



याचिका संख्या/Petition No 402/AT/2024

कोरम/ Coram:

श्री जिशनु बरुआ, अध्यक्ष / Shri Jishnu Barua, Chairperson

श्री रमेश बाबू व., सदस्य / Shri Ramesh Babu V., Member

श्री हरीश दुदानी, सदस्य / Shri Harish Dudani, Member

आदेश दिनांक/ Date of Order 24<sup>th</sup> March, 2025

**IN THE MATTER OF:**

Petition under Section 63 of the Electricity Act, 2003 for the adoption of tariff of 1000 MW Wind Solar Hybrid Power Projects connected with the inter-State transmission system (ISTS) and selected through competitive bidding process as per the guidelines dated 21.08.2023 of the Ministry of Power, Government of India, as amendment from time to time.

**AND**

**IN THE MATTER OF:**

NTPC Limited,  
NTPC Bhawan,  
Core – 7, Scope Complex,  
7, Institutional Area, Lodhi Road,  
New Delhi - 110003

... PETITIONER

**VERSUS**

1. Avaada Energy Private Limited,  
C-11, Sector-65, Noida- 210301,  
Uttar Pradesh
2. Adyant Enersol Private Limited,  
Plot No. 51-52, Phase –IV,  
Udyod Vihar, Gurgaon– 122015  
Haryana
3. JSW Neo Energy Limited,  
JSW Centre, Bandra Kurla Complex,  
Bandra (East), Mumbai- 400051,

Maharashtra

4. Juniper Green Energy Private Limited,  
Plot No. 18, 1<sup>st</sup> Floor, Industrial Area,  
Sector 32, Gurgaon– 122001, Haryana
5. TEQ Green Power IX Private Limited,  
8<sup>th</sup> Floor, DLF Square, DLF Phase 2,  
Gurgaon 122002, Haryana-

. . . RESPONDENTS

**Parties present:**

1. Ms. Shikha Ohri, Advocate, NTPC
2. Shri Kartik Sharma, Advocate, NTPC
3. Ms. Ritika Singh, Advocate, NTPC
4. Ms. Iqra Khan, Advocate, NTPC

**ORDER**

The Petitioner, NTPC Limited (hereinafter referred to as “**NTPC**”), has filed the present Petition for the adoption of tariff for procurement of the 1000 MW from ISTS-connected Wind Solar Hybrid Power Projects as per the “*Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects*” (hereinafter referred to as “the Hybrid Guidelines”) dated 21.8.2023 issued by the Ministry of Power, Government of India. The Petitioner has made the following prayers:

- "a) *Adopt the tariff discovered in the tariff based competitive bid process for the power projects as stated above on the terms and conditions in the LoAs dated 22.08.2024.*
- b) *Approve the trading margin of INR 0.07/kWh;*
- (c) *Pass any such order/orders as this Commission deems just and proper in the nature and circumstances of the present case.”*

**Submissions of the Petitioner**

2. The Petitioner has submitted that on 15.03.2024, it issued a Request for Selection (RfS) along with the Standard Power Purchase Agreement (PPA) and the

Power Sale Agreement (PSA) documents for the selection of Hybrid Power Generators (HPGs) for setting up of the 1000 MW ISTS-connected Wind Solar Hybrid Power Projects anywhere in India, under International Competitive Bidding as per the Hybrid Guidelines dated 21.8.2023 on the NTPC's website (ntpctender.com), Central Public Procurement Portal (www.eprocure.gov.in), and Government E-Marketplace portal of the Government of India. In response, nine bids were received, offering an aggregate capacity of 2170 MW, and eight were found to fully meet the techno-commercial criteria. The shortlisting of the bidders for the e-reverse auction was conducted based on the bids that were received. According to the shortlisting, seven of the eight proposals that were considered to be technologically and commercially eligible were retained for the e-reverse auction.

3. The e-reverse auction was conducted on 26.07.2024 on the ISN ETS e-bidding portal, on the basis of which the final tariff was arrived at. Pursuant thereto, NTPC, on 22.08.2024, issued a Letter of Awards to the successful bidders, namely, Avaada Energy Private Limited (230 MW), Adyant Enersol Private Limited (70 MW), JSW Neo Energy Limited (300 MW), Juniper Green Energy Private Limited (150 MW), and TEQ Green Power IX Private Limited (250 MW). In view of the above, the Petitioner has prayed for the adoption of tariff for the procurement of the 1000 MW Wind Solar Hybrid Power Projects discovered through a competitive bidding process.

#### **Hearing dated 22.11.2024**

4. Notices were issued to the parties to file their respective replies and rejoinders.

#### **Hearing dated 7.1.2025**

5. During the course of the hearing, the learned counsel for the Petitioner submitted that that none of the Respondents have filed any reply in the matter.

