



**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION  
LUCKNOW**

**Petition No. 2131 of 2024 & IA No. 2137 of 2024**

**QUORUM**

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Sanjay Kumar Singh, Member

**IN THE MATTER OF**

Petition under Section 86(1)(b) & (e) of the Electricity Act, 2003, seeking approval of Request for Selection (RfS) and Draft Power Purchase Agreement (PPA) for procurement of Power through Tariff Based Competitive Bidding Process from Grid Connected Solar Power Plants connected to selected segregated agriculture feeder of distribution substation cumulative capacity of 3,205 MW for sale of Power to UPPCL at various locations in the state of Uttar Pradesh through RESCO Mode under Feeder Level Solarization (FLS) of PM KUSUM Component-C2 Scheme.

**AND**

**IN THE MATTER OF**

**U.P. New & Renewable Energy Development Agency (UPNEDA),**

Vibhuti Khand, Gomti Nagar, Lucknow - 226010

..... Petitioner

**Versus**

**Uttar Pradesh Power Corporation Ltd. (UPPCL),**

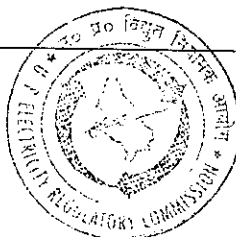
Shakti Bhawan 14 - Ashok Marg, Lucknow - 226001.

..... Respondent

**FOLLOWING WERE PRESENT**

1. Sh. Divyanshu Bhatt, Advocate, UPPCL
2. Sh. Sashwat Singh, Advocate, UPPCL
3. Sh. Savyasachi Saumitra, Advocate, UPPCL
4. Sh. Sanjay Kr. Chaurasia, S.E, UPPCL
5. Sh. Tannhauser D Pierce, Consultant, UPNEDA
6. Sh. Rakesh Agarwal, SPO-I, UPNEDA

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**ORDER**

**(DATE OF HEARING: 12.11.2024)**

1. The Petitioner, UPNEDA has filed instant Petition seeking approval of Bidding Documents (i.e., Draft RFS & PPA) for procurement of 3.205 GW grid connected Solar power through Tariff Based Competitive Bidding (TBCB) process for 25 years period under Component-C i.e., Feeder Level Solarization of 'KUSUM Scheme'.

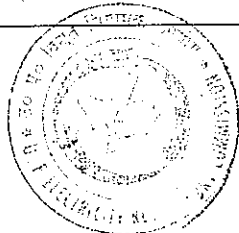
**Prayer(s):**

2. The prayers of the Petitioner are as follows:
  - a) Admit the Petition; and
  - b) Approve the RFS and PPA for Procurement of Power through Tariff Based Competitive Bidding Process from Grid Connected Solar Power Plants connected to selected segregated agriculture feeder of distribution substation cumulative capacity of 3,205 MW for Sale of Power to UPPCL at various locations in the state of Uttar Pradesh through RESCO Mode under feeder level solarization of PM KUSUM component-C2 scheme.
  - c) Pass such orders that this Commission deems fit.

**Background of the case as submitted by the Petitioner:**

3. The Petitioner in its Petition has submitted the following:
  - a) Under National Solar Mission, an ambitious target of 500 GW of solar power generation is to be achieved by 2030 by Ministry of New and Renewable Energy (MNRE), Government of India. While Large Utility Scale Solar power generation projects are being installed to achieve this target, it has been planned to simultaneously develop decentralized solar energy and other renewable energy plants. To provide energy and water security to farmers and to enhance their income, for de-dieseling the farm sector, and reducing environmental pollution, the Government of India has launched Pradhan Mantri Kisan Urja Suraksha Evam Utthan Mahabhiyan Yojna (PM KUSUM) on 08.03.2019.
  - b) MNRE vide its Order dated 17.01.2024, issued fresh comprehensive guidelines concerning PM KUSUM for farmers with following components:

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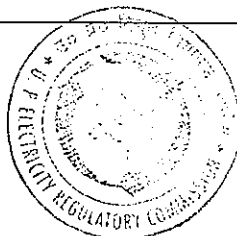


Component- A: Setting up of 10,000 MW of Decentralized Ground/Stilt Mounted Grid Connected Solar or other Renewable Energy based power plants.

Component-B: Installation of 14 Lakh Standalone Solar Agriculture Pumps.

Component-C: Solarisation of 35 Lakh Grid Connected Agriculture Pumps including Feeder Level Solarization (FLS).

- c) In continuation of the Order and Guidelines dated 17.01.2024, MNRE has issued Clarification Order dated 29.01.2024 regarding Component-C for FLS of PM KUSUM. Further, MNRE vide Office Memorandum dated 04.04.2024, issued detailed milestones for release of Central Financial Assistance (CFA) under Component-C of PM KUSUM.
- d) The objective of Component-C of KUSUM Scheme is to provide reliable day time solar power to irrigation for which the agriculture feeders have already been separated and the same to be solarised under the scheme leading to lower cost both in terms of capital cost and cost of power. The requirement of total annual power for an agriculture feeder will be assessed and a solar power plant of capacity that can cater to the requirement of annual power for that agriculture feeder can be installed either through CAPEX mode or RESCO mode. Through RESCO model, the project developers will be selected on the basis of lowest tariff offered for supply of required solar power for a period of 25 years. The developer will get CFA @30% of the estimated cost (Rs.3.5 Cr/MW) for installation of solar power plant i.e., Rs. 1.05 Cr/MW.
- e) State Government will provide maximum Viability Gap Funding (VGF) of Rs. 50 lakh per MW in addition to subsidy being provided by Central Government. Further, as per clause- 5.1 of the said Policy, UPPCL through its DISCOMS will purchase the solar power generated under KUSUM scheme Component C and Solar Rooftop Systems. UPNEDA has issued office order dated 28.05.2024 for disbursement of VGF to RESCO developer at Rs. 50 Lakhs/MW in addition to 30% CFA.
- f) UPNEDA held a pre bid meeting on 06.08.2024, with the potential bidders to invite comments and observations from them with respect to the instant bidding documents. UPNEDA has made certain revisions to the instant bidding documents as UPNEDA received bids for just 34.8 MW out of 150 MW against the earlier bidding document





approved by the Commission vide Order dated 05.04.2024 in Petition No. 1957/2023.

The relevant headings under which the changes have been made are as follows:

- Date of Project commissioning.
- Progress Report.
- Commissioning / Schedule Delivery Date.
- Synchronisation, Commissioning and Commercial operation of PPA.
- Performance Bank Guarantee.
- Delay in Commissioning of Power Plant.
- Financial Eligibility Criteria requirement of RFS.
- Construction & Development of the project of PPA.
- Bid Evaluation of RFS.

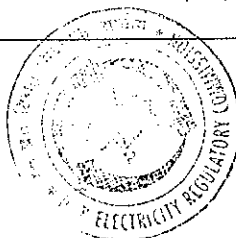
g) CEA has proposed the following different power requirement for the UPPCL during the period 2026 to 2034:

FY	Thermal (MW)	Hydro (MW)	Wind (MW)	Solar (MW)	Distributed RE (MW)	Total (MW)
2026-27	5027	250	800	8000	-	14077
2027-28	2131	250	800	8000	-	11181
2028-29	-	250	800	8000	-	9050
2029-30	-	250	1800	3624	710	6384
2030-31	-	-	800	5444	1617	7861
2031-32	458	-	800	4895	1801	7954
2032-33	1186	-	800	4104	1808	7898
2033-34	3199	-	800	2484	1896	8379
<b>Total</b>	<b>12001</b>	<b>1000</b>	<b>7400</b>	<b>44551</b>	<b>7832</b>	<b>72784</b>

h) Furthermore, the CEA's forecasted demand and availability up to FY2034 has been reproduced as below:

Year	Apr-Mar (Average)		
	Average Supply (MW)	Average Demand (MW)	Surplus/Deficit (MW)
2024-25	21596	19421	2175
2025-26	24408	20781	3627
2026-27	24592	22236	2356
2027-28	24592	23792	800
2028-29	24592	25458	-866
2029-30	25219	27240	-2021
2030-31	29126	29147	-21
2031-32	29126	31187	-2061
2032-33	29126	33370	-4244
2033-34	29126	35706	-6580

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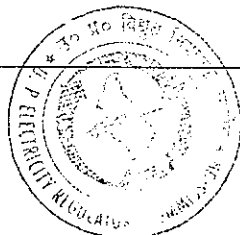


- i) MoP vide notification dated 20.10.2023 has given the new RPO trajectory from FY 2024-25 till FY 2029-30 and modified the RPO categories for the Discoms. As per Report on Resource Adequacy Plan for utility, UPPCL outlines trajectory specified, RPO quantum in million units (MU) from Hydro, Wind and other (solar, biomass, etc.) and Distributed Renewable Energy (DRE) for the FY 2024-2025 and FY 2025-2026. Accordingly, UPPCL has outlined year-on-year additional source wise requirement (MW) considering the fungibility aspects in the RPO as under:

FY	Hydro		Wind		Solar		DRE		Total Planned
	Planned	Additional	Planned	Additional	Planned	Additional	Planned	Additional	
<b>2024-25</b>	340	0	622	0	225	0	<b>1450</b>	<b>0</b>	2637
<b>2025-26</b>	100	0	1400	0	610	0	<b>1600</b>	<b>0</b>	3710

- j) MoP through the aforesaid notification dated 20.10.2023 has provided the criteria to meet the obligation against each category, however, 100% fungibility has been provided between Wind, Hydro and Other Renewable sources as under:
- Wind: shall be met from the Wind Power Projects commissioned after 31.03.2024.
  - Hydro: shall be met only from Hydro Power Projects (including PSP and Small Hydro Projects) commissioned after 31.03.2024.
  - Other RPO: can be met by energy produced from any RE projects other than specified under Wind, Hydro, and Distributed RPO and shall comprise energy from all WPPs and Hydro Power Projects (including Pump Storage and Small Hydro Projects), including free power, commissioned before the 01.04.2024.
  - Distributed RE: shall be met only from energy generated from RE projects that are less than 10 MW in size.
- k) Guideline No. 6 of the MoP Notification dated 20.10.2023 provide that any shortfall in RPO targets will be treated as non-compliance and penalty will be imposed for each unit of shortfall in meeting the energy consumption norms as per the amended Energy Conservation Act, 2001. As per Section 12(3) of the Conservation Act, non-compliance of the directions as mentioned in clause (n) and (x) of section 14, a penalty shall be levied from the Discoms which shall not exceed Rs 10 Lakh for each failure. MNRE, vide

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letter dated 01.02.2024, had further notified that additional penalty shall also be levied to the tune Rs. 3.72/unit for each unit of shortfall in meeting RE consumption norms.

- l) Considering RPO targets, UPPCL has considered certain projections which reveal a significant shortfall in the Wind and Other RPO categories spanning from FY 2024-25 to FY 2033-34. Recognizing 100% fungibility permitted among Wind, Hydro, and Other RPO categories, a strategic roadmap has been proposed below to address this deficit:

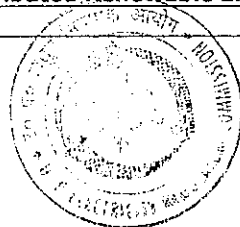
<b>Capacity (MW) to be Contracted in Respective Year to meet RPO (With Fungibility)</b>										
Category/ FY	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	Total
<b>Solar</b>	<b>3,000</b>	<b>2,000</b>	<b>2,000</b>	<b>1,000</b>	<b>500</b>	-	-	-	-	<b>8,500</b>
Wind	-	2,000	2,000	1,500	1000	-	-	-	-	6,500
Hydro	-	4,000	1,000	1,000	500	-	-	-	-	6,500
Cumulative	3,000	8,000	5,000	3,500	2,000	-	-	-	-	21,500

\*Out of 21,500 MW as proposed, UPPCL has already contracted 3000 MW RE power in FY 2023-24 and remaining 18500 MW is to be contracted in upcoming years.

- m) Considering the trajectories notified by the MoP vide notification dated 20.10.2023, UPPCL current RPO achievement has been depicted in a tabular representation below:

	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	2033-34
Energy to be considered for RPO (MUs)	146121	156350	167294	179005	191535	204943	219289	234639	251064	268638
<b>Wind RPO (Wind Commissioned after 31.03.2024)</b>										
MoP RPO Target (%)	0.67%	1.45%	1.97%	2.45%	2.95%	3.48%	3.98%	4.48%	4.49%	5.48%
MoP RPO Target (MUs)	979	2267	3296	4386	5650	7132	8728	10512	12503	14721
Energy Purchased/Projections (MUs)	172	3066	9231	14487	18429	21057	21057	21057	21057	21057
Energy Purchased/Projections (%)	0.12%	1.96%	5.52%	8.09%	9.62%	10.27%	9.60%	8.97%	8.39%	7.84%
Excess/Shortfall (MUs)	-807	799	5935	10101	12779	13925	12329	10545	8554	6335
Cumulative Excess/Shortfall (MUs)	-807	-9	5926	16028	28806	42731	55060	65605	74159	80495
<b>Other RPO (Including Solar, large Hydro, Small Hydro, Wind Commissioned before 01.04.2024 and Other RE)</b>										
MoP RPO Target (%)	27.35%	28.24%	29.94%	31.64%	33.10%	34.02%	35.52%	37.02%	38.52%	40.02%
MoP RPO Target (MUs)	39964	44153	50088	56637	63398	69721	77891	86863	96710	107509
Energy Purchased/Projections (MUs)	29534	33554	37408	41263	43190	44153	44153	44153	44153	44153
Energy Purchased/Projections (%)	20.21%	21.46%	22.36%	23.05%	22.55%	21.54%	20.13%	18.82%	17.59%	16.44%
Excess/Shortfall (MUs)	-10430	-10599	-12680	-15375	-20208	-25568	-33738	-42710	-52556	-63356
Cumulative Excess/Shortfall (MUs)	-10430	-21030	-33710	-49084	-69293	-94861	-128599	-171309	-223865	-287221
<b>Hydro RPO (Large Hydro Commissioned after 31.03.2024)</b>										
MoP RPO Target (%)	0.38%	1.22%	1.34%	1.42%	1.42%	1.33%	1.53%	1.73%	1.93%	2.13%
MoP RPO Target (MUs)	555	1907	2242	2542	2720	2726	3355	4059	4846	5722
Energy Purchased/Projections (MUs)	1344	3452	21190	25570	29950	32140	32140	32140	32140	32140
Energy Purchased/Projections (%)	0.92%	2.21%	12.67%	14.28%	15.64%	15.68%	14.66%	13.70%	12.80%	11.96%
Excess/Shortfall (MUs)	789	1545	18949	23029	27231	29415	28785	28081	27295	26418
Cumulative Excess/Shortfall (MUs)	789	2333	21282	44310	71541	100956	129741	157822	185117	211536
<b>Distributed Renewable Energy.</b>										

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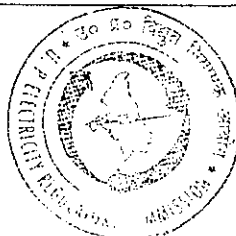
MoP RPO Target (%)	1.50%	1.10%	1.70%	3.30%	3.90%	4.50%	5.00%	5.50%	6.00%	6.50%
MoP RPO Target (MUs)	2191.8 2	1719.8 5	2844	5907.1 6	7469.8 7	9222.4 2	10964. 43	12905. 14	15063. 81	17461.4 7
Energy Purchased/ Projections (MUs)	4355.1 4	7438.6 6	10522. 18	13605. 70	16689. 22	16689. 22	16689. 22	16689. 22	16689. 22	16689.2 2
Energy Purchased/ Projections (%)	2.98%	4.76%	6.29%	7.60%	8.71%	8.14%	7.61%	7.11%	6.65%	6.21%
Excess/Shortfall (MUs)	2163	5719	7678	7699	9219	7467	5725	3784	1625	-772
Cumulative Excess/ Shortfall (MUs)	2163	7882	15560	23259	32478	39945	45670	49454	51079	50307
<b>Cumulative (Excluding Distributed RE Energy)</b>										
MoP RPO Target (MUs)	41498	48328	55625	63565	71768	79579	89974	101434	114058	127952
Energy Purchased/ Projections (MUs)	31049	40071	67829	81320	91569	97351	97351	97351	97351	97351
Excess/ Shortfall (MUs)	-10449	-8256	12204	17755	19801	17771	7376	-4084	-16708	-30602
Cumulative Excess/ Shortfall (MUs)	-10449	-18705	-6501	11254	31055	48826	56202	52119	35411	4810

