

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No.1849 of 2019

In the matter of:

Petition under Section 63 read with Section 86 (1) (b) for seeking adoption of tariff discovered under Competitive Bidding Process for procurement of power from 202.6 MW Grid connected Wind Power Projects in Gujarat through RfS No. GUVNL / 1000 MW / Wind (Phase II-R) dated 01.03.2019 & Addendums thereto.

Petitioner: Gujarat Urja Vikas Nigam Limited
Represented by: Ms. Sailaja Vachhrajani.

CORAM:

**Shri Anand Kumar, Chairman
Shri P. J. Thakkar, Member**

Date: 07.01.2020

ORDER

1. The present petition has been filed by the Petitioner for adopting the tariff discovered by the Petitioner and approval of the PPAs executed by the Petitioner, pursuant to the Competitive Bidding Process conducted by the Petitioner through RfS No. GUVNL/1000 MW / Wind (Phase II-R) dated 01.03.2019 & Addendums thereto.
2. Facts narrated in the petition are as follows:
 - 2.1. The Government of Gujarat (hereinafter referred to as "GoG") has notified the Gujarat Electricity Industry (Reorganization and Regulation) Act 2003 (herein after called as "Act") in May 2003 for the reorganization of the entire power sector in the State of Gujarat.

- 2.2. Pursuant to the Gujarat Electricity Industry Reorganization and Comprehensive Transfer Scheme, 2003 notified under the Gujarat Electricity Industry (Reorganization and Regulation) Act 2003, erstwhile Gujarat Electricity Board has been reorganized and its functions have been vested in different entities.
- 2.3. The activities of Generation, Transmission, Distribution, Bulk power purchase and supply undertaken by erstwhile Gujarat Electricity Board has been entrusted to separate seven functional entities. The generation activity is assigned to Gujarat State Electricity Corporation Ltd. (GSECL), the transmission activity is assigned to Gujarat Energy Transmission Corporation Ltd. (GETCO) and the distribution activity is assigned to four Distribution companies viz. Uttar Gujarat Vij Company Ltd. (UGVCL), Madhya Gujarat Vij Company Ltd. (MGVCL), Dakshin Gujarat Vij Company Ltd. (DGVCL) and Paschim Gujarat Vij Company Ltd. (PGVCL). Further, the function of Bulk purchase and Bulk sale of power is assigned to the Petitioner - Gujarat Urja Vikas Nigam Ltd. (GUVNL) as per the re-organization scheme.
- 2.4. The Distribution Companies are mandated to procure power from Renewable Energy Sources as per the provisions of Section 86(1)(e) of the Electricity Act, 2003 and in terms of GERC (Procurement of Energy from Renewable Energy Sources) Regulations as amended from time to time.
- 2.5. In accordance with the same, the Petitioner on behalf of its four Distribution Companies has been entering into Power Purchase Agreements amongst others with various Renewable Energy Generators for procurement of power from time to time.
- 2.6. Section 63 of the Electricity Act 2003 provides that the State 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.
- 2.7. Section 86(1)(b) of the Electricity Act 2003 provides that the State Commission shall discharge following functions, namely –
- “Clause (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.”*
- 2.8. Promotion of competition in the electricity industry in India is one of the key objectives of the Electricity Act 2003. Power purchase costs constitute the largest

cost element for distribution licensees. Competitive procurement of electricity by the distribution licensees is expected to reduce the overall cost of procurement of power and lead to reduction in prices of electricity and in significant benefits for consumers.

- 2.9. Section 61 and 62 of the Electricity Act 2003 empowers the State Commissions to specify the terms and conditions for determination of tariff for generation, transmission, distribution and supply of electricity in their State. In order to promote further competition, Section 63 of the Electricity Act 2003 provides the State Commission to adopt such tariffs which have been determined through a transparent process of Competitive Bidding. Section 63 of the Electricity Act 2003 provides

“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 Govt.”

- 2.10. The National Tariff Policy, 2016 formulated by the Ministry of Power has given specific guidance on purchase of power generated from renewable energy sources. As per Section 6.4(2),

“States shall endeavor to procure power from renewable energy sources through competitive bidding to keep the tariff low, except from the waste to energy plants. Procurement of power by Distribution Licensee from renewable energy sources, from Solar PV Power Projects above the notified capacity, shall be done through competitive bidding process, from the date to be notified by the Central Government. However, till such notification, any such procurement of power from renewable energy sources Projects, may be done under Section 62 of the Electricity Act, 2003.”