6. In response to the specific query of the Commission regarding the delay in approaching the Commission for the adoption of tariff, the learned counsel for the Petitioner submitted that in terms of Clause 12.4 of the Hybrid Guidelines, the Petitioner was required to approach the Commission for the adoption of tariff within 15 days of discovery of tariff in the transparent bidding process as conducted in accordance with the Hybrid Guidelines. In the present case, the e-RA was concluded on 26.7.2024, and since the present Petition was filed in the month of September 2024, there is some delay on the part of the Petitioner in approaching the Commission in terms of the Hybrid Guidelines and the same may be condoned.

**Analysis and Decision:**

7. We now proceed to consider the prayer of the Petitioner as regards the adoption of tariff under Section 63 of the Act in respect of the solar power projects discovered pursuant to the competitive bid process carried out in terms of the Guidelines issued by the Government of India.

8. Section 63 of the Act provides as under:

*“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.”*

9. Thus, in terms of Section 63 of the Act, the Commission is required to adopt the tariff on being satisfied that the transparent process of bidding in accordance with the

Guidelines issued by the Government of India under Section 63 of the Act has been followed in the determination of such tariff.

10. The Ministry of Power, Government of India has issued the Hybrid Guidelines under Section 63 of the Act on 21.8.2023. The salient features of the Hybrid Guidelines are as under:

(a) These Guidelines are applicable for the procurement of power from the Hybrid Power Projects having (a) bid capacity of 10 MW and above for projects connected with the intra-State transmission system; and (b) bid capacity of 50 MW and above for projects connected with the inter-State transmission system, subject to the condition that the rated power capacity of one resource (wind or solar) shall be at least 33% of the total contracted capacity.

(b) The solar and wind projects of the hybrid project may be located at the same or different locations. Storage may be added to the hybrid power project to reduce the variability of output power from wind solar hybrid project, for providing higher energy output for a given capacity (bid/ sanctioned capacity) at delivery point, by installing additional capacity of wind and solar power in a wind solar hybrid project and to ensure availability of firm power for a particular period.

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

(d) The Procurer will invite the bids in Power Capacity (MW) terms. A bidder is allowed to bid for a minimum bid capacity as per Clause 3.1 of the Guidelines. The Procurer may also choose to specify the maximum capacity that can be allotted to a single bidder, including its Affiliates 1.3. A maximum of

50 percent of total capacity, as specified in the RfS can be allocated to a single bidder.

(e) For procurement of wind solar hybrid power, the tariff quoted by the bidder shall be the bidding parameter. The tariff quoted shall be a fixed tariff of Rs./kWh for the PPA period. The capacity allocation shall be on the basis of the Bucket filling, i.e., capacity quoted by the 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.

(f) The draft PPA is proposed to be entered into with the successful bidder, and the draft PSA shall be issued along with the RfS. Standard provisions to be incorporated as part of the PPA shall include *inter alia* the PPA period, Quantum of Power, Deviation Settlement Mechanism (DSM), Payment Security Mechanism (PSM), Change in Law, Force Majeure, Generation Compensation for Off-take Constraints, Event of Default, and consequences thereof.

(g) Adequate payment security shall be provided as per the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022, including amendments and clarifications, if any, thereof, issued from time to time. In addition, the intermediary procurer may maintain a payment security fund. To be eligible for coverage from the fund, the developer will undertake to pay the PSM charges at the rate of 2 paise per unit.

(h) The Procurer/intermediary procurer shall call for the bids to adopt a single stage two-part (Technical Bid & Financial Bid) bidding process to be conducted through electronic mode (e-bidding). The Procurer may also opt for an e-reverse auction for the final selection of bidders; in such a case, this will be specifically mentioned in the notice inviting bids and bid document. E-procurement platforms with a successful track record and with adequate safety, security, and confidentiality features will be used.

(i) The bidding documents, including the RfS, draft PPA and draft PSA (if applicable) shall be prepared by the Procurer(s) in consonance with these Guidelines and the SBDs, if any. The Procurer(s) shall publish the RfS notice in at least two national newspapers or its own website to accord the wide publicity. The standard provisions to be provided by the Procurer in the RfS shall include the Technical Criteria, Financial Criteria, Net Worth, Liquidity, Quantum of the Earnest Money Deposit (EMD), and Compliance of Laws by foreign bidders.

(j) The Procurer(s) shall constitute committee for the evaluation of the bids (Evaluation Committee), with at least three members, including at least one member with expertise in financial matters/ bid evaluation. The price bid shall be rejected if it contains any deviation from the bid conditions.

(k) The bidders shall be required to submit separate technical and price bids. Bidders shall also be required to furnish the necessary bid guarantee in the form of an EMD along with the bids. To ensure competitiveness, the minimum number of qualified bidders should be two. If the number of qualified bidders is less than two, even after three attempts of bidding, and the Procurer still wants to continue with the bidding process, the same may be done with the consent of the Appropriate Commission. The detailed procedure for the evaluation of the bid and selection of the bidder shall be provided in the RfS.

(l) After the conclusion of the bidding process, the Evaluation Committee constituted for evaluation of the RfS bids shall critically evaluate the bids and certify as appropriate that the bidding process and the evaluation has been conducted in conformity with the provisions of the RfS document. The evaluation authority should satisfy itself that the price of the selected offer is reasonable and consistent with the requirement.

