

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2383 of 2024.

In the Matter of:

Petition seeking approval of Long-term Hybrid Renewable Energy (RE) Power Procurement, adoption of tariff discovered through Competitive Bidding, approval for executing Power Purchase Agreement with bidder under the provisions of Section 86 and Section 63 of the Electricity Act, 2003 read with Guidelines under Notification No. 2 of 2013, GERC (Guidelines for Procurement of Power by Distribution Licensees) 2013.

Petitioner : Jubilant Infrastructure Limited

Represented by : Mr. Mahesh K Mandwarya, Mr. Ishwar Patre and Mr. Gaurav Gulati

CORAM:

**Mehul M. Gandhi, Member
S. R. Pandey, Member**

Date: 31/12/2024

ORDER

1. The present Petition has been filed by the Petitioner Jubilant Infrastructures Limited (JIL) under Section 63 read with Section 86(1)(b) of the Electricity Act 2003 *interalia* seeking following prayers:

- a. *Admit the present Petition.*
- b. *Approve the terms & conditions of Power Purchase Agreement (PPA) along with deviation and allow petitioner to execute PPA with M/s O2 Renewables III Private Limited.*
- c. *Approve tariff of Rs. 4.13/kWh discovered through Competitive Bidding Process for 9 MW RE for long term with /s O2 Renewables III Private Limited.*

- d. *To condone any shortcomings/deficiencies and allow JIL to submit additional information/data at a later stage as may be required.*
- e. *Condone any inadvertent omissions/error/shortcomings/and permit the Petitioner to make minor addition/change/modification/alter this filing and make further submissions as may have required at a future date.*
2. The Petitioner has filed this Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003 seeking adoption of tariff by the Commission and hence it is necessary to refer aforesaid Sections as under:

“.....

Section 63:

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

.....”

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

“.....

Section 86(1) The State Commission shall discharge the following functions, namely: -----

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.”

.....”

As per the aforesaid provision, the Commission has to regulate the power procurement of the Distribution Licensees, including the procurement process, the price at which electricity shall be purchased from the generating company or the Licensees or through other sources through agreement for purchase of power for

distribution and supply within the State.

3. This Petition filed by the Petitioner is within the purview of the jurisdiction of this Commission and in terms of the powers vested by the Electricity Act, 2003 and Regulations framed thereunder, the Commission admits the present Petition.
4. The facts mentioned in the Petition, in brief, are as under:
 - 4.1. The Petitioner Jubilant Infrastructure Limited (JIL) is a company incorporated in the year 2008 under the Companies Act, 1956 and is a wholly owned subsidiary of Jubilant Ingrevia Limited.
 - 4.2. The Ministry of Commerce and Industry, Government of India vide Notification No. 290 (E) dated 11th February 2008 has notified JIL as SEZ Developer to set up sector-specific Special Economic Zone (SEZ) for Chemicals in proposed area of 107 hectares at Vilayat, District Bharuch, Gujarat.
 - 4.3. It is stated that Ministry of Commerce and Industry (Department of Commerce), Government of India, vide Notification dated 3rd March 2010 under Section 49(1) (b) of the SEZ Act, 2005 has specified that the developer of a SEZ is deemed to be a Distribution Licensee under the provisions of the Electricity Act, 2003. The Electricity Act, 2003 was amended through Notification dated 3rd March 2010 and added a proviso to Section 14 (b) which is reproduced as under:

"14. Grant of License

The Appropriate Commission may, on an application made to it under section 15, grant a license to any person –

- a. To transmit electricity as a transmission licensee: or*
- b. To distribute electricity as a Distribution Licensee; or:*

.....

Provided that the Developer of a Special Economic Zone notified under sub-section (1) of Section 4 of the Special Economic Zones Act, 2005, shall be deemed to be a licensee for the purpose of this clause, with effect from the date of notification of such Special Economic Zone;"

- 4.4. It is stated that the Commission vide its Letter No. 02152/GERC/Legal/2012 dated 11th October 2012 has granted the distribution license to the Petitioner bearing License No. 07 of 2012 in the SEZ area notified by Ministry of Commerce & Industry, Government of India and also approved the Map of the distribution of electricity license area and the said license still continues and held by the Petitioner.
- 4.5. The Department of Commerce and Industries also notified adjoining Plot No. 4 admeasuring 18.55.92 hectares in the original SEZ area (107.16.50) on 05th September 2017 totaling to the total SEZ area of 125.72.42 Hectares and a Rectification Lease Deed in favor of JIL is already executed by GIDC on dated 22nd June 2016.
- 4.6. The Petitioner being the Developer of the SEZ is also responsible for development, operations and maintenance of all utility services including distribution of electricity within the SEZ area to provide consumers with plug-n-play services. Accordingly, the Petitioner developed a 66kV Switchyard/Sub-Station to source power from Grid and connected through double circuit line including 11 kV network to supply power to consumers in the SEZ area and also to manage the utility services.
- 4.7. The Petitioner has taken the Distribution License from the Commission but due to certain reasons such as low load demand, variability in load and being new to the distribution business, the Petitioner has not moved forward as a Licensee at that point of time in the year 2012-13. Now considering the sufficient loads and readiness of the distribution Network at SEZ area, Petitioner intends to start its operation as a Licensee.
- 4.8. Upon request of JIL, the Commission on 03rd August 2023 allowed JIL to initiate operations as a distribution licensee and to source power directly from other distribution companies, generating sources, power exchanges and other options available in Indian power market and get the benefit of competitive power market pricing, under various time horizons as per load requirements.
- 4.9. The Section 63 of the Electricity Act, 2003 provides that the Appropriate Commission shall adopt the tariff, if such tariff has been determined through

transparent process of bidding and is in accordance with the guidelines issued by the Central Government. Also, as per Section 86 (1) (b) of the Electricity Act, 2003, the Commission to regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.

