the Petitioner as mentioned at para 20 of the Petition in the transparent Procurement Process conducted by the Petitioner through RfS No. GUVNL/500 MW/Hybrid RE (Phase I) dated 01.11.2023 within the time duration stipulated by Hon'ble MoP under the guidelines referred at*

para 10 above.

- (c) To condone any inadvertent omissions/errors/shortcomings and permit the Petitioner to make addition/change/modification to the Petition as may be required.*
- (d) The Petitioner craves relief of the Commission to allow further submissions, prayers, additions and alterations to this Petition as may be necessary from time to time.*
- (e) Pass any other Order as the Commission may deem fit and appropriate under the circumstances of the case, to avoid further delay and in the interest of justice.*

2. The Petitioner has filed this Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003 seeking adoption of tariff by the Commission and hence it is necessary to refer aforesaid Sections as under:

“.....

Section 63:

Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government;”

.....”

As per above Section, whenever transparent competitive bidding process is conducted under Section 63 of the Electricity Act, 2003 in accordance with the guidelines issued by the Central Government, the tariff discovered under such bidding has to be adopted by the Commission.

“.....

Section 86(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.”

.....”

As per the aforesaid provision, the Commission has to regulate the power

procurement of the Distribution Licensees, including the procurement process, the price at which electricity shall be purchased from the generating company or the Licensees or through other sources through agreement for purchase of power for distribution and supply within the State.

3. This Petition filed by the Petitioner is within the purview of the jurisdiction of this Commission and in terms of the powers vested by the Electricity Act, 2003 and Regulations framed thereunder, the Commission admits the present Petition.
4. Facts mentioned in the Petition in brief are as under:
 - 4.1. It is stated that the Government of Gujarat has notified the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003 in May, 2003 for reorganization of the entire power sector in the State of Gujarat and pursuant thereof, the Gujarat Electricity Industry Reorganization and Comprehensive Transfer Scheme, 2003 has been notified under the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003, whereby, erstwhile Gujarat Electricity Board was reorganized and its functions have been vested in different entities.
 - 4.2. As per the above re-organization scheme, the activities undertaken by erstwhile Gujarat Electricity Board of Generation, Transmission, Distribution, Bulk Power Purchase and Supply have been entrusted to separate seven functional entities. The generation activity is assigned to Gujarat State Electricity Corporation Limited (GSECL), transmission activity is assigned to Gujarat Energy Transmission Corporation Limited (GETCO) and the distribution activity is assigned to four distribution companies viz. Uttar Gujarat Vij Company Limited (UGVCL), Madhya Gujarat Vij Company Limited (MGVCL), Dakshin Gujarat Vij Company Limited (DGVCL) and Paschim Gujarat Vij Company Limited (PGVCL). Further, the function of bulk purchase and bulk sale of power is assigned to the Petitioner, Gujarat Urja Vikas Nigam Limited.
 - 4.3. The Distribution companies are mandated to procure power from Renewable Energy Sources as per the provision of Section 86(1)(e) of the Electricity Act, 2003 and in terms of the GERC (Procurement of Energy from Renewable Energy Sources) Regulations, 2010, as amended from time to time.
 - 4.4. The Petitioner on behalf of its four Distribution Companies has been entering into

Power Purchase Agreements/Storage Purchase Agreement amongst others with various Energy Storage Developers for procurement of Storage/Power from time to time.

- 4.5. Section 63 of the Electricity Act, 2003 provides that the Appropriate Commission shall adopt the tariff, if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government. As per Section 86 (1) (b) of the Electricity Act, 2003, the Commission to 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. Also, Section 86 (1) (e) of the Electricity Act, 2003 mandates the SERCs to promote co-generation and generation of electricity based on Renewable Energy Sources.
- 4.6. The Ministry of Power, Government of India vide Notification No. 27/03/2023-RCM dated 21.08.2023 has issued New Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects. However, Standard Bidding Documents are yet to be published by MoP, Government of India. The said Guidelines provides following conditions in respect to 'Bid documentation' to be met by procurer:

".....

- a) *The Procurer shall prepare the bid documents in accordance with these Guidelines.*
- b) *Any deviations from these Guidelines and/or Standard Bidding Documents (SBDs) in the draft RfS, draft PPA, draft PSA (if applicable) need to be approved by the Government in accordance with the process described in Clause 19 of these Guidelines.*

However, if the Procurer while preparing the draft RfS, draft PPA, draft PSA and other Project agreements provides detailed provisions that are consistent with the Guidelines, such detailing will not be considered as deviations from these Guidelines.

In case there are any ongoing bids wherein the last date of bid submission is after the date of notification of these Guidelines, then the bid documents in respect of

such bids shall be appropriately modified to bring them in alignment with these Guidelines.

.....”

4.7. It is submitted that pending the issuance of the Standard Bidding Documents by the Central Government, the Petitioner is conducting the Competitive Bidding Process for Procurement of Wind Solar Hybrid Power based on Bid Documents containing detailed provisions that are consistent with the Guidelines read with deviations approved by Government of Gujarat vide letter No. EPCD/0321/09/2023 dated 04.10.2023.

4.8. The various provisions of the Guidelines issued by MoP, Government of India relating to adoption of tariff by Appropriate Commission are reproduced as under:

“12.4. Subject to provisions of the Act, the distribution licensee or the Intermediary Procurer, as the case may be, shall approach the Appropriate Commission for adoption of tariffs by the Appropriate Commission in terms of Section 63 of the Act within 15 (fifteen) days of the discovery of the tariffs in the transparent competitive bidding process conducted in accordance with these Guidelines.”

12.5. Subsequent to the distribution licensee or Intermediary Procurer, as the case may be, approaching the Appropriate Commission for adoption of tariffs under Section 63 of the Act, in case, the Appropriate Commission does not decide upon the same within sixty days of such submission or within 120 (one hundred and twenty) days from the date of Power Sale Agreement (PSA), whichever is more, the Procurer(s) shall grant appropriate extension of time in SCSD to the generators, corresponding to the delay [beyond 60 (sixty) days of submission or 120 (one hundred and twenty) days of PSA whichever is more] in adoption / approval by the Appropriate Commission till the date of adoption/ approval by the Appropriate Commission.”

4.9. The Commission has notified the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 dated 17.04.2010. Thereafter, the said Regulations have been amended vide First Amendment dated 03.03.2014, Second Amendment dated 20.04.2018 and Third Amendment dated 08.04.2022. In accordance with the GERC (Procurement of Energy from Renewable Sources) (Third Amendment) Regulations, 2022 dated 08.04.2022, the stipulated RPO percentage targets for the obligated entities of Gujarat from FY 2021-22 onwards are as under:

Year	Minimum Quantum of Purchase (%) from RE Sources				Total (%)
	Wind RPO (%)	Solar RPO (%)	Large Hydro HPO (%)	Other RPO% (Biomass, Bagasse & Bio-fuel Cogeneration, MSW and Small/Mini/Micro Hydel) (%)	
2021-22	8.25	8.00	-	0.75	17.00
2022-23	8.25	8.00	-	0.75	17.00
2023-24	8.40	9.50	0.05	0.75	18.70
2024-25	8.55	11.25	0.10	0.80	20.70

- 4.10. Considering the fact that the generation benefit from the BESPAs executed under Competitive Bidding shall be made available after a lapse of about 24 months and that the same shall be useful in achieving RPO compliance of ensuing years (which are in increasing trend as notified by the Commission and MoP) as well for keeping overall power purchase cost under control as the tariffs of thermal power is on increasing trend whereas the tariffs of RE power are fixed for the period of 25 years, the Petitioner GUVNL on behalf of its Subsidiary Distribution Companies had invited Tender dated 01.11.2023 through Competitive Bidding Process followed by e-reverse auction for Procurement of Power from 500 MW Grid Connected Wind Solar Hybrid Power Project (Phase - I) to be set up anywhere in India with Greenshoe Option of additional upto 500 MW vide RfS No. GUVNL/500 MW/Hybrid (Phase- I) dated 01.11.2023 in accordance with advance intimation of initiation of bidding process to the Commission under additional submissions vide letter dated 19.10.2023 in Petition No. 2240 of 2023. The Petitioner had also published the Notice Inviting Tender in two national newspapers regarding these Tender(s).
- 4.11. GUVNL had constituted Bid Evaluation Committee consisting following members for technical & financial bid evaluation.

