

**MADHYA PRADESH ELECTRICITY REGULATORY
COMMISSION
BHOPAL**

Sub: In the matter of Petition U/S. 86(1) (E) of the Electricity Act, 2003 seeking clarification in procurement of power in view of Order dated 16th February, 2021 passed in Petition No. 50 of 2020 and letter dated 05.08.2022 issued by Respondent.

ORDER

**(Hearing through video conferencing)
(Date of Order: 21.04.2023)**

**Managing Director,
MP Power Management Company Ltd.,
CoF Block, Shakti Bhawan, Rampur,
Jabalpur (MP), 482008**

- **Petitioner**

Vs.

**1. Managing Director,
Madhya Pradesh Urja Vikas Nigam Ltd.
Urja Bhawan, Main Road No. 2,
Shivaji Nagar, Bhopal, (MP)**

- **Respondents**

**2. Principal Secretary,
Government of MP, Energy Department,
Vallabh Bhawan, Bhopal**

Shri Manoj Dubey, Advocate appeared on behalf of the petitioner.

Shri Shrikant Deshmukh, Chief Engineer along with Shri Nirmal Dubey, Consultant appeared on behalf of the respondent no. 1

None appeared on behalf of the respondent no. 2

The subject petition is filed under Section 86(1) (E) of the Electricity Act, 2003 seeking clarification in procurement of power in view of Order dated 16th February 2021 passed by Commission in Petition No. 50 of 2020 and letter dated 05.08.2022 issued by Respondent.

2. By affidavit dated 16.03.2023, the petitioner broadly submitted the following:

- i. *That, the Government of Madhya Pradesh, vide Notification no. 226 dated 31-05-2005, restructured Madhya Pradesh State Electricity Board (MPSEB) into five independent companies, namely M P Power Generating Company Ltd., M P Power Transmission*

Company Ltd., M P Poorv Kshetra Vidyut Vitaran Company Ltd., M P Madhya Kshetra Vidyut Vitaran Company Ltd., M P Paschim Kshetra Vidyut Vitaran Company Ltd. and the residual MPSEB. The residual MPSEB was vested with the functions of bulk purchase of electricity from generating companies and supply of electricity in bulk to the three DISCOMs of the State. Subsequently, the State Government notified the M. P. Electricity Reforms Transfer Schemes Rules, 2006, vide notification dated 3rd June, 2006, whereby the functions, properties, interest rights and obligations of the Residual MPSEB relating to Bulk Purchase and Bulk Supply of Electricity along with the related agreements and arrangements were transferred and vested in M P Power Trading Company Limited (TRADECO). Accordingly, TRADECO has started functioning w.e.f. 03-06-2006 and from that date onwards, all three DISCOMs are buying the power of their requirement from a single source i.e. TRADECO including short-term power. Vide Certificate of Incorporation Consequent upon Change of Name dated 10-04-2012 issued by the Registrar of Companies, the name of M P Power Trading Company Ltd. has been changed to M P Power Management Company Ltd. The M P Power Management Company has been made holding company for all the DISCOMs of the State.

- ii. *The Respondent is the nodal agency responsible for execution of the KUSUM Scheme – A. Ministry of New and Renewable Energy (MNRE) has launched the guidelines for implementation of Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyan (PM KUSUM) Scheme on 22nd July 2019. This scheme has provision for the decentralized renewable energy plants, Solar agriculture water pumps and solarization of existing Grid connected Agriculture pumps. MNRE has designated MPUVNL as the State Implementing Agency (SIA) vide letter No: F.No. 32/54/2018 – SPV Division, dated 26th November 2019 for implementation of Component-A of PM KUSUM Scheme in the State of Madhya Pradesh. MNRE allocates the targets to SIA for every year and, SIA is responsible for implementation of projects within the defined timeframe. The SIA is responsible for coordinating with DISCOMs and farmers for implementation of the scheme. MNRE has designated the Respondent as the State Implementing Agency (SIA) vide letter No: F. No. 32/54/2018 – SPV Division, dated 26th November 2019 for implementation of Component-A of PM KUSUM Scheme in the State. MNRE allocates the targets to SIA for every year and SIA is responsible for implementation of projects within the defined timeframe. The SIA is responsible for coordinating with DISCOMs and farmers for implementation of the scheme.*
- iii. *Vide order dated 16th February, 2021 passed in Petition No. 50 of 2020, the Hon'ble Commission was pleased to determine the pre fixed levelized tariff of Rs. 3.07 / kWh, to under Component-A of KUSUM Scheme for entire life of the projects commissioned till 31st March, 2024. The said tariff is to act as a ceiling tariff for the PPAs of 25 years through **competitive bidding** in the matter.*
- iv. *Recently, to increase the participation of the farmers / developers in the Component-A of PM KUSUM Scheme and with due approval of the State Government, the Respondent has implemented a simplified walk-in registration and selection process.*
- v. *In above context, the Respondent, vide letter no. 2384 dated 05-08-2022 has informed that it is issuing LoA to the Solar Power generators under KUSUM-A Scheme on Walk-in Basis at last discovered tariff of Rs. 3.07 per Kwh and are forwarding PPAs to the Petitioner for execution of the same. New Simplified Walk-In Process for Registration*

