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**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION**  
**BHOPAL**

**Sub: In the matter of petition under Guideline 23 of the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind-Solar Hybrid Projects issued by the Ministry of Power, Government of India on 14.10.2020 under Section 63 of the Electricity Act, 2003, seeking certain deviations from the aforementioned guidelines.**

**ORDER**

**(Date of hearing 12<sup>th</sup> July'2022)**

**(Date of Order: 12<sup>th</sup> Aug'2022)**

**Petition No. 31 of 2022**

**Rewa Ultra Mega Solar Limited,**

Urja Bhawan Link Road No. 2

Shivaji Nagar, Bhopal, M.P.

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**Petitioner**

**V/s**

**MP Power Management Company Ltd.**

Shakti Bhawan, Rampur, Jabalpur, M.P

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**Respondent**

Shri Aashish Anand Barnad, Advocate and Shri Avaneesh Shukla appeared on behalf of petitioner.

Shri Deepak Awasthi, Advocate and Shri Rajnish Reja appeared on behalf of the Respondent.

The petitioner Rewa Ultra Mega Solar Ltd. has filed this petition under Section 86(1)(b) of the Electricity Act, 2003 seeking certain deviations from the provisions of the "Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind-Solar Hybrid Projects" issued by the Ministry of New and Renewable Energy (MNRE), Government of India (GOI) on 14.10.2020 under section 63 of the Electricity Act, 2003. The aforesaid deviations are sought in respect of the bid process initiated by petitioner for development of 750 MW grid-connected Wind-Solar Hybrid Power Project in Madhya Pradesh.

2. Rewa Ultra Mega Solar Limited ('RUMSL') is a joint venture company incorporated with 50:50 share between Solar Energy Corporation of India (SECI) and Madhya Pradesh Urja Vikas Nigam Limited (MPUVNL). The objectives of RUMSL are to develop solar parks and facilitate large-scale solar power projects in Madhya Pradesh.
3. M.P. Power Management Company Limited (MPPMCL) is a holding company of all the

three distribution licensees in the state of Madhya Pradesh. MPPMCL has been authorized by the distribution licensees to procure power on behalf of them for retail supply to consumers. Therefore, in order to procure power on behalf of the state distribution licensees and to fulfil their RPO, MPPMCL has proposed to procure power from the aforesaid Hybrid Power Project.

4. The petitioner broadly submitted the following in the subject petition:
- 1) *With a view to provide a boost to renewable energy development in MP and in line with the Government of India's target of installing 500 GW of renewable energy power projects in India by the year 2030, the GoMP have decided to set up Wind-Solar Hybrid Power Projects in different parts of MP. In pursuance of the aforesaid objective, RUMSL has been notified as the bidding agency by the GoMP.*
  - 2) *As RUMSL has been entrusted with the responsibility to carry out the Bid Process to select suitable Hybrid Power Generator(s) to develop, operate and maintain the Project(s) ("HPG"). In this regard, it is stated that **RUMSL should not be considered as a procurer for the Project as the HPG(s) will be required to sign separate power purchase agreement(s) with the procurer i.e., MPPMCL.***
  - 3) *MPPMCL has authorized RUMSL (Authorized Representative) for carrying out the bidding process on behalf of them (Procurer). The Authorized Representative is entrusted to fulfill the obligations imposed on the procurer under the Wind-Solar Hybrid Bidding Guidelines.*
  - 4) *Under section 63 of the Act, the appropriate commission, which is this Commission in the present case, 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.*
  - 5) *Moreover, the National Tariff Policy, 2016 formulated by the Ministry of Power stipulates that procurement of power by distribution companies from renewable solar PV power projects, above the notified capacity, must be done through a competitive bidding process from a date notified by the Central Government.*
  - 6) *In furtherance of the mandate of section 63 of the Act and the Tariff Policy, the Ministry of Power, GoI, has issued the Wind-Solar Hybrid Bidding Guidelines on 14.10.2020, which have been further amended vide notifications issued by the Ministry of Power dated 23.07.2021. The Wind-Solar Hybrid Bidding Guidelines have been issued with the objectives of promoting competitive procurement of electricity from hybrid power plants by distribution companies to protect consumer interests, facilitate transparency and fairness in the procurement process, provide*