(m) The PPA shall be signed with the successful Bidder/ Project Company or an SPV formed by the successful Bidder. After the execution of the PPA, the procurer shall publicly disclose the name(s) of the successful Bidder(s) and the tariff quoted by them together with breakup of components, if any.

(n) The distribution licensee or the Intermediary Procurer, as the case may be, shall approach the Appropriate Commission for the 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.

11. In terms of the provisions of Section 63 of the Act, we have to examine whether the process as per the provisions of the Hybrid Guidelines has been followed in the present case for arriving at the lowest tariff and for the selection of the successful bidder(s).

12. The Ministry of New and Renewable Energy ('MNRE') vide Office Memorandum ('OM') number 283/24/2023-GRID SOLAR/Pt dated 31.3.2023 directed the Bidding Trajectory that Renewable Energy Implementing Agencies (REIAs) were required to follow for the renewable energy power projects. By means of the aforementioned OM dated 31.3.2023, REIAs were instructed to submit the bids for renewable energy capacity of fifty gigawatts (GW) annually beginning in the fiscal year 2023-2024. Subsequently, the MNRE vide another OM number 283/24/2023-GRID SOLAR dated 24.4.2023 announced the Bidding calendar for the fiscal year 2023-24 for each of the REIAs by another official notification (OM) number 283/24/2023-GRID SOLAR. According to the Bidding Calendar, NTPC was obligated to solicit bids for the selection of a variety of renewable energy producers for a capacity of 15 gigawatts (GW) during the fiscal year 2024-25. The Petitioner has been designated as the nodal agency for the implementation of the MNRE Schemes for the purpose of establishing the inter-State Transmission Systems connected/State-specific wind/solar power/wind-solar hybrid power projects, inviting bids through a tariff-based competitive bidding process, entering into the Power Purchase Agreements (PPAs) with the developers at the tariff



discovered in the competitive bid process, and entering into the Power Supply Agreements (PSAs) with the distribution licensees on back-to-back, NTPC functions as an intermediary agency in the process of purchasing and selling power under the PPAs and PSAs.

13. The Hybrid Guidelines provide for the procurement of wind-solar hybrid power at a tariff to be determined through a transparent process of bidding by the Procurer(s) from the grid-connected wind-solar power projects through the tariff based competitive bidding. In accordance with the Hybrid Guidelines, NTPC, in its capacity as an intermediary procurer, invited proposals for the selection of hybrid power developers for setting up the 1000 MW ISTS-connected Wind-Solar Hybrid Power Projects anywhere in India under Competitive Bidding as per the Hybrid Guidelines dated 21.8.2023. As per the arrangements, NTPC is to procure the power by entering into the PPAs with the successful bidder with back-to-back PSAs for the sale of power to the distribution licensees.

14. The key milestones in the bidding process were as under:

Sr. No	Particular	Details
1	Date of Publication of the Tender	15.03.2024
2	Date of Pre-Bid Meeting	04.04.2024
3	Document Sale Start Date	21.03.2024
4	Document Sale End Date	03.04.2024
5	Last date of Bid Submission	16.04.2024
6	Amendments of RFS Documents	25.04.2025, 01.05.2024, 16.05.2024, and 30.05.2024
7	Date of opening of Bid	17.07.2024
8	Opening of Financial Bid	25.07.2024
9	e-Reverse Auction Conducted	26.07.2024
10	Issuance of Letters of Award (LoAs) to successful bidders	22.08.2024

15. On 15.03.2024, NTPC issued the RfS documents, along with the Draft PPA and PSA, for the selection of the Hybrid Power Developers for setting up the 1000 MW

Power ISTS-Connected Wind-Solar Hybrid Projects (Tranche-VI), under tariff based competitive bidding. As per Clause 8.5 of the Guidelines, RfS notice is required to be published in at least two national newspapers or the website of the Procurer to accord wide publicity. In this regard, NTPC has placed on record the documents demonstrating the publication of the RfS on the e-publishing system, Government of India. According to NTPC, it did not publish the notices in the newspapers as per the advisory of the Ministry of Information and Broadcasting, Government of India, dated 17.5.2017, mandating the e-publishing of advertisements on the relevant portal. Accordingly, on 5.6.2018, NTPC issued a notification in the newspapers indicating that tenders of the NTPC will henceforth be published on its website and the Government Portal but not in the newspapers

16. The Standing Tender Committee ("STC") comprising the following was constituted on 8.3.2024 for the opening and evaluation of bids under RfS :

<b>S. No.</b>	<b>Department</b>	<b>Name &amp; Designation of Tender committee member</b>
1.	RE-CS	Sh. Dhananjay Mohapatra, AGM (RE-CS)
2.	Commercial	Sh. Manish Kumar Verma, AGM (Commercial)
3.	Finance	Sh. Kamal Preet Singh, AGM (Fin)