- 4.10. The Clause 4 (vi) of Guidelines issued by Department of Commerce (SEZ Division), Government of India dated 27th October 2010 provides that it would be appropriate that the SEZ is self-dependent on power supply and the SEZs should be able to provide 7 x 24 hours uninterrupted quality power supply. It would be desirable for Developer to undertake distribution of power either on its own or through a Co-Developer and source power from power plants located in other SEZs or set up a captive power plant. Clause No. 6 of GERC (Guidelines for Procurement of Power by Distribution Licensees), 2013, Notification No. 2 of 2013 provides that in case of Procurement of Power through competitive bidding, the Distribution Licensees shall initiate the process for long-term/medium-term power procurement in accordance with the Ministry of Power's 'Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees' notified by the Ministry of Power on 19.01.2005 and in force from time to time as provided in the MoP Guidelines. It also provides that in case of long term/medium-term procurement of power from generating sources, where the tariff is to be determined by the GERC, the Distribution Licensee shall enter into such arrangement or agreement only after getting prior approval of the Power Purchase Agreement.
- 4.11. The Petitioner JIL approached the Commission on 02.03.2024 seeking approval of 9.0 MW renewable power and seeking approval for deviation from MoP Guidelines 2023 and the Commission' Order. Accordingly, the Petitioner JIL is to approach the State Government and to obtain approval for deviations in Draft Bidding Documents.
- 4.12. The Petitioner JIL approached the Energy and Petrochemicals Department for seeking approval deviations for 9 MW renewable power and the Energy and Petrochemicals Department, Govt. of Gujarat informed that as per the Ministry of Power Guidelines, for a smaller capacity of 9 MW only, the Petitioner has to

approach to take permission of the Commission for commencing the tendering process for the procurement of 9 MW of renewable power in line with strategic goals and sustainability objectives. Accordingly, the bidding process was initiated. The Petitioner has received the approval for initiation of the tendering process on 02.07.2024 by the Commission.

- 4.13. The Petitioner is structured to provide quality infrastructure to attract investment as well as generate employment and revenue for the State. The said SEZ is a sector specific SEZ for Chemicals in 310.66 acres of land at Vilayat GIDC Industrial Estate, in Bharuch District of Gujarat.
- 4.14. The details of the consumers along with their plot size, contract demand and connectivity voltage level are as follows: -

Table 1: Plot-size, Contract Demand and Voltage Level of Consumers-

Sr. No.	Name of Consumers	Plot Size (Acres)	Contract demand	Voltage level
1	Jubilant Ingrevia Limited Unit#1	19.64	3500 kVA	11KV
2	Jubilant Ingrevia Limited Unit#2	10.964	2000 KVA	11 kV
3	Jubilant Ingrevia Limited Unit#4	10.00	2500 KVA	11KV
4	Jubilant Agro Science Limited	23.0	1500 KVA	11KV
5	Jubilant Infrastructure Limited (Boiler)	1250 KVA	11 KV
6	Miscellaneous (Street lights, Admin building, customs etc.)	NA	125 KVA	0.415KV
	Total Load in KVA		10875 KVA	

- 4.15. Further, the Petitioner being a Distribution licensee is committed towards complying the statutory requirements of the Commission (GERC) and shall also be following the GERC' Rules and Regulation to procure power under long/medium / Short Term Arrangements and also the provisions of Section 63 of the Electricity Act, 2003 and Ministry of Power (MoP) Guidelines.
- 4.16. It is submitted that the Petitioner have separate books of account for power distribution business and the same shall be maintained and submitted to the Commission from time to time. The above SEZ area is being developed as a Sector Specific SEZ for Chemicals. The consumer base of a typical distribution licensee would be inclusive of diverse consumer categories i.e. non-residential, industrial, commercial, agriculture, public lighting, public works, railways etc. However, the

SEZ at JIL is unlikely to include the entire consumer mix of a typical distribution licensee and may be limited to non-residential, commercial, industrial and public services.

- 4.17. It is stated that the Petitioner is undergoing a process of developing the SEZ area, the plot allotment plan of leasable land as envisaged in the JIL Distribution Plan is provided in the table below:

Table 2: Plot Allotment Plan as envisaged in JIL Business Plan

Sr No.	Plot number	Area (Acres)	Type of Connection	Expected Load (kVA)
1.	Plot No. 4	50	HT 11 KV	4000

- 4.18. It is submitted that the Petitioner being new has initiated to the distribution business and has expected phase-wise load growth details of HT & LT consumers for 10 years (year 2024-2034) along with the Peak, but Base power requirement is difficult to be projected. Therefore, the Petitioner has submitted the expected phase-wise load growth details of different consumer types along with the Peak and Base power requirement for FY 2024-25 & FY 2025-26 in table below:

Table 3: Expected phase-wise Base Load Projections (in MVA) of different types of consumers (FY 2024 to FY 2034)-

Project Phases	Type	Area (Acre)	FY-2024	FY-2025	FY-2026	FY-2027	FY-2028	FY-2029	FY-2030	FY-2031	FY-2032	FY-2033	FY-2034
Phase I	HT	73	~ 11-12	~ 12-13	~ 13-14	~ 13-14	~ 13-14	~ 14-15	~ 14-15	~ 14-15	~ 15-17	~ 15-17	~ 15-17

Table 4: Expected phase-wise Peak Load Projections (in MVA) of different types of consumers (FY 2024 to FY 2034)-

Project Phases	Type	Area (Acre)	FY-2024	FY-2025	FY-2026	FY-2027	FY-2028	FY-2029	FY-2030	FY-2031	FY-2032	FY-2033	FY-2034
Phase I	HT	73	~ 11-12	~ 12-13	~ 14-15	~ 14-15	~ 15-16	~ 15-16	~ 15-16	~ 15-17	~ 18-20	~ 18-20	~ 18-20

- 4.19. It is submitted that as on date, 1 no. of plot holder(s)/ consumer(s) has requested the Petitioner for supply of regular power so as to enable them to commence their operation.
- 4.20. The power requirement at SEZ from the above-mentioned consumers is expected to be as follows:

Table 5: Yearly power requirement at SEZ

Particular	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29	FY 2029-30	FY 2030-31	FY 2031-32	FY 2032-33	FY 2033-34
Power Requirement MW	~ 10-11	~ 12	~ 12-13	~ 13-14	~ 14-15	~ 14-15	~ 15-16	~ 15-16	~ 17-18	~ 17-18