- n) As per Solar Policy 2022, Solarization of Segregated Agriculture feeders will be promoted as per the provisions/guidelines issued under MNRE PM KUSUM Scheme Component (C-2) in State. The target for 22GW Solar Power, as set by the Solar Policy 2022, includes power capacity of 2000 MW via Distributed Solar Generation (i.e., component C1 & C2).
- o) UPPCL, in order to comply with RPO obligations under Policy 2022 and MOP notification dated 20.10.2023, has provided its consent vide letter no. 527 dated 22.04.2024 to UPNEDA to invite tariff based competitive bidding for procurement of cumulative 3205MW capacity. UPNEDA has prepared the Bidding documents with the consent of UPPCL's letter dated 18.07.2024. RFS has provided for ceiling tariff and any bidder so selected, will be selected on the basis of lowest quoted fixed tariff for such a project. In terms of clause A.3.6 of the RFS, ceiling tariff proposed for the bid are as follows:

Project Capacity	Ceiling Tariff
Up to 5 MW	Rs. 3.10 / kWh
Above 5MW to 50 MW	Rs. 2.98 / kWh

- p) As per consent of UPPCL, UPNEDA proposes to invite tariff based competitive bidding for procurement of cumulative 3205 MW capacity against concerned agriculture feeders as informed by UPPCL. This Grid connected Solar PV Projects under PM KUSUM Scheme is in accordance with the MNRE Guidelines issued dated 17.01.2024, 29.01.2024 & 04.04.2024. UPPCL as a procurer will sign PPA with successful Bidder(s) for procurement of power from these Solar PV Projects for 25 years.

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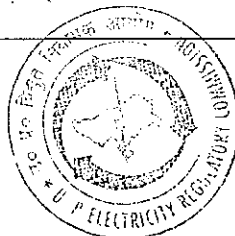
### Additional Submissions

4. On 12.09.2024, UPNEDA filed its additional submissions wherein it stated that certain deviations have been made in the RFS and PPA for the procurement of power of 3,205 MW for sale of power to UPPCL viz-a-viz the RFS and PPA approved by the Commission vide its Order dated 05.04.2023 in Petition No. 1957/2023. The deviations have been made in the RFS & PPA so that the project becomes more lucrative to the bidders. Further, on 08.10.2024, UPNEDA filed its additional submissions i.e., deviations statement.

### Records of Proceedings

5. During the hearing dated 08.10.2024, the Commission expressed great displeasure towards filing of deviation statements in bits and pieces subsequent to filing of Petition in nick of time and opined that all those documents should have been part of original Petition for fruitful hearing. On specific query of the Commission about the land identified for the Bid, UPNEDA responded that out of 940 substations land was identified for 96 substations, however, primary responsibility of land identification rested with the project developer. Further, the online portal for land details was in place and some landowners had submitted their land details on it and out of 96 number of identified land, 9 were government owned and rest 87 were private owned ones. UPNEDA further stated that lease agreement would be executed in compliance with the MNRE Guidelines and the rent payment to farmers would be the UPNEDA's responsibility.
6. In response to the Commission's query regarding bid capacity of selected substation, UPNEDA submitted that feeder wise capacity as well available substation's margin had been considered. It further submitted that selected feeders included those of mixed load type (i.e., agricultural as well as other load) but the bid capacity of substation had been worked out considering agricultural load on normative basis for unmetered feeders. In response to the Commission's query regarding the term 'Repowering', UPNEDA stated that Repowering referred to replacement of modules, inverters etc. with the upgraded/efficient ones by the Solar Power Generator without any financial implications on the UPPCL/Discoms.
7. The Commission observed the following during the hearing:

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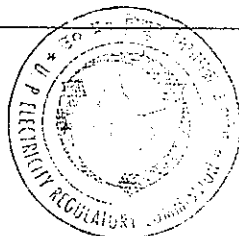




- i. Farmer's interest in terms of compensation and lease rent payment should be protected, while taking their land on lease.
  - ii. The Commission also opined that clause A.2.5 (i.e., Financial Bid Evaluation) may be considered to be rephrased. There may be a situation where there are more than one substation for which no bidder has filed its bid. There may also be a situation where the bidder of minimum of the L1 rates of the substation is not willing to take another substation. It needs to be defined as to how many such substations can be assigned to him apart from the one for which he is L1. In such cases, the second lowest L1 bidder in the district can be offered the substation at minimum of the L1 rates in the district and so on.
  - iii. Further, UPNEDA may structure the land lease clause to protect the farmer's interests and retaining performance bank guarantee, with liberty to renew, till complete PPA tenure.
  - iv. Any public land identification after the last date of bid submission may not be appropriate for the transparent bidding process and could lead to complexities at a later stage in terms of equal opportunity to all the bidders. Therefore, public land for the projects should be identified before last date of submission of bid and these details should be uploaded on the bid portal for information to the bidders.
  - v. MNRE guidelines dated 17.01.2024 specified that power from such KUSUM based project could be sold only to the Discom/UPPCL in view of financial assistance available to the project developer, therefore, UPPCL may procure economical power available in Bid, whether, during early commissioning or operation period of the power project.
8. The Commission allowed UPPCL to file its reply in the matter with a copy to the UPNEDA.
- The Commission also directed UPNEDA to furnish two-fold deviation statement in the following format:

Sl. No.	Clause as provided in Approved RfS (Vide Order dated 30.10.2023 in Petition No. 2018/2023)	Clause as provided in Draft RfS (for this 3205MW Bid)	Justification
1.			
2.			

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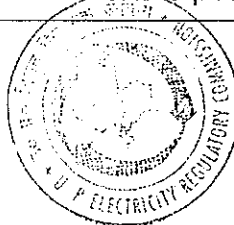
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Sl. No.	Clause as provided in Model PPA (as per MNRE Guidelines dated 17.01.2024)	Clause as provided in Draft PPA (for this 3205MW Bid)	Justification
1.			
2.			

9. During the hearing dated 22.10.2024, UPNEDA sought more time to furnish revised RfS and PPA in the matter. UPPCL sought at least 12 days' time to verify the details of feeder consumption and corresponding capacity required including the documents to be filed by UPNEDA. The Commission observed that electricity procured under the KUSUM Scheme would be beneficial to UPPCL as the same was available at the load end to cater specific category of load and therefore, directed UPPCL to expedite the verification process.
10. Further, the Commission rejected the 'Intervening Application' of Sh. Kartikey Shukla identified as farmer regarding exclusion of Warisganj substation since selection of substation in the list of the Bid would be decided by UPPCL & UPNEDA. UPNEDA was given liberty to finalise the list of substations but only before the last date of Bid submission and such information should be made available on the bidding portal for the perspective bidders. The Commission allowed the request of UPNEDA and UPPCL to file its revised bidding documents and response to the same respectively.
11. During the hearing dated 12.11.2024, UPNEDA submitted that they have filed their submissions on 30.10.2024. UPPCL submitted that they have also filed their reply on previous day, and they have no objections to the revised bidding documents. UPNEDA further stated that the following major modifications has been included apart from others in the revised bidding documents:
- i. In the model land lease agreement, provisions for payment of lease rent by the UPPCL has been provided which will be adjusted against the RESCO developer's bills payment, subject to farmer's willingness.
  - ii. In case no bid received for a particular substation, opportunity would be given to all the L1 bidders of the district level, then at the circle level and then finally at the Discom level. Further, there is no limit on the number of award of substations to a single bidder.
  - iii. PBG shall be valid for the period 12 months post COD instead of PPA tenure period.

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- iv. UPPCL shall mandatorily buy power from these projects subject to 10% above the minimum CUF.
- v. E-Reverse Auction has been removed from process of bid evaluation and in case of same tariff quoted then lottery system will be adopted.

**UPNEDA's submissions dated 30.10.2024 and UPPCL's reply dated 11.11.2024.**

12. On 30.10.2024, UPNEDA filed its additional submissions in compliance of the Commission's Order dated 19.10.2024 and has mainly submitted the following:
  - (a) The final revised RFS & PPA has been prepared, incorporating the Commission's Observations in its earlier Orders in the matter.
  - (b) The deviation statement along with justification/reasons for the same are being hereby submitted.
  - (c) UPPCL vide its communication dated 25.10.2024, has given in-principal approval to the proposed RFS & PPA along with the suggestion that in case there are more than one L1 bidders on any of the substations, instead of e-Reverse Auction the selection may be made by way of Lottery system. The Petitioner has incorporated the said suggestions in the instant Revised RFS & PPA.
13. On 11.11.2024, UPPCL has filed its reply wherein it has given no objection to the revised terms and conditions proposed in RFS & PPA filed by UPNEDA on 30.10.2024, however, stated that verification process of substation was under process and details would be provided to the UPNEDA later.

**Commission's View**

14. The Petitioner has filed instant Petition seeking approval of the revised RFS & PPA documents for procurement of 3205 MW grid connected Solar power under the KUSUM Scheme. The Commission vide its Order dated 30.10.2023 in Petition No. 2018/2023 approved Bidding documents for procurement of 150MW of Solar power under the KUSUM Scheme. On 30.10.2024, UPNEDA filed its additional submissions in compliance with the Order dated 19.10.2024 summarizing the deviations sought from the earlier approved RFS and Model PPA of the MNRE KUSUM Guidelines dated 17.01.2024. Further,

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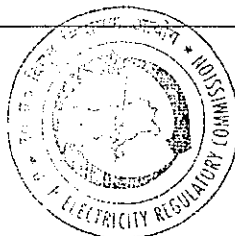


on 30.10.2024, UPNEDA filed revised RFS & PPA documents along with justification/reasoning for the deviation sought for approval of the Commission.

**15. On perusal of the documents placed on record, the Commission approves the revised RFS & PPA along with the deviations (at Annexure-I & II) of this Order for the procurement of 3205MW under Component C of the KUSUM Scheme with the following directions:**

- (a) Definitions of the terms- 'Repowering', 'Commissioning Committee' to be incorporated.**
- (b) The Bidders shall ensure that declared annual CUF should not be below minimum CUF i.e., 19% during operation phase of the solar project.**
- (c) Definition of Consultation period must be aligned with Article 13 of the PPA i.e., number of days as 60 days.**
- (d) The Commission has noted that in earlier Bidding of KUSUM Scheme, tariff of Rs. 2.99 per unit was discovered and ceiling tariff of Rs. 2.98 per unit was approved for 5MW grid connected Solar Project at Mau (District) in Petition No. 2062/2023. Therefore, considering financial assistance involved from the Government, the ceiling tariff of Rs. 2.99 per unit is approved for this bid irrespective of project capacity. Consequential amendments in RfS and PPA be made accordingly.**
- (e) The Commission directs UPPCL to verify the list of substations as well as its capacity at least one week before the last date of bid submissions and the information should be made available on the website for the Bidders.**
- (f) UPNEDA shall ensure that public land for the projects should be identified before last date of submission of bid and these details should be uploaded on the bid portal for information to the bidders.**
- (g) Further, UPNEDA shall ensure that a trial has been conducted at the bidding portal before the actual Bidding date to ensure a hassle-free bidding.**

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16. Further, UPNEDA shall ensure alignment of tender document with salient features mentioned at para 15, deviations approved at Annexure I & II, and only then proceed with bidding. A copy of final bidding document shall be placed for record of the Commission.

The Petition along with IA stands disposed of in terms of the above.

(Sanjay Kumar Singh)

Member

(Arvind Kumar)

Chairman

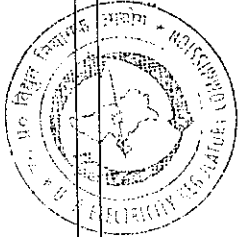
Place: Lucknow

Dated: 06.12.2024



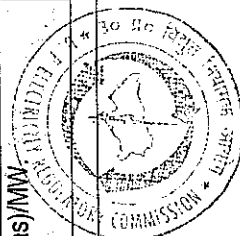
**ANNEXURE-I (Deviations in RfS)**

Sl. No.	Clause No.	Clause as provided in Draft RIS (for this 3205 MW Bid)	Justification	Commission Decision
1.	Disclaimer	<p>6. Although best efforts have been taken while estimating the project capacity, yet the bidders are encouraged to visit the respective substations and verify the information before submission of bid.</p>	<p>Provided additional clarity concerning the Disclaimer</p>	<p>Clause 6 of 'Disclaimer' is Approved.</p>
2.	Bid Information Sheet  A: KEY DEFINITIONS & ABBREVIATIONS  Section-III A: INSTRUCTIONS TO BIDDERS  A.17: PROGRESS REPORT  A.24: COMMISSIONING/ SCHEDULE DELIVERY DATE	<p><b>15. Date of Project commissioning:</b> 12 months with additional 6 months from effective date i.e., date of LOA.</p> <p><b>64. "Scheduled Commissioning Date" or "SCOD"</b> shall mean 12 months with 6 months extension to be given by UPNEDA from the effective date as defined in Article 1 of PPA.</p> <p>Power Producer shall have to commission the Project within twelve (12) Months with extension of 6 months to be given by UPNEDA from the effective date. The Power Producer shall submit a monthly progress report to UPPCL and UPNEDA. UPPCL / UPNEDA shall have the right to depute his/ their representatives to ascertain the progress at the premises of work of the Power Producer.</p> <p>The Commissioning / Scheduled Delivery Date of Solar PV Power Plant shall be 12 months with extension of 6 months to be given by UPNEDA from the date of issuance of LOA (Effective Date). For a Project, the maximum time period allowed for commissioning of the full Project Capacity shall be limited to 12 months from the Date of issuance of LOA. Declaration of COD shall only be done upon the successful visit by the Synchronization/ Commissioning Committee.</p>	<p>The clause has been amended in accordance with MNRE, GOI Office Memorandum dated 01.03.2024 which states as follows:</p> <p>"a) The maximum timeline allowed for commissioning of solar power plant under Component C (FLS) has been increased to 18 months from date of issuance of LOA. However, the overall sanction timeline would be as per Clause 6.5(i) of scheme guidelines issued on 17.1.2024."</p> <p>Since the maximum time period has been provided as 18 Months, the same has been provided in the RIS document in the form of 12 months plus additional 6 months. Further, in accordance with clause 6.5 (i) guidelines dated 17.01.2024.</p> <p>"Projects for installation of solar agriculture pumps and feeder level solarization under Component C shall be completed within 24 months from the date of sanction by MNRE"</p> <p>24 months from the date of sanction i.e. 25.04.2023 by MNRE ends on 25.04.2025. Therefore, in the event the developer is not able to achieve SCOD within the time of 12 months UPNEDA may request MNRE for extension and the same would be passed on to the developer.</p>	<p>Approved.</p>