Sr. No.	Name	Designation
1.	Shri H.N. Shah	General Manager (RE)
2.	Shri Parthiv Bhatt	Company Secretary
3.	Smt. Bhavani Ghattamaneni	Chief Finance Manager (RE)
4.	Shri Nilay Joshi	Controller of Accounts (F&A)

- 4.12. It is stated that the Tender Documents viz. RfS and PPA of above mentioned tender were published on the website of Petitioner for information as well as on e-bidding portal for downloading the official copy of the Tender Documents for participation in bidding procedure including e-reverse auction. Further, a Pre-Bid Meeting also held through video conference on 09.11.2023 at GUVNL's Office, Vadodara. The Pre-bid query responses were also issued and hosted on websites of GUVNL and on e-

bidding portal. The copy of all the tender Documents of GUVNL including RfS, Draft PPA, Corrigendum & Addendums are filed with the Petition.

- 4.13. The last date of bid submission in the tendering process initially was 28.11.2023 which was further extended upto 08.01.2024. Technical Bid Opening was held on 16.01.2024.
- 4.14. The Petitioner had received online bids from 4 (Four) bidders whereas the bidder M/s Sprng Energy Private Limited had submitted online bid but physical bid was not submitted by the bidder. Therefore, M/s Sprng Energy Private Limited was not considered for the technical bid evaluation. Remaining 3 (three) bidders offering aggregate capacity of 350 MW against 500 MW capacity tendered. As per the Technical Bid Evaluation Report signed by the Bid Evaluation Committee, all the 3 (Three) Bidders have been found technically qualified. The Technical Bid Evaluation Report signed by the Bid Evaluation Committee is also filed with the Petition.
- 4.15. Pursuant to the recommendation of the Bid Evaluation Committee, the Financial Bids of all 3 (three) technically qualified Bidders were opened on the e-bidding portal on 22.01.2024 in the presence of the Bid Evaluation Committee. At the end of the financial bid opening event, tariff quoted by the bidders are shown in the below table:

Rank	Name	Rate Rs. /Unit	Capacity (MW)
L1	KPI Green Energy Limited	2.99	50
L2	Juniper Green Energy Private Limited	3.27	150
L3	Avaada Energy Private Limited	3.59	150
Total			350

- 4.16. As per terms and conditions for e-Reverse Auction of tender, 3 (three) Bidders with aggregate capacity of 350 MW capacity were qualified for the e-reverse auction of 280 MW capacity and accordingly GUVNL conducted e-reverse auction on 22.01.2024 for total 280 MW capacity. The Financial Bid Evaluation Report signed by the Committee is also filed with the Petition.
- 4.17. The following prices were discovered at the closure of e-reverse auction that was held on the e-bidding portal on 22.01.2024 and e-report generated at the Bharat – electronic tender’s portal is filed with the Petition. The tariffs discovered in the e-reverse auction are as follows:

Rank	Name	Rate Rs. /Unit	Quoted Capacity (MW)	Eligible Capacity (MW)
L1	KPI Green Energy Limited	2.99	50	50
L2	Juniper Green Energy Private Limited	3.27	150	150
L3	Avaada Energy Private Limited	3.59	150	Not Qualified
Total			350	200

- 4.18. It is stated that as per provision of 6.2.2 of MoP TBCB Guidelines, the capacity allocation shall be on the basis of Bucket filling i.e. capacity quoted by least quoted tariff bidder (called the L1 bidder) at the rates quoted (L1 rates) shall be allocated first, then the capacity quoted by the next lowest bidder (called the L2 bidder) at the rates quoted (called the L2 rates) may be allocated and so on. Thus, after arranging the bidders in the ascending order of tariff, the project capacities will be awarded only to those bidders whose final price bids are within a range of "L1+x%", in terms of Rs./kWh; while the value of "x" generally be two (2) to five (5) and shall be fixed in the RfS." Accordingly, the range was defined as L1 + 2% in the RfS. After e-reverse auction, tariff quoted by L3 bidder M/s Avaada Energy Private Limited was falling in Red Zone as tariff is outside the defined range L1 + 2%. Therefore, L3 bidder is not qualified as successful bidder.
- 4.19. It is stated that in the present tender, there are provisions for allocating additional 500 MW capacity through Greenshoe Option at L1 tariff to the Successful Bidders to the extent of their respective quoted capacity. Further, the tender provides that in case any of the Successful Bidder does not accept the additional quantum offered under the Greenshoe Option, the same can be offered to other successful bidders. GUVNL has adopted the L1 priority principle for allocation of additional Greenshoe Capacity not accepted by any of the successful bidder(s) in line with GUVNL's previous tender.
- 4.20. It is stated that qualified bidders M/s Juniper Green Energy and M/s KPI Green Energy Limited were asked for consent vide email dated 24.01.2024 for acceptance of Greenshoe option as per their bid capacity at L1 tariff. Juniper Green Energy Limited has chosen not to exercise the Greenshoe option, as confirmed vide email dated 29.01.2024. KPI Green Energy Limited has also not opted the Greenshoe option and confirmed vide email dated 30.01.2024.
- 4.21. The Petitioner GUVNL also stated the latest results of e-RA concluded by central

bidding agency in last 06 months period as under:

Sr. No.	Bidding Agency	Bid Capacity (MW)	e-RA Month	Discovered tariff (Rs./Unit)	Awarded Capacity (MW)
1	SJVN Limited	1500	Feb-24	3.43-3.49	1500
2	Solar Energy Corporation of India Limited	1500	Jan-24	3.15-3.21	900

4.22. It is stated that GUVNL have first time issued the tenders for Hybrid RE and successfully concluded the tenders. Hence, reference rates for hybrid tenders of GUVNL is not available. The rates discovered by GUVNL are competitive. Tariff discovered under GUVNL's Hybrid Phase-I bid is in the range of Rs. 2.99-3.04 per unit which is lower than the rates discovered by central bidding agencies as above.

4.23. It is submitted that pursuant to approval from the Government of Gujarat to deviate from the standard issuance of a Letter of Award, GUVNL has now issued Letters of Intent (LoIs) to the top two bidders (L1 and L2) at the tariff ranging from Rs. 2.99 to Rs. 3.04 per unit. In light of this, the total allocation for the 200 MW capacity under the tender is as follows:

Rank	Bidder's Name	Base Capacity won in e-RA (MW) (A)	Tariff (Rs./Unit)	Greenshoe Capacity availed (MW) (B)	Tariff (Rs./Unit)	Total Capacity (MW) (A+B)	Final average tariff for total capacity
L1	KPI Green Energy Limited	50	2.99	00	2.99	50	2.99
L2	Juniper Green Energy Private Limited	150	3.04	00	3.04	150	3.04
	Total	200		00		200	

4.24. Accordingly, GUVNL has issued Letter of Intents (LOIs) dated 14.03.2024 to successful bidders for total capacity of 200 MW at the respective tariff as mentioned in the above table and PPA may be signed within 60 (sixty) days from the date of issue of LoI or such other period that may be stipulated under LoI subject to adoption of tariff by the Commission.

4.23. In view of the above and in accordance with Section 63 read with Section 86 (1) (b) of the Electricity Act 2003, the Petitioner has filed the present Petition for adoption of tariff discovered by the Petitioner in Competitive Bidding Process followed by e-reverse auction conducted through RfS No. GUVNL/500 MW/Hybrid RE (Phase-I) dated 01.11.2023 issued by GUVNL for Procurement of Power from 500 MW Grid connected Hybrid Power Projects to be set up anywhere in India with Greenshoe Option of additional upto 500 MW.

5. Office of the Commission is in receipt of affidavit dated 02.04.2024 from the Respondent No. 1 KPI Green Energy Limited (KGEL) stating that they have not objecting to adoption of tariff discovered under the Competitive Bidding Process conducted vide RfS No. GUVNL/500 MW/Hybrid RE (Phase I) dated 01.11.2023 issued by the Petitioner GUVNL for Procurement of Power from 500 MW Grid connected Hybrid Power Projects (Phase – I) to be set up anywhere in India with Greenshoe Option of additional upto 500 MW and accepted the discovered tariff under the aforesaid Competitive Bidding Process conducted vide RfS dated 01.11.2023 by the Petitioner GUVNL.
6. The Respondent No. 2 Juniper Green Energy Pvt. Limited (JGEPL) vide letter No. JGEPL/GUVNL/03/02 dated 28.03.2024 submitted that JGEPL is one of the successful/selected bidders in the Competitive Bidding Process conducted vide RfS No. GUVNL/500 MW/Hybrid RE (Phase-I) dated 01.11.2023 for setting up 150 MW capacity Hybrid Project in the State of Gujarat. It is also stated that the Petitioner GUVNL has made JGEPL as one of the Respondents in the present Petition since the Hybrid Project is to be developed in accordance with the terms of the RfS upon adoption of tariff by the Commission. It is also stated that JGEPL has no objection to the Petition filed by GUVNL for seeking adoption of discovered tariff and approval thereon as per the present Petition.
7. The matter was kept for hearing on 06.04.2024. After hearing the parties, the Commission has passed Daily Order dated 29.04.2024. In response to query of the Commission as to what is the CUF against the contracted capacity of the project by the successful bidders, it is submitted that the bidders were asked to declare their CUF and accordingly, the Respondents KPI Green Energy Limited and Juniper Green Energy Pvt. Limited have declared their CUF as 37% and 30% respectively. In response to further query of the Commission as to why the Greenshoe Option has not been exercised by the developers, the representative of the Petitioner submitted that the successful bidders were also asked for their willingness to avail the Greenshoe Option as per their bid capacity at L1 tariff, but they have chosen not to exercise the Greenshoe Option. Therefore, there is no Greenshoe capacity availed by the developers and total allocation is only upto 50 MW and 150 MW as base capacity respectively. Also, in response to the further query as to whether the Petitioner GUVNL has made any deviation from the provisions of MoP's Guidelines, it is

submitted that the Petitioner has conducted the present bidding process based on bid documents containing detailed provisions that are consistent with the MoP's Guidelines read with deviations approved by Government of Gujarat.