Power Requirement MUS	95	103	111	122	130	130	138	138	150	150
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- 4.21. It is submitted that as the operation of consumers is expected to be 24 hours' duration, no separate peak load requirement has been estimated at present. Presently, the total load is considered as base load only. The Petitioner is an ambitious SEZ project planned to be developed with world-class infrastructure and other operational facilities for sector specific chemical plants. Having a separate tariff structure in its license area is always beneficial for the Petitioner to attract the industrial and manufacturing units in its early stage of development.
- 4.22. To ensure long term reliability of power and to mitigate the price volatility risks IIL plans to procure 9 MW Hybrid RE power under Twenty-Five (25) Year term agreement from renewable energy source.
- 4.23. The Petitioner commence its business as a distribution licensee and accordingly, initiated to procure power under Open Access through a portfolio mix of STOA/Collective transaction. Tentative year-wise procurement plan is as follows:

Table 6: Tentative year-wise procurement plan

Sr. No.	Power Sourcing Mode	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
1	LTOA/MTOA	Nil	9 MW	9 MW	9 MW
2	STOA/Collective Transaction	~ 10-11 MW	~ 3-4 MW	3-4 MW	~ 4-5 MW
	Total	~ 10-11 MW	~ 12.0 MW	~ 12-13 MW	~ 14.0 MW

- 4.24. Further, in line with GERC (Guidelines for Procurement of Power by Distribution Licensees), 2013, the Petitioner had issued Request for Proposal for procurement of power through competitive bidding under long term arrangement on website <https://www.jubilantingrevia.com/sez/> and www.ej-buy.com on 28.05.2024. The Petitioner JIL has published RfP in two national newspapers, viz., 'Financial Express, & Sandesh' on dated 28th May 2024 and uploaded the same in its website for wide publicity. The timelines of RfP were as follows:

Table 7: Timelines of RFP

Sr. No	Event	Date & Time
1	Date of issue of Request for Selection (RIS) document, Project specific draft Power Purchase Agreements and other draft	28.05.2024

	Project Agreements, and the Power Sale Agreement (PSA), if applicable	
2	Bid clarification, conferences, opening of online Data Room to share all Project specific details including site, if specified by Procurer etc., and revision of RfS document	18.06.2024
3	RfS bid submission	25.06.2024
4	Evaluation of technical bids	28.06.2024
5	Evaluation of financial bids and conduction of e-Reverse Auction	30.06.2024
6	Issuance of Letter of Award (LOA)	05.08.2024
7	Signing of PPA and the PSA (if applicable)	After GERC Approvals

Table 8: Major points of RFP are as follows:

1	Contracted Capacity	9 MW RE
2	Delivery Point	Interconnection point between evacuation facility of Project and the ISTS Transmission grid network of CTU
3	Tariff	Tariff discovered through competitive bidding process i.e. Rs. 4.13/kWh (CUF 70%)
4	Effective Date	Date of receipt of GNA RE/Open Access approval from nodal agency

- 4.25. Considering the load profile of consumer's in JIL's SEZ area, following deviations were included in the RFP document like Capacity Utilization Factor (CUF), Quantum, Excess Generation, Delay in Commissioning beyond the ISTS Wavier Date, Relief in Change in Law, Green Attributes and other benefits etc.
- 4.26. It is stated that based on the requests received from the bidders, the timelines of bid submission were further extended and subsequently, the bidders have raised some queries on 12.06.2024 like Proof of Technical Qualification, Identification of 100% Land, Off-Take Capacity and Power Sale, Inconsistencies in Clauses, Bid Processing Fee, Contract Year and Commencement Date, Guidelines, Definition, Dispute Resolution Process, etc. which were addressed through Corrigendum-II dated 15.06.2024.
- 4.27. Subsequently, the technical bids received on *ej-buy.com* portal was opened on 28.06.2024 at 08:00 Hours. The Petitioner JIL has received only one (1) bid, i.e., from M/s O2 Renewable Energy III Private Limited, wherein they have proposed to

supply the power from its RE Hybrid (Wind Solar) plant. Bids received from bidders for each requisition are as follows:

Table 9: Bid received from bidders

Bid	Period	Bidder	Quantum (in MW)
1	April 2025 onwards for 25 years	M/s O2 Renewable Energy III Private Limited	9.0 (CUF – 70%)

4.28. Therefore, the Technical Committee of the Petitioner JIL has evaluated the technical bid submitted by M/s O2 Renewable Energy III Private Limited on 28.06.2024 was in line with RfP. Subsequently, the Financial Bid was open on 30.06.2024 and the Price quoted by successful bidders are as follows:

Table 10: Bid received from successful bidders

Requisition	Period	Bidder	Quantum (in MW)	Bid Price Rs/unit
1	April 2025 onwards for 25 years	M/s O2 Renewable Energy III Private Limited	9.0	Rs. 4.13/Kwh

4.29. Due to the receipt of a single bid for each requisition, an e-reverse auction was not conducted by the Petitioner. Additionally, the bid evaluation report, comprising both the technical and financial assessments, is also filed with the present Petition. In view of the above, it is requested the Commission to admit and take on record the present petition.

4.30. It is requested the Commission to allow the Petitioner to execute Power Purchase Agreement with M/s O2 Renewable Energy III Private Limited for procurement of 9 MW Hybrid RE power for long term at a tariff of Rs 4.13/kWh discovered through Competitive Bidding Process to enable the Petitioner to provide competitive power to consumers from its area of supply.

4.31. It is also requested the Commission to approve the Draft Power Purchase Agreement, with the deviations mentioned in the earlier sections, to be signed between the Petitioner and bidder. A copy of Draft Power Purchase Agreement is also filed with the present Petition.

4.32. Therefore, considering the competitiveness of the tariff offered by M/s O2 Renewable Energy III Private Limited i.e., Rs. 4.13 per kWh compared to the recent

price discoveries, the Petitioner JIL is requested the Commission to approve the PPA with M/s O2 Renewable Energy III Private Limited.