Sl. No.	Clause No.	Clause as provided in Draft RFS (for this 3205 MW Bid)	Justification	Commission Decision
3.	<p><b>Bid Information Sheet</b></p> <p>19. Subsidy from Government of India i.e., Central Financial Assistance (CFA),</p>	<p>The developer will get CFA in accordance with Pradhan Mantri Kisan Urja Suraksha evam Utthaan Mahabhiyan @30% of the estimated cost of installation of solar power plant subject to maximum of Rs. 1.05 Cr/MW under the scheme. Further, release of CFA would be as per existing the guidelines for release of CFA for Pradhan Mantri Kisan Urja Suraksha evam Utthaan Mahabhiyan (PM KUSUM) yojana. Presently the effective guidelines are as per Office Memorandum with number 32/54/2018- SPV Division-Part (2) dated 4th April 2024.</p> <p>i) First instalment 30% CFA to be released on 30% completion of work i.e.,</p> <p>a) Signing LOA and PPA between Developer and Discom.</p> <p>b) Copy of Land record or lease agreement.</p> <p>c) Bay allocation letter from Discom</p> <p>d) Escrow agreement</p> <p>e) GST invoice of solar module inverter and transformer.</p> <p>f) Financial closure of project.</p> <p>g) 50% completion of preliminary civil work including foundation for module mounting structure etc.</p> <p>ii) Second instalment 30% of CFA to be released on 75% completion of work i.e.</p> <p>a) Completion of preliminary civil work including foundation for module mounting structure etc.</p> <p>b) Receipt of Solar PV Module and Solar inverters, at the project site:</p> <p>c) 75% completion of installation work of solar PV modules.</p> <p>iii) Final instalment 40% CFA to be released on 100% of work.</p> <p>a) 25% of CFA to be released on Plant commissioning.</p> <p>b) 15% of CFA to be released on successful performance of the solar plants for two months after the commissioning with achievement of at least one-month CUF as per the minimum CUF agreed in PPA.</p>	<p>Central Financial Assistance (CFA) as per MNRE Office Memorandum with number 32/54/2018- SPV Division-Part (2) dated 04.04.2024.</p>	<p>Clause 19 of 'Bid Information Sheet' is Approved.</p>
4.	<p><b>Bid Information Sheet</b></p>	<p>Shall be a maximum of INR 0.50 Cr (or 50 Lakhs)/MW</p>	<p>Viability Gap Funding (VGF) as per UPNEDA OM No. 903 dated 28.05.2024</p>	<p>Clause 20 of 'Bid Information Sheet' is Approved.</p>

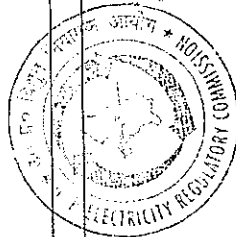


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Clause No. Clause as provided in Draft RFS (for this 3205 MW Bid)

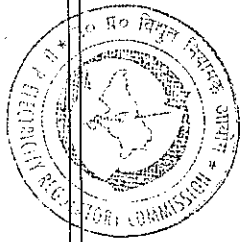
Sl. No.	Clause No.	Clause as provided in Draft RFS (for this 3205 MW Bid)	Justification	Deletion of Clause 27 of Bid Information Sheet' is allowed.	
	20.	Subsidy from Government of Uttar Pradesh i.e., Viability Gap Funding (VGF)	VGF up to 100% of total applicable VGF will be released to the RESCO developer through UPNEDA as following. i) First instalment 30% VGF to be released on 30% completion of work i.e. a) Signing LOA and PPA between Developer and Discom. b) Copy of Land record or lease agreement. c) Bay allocation letter from Discom d) Escrow agreement. e) GST invoice of solar module inverter and transformer f) Financial closure of project g) 50% completion of preliminary civil work including foundation for module mounting structure etc. ii) 'Second instalment 30% of VGF to be released on 75% completion of work i.e. a) Completion of preliminary civil work including foundation for module mounting structure etc. b) Receipt of Solar PV Module and Solar inverters, at the project site. c) 75% completion of installation work of solar PV modules. iii) Final instalment 40% VGF to be released on 100% of work. a) 25% of VGF to be released on Plant commissioning. b) 15% of VGF to be released on successful performance of the solar plants for two months after the commissioning with achievement of at least one-month CUF as per the minimum CUF agreed in PPA.	A ceiling tariff has already been mentioned in the RFS which will serve as an indicator or benchmark for tariffs to be quoted by the Bidders.  Furthermore, in the interest of time and faster award of projects, it is being proposed that the e-reverse auction	
5.	Bid Information Sheet 27. e-Reverse Auction (e-RA),	e-Reverse Auction, Clause deleted			







Sl. No.	Clause No.	Clause as provided in Draft RfS (for this 3205 MW Bid)	Justification	Commission Decision
6.	Bid Information Sheet 32. Performance Bank Guarantee ("PBG")  Section-III A: INSTRUCTIONS TO BIDDERS of RfS  A.7 PERFORMANCE BANK GUARANTEE (PBG)	Successful Bidder/ SPG shall be required to furnish an Electronic Performance Bank Guarantee (EPBG) of INR 1 lakh/ MW for 30 months as per RfS (12 months post COD). The EPBG will be returned to the power producer after expiry of the EPBG, after considering any penalties due.  The Performance Guarantee shall be valid and retained for the duration of <b>date of Commissioning plus one year</b> . It may be noted that successful bidders shall submit the Performance Guarantee according to the Format. Non-submission of EPBG within the above-mentioned timelines shall be treated as follows:  ..... b. Delay up to 1 month from due date of submission of PBG: Delay charges @1% of the PBG amount per month levied on per day basis shall be paid by the Bidder to <u>UPPCL</u> in addition to the PBG amount.  ..... 7. The EPBG will be returned to the Bidder immediately after successful commissioning of solar power plant <b>plus one year</b> , after taking into account any penalties due to delay in commissioning as per provisions in the PPA.	process may be done away with. The projects may be awarded to the L1 Bidder post opening of the Financial Bids. In case more than 1 Bidder have the same quote, then a lottery system may be used for awarding of such projects.  Similar process has been followed in Rajasthan which has enabled them faster award of projects.  UPPCL, the procurer will be signing the PPA. Hence, will be liable to collect the PBG in their name and its subsequent delay charges (if any).  As per KUSUM C2 guidelines clause 4.7 (v) states as under:  "The PBGs shall be valid for a period of 15 months from the date of issue of LoA for the REPP."  Hence the PBG is not being withheld for the entire duration of the PPA i.e. 25+1 year but instead is being withheld only till the period of SCOD of the project i.e., 18 months. This will reduce the Tariff which may be quoted by the Developer.  In order to safeguard the interest of Public, the following clauses in PPA would be called upon in the event of default:  "13.3.1 Upon the occurrence and continuation of any SPG Event of Default under Article 13.1, Procurer shall have the right to deliver to the SPG a notice stating	Clause related to tenure of PBG i.e., COD plus one year is Approved.



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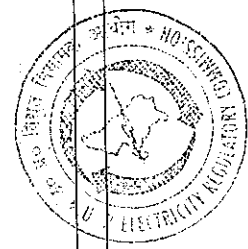
its intention to terminate this Agreement (Procurement Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.

13.3.2 Following the issue of Procurement Preliminary Default Notice, the Consultation Period of sixty (60) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall have to be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

13.3.3 During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.

13.3.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the SPG Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, Procurement may terminate this Agreement by giving a written Termination Notice of thirty (30) days to the SPG.

13.3.5 In addition to the levy of damages as aforesaid, Subject to the terms of this



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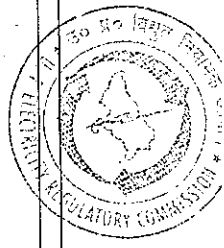
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Agreement, upon occurrence of a SPG Event of Default under this Agreement, the lenders in concurrence with the DISCOM, may exercise their rights, if any, under Financing Agreements, to seek substitution of the SPG by a selectee for the residual period of the amount from the SPG and performing the obligations of the SPG. However, in the event the lenders are unable to substitute the defaulting SPG within the stipulated period, DISCOM may terminate the PPA and acquire the Project assets for an amount equivalent to 90% of the debt due or less as mutually agreed, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets. Provided further that in case of any liquidation of assets of the solar power plant prior to completion of PPA period, the first charge shall be towards recovery of proportionate CFA granted to the project by MNRE.

Provided that any substitution under this Agreement can only be made with the prior consent of DISCOM including the condition that the selectee meets the eligibility requirements of Request for Selection (RFS) issued by DISCOM and accepts the terms and conditions of this Agreement

Provided further that in addition to the above, in the event SPG fails to perform its obligation under the PPA and in case the substitution of the selectee also



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			<p><u>fails, then the CFA provided by the Central Government and Viability Gap Funding provided by the State Government, may be recoverable as arrears of land revenue with interest @ SBI one-year MCLR</u></p>		
7.			<p>9. Bidders placing Bid for more than one Project may furnish single EPBG for the complete amount.</p>	<p>The clause has been amended so as to make the RIS more appealing towards the bidders.</p>	<p>Clause 9 is Approved.</p>
8.	<p>Section I – Definition of terms</p> <p>A. Key Definitions and Abbreviations</p>	<p>5. "Bidder" or "Bidding Entity" shall mean individual /individual farmers /group of farmers /landowners/ solar power developers /cooperatives /panchayats /Farmer Producer Organisations or Body incorporated in India under the Companies Act, 2013 including any amendment thereto or Body incorporated in India under the Limited Liability Partnership (LLP) Act, 2008 including any amendment thereto or Firm registered under Partnership Act, 1932 in India or Sole Proprietor; or a Joint Venture or a registered Partnership Firm or, a Co-operative Society. Any reference to the Bidder includes an entity including its successors, executors and permitted assigns severally, as the context may require.</p>	<p>5. "Bidder" or "Bidding Entity" shall mean individual /individual farmers /group of farmers /landowners/ solar power developers /cooperatives /panchayats /Farmer Producer Organisations or Body incorporated in India under the Companies Act, 2013 including any amendment thereto or Body incorporated in India under the Limited Liability Partnership (LLP) Act, 2008 including any amendment thereto or Firm registered under Partnership Act, 1932 in India or Sole Proprietor; or a Joint Venture or a registered Partnership Firm or, a Co-operative Society. Any reference to the Bidder includes an entity including its successors, executors and permitted assigns severally, as the context may require.</p>	<p>Definition of Bidder has been added to provide more clarity on who all can participate in the bids.</p>	<p>Clause related to Definition of 'Bidder' is Approved with the amendment that the words 'or a Consortium' be inserted after the words 'or a Joint Venture' as Consortium have also been permitted to bid as per Qualifying/Eligibility criteria provided later in the document.</p>
9.			<p>1.5 In addition to above MNRE issued Order dated 17.01.2024 in supersession of Ministry Office Memorandum 32/645/2017-SPV Division dated 22.07.2019 and its subsequent amendments.</p>	<p>Revised guidelines released by MNRE</p>	<p>Clause 1.5 is Approved.</p>
10.	<p>Section II – Invitation for Bids</p>		<p>1.6 Vide Office Memorandum 32/54/2018-SPV Division-(Part 2) dated 04.04.2024 detailed Milestone for release of CFA under Component C (FLS) of Pradhan Mantri Kisan Urja Suraksha evam Utthaan Mahabhilyaan (PM KUSUM)-reg was provided.</p>	<p>Central Financial Assistance (CFA) as per MNRE Office Memorandum with number 32/54/2018- SPV Division-Part (2) dated 4th April 2024.</p>	<p>Clause 1.6 is Approved.</p>
11.	<p>A.1. Background &amp; Introduction</p>		<p>1.9 UPNEDA (Dept. of Additional Sources of Energy) may facilitate the SPG by making available identified land bank/ land to be obtained on lease by the SPG for which UPNEDA is in the process of compilation of land parcels which will be available for lease and will be released on its portal (<a href="https://upnedakusumc2.in/">https://upnedakusumc2.in/</a>).</p>	<p>As per Clause No. 6.4.2.(iii), of MNRE guidelines released on 17.01.2024, Portal developed (<a href="https://upnedakusumc2.in/">https://upnedakusumc2.in/</a>) which will enable faster project implementation.</p>	<p>Clause 1.9 is Approved.</p>
12.			<p>1.10 For enabling the implementation of Projects, UPNEDA has also resumed certain revenue land from the Government of UP. The</p>	<p>This clause has been inserted to highlight that UPNEDA is also, on best effort basis,</p>	<p>Clause 1.10 is Approved.</p>



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Commission Decision

Justification

Clause as provided in Draft RFS (for this 3205 MW Bid)

Clause No.

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	<p>revenue land resumed by UPNEDA will be further leased in terms of the lease agreement(s) to the Selected Bidder. The details of the revenue land may be shared through the portal (<a href="https://upnedakusumc2.in/">https://upnedakusumc2.in/</a>). Notwithstanding anything contained in the RFS, it is clarified that it shall be the responsibility of the Selected Bidder to arrange the land required for the Project. UPNEDA, on best effort basis, shall identify revenue land which shall be provided to the Selected Bidder on terms and conditions as specified in this RFS.</p>	<p>making efforts to resume certain parcels of revenue land which shall be made available to the Bidders. However, the primary responsibility for land identification shall be that of the Bidder.</p> <p>This clause is as per GO no. 1050 dated 03.08.2023 released by Additional Sources of Energy Department, Govt. of UP.</p>	
13.	<p>1.11 The annual lease rent payable by the Selected Bidder, for such revenue land leased under the lease agreement(s) will be INR 15,000/- (Indian Rupee) per acre. For the avoidance of doubt, it is clarified that notwithstanding the lease of the revenue land to the Selected Bidder, such land shall always remain under the primary ownership of UPNEDA, and the Selected Bidder shall only hold lease rights of such revenue land for the term of the lease agreement(s) which shall in any event be co-terminus with the PPA. If at any time prior to expiry of a period of 3 (three) months from the Effective Date of the PPA, the Selected Bidder determines that any revenue land leased in terms of a lease agreement(s) for establishing the Project is not required by the Selected Bidder, then the Selected Bidder will return such unutilized land parcels to the UPNEDA and enter into cancellation deed(s) as may be required to effect such return, within a period of not more than 15 (fifteen) days from the expiry of the aforementioned period of 3 (three) months.</p>	<p>This clause is as per GO no. 1050 dated 03.08.2023 released by Additional Sources of Energy Department, Govt. Of UP.</p>	<p>Clause 1.11 is Approved.</p>
14.	<p>1.12 It is also clarified that all such costs and expenses including but not limited to stamp duty, revenue charges and any other charges in relation to lease agreement(s) will be borne by the Selected Bidder and UPNEDA shall not be responsible or liable in any manner whatsoever for such costs and expenses incurred by the Selected Bidder.</p>	<p>Clause added to clarify the bidder's doubt (if any)</p>	<p>Clause 1.12 is Approved.</p>
15.	<p>1.13 In case the Selected Bidder intends on using private lands, they shall enter into lease agreement(s) directly (only in case the Selected Bidder itself is implementing the Project) or through the Project SPV,</p>	<p>As per Clause No. 6.4.2.(ii) of MNRE guidelines released on 17.01.2024, suggestion of 6% of DM circle rate (prevalent in UP) has been considered.</p>	<p>Clause 1.13 is Approved.</p>