*standardization and uniformity in the procurement process, a risk sharing framework between various stakeholders, and the optimum utilization of land and evacuation infrastructure. This will further encourage investments, enhanced bankability of projects and profitability for investors. The Wind-Solar Hybrid Bidding Guidelines are applicable to long-term procurement of electricity by procurers from grid-connected Wind-Solar power projects **having a size of 50 MW and above.***

- 7) *Under Guideline 5.1 of the Wind-Solar Hybrid Bidding Guidelines, in case the hybrid power projects are supplying power to Distribution Licensee(s) of the State, the Appropriate Commission, for the purpose of these bidding Guidelines, shall be the State Electricity Regulatory Commission of the concerned State where the distribution licensee(s) is located.*

*Thus, it is submitted that this Commission is the appropriate commission under Wind-Solar Hybrid Bidding Guidelines and section 63 of the Act for the Bid Process as the procurement under the Bid Process.*

- 8) *Guideline 6.1 of the Wind-Solar Hybrid Bidding Guidelines provides that the bidding documents should be prepared in accordance with the Guidelines and shall approach the respective commission for any deviations. Such approval is to be obtained in accordance with the process described in Guideline 23 of the Wind-Solar Hybrid Bidding Guidelines:*

- 9) *In accordance with Guideline 23, read with Guideline 6.1 of the Wind-Solar Hybrid Bidding Guidelines, the present petition has been filed seeking approval for a bid specific deviation from the Wind-Solar Hybrid Bidding Guidelines proposed to be set out in detail in the bidding documents. Additionally, it is pertinent to note that the Procurer in the Project have engaged in a discussions and deliberations in relation to the proposed deviation (set out in detail in Part I of the instant petition). Therefore, the proposed deviations are being sought from the Commission after discussions with the procurer.*

- 10) *The content for which the petitioners is seeking deviation and the justifications are set out hereunder for the consideration and approval of the Commission in the subsequent paragraphs:*

11) ***Applicability of Guidelines on the Minimum size of Project Capacity***

- i. *Guideline 3.1 of the Wind-Solar Hybrid Bidding Guidelines states that the Hybrid Power Project having individual size of 50 MW and above at one site with minimum bid capacity of 50 MW, subject to the condition that the rated power*

capacity of one resource (wind-solar) shall be at least 33% of the total contracted capacity.

ii. Further, Guideline 3.2 of the Wind-Solar Hybrid Bidding Guidelines states that the solar and wind projects of the hybrid project may be located at same or different locations. The minimum capacity to be injected at each injection point shall be 50 MW.

iii. *In this regard, it is submitted that Madhya Pradesh is considered as a state with moderate wind capacity in the country and has seventh highest wind power potential of around ~15,000 MW. Madhya Pradesh has received huge interest from the Investors/ Developers community in the field of Wind power till 2016 (Feed-in-Tariff era). Madhya Pradesh has achieved highest wind power project capacity installation in 2015-16 and was second highest in 2014-15. But, installed capacity of wind power projects in the state has been stalled since 2017 majorly due to two reasons:*

- *End of FIT regime in March 2016, only few projects were commissioned in FY 2016-17*
- *No state level bid has been conducted since March 2016 as FIT was determined based on state level wind power potential.*

*As State has received huge response from the Investors/ Developers, majority of Investors/ Developers have registered the projects but could not develop the project as no bid was conducted in the state considering the possibility of higher tariff as compared to other state having better wind resource availability.*

iv. *It is necessary to inform that overall, 105 projects are registered under the Madhya Pradesh Wind Power Policy-2012 with the aggregate capacity of 4,969 MW and yet to be commissioned. Out of 105 projects, 26 projects with aggregate capacity of 800 MW are registered on Government land and remaining projects i.e., 79 projects are registered on private land with aggregate capacity of 4,169 MW. However, overall 64 registered projects are having capacity less than 50 MW which is around 61% of the total number of registered projects.*

v. *Further, small size projects may supply power to the Procurer probably at 33 kV which is close to the consumption point. As, supply of power at 33 kV may bring two major benefits to the Procurer:*