5. The matter was heard on 18.09.2024. During the hearing, representative appearing on behalf of the Petitioner Jubilant Infrastructures Limited, reiterating the facts of the Petition as stated at para 4 above. Upon query of the Commission about the quantum of power procurement capacity as per discovered tariff, Capacity Utilisation Factor (CUF) of the Power Project stated by Project developer and the per unit rate of power procurement, it is submitted that the quantum of Power Procurement is 9 MW, the CUF of Plant stated as 70% by successful bidder and discovered tariff is @ Rs. 4.13 per unit. It is further requested that the Commission may adopt the tariff discovered in Competitive Bidding Process undertaken by the Petitioner and also to approve the PPA with M/s O2 Renewable Energy III Private Limited.
6. We have considered the submissions made by the Petitioner. The Petitioner has filed the present Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003. The Petitioner has sought the approval of the Commission for adoption of discovered tariff of Rs. 4.13 per unit under Competitive Bidding Process followed by e-reverse auction of Tender No. JIL/ SEZ/Power Supply/2024/E2 dated 28.05.2024 for the duration from April 2025 onwards for 25 years. The Petitioner has also sought approval with regards to terms & conditions of PPA to be executed with M/s O2 Renewable Energy III Private Limited alongwith the deviations sought in the Petition.
 - 6.1. We note that the Petitioner, being a distribution licensee, has the Universal Service Obligation to ensure uninterrupted electricity supply to the consumers within the licensee area as provided under Section 43 of the Electricity Act, 2003.
 - 6.2. The Petitioner has proposed to procure the power to meet its 9 MW demand during the FY 2024-25 and FY 2025-26 of its licensee area from M/s O2 Renewable Energy III Private Limited who was selected under Deep Portal by the Petitioner in the Competitive Bidding Process through Tender No. JIL/ SEZ/Power Supply/2024/E2 and Event No. (EJ BUY No.-Capex_2LN/Baljeet Singh/RA-11 dated 28.05.2024.
 - 6.3. Clauses 6 and 17 of the 'Guidelines for Power Procurement by the Distribution

Licensee' dated 14.08.2013 issued by the Commission are reproduced below:

"

6. The Distribution Licensee shall normally endeavor to procure power through competitive bidding. In case of any proposal for procurement of power through MoU route, the Distribution Licensee shall obtain prior approval of the GERC.

.....

17. The GERC may permit any Distribution Licensee to make purchase of power without requiring that such purchase be subject to Competitive/Open Process in the event of an unforeseen and an exceptional situation. However, the Distribution Licensee shall not, thereby, be exempted from demonstrating the need and the reason for departure from a competitive process together with the economic justification for the purchase, the means, whereby, in the absence of competition, the Distribution Licensee proposes to secure the best possible terms and such other information as the GERC may require.

....."

As per aforesaid Clause 6 of the guidelines, in case, if the distribution licensee desires to procure the power through MoU route other than competitive bidding, then the Distribution Licensee needs to obtain prior approval of the Commission for such power procurement.

Clause 17 of the aforesaid Guidelines provides that the Commission may grant permission to the Distribution Licensee to procure power without following Competitive/Open Process in the event of an unforeseen and in an exceptional situation, subject to the Distribution Licensee demonstrating the need and reason for such departure from the competitive process together with the economic justification for the purchase. It also states that in the absence of competition, the Distribution Licensee proposes to secure the best possible terms and such other information as the Commission may require.

- 6.4. We note that the Petitioner Jubilant Infrastructure Limited has been granted License No. 07 of 2012 by the Commission in the SEZ area notified by Ministry of Commerce & Industry, Government of India. We also note that the Petitioner being the

Developer of the SEZ is also responsible for development, operations and maintenance of all utility services including distribution of electricity within the SEZ area to provide consumers with plug-n-play services. Accordingly, the Petitioner developed 66 kV Switchyard / Sub-Station to source power from the Grid and connected through double circuit line including 11 kV network to supply power to consumers in its SEZ area and also to manage the utility services. We also note that although the Petitioner has taken the Distribution License from the Commission but on account of certain reasons such as low load demand, variability in load and being new to the distribution business, the distribution activities not taken forward to move as Licensee at that point of time in the year 2012-13 and considering the sufficient loads and readiness of the distribution Network at SEZ area, the Petitioner intends to start its operation as a licensee. Upon the request of the Petitioner, the Commission vide its Order dated 03.08.2023 allowed the Petitioner to initiate operations as a distribution licensee and to source power directly from other distribution companies, generating sources, power exchanges and other option available in Indian Power Market and to get the benefit of competitive power market pricing, under various time horizons as per load requirements.

- 6.5. We also note that the Petitioner JIL is structured to provide quality infrastructure to attract investment as well as generate employment and revenue for the State and the SEZ is Sector Specific SEZ for Chemicals in 310.66 acres of land at Vilayat GIDC Industrial Estate, in Bharuch District of Gujarat. There are six consumers of the Petitioner having total contract demand of 10875 KVA at 11 KV voltage level with total plot size area of 310.66 acres.
- 6.6. According to the submissions of the Petitioner, as the power costs play a significant role in attracting new investment in the area and also to provide competitiveness to the existing consumers in the Global Market, the Petitioner being a distribution licensee is to source power directly from other distribution companies, generating sources, power exchanges & other power market players and get the benefit of competitive power market pricing, under various time horizons as per load requirements. The Petitioner being a Distribution licensee, is also required to comply the statutory requirements and also following the GERC Rules and Regulations to procure power under long term/ medium term/ short term

arrangements under the provisions of Section 63 of the Electricity Act, 2003 and Ministry of Power (MoP) Guidelines. The Petitioner will also maintain separate books of account for power distribution business and submit the same to the Commission from time to time.

- 6.7. We further note that the SEZ area is being developed as a Sector Specific SEZ for Chemicals. The consumer base of a typical distribution licensee would be inclusive of diverse consumer categories i.e., non-residential, industrial, commercial, agriculture, public lighting, public works, railways etc. However, the SEZ of the Petitioner is unlikely to include the entire consumer mix of a typical distribution licensee and may be limited to non-residential, commercial, industrial and public services. Therefore, the Petitioner is undergoing process of developing the SEZ area and the plot was allotted in accordance with plan of leasable land as envisaged in the Petitioner's Distribution Plan.
- 6.8. We note that the Petitioner being new to the distribution business has expected phase-wise load growth details of HT & LT consumers for 10 years along with the Peak and Base power requirement is hard to be projected. Therefore, it was expected that the phase-wise based load growth of different types of consumers was increased from ~ 12MVA -13MVA to ~ 15MVA-17MVA. As per the submission, at present there is 01 no. of plot holder(s)/consumer(s) who has made the request to the Petitioner for supplying the regular power to enable them to commence their operation.
- 6.9. We note the submission of the Petitioner that as the operation of consumers is expected to be 24 hours' duration, no separate peak load requirement has been estimated at present by the Petitioner and accordingly the total load is considered as base load only. The Petitioner stated that it has an ambitious SEZ project planned to be developed with world class infrastructure and other operational facilities for sector specific chemical plants and having a separate tariff structure in its license area is always beneficial for the Petitioner to attract the industrial and manufacturing units in its early stage of development. Accordingly, the Petitioner is planning to commence its Business as a Distribution Licensee and initiating to procure power under Open Access through a portfolio mix of STOA/Collective Transaction including procuring power from RE sources.