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	<p>with the landowner(s) at their own risks and costs and based on the broad terms and conditions as set out hereinbelow:</p> <p>a) The indicative base lease rent for such private lands will be 6% (six percent) of DM circle rate or at a price mutually agreed between landowner and Selected Bidder.</p> <p>b) The tenure for the lease agreement will be mutually agreed between the landowner and the Selected Bidder but in any case, will be for a term not less than 27 (twenty-seven) years from SCOD.</p> <p>c) From the effective date of the lease agreement till 27 years from SCOD, the Selected Bidder will be responsible to pay the lease rentals to the private landowners in accordance with the terms of the lease agreement. The landowner may also opt for payment of lease rent directly from the UPPCL, which will sign the PPA with the Selected Bidder. In such a case, the UPPCL will pay the lease rent to landowner on monthly basis, from the proceeds payable to the Selected Bidder in lieu of the power supplied by the Selected Bidder.</p> <p>d) Such lease agreement should mandatorily have a clause permitting the landowner to unilaterally cancel the lease agreement if the lease agreement does not become effective within a period of 3 (three) months from the date of signing of the lease agreement or such other extended period as may be agreed by the landowner, at his sole discretion.</p>	<p>Additionally, considering the diversity in geographical area across UP, which may lead to changes in land lease rates it is mentioned that landowners and Project Developer have an option to decide the lease rate on mutual agreement.</p> <p>Further, to protect the interest of the landowner and as suggested by the UPERC, a clause has been included wherein landowner may opt for payment of lease from UPPCL. In such a case, the UPPCL will pay the lease rent to landowner on monthly basis, from the proceeds payable to the Selected Bidder in lieu of the power supplied by the Selected Bidder.</p>	
16.	<p>1.14 Any further terms and conditions as applicable to such lease arrangements may be mutually agreed between the Selected Bidder and the landowner. Further, neither of UPNEDA or UPPCL will be a party to any such lease agreements.</p>	<p>Clause added to clarify the bidder's doubt (if any).</p>	<p>Clause 1.14 is Approved.</p>
17.	<p>1.16 The Bidders are required to satisfy themselves about the suitability of any lands which may be provided in terms of the lease agreement(s) or the details of which have been provided on the portal or any land procured by the Selected Bidder for the Project from private landowners. UPNEDA and/or UPPCL will not be responsible in any manner for any non-suitability of any land provided/procured</p>	<p>Clause added to clarify the bidder's doubt (if any)</p>	<p>Clause 1.16 is Approved.</p>

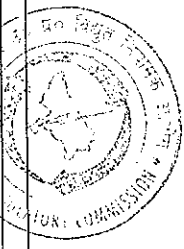


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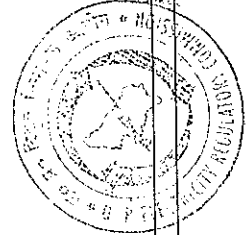
Clause as provided in Draft RfS (for this 3205 MW Bid)		Justification		Commission Decision	
Sl. No.	Clause No.				
18.		<p>for the Project for any reason. The Bidders are free to choose alternate land for any part of the Project at their own cost and risk.</p> <p>1.17 The Selected Bidder shall lease or procure in its name 100% (one hundred percent) of the required land for a period not less than the Term of PPA, on or before the SCOD. In case of any leasing of private land as contemplated hereinabove, such lease should allow transfer of land lease rights to the lenders or UPNEDA, in case of default of the Selected Bidder under any financing documents or arrangements of the Selected Bidder. The land lease rights would be further transferred to a new developer. The new developer would be responsible for payment all land dues i.e. rent and arrears to Government or private landowners.</p>	Security in the event the project developer defaults	Clause 1.17 is Approved.	
19.		<p>1.18 The clearances required for establishment of the Project shall be facilitated through a single window portal of the UPNEDA that will be accessible to the Selected Bidder. UPNEDA may facilitate the process of the registration, transfer, assignment obtaining of clearances for the Selected Bidder.</p>	UPNEDA would be facilitating the developer for expeditious implementation of the Projects.	Clause 1.18 is Approved.	
20.		<p>1.22 The Bidder shall be responsible for all the costs associated, or relating to, the preparation and submission of the response to RfS, including but not limited to preparation, copying, postage, delivery fees, expenses associated with any Project Site visits, participation in discussions, presentations and attending pre-bid meeting(s) etc.</p>	Clause added to clarify the bidder's doubt (if any)	Clause 1.22 is Approved.	
21.		<p>1.23 All such costs and expenses will be borne by and will remain with the Bidder and UPNEDA shall not be responsible or liable in any manner whatsoever for such costs and expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bid process.</p>	Clause added to clarify the bidder's doubt (if any)	Clause 1.23 is Approved.	
22.		<p>1.26 It may be noted that specifications related to evacuation and connectivity infrastructure shall be approved by concerned DISCOM.</p>	Since evacuation and connectivity infrastructure is the responsibility of the SPD and the cost of which SPD shall consider as part of the quoted tariff, there shall be no requirement of getting BoQ estimates approved from the Discom.	Clause 1.26 is Approved.	
23.		<p>1.28 Early Commissioning of the Projects would be permitted if such Projects become ready before Scheduled Commercial</p>	The clause has been added to make the project more lucrative for a bidder.	Clause 1.28 is Approved.	



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Commission Decision		Justification	
Sl. No.	Clause No.	Clause as provided in Draft RfS (for this 3205 MW Bid)	
24.	Section II: Invitation to Bids  A.1 BACKGROUND & INTRODUCTION	<p>Operation Date for full Commissioning. In case of early full Commissioning of the Projects prior to the Scheduled Commercial Operation Date, UPPCL will purchase the energy generated till Scheduled Commercial Operation Date at tariff determined through this RFS. UPPCL shall inform the Selected Bidder for procurement of power prior to the Scheduled Commercial Operation Date within 15 (fifteen) days of receiving a written intimation from the Selected Bidder for such excess generation.</p> <p>However, the Selected Bidder shall ensure that injection of power shall not cause any disturbance in the grid at the point of injection. If the injection is likely to cause any such grid disturbance, the Selected Bidder will have to forego the generation prior to the Scheduled Commercial Operation Date to ensure compliance with grid requirement.</p> <p>1.29 In case the availability is more than the maximum CUF i.e., over, and above 10% (ten percent) of minimum CUF by the Selected Bidder, the UPPCL shall purchase the excess generation, over and above the maximum declared CUF, at tariff determined through this RFS. UPPCL shall inform the Selected Bidder for procurement of excess power within 15 (fifteen) days of receiving a written intimation from the Selected Bidder for such excess generation.</p> <p>However, the Selected Bidder shall ensure that injection of excess power shall not cause any disturbance in the grid at the point of injection. If the injection is likely to cause any such grid disturbance, the Selected Bidder will have to forego the excess generation and reduce output to rated capacity to ensure compliance with grid requirement.</p>	<p>Further, in accordance with MINRE PM KUSUM guidelines dated 17.01.2024 and the suggestions of the UPERC, Discom is to purchase the power generated under this project. Hence, appropriate clause has been inserted.</p> <p>The clause has been added to make the project more lucrative for a bidder.</p> <p>Further, in accordance with MINRE PM KUSUM guidelines dated 17.01.2024 and the suggestions of the UPERC, Discom is to purchase the power generated under this project. Hence, appropriate clause has been inserted.</p>
			<p>After reconsideration, the Commission directs to rephrase Clause 1.29 as under:</p> <p>"1.29 In case the availability is more than the maximum CUF i.e., over, and above 10% (ten percent) of declared CUF by the Project SPV, the Project SPV shall be free to sell it to any other entity provided first right of refusal shall vest with UPPCL. In case UPPCL purchases the excess generation, over and above the maximum declared CUF, the same may be done at PPA tariff. UPPCL shall inform the Project SPV for procurement of excess power within 15 (fifteen)</p>



by





Commission Decision

Justification

Clause as provided in Draft RIS (for this 3205 MW Bid)

Sl. No.

25.		<p>1.30 The Procurer, in any Contract Year shall not be obliged to purchase any additional energy from the SPG beyond the contract capacity at the declared annual CUF.</p>	<p>days of receiving a written intimation from the Project SPV for such excess generation, provided that such written intimation by the Project SPV shall be received by UPPCL at least 30 (thirty) days prior to the end of contract year. If in case UPPCL fails to reply to the Project SPV within above stipulated time period of 15 (fifteen) days, then Project SPV shall be free to sell it to any third party.</p> <p>However, the Project SPV shall ensure that injection of excess power shall not cause any disturbance in the grid at the point of injection. If the injection is likely to cause any such grid disturbance, the Project SPV will have to forego the excess generation and reduce output to the contracted capacity and shall also have to pay the penalty/charges (if applicable) as per appropriate Regulations."</p> <p>Clause 1.30 is Approved.</p>
26.		<p>1.31 The Selected Bidder shall be allowed a maximum cumulative period of 6 (six) months for repowering during the entire PPA term. The Selected Bidder shall not be in default for non-supply of power</p>	<p>Clause added to clarify the bidder's doubt (if any)</p> <p>A standard provision as per the MNRE's Guidelines for Tariff Based Competitive Bidding for Solar projects has been</p> <p>Clause 1.31 is Approved.</p>



Signature



Sl. No.	Clause No.	Clause as provided in Draft RfS (for this 3205 MW Bid)	Justification	Commission Decision
27.		<p>during this period of repowering. However, UPPCL will be obliged to buy power only within the range of CUF specified in the PPA. Any excess generation will be dealt with as specified in PPA.</p>	<p>incorporated. Repowering aids the SPG in upgrading the technologies deployed for Solar generation thereby increasing the efficiency of the plant. There shall be no cost implication of such repowering on the procurer.</p> <p>Similar clause has also been adopted by Maharashtra's MSKVY scheme for feeder level solarization.</p> <p>Clause added to clarify the bidder's doubt (if any)</p>	<p>Clause 1.32 is Approved.</p>
28.	Section III – Instruction to Bidders A.3. Bidding Process	<p>1.32 The Bidder is made aware that any benefits from the trading of carbon credits pertaining to the Project shall inure to the benefit of UPPCL.</p> <p>A.3.4 The Bidders should have the following legal status: a) Body incorporated in India under the Companies Act, 2013 including any amendment thereto; OR b) Body incorporated in India under the Limited Liability Partnership (LLP) Act, 2008 including any amendment thereto; OR c) Firm registered under Partnership Act, 1932 in India; OR d) Sole Proprietor; OR e) Any landowner / farmer / individual f) Group of Farmers /Landowners /Cooperatives /Panchayats /Farmer Producer Organisations (mandatory to submit Power of Attorney in favor of nominated Farmer /Landowner as per Format)</p> <p>In case of Consortium/ JV, all the members must fulfill this requirement and submit the documents as per the RfS document.</p>	<p>Defining the term Bidder and who all entities can participate. For wider participation, individual farmers/ group of farmers/ landowners/ FPOs etc. have been emphasized separately in line with the spirit of the scheme.</p> <p>Similar approach has been adopted by Rajasthan which has witnessed significant interest in the scheme.</p>	<p>Clause A.3.4 is Approved.</p>
29.	Section III – Instruction to Bidders	<p>A.18. Force Majeure c) If a force majeure situation arises, the Power Producer shall promptly notify UPNEDA and Power Procurer both in writing, not later than seven (7) Days from the date such situation arises (in case, communication is not possible to UPNEDA, Power Producer shall notify UPNEDA not later than one (1) Days from the day when communication system will be restored). The Power Producer shall notify UPNEDA and Power Procurer not later than seven (7) Days of cessation of force majeure conditions. After examining the cases and</p>	<p>Clause modified to ensure consistency with the clause in the PPA which is based on the Model PPA suggested by MNRE.</p>	<p>Clause A.18(c) is Approved.</p>

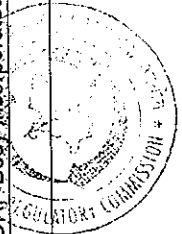
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Sl. No.	Clause No.	Clause as provided in Draft RIS (for this 3205 MW Bid)	Justification	Commission Decision
30.	Section III – Instruction to Bidders	associated facts, UPNEDA shall decide and grant suitable additional time for the completion of the work, if required. <b>A.25. Delay in Commissioning of Plant</b> c. In case of delayed commissioning and encashment of EPBG on per-day basis as per above, the Selected Bidder will ensure replenishment and resubmission of EPBG @ Rs. 1.00 Lac/MW valid for 12 months post CoD.	Clause inserted to protect the interest of the UPPCL/ UPNEDA.	Clause A.25(c) is Approved.
31.	Section IV – Qualifying Requirements for Bidders <b>A. Eligibility Criteria</b> A.1. General	1.5. The bidder must submit a Power of Attorney (POA) authorizing a person to sign the documents on behalf of the Bidder, submit technical, commercial information and attend meetings on behalf of the Bidder. In case of JV/ Consortium, all the JV/ Consortium, members must submit individual POA with supporting Board resolution, (in format 7.3) except in case of proprietor wherein only undertaking in this regard is to be submitted along with combined POA (signed by individually authorized person of each JV member) 1.1 Bidder can be sole/ single bidder OR, Joint Venture (JV) of up to 3 (three) members, with one of the members as a Lead Member Changed clause has been enclosed in Annexure of this document. <b>Documents Required:</b> In case of JV-Deed of Undertaking, In Case of Consortium- Consortium Agreement as per Format 7.7. 1.2 The Bidders should have any of the following legal status: (Same as mentioned @Sl. No. 26 above -Clause A.3.4) <b>Documents Required:</b> a) In case of Company – Copy of Registration/ Incorporation Certificate b) In case of LLP – Copy of Deed of Partnership c) In case of Partnership – Copy of Deed of Partnership d) In case of Sole Proprietor – Duly notarized Undertaking from Sole proprietor e) In case of landowner / farmer / individual – Copy of any government issued identity proof f) In case of "Body incorporated in India under the Companies Act, 2013 including any amendment thereto" OR "Body incorporated in	Word "Consortium" was missing in last RfS, which enables more bidder participation.	Clause 1.5 is Approved.
32.	Section IV – Qualifying Requirements for Bidders <b>A. Eligibility Criteria</b> A.1. General		Clearly articulating which all entities can participate and documentation required for more clarity. For wider participation, individual farmers/ group of farmers/ landowners/ FPOs etc. have been emphasized separately in line with the spirit of the scheme.  Similar approach has been adopted by Rajasthan which has witnessed significant interest in the scheme.	Clauses 1.1 & 1.2 are Approved.