in P. M. KUSUM – A Scheme issued by Respondent vide letter dated 18-07-2022 issued. Vide its recent letter dated 24-02-2023, the Respondent has affirmed that the said Walk-In Registration –cum- Selection process is in a way to increase the participation of the farmers / developers in the said KUSUM-A Scheme and enjoys due approval of the government. The Petitioner, under all bonafides has to execute the required PPAs in a time-bound manner.

- vi. However, in line with the orders of GoMP, Energy Department and in view of the Tariff order dated 16th February, 2021, the solar power is to be procured through Competitive bidding process only. In order to better serve the purpose of the KUSUM-A Scheme, the Respondent is resorting to Walk-in Basis at last discovered tariff of Rs. 3.07 per Kwh.
- vii. The Petitioner is duty bound to promote procurement of power generated through new and renewable sources of energy. In this pursuit, the Petitioner ought not to disagree with the spirit of the Respondent as contained in his letter dated 05.08.2022.
- viii. Paragraph no. 71 of the tariff order dated 16th February, 2021 passed by the Hon'ble Commission in Petition No. 50 of 2020, providing for ceiling tariff for the competitive bidding mode, is extracted as under:

“71. Based on the aforesaid parameters, the Commission has determined the pre fixed levelized tariff of Rs. 3.07 / kWh under Component-A of KUSUM Scheme for entire life of the project commissioned till 31st March’ 2024. This will act as a ceiling tariff for the competitive bidding in this matter. The duration of PPA shall be 25 years for all projects covered under this scheme.”

However, the letter no. 2384 dated 05-08-2022, issued by the Respondent provides for issuing LoA to the Solar Power generators under KUSUM-A Scheme on **Walk-in Basis** at last discovered tariff of Rs. 3.07 per Kwh and forwarding PPAs to the Petitioner for execution of the same. Therefore, the Petitioner seeks permission / clarification of Hon'ble Commission as to - whether in terms of para 71 of the tariff order dated 16th February, 2021 power under the KUSUM-A Scheme may also be procured through Walk-in Basis at last discovered tariff of Rs. 3.07 per Kwh.? Whether the ceiling tariff as mentioned in the Hon'ble Commission's order is applicable only in cases of competitive bidding? Whether the Commission is mandating that it has to be a competitive bidding only or a walk-in process as followed in this case is admissible for applying the rate found out? Also referring to the communication from GoMP dated 22-09-2012 is to be inferred that a walk-in tariff process is inadmissible?

- ix. In view of the factual matrix, and under all bonafides, it has become necessary for the Petitioner to seek necessary clarifications and / or suitable directions from the Hon'ble Commission to the effect that power under the KUSUM-A Scheme may be procured through Walk-in Basis at last discovered tariff of Rs. 3.07 per Kwh.

3. With the aforesaid submissions the petitioner prayed the following:

It is therefore prayed that the Hon'ble Commission may be pleased to suitably modify the order dated 16th February, 2021 passed in Petition No. 50 of 2020 and be further pleased to grant clarifications and / or suitable directions to the effect that power under

the KUSUM-A Scheme may be procured through Walk-in Basis at last discovered tariff of Rs. 3.07 per Kwh, to meet the ends of justice.