- 2.11. The Commission vide letter dated 18.03.2017 addressed to the Petitioner observed that as per provisions of National Tariff Policy, procurement from Renewable Energy Projects by Distribution Licensees is recommended through Competitive Bidding to keep the tariff low. Further, it was observed by the Commission that the Government of India and various other State Governments have initiated Competitive Bidding Process in which the discovered tariff has shown substantial reduction.

- 2.12. The Commission through aforementioned letter directed the Distribution Licensees to procure electricity from the Wind and Solar Power Projects through Competitive Bidding Process under Section 63 of the Act or by following the Competitive Bidding Process followed by SECI / MNRE. It was further directed that the tariff determined by the Commission in the respective category of Renewable Energy will act as ceiling

tariff and the Distribution Licensees may approach the Commission for adoption of the tariff discovered through such Competitive Bidding Process.

- 2.13. In the above context, the Petitioner vide Petition no. 1731/2018 and Review Petition no. 1775/2019 had approached the Commission for approval of certain deviations from MoP's Guidelines notified for procurement of power from Wind Power Projects for its proposed tender for procurement of 1000 MW grid connected power from Wind Power Projects through Competitive Bidding. The Commission vide Order dated 26.02.2019 in Review Petition no. 1775/2019 has accorded their approval for the Competitive Bidding Process initiated by the Petitioner under Section 86 (1) (b) of the Act and directed to incorporate the modified approved clauses in its Bid Documents and start the process of bidding at the earliest and follow the due process.
- 2.14. In the circumstances mentioned above, the Petitioner on behalf of the four Distribution Companies proceeded with the Competitive Bidding Process (followed by e-reverse auction) for procurement of 1000 MW grid connected power from Wind Power Projects through RfS No. GUVNL/Competitive/1000 MW/Wind dated 01.03.2019 & Addendums thereto. Over and above the tender capacity of 1000 MW, additional 100 MW capacity was kept in the tender for CPSUs/SPSUs/ Govt. Controlled Organizations willing to execute PPA(s) at the lowest tariff (L1 tariff) discovered under Competitive Bidding Process (followed by e-reverse auction) to the extent of their respective quoted capacity. The Tender Documents and Addendums thereto were floated on the website of the Petitioner and on the web-based portal of M/s TCIL for participation in the e-tender and e-reverse auction. The Petitioner had also published the Notice Inviting Tender in one Gujarati newspaper (Divya Bhaskar) having maximum readership and Two English newspapers (The Hindu & Mint and The Indian Express) having wide circulation at National level.
- 2.15. The last date of bid submission was 04.05.2019 and Technical Bid Opening was held on 06.05.2019. The Technical Bid Opening of online bids (on TCIL's web based portal) as well as offline bids was held in the presence of Bid Evaluation Committee constituted by the Petitioner consisting following members.

1.	Smt. Sailaja Vachhrajani	General Manager (IPP), GUVNL
2.	Shri K P Jangid	General Manager (Commerce), GUVNL
3	Shri J N Pancholi	Chief Finance Manager (F&A), GUVNL
4.	Shri Parthiv Bhatt	Company Secretary, GUVNL

5.	Shri Amit Kumar	Consultant – M/s CRISIL
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2.16. The Petitioner received online bids from 8 bidders offering aggregate capacity of 931.4 MW (plus 12 MW capacity of one Central Sector PSU – M/s SJVN Ltd). As per Clause 4.3.2 of the RfS, 80% of the capacity of the techno-commercially qualified bidders i.e. 80% of 931.4 MW = 745 MW were eligible for participation in e-reverse auction. The technical evaluation report prepared by M/s Crisil Risk and Infrastructure solutions limited (Consultant appointed by the Petitioner) and vetted by the Members of Bid Evaluation Committee.

2.17. In accordance with above, the Financial Bids of all technically qualified 9 bidders were opened on 13.05.2019 at TCIL's Portal in the presence of above mentioned Bid Evaluation Committee and e-reverse auction for capacity allotment of 745 MW was conducted on 13.05.2019.