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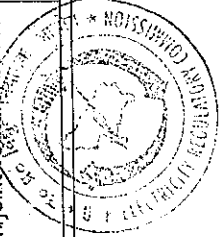


Clause as provided in Draft RfS (for this 3205 MW Bid)

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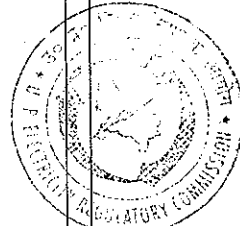
33.	<p>Section IV – Qualifying Requirements for Bidders</p> <p>A. Eligibility Criteria</p> <p>A.1. General</p>	<p>India under the Limited Liability Partnership (LLP) Act, 2008 including any amendment thereto" OR, "Firm registered under Partnership Act, 1932 in India" – Copy of Board of Directors (BoD) resolution towards the authorized signatory, Memorandum of Association (MoA) and Articles of Association (AoA) shall be submitted.</p> <p>g) In case of Group of Farmers/ Landowners / Cooperatives / Panchayats/ Farmer Producer Organisations/ Consortiums/ Joint Ventures (mandatory to submit Power of Attorney in favor of nominated Farmer/Landowner/ Lead Member as per Format)</p> <p>1.8. Sanctions: Firms, which includes any of the JV or Consortium members in case of bidding Joint Venture or <b>Consortium</b>, blacklisted by the Employer/ CPSEs or any of their subsidiaries / Government of India/ any State Government / any Regulatory Authority, as on the date of submission of Bid, are not eligible to bid.</p> <p>1.9. Suspension: Firm, which includes any of the JV or <b>Consortium</b> members in case of bidding Joint Venture or <b>Consortium</b> under suspension by the UPNEDA as the result of the operation of a Bid–Securing Declaration or Proposal–Securing Declaration, shall not be eligible to bid.</p> <p>1.10. Prohibitions: Firms, which includes any of the JV or <b>Consortium</b> members in case of bidding Joint Venture or <b>Consortium</b>, and individuals of a country or goods/ works/services manufactured/ produced in a country shall be ineligible, if as a matter of law or official regulations, the Government of India prohibits commercial relations with that country.</p>	<p>Word "Consortium" was missing in last RfS, which enables more bidder participation.</p> <p>Clauses 1.8 &amp; 1.9 are Approved.</p>
34.	<p>Section IV – Qualifying Requirements for Bidders</p> <p>A. Eligibility Criteria</p> <p>A.2. Qualification Requirements</p>	<p>Annual Turnover Clause deleted.</p> <p>A.2.1 Financial Eligibility Criteria:</p> <p>Following financial eligibility criteria (net-worth) shall be met by Bidder or Lead member of Bidder, in case of consortium/joint venture-based on audited annual financial statements.</p>	<p>To enable wider participation, the financial qualification criteria has been relaxed.</p> <p>Clauses A.2.1 regarding Financial Eligibility is Approved.</p>



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	<p>i. Net-Worth: The Bidder shall have positive Net-Worth of the last year as on 31.03.2024. In case of joint venture/ Consortium, the positive Net-Worth criteria shall be fulfilled by Lead Member.</p> <p>Note: CA certificate should be submitted along with the Bid.</p> <p>As per MNRE, GOI OM no. 32/54/2018-SPV Division dated 24.02.2023, no financial experience required for individual Farmers/Group of farmers/Co-operatives/Panchayats/Farmer Producers Organisation (FPO)/Water User Association (WUA) bidders.</p>		
<p>35. Section IV – Qualifying Requirements for Bidders</p> <p>A. Eligibility Criteria</p> <p>A.2. Qualification Requirements</p>	<p>A.2.3 Bidders may note the following:</p> <p>.....</p> <p><b>Bid submitted by a Bidding Consortium as SPG</b></p> <p>a) The Bid shall contain a legally enforceable Consortium /<u>Joint Venture</u> Agreement entered amongst the Members in the Bidding Consortium / <u>Joint Venture</u>, designating one of the Members to be the Lead Member (as per Format 7.7). There shall be only one Lead Member which shall continue to hold minimum fifty one percent (51%) equity in the Project Company up to a period of one (1) year after commencement of supply of power. Each Member of the Bidding Consortium /<u>Joint Venture</u> shall duly sign the Consortium /<u>Joint Venture</u> Agreement making it liable for raising the required funds for its respective equity investment commitment as specified in the Consortium /<u>Joint Venture</u> Agreement. In the absence of a duly executed Consortium /<u>Joint Venture</u> Agreement, the Bid will not be considered for evaluation and will be rejected.</p>	<p>Word "Joint Venture" was missing in last RfS, which enables more bidder participation.</p>	<p>Clauses A.2.3 is Approved.</p>
<p>36. Section V – Bid Evaluation and Selection of projects</p>	<p><b>Step III i.e., A.3: Reverse Auction Clause deleted</b></p>	<p>A ceiling tariff has already been mentioned in the RfS which will serve as an indicator or benchmark for tariffs to be quoted by the Bidders.</p> <p>Furthermore, in the interest of time and faster award of projects, it is being proposed that the e-reverse auction</p>	<p>Deletion of Step-III of 'Bid Evaluation and Selection of Project' is allowed.</p>



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Clause No.

Sl. No.

37. Section V – Bid Evaluation and Selection of projects.

A.2.7 if for any substation, no bid is received, then the award of that substation would be considered as per the following procedure:  
2.7.1. All the technically qualified bidders who have submitted bids for other substations located in the same district as the substation for which no bid was received shall be considered eligible for award of that particular substation for which no bid was received. All such eligible bidders would be ranked in ascending order of their quoted tariffs in other substation in the same district (i.e. from the lowest rate to the highest rate of the quoted tariff). The lowest would be ranked 1, second lowest Rank 2 and so forth.  
2.7.2. The Substation for which no bid was received originally would be offered to the bidder with the lowest Rank (i.e. at L1 rate) and if not accepted by him, would be offered to the next bidder with second lowest rank and so forth until it is accepted. In case two or more bidders have the same rank (say there are 2 or more L1 bidders or L2 bidders and so on), the particular substation shall be offered to all such bidders. If more than 1 such bidder(s) accept, lottery system shall take place.  
2.7.3. In the event the Substation is not accepted by the bidders in its own district, it would be offered to bidders in contiguous district (Districts of the State of UP sharing boundary with the said District) at the above-mentioned Tariff and the above-mentioned order.

process may be done away with. The projects may be awarded to the L1 Bidder post opening of the Financial Bids. In case more than 1 Bidder have the same quote, then a lottery system may be used for awarding of such projects.  
Similar process has been followed in Rajasthan which has enabled them faster award of projects.

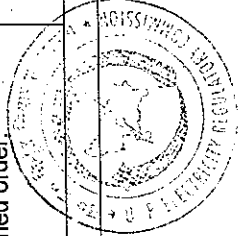
Clause 2.7.1 is approved as proposed.  
Clause 2.7.2 is approved with the addition of following provisions:  
"Provided that if an eligible bidder has quoted different tariff for different substation in the district where 'no bid' substation is located, the bidder can be given an offer only at the lowest tariff quoted by him for that district.  
Provided further that an eligible bidder can be given such offers subject to a maximum of total capacity for which he has submitted bids for that district over and above the quoted bid capacity for that district."  
Clause 2.7.3 & 2.7.4 shall be omitted.

37. Section V – Bid Evaluation and Selection of projects.

A.2.7 if for any substation, no bid is received, then the award of that substation would be considered as per the following procedure:  
2.7.1. All the technically qualified bidders who have submitted bids for other substations located in the same district as the substation for which no bid was received shall be considered eligible for award of that particular substation for which no bid was received. All such eligible bidders would be ranked in ascending order of their quoted tariffs in other substation in the same district (i.e. from the lowest rate to the highest rate of the quoted tariff). The lowest would be ranked 1, second lowest Rank 2 and so forth.  
2.7.2. The Substation for which no bid was received originally would be offered to the bidder with the lowest Rank (i.e. at L1 rate) and if not accepted by him, would be offered to the next bidder with second lowest rank and so forth until it is accepted. In case two or more bidders have the same rank (say there are 2 or more L1 bidders or L2 bidders and so on), the particular substation shall be offered to all such bidders. If more than 1 such bidder(s) accept, lottery system shall take place.  
2.7.3. In the event the Substation is not accepted by the bidders in its own district, it would be offered to bidders in contiguous district (Districts of the State of UP sharing boundary with the said District) at the above-mentioned Tariff and the above-mentioned order.

To attain the objective of waterfall method including maximum award of substation allocation within the 3205 MW in accordance with the suggestions of the UPERC.

Clause 2.7.1 is approved as proposed.  
Clause 2.7.2 is approved with the addition of following provisions:  
"Provided that if an eligible bidder has quoted different tariff for different substation in the district where 'no bid' substation is located, the bidder can be given an offer only at the lowest tariff quoted by him for that district.  
Provided further that an eligible bidder can be given such offers subject to a maximum of total capacity for which he has submitted bids for that district over and above the quoted bid capacity for that district."  
Clause 2.7.3 & 2.7.4 shall be omitted.



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Clause as provided in Draft RIS (for this 3205 MW Bid)		Justification	Commission Decision
Sl. No.	Clause No.		
38.		<p>2.7.4. Further in the event the Substation is still not accepted after the aforesaid process, the Substation would be offered to all other bidders at Discom Level at the aforesaid Tariff and in the aforesaid Order.</p> <p>A.2.4 On completion of Techno-commercial bid evaluation, if it is found that only one bidder is eligible, financial bid of the bidder will be opened.</p>	
39.	<p>Section VI – Scope of Work &amp; Technical Specifications</p> <p>A.1. Overall, Scope of Work of the Solar Power Generator (SPG).</p>	<p>2. Procurement of required land or getting land on lease for 27 years for installation of the solar power plant for feeder level Solarization: The SPG shall identify the project land preferably within the distance of Five km radius of the respective 33/11 KV sub-station, get ownership of land or its lease rights and make necessary arrangement including clearances for the transmission line between sub-station and the solar power plant.</p> <p>3. For enabling the implementation of Projects, UPNEDA has also resumed certain revenue land from the Government of UP. The revenue land resumed by UPNEDA will be further leased in terms of the lease agreement(s) to the Selected Bidder. The details of the revenue land may be shared through the portal (<a href="https://upnedakusumc2.in/">https://upnedakusumc2.in/</a>). Notwithstanding anything contained in the RFS, it is clarified that it shall be the responsibility of the Selected Bidder to arrange the land required for the Project. UPNEDA, on best effort basis, shall identify revenue land which shall be provided to the Selected Bidder on terms and conditions as specified in this RFS.</p> <p>4. The annual lease rent payable by the Selected Bidder, for such revenue land leased under the lease agreement(s) will be INR 15,000/- (Indian Rupee) per acre. For the avoidance of doubt, it is clarified that notwithstanding the lease of the revenue land to the Selected Bidder, such land shall always remain under the primary ownership of UPNEDA, and the Selected Bidder shall only hold lease rights of such revenue land for the term of the lease agreement(s) which shall in any event be co-terminus with the PPA. If at any time prior to expiry of a period of 3 (three) months from the</p>	<p>Clause A.2.4 of 'Bid Evaluation and Selection of projects' is Approved.</p> <p>Clause A.1 of Scope of Work &amp; Technical Specifications is Approved.</p>



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Clause as provided in Draft RfS (for this 3205 MW Bid)

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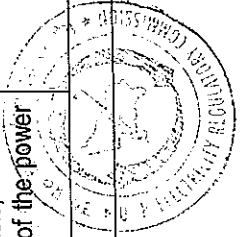
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Effective Date of the PPA, the Selected Bidder determines that any revenue land leased in terms of a lease agreement(s) for establishing the Project is not required by the Selected Bidder, then the Selected Bidder will return such unutilized land parcels to the UPNEDA and enter into cancellation deed(s) as may be required to effect such return, within a period of not more than 15 (fifteen) days from the expiry of the aforementioned period of 3 (three) months.

5. It is also clarified that all such costs and expenses including but not limited to stamp duty, revenue charges and any other charges in relation to lease agreement(s) will be borne by the Selected Bidder and UPNEDA shall not be responsible or liable in any manner whatsoever for such costs and expenses incurred by the Selected Bidder.

6. In case the Selected Bidder intends on using private lands, they shall enter into lease agreement(s) directly (only in case the Selected Bidder itself is implementing the Project) or through the Project SPV, with the landowner(s) at their own risks and costs and based on the broad terms and conditions as set out hereinbelow:

- a) The indicative base lease rent for such private lands will be 6% (six percent) of DM circle rate or at a price mutually agreed between landowner and Selected Bidder.
- b) The tenure for the lease agreement will be mutually agreed between the landowner and the Selected Bidder but in any case, will be for a term not less than 27 (twenty-seven) years from SCOD.
- c) From the effective date of the lease agreement till 27 years from SCOD, the Selected Bidder will be responsible to pay the lease rentals to the private landowners in accordance with the terms of the lease agreement. The landowner may also opt for payment of lease rent directly from the UPPCL, which will sign the PPA with the Selected Bidder. In such a case, the UPPCL will pay the lease rent to landowner on monthly basis, from the proceeds payable to the Selected Bidder in lieu of the power supplied by the Selected Bidder.



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Clause as provided in Draft RIS (for this 3205 MW Bid)

Sl. No.

d) Such lease agreement should mandatorily have a clause permitting the landowner to unilaterally cancel the lease agreement if the lease agreement does not become effective within a period of 3 (three) months from the date of signing of the lease agreement or such other extended period as may be agreed by the landowner, at his sole discretion.

7. Any further terms and conditions as applicable to such lease arrangements may be mutually agreed between the Selected Bidder and the landowner. Further, neither UPNEDA nor UPPCL will be a party to any such lease agreements.

8. For avoidance of any doubt, it is re-stated that the Selected Bidder shall be solely responsible and make arrangements for land and associated infrastructure for development of the Project and for connectivity with the 33/11 kV sub-station for confirming the evacuation of power by the Scheduled Commissioning date or COD, whichever is earlier, and all clearances. The Selected Bidder will be responsible for design, supply, construction, erection, testing, commissioning, operation, and maintenance for 25 years from COD, for the Solar Power Project in accordance with the applicable Law, Grid Code, as per regulations and terms & conditions of the Agreement as well as Prudent Utility Practices.

9. The Bidders are required to satisfy themselves about the suitability of any lands which may be provided in terms of the lease agreement(s) or the details of which have been provided on the portal or any land procured by the Selected Bidder for the Project. UPNEDA and/or UPPCL will not be responsible in any manner for any non-suitability of any land provided/procured for the Project for any reason. The Bidders are free to choose alternate land for any part of the Project at their own cost and risk.

10. The Selected Bidder shall lease or procure in its name 100% (one hundred percent) of the required land for a period not less than the Term of PPA, on or before the SCOD. In case of any leasing of private land as contemplated hereinabove, such lease should allow



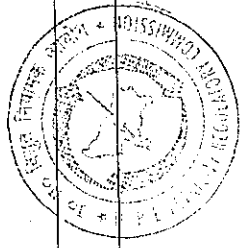
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Sl. No.	Clause as provided in Draft RFS (for this 3205 MW Bid)	Justification	Commission Decision
40.	Section VII – Formats	<p>transfer of land lease rights to the lenders or UPNEDA, in case of default of the Selected Bidder under any financing documents or arrangements of the Selected Bidder. The land lease rights would be further transferred to a new developer. The new developer would be responsible for payment all land dues i.e. rent and arrears to Government or private landowners.</p> <p>11. It is also clarified that all such costs and expenses including but not limited to stamp duty, revenue charges and any other charges in relation to lease agreement(s) will be borne by the Successful Bidder and UPNEDA shall not be responsible or liable in any manner whatsoever for such costs and expenses incurred by the Successful Bidder.</p> <p>12. The clearances required for establishment of the Project shall be facilitated through a single window portal of the UPNEDA that will be accessible to the Successful Bidder. UPNEDA may facilitate the process of the registration, transfer, assignment obtaining of clearances for the SPG on a no cost and no-liability basis.</p>	Approved.
41.	Section VII – Formats Annexure-D: Indicative Land Lease Agreement	<p>Minor changes have been incorporated in the Formats based on the changes in the earlier sections of the RFS. Further, Annexure-D (Terms and Conditions for e-reverse auction) has been removed.</p> <p>13. RENT .....</p> <p>iii. The lessor may opt for payment of lease rent directly from the UPPCL, which will sign the PPA with Lessee for the above mentioned ..... power plant to be installed by the Lessee. In such a case, the UPPCL will pay the lease rent to Lessor on monthly basis, from the proceeds payable to the Lessee in lieu of the power supplied by the Lessee.</p>	Approved.