4. At the motion hearing held on 05.04.2023, advocate of the Petitioner explained the genesis of the Petition. Commission observed that the matter was also related to a letter issued by State Govt. to the Petitioner on 22.09.2012. Therefore, the Commission directed to make Energy Department, Govt. of MP as another Respondent. The petition was admitted and the petitioner was directed to serve copy of petition to the Respondents immediately. The Respondents were directed to file their response by 10.04.2023 positively. The case was fixed for hearing on **11.04.2023**.
5. Respondent, Madhya Pradesh Urja Vikas Nigam Ltd. by Affidavit dated 29.03.2023 submitted the following in its reply to the petition:
 - i. *That, submission of Petitioner is their internal facts and status and Respondent does not have any submission on this point.*
 - ii. *Submission of Petitioner is matter of guidelines pertaining to component-A of PM KUSUM scheme issued by Ministry of New and Renewable Energy, Govt. of India (MNRE) and Respondent does not have any specific submission on this point.*
 - iii. *Vide order dated 16th February, 2021, Hon'ble Commission was pleased to determine, in Petition No. 50 of 2020, a pre fixed levelized tariff of Rs. 3.07 / kWh for projects under component-A of PM KUSUM scheme for entire life of the projects commissioned till 31st March, 2024. Further, it is submitted that the said order underscored that the said tariff would act as a ceiling tariff for the competitive bidding in the matter. From the order, following is understanding of the Respondent in the matter:*
 - a. *Rs. 3.07/ kWh shall be pre-fixed levelized tariff for renewable power generators (RPGs) to be implemented under component-A of PM KUSUM scheme till the said order remains in force; and*
 - b. *The said Rs. 3.07/ kWh shall act as ceiling tariff, if selection of projects/ developer is done through competitive bidding. In all other matters, Rs. 3.07/ kWh or lower tariff achieved for projects selected through transparent and open process, aligned to MNRE guidelines for component-A of PM KUSUM scheme, shall be a tenable tariff, with deemed approval and adoption by Hon'ble Commission, for procurement of power by the Petitioner; and*
 - c. *The order of Hon'ble Commission is aligned to MNRE guidelines for component-A of PM KUSUM scheme, which provided for the following:*

*“The Distribution companies (DISCOMs) will notify sub-station wise surplus capacity which can be fed from such RE power plants to the Grid and shall **invite applications** from interested beneficiaries for setting up the renewable energy plants. The renewable power generated will be **purchased by DISCOMs at a pre-fixed levelised tariff**. In case, the aggregate capacity offered by Applicants is more than notified capacity for a particular sub-station, bidding route will be followed by DISCOMs to select Renewable Power generator and **in such cases the pre-fixed levelised tariff will be the ceiling tariff for bidding**”. [Para-2 of Cl.3 (I)]*

- iv. *The Respondent agrees with the Petitioner that a new process has been evolved with name “walk-in registration” for selection of renewable power generators (RPGs) aligned to MNRE guidelines for Component-A of PM KUSUM Scheme after due approval for the same by State Government. It is submitted that the “walk-in registration” process does not preclude any farmer/ applicant from participation for a particular substation or multiple substations as per contours of competition laid out in it. Under this process, if there is no competition found for a particular substation within notified capacity, then the applicant(s) shall be awarded the project(s) at pre-fixed levelized tariff determined by Hon'ble Commission. However, in case of competition found for a particular substation within notified capacity, then the applicant(s) shall be awarded the project through bidding criteria laid out in the process, in which case the pre-fixed levelized tariff determined by Hon'ble Commission shall act as ceiling tariff. Hence, the name of the process should not be mistaken as misnomer because the process is “walk-in registration” by name only to connect and communicate right tunes with target beneficiaries i.e. farmers/ farmer producer organizations/ group of farmers/ panchayats and other eligible entities. The simplified and duly approved “walk-in registration” process has been evolved for facilitation of target beneficiaries and it has all the ingredients of fair competition, openness and transparency. The intention of Govt. of India is to **give farmers/ target beneficiaries opportunity to increase their income by utilizing their barren and uncultivable land for solar or other renewable energy based power plants.** Therefore, minimal PQRs were prescribed by MNRE.*