8. We have considered the submissions made by the Parties. The Petitioner has filed the present Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003. The Petitioner has sought the approval of the Commission for adoption of discovered tariff in the range of Rs. 2.99 – Rs. 3.04 per MW quoted by successful bidders under Competitive Bidding Process followed by e-reverse auction of Bid No. RfS No. GUVNL/500 MW/Hybrid RE (Phase I) dated 01.11.2023 issued by the Petitioner GUVNL for Procurement of Power from 500 MW Grid Connected Hybrid Power Projects (Phase I) to be set up anywhere in India with Greenshoe Option of additional capacity upto 500 MW.

8.1. The Petitioner is purchasing power in bulk for and on behalf of four Distribution Licensees, namely, DGVCL, MGVCL, PGVCL and UGVCL. The Petitioner also procures the renewable power by entering into agreements with the developers for its four Distribution Licensees towards fulfilment of their RPO as specified by the Commission in the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 as amended from time to time including the GERC (Procurement of Energy from Renewable Sources) (Third Amendment) Regulations, 2022. In the said Regulations, the Commission has stipulated the RPO requirement of Distribution Licensees till FY 2024-25 as under:

Year	Minimum Quantum of purchase (in %) from renewable energy sources (in terms of energy in kWh)				
	Wind (%)	Solar (%)	Hydro Power Purchase Obligation (HPO) (%)	Others (Biomass, Bagasse & Bio-fuel based cogeneration, MSW and Small/Mini/Micro Hydro) (%)	Total (%)
(1)	(2)	(3)	(4)	(5)	(6)
2017-18	7.75	1.75		0.50	10.00
2018-19	7.95	4.25		0.50	12.70
2019-20	8.05	5.50		0.75	14.30
2020-21	8.15	6.75		0.75	15.65
2021-22	8.25	8.00		0.75	17.00
2022-23	8.25	8.00		0.75	17.00
2023-24	8.40	9.50	0.05	0.75	18.70
2024-25	8.55	11.25	0.10	0.80	20.70

From the above table it is apparent that the Petitioner is required to procure substantial quantum of power, since the Commission has increased the RPO in view of the requirement stipulated by the Government of India. Accordingly, in order to meet the RPO target, the Petitioner had initiated the Competitive Bidding Process followed by e-reverse auction for Procurement of 500 MW power (along with Greenshoe Option of additional upto 500 MW Capacity) from Grid connected Hybrid Power Projects to be set up anywhere in India through RfS No. GUVNL/500 MW/Hybrid RE (Phase I) dated 01.11.2023.

- 8.2. We note that the Ministry of Power, Government of India vide Notification No. 27/03/2023-RCM dated 21.08.2023 has issued New Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects. However, Standard Bidding Documents are yet to be published by MoP, Government of India. Therefore, in view of pending the issuance of the Standard Bidding Documents by the Central Government, the Petitioner GUVNL is conducting the Competitive Bidding Process for Procurement of Wind Solar Hybrid Power based on Bid Documents containing detailed provisions that are consistent with the Guidelines read with deviations approved by Government of Gujarat vide letter No. EPCD/0321/09/2023 dated 04.10.2023.
- 8.3. We also note that after duly considering the fact that the generation benefit from the BESPA's executed under Competitive Bidding shall be made available after a lapse of about 24 months and that the same shall be useful in achieving RPO compliance of ensuing years (which are in increasing trend as notified by the Commission and MoP) as well for keeping overall power purchase cost under control as the tariffs of thermal power is on increasing trend whereas the tariffs of RE power are fixed for the period of 25 years, the Petitioner GUVNL on behalf of its Subsidiary Distribution Companies had invited Tender dated 01.11.2023 through Competitive Bidding Process followed by e-reverse auction for Procurement of Power from 500 MW Grid Connected Wind Solar Hybrid Power Project (Phase - I) to be set up anywhere in India with Greenshoe Option of additional upto 500 MW vide RfS No. GUVNL/500 MW/Hybrid (Phase- I) dated 01.11.2023 in accordance with advance intimation of initiation of bidding process to the Commission under additional submissions vide letter dated 19.10.2023 in Petition No. 2240 of 2023. The Petitioner had also published the Notice Inviting Tender in two national newspapers regarding these

Tender(s).

- 8.4. We note that the Petitioner has also issued 'Notice Inviting Tender' on 02.11.2023 so as to provide wide publicity of the said tender i.e., RfS No. GUVNL/500 MW/Hybrid (Phase- I) dated 01.11.2023 by publishing notice in National newspapers, viz, (i) The Hindu, (ii) The Indian Express, (iii) the Businessline, and (iv) The Divya Bhaskar on 02.11.2023 having wide circulation and to seek wide participation from the participating bidders. The Petitioner also hosted the Bid Documents on its website as well as on the e-bidding portal 'Bharat-electronic tender'. Further, the Petitioner also held a Pre-Bid Meeting through video conference on 09.11.2023. The Pre-bid query responses were also issued and hosted on websites of GUVNL and on e-bidding portal. The copy of all the tender Documents of GUVNL including RfS, Draft BESPA, Corrigendum & Addendums are filed with the Petition. The last date of bid submission in the tendering process initially was 28.11.2023 which was further extended upto 08.01.2024.
- 8.5. We note that the Petitioner received online bids from 4 (Four) bidders, viz., (i) Avaada Energy Pvt. Limited, (ii) Juniper Green Energy Pvt. Limited, (iii) KPI Green Energy Limited, and (iv) Sprng Energy Pvt. Limited but Sprng Energy Pvt. Limited has not submitted its physical bid and therefore, the Sprng Energy Pvt. Limited was not considered for the technical bid evaluation whereas remaining 3 (three) bidders offering aggregate capacity of 350 MW against 500 MW capacity and the technical bid opening was held on 16.01.2024 in the presence of Bid Evaluation Committee consisting of following officials:

Sr. No.	Name	Designation
1	Shri H.N. Shah	General Manager (RE)
2	Shri Parthiv Bhatt	Company Secretary
3	Smt. Bhavani Ghattamaneni	Chief Finance Manager (RE)
4	Shri Nilay Joshi	Controller of Accounts (F&A)

- 8.6. It is also submitted by the Petitioner that aforesaid bids received from 3 (Three) bidders were opened in presence of Bid Evaluation Committee and also evaluated by said Committee. We also note that the bids submitted by the bidders were scrutinized as per terms and conditions of RfS. As per technical evaluation report of the said Committee, it is observed that all the 3 (Three) bids received were technically qualified and technical evaluation report signed by the Members of the Bid Evaluation Committee is filed by the Petitioner, which is reproduced below:

“Technical Bid Evaluation Report

Tender for procurement of power through Competitive Bidding process (followed by reverse e-auction) from 500 MW Hybrid RE projects (Phase I) with green shoe option of additional 500 MW

GUVNL / 500 MW / Hybrid RE (Phase 1) dated 01.11.2023

18th January, 2024

1. Background

Gujarat Urja Vikas Nigam Limited (GUVNL) has floated the tender for purchase of power from 500 MW Hybrid RE projects (Phase I) with green shoe option of additional 500 MW through competitive bidding process (conducted through electronically facilitated online web based portal followed by reverse auction) as notified via RfS No. GUVNL / 500 MW / Hybrid RE (Phase 1) dated 01.11.2023. The tender was floated on 01.11.2023. The last date of online bid submission was 08.01.2024 and offline bid submission was 10.01.2024.

The Bid Evaluation Committee consist following members:

Sr. No.	Name	Designation
1	Shri H.N Shah	General Manager (RE)
2	Shri Parthiv Bhatt	Company Secretary
3	Smt Bhavani Ghattamaneni	Chief Finance Manager (RE)
4	Shri Nilay D. Joshi	Controller of Accounts (F&A)

This report outlines the responses of all the bidders in respect of Non-Financial (technical) bid evaluation and recommendations of committee.