2.18. The e-report generated at the TCIL's portal at the closure of e-reverse auction pursuant to the bucket filling concept is placed herewith as Annexure F. The final prices discovered at the closure of e-reverse auction were in the range of Rs. 2.80 – 2.95 / unit.

No	Bidders emerged at the end of e-RA	Capacity (MW)	Tariff (Rs/kWh)
1	Anisha Power Projects Pvt Ltd	40	2.80
2	Powerica Ltd	50.6	2.81
3	Vena Energy Shivalik Wind Power Pvt Ltd	100	2.81
4	Sarjan Realities Ltd	100.8	2.87
5	Viridi Clean Alternatives Pvt Ltd	100	2.95
6	Inox Wind Energy	40	2.95
7	Renew Wind Energy (Karnataka Two) Pvt Ltd	200	2.95
8	Adani Renewable Energy Park (Gujarat) Ltd	113.6	2.95
	Total	745	

2.19. It is submitted that in the recently auctioned SECI's Wind Tender (Tranche-VI), the tariffs discovered at the end of reverse auction held on 15.02.2019 were in the range of Rs. 2.82 to 2.83/unit. Likewise, the e-RA held on 14.05.2019 for SECI's Wind Tender

(Tranche-VII) also had the tariff discovery within Rs. 2.79 to 2.83/unit. Having observed that some of the Bidders who had participated in both Petitioner's as well SECI's tenders had quoted lower tariff in SECI's tenders while quoting substantially higher tariffs in the Petitioner's tender and in wake of significant gap between the L1 and H1 tariffs quoted and/or discovered at the end of e-reverse auction, the Petitioner vide letters dated 08.07.2019 sought consent from all the Successful Bidders to match the L1 tariff of Rs. 2.80/unit within 7 days from issuance of such letters so as to enable the Petitioner for further necessary actions.

- 2.20. In response, the Petitioner received confirmation from M/s Powerica Ltd and M/s Vena Energy Shivalik Wind Power Pvt Ltd for matching the L1 tariff of Rs. 2.80 / unit. While, M/s Renew Wind Energy (Karnataka Two) Pvt Ltd, M/s Adani Renewable Energy Park (Gujarat) Ltd, M/s Sarjan Realities Ltd and M/s Inox Wind Energy expressed their unwillingness to match the L1 tariff. M/s Viridi Clean Alternatives Pvt Ltd did not respond to the Petitioner's letter dated 08.07.2019.
- 2.21. It is also pertinent to cite reference to Clause 4.4.6 of the RfS which permits the Petitioner to short close the capacity lower than the tender capacity of 1000 MW at its discretion, if the prices discovered are abruptly high.
- 2.22. In the above background and in the interest of Petitioner and in the interest of end-consumers of the State, the Petitioner issued Letter of Awards (LoAs) on 20.07.2019 only to those Bidders who gave their consent to match the L1 tariff.
- 2.23. Further, as per the terms and conditions of the tender, the Successful Bidders are required to execute Power Purchase Agreement (PPA) with the Petitioner within one month from date of issuance of LoA. In accordance with the same, Power Purchase Agreements (PPAs) were executed with M/s Powerica Ltd, M/s Vena Energy Shivalik Wind Power Pvt Ltd and M/s Anisha Power Projects Pvt Ltd on 29.07.2019, 16.08.2019 and 19.08.2019 respectively.
- 2.24. Furthermore, as regard to the 12 MW capacity awarded to M/s SJVN Ltd (Central Sector PSU), it is submitted that based on the request of M/s SJVN Ltd for early execution of PPA and taking into consideration that the Petitioner's tendering process under RFS No. GUVNL/1000 MW/Wind (Phase II-R) may take some time for finalization and in order to prevent revenue loss due to non-operationalization of 12 MW capacity, the Petitioner and M/s SJVN Ltd executed PPA on 30.03.2019 for purchase of power from their 12 MW Wind Power Project at the tariff of Rs. 2.43/ unit which was the L1 tariff discovered in the earlier tender concluded by the Petitioner vide RFS No. GUVNL / 500 MW / Wind (Phase I).