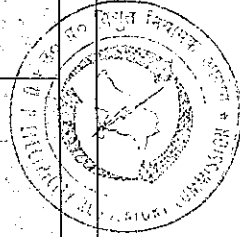
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Annexure-II (Deviations in PPA)

Sl. No.	Clause as provided in Draft PPA (for this 3205 MW Bid)	Reasoning	Commission's Decision
1	<p>B. MNRE issued detailed guidelines for feeder level solarization under KUSUM-C scheme on 4 December 2020.</p> <p>C. As per MNRE guidelines for feeder level solarization under KUSUM-C scheme, Government of India (GoI) shall provide subsidy at a rate 30% of estimated cost of INR 3.5 crore/ MW for projects meant for feeder solarization of agricultural feeders.</p> <p>D. Tariff for projects set up under feeder level solarization has been arrived at after factoring in the GoI subsidy and state subsidy as VGF from total project cost.</p> <p>E. The MNRE has accorded a sanction and allotted solarization of 3,70,000 pumps through feeder level solarization to UPPCL for under the said scheme on 25.04.2023 and subsequent letter dated 28.06.2023.</p> <p>H. UPNEDA has issued the Letter of Award No. dated in favour of the SPG for development and establishment of the ___ MW ___ Power Project as per the terms and conditions contained in the RFS.</p> <p>I. The SPG has furnished the Performance Bank Guarantee in the sum of Rs. ___ in favour of UPPCL as per the format prescribed by the UPNEDA.</p>	<p>New clause inserted to provide brief details of the Guidelines concerning KUSUM C 2</p>	<p>Approved. However, MNRE Guidelines dated 17.01.2024 must also be specified additionally.</p>
2		<p>Details of the sanction as required in the Model PPA</p>	<p>Approved.</p>
3		<p>UPNEDA as bidding agency would be issuing LOA.</p>	<p>Approved.</p>
4		<p>Discom has been changed to UPNEDA as UPNEDA is the bidding agency and has prescribed the format in the RFS.</p>	<p>Approved.</p>
5	<p><b>ARTICLE 1: DEFINITIONS AND INTERPRETATIONS</b></p> <p><b>1.1 Definitions</b></p> <p><b>Central Financial Assistance (CFA)</b> The developer will get CFA in accordance with Pradhan Mantri Kisan Urja Suraksha evam Utthaan Mahabhayan @ 30% of the estimated cost of installation of solar power plant subject to maximum of Rs. 1.05 Cr/MW under the scheme. Further, release of CFA would be as per existing the guidelines for release of CFA for Pradhan Mantri Kisan Urja Suraksha evam Utthaan Mahabhayan (PM KUSUM) yojana. Presently the effective guidelines are as per Office Memorandum with number 32/54/2018-SPV Division-Part (2) dated 4th April 2024.</p> <p>i) First instalment 30% CFA to be released on 30% completion of work i.e. a) Signing LOA and PPA between Developer and Discom. b) Copy of Land record or lease agreement. c) Bay allocation letter from Discom d) Escrow agreement e) GST invoice of solar module inverter and transformer.</p>	<p>Provided details of CFA, in accordance with MNRE Office Memorandum dated 04.04.2024</p>	<p>Approved.</p>



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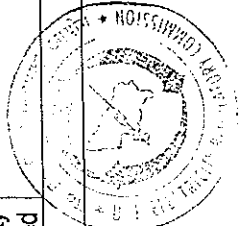
Commission's Decision

Reasoning

Clause as provided in Draft PPA (for this 3205 MW Bid)

Sl. No.

	<p>f) Financial closure of project  g) 50% completion of preliminary civil work including foundation for module mounting structure etc.  ii) Second instalment 30% of CFA to be released on 75% completion of work i.e.  d) Completion of preliminary civil work including foundation for module mounting structure etc.  e) Receipt of Solar PV Module and Solar inverters, at the project site.  f) 75% completion of installation work of solar PV modules  iii) Final instalment 40% CFA to be released on 100% of work.  c) 25% of CFA to be released on Plant commissioning.  15% of CFA to be released on successful performance of the solar plants for two months after the commissioning with achievement of at least one-month CUF as per the minimum CUF agreed in PPA.</p>		
6	<p><b>Delivery Point</b> shall preferably be at 11 kV bus bar for installed capacity up to 2.55 MWp and at 33 kV bus bar for installed capacity above 2.55 MWp at the 33/ 11 kV Sub-station. with due approval of Procurer(s). Metering shall be done at this interconnection point where the power is injected into the 33/ 11 kV Substation.   For interconnection with grid and metering, the SPG shall abide by the relevant and applicable regulations, Grid Code notified by the State Commission and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time, or orders passed there under by the Appropriate Commission or CEA. All charges and losses related to Transmission of power from project up to Delivery Point as notified by the Appropriate Commission shall be borne by the SPG.</p>	<p>As per clause 3.2 of Uttar Pradesh Electricity Supply Code 2005  (Power factor has been taken as 0.85)   The same provision was also provided in 150 MW RfS/ PPA.</p>	<p>Approved.  However, 2.55MWp must be replaced with 3MW at 11KV bus bar and for above 3MW project at 33KV bus bar. (As per Regulation 27(i) of the UPERC CRE Regulations, 2019).</p>
8	<p>"Letter of Award" or "LoA" shall mean Letter of Award issued by UPNEDA to the SPG for the project;</p>	<p>Since UPNEDA is providing LOA as it is the bidding agency.</p>	<p>Approved.</p>
9	<p>"Project Capacity" shall mean the AC capacity of the Project at the point of injection on which the Power Purchase Agreement has been signed.</p>	<p>The word "maximum" AC capacity has been removed to provide the developer flexibility.</p>	<p>Not Approved. It is directed that term 'maximum' must be incorporated.</p>
10	<p>"Solar Power Generator" shall mean individual / individual farmers / group of farmers / landowners/ solar power developers / cooperatives / panchayats / Farmer Producer Organisations or Body incorporated in India under the Companies Act, 2013 including any amendment thereto or Body incorporated in India under the Limited Liability Partnership (LLP) Act, 2008 including any amendment thereto or Firm registered</p>	<p>Defined the Solar Power Generator in line with the RFS</p>	<p>Approved.</p>

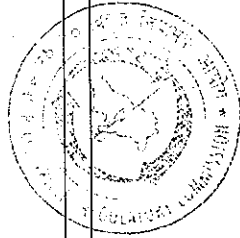


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Clause as provided in Draft PPA (for this 3205 MW Bid)		Reasoning	Commissioner's Decision
Sl. No.	under Partnership Act, 1932 in India or Sole Proprietor; or a Joint Venture or a registered Partnership Firm or, a Co-operative Society/ Bidding Company/ Limited Liability Companies (LLC) or Consortium in any form submitting the Bid and is hereinafter also called Solar Power Generator (SPG). They must participate in the selection process to be carried out by UPNEDA. The successful SPG shall have to sign PPA and install the plant as per provisions of the PMKUSUM scheme guidelines and applicable rules and regulations.		
11	<p><b>"Scheduled Commissioning Date" or "SCD" of the Project shall mean the twelve (12) Months with extension of 6 months to be given by UPNEDA from the Effective Date</b></p>	<p>The clause has been amended in accordance with MNRE, GOI Office Memorandum dated 01.03.2024 which states as follows:</p> <p><i>"a) The maximum timeline allowed for commissioning of solar power plant under Component C (FLS) has been increased to 18 months from date of issuance of LOA. However, the overall sanction timeline would be as per Clause 6.5(f) of scheme guidelines issued on 17.1.2024."</i></p> <p>Since the maximum time period has been provided as 18 Months, the same has been provided in the RfS document in the form of 12 months plus additional 6 months.</p> <p>Further, in accordance with clause 6.5(i) guidelines dated 17.01.2024 which states as under</p> <p><i>"Projects for installation of solar agriculture pumps and feeder level solarization under Component C shall be completed within 24 months from the date of sanction by MNRE."</i></p> <p>24 months from the date of sanction i.e., 25.04.2023 by MNRE ends on 25.04.2025. Therefore, in the event the developer is not able to achieve SCOD within the time of 12</p>	Approved.

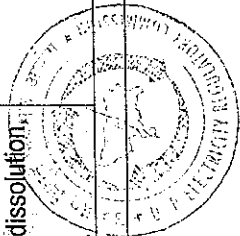


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Sl. No.	Clause as provided in Draft PPA (for this 3205 MW Btd)	Reasoning	Commission's Decision
12	<p><b>1.2 Interpretation</b></p> <p><b>Save where the contrary is indicated, any reference in this Agreement to:</b></p> <p>1.2.1 "Agreement" shall be construed as including a reference to its schedules and/or appendices and/or annexure(s).</p> <p>1.2.2 An "Article", a "Recital", a "Schedule" and a "paragraph / clause" shall be construed as a reference to an Article, a Recital, a Schedule, and a paragraph/clause respectively of this Agreement.</p> <p>1.2.3 A "crore" means a reference to ten million (10,000,000) and a "lakh" means a reference to one tenth of a million (100,000)</p> <p>1.2.4 An "encumbrance" shall be construed as a reference to a mortgage, charge, pledge, lien, or other encumbrance securing any obligation of any person or any other type of referential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect.</p> <p>1.2.5 "Indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent.</p> <p>1.2.6 A "person" shall be construed as a reference to any person, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and a person shall be construed as including a reference to its successors, permitted transferees, and permitted assigns in accordance with their respective interests.</p> <p>1.2.7 "Rupee", "Rupees", "Rs." or "₹" shall denote Indian Rupees, the lawful currency of India.</p> <p>1.2.8 The "winding-up", "dissolution", "insolvency", or "reorganization" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the Law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation; winding up, reorganization, dissolution, arrangement, protection, or relief of debtors.</p> <p>1.2.9 Words importing the singular shall include the plural and vice versa.</p>	<p>months, UPNEDA may request MNRE for extension and the same would be passed on to the developer.</p> <p>Included to provide clarity to the Developers and Procurer concerning interpretation of various references.</p>	<p>Approved, however, Clause 1.2.18 would be modified as under:</p> <p>"In the event of any inconsistency and/or interpretation between the RFS and this Power Purchase Agreement, the later shall prevail upon".</p>



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Sl. No.

1.2.10 This Agreement itself or any other agreement or document shall be construed as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented only if agreed to between the parties.

1.2.11 A Law shall be construed as a reference to such Law including its amendments or reenactments from time to time.

1.2.12 A time of day shall, save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time.

1.2.13 Different parts of this Agreement are to be taken as mutually explanatory and supplementary to each other and if there is any inconsistency between or among the parts of this Agreement, they shall be interpreted in a harmonious manner so as to give effect to each part.

1.2.14 The tables of contents and any headings or sub-headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement.

1.2.15 All interest, if applicable and payable under this Agreement, shall accrue from day to day and be calculated on the basis of a year of three hundred and sixty-five (365) days.

1.2.16 The words "hereof" or "herein", if and when used in this Agreement shall mean a reference to this Agreement.

1.2.17 The terms "including" or "including without limitation" shall mean that any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided.

1.2.18 In the event of any inconsistency between this Agreement and the RFS document, the later shall prevail upon.

13

2.3.2 In such other circumstances as the Procurer and SPG agree, in writing;

Included to provide clarity to Procurer and SPG concerning Early Termination.

Approved with amendment that the words 'with prior approval of the Commission' be added after the words 'in writing'.

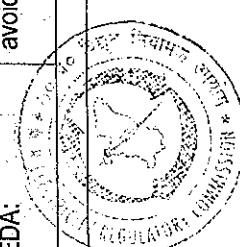
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3.1 The SPG agrees and undertakes to duly perform and complete all of the following activities at the SPG's own cost and risk within six months (6) from the Date of issuance of LOA, unless such completion is affected by any Force Majeure event, or if any of the activities is specifically waived in writing by UPNEDA:

Included to provide clarity to SPG concerning all the activities to be conducted. Clearly articulated Conditions Subsequent shall aid in avoiding disputes at the later stage.

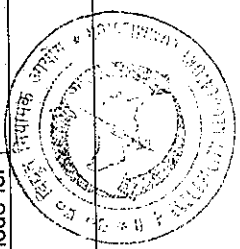
Approved. However, in Article 3.2.1 to be rephrased as under: "In case of delay in achieving above condition, as may be

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Sl. No.	Clause as provided in Draft PPA (for this 3205 MW Bid)	Reasoning	Commission's Decision
	<p>a) The SPG shall submit the land documents such as land sale deed, lease agreement of land etc. to demonstrate that required land is under possession of SPG, for at least 27 years, within the period of 6 months from the date of issuance of LOA for the entire required land.</p> <p>b) The SPG shall have obtained all Consents, Clearances and Permits required for supply of power to the Procurer(s) as per the terms of this Agreement. In case a Project Company is incorporated, and the Consents, Clearances and Permits have been obtained in the name of a company other than the Project Company, all such Consents, Clearances and Permits shall have been transferred in the name of such Project Company.</p> <p>c) The SPG shall achieve Financial Closure i.e. make Project Financing Arrangements for its Project within 6 (six) months of issuance of LOA and will provide a certificate to UPNEDA from the lead banker to this effect. In case the funds have been arranged from its internal resources, Board Resolution certifying the same shall be submitted by the bidder. In case of other bidders where Board Resolution is not applicable, relevant documents and bank details depicting adequate funds are available shall be submitted. Failing the aforesaid, liquidated damages will be levied as mentioned in clause 3.2.1 unless the delay is not owing to any action or inaction on the part of the SPG or caused due to a Force Majeure. Extension for the attainment of financial closure may be considered by UPNEDA, on the sole request of SPG, on the payment of penalty as mentioned in 3.2.1. This extension will not have any impact on the Scheduled Commissioning Date. Any penalty paid so, shall be returned to the SPG without any interest on achievement of successful commissioning within the Scheduled Commissioning Date</p> <p>d) The SPG shall have sent a written notice to UPNEDA and Procurer indicating the Installed Capacity for the Power Project expressed in MW.</p> <p>e) The SPG shall have provided an irrevocable letter to the Lenders duly accepting and acknowledging the rights provided to the Lenders under the terms of this Agreement and all other RFS Documents.</p> <p>f) SPG shall have fulfilled the Qualifying requirements according to criteria mentioned in RFS for Selection of Solar Power Generator (SPG) through RESCO Mode for</p>		<p>applicable, UPPCL shall encash Performance Bank Guarantees and UPNEDA shall remove the project from the list of the selected projects, unless the delay is caused due to a Force Majeure as per PPA.</p>



by

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## Clause as provided in Draft PPA (for this 3205 MW Bid)

Sl. No.

setting up of Ground Mounted Grid Connected Solar Power Plants under feeder level solarisation of PM KUSUM component-C2 scheme.

g) The SPG shall submit to UPNEDA the relevant documents as stated above complying with the Conditions Subsequent, within 6 months from the Effective Date of this agreement.

3.2. The SPG shall have submitted the relevant documents as stated above to UPNEDA, complying with the conditions subsequent, within six months from the Date of issuance of LOA. In case of failure to submit the documents mentioned above to UPNEDA within the mentioned timeframe, the provision of RFS as mentioned below shall apply:

3.2.1. In case of delay in achieving above condition, as may be applicable, **UPNEDA** shall encash Performance Bank Guarantees and shall remove the project from the list of the selected projects, unless the delay is caused due to a Force Majeure as per PPA.

3.2.2. For the avoidance of doubt, it is clarified that this Article shall survive the termination of this Agreement.

3.2.3. In case of inability of the SPG to fulfil any one or more of the conditions specified in Article 3.1 due to any Force Majeure event, the time period for fulfilment of the Conditions Subsequent as mentioned in Article 3.1, shall be extended for the period of such Force Majeure event.

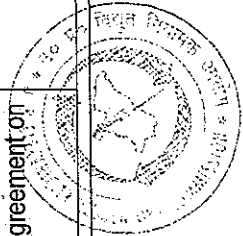
3.2.4. Provided that due to the provisions of this Article 3.2, any increase in the time period for completion of conditions subsequent mentioned under Article 3.1, shall also lead to an equal extension in the Scheduled Commissioning Date.

**3.3 Performance Bank Guarantee**

3.3.1 Performance Bank Guarantee has been submitted by SPG within 30 days of issue of LOA for guaranteeing the commencement and continuity of the supply of power up to the Contracted Capacity within the time specified in this Agreement.

3.3.2 The failure on the part of the SPG to furnish and maintain the Performance Bank Guarantee shall be a material breach of the term of this Agreement on the part of SPG.