2. Details of Tender

RfS Reference No.	RfS No. GUVNL / 500 MW / Hybrid RE (Phase 1) dated 01.11.2023
Capacity	Total capacity of 500 MW Hybrid RE projects to be set up anywhere in India with Greenshoe Option of additional upto 500 MW.
Minimum Bid Capacity	50 MW (subject to the condition that the rated power capacity of one resource (wind or solar) shall be at least 33% (As specified by MNRE/MoP time to time) of the total contracted capacity)
Eligible Projects	The Projects to be selected under this RfS for aggregate capacity of 500 MW, shall provide for deployment of Wind-Solar Hybrid Power Technology. Only commercially established and operational technologies may be used, to minimize the technology risk and to achieve the timely commissioning of the Projects. Bidders who have already commissioned RE plants or are in

	<i>process of constructing such plants and have untied capacity may also participate under this RfS. Projects which are not having any contractual obligation / PPA with other buyer shall be allowed to participate in the tender, in case these projects are not already accepted under any other Central or State Schemes.</i>
Criteria For Generation	<i>The declared annual CUF shall in no case be less than 30% (thirty percent). HPD shall maintain energy supply so as to achieve annual supply corresponding to CUF not less than 90% of the declared value (i.e., Minimum CUF) and not more than 120% of the declared CUF value (i.e., Maximum CUF), during the PPA duration.</i>
Term of PPA	<i>25 years from SCOD</i>
Technology	<i>Wind turbine models listed in Revised List of Models and Manufactures (RLMM) issued by MNRE as updated until the SCOD. The provisions as contained in the O.M. dated 10.03.2021 issued by MNRE on the subject "Approved Models and Manufacturers of Solar Photovoltaic Modules (Requirement of Compulsory Registration) Order, 2019-Implementation-Reg." and its subsequent amendments and clarifications issued until the bid submission deadline</i>
Tender Fee (non-refundable)	<i>Rs. 25,000/- plus 18% GST to be submitted, along with the response to RfS in favour of "Gujarat Urja Vikas Nigam Ltd", payable at Vadodara mandatorily through NEFT / RTGS the details of which shall be mentioned in Electronic Form on e-bidding portal.</i>
Processing Fee (non-refundable)	<i>Rs. 15.0 Lakhs plus 18% GST, to be submitted along with the response to RfS in favor of "Gujarat Urja Vikas Nigam Ltd", payable at Vadodara mandatorily through NEFT / RTGS the details of which shall be mentioned in Electronic Form on e-bidding portal</i>
EMD	<i>Earnest Money Deposit @ [INR 9,28,000 x Rated cumulative Installed Capacity of Solar component (MW) + INR 12,64,000 x Rated cumulative Installed capacity of Wind component (MW)] to be submitted in the form of Bank Guarantee along with the Response to RfS</i>

3. Response to RFS

A total of 4 (Four) online responses is received by GUVNL. The list of the bidders and the capacity offered is as below:

Sr NO.	Bidder Name	MW
1	<i>Avaada Energy Private Limited</i>	<i>150</i>
2	<i>Juniper Green Energy Private Limited</i>	<i>150</i>
3	<i>KPI Green Energy Limited</i>	<i>50</i>
4	<i>Sprng Energy Private Limited</i>	<i>---</i>
	Total	350

The technical bids were opened on 16.01.2024 on e-bidding portal as per tender timeline. Bidder at Sr No 4 has submitted online bid. However, Physical bid is not submitted by the bidder. Therefore, M/s Sprng Energy Private Limited is not considered for the technical bid evaluation.

4. Principles of Evaluation

As per the terms of the RfS documents, the techno-commercial evaluation of the bids is to be done in accordance with the bid evaluation methodology specified in the RfS.

The Technical Bids of only those Bidders are to be considered whose bids/documents have been received on or before the due date and time of submission of bids as per the terms of the RfS.

Due examination of the documents submitted by the Bidders is to be done ascertaining the eligibility criteria specified under the RfS. In case of a perceived non-responsiveness, queries are to be raised by GUVNL on the ISN-ETS web-portal and clarifications/additional documents are to be sought from the concerned bidders within 2 days from the date of such intimation from GUVNL.

Upon due submissions of clarification/additional documents sought (if any) and careful examination of the same by the Members of the Bid Evaluation Committee, the Financial Bids of only such qualified Bidders are to be opened as per the terms and conditions of the RfS.

The response to the RfS submitted by the Bidders are to be scrutinised to establish Techno-Commercial eligibility criteria as per the RfS, which are as under: -

TECHNICAL ELIGIBILITY CRITERIA

- a. *Under this RfS, it is proposed to promote only commercially established and operational technologies to minimize the technology risk and to achieve timely commissioning of the Projects. The Bidder may indicate regarding the selection of technology and its details at the time of submission of bids in the prescribed Format 8.9. However, the Successful Bidder has to confirm the selection of technology in line with the above at the time of Financial Closure.*

- b. *The Bidder is required to undertake to furnish evidence of meeting the above criteria in line with provisions of Clause No. 4.15 under the sub title “Financial Closure” in Section-4, Instructions to Bidders (ITB) of RfS. The undertaking shall be submitted as per enclosed Format 8.8.*
- c. *In order to ensure only quality systems are installed, and in order to bring-in advantage of latest development/Models, the type certified wind turbine models listed in Revised List of Models and Manufactures (RLMM) issued by MNRE as updated until the SCOD of the Project will be allowed for deployment under this RfS.*
- d. *The provisions as contained in the O.M. dated 10.03.2021 issued by MNRE on the subject “Approved Models and Manufacturers of Solar Photovoltaic Modules (Requirement of Compulsory Registration) Order, 2019-Implementation-Reg.” and its subsequent amendments and clarifications issued until the bid submission deadline, shall be applicable for this RfS. The modules used in the Projects under this RfS should have been included in the List-I under the above Order and revisions in the list updated time to time, valid as on the date of dispatch (procurement from within India)/filling of BOE with Indian Customs (procurement from outside India) of such modules.*
- e. *The wind power projects will be developed as per the Guidelines issued by the Government of India or its agencies for development of Wind Power Projects. For solar modules and balance of systems, the technical guidelines issued by the Government of India from time to time for grid connected Solar PV systems and the technical guidelines prevalent at the time of commencement of power supply from the Project, will be followed. Installation of other RE generating sources as part of the Project shall be governed by applicable technical standards issued by the Government from time to time.*
- f. *The Projects shall also comply with the criteria for power generation detailed in RfS.*
- g. *A disclosure statement as per **Format 8.8 & 8.8A** regarding participation of any related companies in the bidding process and restriction on procurement from certain countries to be submitted by bidder.*

FINANCIAL ELIGIBILITY CRITERIA:

C.1 NET-WORTH

- i. *The Net-Worth of the Bidder should be equal to or greater than the amount calculated as per the following formula, based on the Installed Capacity break-up quoted by the Bidder:*

Minimum Net-Worth requirement = [(Rs. 1,15,80,000 x Rated Installed Capacity of Solar PV component) + (Rs. 1,38,60,000 x Rated Installed Capacity of Wind Power component)].

The above Net-Worth amount shall be demonstrated by the Bidder as on the last of previous Financial Year, i.e., FY 2022-23 or as on the day at least 7 days prior to the bid submission deadline.

- ii. *The net worth to be considered for the above purpose will be the cumulative net-worth of the Bidding Company or Consortium, together with the Net Worth of those Affiliates of the Bidder(s) that undertake to contribute the required equity funding and performance bank guarantees/POI in case the Bidder fails to do so in accordance with the RfS.*
- iii. *Net Worth to be considered for this clause shall be the total Net Worth as calculated in accordance with the Companies Act, 2013 and any further amendments thereto.*

Note: In case of revision in Installed Capacity prior to signing of PPA, resulting in an increase in the Installed Capacity being committed by the HPD, the HPD will be required demonstrate the revised Net-Worth requirements based on the revised Installed Capacity.

C.2 Not used.

C.3 The Bidder may seek qualification on the basis of financial capability of its Affiliate(s) for the purpose of meeting the qualification requirements as per C.1 above. In case of the Bidder being a Bidding Consortium, any Member may seek qualification on the basis of financial capability of its Affiliate(s). In such cases, the Bidder shall be required to submit Board Resolutions from the respective Affiliate(s), undertaking to contribute the required equity funding and Performance Bank Guarantees in case the Bidder(s) fail to do so in accordance with the RfS. In case of non-availability of the Board Resolution as required above, a letter from the CEO/ Managing Director of the respective Affiliate(s), undertaking the above, shall be required to be submitted and the

requisite Board Resolution from the Affiliate(s) shall be required to be submitted prior to signing of PPA.