2.25. In the above backdrop, it is submitted that below mentioned Parties aggregating to 202.6 MW capacity have emerged as Successful Bidders under the instant tender and the Petitioner has executed PPAs with them.

No.	Successful Bidders for capacity award under the Tender	Capacity (MW)	Tariff (Rs. / unit)
1	Anisha Power Projects Pvt Ltd	40	2.80
2	Powerica Ltd	50.6	2.80
3	Vena Energy Shivalik Wind Power Pvt Ltd	100	2.80
4	SJVN Ltd	12	2.43
	Total	202.6	

2.26. In view of above foregoing and in accordance with Section 63 of the Electricity Act, the present Petition is filed by the Petitioner for adoption of tariff discovered pursuant to the Competitive Bidding Process conducted for procurement of power from 202.6 MW Grid connected Wind Power Projects by the Petitioner.

3. The matter was heard on 31.12.2019

4. Ms. Sailaja Vachhrajani, on behalf of the Petitioner, reiterated as per para (2) above.

5. We have noted the submissions made by the Petitioner. The present petition filed by the Petitioner is for adoption of tariff discovered under the Competitive Bidding process for procurement of 202.6 MW power from grid connected Wind Power Projects.

5.1. The Petitioner is a holding company of erstwhile GEB and purchasing the electricity in bulk on behalf of its four subsidiary companies i.e. distribution licensees namely, UGVCL, DGVCL, PGVCL and MGVCL. GUVNL has initiated the procurement of power for the distribution licensees towards fulfillment of their Renewable Power Purchase Obligation specified by the Commission in GERC (Procurement of Energy from Renewable Energy Sources) Regulations, 2010 and subsequent amendments thereto. The Commission vide Second Amendment has specified the trajectory of RPO requirement till FY 2021-22 as below:

Year	Minimum Quantum of purchase (in %) from renewable energy sources (in terms of energy in kWh).
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Year	Wind (%)	Solar (%)	Others (Biomass, Bagasse, Hydro and MSW) (%)	Total (%)
1	2	3	4	5
2010-11	4.5	0.25	0.25	5.0
2011-12	5.0	0.50	0.5	6.0
2012-13	5.5	1.00	0.5	7.0
2013-14	5.5	1.00	0.5	7.0
2014-15	6.25	1.25	0.5	8.0
2015-16	7.00	1.50	0.5	9.0
2016-17	7.75	1.75	0.5	10.0
2017-18	7.75	1.75	0.50	10.0
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

From the above, it transpires that there is a substantial requirement of wind power since the Commission has enhanced the Renewable Purchase Obligation in view of the requirement stipulated by the Government of India. Accordingly, the competitive bidding is initiated by the Petitioner GUVNL for procurement of 1000 MW wind energy to enable its 4 distribution companies for meeting their RPO requirement.

5.2. Further, we note that the Petitioner on behalf of the four Distribution Companies proceeded with the Competitive Bidding Process (followed by e-reverse auction) for procurement of 1000 MW grid connected power from Wind Power Projects through RfS No. GUVNL/1000 MW/Wind dated 01.03.2019 & Addendums thereto. Over and above the tender capacity of 1000 MW, additional 100 MW capacity was kept in the tender for CPSUs / SPSUs / Govt. Controlled Organizations willing to execute PPA(s) at the lowest tariff (L1 tariff) discovered under Competitive Bidding Process (followed by e-reverse auction) to the extent of their respective quoted capacity. The Tender Documents and Addendums thereto were floated on the website of the Petitioner and on the web-based portal of M/s TCIL for participation in the e-tender and e-reverse auction. The Petitioner had also published the Notice Inviting Tender in one Gujarati newspaper (Divya Bhaskar) having maximum readership and Two

English newspapers (The Hindu & Mint and The Indian Express) having wide circulation at National level regarding the Tender.

5.3. The last date of bid submission was scheduled on 30.03.2019 which was extended to 15.04.2019, 20.04.2019 & finally up to 04.05.2019 and similarly Technical Bid Opening was scheduled on 01.04.2019 which was extended to 15.04.2019, 22.04.2019 and finally up to 06.05.2019 to get sufficient participation.

5.4. The Technical Bid Opening of online bids (on TCIL's web based portal) as well as offline bids was held on 06.05.2019 in the presence of Bid Evaluation Committee constituted by the Petitioner consisting following members.