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Clause as provided in Draft PPA (for this 3205 MW Bid)

Sl. No.

15	<p>3.3.3 If the SPG fails to commence supply of power from the Scheduled Commissioning Date specified in this Agreement, subject to conditions mentioned in Article 4.5, UPNEDA shall have the right to encash the Performance Bank Guarantee without prejudice to the other rights of UPNEDA under this Agreement.</p> <p><b>3.4 Return of Performance Bank Guarantee</b></p> <p>3.4.1 Subject to Article 3.3, UPPCL shall retain the Performance Bank Guarantee during the complete tenure of the COD plus Twelve Months.</p> <p>3.4.2 The return / release of the Performance Bank Guarantee shall be without prejudice to other rights of UPNEDA under this Agreement.</p>		Approved.
16	<p><b>ARTICLE 4: CONSTRUCTION &amp; DEVELOPMENT OF THE PROJECT</b></p> <p><b>4.1 SPG's Obligations:</b></p> <p>ii. Obtaining all Consents, Clearances and Permits as required and maintaining all documents in full force and effect during the Term of this Agreement. The SPG shall, on its own obtain permissions/sanctions from Government Authorities, if any required for establishing the project. Any steps that may be taken by UPNEDA/UPPCL in regard to grant of such consents and permits or any other approval to be taken by the SPG shall only be a voluntary endeavour with no intention of being bound by any legal or binding obligation.</p>	To provide clarity to SPG concerning the obligation of the SPG and to also provide a disclaimer that the UPNEDA/ UPPCL may only endeavour to facilitate such permissions/sanctions. The primary responsibility shall be that of the developer i.e., SPG.	Approved.
17	<p><b>ARTICLE 4: CONSTRUCTION &amp; DEVELOPMENT OF THE PROJECT</b></p> <p>4.1 SPG's Obligations:</p> <p>.....</p> <p>ix. All costs and charges, including but not limited to line losses and other charges up to the point of interconnection, if applicable, associate with the evacuation arrangement shall be borne by the SPG.</p> <p><b>4.3 Right to Contracted Capacity &amp; Energy</b></p> <p>4.3.1 The Procurer, in any Contract Year shall not be obliged to purchase any additional energy from the SPG beyond the contract capacity at the declared annual CUF.</p> <p>4.3.2 In case the availability is more than the maximum CUF i.e., over, and above 10% (ten percent) of minimum CUF by the SPG, the UPPCL shall purchase the excess generation, over and above the maximum declared CUF, at tariff applicable</p>	<p>To provide clarity to SPG concerning the Obligation of the SPG.</p> <p>The clause has been modified to make the project more lucrative for a bidder.</p> <p>Further, in accordance with MINRE PM KUSUM guidelines dated 17.01.2024 and the suggestions of the Hon'ble UPERC, Discom is to purchase the power generated under this</p>	Approved with the amendment that the words 'which shall not be less than 19% (i.e., minimum annual CUF) during the period of PPA' after the words 'annual CUF' in clause 4.3.1.

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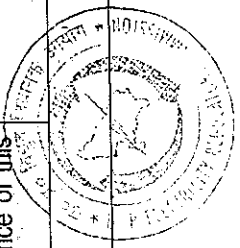
Sl. No.	Clause as provided in Draft PPA (for this 3205 MW Bid)	Reasoning	Commissioner's Decision
18	<p>as per Article 9. UPPCL shall inform the SPG for procurement of excess power within 15 (fifteen) days of receiving a written intimation from the SPG for such excess generation. However, the SPG shall ensure that injection of excess power shall not cause any disturbance in the grid at the point of injection. <u>If the injection is likely to cause any such grid disturbance, the SPG will have to forego the excess generation and reduce output to rated capacity to ensure compliance with grid requirement.</u></p> <p>4.5.2 in case of extension due to reasons specified in Article 4.4.1(ii) and (iii), and if such Force Majeure Event continues even after a maximum period of three (3) months, any of the Parties may choose to terminate the Agreement as per the provisions of Article 13.5. In case neither party terminates the agreement under this clause, the agreement shall stand terminated on the expiry of <b>fifteen (15) months</b> of the continuation of the Force majeure event unless the parties mutually agree to extend the agreement for the further period.</p>	<p>project. Hence, appropriate clause has been inserted. Similar clause was provided for in the earlier approved 150 MW RFS/ PPA floated by UPNEDA. Same clause is also present in Maharashtra's MSKVY scheme.</p> <p>In order to provide additional time to the SPG in the event of Force Majeure event, so that the Force Majeure event may get corrected, and the agreement may remain valid.</p>	<p>Further, last line in Clause 4.3.2 must be rephrased as under: "If the over injection is likely to cause any such grid disturbance, the SPG will have to forego the excess generation and reduce the output to the contracted capacity and shall also have to pay the penalty/charges (if applicable) as per appropriate Regulations."</p> <p>Not Approved. A time period equal to commissioning period (i.e., 12 months) can only be given for curating the Force Majeure event and the PPA must terminate thereafter i.e., 12 months after SCOD.</p>
19	<p><b>4.5 Liquidated Damages not amounting to penalty for delay in Commissioning.</b> 4.5.1 If the SPG is unable to commission the Project by the Scheduled Commissioning Date other than for the reasons specified in Article 4.4.1, the SPG shall pay to Procurer, damages for the delay in such commissioning and making the Contracted Capacity available for dispatch by the Scheduled Commissioning Date as per the following: In case of delay beyond the Scheduled Commissioning Date up to (&amp; including) the date as on <b>twelve months plus 6 months</b> from Effective Date: The total Electronic Performance Bank Guarantee (EPBG) amount shall be encashed on per day basis and proportionate to the balance capacity not commissioned.</p>	<p>15 Months has been changed based on MNRE Office Memorandum dated 01.03.2024</p>	<p>Approved.</p>
20	<p>4.5.2 The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee shall be limited to <b>2 Months from</b></p>	<p>The time period has been linked to the Commissioning Date as the SCD has been</p>	<p>Approved. The maximum 21 months period has been</p>



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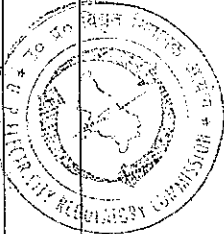
Clause as provided in Draft PPA (for this 3205 MW Bid)		Reasoning	Commissioner's Decision
Sl. No.	the Scheduled Commissioning Date. In case, the Commissioning of the Project is delayed beyond 2 Months from the Scheduled Commissioning Date, it shall be considered as an SPG Event of Default and provisions of Article 13 shall apply and the Contracted Capacity shall stand reduced / amended to the Project Capacity Commissioned within 2 Months from Scheduled Commissioning Date and the PPA for the balance Capacity will stand terminated and shall be reduced from the project capacity.	provided as 12 months (plus 6 months extension).	provided in the model PPA for the full project commissioning. Since the extension of 6 months over 12 months commissioning period is approved herein, therefore, 3 months may be allowed for full project commissioning with encashment of EPBG.
21	4.5.4 In case of delayed commissioning and encashment of EPBG on per-day basis as per above, the SPG will ensure replenishment and resubmission of EPBG @ Rs. 1.00 Lac/MW, prior to release of CFA or State VGF, and valid also for an additional 12 months after commissioning. In addition to the above, Payment on Order Instrument (POI) shall also be accepted for payment security instead of EPBG. The remaining terms and conditions concerning Payment Security would remain the same.	Provided an option instead of EPBG.  18 Months has been considered as the Maximum time for COD is 18 Months.	Approved.
22	4.7 Acceptance/Performance Test 4.7.1 Prior to synchronization of the Power Project, the SPG shall be required to get the project certified for the requisite acceptance/performance test as may be laid down by respective authorities and duly certified by the designated officials.	Increased assurance against any misrepresentation and getting all the documents duly signed.	Approved.
23	4.8 Grid Connectivity 4.8.1 The solar plant by the SPG set up will be connected to the 33/11 kV sub-stations through 11kV or 33kV line (as feasible). 4.8.2 The SPG will be responsible for construction of dedicated 11kV or 33kV line (as feasible) from solar power plant to sub-station, construction of bay, extension of control room (if required) and related switchgear at sub-station where the plant is connected to the grid and metering is done. The DISCOM will facilitate the SPG in getting right of way for laying of the 11kV or 33kV line. 4.8.3 SPG can get constructed the 11kV (in case installed power plant capacity is below 2.55 MWp) or 33kV lines (in case installed power plant capacity is above 2.55 MWp) through DISCOM by paying the applicable cost and other charges. 4.8.4 SPG shall be responsible for construction, operation & maintenance of this dedicated 11kV or 33kV line up to the point of connectivity.	As per clause 3.2 of Uttar Pradesh Electricity Supply Code 2005  (Power factor has been taken as 0.85)  The same provision was also provided in 150 MW RfS/ PPA.	Approved. However, 2.55MWp must be replaced with 3MW at 11kV bus bar and for above 3MW project at 33kV bus bar. (As per Regulation 27(f) of the UPERC CRE Regulations, 2019).



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Sl. No.	Clause as provided in Draft PPA (for this 3205 MW Bid)	Reasoning	Commission's Decision
24	<p><b>4.11.2 Offtake constraints due to Backdown: "Must Run" status will be provided to solar power projects. The SPG and Procuree shall follow the forecasting and scheduling process as per the regulations in this regard by the UPERC. In the eventuality of backdown, subject to the submission of documentary evidence from the competent authority, the SPG shall be eligible for a minimum generation compensation, from Procuree, restricted to the following and there shall be no other claim, directly or indirectly against Procuree.</b></p>	<p>Inserted name of Commission</p>	<p>Approved.</p>
25	<p><b>4.11 Generation compensation for Off-take constraints</b>            .....  <b>4.11.2</b> .....            The SPG shall not be eligible for any compensation in case the Backdown is on account of events like consideration of grid security or safety of any equipment or personnel or other such conditions. The Generation Compensation shall be paid as part of the energy bill for the successive month after JMR / Remote Metered Data, as may be mutually agreed.</p>	<p>Providing additional option for Meter reading, so as to introduce innovative methods in Metering.</p>	<p>Approved.</p>
26	<p><b>4.12 Repowering</b>            The SPV shall be allowed a maximum cumulative period of 6 (six) months for repowering during the entire PPA term. The SPV shall not be in default for non-supply of power during this period of repowering. However, UPPCL will be obliged to buy power only within the range of CUF specified in the PPA. Any excess generation will be dealt with as specified in PPA.</p>	<p>Based on suggestions and representations received, a standard provision as per the MNRE's Guidelines for Tariff Based Competitive Bidding for Solar projects has been incorporated. Repowering aids the SPG in upgrading the technologies deployed for Solar generation thereby increasing the efficiency of the plant. There shall be no cost implication of such repowering on the procuree.             Similar clause has also been adopted by Maharashtra's MSKVY scheme for feeder level solarization.</p>	<p>Approved. However, the following would be added in the provisions:   <i>"There shall be no cost implication of such repowering on the procuree."</i></p>
27	<p><b>ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION</b>  <b>5.1.5</b> The SPG shall commission the Project within twelve (12) months with 6 months extension to be given by UPNEDA from the Effective date. Declaration of COD shall be certified by the commissioning committee.</p>	<p>15 Months has been changed based on MNRE Office Memorandum dated 01.03.2024</p>	<p>Approved.</p>



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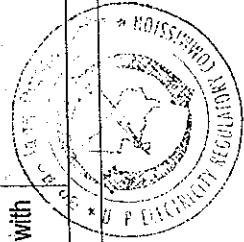
Commission's Decision

Reasoning

Clause as provided in Draft PPA (for this 3205 MW Btd)

Sl. No.

28	<p>5.1.7 Early Commissioning of the Projects would be permitted, if such Projects become ready before Scheduled Commercial Operation Date for full Commissioning. In case of early full Commissioning of the Projects prior to the Scheduled Commercial Operation Date, UPPCL shall purchase the energy generated till Scheduled Commercial Operation Date at tariff applicable as per Article 9. UPPCL shall inform the SPG for procurement of power prior to the Scheduled Commercial Operation Date within 15 (fifteen) days of receiving a written intimation from the SPG for such excess generation. However, the SPG shall ensure that injection of power shall not cause any disturbance in the grid at the point of injection. If the injection is likely to cause any such grid disturbance, the SPG will have to forego the generation prior to the Scheduled Commercial Operation Date to ensure compliance with grid requirement.</p>	<p>The clause has been modified to make the project more lucrative for a bidder. Further, in accordance with MNRE PM KUSUM guidelines dated 17.01.2024 and the suggestions of the UPERC, Discom is to purchase the power generated under this project. Hence, appropriate clause has been inserted. Similar clause was provided for in the earlier approved 150 MW RFS/ PPA floated by UPNEDA. Same clause is also present in Maharashtra's MSKVY scheme.</p>	Approved.
29	<p><b>ARTICLE 7: METERING</b> 7.1.2 The SPG shall bear all costs pertaining to installation, testing, calibration, Remote monitoring system, maintenance, repair, and replacement of all the meters at SPG's side of the Delivery point.</p>	<p>To provide more clarity to the SPG needs to incur for Metering.</p>	Approved.
30	<p><b>7.2 Remote Monitoring System (RMS)</b> 7.2.1 As per the MNRE guidelines for feeder level solarization under Component C of KUSUM scheme, it is mandatory for DISCOMs to monitor solar power generation and performance of the solar power plant through online system. The online data will be integrated with central monitoring portal of MNRE which will extract data from the State portals for monitoring of the scheme. 7.2.2 In line with MNRE model guidelines for State Level SEDM Software Development issued in July 2020, State Level Solar Energy Data Management (SEDM) platform has been developed to integrate &amp; monitor the performance of all systems installed under Component A, B &amp; C (individual as well as feeder level solarization) of PM-KUSUM scheme. 7.2.3 Also, as per the Specifications for Remote Monitoring System for Component A &amp; C of the scheme, issued by MNRE on 15 Jul 2020, the SPG under this RFS shall be required to install the mandatory remote monitoring systems for solar power plant to integrate with State SEDM platform directly which in turn will have interface with National Level Solar Energy Data Management Platform of MNRE.</p>	<p>This has been included so that Remote monitoring of the project can be done. The same provision was also provided in 150 MW RFS.</p>	Approved.