C.4 For the purposes of meeting financial requirements, only latest unconsolidated audited annual accounts shall be used. However, audited consolidated annual accounts of the Bidder may be used for the purpose of financial requirements provided the Bidder has at least twenty six percent (26%) equity in each Company whose accounts are merged in the audited consolidated account.

C.5 A Company/ Consortium would be required to submit annual audited accounts for the last financial year, i.e. FY 2021-22 or FY 2022-23 or provisional audited accounts in case of the bidder meeting the financial criteria as on the date at least 7 days prior to the date of bid submission, along with net worth certificate from a practicing Chartered Accountant/ Statutory Auditor to demonstrate fulfillment of the criteria. In case of foreign companies, the Bidders shall be required to submit the annual audited accounts for the last respective financial year as per the general norm in the country where the Bidder or its Affiliate(s) is/ are located, or provisional audited accounts in case of the bidder meeting the financial criteria as on the date at least 7 days prior to the date of bid submission.

(Note: In case of foreign Bidders, in the event the Bidder is unable to furnish the audited annual accounts for the previous financial year as per the prevalent norm in the respective country, the Bidder shall submit the annual audited accounts of the last financial year for which the audited accounts are available, or the provisional audited accounts for the date at least 7 days prior to the date of bid submission. This, however, would be acceptable, subject to the condition that the last date of response to this RfS falls on or within the deadline for completion of audit of annual accounts of companies, as stipulated by the laws/rules of the respective country, and the Bidder shall submit the corresponding documentary evidence against the same. In case the annual accounts are submitted in a language other than English, a certified English translation from an approved translator shall be required to be submitted by the Bidder.)

C.6 For meeting the above financial eligibility criteria, if the data is provided by the Bidder in a foreign currency, equivalent Indian Rupees of Net Worth and

other financial parameters will be calculated by the Bidder using Reserve Bank of India's reference rates prevailing on the date of closing of the accounts for the respective financial year.

C.7 In case of any currency for which RBI reference rate is not available, Bidders shall convert such currency into USD as per the exchange rates certified by their banker prevailing on the relevant date and used for such conversion. After such conversion, Bidder shall follow the procedure/ submit document as elaborated in Clause C.6 above.

C.8 In case the response to RfS is submitted by a Consortium, then the financial requirement (the Net-Worth) to be met by each Member of the Consortium shall be computed in proportion to the equity commitment made by each of them in the Project Company.

For example, if two companies A and B form a Consortium with equity participation in 70:30 ratio and submit their bid for a capacity of 100MW, then, total Net-Worth to be met by the Consortium is Rs. 1.0Crores x 100MW = Rs. 100 Crores. Minimum requirement of Net-Worth to be met by Lead Member A would be minimum Rs. 70Crores and to be met by Consortium Member B would be Rs.30 Crores.

C.9 In accordance with the O.M. issued by the Department of Expenditure, Ministry of Finance, Govt. of India, vide No. 6/18/2019- PPD Dated 23.07.2020 and subsequent amendments and clarifications thereto, the Bidder shall meet the following criteria for its bid to be considered for evaluation under the RfS:

- 1. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority (as defined in the OM as referred above).*
- 2. "Bidder" in this reference, means any person or firm or company, including any member of a consortium, every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in this tender.*
- 3. "Bidder from a country which shares a land border with India" for the purpose of this clause, means:*

- a. *An entity incorporated, established or registered in such a country; or*
 - b. *A subsidiary of an entity incorporated, established or registered in such a country; or*
 - c. *An entity substantially controlled through entities incorporated, established or registered in such a country; or*
 - d. *An entity whose beneficial owner is situated in such a country; or*
 - e. *An Indian (or other) agent of such an entity; or*
 - f. *A natural person who is a citizen of such a country; or*
 - g. *A consortium where any member of the consortium falls under any of the above.*
4. *In support of the above, the Bidder shall be required to submit necessary Undertaking, as per Format 8.8 of the RfS. Accordingly, all the provisions of the above referred O.M. dated 23.07.2020 shall also be applicable for this tender.*
5. *All bidders has to submit undertaking regarding no wilful default and no major litigation pending as per Format 8.7.*

5. Responsiveness Issues

Upon scrutiny of the bid documents submitted by participating bidders, responsiveness issue were observed in respect of bids submitted by the following bidders.

- (1) M/s Avaada Energy Private Limited*
- (2) M/s Juniper Green Energy Private Limited*
- (3) M/s KPI Green Energy Limited*

6. Queries and responses / compliances thereto

(1) M/s Avaada Energy Private Limited

Query raised by GUVNL: *Upon scrutiny of documents submitted along with bid, the following observations had been noted.*

- (1) TDS challan is not found for TDS deducted from tender processing fee amount.*

(2) Format 8.9 for “Technical Criteria and Commitment to Financial Closure” to be submitted on Stamp Paper and duly notarized as per Addendum-I dated 22.11.2023 is not found. Notary registration is compulsory.

(3) Presently submitted shareholding certificate is of date 05.12.2023. A certificate of shareholding of the bidding company, its Parent and Ultimate Parent (if any) duly certified by a practicing Chartered Accountant/ Company Secretary as on a date within 30 days prior to the last date (i.e. 08.01.2024) of bid submission.

(4) The Bidder shall enclose the Pre-Feasibility Report along with Format 8.10. Same is not found.

GUVNL had requested to reply for the above mentioned queries along with necessary documents.

Response:

(1) The TDS certificate of payment made in the month of Dec 2023 will be issued in the 3rd Week of Feb 2024 by Income Tax department. We will provide the same as soon as same is issued.

(2) The relevant format 8.9 “Technical Criteria and Commitment to Financial Closure” along with notary registration number is resubmitted herewith.

(3) According to the requirement, the revised shareholding pattern is enclosed herewith.

(4) Tentative average Generation profile of Hybrid project enclosed herewith.

(2) M/s Juniper Green Energy Private Limited

Query raised by GUVNL: Upon scrutiny of documents submitted along with bid, the following observations had been noted.

(1) Format 8.9 for “Technical Criteria and Commitment to Financial Closure” to be submitted on Stamp Paper and duly notarized as per Addendum-I dated 22.11.2023 is not found. Notary registration is compulsory.

(2) The Bidder shall enclose the Pre-Feasibility Report along with Format 8.10. Same is not found.

GUVNL had requested to reply for the above mentioned queries along with necessary documents.

Response:

(1) The relevant format 8.9 “Technical Criteria and Commitment to Financial Closure” along with notary registration number is resubmitted herewith.

(2) Pre-Feasibility report submitted.

(3) M/s KPI Green Energy Limited

Query raised by GUVNL: Upon scrutiny of documents submitted along with bid, the following observations had been noted.

(1) Contracted project CUF is not specified against Contracted Capacity of the Project. Cover letter is to be revised accordingly. Component wise CUF is specified in the present cover letter. Accordingly Format 8.10 may be changed (if require).

(2) Format 8.9 for “Technical Criteria and Commitment to Financial Closure” to be submitted on Stamp Paper and duly notarized as per Addendum-I dated 22.11.2023 is not found. Notary registration is compulsory.

(3) The Bidder shall enclose the Pre-Feasibility Report along with Format 8.10. Same is not found.

GUVNL had requested to reply for the above mentioned queries along with necessary documents.

Response:

(1) Revised cover letter submitted with specified project CUF.

(2) The relevant format 8.9 “Technical Criteria and Commitment to Financial Closure” along with notary registration number is resubmitted herewith.

(2) Pre-Feasibility report submitted.

7. Evaluation of Responses

The Status in brief is indicated in the following table:

Sr No.	Bidder Name	MW	Status
1	Avaada Energy Private Limited	150	Qualified
2	Juniper Green Energy Private Limited	150	Qualified
3	KPI Green Energy Limited	50	Qualified
	Total	350	

8. Way Forward

Based on the examination of records, the committee recommends that the Financial bids of above 3 (Three) bidders may be opened.

Sr. No.	Name	Designation	Signature
1	Shri H.N Shah	General Manager (RE)	Sd/-
2	Shri Parthiv Bhatt	Company Secretary	Sd/-
3	Smt Bhavani Ghattamaneni	Chief Finance Manager (RE)	Sd/-
4	Shri Nilay D. Joshi	Controller of Accounts, F&A	Sd/-

.....”

From the Technical Evaluation Report, it is apparent that all the 3 (Three) bidders offering aggregate capacity of 350 MW were found to be responsive and hence were deemed qualified for opening of their financial bids. Accordingly, as per the Technical Report of the Bid Evaluation Committee and recommendation after technical bid evaluation of all the 3 (Three) bidders to be technically qualified, the financial bids of 3 (Three) bidders aggregating to total 350 MW capacity were opened on 22.01.2024 on e-bidding portal of M/s ISN-ETS in presence of the Bid Evaluation Committee.