1.	Smt. Sailaja Vachhrajani	General Manager (IPP), GUVNL
2.	Shri K P Jangid	General Manager (Commerce), GUVNL
3	Shri J N Pancholi	Chief Finance Manager (F&A), GUVNL
4.	Shri Parthiv Bhatt	Company Secretary, GUVNL
5.	Shri Amit Kumar	Consultant – M/s CRISIL

5.5. The Petitioner received online bids from 8 bidders offering aggregate capacity of 931.4 MW (plus 12 MW capacity of one Central Sector PSU – M/s SJVN Ltd). As per Clause 4.3.2 of the RfS, 80% of the capacity of the techno-commercially qualified bidders i.e. 80% of 931.4 MW = 745 MW were eligible for participation in e-reverse auction. The technical evaluation report prepared by M/s Crisil Risk and Infrastructure solutions limited (Consultant appointed by the Petitioner) and vetted by the Members of Bid Evaluation Committee. The relevant extract is reproduced below:

“1. Background

Gujarat Urja Vikas Nigam Limited intends to procure wind power up to capacity of 1000 MW. The procurement is envisaged through Competitive Bidding Process (conducted through electronically facilitated online web based portal followed by reverse auction) as notified via RfS No. GUVNL/1000 MW/Wind (Phase-II-R) dated 01.03.2019. The last date for submission of technical bid and financial bid by the registered bidders was 04.05.2019 (17:00). M/s CRISIL Risk Infrastructure Solutions Ltd. has been appointed by GUVNL to provide consultancy services in the bidding process.

GUVNL has constituted a committee for evaluation of the bids (Evaluation Committee), consisting of the following members:

1.	<i>Smt. Sailaja Vachhrajani</i>	<i>General Manager (IPP), GUVNL</i>
2.	<i>Shri K P Jangid</i>	<i>General Manager (Commerce), GUVNL</i>
3	<i>Shri J N Pancholi</i>	<i>Chief Finance Manager (F&A), GUVNL</i>
4.	<i>Shri Parthiv Bhatt</i>	<i>Company Secretary, GUVNL</i>
5.	<i>Shri Amit Kumar</i>	<i>Consultant – M/s CRISIL</i>

This report outlines the responses of all the bidders in respect of Non-Financial (technical) bid evaluation and recommendations thereon who have registered in the bidding process and submitted their bids.

2. Details of bid

<i>RfS Reference No</i>	<i>Rfs No. GUVNL/1000MW/Wind(Phase-II-R)dated 01.03.2019</i>
<i>Term of PPA</i>	<i>25 years from S.C.O.D</i>
<i>Technology</i>	<i>As per latest available RLMM list updated until SCOD of the project</i>

3. Response to RfS

Total of 09 (nine) responses, aggregating to 943.4 MW were received. This includes 12 MW capacity bid by SJVN Ltd out of 100 MW capacity (over and above 1000 MW) reserved for CPSUs, SPSUs, or other Government controlled Organizations. The list of the bidders and the capacity offered are mentioned below:

<i>No</i>	<i>Name of Bidders</i>	<i>Capacity offered (MW)</i>
1	<i>Powerica Ltd</i>	<i>50.6</i>
2	<i>Vena Energy Shivalik Wind Power Pvt Ltd</i>	<i>100</i>
3	<i>Sarjan Realities Ltd</i>	<i>100.8</i>
4	<i>SJVN Ltd</i>	<i>12</i>

5	<i>Viridi Clean Alternatives Pvt Ltd</i>	<i>100</i>
6	<i>Adani Renewable Energy Park (Gujarat) Ltd</i>	<i>300</i>
7	<i>Renew Wind Energy (Karnataka Two) Pvt Ltd</i>	<i>200</i>
8	<i>Inox Wind Energy</i>	<i>40</i>
9	<i>Anisha Power Projects Pvt Ltd</i>	<i>40</i>
	Total	943.4

4. Principles of Evaluation

The approach to evaluation has been that all the bidders who qualify under the terms specified in the bidding documents, the financial bid of such qualified bidders shall be opened. Also, in case of a perceived non-responsiveness, clarifications were sought from the concerned bidders.