- *Appropriate use of existing 33 kV infrastructure and no requirement of developing 132/220/400 kV evacuation system including substation and*

*transmission lines to carry power from the generating station to consumption point.*

- *Low loss level due to avoidance of transmission losses in the supply of power.*
- vi. *Further, it is necessary to submit the MNRE “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects” dated 03.08.2017 & its amendments thereof (“Solar Bidding Guidelines”) and “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects” dated 08.12.2017 & its amendments thereof (“Wind Bidding Guidelines”), allows small size projects of individual capacity of 5 MW.*
- vii. *In the above two Guidelines, **MNRE, GoI has allowed the minimum size of individual project is 5 MW especially for intra-state projects for bids of individual solar or wind source of energy wise.** RUMSL is presently conducting the intra-state bid process for combination of two prominent RE sources i.e., Wind and Solar together as a Hybrid power project. Minimum size of Individual project under Wind-Solar Hybrid Bidding Guidelines is significant deviations from the Solar or Wind Bidding Guidelines.*
- viii. *Based on the above, it is submitted that the aforesaid deviation from the Wind-Solar Hybrid Bidding Guidelines is in line with overall purpose of the MNRE, GoI to encourage the participation for all types of Investors/ Developers and no discernment based on the source of energy is permitted. Further, it is imperative that RUMSL with the support from the Procurer would like to encourage small scale Investors/ Developers who may or may not be already registered with the New and Renewable Energy Department (“NRED”), GoMP but could not get an opportunity to develop the projects or enter in the wind sector due to absence of any state specific bid or FIT regime since FY 2016.*

*As the Commission has the jurisdiction to approve the aforesaid deviation in the Wind-Solar Hybrid Bidding Guidelines under Guideline 23 of the Wind-Solar Hybrid Bidding Guidelines. **It is therefore humbly requested to allow the reduction in minimum size of individual project under the Wind-Solar Hybrid Bidding Guidelines from existing 50 MW to 5 MW.***

12) **Commissioning Schedule for full capacity**

- i. *Guideline 17.3 (i) of the Wind-Solar Hybrid Bidding Guidelines dated 14.10.2020 states that the;*

***“The Project shall be commissioned, within a period of 18 (eighteen) months from the date of execution of the PPA. However, if for some reason, the scheduled commissioning period needs to be kept smaller than that provided in these Guidelines, the Procurer can do the same. Subject to clause no. 8.6 of these Guidelines, delay in commissioning, beyond the Scheduled Commissioning Period shall involve penalties, on the Hybrid Power Generator.***

- ii. *However, subsequent amendment issued by MNRE, Gol has modified the timeline for the commissioning of the projects and revised the Guideline 17.3 (i) as stated below (amended guidelines):*

***“The Project shall be commissioned, within a period of 24 (twenty-four) months from the date of execution of the PPA or PSA, whichever is later. Subject to clause no. 8.6 of these Guidelines, delay in commissioning, beyond the Scheduled Commissioning Period shall involve penalties, on the Hybrid Power Generator, as detailed below:***

- iii. *In the above para, MNRE, Gol has made two major changes,*
- *First is related to change in timeline from 18 months to 24 months and link it to signing of PPA or PSA, whichever is later.*
  - *Second is deletion that has been done which empowers the Procurer or Authorized Representative to reduce the Commissioning schedule from the defined timeline of earlier 18 months.*
- iv. *In this regard, it is submitted that MNRE, Gol initially kept the timelines of 18 months for commissioning of full capacity and allows Procurer or Authorized Representative to keep the timelines shorter as per requirement.*
- v. *Further, it is apparently a well-known fact that commissioning timeline for the project is linked to the size of the Project. Time required for commissioning the project required for 5 MW shall be different from 100 MW. Hence, earlier provision of allowing Procurer or Authorized Representative to keep the timelines shorter subject to maximum of 18 months was more considerate to Procurers/ Authorized Representative/ Investors.*
- vi. *Further, it is necessary to submit the MNRE “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects” dated 03.08.2017 & its amendments thereof (“Solar Bidding Guidelines”) and “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power*