The process has following elements that makes it as open and competitive aligned to KUSUM-A guidelines of MNRE:

- a. Online process: A dedicated online tab is prominently displayed on home page of the website (www.mprenewable.nic.in) of Respondent for the process named “walk-in registration”. Also, all applications received through the link have time-stamp to prioritize them for evaluation and allotment as per merit.
 - b. Ensuring transparency and process elaboration available publically: The dedicated online tab routes interested applicant to page that provided necessary documents, steps to be followed, eligibility criteria, selection criteria and necessary documentations. It is available in public free of cost to all interested applicants.
 - c. Comprehensive publicity of the process: The process named “walk-in registration” has been given wide publicity through Facebook, Twitter, Instagram channels of MyGov, reaching to panchayats, individuals and larger public of the State.
 - d. At par treatment to all interested eligible applicants: The window for application process remains open for every 15 days for anyone and everyone eligible as per KUSUM-A guidelines to apply within opening of the window. All application received in a particular window are treated at par for the purpose of evaluation.
 - e. Continuous and structured process: The application process rolls on every month and this is well documented and published in the new process documents available in public domain. Also, scheme description and other necessary details are available online for access by any interest entity who plans to participate;
- v. *the process named “walk-in registration”, with all elements ensuring transparency and open competitiveness, is aligned to MNRE guidelines for component-A of PM KUSUM scheme. Also, it is submitted by Respondent that RPGs selected through this process are eligible for execution of power purchase agreement (PPA) with the Petitioner. The relevant provisions of MNRE guidelines for KUSUM-A are extracted below:*

“DISCOM or any agency authorized by the DISCOM shall invite 33/11 kV or 66/11 kV or 110/11 kV sub-station wise EoI from RPG to participate in selection process for development of decentralised renewable power plants. The RPG shall submit their interest against the EoI as per the schedule notified by DISCOM. An RPG will not be allowed to apply for more than one renewable power plant for a particular 33/11 kV sub-station. The EoI of an RPG will also be disqualified if it is found that its proprietor/partner/director/member has also filed EoI as proprietor/partner/director /member for another RPG for the same sub-station”. [Para-1 of Cl.3 (I-A-b)]

Further, the MNRE guidelines provide for boundary conditions and applicable tariff for first level of filter in selection of RPGs for projects under component-A of PM KUSUM scheme:

“In case the total aggregate capacity of eligible applications received for a particular sub-station is less than or equal to the capacity notified for connectivity at the sub-station, LoA will be awarded to all eligible applicants for procurement of renewable power at a pre-fixed levelised tariff”. [Para-1 of Cl.3 (I-A-c)]

Furthermore, the MNRE guideline specifically provides for second level of filter i.e. the situations when bidding process would have to be conducted for selection of RPGs, in which case, the pre-fixed levelized tariff shall act as ceiling tariff. Relevant provisions of MNRE guidelines are extracted below:

“In case the total aggregate capacity of eligible application received for a particular sub-station is more than the capacity notified for connectivity at the sub-station, then DISCOM or any agency authorized by the DISCOM shall invite Bids from all these applicants. All eligible applicants will have to submit tariff bids within a prescribed time. Selection of bidders will be based on the lowest tariff offered in the ascending order as quoted by the bidders in the closed bid or e-reverse auction as the case may be. LoA will be awarded to all successful bidders”. [Para-2 of Cl.3 (I-A-c), Annex-R/I]

Therefore, Respondent most humbly submits its understanding before Hon’ble Commission that RPGs selected by the Respondents following the process named, “walk-in registration”, are eligible for execution of PPA with the Petitioner at pre-fixed levelized tariff determined by Hon’ble Commission.

Further, as submitted by the Respondent earlier, the process named and recognized as “walk-in registration” has all elements of transparency as well competitiveness and aligned to guidelines of MNRE for component-A of PM KUSUM scheme. Hence, execution of PPA between the Petitioner and RPGs selected through the process at pre-fixed levelized tariff determined by Hon’ble Commission should be a tenable contract.