- 6.10. We note that since the Petitioner is in process to execute a Power Purchase Agreement with M/s O2 Renewable Energy III Private Limited for supply of power for a period from April 2025 onwards for 25 years, has also issued RfP in two national newspapers viz., Financial Express & Sandesh and uploaded the same on its website for wide publicity for procurement of power through Competitive Bidding Process on DEEP portal on 28.05.2024 to commence its operations as a Distribution Licensee under the provisions of the GERC (Guidelines for Procurement of Power by Distribution Licensees), 2013. Considering the load profile of consumers in Petitioner's SEZ area, certain deviations were included in the RfP document.
- 6.11. As per the submissions of the Petitioner, one potential bidder viz, M/s O2 Renewable Energy III Private Limited has raised certain queries on 12.06.2024 such as Proof of Technical Qualification, Identification of 100% Land, Off-Take Capacity and Power Sale, Inconsistencies in Clauses, Bid Processing Fee, Contract Year and Commencement Date, Guidelines Definition, Dispute Resolution Process, etc. which were addressed by the Petitioner vide Corrigendum-II dated 15.06.2024. The bids received on ej-buy.com Portal were opened on 28.06.2024 at 08:00 hours wherein the Petitioner has received only one (1) bid i.e., from M/s O2 Renewable Energy III Private Limited.
- 6.12. We note that the technical bid was evaluated by the Technical Committee constituted by the Petitioner on 28.06.2024 and M/s O2 Renewable Energy III Private Limited had submitted the relevant documents in line with RfP. The Bid Evaluation Committee constituted by the Petitioner consists of the following officials:

Sr. No.	Name	Designation
1	Mr. Rohit Tripathi	Asso. Director – SCM
2	Mr. Baljit Singh	Sr. Manager – Purchase
3	Mr. Mahesh K. Mandwarya	Sr. Director

- 6.13. We note that the Petitioner has also issued 'e- Tender for the procurement of power for its SEZ with Tender No. JIL/SEZ/Power Supply/2024/E2 and Event No. (EJ BUY No. Capex_2_LN/Baljeet Singh/RA-11 dated 28.05.2024 on EJ-BUY Portal. The last date of bid submission in the tendering process initially was 25.06.2024.
- 6.14. Thereafter, the bids received on EJ-BUY Portal were open on 28.06.2024 at 09:15

Hours. The Technical Committee of the Petitioner has evaluated the technical bid submitted by M/s O2 Renewable Energy III Private Limited on 28.06.2024 including the impact of deviations on JIL. We note that the Petitioner only received single bid from the bidder and therefore, an e-reverse auction was not conducted. The technical bid opening was held on 28.06.2024 in the presence of Bid Evaluation Committee.

- 6.15. It is also submitted by the Petitioner that the Petitioner had called bids on EJ-Buy platform, viz., for supply of 9 MW power for the period from April 2025 onwards for 25 years and the aforesaid bid received was opened in presence of Bid Evaluation Committee and also evaluated by said Committee. As per technical evaluation report of the said Committee, it is observed that one bid received was technically qualified and technical evaluation report signed by the Members of the Bid Evaluation Committee is filed by the Petitioner, which is reproduced below:

“ Technical Bid Evaluation Report

JIL has floated an e-Tender for the procurement of power for its SEZ with Tender No.: JIL/SEZ/Power Supply/2024/E2 and Event No. (EJ BUY No.- Capex_2_LN/Baljeet Singh/RA-11 on EJ-BUY Portal. Bids Received on EJ BUY Portal were opened on 28.06.2024 at 0915:00 Hrs and evaluated in the presence of the following officials:

- 1. Rohit Tripathi (Asso. Director-SCM)*
- 2. Baljeet Singh (Sr. Manager-Purchase)*
- 3. Mahesh K Mandwarya (Sr. Director)*

During the meeting, following points were discussed:

- 1. JIL received only one (1) bid that is from M/s O2 RENEWABLE ENERGY III PRIVATE LIMITED wherein it has proposed to supply power from its plant located at Maharashtra.*
- 2. O2 RENEWABLE ENERGY III PRIVATE LIMITED had submitted all the relevant documents in line with RFP. However, following deviations were proposed by them as per the various clauses of RFP.*
- 3. JIL requested O2 RENEWABLE ENERGY III PRIVATE LIMITED to withdraw the deviations sought vide its mail dated 19.06.2024 in their Bid.*

4. Further, the deviations proposed by M/s O2 RENEWABLE ENERGY III PRIVATE LIMITED were discussed in detail and committee's observation on the same.

.....
Sd/-
(Rohit Tripathi)

Sd/-
(Baljeet Singh)

Sd/-
(Mahesh K Mandwarya)

.....”

From the Technical Evaluation Report, it is apparent that only one bid was found to be responsive and hence was deemed qualified for opening of their financial bids. Accordingly, as per the Technical Report of the Bid Evaluation Committee and recommendation after technical bid evaluation of bidder to be technically qualified, Bid Evaluation Committee has recommended that the Petitioner may open the financial bid, and accordingly financial bid was opened on 30.06.2024 on EJ-BUY Portal in the presence of the Bid Evaluation Committee.

- 6.16. As per Clause 10.5 of MoP Guidelines, 2023, in order to ensure competitiveness, the minimum number of qualified bidders should be two and 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. However, in the present case, the Petitioner has not approached the Commission for such consent and opened the financial bid.
- 6.17. The financial/commercial bid was opened on 30.06.2024 on EJ-BUY Portal in the presence of the following members of Bid Evaluation Committee:

Sr. No.	Name	Designation
1	Mr. Ajay Dadhich	Asso. Director – Finance
2	Mr. Chetan Maheshwari	Sr. Director – Engg.
3	Mr. Mukesh Pal	Asso. Director – Elect.