8.7. In accordance with aforesaid said report, the Financial Bids of all 3 (Three) bidders were opened on 22.01.2024 on e-bidding portal in presence of Bid Evaluation Committee. As per financial bid evaluation report of the said Committee it is observed that all the 3 (Three) bids received were financial qualified and financial bid evaluation report signed by the Members of the Bid Evaluation Committee is filed by the Petitioner, which is reproduced below:

“Financial Bid Evaluation Report

Tender for procurement of power through Competitive Bidding process (followed by reverse e-auction) from 500 MW Hybrid RE projects (Phase I) with green shoe option of additional 500 MW

GUVNL / 500 MW / Hybrid RE (Phase 1) dated 01.11.2023

Date: 23rd January 2024

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1. Background

Gujarat Urja Vikas Nigam Limited (GUVNL) has floated the tender for purchase of power from 500 MW Hybrid RE projects (Phase I) with green shoe option of additional 500 MW through competitive bidding process (conducted through electronically facilitated online web based portal followed by reverse auction) as

notified via RfS No. GUVNL / 500 MW / Hybrid RE (Phase 1) dated 01.11.2023. The tender was floated on 01.11.2023. The last date of online bid submission was 08.01.2024 and offline bid submission was 10.01.2024.

GUVNL has uploaded the tender documents (RfS and Draft PPA) on its own website as well as on the e-bidding portal of M/s ISN Electronic Tender Services Pvt. Limited (ISN-ETS).

GUVNL has constituted a Committee comprising of the following members for opening and evaluation of the technical and financial bids:

Sr. No.	Name	Designation
1	Shri H.N Shah	General Manager (RE)
2	Shri Parthiv Bhatt	Company Secretary
3	Smt Bhavani Ghattamaneni	Chief Finance Manager (RE)
4	Shri Nilay D. Joshi	Controller of Accounts (F&A)

This Report outlines the Financial Bid Evaluation and recommendations of Committee.

2. Financial Bid Opening

The Technical Bid Opening was done at **11:30 HRS** on **16.01.2024**. Pursuant to the recommendations of the Committee vide the 'Technical Bid Evaluation Report', the Financial Bids (electronic forms) of below mentioned 3 (three) technically qualified Bidders were opened on the e-bidding portal of M/s ISN-ETS at **15:30 HRS** on **22.01.2024** before the Bid Evaluation Committee at GUVNL, Vadodara.

SN	Bidder Name	MW
1	Avaada Energy Private Limited	150
2	Juniper Green Energy Private Limited	150
3	KPI Green Energy Limited	50
	Total	350 MW

The Members of the Bid Evaluation Committee scrutinized the electronic responses submitted by the Bidders and evaluated shortlisted bidders qualified for e-reverse auction in terms of the RfS.

3. Principles of Evaluation

As per the terms of the tender documents, the financial evaluation of the bids is to be done in accordance with the bid evaluation methodology specified in the RfS based on the tariff quoted by the Bidders in the Electronic Forms.

As per the terms of the RfS, the Total Eligible Bidders for e-reverse auction is to be decided as per illustration below: -

Assuming

T = Total techno-commercially qualified bidders, and, S_T = Capacity of the total number of techno-commercially qualified bidders

S_K = Cumulative capacity till the ' k 'th serial number bidder (not the ' k 'th rank bidder) after ranking is done in ascending order from L1 onwards

S_E = Eligible Capacity for Award

n = No. of bidders shortlisted for e-RA

S_E = (Eligible capacity for award)	(i) In case $S_T \leq 500$ MW, $S_E = 0.8 \times S_T$ (ii) In case $S_T > 500$ MW, $S_E = 0.8 \times S_T$ subject to maximum eligible capacity being 500 MW
---------------------------------------	--

Total eligible bidders for e-Reverse Auction

In case $(0.8 \times S_T) \leq 500$ MW – All techno-commercially qualified bidders whose financial bids are in line with the RfS provisions, will be shortlisted for e-RA.

Accordingly, the no. of Bidders shortlisted for e-RA i.e.

$$n = T$$

In case $(0.8 \times S_T) > 500$ MW – The lowest ranked bidder i.e. the bidder quoting the highest tariff (the “H1 Bidder”) shall be eliminated at this stage and remaining techno-commercially qualified bidders whose financial bids are in line with the RfS provisions, will be shortlisted for e-RA.

Accordingly, the no. of Bidders shortlisted for e-RA i.e.

$$n = T-1$$

Note:-

(a) In case more than one bidder is ranked as H1 bidder, i.e., such bidders are at the same tariff, all such bidders will be eliminated at this stage.

(b) The above elimination will take place subject to the condition that the total bid capacity after such elimination remains more than 500 MW and the minimum number of shortlisted bidders for e-RA, after elimination at this

stage, remains 3. In the contradictory scenario, no elimination will take place at this stage.

4. Evaluation of shortlisted bidders qualified for e-RA

As per the terms of the tender documents, the Total Eligible Bidders shortlisted for e-reverse auction are as per details tabulated herein below: -

Rank	Name	Capacity (MW)	Rate Rs./Unit	Status
L1	KPI Green Energy Limited	50	2.99	Qualified for E-RA (280 MW)
L2	Juniper Green Energy Private Limited	150	3.27	
L3	Avaada Energy Private Limited	150	3.59	
Total		350		

Based on the financial bid evaluation in terms of the RfS, the above mentioned **03 (three) nos. of bidders** aggregating to **350 MW capacity (eligible capacity 280 MW)** were shortlisted for participating in the e-reverse auction.

5. Electronic – Reverse Auction:

The tariffs discovered in the e-reverse auction are as follows:

Rank	Name	Quoted Capacity (MW)	Tariff (Rs./Unit)	% Difference
L1	KPI Green Energy Limited	50	2.99	0
L2	Juniper Green Energy Private Limited	150	3.04	-1.67%
L3	Avaada Energy Private Limited	150	3.59	-20.07
Total		350		

6. Successful Bidders

As per RfS provision 6.4.1, The bidders who fall within the range of (and including) the **lowest tariff (L1 tariff) +2%** of the L1 tariff, hereinafter referred to as “the range” will be declared as Successful Bidders. The Successful Bidders are as follow.

Rank	Name of the Bidder	Capacity Won (MW)	Rate (Rs. /Unit)
L1	KPI Green Energy Limited	50	2.99
L2	Juniper Green Energy Private Limited	150	3.04
Total capacity for successful bidder		200 MW	

7. Committee Recommendation:

In terms of Clause 10.2 of the MoP Guidelines for the Competitive Bidding issued vide notification dated 21.08.2023, it is certified that the Bid Evaluation committee has critically evaluated the bids and that the bidding process and the evaluation has been conducted in conformity to the provisions of the RfS.

Sr. No.	Name	Designation	Signature
1	Shri H N Shah	General Manager (RE)	Sd/-
2	Shri Parthiv Bhatt	Company Secretary	Sd/-
3	Smt Bhavani Ghattamaneni	Chief Finance Manager (RE)	Sd/-
4	Shri Nilay D. Joshi	Controller of Accounts, F&A	Sd/-

.....”

8.8. As per above, 3 (Three) bidders with aggregate capacity of 350 MW qualified for e-reverse auction and the Petitioner had conducted e-reverse auction. We note that the Petitioner GUVNL after the conclusion of bidding process has also certifying that the Evaluation Committee constituted for evaluation of RfS bids has critically evaluated the bids and that the bidding process and the evaluation has been conducted in conformity to the provisions of the RfS.

8.9. In the E-Reverse auction of 22.01.2024 a report generated on the web-portal of Bharat-electronic tender is reproduced below:

S#	Bidder's Name	Quoted Value	Loaded Value	Currency	Date/Time of Bidding	Bidder's Quantity	% Difference Greater than Rank - 1 Bid Value
1	KPI Green Energy Limited	2.99	2.99	Indian Rupee	22-Jan-2024 16:20:30 RTZ	50.00	0%
2	Juniper Green Energy Private Limited	3.04	3.04	Indian Rupee	22-Jan-2024 17:46:15 RTZ	150.00	-1.67%
3	Avaada Energy Private Limited	3.59	3.59	Indian Rupee	22-Jan-2024 16:20:30 RTZ	150.00	-20.07%

8.10. It can be observed from above table that at the end of E-Reverse auction, the quoted tariff value and quantum in MW of 3 (Three) bidders, i.e., (i) KPI Green Energy Limited, (ii) Juniper Green Energy Private Limited, and (iii) Avaada Energy Private Limited, is as per result generated at the closure of E-Reverse Auction on e-bidding portal for 350 MW capacity. Moreover, as per above ranking, the total offered/bidder capacity by (i) KPI Green Energy Limited of 50 MW at the tariff of Rs. 2.99 per MW, (ii) Juniper Green Energy Private Limited of 150 MW at the tariff of Rs. 3.04 per MW, and (iii) Avaada Energy Private Limited of 150 MW at the tariff of Rs. 3.59 per MW works out to 350 MW capacity.