17. Originally, the last date of submission of the bid was 16.04.2024, and the Technical Bids were scheduled to be opened on the same day. However, the last date of receipt of bids and bid opening date was extended up to 25.04.2025, 01.05.2024, 16.05.2024, and 30.05.2024 based on the request of the prospective bidders and/or issuance of amendments to the RfS documents. Accordingly, the bids were opened on 17.07.2024. Response to the RfS was received from the nine bidders for a cumulative capacity of 2170 MW against the tendered capacity of 1000 MW. On 17.07.2024, the technical bids submitted by the bidders were evaluated by the STC in response to the

RfS, and found the bids of eight bidders to be technically responsive and meet the required qualifying requirements for the capacities quoted by them. Since the cumulative capacity bid under the RfS was 2170 MW (which was greater than 1250 MW), in terms of Clause 3.12.4.3 of the RfS, all the technically qualified bidders were shortlisted. On 30.5.2024, the bids were opened and the following eight bidders were found responsive:

<b>S. No.</b>	<b>Name of the Bidder</b>
1.	JSW Neo Energy Limited
2.	Adyant Enersol Private Limited
3.	Avaada Energy Private Limited
4.	Juniper Green Energy Private Limited
5.	TEQ Green Power IX Private Limited
6.	Diyos Renewables India Project Private Limited
7.	Adani Renewable Energy Holding Twelve Limited
8.	Layer Hybren Private Limited

18. The Standing Tender Committee examined the bids based on the Qualifying Requirement in the RfS. After completion of the Techno-Commercial evaluation process, the Standing Tender Committee, in its report dated 17.07.2024, recommended the following eight bidders to be techno-commercially qualified and eligible for opening the financial bids:

<b>S. No</b>	<b>Bidder Name</b>	<b>Bid Capacity (MW)</b>
1	M/s Jsw Neo Energy Limited	300
2	M/s Adyant Enersol Private Limited	70
3	M/s Avaada Energy Private Limited	500
4	M/s Juniper Green Energy Private Limited	150
5	M/s Teq Green Power IX Private Limited	250
6	M/s Diyos Renewables India Project Private Limited	300
7	M/s Adani Renewable Energy Holding Twelve Limited	500
8	M/s Layer Hybren Private Limited	100
<b>Total Capacity</b>		<b>2170</b>

19. The total bid capacity of all the techno-commercially qualified bidders was 2170 MW. Based on the bids received, the shortlisting of the bidders for the e-reverse auction was completed in line with Clause 3.12.4.3 of the RfS and based on the financial bids submitted by the bidders. Pursuant to the shortlisting, 7 out of the 8 techno-commercially eligible bids were held to be eligible for the e-reverse auction. Accordingly, on 25.07.2024, the Standing Tender Committee submitted the details of the seven shortlisted bidders for e-reverse auction (e-RA) for the Wind Solar Hybrid Power Projects under the RfS as under:

<b>S. No.</b>	<b>Name of the Bidder</b>	<b>Quoted tariff in Rs/kWh</b>	<b>Ranking of Bidder</b>
1.	Juniper Green Energy Private Limited	3.43	Rank-1 (L1)
2.	Avaada Energy Private Limited	3.46	Rank-2 (L2)
3.	Adyant Enersol Private Limited	3.46	Rank-3 (L3)
4.	Teq Green Power IX Private Limited	3.47	Rank-4 (L4)
5.	Jsw Neo Energy Limited	3.49	Rank-5 (L5)
6.	Adani Renewable Energy Holding Twelve Limited	3.52	Rank-6 (L6)
7.	Layer Hybren Private Limited	3.52	Rank-7 (L7)

20. The e-RA for the 1000MW capacity commenced on 26.07.2024 in the presence of the members of the STC. After completion of e-RA, the following five bidders were declared as successful bidders for supply of cumulative capacity of 1000 MW Wind-Solar Hybrid Power:

<b>S. No</b>	<b>Name of the Successful Bidder</b>	<b>Bid Capacity (MW)</b>	<b>Final Tariff (Rs./kWh)</b>	<b>Awarded Capacity (MW)</b>
1.	Juniper Green Energy Private Limited	150	3.43	150
2.	TEQ Green Power IX Private Limited	250	3.45	250
3.	JSW Neo Energy Limited	300	3.45	300
4.	Adyant Enersol Private Limited	70	3.45	70
5.	Avaada Energy Private Limited	500	3.46	230
<b>Total awarded Capacity</b>				<b>1000</b>

21. Accordingly, on 22.08.2024, NTPC issued the Letter of Awards (LoAs) to the above successful bidders. The relevant extract of the Letter of Award issued to one of the successful bidders, namely Avaada Energy Private Limited, is as under:

*“Sub: Selection of Hybrid Power Generators for Supply of 1000 MW Power from ISTS Connected Wind-Solar Hybrid Power Projects Anywhere in India (NTPC-TrancheVI); RfS Document No.: NTPC/RE-CS/2023-24/HYBRID/BOO-17- Letter of Award (LOA) for 230 MW contracted capacity.*