- 6.18. Upon the opening of financial bid, it is observed that the price quoted by M/s O2 Renewable Energy III Private Limited was discovered at Rs. 4.13 per kWh. The Financial/Commercial Evaluation report signed by the Members of the Bid Evaluation Committee is filed by the Petitioner, which is reproduced below:

“Commercial Bid Evaluation Report

JIL floated an e-Tender for the procurement of power for its SEZ with Tender No.

JIL/SEZ-POWER SUPPLY/2024/E2 and Event No. (EJ BUY No. – Capex_2_LN/Baljeet Singh/RA-11 on EJ- BUY Portal. Bids received on EJ BUY Portal were opened on 28.06.2024 at 0915:00 Hrs and evaluated in the presence of the following officials.

1. Ajay Dadhich (Director-Finance)
2. Chetan Maheshwari (Sr. Director – Engg.)
3. Mukesh Pal (Asso. Director – Elect)

During the meeting, following points were discussed.

1. JIL received only one (1) bid that is from M/s. O2 RENEWABLE ENERGY III PRIVATE LIMITED wherein it has proposed to supply power from its plant located at Maharashtra.
2. O2 RENEWABLE ENERGY III PRIVATE LIMITED had submitted all the relevant documents in line with RFP.
3. **As only One Bid was received in the process from M/s O2 RENEWABLE ENERGY III PRIVATE LIMITED, the Reverse Auction was not performed for this Tender/Bid.**

The details of Financial Bid received is as below-

<u>Requisition</u>	<u>Period</u>	<u>Bidder</u>	<u>Quantum (in MW)</u>	<u>Bid Price Rs/unit</u>
1	April 2025 onwards for 25 years	M/s O2 RENEWABLE ENERGY III PRIVATE LIMITED	9.0	Rs 4.13/Kwh

The same is being submitted for kind consideration and further actions, please.

Sd/-
(Ajay Dadhich)

Sd/-
(Chetan Maheshwari)

Sd/-
(Mukesh Pal)

.....”

- 6.19. We note that the Petitioner in the present Petition sought the approval of the Commission for procurement of 9 MW power from M/s O2 Renewable Energy III Private Limited through Competitive Bidding Process carried out on EJ-Buy Portal from the period from April 2025 onwards for 25 years at the rate of Rs. 4.13 per Kwh.
- 6.20. We note the submissions of the Petitioner that the Power requirement for FY 2024-

25 is 10 MW to 11 MW. It is also fact that the Petitioner has initiated the power procurement through deep portal by issuing Tender No.: JIL/SEZ/Power Supply/2024/E2 and Event No. (EJ BUY No. -Capex_2_LN/Baljeet Singh/RA-11 dated 20.06.2024 wherein JIL received only one (1) bid, i.e., from M M/s O2 Renewable Energy III Private Limited for period from April 2025 onwards for 25 years wherein it has proposed to supply power from its Plant in Gujarat at the rate of Rs. 4.13 per KWh to the Petitioner. The Bid Evaluation Committee has verified the bids and also considered it for procurement of power from the aforesaid bidder for period as stated above. We note that the power requirement stated by the Petitioner is quite lower and only one bidder has participated in the bidding process whose offer was accepted by the Bid Evaluation Committee constituted by the Petitioner.

- 6.21. We also note that the Petitioner has filed Petition No. 2334 of 2024 for seeking approval for deviation from the 'Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects' dated 21.08.2023 issued by the Ministry of Power, Government of India for long term power procurement of electricity from Grid connected Wind-Solar Hybrid Project. In the aforesaid Petition, the Commission passed Order dated 16.03.2024 and directed the Petitioner that the approval of deviation, if any, needs to be approved from the State Government. In compliance to directives of the Commission vide Order dated 16.03.2024 in Petition No. 2334 of 2024, the Petitioner has approached the Government of Gujarat seeking approval of deviation with respect to power procurement of 9.0 MW in Hybrid arrangement and Govt. of Gujarat vide letter dated 18.03.2024 conveyed that the required capacity of the Petitioner is 9.0 MW Hybrid project which does not fall under Clause No. 3 of the MoP Guidelines dated 21.08.2023 as the guidelines are applicable to bid capacities of 10 MW and above for the projects connected to an Intra-State transmission System. Hence, there is no needs to get any approval for deviations in the Bid documents with consideration of the project size of 9 MW. Thereafter, the Petitioner has initiated tendering process by issuing public notices alongwith draft RfP and PPA in the newspapers under intimation to the Commission vide its letters dated 01.05.2024 & 07.06.2024.
- 6.22. We also note that during the hearing held on 18.09.2024, in response to the query of the Commission, the representative appearing on behalf of the Petitioner Jubilant

Infrastructures Limited, submitted that the quantum of Power Procurement is 9 MW, the CUF of Plant stated as 70% by successful bidder and discovered tariff is @ Rs. 4.13 per unit and requested to the Commission to adopt the tariff discovered in Competitive Bidding Process undertaken by the Petitioner and also to approve the PPA with M/s O2 Renewable Energy III Private Limited.

6.23. We note that the discovered tariff is of Rs. 4.13 per unit is higher than the discovered in different Hybrid based tariff discovered in the State. However, the quantum of power procurement in above tenders are quite higher than quantum of procurement in the present case. Further, CUF ensured in the present case is quite higher of 70% by the bidder in comparison to CUF quoted by the bidders in other bids in competitive bidding process. Thus, the firm power of 70% CUF will helpful not only to reduce the transmission cost per unit basis to the Petitioner and avoid shock of FPPPA to the extent of such energy but also to meet out its RPO with procurement and other RE sources. Considering the above, we are of the view that the proposed adoption of tariff by the Bid Evaluation Committee seems valid.