8.11. It is also necessary to refer Clause 6.4 of RfS dated 01.11.2023 with regard to 'Selection of Successful Bidders' which is reproduced as under:

“....

6.4.1 Upon conclusion of e-RA process, the Bidders in the “Green Zone” and “Yellow Zone” shall be selected in the ascending order with lowest quoted tariff (being L1) till the tender capacity (500 MW) is exhausted. The bidders who fall within the range of (and including) the lowest tariff (L1 tariff)+2% of the L1 tariff, hereinafter referred to as “the range” will be declared as Successful Bidders, subject to the conditions as enumerated in clauses herein below viz. Clause 6.4.2 to Clause 6.4.5.

6.4.2 The lowest quoting Bidder will be allotted its qualified project capacity and then, next higher Bidder will be allotted its qualified project capacity and so on, till the total project capacity (i.e. 500 MW) is exhausted.

6.4.3 In case of the last selected Bidder, if the balance project capacity is less than the total project capacity mentioned by the bidder, then the balance capacity shall be awarded to the bidder till the total capacity is exhausted subject to a minimum allocation of 50 MW and the maximum cumulative capacity not exceeding 500 MW. The allocation of additional upto 500 MW capacity through Greenshoe option shall be as per Clause 4.7.6 of RFS.

In case the partial capacity(balance capacity till the total capacity of offer is exhausted) offered to the last Bidder after completion of the eRA is lower than 50% of the total quoted capacity by such Bidder, the Bidder shall have an option to refuse such offered partial capacity within 7 days of issuance of Letter of Intent, and the BG against EMD submitted by such Bidder shall be returned along with those of the unsuccessful Bidders.

Further, In case the partial capacity offered to the last Bidder after completion of the eRA is greater than or equal to 50% of the total quoted capacity by such Bidder, it shall be mandatory for the last Bidder to accept the partial capacity offered against its quoted capacity, subject to the total cumulative capacity awarded after e-RA to the successful Bidders not exceeding 500 MW. In case the last Bidder refuses to accept such partial capacity offered by GUVNL, the Bank Guarantee against EMD submitted by such Bidder shall be encashed by GUVNL.

6.4.4 In case of a tie among two or more Bidders (i.e. their last quoted tariff being the same at the end of the e-RA), they will be considered in the chronological order of their last bid with preference to that Bidder who has quoted his last bid earlier than others.

6.4.5 In the above case, if the time of quote also becomes exactly same among the Bidders at a tie, then the ranking among these Bidders shall be done as follows:

- Step 1: Lowest rank will be given to the Bidder who has quoted the lowest in Financial Bid (Electronic Form) and so on. If there is also a tie among any of these bidders, then the following step (Step 2) will be followed.
- Step 2: Ranking will be done based on draw of lots.
.....”

8.12. Moreover, as per provision of 6.2.2 of MoP's TBCB Guidelines, the capacity allocation shall be on the basis of Bucket filling i.e. capacity quoted by least quoted tariff bidder (L1 bidder) at the rates quoted (L1 rates) shall be allocated first, then the capacity quoted by the next lowest bidder (L2 bidder) at the rates quoted (L2 rates) may be allocated and so on. Thus, after arranging the bidders in the ascending order of tariff, the project capacities will be awarded only to those bidders whose final price bids are within a range of “L1+x%”, in terms of Rs./kWh, wherein the value of “x” generally be two (2) to five (5) and shall be fixed in the RfS.” Accordingly, the range was defined as L1 + 2% in the RfS.

8.13. Further, as the bucket size of present tender is 500 MW, therefore, as per above Clause 6.4 of the RfS, the bidders who fall within the range of (and including) the lowest tariff (L1 tariff) +2% of the L1 tariff, will be declared as Successful Bidders. Accordingly, after e-reverse auction, the Respondent No. 2 Juniper Green Energy Pvt. Limited being L2 bidder, has quoted tariff which comes under L1 tariff +2% and falls in ‘Yellow Zone’ as per RfS dated 01.11.2023 and tariff quoted by L3 bidder i.e., M/s Avaada Energy Private Limited was falling in ‘Red Zone’ as tariff is outside the defined range L1 + 2%. Therefore, L3 bidder is not qualified as successful bidder.

8.14. We also note that in the present tender, there are provisions for allocating additional

500 MW capacity through Greenshoe Option at L1 tariff to the Successful Bidders to the extent of their respective quoted capacity. Further, the tender provides that in case any of the Successful Bidder does not accept the additional quantum offered under the Greenshoe Option, the same can be offered to other successful bidders. The Petitioner GUVNL has adopted the L1 priority principle for allocation of additional Greenshoe Capacity which was not accepted by any of the successful bidders in line with GUVNL's previous tender.

8.15. We note that in response to GUVNL's 25.01.2024 seeking willingness of the successful bidders, (i) M/s Juniper Green Energy and (ii) M/s KPI Green Energy Limited for acceptance of Greenshoe option as per their bid capacity at L1 tariff, the Juniper Green Energy Limited and KPI Green Energy Limited have chosen not to exercise the Greenshoe option as offered by the Petitioner GUVNL and also confirmed the same through vide emails dated 29.01.2024 & 30.01.2024 respectively.

8.16. We also note that the Petitioner GUVNL have first time issued the tenders and successfully concluded the tenders for Hybrid RE and therefore, reference rates for Hybrid tenders of GUVNL is not available. Further, it is submitted that during the month of Jan-Feb, 2024, the Central Bidding Agency has concluded e-RA in case of SJVN Limited and Solar Energy Corporation of India Limited wherein the tariff discovered in the range of Rs. 3.43-3.49 per MW for 1500 MW capacity and Rs. 3.15-3.21 per MW for 900 MW capacity respectively and upon comparison with these tariffs discovered in tenders of Central Bidding Agencies, tariffs discovered in present tender in range of Rs. 2.99-3.04 per MW is lower and competitive.

8.17. Accordingly, in pursuant to approval from the Government of Gujarat to deviate from the standard issuance of a Letter of Award, the Petitioner GUVNL has now issued Letters of Intent (LoIs) dated 14.03.2024 to the aforesaid two bidders (L1 and L2) at the discovered tariff ranging from Rs. 2.99-3.04 per MW. In view of above, the total allotment of 200 MW capacity under the tender is as under:

Rank	Bidder's Name	Base Capacity won in e-RA (MW) (A)	Tariff (Rs. /Unit)	Greenshoe Capacity availed (MW) (B)	Tariff (Rs. /Unit)	Total Capacity (MW) (A+B)	Final Average tariff for total Capacity
L1	KPI Green Energy Limited	50	2.99	00	00	50	2.99
L2	Juniper Green Energy Private Limited	150	3.04	00	00	150	3.04
	Total	200		00	00	200	

8.18. The Respondent No. 1 KGEL vide its affidavit 02.04.2024 submitted that they have not objecting to adoption of tariff discovered under the Competitive Bidding Process conducted vide RfS No. GUVNL/500 MW/Hybrid RE (Phase I) dated 01.11.2023 issued by the Petitioner GUVNL for Procurement of Power from 500 MW Grid connected Hybrid Power Projects (Phase – I) to be set up anywhere in India with Greenshoe Option of additional upto 500 MW and accepted the discovered tariff under the aforesaid Competitive Bidding Process conducted vide RfS dated 01.11.2023 by the Petitioner GUVNL. Whereas, the Respondent No. 2 JGEPL vide its letter No. JGEPL/GUVNL/03/02 dated 28.03.2024 submitted that JGEPL is one of the successful/selected bidders in the Competitive Bidding Process conducted vide RfS No. GUVNL/500 MW/Hybrid RE (Phase-I) dated 01.11.2023 by the GUVNL for setting up 150 MW capacity Hybrid Project in the State of Gujarat. It is also stated that the Petitioner GUVNL has made JGEPL as one of the Respondents in the present Petition since the Hybrid Project is to be developed in accordance with the terms of the RfS upon adoption of tariff by the Commission. It is also stated that JGEPL has no objection to the Petition filed by GUVNL for seeking adoption of discovered tariff and approval thereon as per the present Petition.

8.19. We also note that in response to query of the Commission vide its Daily Order dated 29.04.2024, the Petitioner submitted that the bidders were asked to declare their CUF and in response to the same, the Respondents KPI Green Energy Limited and Juniper Green Energy Pvt. Limited have declared their CUF as 37% and 30% respectively. There was no Greenshoe capacity availed by the developers and total allocation is only upto 50 MW and 150 MW as base capacity respectively as the bidders have chosen not to exercise the Greenshoe Option despite being asked to the bidder about their willingness for Greenshoe capacity as offered by the Petitioner. It is also submitted that the present bidding process was conducted by the Petitioner GUVNL based on bid documents containing detailed provisions that are consistent with the MoP's Guidelines read with deviations approved by Government of Gujarat.