- vi. *Submission of the Respondent in respect of order of GoMP, Energy Department is provided at sub-para (e) of paragraph-8 below. However, the Respondent in its wisdom appreciates the legal and factual position of the tariff order of Hon’ble Commission dated 16 February 2021, which also allows power procurement by the Petitioner through competitive bidding. Also, it is submitted that the simplified process named “walk-in registration” is aligned to letter and spirit of MNRE guidelines and meant to*

serve the purpose of larger objectives of PM KUSUM scheme underlying the vision of Hon'ble Prime Minister.

- vii. *The Respondent acknowledges understanding of the Petitioner.*
- viii. *The Respondent has, at para-3 and para-5 above, comprehensively and adequately submitted its understanding and position on import and interpretation of order of Hon'ble Commission dated 16 February 2021 in the matter of Petition No. 50.*

Further, the Respondent would like to submit that selection of RPGs through simplified process named "walk-in registration", is done at pre-fixed levelized tariff determined by Hon'ble Commission. Any similarity or matching of this rate with any other tariff could be purely coincidental.

Furthermore, as submitted at para-3, para-4 and para-5 above read with submission in this paragraph, the Respondent most humbly submits that selection of RPGs through a thought-through and structured process named, "walk-in registration" is aligned to MNRE guidelines for component-A of PM KUSUM scheme and duly in sync with order of Hon'ble Commission dated 16 February 2021 in the matter of Petition no. 50 of 2021.

Furthermore, the Respondent would most humbly re-iterate its understanding and position before Hon'ble as follows:

- a. *Rs. 3.07/ kWh shall be pre-fixed levelized tariff for renewable power generators (RPGs) to be implemented under component-A of PM KUSUM scheme till the said order remains in force; and*
- b. *The said Rs. 3.07/ kWh shall act as ceiling tariff, if selection of projects/ developer is done through competitive bidding. In all other matters, Rs. 3.07/ kWh or lower tariff achieved for projects selected through transparent and open process, aligned to MNRE guidelines for component-A of PM KUSUM scheme, shall be a tenable tariff, with deemed approval and adoption by Hon'ble Commission, for procurement of power by the Petitioner; and*
- c. *The order of Hon'ble Commission is aligned to MNRE guidelines for component-A of PM KUSUM scheme, which provided for the following:*

*"The Distribution companies (DISCOMs) will notify sub-station wise surplus capacity which can be fed from such RE power plants to the Grid and shall **invite applications** from interested beneficiaries for setting up the renewable energy plants. The renewable power generated will be **purchased by DISCOMs at a pre-fixed levelised tariff**. In case, the aggregate capacity offered by Applicants is more than notified capacity for a particular sub-station, bidding route will be followed by DISCOMs to select Renewable Power generator and **in such cases the pre-fixed levelized tariff will be the ceiling tariff for bidding**". [Para-2 of Cl.3 (I)]*

- d. *Order of Hon'ble Commission dated 16 February 2021, in the matter of Petition no. 50 of 2020, allows selection of RPGs through competitive bidding as well as a duly approved process aligned to MNRE guidelines. Also, the order allows*

that the tariff determined by the Commission would act as ceiling tariff in case of competitive bidding process. However, it is also import of the said order that the pre-fixed levelised tariff determined by Hon'ble Commission would be deemed tenable tariff for a duly approved process aligned to MNRE guidelines.

e. As business of power distribution is regulated in accordance with the regulations or guidelines issued in accordance with provisions of the Electricity Act, 2003, Hon'ble Commission may like to examine and take a view on the communication from GoMP dated 22-09-2012 for its relevance, tenability and validity from following perspectives:

1) Section 63 of the Electricity Act, 2003, as amended, read with Para 6.4 (2) of the National Tariff Policy, 2016, as amended (NTP), empowers competitive bidding process, provided it is done in accordance with guidelines issued by Central Government. Both the provisions are extracted below:

“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”. [Section 63 of the Act]

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 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. While determining the tariff from such sources, the Appropriate Commission shall take into account the solar radiation and wind intensity which may differ from area to area to ensure that the benefits are passed on to the consumers. [Para 6.4(2) of NTP]

2) Existing guidelines issued by Central Government for procurement of power through competitive bidding, issued in accordance with Section 63 of the Act and provisions of NTP, 2016, are applicable for 5 MW and above capacity solar projects. Whereas as per KUSUM-A guidelines the maximum allowable capacity the project is upto 2 MW only. Hence, existing competitive bidding guidelines for solar PV projects is not applicable for KUSUM-A projects.