The bidders have been sought to qualify based on meeting the Qualification Requirements specified below and as demonstrated based on the documentary evidence submitted by the Bidder in the Bid-

Net worth

- i. The Net worth of the Bidder or its Affiliate or Parent/ Ultimate Parent for the financial year ended as on 31.03.2018 or 31.03.2017 or 31.12.2017 as the case may be, shall not be less than INR 1.24 Crores per MW (of the capacity quoted).*
- ii. In case Final Audited Annual Accounts for FY 2017-18 or FY 2016-17 are not available, then GUVNL shall accept the Provisional Accounts of FY 2017-18 or FY 2016-17 which are duly certified by a practicing Chartered Accountant of India. Bidders shall have to furnish a Certificate from a practicing Chartered Accountants, certifying net worth per MW of quoted capacity as on 31.03.2018 or 31.03.2017 or 31.12.2017 as the case may be.*

For avoidance of doubt, “net worth” as per section 2 (57) of the Companies Act, 2013 means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

In case the Bidder is a newly formed company, supported by documentary evidence of its recent formation at RoC OR in case net worth of the Bidder as on 31st March, 2018 or 2017 is not meeting the criteria as mentioned above, then certificate issued by a Chartered Accountant computing net worth based on certified copy of latest available Balance Sheet, Profit & Loss account, Schedules and cash flow statement supported with bank statement shall be required to be submitted.

- iii. Pursuant to evaluation of net worth Criteria as part of technical bid, if it is found by GUVNL that the Bidder is eligible for lesser quantum than the quantum for which bid has been submitted, then the Bidder shall be qualified for such lesser quantum, provided that such quantum is not less than minimum bid capacity i.e. 25 MW.*

5. Technical Bid Opening

The bid opening event was convened on 06.05.2019 at 11:00 hours before the Bid Evaluation Committee at GUVNL, Vadodara, where following members were present:

<i>1.</i>	<i>Smt. Sailaja Vachhrajani</i>	<i>General Manager (IPP), GUVNL</i>
<i>2.</i>	<i>Shri K P Jangid</i>	<i>General Manager (Commerce), GUVNL</i>
<i>3</i>	<i>Shri J N Pancholi</i>	<i>Chief Finance Manager (F&A), GUVNL</i>
<i>4.</i>	<i>Shri Parthiv Bhatt</i>	<i>Company Secretary, GUVNL</i>
<i>5.</i>	<i>Shri Amit Kumar</i>	<i>Consultant – M/s CRISIL</i>

6. Responsiveness issues:.....

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9. Results for Bid

Based on the above responses received from the bidders and the comments of GUVNL, the final results were arrived at.

A total of 09 (Nine) bids, all were found responsive by Bid Evaluation Committee and hence qualified for opening their Financial Bid. Following is the status of all (9) bidder:-

No	Name of Bidders	Capacity offered (MW)	Status
1	Powerica Ltd	50.6	Qualified
2	Vena Energy Shivalik Wind Power Pvt Ltd	100	Qualified
3	Sarjan Realities Ltd	100.8	Qualified
4	SJVN Ltd	12	Qualified
5	Viridi Clean Alternatives Pvt Ltd	100	Qualified
6	Adani Renewable Energy Park (Gujarat) Ltd	300	Qualified
7	Renew Wind Energy (Karnataka Two) Pvt Ltd	200	Qualified
8	Inox Wind Energy	40	Qualified
9	Anisha Power Projects Pvt Ltd	40	Qualified
	Total	943.4	

Therefore, the committee decided that the financial bid of above techno-commercially qualified all (9) bidder (incl. 12 MW SJVN Ltd.) may be opened by GUVNL
Further, in accordance with Clause 4.3.2 of RfS, GUVNL may conduct e-reverse auction for 80% of the capacity of techno- commercially qualified bidders i.e. 80% of 931.4MW = 745 MW.