6.24. In view of the above, as it was recommended by Bid Evaluation Committee for opening of Financial Bids wherein the rate was discovered as Rs. 4.13 per kWh for 9 MW for the period from April 2025 onwards for 25 years and also requested by the Petitioner to adopt the same, we decide to adopt the above discovered tariff as mentioned in the following table:

Sr. No.	Period	Bidder's Name	Capacity (MW)	Tariff (Rs./ Unit)
1	April 2025 onwards for 25 years	O2 Renewable Energy III Pvt. Limited	9	4.13

6.25. We note that as per Clause 12.2 of the 'New Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects' dated 21.08.2023 issued by the Ministry of Power, Government of India, after the conclusion of bidding process, the Evaluation Committee constituted for evaluation of RfS bids has to certify as appropriate that the bidding process and the evaluation has been conducted in conformity to the provisions of the RfS document and the evaluation Committee should satisfy itself that the price of the selected offer is reasonable and consistent with their requirement. In the present case, the Petitioner JIL has submitted the Committee Certificate along with the Financial Bid

Evaluation Report of Bid Evaluation Committee. The relevant portion of the Committee Certificate read as follows:

“

**Committee Certificate on Conformity of Bid Process on Renewable Energy
Procurement under Long Term**

JIL has floated an e-Tender for the procurement of power for its SEZ with **Tender No.: JIL/SEZ/Power Supply/2024/E2 and Event No. (EJ BUY No.-Capex_2_LN/Baljeet Singh/RA-11** on EJ-BUY Portal.

Bids received on EJ BUY Portal were opened on **28.06.2024 at 09:15:00 Hrs.** and evaluated in the presence of the following officials.

1. Rohit Tripathi (Asso. Director-SCM)
2. Baljeet Singh (Sr. Manager-Purchase)
3. Mahesh K Mandwarya (Sr Director)

This is to certify that:

- a) JIL has floated Notice Inviting Tender in 2 National Newspapers i.e. "Financial Express" Ahmedabad and "Sandesh".
- b) The last date for submission of bid was 25 June 2024.
- c) The competitive bidding was carried out on June 30, 2024.
- d) Subject to the deviations mentioned in the Technical Bid Evaluation report, Bid Process followed by JIL is in accordance with 'Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects' dated 21.08.2023 issued by the Ministry of Power, Government of India for long term power procurement of electricity from Grid connected Wind-Solar Hybrid Project. Govt. of Gujarat vide letter dated 18.03.2024 conveyed that the required capacity of the Petitioner is 9.0 MW Hybrid project which does not fall under Clause No. 3 of the MoP guidelines dated 21.08.2023 as the guidelines are applicable to bid capacities of 10 MW and above for the projects connected to an Intra-State Transmission System.

**Sd/-
Rohit Tripathi
Asso. Director-SCM**

**Sd/-
Baljeet Singh
Sr. Manager-Purchase**

**Sd/-
Mahesh K Mandwarya
Sr. Director**

.....”

6.26. From the above it is observed that the Committee has certified that bid process

followed by the Petitioner JIL under the tender is in accordance with the 'Guidelines for Tariff based Competitive Bidding Process for Procurement of Power from Grid connected Wind Solar Hybrid Projects dated 21.08.2023 issued by the Ministry of Power, Govt. of India for long term power procurement of electricity from Grid connected Wind Solar Hybrid Project and RfP floated by JIL in respect of said requirement of power for the period from April 2025 onwards for 25 years. Thus, the Petitioner has complied with the requirement of the Guidelines issued by the MoP, Government of India.

- 6.27. We note that the Petitioner has planned for procurement of power on long term and medium basis to ensure the power supply at competitive rates as per provisions of the Electricity Act, Rules & Regulations framed thereunder, and Guidelines notified by Government of India from time to time. Considering the above, we approve the power procurement proposed by the Petitioner in the present Petition from the source and price as stated above for the period from April 2025 onwards for 25 years.
- 6.28. With regards to the deviations proposed by the Petitioner in the Petition wherein certain changes have been proposed by the Petitioner to be approved by the Commission is concerned, we note that as stated above, the deviations, if any, to the bid, desires to be approved from the State Government by the Petitioner and the State Government has opined that for 9 MW capacity, no such approval is needed and considering the same as the said deviations are verified by the Bid Evaluation Committee as constituted by the Petitioner who recommended that such deviations are not affecting the proposed power procurement by the Petitioner through EJ-BUY Portal wherein M/s O2 Renewable Energy III Private Limited is selected as successful bidder, we note the same.
- 6.29. We note that Article 11 titled 'Dispute Resolution' of the Draft Power Purchase Agreement filed by the Petitioner to be executed with M/s O2 Renewable Energy III Private Limited filed with the present Petition reads as under:

"

ARTICLE 11: Dispute Resolution

11.1 *All disputes or differences between the Parties arising out of or in connection with this Agreement shall be first tried to be settled through mutual negotiation.*

11.2 *The Parties hereto agree to attempt to resolve all disputes arising hereunder promptly, equitably and in good faith.*

11.3 *Each Party shall designate in writing and communicate to the other Party its own representative who shall be authorized to resolve any dispute arising under this Agreement in an equitable manner and, unless otherwise expressly provided herein, to exercise the authority of the Parties hereto to make decisions by mutual agreement.*

In the event that such differences or disputes between the Parties are not settled through mutual negotiations within sixty (60) days, after such dispute arises, then it shall be through an arbitration process.

11.4 Arbitration

After expiry of the period prescribed in Clause 11.3 above, either Party may submit the dispute for adjudication to the GERC under the provisions of Section 86 of Electricity Act, 2003, and the GERC may refer the matter to arbitration in accordance with the provisions of the Electricity Act, 2003.

.....”

- 6.30. The above Clause provides that in case all disputes or differences between the Parties arising out of or in connection with this Agreement shall be first tried to be settled through mutual negotiation and to attempt to resolve all disputes arising hereunder promptly, equitably and in good faith. But in the event that such differences or disputes between the Parties are not settled through mutual negotiations within sixty (60) days, after such dispute arises, then it shall be through an arbitration process. Also, Clause 11.4 of draft PPA provides that after expiry of the period prescribed in Clause 11.3 above, either Party may submit the dispute for adjudication to the GERC under the provisions of Section 86 of Electricity Act, 2003, and the GERC may refer the matter to arbitration in accordance with the provisions of the Electricity Act, 2003.

6.31. In this regard, it is necessary to refer Section 86 of the Electricity Act which confers the power and jurisdiction of the Commission, is reproduced as under:

“

86. Functions of State Commission, --

(1): - The State Commission shall discharge the following function:

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

.....