1.0 This has reference to the following:

- (A) The ‘Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects’ vide Gazette Resolution dated 21.08.2023 issued by Ministry of Power (MoP) (hereinafter referred to as Guidelines”)
- (B) Our Invitation For BidS (IFB) bearing Ref. no. NTPC/C/RE-CS/2023-24/Hybrid/BOO-17 Dated 15.03.2024 Request for Selection Document (including Draft Power Purchase Agreement i.e. PPA and Draft Power Sale Agreement i.e. PSA) bearing ref. no. NTPC/RE-CS/2023- 24/Hybrid/BOO-17 issued to you/downloaded from ETS Portal (<https://www.bharat-electronictender.com>) vide TSC No. NTPC-2024-TN000005
- (C) Various Amendments / Clarifications / Errata to the RfS documents for the subject package uploaded on ETS Portal prior to Envelope-I (Technical Bid) Opening, as per details given below :

Si. No.	Description of base Bidding Documents	Amendment(s)/Clarification(s) issued to Base Documents prior to Stage-I Bid opening
1.	Request for Selection Documents (RfS)	(i) Amendment No. 01 to RfS dtd 23.04.2024, NTPC/RE-CS/2023-24/HYBRID/BOO-17-AMNDT-01(Published as Addendum-1) (ii) Clarification No. 01 to RfS dtd 23.04.2024, NTPC/RE- CS/2023-24/HYBRID/BOO-17-CLRF-01 (Published as Addendum-1) (iii) Amendment No. 02 to RfS dtd 15.05.2024, NTPC/RE- CS/2023-24/HYBRID/BOO-17-AMNDT-02 (Published as Addendum-2)
2.	Power Purchase Agreement (PPA)	Clarification No. 02 to RfS dtd 24.04.2024, NTPC/RE-CS/2023-24/HYBRID/BOO-17-CLRF-02 (Published as Addendum-2)
3.	Power Sale Agreement (PSA)	NIL

Aforesaid documents attached as **Annexure-I.**

Request for Selection Document including PPA & PSA and various Amendments / Clarifications / Errata as mentioned above shall be hereinafter referred to as “RfS”

- (D) Your response to RfS by way of submission of offline documents in NTPC office, your Technical Bid (Envelope I) and Financial Bid (Envelope II) submitted online on ETS website against TSC No.- NTPC-2024-TN000005 and opened on 30.05.2024, enclosed at **Annexure-II.**
- (E) NTPC email message dated 26.07.2024 intimating you the date and time of start of e-Reverse Auction enclosed at Annexure-III.
- (F) System Generated email messages and NTPC email dated 26.07.2024 inviting you for participation in e-Reverse Auction, enclosed at Annexure-IV.

- (G) The result of online e-Reverse Auction held on 26.07.2024 at 14:00 hrs and concluded on the same day 15:16 hrs on ETS website

2.0 NTPC is pleased to accept your Response to Request for Selection for the subject tender read in conjunction with all the terms & conditions of the RfS Documents including its Amendments & Clarifications and letters/emails referred to in Para 1.0 above and issue this Letter of Award (LoA) for setting up of 230 MW ISTS connected Wind-Solar Hybrid and Supply of Hybrid Power from this project to NTPC subject to the terms and conditions contained in RfS mentioned at para 1.0 above.

Further, the Power Purchase Agreement (PPA) shall be signed with you only after signing of Power Sale Agreement (PSA) with the end procurers and NTPC shall not be liable on any account for any delay / inability in signing of PSA and PPA.

3.0 In line with the terms and conditions of RfS, before signing of PPA, you have the option to form Special Purpose Vehicle (hereinafter called "Project Company") under Indian Companies Act. The company (Bidding Company or Project Company) executing the project (hereinafter called "Hybrid Power Generator / HPG") shall enter into Power Purchase Agreement (PPA) as per the format given along with RfS within 90 days of issue of this Letter of Award (LOA) subject to signing of Power Sale Agreement (PSA) with the End Procurer(s) for identified capacity. All the documents referred to at para 1.0 above shall form integral part of the Power Purchase Agreement to be entered into between Project Company / Hybrid Power Generator (HPG) and NTPC so far these are not repugnant to the terms and conditions contained in the RfS referred to in para 1.0 above.

The signing of PPA shall constitute the agreement for setting up of the project. As specified in Clause No 3.14 of RfS, irrespective of the date of signing of PPA, the Effective Date of the PPA shall be the date as on 90th day from the date of issuance of LOA. In extraordinary cases of unavoidable delays on the part of NTPC in signing the PPAs, the Effective Date of the PPA shall then be the date of signing of PPA.

4.0 As per clause 3.26 of RfS document, you shall ensure that the Shareholding of Bidding Company Avaada Energy Private Limited in the SPV/ project company executing the PPA shall not fall below 51% (fifty one per cent) at any time prior to One (01) year from the Scheduled Commencement of Supply Date (SCSD), except with the prior approval of NTPC. Further, in case, you yourself shall be executing the PPA, you shall also ensure that the promoters shall not cede control of Avaada Energy Private Limited till One (01) year from the SCSD except with the prior approval of NTPC. Any change in the shareholding after the expiry of One (01) year from the SCSD can be undertaken under intimation to NTPC.