**Projects” dated 08.12.2017 & its amendments thereof (“Wind Bidding Guidelines”), allows commissioning schedule of 18 (eighteen) months for the projects to be set-up outside the solar park.**

- vii. *From the excerpts of above two Guidelines, it is imperative that MNRE, GoI has allowed the commissioning schedule of 18 months for projects not specified to be set up in Solar park. Further, for Wind Project it was specifically allowed to keep the commissioning schedule higher than the proposed 18 months. Furthermore, RUMSL with the support from the NRED is promoting projects of all sizes and considering project of minimum capacity of 5 MW under the proposed RFP.*
- viii. *Therefore, based on the above points, it is respectfully submitted that the aforesaid deviation from the Wind-Solar Hybrid Bidding Guidelines is in line with overall purpose of the GoMP to expedite installation of projects in the state which was stalled since 2016-17 and allow participation for all types of Investors/ Developers and no discernment based on the size of the Project.*
- 13) *As the Commission has the jurisdiction to approve the aforesaid deviation in the Wind-Solar Hybrid Bidding Guidelines under Guideline 23 of the Wind-Solar Hybrid Bidding Guidelines. It is therefore humbly requested to allow the reduction in commissioning schedule under the Wind-Solar Hybrid Bidding Guidelines from existing 24 months to 18 months.”*
5. With the aforesaid submissions, the petitioner prayed the following in this petition:
- Grant the approval to the afore-mentioned deviation from the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind-Solar Hybrid Projects proposed to be included in the draft RfP and draft PPA;*
- a. Minimum size of Project in the bid shall be reduced from 50 MW to 5 MW;*
- b. In case project is located at multiple locations, minimum capacity of the Project to be injected at each point shall be reduced from 50 MW to 5 MW;*
- c. Commissioning schedule to be reduced from 24 months to 18 months;*
6. At the motion hearing held on 31.5.2022, Ld. Counsel who appeared for the petitioner was asked whether an approval for capacity addition with regard to the project under consideration in this petition has been obtained from this Commission in terms of the Regulation 32 of MPERC (Power Purchase and Procurement Process) Regulations, (Revision 1), 2006. Ld. Counsel of the petitioner submitted that he will file the status of approval for capacity addition on affidavit before the next date of hearing. The petition was admitted and vide order dated 02.06.2022, petitioner was directed to serve copy of the petition to Respondent within seven days. The Respondent was directed

to file reply to the subject petition within three weeks. The petitioner was asked to file rejoinder within two weeks, thereafter.

7. At the next hearing held on 12.07.2022, the Commission noted the following:
  - i. By affidavit dated 01.07.2022, Respondent filed reply to the subject petition.
  - ii. On 08.07.2022, petitioner filed rejoinder to the reply filed by Respondent.
  - iii. Ld. Counsel of the petitioner sought 10 days' time for filing written submission.
8. Vide order dated 15.07.2022, the petitioner was allowed to file written submission within 10 days. With the above direction and having heard the parties, case was reserved for order.
9. By affidavit dated 01.07.2022, the respondent (MPPMCL) in reply to the subject petition broadly submitted the following:
  - (i) The respondent submitted that the petitioner vide letter dated 20.12.2021 asked them to give "in principle consent" for the purchase of electricity from the 750 MW Wind and Solar Hybrid Power Project of RUMSL. It was mentioned that the Energy Department has given its approval for the purchase of electricity from the proposed 750 MW Project in accordance with Cabinet approval and under the proposed terms and conditions of the RFP (Request for Proposal), the major features of the Projects were as follows: -
    - (a) A hybrid power project must be at least 15 MW in size at a single location.
    - (b) The Hybrid Power Project's solar and wind components may be situated at the same or a different location.
    - (c) The Project's estimated generation would be 1971 MU with a minimum annual CUF of 30% in an operational year Considering the Wind- Solar in the ratio of 2:1, Wind and solar generation could be 1314 MU and 657 MU respectively.
    - (d) A ceiling tariff of Rs.2.78/kWh will be proposed in the bid.
  - (ii) In accordance with the aforementioned communication dated 20.12.2021, the Respondent (MPPMCL) vide letter dated 02.02.2022, informed the petitioner that it's competent authority has granted "in principle consent to RUMSL for procurement of 500MW Wind Power & 250MW Solar Power from its 750MW Hybrid Scheme, to be bid with Ceiling Tariff of Rs.2.78 per kWh.
  - (iii) Further, vide letter dated 01.02.2022, the petitioner informed Respondent that RUMSL has to file a petition before the Commission in order to seek approval for minimum **project capacity of 15 MW rather than the present norms of 50 MW.**