5.6. From the Technical Evaluation Report it is apparent that 8 bidders offering capacity of 931.4 MW (plus 12 MW capacity of one Central Sector PSU – M/s SJVN Ltd) were found responsive and hence were qualified for opening of their financial bids. The financial bids of 8 bidders were opened on 13.05.2019 on TCIL's portal in the presence of Bid Evaluation Committee. As per the eligibility criteria mentioned in the RfS documents for qualification of e-reverse auction, 8 bidders with capacity aggregating to 745 MW (80% of 931.4MW) were shortlisted for e-reverse auction. In the e-reverse auction following price was discovered at the closure of e-reverse auction on TCIL portal as per the e-report generated at TCIL's portal:

No	Bidders emerged at the end of e-RA	Quoted Value	Loaded Value	Bidder's Quantity (MW)
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1	Anisha Power Projects Pvt Ltd	2.80	2.80	40
2	Powerica Ltd	2.81	2.81	50.6
3	Vena Energy Shivalik Wind Power Pvt Ltd	2.81	2.81	100
4	Sarjan Realities Ltd	2.87	2.87	100.8
5	Viridi Clean Alternatives Pvt Ltd	2.95	2.95	100
6	Inox Wind Energy	2.95	2.95	40
7	Renew Wind Energy (Karnataka Two) Pvt Ltd	2.95	2.95	200
8	Adani Renewable Energy Park (Gujarat) Ltd	2.95	2.95	300

5.7. The e-report generated at the TCIL's portal at the closure of e-reverse auction pursuant to the bucket filling concept, the final prices discovered at the closure of e-reverse auction were in the range of Rs. 2.80 – 2.95 / unit.

5.8. As stated in para 2, the recently auctioned SECI's Wind Tender (Tranche-VI), the tariffs discovered at the end of reverse auction held on 15.02.2019 were in the range of Rs. 2.82 to 2.83/unit. Likewise, the e-RA held on 14.05.2019 for SECI's Wind Tender (Tranche-VII) also had the tariff discovery within Rs. 2.79 to 2.83/unit. The gap between H1 and L1 in case of tariff discovered in SECIs bid is negligible, where as in case of the Petitioner there is significant gap between the L1 (Rs. 2.80/unit) – and H1 (2.95 / unit) tariffs quoted and/or discovered at the end of e-reverse auction.

5.9. The Petitioner vide letters dated 08.07.2019 sought consent from all the Successful Bidders to match the L1 tariff of Rs. 2.80/unit within 7 days from issuance of the letters so as to enable the Petitioner for further necessary actions.

5.10. The Petitioner received confirmation from M/s Powerica Ltd and M/s Vena Energy Shivalik Wind Power Pvt Ltd for matching the L1 tariff of Rs. 2.80 / unit. While, M/s Renew Wind Energy (Karnataka Two) Pvt Ltd, M/s Adani Renewable Energy Park (Gujarat) Ltd, M/s Sarjan Realities Ltd and M/s Inox Wind Energy expressed their unwillingness to match the L1 tariff. M/s Viridi Clean Alternatives Pvt Ltd did not respond to the Petitioner's letter dated 08.07.2019.

5.11. As per the Clause 4.4.6 of the RfS, the Petitioner is permitted to short close the capacity lower than the tender capacity of 1000 MW at its discretion, if the prices discovered are abruptly high.

5.12. In the above background and in the interest of licensee and in the interest of end-consumers of the State, the Petitioner issued Letter of Awards (LoAs) on 20.07.2019 only to those Bidders who gave their consent to match the L1 tariff.

5.13. The Petitioner have executed Power Purchase Agreements (PPAs) with M/s Powerica Ltd, M/s Vena Energy Shivalik Wind Power Pvt Ltd and M/s Anisha Power Projects Pvt Ltd on 29.07.2019, 16.08.2019 and 19.08.2019 respectively, as per the terms and conditions of the tender at the rate of Rs. 2.80/unit. The Petitioner has issued Letter of Award (LoA) and executed PPAs with the successful bidders as per the terms and conditions of the tender for 190.6 MW capacity as listed below:

No.	Successful Bidders for capacity award under the Tender	Capacity (MW)	Tariff (Rs. / unit)	PPA signed on
1	Anisha Power Projects Pvt Ltd	40	2.80	19.08.2019
2	Powerica Ltd	50.6	2.80	29.07.2019
3	Vena Energy Shivalik Wind Power Pvt Ltd	100	2.80	16.08.2019
	Total	190.6		