5.0 The Tariff for electricity generated from the Wind-Solar Hybrid Power Project to be developed by the HPG for the entire period of twenty five (25) years of Power Purchase Agreement (PPA) to be entered into between the HPG and NTPC for this project shall be INR 3.46/kWh (Indian Rupees Three and Forty Six paise only per Kilowatt hour) subject to the provisions of RfS.

6.0 You along with your Project Company (if formed by your Company) are required to submit the following documents along with originals for verification within 15 days of issuance of this Letter of Award (LOA):

- I. Original Response to RfS referred to in para 1.0 (E) above.
- II. If Project Company is formed by your company for this project, Board Resolutions from your Company and your Parent and/or Affiliates duly certified by the Company Secretary or the Director, as applicable, regarding fulfillment of equity investment obligations of Project Company in the same manner as provided by you and your Affiliates in your favour at the time of submission of RfS.
- III. Copy of the Certificate of Incorporation along with Memorandum & Article of Association of HPG highlighting the relevant provision of Power/Energy/Renewable energy/Solar/Wind Energy Power Plant development as per clause 3.15 (A 12) of RfS



duly certified to be True copy by Company Secretary.

- IV. Details of promoters and current shareholding pattern of the Bidding Company and Project Company (if formed) developing the project, duly certified by the Company Secretary in original along with a copy of Return filed with Registrar of Companies (ROC) for registering the shareholding and its terms and conditions which became due for filing during this period.
- V. If Project Company is formed by your company to execute the project, a fresh Integrity Pact between Project Company and NTPC has to be signed. Certificate for Compliance to all Provisions of RfS Document is also to be submitted by Project Company.

7.0 Vide Covering letter of your bid submitted against the RfS (copy enclosed at Annexure-II), you have indicated that you shall develop one (01) project of 230 MW with details as under:

SI NO.	Capacity of Project (MW)	Location of Project	Interconnection point details
A	Details of solar project		
1	230	District: Chhatarpur State: Madhya Pradesh	220 kV at Chhatarpur PS, Madhya Pradesh
B	Details of wind project		
1	80	District: Devbhumi Dwarka State: Gujarat	220 kV at Jam Khambaliya PS, Gujarat
Total Contracted Capacity of Hybrid Power Project (MW)		230 MW	Declared CUF — 35%

In line with clause 3.6.3 of RfS documents, HPG shall have option to change the Project location and/or Delivery Point upto the deadline for financial closure as per clause no.-3.27 of the RfS. The above change in Delivery Point shall be allowed by NTPC only in case the scheduled commissioning date of the ISTS-substation of the proposed revised Delivery Point is on or before the scheduled commissioning date of the existing Delivery Point of the Project, at the time of seeking approval from NTPC by the HPG. Implications of any delay in obtaining connectivity and subsequently, commencement of supply of power on account of the above, will be borne by the HPG.

8.0 In line with the provisions of RfS, the HPG shall submit Performance Guarantee of Rs. 29 Lakh/MW to NTPC prior to signing of PPA (PPA signing date shall be intimated by NTPC) either in form of Dank Guarantee (DG) from any bank listed in the RfS for this purpose or Payment of Order Instrument (POI) issued by IREDA/PFC/REC as per the Performa available in RfS document. The total value of the Performance Guarantee for the project of 230 MW capacity shall be INR 66.70 Crore. The Performance Guarantees shall be valid for a period of six (06) months beyond SCSD. Further, the PPA shall be signed only upon successful verification of the PBG of requisite value submitted by the HPG.

As per provision of RfS, the confirmation of PBG shall be through secure Structured Financial Messaging System (SFMS). In this regard, while issuing the physical BG, your Bank shall also send electronic message to NTPC's Beneficiary Bank whose details are provided below:

Bank Details:

- (i) Bank Name: ICICI Bank Limited
- (ii) Branch: Connaught Place Branch, New Delhi
- (iii) Bank Address: 9A, PHELPS BUILDING, INNER CIRCLE, NEW DELHI-110001

(iv) IFSC Code: ICIC0000007

*All BGs/POI s except BG issued by a Bank outside India, shall be received from issuing Bank/authority directly through post/ courier, by Unified Treasury, Dadri at the address mentioned at clause no.-3.24 (ii) of RfS documents.*

*The Bank Guarantee towards Earnest Money submitted by you along with your Response to RfS shall be released only after receipt & verification of the Performance Guarantee.*

9.0 Further, validity of EMD is required to be extended from time to time so that the same shall be valid for a period of 90 days beyond the date of PBG to be submitted as per clause no.-

3.24 (ii) of RfS.

10.0 The HPG shall pay to NTPC, success charge of Rs 1 lakh/MW +18% GST prior to signing of PPA in line with the provisions of clause no.-3.24.3 of RfS.