(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;

..... ”

As per the aforesaid provisions, the Commission has to regulate the power procurement of the Distribution Licensees, including the procurement process, the price at which electricity shall be purchased from the generating company or the Licensees or through other sources through agreement for purchase of power for distribution and supply within the State. As per Section 86(1)(f) of the Electricity Act 2003, State Electricity Regulatory Commission is empowered to adjudicate upon disputes between licensees and generating companies, and inter-se between the licensees and generating companies.

6.32. We note that the Commission vide Order dated 11.10.2012 in License Application No. 7 of 2012 has granted distribution license to the Petitioner. Accordingly, in the

present case, the Petitioner is distribution licensee and M/s O2 Renewable Energy II Pvt. Limited is the generating company. On perusal of above proviso to the Clause 11.3 of the Draft Power Purchase Agreement, it transpires that any dispute, difference or disagreement between the parties arising under the PPA is not settled through mutual negotiations within sixty (60) days, after such dispute arises, then it shall be through an arbitration process. Whereas Clause 11.4 of Draft PPA provides that after expiry of the period prescribed in Clause 11.3 above, either Party may submit the dispute for adjudication to the GERC under the provisions of Section 86 of Electricity Act, 2003, and the GERC may refer the matter to arbitration in accordance with the provisions of the Electricity Act, 2003.

- 6.33. Upon the reading of proviso of Clause 11.3 and Clause 11.4 combinedly, it seems that that there is an ambiguity in these provisions as the said proviso of Clause 11.3 states about to settle the disputes or differences through an arbitration process if the same is not settled within 60 days, whereas Clause 11.4 states that after expiry of the period prescribed in Clause 11.3, either party may submit the dispute for adjudication to the GERC under the provisions of Section 86 of the Electricity Act, 2003. We therefore decide that the above Clause 11.3 of the Draft Power Purchase Agreement cannot be approved and accordingly, the phrase '*then it shall be through an arbitration process*' shall be removed and to be modified as under:

".....

11.3 Each Party shall designate in writing and communicate to the other Party its own representative who shall be authorized to resolve any dispute arising under this Agreement in an equitable manner and, unless otherwise expressly provided herein, to exercise the authority of the Parties hereto to make decisions by mutual agreement.

In the event that such differences or disputes between the Parties are not settled through mutual negotiations within sixty (60) days, the party are at liberty to refer the dispute before GERC for adjudication purpose.

- 6.34. We direct the Petitioner that the aforesaid Clause 11.3 of the Draft Power Purchase Agreement need to be removed, and the said Clause should be aligned with the provision of Section 86(1)(f) of the Electricity Act, 2003. The Petitioner will ensure that the same is suitably changed/amended in the Power Purchase Agreement to be executed by the Petitioner with M/s O2 Renewable Energy III Private Limited by removing/modifying the Clause 11.3 of the Draft Power Purchase Agreement.

- 6.35. We also note that Clause 13.9 of Article 13 pertains to ‘Miscellaneous Provisions’ wherein in Clause 13.9 (Amendments) it is stated that *“This Agreement shall not be amended, changed, altered, or modified except by a written instrument duly executed by an authorized representative of both Parties. However, JIL may consider any amendment or change that the Lenders may require to be made to this Agreement.”* However, such amendments need approval of the Commission is not stated. Hence, we direct to add the following sentences at end of said Article:

“This Agreement shall not be amended, changed, altered, or modified except by a written instrument duly executed by an authorized representative of both Parties. However, JIL may consider any amendment or change that the Lenders may require to be made to this Agreement subject to the approval of the Commission.”

- 6.36. Considering the above, it is necessary that the above changes are required to be made out in the PPA by the parties. Accordingly, we direct the Petitioner to incorporate or modify the PPA as decided above and to sign the agreement.
- 6.37. We note that the Ministry of Power had notified the Electricity (Late Payment Surcharge and Related Matters) Rules, 2021 on 22.02.2021. The said Rules are superseded by the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 on 03.06.2022. The aforesaid Rules, 2022 provide that these Rules are in supersession of the earlier Electricity (Late Payment Surcharge and Related Matters) Rules, 2021 except as respects things done or omitted to be done before such supersession. The said Rules would apply for the outstanding dues of generating companies, Inter-State transmission licensees and electricity trading licensees after the notification of the Rules on 03.06.2022. It is stated in the said Rules, 2022 that the Central Government in exercise of powers conferred by Section 176 (1) of the Electricity Act, 2003 and in supersession of the Electricity (Late Payment Surcharge) Rules, 2021 except as respects things done or omitted to be done before the supersession has notified Electricity (Late Payment Surcharge) Rules, 2022 which has to come in force on the date of its publication in the Official Gazette. i.e., from 03.06.2022 onwards. Hence, we are of view that the Electricity (Late Payment Surcharge) Rules needs to be

incorporated appropriately by the Petitioner JIL in the PPA to be signed with M/s O2 Renewable Energy III Private Limited. We also note that as the Petitioner is yet to sign the PPA with the successful bidder, we direct that the Electricity (Late Payment Surcharge) Rules notified by the Ministry of Power to be incorporated correctly by the Petitioner in the PPA to be signed with the successful bidder, if already not incorporated.

6.38. We note that the PPA are yet to be signed by the Petitioner with the successful bidder although the Petitioner has filed Draft PPA with the Petition to be executed with the successful bidder. Therefore, the Petitioner is directed to execute the PPAs with the successful bidder, viz, M/s O2 Renewable Energy III Private Limited as per decision in this Order. We note that the Petitioner is also required to submit the copies of the signed PPA and therefore, the Petitioner is directed to submit copies of duly executed PPA to the Commission within period of 30 days, alongwith an affidavit stating that the Articles/provisions of the PPAs executed are as per the directions as stated above, provisions of Act, Rules, bidding guidelines and deviations approved by the Commission from time to time and that there are no other deviations undergone by the Petitioner in the bidding documents other than those earlier approved by the Commission. We also direct the Petitioner that for the purpose of transparency, after execution of the PPAs, to publicly disclose the name (s) of the successful bidder(s) and the tariff quoted by them together with the breakup with the component, for 30 days on its website in terms of the Clause 12.3 of the bidding guidelines for knowledge and information of the stakeholders.

7. Considering the above, the present Petition is disposed of as allowed.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar
Date: 31/12/2024