- (iv) The Respondent informed the petitioner that a consent was already issued vide dated 28.02.2022, regarding procurement of 500 MW Wind Power and 250 MW Solar Power with ceiling tariff of Rs.2.78 Per kWh subject to rate reasonableness of discovered tariff and financial viability to MPPMCL. It was also stated that in accordance with RUMSL's Letter dated 01.02.2022, **it is authorized to conduct the bid process on behalf of MPPMCL**. The petitioner was specifically informed that any deviation from the Guidelines for Tariff-Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Project, as well as any amendment, would require prior approval from MPPMCL.
- (v) The Respondent clarified that the aforementioned facts have been presented to the Commission to demonstrate that the deviation sought in the present petition is contrary to the Project Features, as informed by the petitioner in its letter dated 20.12.2021 wherein the minimum size of the Hybrid Power Project at one location was mentioned as 15 MW and it is specifically stated herein that no discussion was held with the procurer for the deviation sought in the present petition nor any consent in this regard was given by them.
- (vi) The Respondent submitted that it has no objection to the reduction in commissioning time from 24 months to 18 months, but in relation to the deviation from 50MW to 5 MW, it is submitted that as per S.No.17.1 of the TBCB guidelines, there is provision for part commissioning of at least 25 MW batch size, and now with the petitioner's requested reduction in project capacity, there will be a deviation in this provision as well, which is no longer acceptable. The Respondent further submitted that it has already clarified the petitioner's factual position regarding the minimum size of a hybrid power project at one location as 15 MW vide letter dated 20<sup>th</sup> December' 2021, and now there is a specific deviation from the aforementioned communication.
10. In response to the above reply filed by Respondent, the petitioner vide rejoinder dated 08.07.2022 has broadly submitted the following:
- i. The petitioner agreed with the Respondent's contention that they have granted "in-principle consent" for the procurement of 500 MW wind power and 250 MW solar power from a 750 MW hybrid bid with a fixed configuration of solar and wind capacity of the total contracted capacity PPA capacity. Prospective developers must use the pre-determined configuration suggested in the bid document to develop wind and solar capacity in the ratio of 2:1 of the project capacity under this proposal. However, based on feedback/response from prospective bidders in the RE Industry, such restrictions on wind and solar capacity in the hybrid project may increase the discovered tariff because historically, per unit cost for wind power is