11.0 The Scheduled Commencement of Supply Date (SCSD) for supplying power from the full Project capacity shall be within a period of 24 (twenty-four) months from the Effective Date of the PPA in line with clause no.-3.28.1 of RfS.

12.0 All disputes arising out of and / or in connection with this "Selection of Hybrid Power Generators for Supply of 1000 MW Power from ISTS Connected Wind-Solar Hybrid Power Projects Anywhere in India" and Supply of Hybrid Power therefrom and execution of PPA thereto shall be governed by laws of India and Courts of Delhi shall have exclusive jurisdiction.

13.0 This Letter of Award (LOA) is being issued to you in duplicate. You are kindly requested to return the duplicate copy of this LOA including all Annexure, duly signed on each page by your authorized signatory in token of your unequivocal acknowledgement of the same within 7 days from the date of this LOA.

*Thanking you,."*

22. As per Clause 12.2 of the Hybrid Guidelines, the Evaluation Committee is required to certify that the bidding process and the evaluation have been conducted in conformity with the provisions of the RfS document. Also, the Evaluation Authority should satisfy itself that the price of the selected offer is reasonable and consistent with the requirement. In compliance with the above, the Petitioner has furnished the conformity certificates on record. The Petitioner vide its conformity certificate has certified that the applicable Guidelines and amendments /clarifications thereof, if any, issued by the Government of India were followed for the bidding process in the above tender, and there was no deviation from the Guidelines in the RfS documents for the above tender. The relevant extract of the aforesaid conformity certificate is as under:



**“CERTIFICATE BY BID EVALUATION COMMITTEE**

*Subject: SELECTION OF HYBRID POWER GENERATORS FOR SUPPLY OF 1000 MW POWER FROM ISTS CONNECTED WIND-SOLAR HYBRID POWER PROJECTS ANYWHERE IN INDIA (NTPC-TRANCHE-VI): RfS Document No.: NTPC/RE-CS/2023-24/HYBRID/BO0-17*

*It is certified that:*

- A. The bidding process and evaluation criteria as specified in the RfS documents has been strictly complied with and the entire process of evaluation has been transparent.*
- B. The levelized tariffs quoted by the bidders for supply of hybrid power for 25 years have been discovered through International Competitive Bidding process under Open Tender mode followed by Reverse Auction. Total number of bidders who have participated in the tender was eight (08) with cumulative quote contracted capacity of 2170 MW against the total bid capacity of 1000 MW from which it can be considered that there has been adequate participation of the bidders in the aforesaid tender. Considering above, the tariff discovered in the present tender appears to be reasonable and consistent with the requirement of the tender.*

*This certificate is being issued for submission to honorable CERC for tariff adoption”*

23. Further, as per Clause 12.4 of the Hybrid Guidelines, the distribution licensee or the Intermediary Procurer, as the case may be, shall approach the Appropriate Commission for the adoption of the tariff discovered, in terms of Section 63 of the Act, within fifteen days of the discovery of the tariffs through e-RA or otherwise, in the transparent, competitive bidding process conducted in accordance with the Guidelines. In the present case, the e-RA was concluded on 26.07.2024, and accordingly, the Petitioner was required to approach the Commission for the adoption of the tariff by 10.08.2024. However, the Petitioner, NTPC, filed the present Petition only on 04.09.2024 (e-filing portal). The Petitioner has submitted that the tariff was discovered by way of an e-Reverse Auction on 26.07.2024; thereafter, the Standing Tender Committee, constituted in accordance with Clause 10.2 of the Bidding Guidelines, evaluated the bids and prices discovered in the e-reverse auction as per the requirement of Clause 12.2 of the Bidding Guidelines, and recommended the issuance of the LoAs to the successful bidders, i.e., Respondents herein. Pursuant to the recommendation, approval was granted by the Competent Authority for awarding the

selected project capacity to the Selected Bidders (i.e., the Respondents herein) on 03.08.2024. Accordingly, the Petitioner was obligated to approach this Commission for the adoption of the tariff by 04.09.2024. It was further submitted that the time taken for requisite approvals, was unavoidable, as the time was required by the Petitioner to ensure proper compliance with the provisions of the Bidding Guidelines. Soon after the issuance of LOAs, the Petitioner has completed all the activities involved in filing the Petition, i.e., preparation of the Petition, compilation of relevant documents, processing of the filing fees, etc., in the best possible time. We have considered the justification provided by NHPC for the delay in approaching the Commission for the adoption of the tariff as per 12.4 of the Wind Solar Hybrid Guidelines. Keeping in view that, unlike the previous Wind Solar Hybrid Guidelines of 2018, the Wind Solar Hybrid Guidelines of 2023 specifically provide a timeline for distribution licensee or intermediary procurers to approach the Appropriate Commission for the adoption of tariff, we expect the Petitioner to strictly adhere to the said timelines in the future.