3) The order of State Government needs to be looked into from perspective of basic principles underlined in Section-63 of the the Electricity Act,

2003, prevalent regulations of Hon'ble Commission and MNRE guidelines for component-A of PM KUSUM scheme.

6. With the aforesaid submissions the respondent prayed the following:

It is therefore prayed that the Hon'ble Commission may be pleased to issue necessary order or direction in the matter as appropriate, to help meet the ends of justice.

7. At the hearing held on 11.04.2023, the petitioner reiterated their doubts on “walk-in process” adopted by respondent no. 1 for selection of applicants under Kusum “A” Scheme and requested to provide clarifications on the issues raised in the petition.
8. Respondent no. 1 stated that they have submitted their reply on the issues through affidavit dated 29.03.2023. They informed that the “walk-in-process” is the name given for selection of the applicants under Kusum “A” Scheme, however the scheme has been prepared strictly as per the provisions of Policies notified by Government of India from time to time keeping in view transparency and competition. Commission enquired whether they have any comments on the communication dated 22.09.2012 of Energy Department, GoMP on which Respondent no. 1 stated that they do not wish to make any comments on the said reference.
9. Commission noted that none appeared on behalf of respondent no. 2. Commission directed that respondent no. 2 may file their reply in the matter within 3 days i.e. by 17.04.2023 after which the opportunity to file reply shall be closed. Case was reserved for orders.

10. **Commission's observations and findings:**

In order to provide clarifications to the petitioner as sought in the present petition, we have discussed the legal and regulatory provisions relevant to the issues as under: -

1. Section 61 of the Electricity Act, 2003 provides among other things that Appropriate Commission shall subject to the provisions of the Act, specify the terms and conditions or the determination of tariff, and in doing so, shall be guided by the National Electricity Policy and tariff policy among other.
2. The Central Government, Ministry of Power has notified National Tariff Policy 2016 on 28.01.2016. Clause 6.4 (3) of the policy 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 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. While determining the tariff from such sources, the Appropriate Commission shall take into account the solar radiation and wind intensity which may differ from area to area to ensure that the benefits are passed on to the consumers.”*
3. Ministry of Power, Government of India vide its resolution dated 3rd Aug 2017 has issued Guidelines under the provisions of Section 63 of the Electricity Act, 2003 for long term procurement of electricity by the ‘Procurers’, from grid-connected Solar PV Power Projects (‘Projects’) having size of 5 MW and above, through competitive bidding.
 4. The Commission in its regulation namely MPERC (Terms and conditions for Tariff determination for energy from Renewable Energy Sources) Regulations, 2017 (G-43 of 2017) as amended has also prescribed that the tariff for Solar PV and Solar Thermal Power Projects based on technologies approved by MNRE with capacity less than 5 MW shall be determined under section 62 of the Electricity Act, 2003.
 5. From the above provisions, it is evident that Distribution Licensees may procure power from Solar Power Plants with capacities less than 5 MW based on the tariff determined by the Commission under section 62 of the Act and shall procure power mandatorily through competitive based tariff bidding when capacity of Solar Plant is 5 MW or above.
 6. Now, let us discuss the provisions of guidelines issued by MNRE, Government of India on 22.07.2019 for implementation of Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyan (PM KUSUM) Scheme. The salient provisions of the Policy on Component “A” which are relevant for the instant issues are as under: -
 - i. Solar or other renewable energy-based power plants (REPP) of capacity 500 kW to 2 MW will be setup by individual farmers/ group of farmers/ cooperatives/ panchayats/ Farmer Producer Organizations (FPO)/Water User associations (WUA)
 - ii. States/DISCOMs may allow setting-up of solar or other renewable energy based power plants of capacity less than 500 kW in specific cases. The REPP will be preferably installed within five km radius of the sub-stations in order to avoid high cost of sub-transmission lines and to reduce transmission losses.
 - iii. The Distribution companies (DISCOMs) will notify sub-station wise surplus capacity which can be fed from such RE power plants to the Grid and shall invite applications from interested beneficiaries for setting up the renewable energy plants.
 - iv. **The renewable power generated will be purchased by DISCOMs at a pre-fixed levelized tariff.**