- higher than per unit cost for solar power. They also suggested that such a pre-determined configuration is contrary to the origins of Hybrid Bidding Guidelines.
- ii. Further, restricting the configuration may be considered as a deviation from the Guideline, which states that any one of the two resources (wind or solar) should account for 33 percent of total capacity, in contrast to petitioner's previous proposal of fixed solar and wind capacity in the hybrid project. As a result of the above submissions, petitioner made appropriate changes to the proposal and allowed Bidders to configure their project with the condition that one of the two resources be 33% of the PPA Contracted Capacity. However, the petitioner submitted that it has no objection to the Respondent's submission regarding the Ceiling Tariff.
  - iii. On the issue of project size, **the petitioner agreed with the Respondent's contention that the minimum capacity of the Project should be 15 MW rather than the 5 MW as stated in the Petition. All stakeholders, including the Respondent, will benefit from the minimum capacity of 15 MW.** Otherwise, Respondent will have to deal with a large number of contracts, which will complicate the process, and it will also be difficult to manage records for the duration of the construction and operation period of at least 27 years.
  - iv. The petitioner stated that the Respondent has suggested that lowering the Project's minimum capacity may necessitate RUMSL taking a deviation in part capacity commissioning provision as well. However, it is important to note that RUMSL has permitted part-commissioning of projects having contracted capacity higher than or equal to 50 MW, in accordance with Hybrid Bidding Guidelines. As a result, no project under 50 MW is permitted for part-capacity commissioning. As such, petitioner submitted that no deviation from the part capacity commissioning provision is required.
  - v. The petitioner further submitted that it is no longer seeking a deviation from the 24-month commissioning schedule specified in the guidelines. The ongoing global turmoil and other factors have caused the petitioner to reconsider its position on the commissioning schedule, and that the petitioner believes that the guidelines-mandated schedule of 24 months is just and proper, and that there is no need to seek a deviation from the same. Furthermore, Bidders are free to install capacity in parts subject to the availability of evacuation infrastructure and Procurer's prior consent. Furthermore, **petitioner submitted that bidders will be able to commission a portion of the 750 MW prior to the 24-month deadline. As a result, the petitioner has withdrawn its submission in this regard.**
11. The petitioner in its final written submission (received on 19.07.2022) reiterated its contentions as submitted in its rejoinder to the reply filed by the Respondent.

**Commission's Observations and findings:**

12. The petitioner Rewa Ultra Mega Solar Limited has filed this Petition seeking certain deviations from the provisions of the "Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind-Solar Hybrid Projects" issued by the Ministry of New and Renewable Energy, Government of India under section 63 and Section 86(1)(b) of the Electricity Act, 2003, in respect of the bid process initiated for development of 750 MW grid-connected Wind-Solar Hybrid Power Project in Madhya Pradesh.
13. The petitioner submitted that the procurer MPPMCL has authorized RUMSL for carrying out the bidding process on behalf of them and the petitioner being authorized representative is entrusted to fulfill the obligations imposed on the procurer under the Wind-Solar Hybrid Bidding Guidelines. The petitioner RUMSL has been entrusted with the responsibility to carry out the Bid Process to select suitable Hybrid Power Generator(s) to develop, operate and maintain the Project(s) ("HPG"). As stated, RUMSL should not be the procurer for the Project as HPG(s) will be required to sign separate power purchase agreement(s) ("PPA") with the procurer (MPPMCL).
14. On perusal of the contents under the subject petition, the Commission has observed that in accordance to Section 63 of the Electricity Act, 2003 and Tariff Policy, Ministry of Power, has issued the "Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind-Solar Hybrid Projects" on 14.10.2020, which were further amended vide notifications issued by the Ministry of New and Renewable Energy dated 23.07.2021 and 09.03.2022, respectively. The Wind-Solar Hybrid Bidding Guidelines are applicable to long-term procurement of electricity by procurers from grid-connected Wind-Solar power projects having a size of 50 MW and above.
15. It is pertinent to mentioned that M.P. Power Management Company Limited had filed petition No. 32 of 2022 for approval of Renewable Capacity addition including 750 MW wind-solar hybrid power projects. Vide Order dated 28<sup>th</sup> July' 2022, the Commission approved the renewable capacity additions proposed in aforesaid petition including 750 MW wind-solar hybrid power projects.
16. Some relevant provisions under the Electricity Act' 2003, Tariff Policy and Standard Bidding Guidelines for wind-solar Hybrid Power Projects are reproduced below:

- i. Section 63 of the Electricity Act stipulates as under:

*“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.”*

- ii. Tariff Policy, 2016 has specific provision on the purchase of power generated from renewable energy sources. Clause 6.4(2) of the Tariff Policy, 2016 provides as under:

*“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.”*

- iii. Regarding the deviation from standard bidding guidelines, guideline 6.1 of the Wind-Solar Hybrid Bidding Guidelines provides as under:

**6.1. Bid Documentation:**

*“It shall prepare the bid documents in accordance with these Guidelines. Any deviations from the Guidelines need to be approved by the appropriate Commission.”*

- iv. Clause 23 of the Wind-Solar Hybrid Bidding Guidelines further provides as under:

**23.** *“In case there is any deviation from these Guidelines, the same shall be **subject to approval by the Appropriate Commission**. The Appropriate Commission shall approve or require modification to the bid documents within a reasonable time not exceeding 60 (sixty) days.”*

- v. Clause 5.1 of Wind-Solar Hybrid Bidding Guidelines provides that in case the hybrid power projects are supplying power to Distribution Licensee(s) of the State, the Appropriate Commission, for the purpose of these bidding Guidelines, shall be the State Electricity Regulatory Commission of the concerned State where the distribution licensee(s) is located. Clause 5.1 of Guidelines is reproduced as below:

**5.1** *“Subject to the provisions of the Electricity Act’ 2003, Appropriate Commission would be as under:*

- a. *In case the hybrid power projects is supplying power to Distribution licensee(s) of one State, the Appropriate Commission, for the purpose of these bidding Guidelines, shall be the State Electricity Regulatory Commission of the concerned State where the distribution licensee(s) is located.*
- b. *In case the hybrid power projects supplying power to Distribution licensee(s) of more than one State, the Appropriate Commission, for the purpose of these bidding Guidelines shall be the Central Electricity Regulatory Commission.*
- c. *For cases involving sale of hybrid power from generating companies owned or controlled by Central Government, the Appropriate Commission shall be the Central Electricity Regulatory Commission.*

17. In view of the above provisions, the petitioner submitted that in accordance with clause 23 of the Wind-Solar Hybrid Bidding Guidelines, this Commission is the Appropriate Commission under clause 5.1 of the Wind-Solar Hybrid Bidding Guidelines and Section 63 of the Electricity Act' 2003 for approval of deviations from the guidelines.

**Deviation from Standard Bidding Guidelines sought:**

18. In the subject petition, the petitioner has sought approval of the Commission for two deviations from the Wind-Solar Standard Bidding Guidelines i.e. (i) Minimum size of Project Capacity from 50 MW to 5 MW and (ii) Commissioning Schedule of the project from 24 months to 18 months. However, the petitioner in its rejoinder to the reply filed by the Respondent (MPPMCL) has withdrawn the deviation from commissioning schedule of the project mentioning that bidders will be free to install capacity in parts of the 750 MW prior to the 24-month deadline, therefore, the petitioner is no longer seeking a deviation from the 24-month commissioning schedule specified in the guidelines. Regarding the minimum size of the project, the petitioner is agreed with the Respondent's contention that the minimum capacity of the Project should be 15 MW rather than the 5 MW as sought for deviation in the Petition.
19. Detailed analysis of the proposed deviation for minimum size of the project from standard bidding guidelines in the subject Petition are as under:
- i. Regarding minimum size of the project, clause 3.1 of the Wind-Solar Hybrid Bidding Guidelines states as under:

*“These Guidelines are being issued under the provisions of Section 63 of the Electricity Act' 2003 for long term procurement of electricity through competitive bidding process by procurer(s), from **Hybrid Power Project having individual***

*size of 50 MW and above at one site with minimum bid capacity of 50 MW, subject to the condition that the rated power capacity of one resource (wind-solar) shall be at least 33% of the total contracted capacity.”*

- ii. Further, clause 3.2 of the Wind-Solar Hybrid Bidding Guidelines provides as follows:

*“The solar and wind projects of the hybrid project may be located at same or different locations. The minimum capacity to be injected at each injection point shall be 50 MW.”*
- iii. Aforesaid clauses of the Standard Bidding Guidelines for Wind-Solar Hybrid project provide that minimum capacity of Hybrid Power Project at one site is 50 MW subject to the condition that the rated power capacity of one resource (wind-solar) shall be at least 33% of the total contracted capacity.
- iv. Following is noted from submission of petitioner:
  - (a) Madhya Pradesh is a moderate wind capacity state and has seventh highest wind power potential of around ~15,000 MW. Out of 105 projects registered under the MP Wind Power Policy, 2012, 64 projects are having capacity less than 50 MW which is around 61% of the total no. of registered projects.
  - (b) The small size projects may supply power to the Procurer probably at 33 kV which is close to the consumption point which may bring benefits to the Procurer in terms of using the existing 33 kV infrastructure and avoiding requirement of developing 132/220/400 kV evacuation system including substation and transmission lines to carry power from generating station to consumption point. It also likely to reduce loss level due to zero transmission losses in supply of power.
  - (c) The “Solar Bidding Guidelines” dated 03.08.2017 and “Wind Bidding Guidelines” dated 08.12.2017 issued by MNRE allow small size projects of individual capacity of 5 MW especially for intra-state projects and RUMSL is presently engaged in conducting intra-state bid process for Wind and Solar together as a Hybrid power project.
- v. With regard to minimum size of the project, Respondent (MPPMCL) has submitted that the Energy Department has given its approval for purchase of electricity from the proposed 750 MW Project with minimum size of 15 MW hybrid power project at a single location. MPPMCL further submitted that the petitioner vide letter dated 01.02.2022 informed that RUMSL has to file a deviation petition in order to get approval for a minimum project capacity of 15 MW rather than the present norm of 50 MW.

- vi. Respondent further stated that even after directing RUMSL to go for deviation to the extent of minimum project capacity of 15 MW, petitioner without any discussions and consent filed petition for deviation for minimum capacity of 5 MW instead of agreed 15 MW.
- vii. In response to the aforesaid objection raised by the Respondent, the petitioner in his response submitted that it is agreed with the Respondent's contention that the minimum capacity of the Project should be 15 MW rather than 5 MW. He further stated that all stakeholders, including the Respondent, will be benefited from the minimum capacity of 15 MW.
20. The Commission has observed that while RUMSL has filed this petition, MPPMCL is a Respondent in the matter. MPPMCL as a procurer has authorized RUMSL to carry out competitive bidding as per Guidelines issued by GOI, MNRE under Section 63 of the Electricity Act, 2003 for procurement of power on their behalf from wind-solar hybrid power projects. The Commission has noted definition of procurer from amendment to Standard Bidding Guidelines issued by MNRE on 07.03.2022, which is as under:
- “Procurer(s) :** The term ‘procurer(s)’ as the context may require, shall mean the distribution licensee(s), or their Authorized Representative, or an Intermediary Procurer.”
- In view of inclusion of Authorized Representative in the definition of procurer in GOI Guidelines, the Commission allows the present petition filed by RUMSL.
21. This petition is filed seeking approval of the Commission on some of the deviations from GOI Guidelines. However, it is found that on matter of deviation from minimum project capacity of 50 MW allowed under MNRE Guidelines, RUMSL as a petitioner proposed minimum capacity of 5 MW whereas, Respondent objected to that before the Commission and submitted that they have permitted RUMSL for minimum project capacity of 15 MW only.
22. The Commission expresses its displeasure at filing of the petition without mutual agreement between procurer and his authorized representative. As a matter of fact, this petition should have been filed by the procurer i.e. MPPMCL to avoid such conflicting situation before the Commission. However, the petitioner (after filing objections by Respondent) has now aligned its prayer with the contention of Respondent. The Commission observed that time could have been saved, if this petition was filed after procurer & his authorised representative mutually agreed on all the requirement/conditions for the bidding.

23. In view of the aforesaid observations and considering the reasons explained by the petitioner and Respondent for deviation from minimum size of the project as mentioned in standard bidding guidelines for wind-solar hybrid project i.e. 50 MW at one site to 15 MW, the Commission hereby accords approval for this deviation in the wind-solar Hybrid Bidding Guidelines. This approval has been accorded in terms of clauses 6.1 and 23 of the guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid Connected wind-solar Hybrid Power Projects notified by Ministry of New and Renewable Energy on 14.10.2020 under Section 63 of the Electricity Act 2003. However, the Respondent is directed to file a separate petition for approval of PPA to be entered with the successful bidders. The approval of PPA by the Commission shall be necessary in terms of Section 86 (1)(b) of the Electricity Act, 2003 and applicable MPERC Regulations.

Accordingly, Petition No. 31 of 2022 stands disposed of

**(Gopal Srivastava)**  
**Member (Law)**

**(Mukul Dhariwal)**  
**Member**

**(S.P.S. Parihar)**  
**Chairman**