24. Tariff adoption is in terms of Section 63 of the Act, whereas approval of the PPA/PSA is as per Section 86(1)(b) of the Act. In the case of inter-State generation and sale of electricity, the jurisdiction for the adoption of tariff is with this Commission, and the Appropriate State Commission is approving authority for approval of the PPA/PSA. The Petitioner has submitted that the adoption of the tariff by this Commission will facilitate the timely execution of the projects as per the timeline specified in the Hybrid Bidding Guidelines and will be beneficial for the stakeholders. Adoption of the tariff discovered by way of the RfS in the present case by this Commission will provide much needed regulatory certainty over the projects and embolden the Petitioner's attempt to find the willing State Utilities/Discoms for procuring the said power.

25. We have considered the submissions made by the parties. In the past, the Commission has been proceeding with the adoption of tariffs only to the extent of the awarded capacity having been tied up under the PPAs and PSAs with the successful bidders/developers and the distribution licensees, respectively. In the present case, out of the total awarded capacity of 1000 MW, the Petitioner has submitted that it is actively engaging with the end procurers to finalize the awarded capacity. However, keeping in view the overall emphasis of the Guidelines on the expeditious adoption of the tariff, we consider it appropriate to proceed with the adoption of the tariff without waiting for the tying up of the entire awarded capacity under the PPAs and PSAs.

26. In light of the aforesaid discussion, it emerges that the selection of the successful bidders has been done, and the tariff of the Wind-Solar Hybrid Power Projects has been discovered by the Petitioner, NTPC, through a transparent process of competitive bidding and in accordance with the Guidelines issued by the Ministry of Power, Government of India. Therefore, in terms of Section 63 of the Act, the Commission adopts the individual tariff in terms of the LOAs dated 22.08.2024 for the Hybrid Power Projects, as agreed to by the successful bidders as under subject to the Petitioner tying up the awarded capacity under the PPAs and PSAs:

<b>S. No</b>	<b>Name of the Successful Bidder</b>	<b>Bid Capacity (MW)</b>	<b>Final Tariff (Rs./kWh)</b>	<b>Awarded Capacity (MW)</b>
1.	Juniper Green Energy Private Limited	150	3.43	150
2.	TEQ Green Power IX Private Limited	250	3.45	250
3.	JSW Neo Energy Limited	300	3.45	300
4.	Adyant Enersol Private Limited	70	3.45	70
5.	Avaada Energy Private Limited	500	3.46	230
<b>Total awarded Capacity</b>				<b>1000</b>

27. Prayer (a) of the Petitioner is answered in terms of paragraph 28 above. Moreover, as soon as the awarded capacity is tied-up under the PPAs and PSAs, the Petitioner shall place on record the copies of such PPAs and PSAs. Also, in the event that the awarded capacity does not fructify into the PPAs and PSAs, the Petitioner shall also place on record such development(s) on the file of the present case.

28. The Petitioner, NTPC, has also prayed to approve the trading margin of Rs.0.07/kWh to be charged to the End Procurer/Discoms or any other entity over & above the PPA tariff on the sale of power as specified depicted in the RfS document and specified in the Hybrid Guidelines.

29. In this regard, Clause (1)(d) of Regulation 8 of the Trading Licence Regulations provides as under:

*“For transaction under long term contracts, the trading margin shall be decided mutually between the Trading Licensee and the seller.”*

30. The above provision gives a choice to the contracting parties to mutually agree on trading margin for long term transactions. However, proviso to Regulation 8(1)(d) of the Trading Licence Regulations provides as under:

*“8(1) (d) \* \* \* \* \* Provided that in contracts where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause (10) of Regulation 9 is not provided by the Trading Licensee in favour of the seller, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.”*

31. Regulation 8(1)(f) of the Trading Licence Regulations provides as under:

*“For transactions under Back to Back contracts, where escrow arrangement or irrevocable, unconditional and revolving letter of credit as specified in clause (10) of Regulation 9 is not provided by the Trading Licensee*

*in favour of the seller, the Trading Licensee shall not charge trading margin exceeding two (2.0) paise/kWh.”*

32. The above two provisions are exceptions to the main provision as regards trading margin. In the present case, awarded capacity is yet to be tied up with the distribution licensees, and accordingly, the trading margin shall be as per the provisions of the PSAs to be entered into between NTPC and the distribution licensees and with due regard to the provisions of the PSM in the Guidelines/PPA, and be subject to the provisions of the Trading License Regulations. However, in case of failure by the NTPC to provide an escrow arrangement or irrevocable, unconditional, and revolving letter of credit to the wind solar power generators, the trading margin shall not exceed Rs.0.02/kWh specified in Regulation 8(1)(d) and Regulation 8(1)(f) of the Trading Licence Regulations.

33. Prayer (b) of the Petitioner is answered accordingly.

34. Petition No. 402/AT/2024 is disposed of in terms of the above.

Sd/-  
(श्री हरीश दुदानी)  
सदस्य

sd/-  
(श्री रमेश बाबू व.)  
सदस्य

sd/-  
(श्री जिशु बरुआ)  
अध्यक्ष