- v. **In case, the aggregate capacity offered by Applicants is more than notified capacity for a particular sub-station, bidding route will be followed by DISCOMs to select Renewable Power generator and in such cases the prefixed levelized tariff will be the ceiling tariff for bidding.**
 - vi. Selection of bidders will be based on the lowest tariff offered in the ascending order as quoted by the bidders in the closed bid or e- reverse auction as the case may be.
7. Commission has accordingly determined levelized tariff for PM Kusum Scheme, Component “A” vide order dated 16.02.2021 in petition no. 50 of 2020 filed by respondent no. 1. Para 71 of the order dated 16.02.2021 is reproduced as under: -

“Based on the aforesaid parameters, the Commission has determined the prefixed levelized tariff of Rs. 3.07 / kWh under Component-A of KUSUM Scheme for entire life of the project commissioned till 31st March’ 2024. This will act as a ceiling tariff for the competitive bidding in this matter. The duration of PPA shall be 25 years for all projects covered under this scheme. The computational details are placed at Annexure – A.”

8. The Petitioner has filed a clarificatory Petition with regard to order dated 16th February, 2021 of this Commission passed in Petition 50 of 2020. The Petitioner has combined many issues together irrespective of their relatedness to the Order for which clarification is being sought. The Commission in view of the scope of the clarificatory Petition and also in view of provisions cited in foregoing paragraphs, makes the following observations to clarify the issues raised in the subject petition: -
- i. In terms of paragraph 71 of Commission’s order dated 16th February 2021 in Petition 50 of 2020 read with guidelines of MNRE, the Petitioner may procure power from eligible applicants at prefixed tariff of Rs 3.07 per kWh, if the aggregate capacity of eligible applications received for a particular sub-station is less than or equal to capacity notified for connectivity at that sub-station.
 - ii. The prefixed tariff of Rs. 3.07 per kWh as mentioned in Commission’s order dated 16th February 2021 in Petition no. 50 of 2020 shall act as ceiling tariff only when bidding is done to select successful Applicants in case aggregate capacity of eligible applications exceeds the notified capacity of the sub-station. In other cases, prefixed tariff shall be applicable as mentioned in (i) above.
 - iii. From MNRE guidelines and order dated 16th February, 2021 of Commission in Petition no. 50/2020, it is amply clear that competitive bidding is not mandated if the aggregate capacity of eligible applications received for a particular sub-station is less than or equal to capacity notified for connectivity at that sub-station.

- iv. MPPMCL is wholly owned by the Government of Madhya Pradesh. Letter dated 22.09.2012 of Energy Department, GoMP to MPPMCL is internal communication between the State Government and MPPMCL. Respondent no. 2 was given the opportunity to file written submissions, if any, latest by 17.04.2023 to clarify its stand on the directives contained in letter dated 22.09.2012, but no response has been received from respondent no. 2. As such, the Commission cannot offer any comments on the letter dated 22.09.2012 issued by GoMP. In any case, the Petitioner is entitled to seek clarification from us on order issued by this Commission. However, it cannot expect this Commission to give clarification on the communications received from other parties.
9. The petitioner by way of a clarificatory Petition has prayed that the Commission may suitably modify the order dated 16th February 2021 passed in Petition No. 50 of 2020 and grant clarifications and / or suitable directions to the effect that power under the KUSUM-A Scheme may be procured through Walk-in Basis at last discovered tariff of Rs. 3.07 per kWh.
10. In view of the scope of the Petition and in light of the observations made in Para 8 of this order, there is no need for any modification of order dated 16th Feb 2021 passed by the Commission in Petition no. 50 of 2020. Moreover, Commission would also like to impress at this stage that the Petitioner shall ensure complete transparency in the bidding process in the event bidding takes place and while doing so the guidelines of Central Government shall be followed by it. Commission would examine all these issues at the time of adoption of tariff after finalization of bids under PM Kusum Scheme Part A.
11. With the above observations, petition stands disposed-of.

(Prashant Chaturvedi)
Member

(Gopal Srivastava)
Member (Law)

(S.P.S. Parihar)
Chairman