8.20. Moreover, the Petitioner GUVNL in its additional submissions vide affidavit dated 19.10.2023 in Petition No. 2240 of 2023 has stated that the Petitioner GUVNL vide Letter No. GUVNL/GM (RE)/Hybrid/1273 dated 21.09.2023 sought approval of deviation from the Guidelines of MoP, Government of India, in respect of (i) Change

in Law Clause, (ii) Force Majeure, (iii) Issue of LOI after evaluation of Financial bids and conclusion of e-reverse auction, (iv) Maximum bid capacity allocation to the successful bidder, (v) damages for the PPA termination, (vi) Delay in commencement of power supply, (vii) delay in transmission system, (viii) part commencement of supply of power, and (ix) definition of delivery point etc. Accordingly, Government of Gujarat vide its letter No. EPCD/0321/09/2023 dated 04.10.2023 has conveyed its approval to the deviations sought by the Petitioner GUVNL. Thereafter, the Petitioner GUVNL has prepared the draft bidding documents based on the new guidelines dated 21.08.2023 alongwith detailing provisions as well as deviations approved by the Government of Gujarat and conducted the Competitive Bidding Process for Procurement of Power from 500 MW Grid Connected Hybrid Power Projects (Phase I) to be set up anywhere in India with Greenshoe Option of additional capacity upto 500 MW.

8.21. We also note that the Petitioner has issued Letters of Intent (LoIs) to the above successful bidders on 14.03.2024 for total capacity of 200 MW as mentioned in the above table at the corresponding rates. We further note that as per terms and conditions of tender, the PPA is to be signed with above successful bidders within 60 days from the date of issue of LoI or such other period that may be stipulated under LoI subject to adoption of tariff by the Commission..

8.22. We note that as per Clause 10.2 of the '*New Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects*' dated 21.08.2023 issued by the Ministry of Power, Government of India, after the conclusion of bidding process, the Evaluation Committee constituted for evaluation of RfS bids has to certify as appropriate that the bidding process and the evaluation has been conducted in conformity to the provisions of the RfS. As already noted above, the Petitioner in compliance to aforesaid clause has certifying that the Committee has critically evaluated the bids and that the bidding process and the evaluation has been conducted in conformity to the provisions of the RfS.

8.23. We also note that the Ministry of Power had notified the Electricity (Late Payment Surcharge and Related Matters) Rules, 2021 on 22.02.2021. The said Rules are superseded by the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 on 03.06.2022. The aforesaid Rules, 2022 provides that this Rules are in supersession of earlier notified Electricity (Late Payment Surcharge and Related

Matters) Rules, 2021 except as respects things done or omitted to be done before such supersession. The said Rules would apply for the outstanding dues of generating companies, Inter-State transmission licensees and electricity trading licensees after the Notification of the Rules on 03.06.2022 and accordingly, applicable in the present matter. We note that the Petitioner has initiated and conducted the Competitive Bidding Process through RfS No. GUVNL/500 MW/Hybrid RE (Phase I) dated 01.11.2023, by issuing the 'Notice Inviting Tender' on 02.11.2023. It is stated in the said Rules, 2022 that the Central Government in exercise of powers conferred by Section 176 (1) of the Electricity Act, 2003 and in supersession of the Electricity (Late Payment Surcharge) Rules, 2021 except as respects things done or omitted to be done before the supersession has notified Electricity (Late Payment Surcharge) Rules, 2022 which has to come in force on the date of its publication in the Official Gazette. i.e., from 03.06.2022 onwards. In this regard, we are of view that as per provisions of bidding guidelines, the distribution licensee or intermediary procurer has to approach the Commission for adoption of tariff discovered under Competitive Bidding Process in terms of Section 63 of Electricity Act, 2003 and the Commission has to decide and adopt the discovered tariff from such submissions by the distribution licensee or intermediary procurer. In the present case, the Petitioner has approached the Commission for adoption of tariff discovered through competitive bidding process conducted vide RfS No. GUVNL/500 MW/Hybrid RE (Phase I) dated 01.11.2023 which is an ongoing process. We also note that as per the submissions of the Petitioner GUVNL that though the LoIs have been issued to the successful bidders but the PPAs are yet to be signed by the Petitioner with the successful bidders although the Petitioner has filed Draft PPA with the Petition to be executed with the successful bidders. Therefore, we are of view that the aforesaid Rules are notified under the Electricity Act, 2003 and therefore, it need to be given effect, if any, in the power procurement by the distribution licensee. Hence, we direct the Petitioner GUVNL to incorporate and align the Clauses of the Electricity (Late Payment Surcharge) Rules appropriately in the PPAs to be signed with the successful bidders, if already not incorporated.

8.24. In view of the foregoing, the Commission is satisfied with the entire tendering process including the e-reverse bidding conducted by the Petitioner in a transparent manner and discovered tariff of successful bidders with quoted capacity and allocated capacity to them as stated above.

8.25. The Commission, therefore, decides to adopt the above discovered tariff as mentioned above to two (2) bidders, viz., (i) KPI Green Energy Limited and (ii) Juniper Green Energy Pvt. Limited, for allocated capacity at their respective corresponding rate for Procurement of Power from Grid Connected Hybrid Power Projects (Phase I) to be set up anywhere in India, as prayed by the Petitioner GUVNL.

8.26. We note that though the LoIs have been issued to the successful bidders but the PPAs are yet to be signed by the Petitioner with the successful bidders although the Petitioner has filed Draft PPA with the Petition to be executed with the successful bidders. We also note that the Petitioner has in the present Petition has submitted that as per terms and conditions of tender, the successful Bidders are required to sign PPA with the Petitioner GUVNL within 60 days from the date of issue of LoI or such other period that may be stipulated under LoI subject to adoption of tariff by the Commission. Therefore, the Petitioner is directed to execute the PPAs with the successful bidders as per decision in this Order. We note that the Petitioner is also required to submit the copy of the signed PPAs and therefore, the Petitioner is directed to submit copies of duly executed PPAs to the Commission along with an affidavit stating that the Articles/provisions of the PPAs executed are as per the directions as stated above, provisions of Act, Rules, bidding guidelines and deviations approved by the Commission from time to time and that there are no other deviations taken by the Petitioner in the bidding documents other than those earlier approved by the Commission and that deviations approved by EPD, Government of Gujarat. We also direct the Petitioner that for the purpose of transparency, after execution of the PPAs, to publicly disclose the name (s) of the successful bidder(s) and the tariff quoted by them together with the breakup with the component, for 30 days on its website in terms of Clause 12.3 of the bidding guidelines for knowledge and information of the stakeholders.

9. **SUMMARY OF DECISIONS:**

9.1. Considering the recommendation of Bid Evaluation Committee Report and above analysis, we decide to adopt the tariff discovered under the Competitive Bidding Process conducted by the Petitioner through RfS No. GUVNL/500 MW/Hybrid RE (Phase I) dated 01.11.2023 issued by the Petitioner GUVNL for Procurement of Power from Grid Connected Hybrid Power Projects (Phase I) to be set up anywhere

in India, as under:

Rank	Bidder's Name	Base Capacity won in e-RA (MW) (A)	Tariff (Rs. /Unit)	Greenshoe Capacity availed (MW) (B)	Tariff (Rs. /Unit)	Total Capacity (MW) (A+B)	Final Average tariff for total Capacity
L1	KPI Green Energy Limited	50	2.99	00	00	50	2.99
L2	Juniper Green Energy Private Limited	150	3.04	00	00	150	3.04
Total		200		00	00	200	

9.2. Apart from the directives of the Commission in this Order, the Petitioner to sign the Power Purchase Agreements (PPAs) with the successful bidders with allocated capacity and tariff as per above table.

9.3. We direct the Petitioner to submit copies of duly executed PPAs to the Commission along with an affidavit stating that the Articles/provisions of the PPAs executed are as per the directions as stated above, provisions of Act, Rules, bidding guidelines and deviations approved by the Commission from time to time and that there are no other deviations taken by the Petitioner in the bidding documents other than those earlier approved by the Commission and that deviations approved by EPD, Government of Gujarat. We also direct the Petitioner that for the purpose of transparency, after execution of the PPAs, to publicly disclose the name (s) of the successful bidder(s) and the tariff quoted by them together with the breakup with the component, for 30 days on its website in terms of Clause 12.3 of the bidding guidelines for knowledge and information of the stakeholders.

10. Order accordingly.

11. With this Order the present Petition stand disposed of.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Sd/-
[Anil Mukim]
Chairman

Place: Gandhinagar

Date: 25/06/2024.