5.14. Further, we note that based on the request of M/s SJVN Ltd a Central Sector PSU, for early execution of PPA for the 12 MW capacity awarded to it, and taking into consideration that the Petitioner's tendering process under RFS No. GUVNL/1000 MW/Wind (Phase II-R) may take some time for finalization and in order to prevent revenue loss to M/s SJVN Ltd. due to non-operationalization of 12 MW capacity, the Petitioner and M/s SJVN Ltd executed PPA on 30.03.2019 for purchase of power from their 12 MW Wind Power Project at the tariff of Rs. 2.43 / unit which was the L1 tariff discovered in the earlier tender concluded by the Petitioner vide RFS No. GUVNL / 500 MW / Wind (Phase I). Moreover, it is also lower than the tariff discovered during the present tender at Rs. 2.80/unit and in the interest of licensee as well as end consumers of the State. The petitioner has issued Letter of Award (LoA) and executed PPAs with M/s SJVN Ltd. at Rs.2.43/unit for 12 MW on 30.03.2019. Therefore, the Petitioner executed PPAs of 202.6 MW including 12 MW with M/s SJVN Ltd. Accordingly, the Petitioner sought approval of 202.6 MW to be procured under Section 63 of The Act.

5.15. From the above we observed final prices discovered at the closure of e-reverse auction were in the range of Rs. 2.80 – 2.95/unit. Having significant gap between L1 (Rs. 2.80/unit) and H1 (Rs.2.95/unit), Petitioner had sought consent from all the Successful Bidders to match the L1 tariff of Rs. 2.80/unit and the Petitioner issued Letter of Awards (LoAs) only to those Bidders who gave their consent to match the L1 tariff in the interest of licensee as well as consumer of licensees. The preamble of

the Electricity Act, 2003, Tariff Policy and National Electricity Policy also mandate the State Regulatory Commission to protect the interest of consumers.

5.16. The Commission has examined the power procurement Guidelines issued on 08.12.2017 by the Ministry of Power. The relevant Clauses 12.3 and 12.4 of the said Guidelines are reproduced as under:

12.3. For the purpose of transparency, the Procurer shall, after the execution of the PPA publicly disclose the name(s) of the successful bidder(s) and tariff quoted by them together with breakup into components, if any. The public discloser shall be made by posting the requisite details on the website of procurer for at least 30(Thirty) days.

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 tariff by appropriate Commission in terms of Section 63 of the Act.

5.17. We note that the present Petition has been filed by the Petitioner under Section 63 read with Section 86 (1) (b) of the Act for adoption of tariff discovered under the competitive process, hence it is necessary to refer the said Sections which are reproduced below:

“Section 63 Determination of tariff by bidding process-

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;”

The above Section provides that whenever competitive bidding is carried out under Section 63 of the Act in accordance with the guidelines issued by the Central Government, the tariff discovered under such bidding needs 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.”

The above Section provides that the distribution licensee's power procurement is to be regulated by the State Commission. Hence, whenever power procurement is done by the distribution licensee, the Commission has to regulate the same.

5.18. As recorded earlier, we are of the view that the bidding process is carried out by the Petitioner in a transparent manner, the Petitioner also ensured wider participation and competition by extending the bid submission timeline from time to time on request from the prospective bidders and the Petitioner had also incorporated necessary changes suggested by the prospective bidders in pre-bid conference by issuing addendum to the bid documents and gave them equal opportunity to offer their rates.

5.19. We observe that the tariff at which the Petitioner executed PPAs with bidders under the competitive bidding process is substantially lower as compared to the generic tariff determined by the Commission vide Order No. 2 of 2016 dated 30.8.2016. We, therefore, decide to adopt the tariff in respect of successful bidders as mentioned in Para 5.13 and 5.14 hereinabove discovered under Competitive Bidding conducted by the Petitioner under Section 63 of the Electricity Act, 2003 for procurement of 1000 MW power from the grid connected Wind power projects. We also decide and direct the Petitioner to host the PPAs on its websites for at least 30 days for knowledge of the stakeholders.

6. We order accordingly.

7. With this order the present petition stands disposed of.

Sd/-
[P. J. THAKKAR]

Member

Sd/-
[ANAND KUMAR]

Chairman

Place: Gandhinagar.

Date: 07/01/2020.