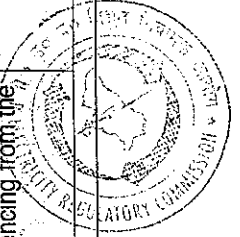


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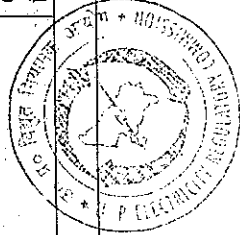
Sl. No.	Clause as provided in Draft PPA (for this 3205 MW Bid)	Reasoning	Commission's Decision
31	<p>7.2.4 The SPG is responsible for making all relevant arrangements would for installation of necessary equipment for remote monitoring of required data and simultaneously for monitoring the electric power generated from the Project.</p> <p>7.2.5 It is the SPG's responsibility to ensure that the data remains available to the Procurer and on the SEDM portal at all times and to make necessary arrangements for the same.</p> <p>7.2.6 The SPG shall also be responsible for maintaining communication security between the RMS and the State SEDM platform, which would ensure that third parties are unable to intercept or "sniff" the encrypted data.</p> <p><b>ARTICLE 9: APPLICABLE TARIFF</b></p> <p>9.1 The SPG shall be entitled to receive a Tariff of Rs. ----- /kWh for the energy supplied at the Metering Point during the term of the PPA (unless extended by both the parties on mutual agreement).</p> <p>9.2 Procurer will be liable to pay the project developer the tariff as signed in the PPA.</p>	<p>Included to provide clarity to the Procurer and SPG concerning the applicable Tariff.</p>	<p>Approved.</p>
32	<p><b>ARTICLE 10: BILLING AND PAYMENT</b></p> <p><b>10.1 General</b></p> <p>10.1.1 From the commencement of supply of power, the Procurer shall pay to the SPG the monthly Tariff Payments subject to the adjustments as per provisions of this Agreement including Article 6, in accordance with Article 9. All Tariff Payments by the procurer shall be in Indian Rupees.</p>	<p>All the Commission Orders and regulations are applicable on every Purchase made by the Procurer therefore, the clause 10.1.2 was not required</p>	<p>Clause 10.1.1 is Approved. Further, it is directed to incorporate Article 10.1.2 as under: "10.1.2 The SPG shall be required to make arrangements and payments for import of energy (if any) as per applicable regulations/tariff orders of the Commission."</p>
33	<p><b>10.2 Delivery and Content of Monthly Bills/ Supplementary Bills</b></p> <p>10.2.1 The SPG shall issue to each Procurer a signed Monthly Bill for the immediately preceding Month not later than four (4) days of the next Month.</p> <p><b>Provided that:</b></p> <p>a) if the date of commencement of supply of power falls during the period between the first (1st) day and up to and including the fifteenth (15th) day of a Month, the first Monthly Bill shall be issued for the period until the last day of such Month, or</p> <p>b) if, the date of commencement of supply of power falls after the fifteenth (15th) day of a Month, the first Monthly Bill shall be issued for the period commencing from the Delivery Date until the last day of the immediately following Month.</p>	<p>To provide clarity to Procurer and SPG in case of issue of Monthly Bills.</p>	<p>Approved.</p>



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	<p>Provided further that if a Monthly Bill is received on or before the second (2nd) day of a Month, it shall be deemed to have been received on the second (2nd) Business Day of such Month.</p> <p><b>10.2.2</b> The Monthly Bill prepared as detailed in Schedule 5 of the PPA, shall include the following.</p> <p>a) Provisional Bill for Solar PV power supplied in the immediately preceding Month.</p> <p>a. Adjustments against the Provisional Bill(s) based on Energy Accounts for the Solar PV power supplied in the Month(s) preceding to the previous month(s).</p> <p>b. Any other adjustments to cover changes in open access related charges and any other prior period adjustments.</p> <p>b) Late Payment Surcharge, if any; and</p> <p>c) Taxes, Duties, Levies etc. as applicable</p> <p><b>10.3 Payment of Monthly Bills</b></p> <p><b>10.3.1</b> The Procurer shall pay the amount payable under the Monthly Bill on the Due Date to such account of the SPG, as shall have been previously notified to the Procurer in accordance with Article 10.3.2 below.</p> <p><b>10.3.2</b> The SPG shall open a bank account at Lucknow, Uttar Pradesh ("SPG's Designated Account") for all Tariff Payments to be made by the Procurer to the SPG and notify the Procurer of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. The Procurer shall also designate a bank account at Lucknow (the "Procurer's Designated Account") for payments to be made by the SPG to the Procurer, if any, and notify the SPG of the details of such account ninety (90) days before the dispatch of the first Monthly Bill. The SPG and the Procurer shall instruct their respective bankers to make all payments under this Agreement to the Procurer's Designated Account or the SPG's Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.</p>	<p>Approved. However, Article 10.3.3 must be incorporated additionally as under:</p> <p>"10.3.3 All payments required to be made under this Agreement shall also include any deduction or set off for:</p> <p>i) deductions required by the Law; and</p> <p>ii) Amount claimed by DISCOM, if any, from the SPG, will be adjusted from the monthly energy payment.</p> <p>iii) Payment of monthly lease rentals to landowner(s), if applicable."</p>
34	<p>For more clarity concerning payments to be made of the Monthly Bills.</p>	<p>The timeline for Rebate has been increased so as to provide Discom additional time so that it may be able to enjoy Rebates in case of Power Procurement and ultimately benefit the end consumer.</p>
35	<p><b>10.3.4 Rebate:</b></p> <p>For payment of any Bill within due date, the following Rebate shall be paid by the SPG to the Procurer in the following manner.</p>	<p>Approved.</p>



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a) A Rebate of 2% shall be payable to the UPPCL for the payments made within a period of 10 (ten) days of the presentation of hard copy of bill along with required supporting documents at UPPCL Office.

b) Any payments made after ten (10) days of the date of presentation of hard copy of the bill along with the required supporting documents at UPPCL office up to the Due date shall be allowed a rebate of 1%.

c) For the above purpose the date of presentation of Bill shall be the next business day of delivery of the physical copy of the Bill at Procurer office.

d) No Rebate shall be payable on the bills raised on account of change in law relating to taxes, duties, cess etc. and on supplementary bill. For the above purpose date of presentation of bill shall be the same day of delivery in hard copy. However, for consideration of rebate, next business day shall be considered.

**10.4 Payment Security Mechanism**

**Letter of Credit (LC):**

10.4.1 The Procurer shall provide to the SPG, in respect of payment of its Monthly Bills, an unconditional, revolving, and irrevocable letter of credit ("Letter of Credit"), opened and maintained by the Procurer, which may be drawn upon by the SPG in accordance with this Article. The Procurer shall provide to the SPG draft of the Letter of Credit proposed to be provided to the SPG two (2) months before the Scheduled Commissioning Date.

10.4.2 Not later than one (1) month before the start of supply, the Procurer shall through a scheduled bank at Lucknow open a Letter of Credit in favour of the SPG, to be made operative at least 15 days prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) months and shall be renewed every year, in the month of January and revised w.e.f. April for an amount equal to:

a) for the first Contract Year, equal to the estimated average monthly billing.

b) for each subsequent Contract Year, equal to the average of the monthly Tariff Payments of the previous Contract Year.

10.4.3 Provided that the SPG shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill and shall not make more than one draw in a month.

To provide clarity to the Procurer and SPG concerning the Letter of Credit, amount, its opening and its submission etc.

Approved.

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## Sl. No. Clause as provided in Draft PPA (for this 3205 MW Bid)

10.4.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 10.4.2 due to any reason whatsoever, Procurer shall restore such shortfall within fifteen (15) days.

10.4.5 Procurer shall cause the scheduled bank issuing the Letter of Credit to intimate the SPG, in writing regarding establishing of such irrevocable Letter of Credit.

10.4.6 Procurer shall ensure that the Letter of Credit shall be renewed not later than its expiry.

10.4.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by Procurer.

10.4.8 If Procurer fails to pay undisputed Monthly Bill or Supplementary Bill or a part thereof within and including the Due Date, then, subject to Article 10.4.6 & 10.5.2, the SPG may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from Procurer, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, in accordance with Article 10.4.3 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

i) a copy of the Monthly Bill which has remained unpaid by the Procurer.

ii) a certificate from the SPG to the effect that the bill at item (i) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date.

38 10.5 Disputed Bill

10.5.1 If the Procurer does not dispute a Monthly Bill raised by the other Party within fifteen (15) days of receiving such Bill shall be taken as conclusive.

10.5.2 If the Procurer disputes the amount payable under a Monthly Bill it shall pay 95% of the disputed amount and it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (Bill Disagreement Notice) to the disputing party providing:

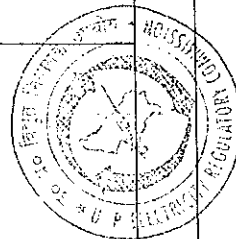
i) reasons for its disagreement.

ii) its estimate of what the correct amount should be; and

iii) all written material in support of its counterclaim.

In the event of bills getting disputed, this clause would make sure that the cash flow of the SPG is not reduced. This will make the project more viable.

Approved with the amendment that in Article 10.5.1 & 10.5.2, the term 'or a Supplementary Bill as the case may be' must be added along with Monthly Bill.



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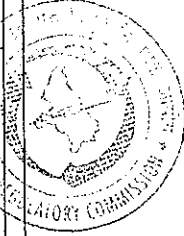
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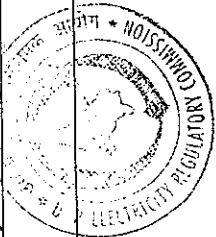
39	<p>10.5.3 If the SPG agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, the SPG shall revise such Bill and present along with the next Monthly Bill. In such a case excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge, which shall be applied from the date on which such excess payment was made by the disputing Party to the invoicing Party and up to and including the date on which such payment has been received as refund.</p> <p>10.5.4 If the SPG does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (Bill Disagreement Notice) to the disputing Party providing:</p> <ul style="list-style-type: none"> <li>i) reasons for its disagreement.</li> <li>ii) its estimate of what the correct amount should be; and</li> <li>iii) all written material in support of its counter-claim.</li> </ul> <p>10.5.5 Upon receipt of the Bill Disagreement Notice by the Procurer under Article 10.5.2, authorized representative(s) of the Procurer and the SPG shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.</p> <p>10.5.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 10.5.4, the matter shall be referred to Dispute resolution in accordance with Article 16.</p> <p>10.5.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the Procurer shall, without prejudice to its right to Dispute, be under an obligation to make payment of 95% of the Disputed Amount in the Monthly Bill.</p> <p>10.6 Quarterly and Annual Reconciliation</p> <p>10.6.1 The Parties acknowledge that all payments made against Monthly Bills shall be subject to quarterly reconciliation within 30 days of the end of the quarter of each Contract Year and annual reconciliation at the end of each Contract Year within 30 days thereof to take into account the Energy Accounts, Tariff adjustment, payments, Tariff Rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.</p> <p>10.6.2 The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be, has been finally verified and adjusted, the Procurer and the SPG shall jointly sign such reconciliation</p>	<p>Included to provide more clarity to Procurer and SPG concerning the Reconciliation of Bills on a Quarterly and Annual basis.</p>	<p>Approved.</p>
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Clause as provided in Draft PPA (for this 3205 MW Bid)

Sl. No.	Clause as provided in Draft PPA (for this 3205 MW Bid)	Reasoning	Commission's Decision
	<p>statement. After signing of a reconciliation statement within 15 days, the SPG shall make appropriate adjustments in the following Monthly Bill, with Surcharge/Interest, as applicable. Late Payment Surcharge/interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 16.</p>		
40	<p><b>10.7 Payment of Supplementary Bill</b>  <b>10.7.1 Either Party may raise a bill on the other Party ("Supplementary Bill") for payment on account of:</b>                      i) Adjustments required by the Regional Energy Account (if applicable); or                      ii) Change in Law as provided in Article 12, and such Supplementary Bill shall be paid by the other Party.  <b>10.7.2</b> Procurer shall remit all amounts due under a Supplementary Bill raised by the SPG to the SPG's Designated Account by the Due Date. Similarly, the SPG shall pay all amounts due under a Supplementary Bill raised by Procurer, if any, by the Due Date to concerned Procurer designated bank account. For such payments by Procurer, Rebate as applicable to Monthly Bills pursuant to Article 10.3.4 shall equally apply.</p>	<p>In the event the SPG is to make DSM charges (to SLDC through the Discom) or any other charges payable, clause inserted to ensure the payment of these charges.</p>	Approved.
41	<p><b>10.7.3</b> In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 10.3.3.  <b>ARTICLE 11: FORCE MAJEURE</b>  <b>11.1.1 Affected Party:</b> An affected Party means the SPG or the Procurer whose performance has been adversely affected by an event of Force Majeure.</p>	<p>Included to provide clarity to SPG and Procurer concerning effect of Force Majeure.</p>	Approved.
42	<p><b>11.1.2 'Force Majeure' (FM)</b>                      A Force Majeure would mean one or more of the following acts, events or circumstances or a combination of acts, events or circumstances or the consequence(s) thereof, that wholly or partly prevents or unavoidably delays the performance by the Party (the Affected Party) of its obligations under the relevant Power Purchase Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the</p>	<p>This clause has been inserted to include additional Force Majeure events such as Pandemic or epidemics, the discovery of geological conditions, toxic contamination or archaeological remains on the Project land that could not reasonably have been expected to be discovered through an</p>	Approved. However, last line of Article 11.1.2(a) i.e., 'or Procurer' must be deleted.



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Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices.

a) Act of God, including, but not limited to lightning, drought, fire, and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, or tornado if it is declared / notified by the competent state / central authority / agency (as applicable), or verified to the satisfaction of Procurer.

b) radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Power Project by the Affected Party or those employed or engaged by the Affected Party.

c) Occurrence of Pandemic or epidemics

d) the discovery of geological conditions, toxic contamination or archaeological remains on the Project land that could not reasonably have been expected to be discovered through an inspection of the Project land; or e) any event or circumstances of a nature analogous to any of the foregoing.

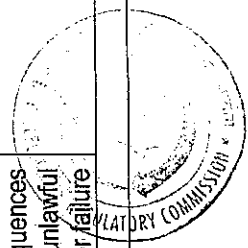
e) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist, or military action.

f) nation/state-wide strike, lockout, boycotts or other industrial disputes which are not directly and solely attributable to the actions of the Affected Party, but does not include strike or labour unrest limited to the Affected Party or its contractors; c) nationalization or any compulsory acquisition by any Indian Governmental Instrumentality/ State Government in national interest or expropriation of any material Project assets or rights of the Generator, as a result of which the Generator or its shareholders are deprived (wholly or partly) of their rights or entitlements under the Power Purchase Agreement. Provided that such action does not constitute remedies or sanctions lawfully exercised by the Procurer or any other Government Authority as a result of any breach of any of the Applicable Laws or the Applicable Permits by the Generator or the Generator related parties.

g) Lockdown, quarantine or similar action ordered by any Government Authority (including pursuant to the occurrences of any Force Majeure Event), if consequences thereof cannot be dealt with as a Change-in Law under this agreement; any unlawful or unauthorized or without jurisdiction revocation of, or delay in, or refusal, or failure

inspection of the Project land, Lockdown, quarantine etc.

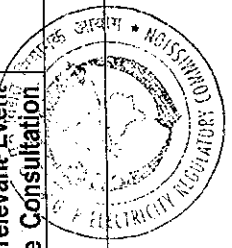
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Clause as provided in Draft PPA (for this 3205 MW Bid)		Reasoning	Commission's Decision
Sl. No.	to renew or grant without valid cause, any Permits of the Generator or any of the clearance, license, authorization to be obtained by the Contractors to perform their respective obligations under the relevant PPA and/or the Project Documents; provided that such delay, modification, denial, refusal or revocation did not result from the Generator's or any Contractors inability or failure to comply with any condition relating to grant, maintenance or renewal of such Permits or clearance, license, authorization, as the case may be.		
43	<b>11.2 Notification of Force Majeure Event</b> 11.2.2 Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under the PPA. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than weekly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.	To keep the parties posted of the current scenario of Force Majeure and for proper scheduling.	Not Approved. The provision of Model PPA i.e., monthly should be retained instead of weekly.
44	<b>11.2 Notification of Force Majeure Event</b> 11.2.3 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under the PPA, as soon as practicable after becoming aware of each of these cessations.	Since the clause is speaking about the PPA, therefore, agreement has been replaced by PPA making it more specific.	Approved.
45	<b>13.2 Procurer Event of Default</b> 13.2.1 ..... ii Procurer repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the SPG, in this regard the SPG shall have the right to deliver to Procurer, a SPG Preliminary Default Notice, which notice shall specify in reasonable detail the circumstances giving rise to its issue. iii. Following the issue of a SPG Preliminary Default Notice, the Consultation Period of sixty (60) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances. During the Consultation	To provide clarity to the SPG in the event the Procurer makes a default.	Approved.



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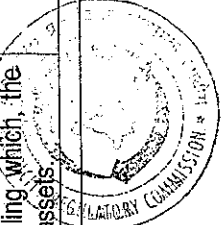
Clause as provided in Draft PPA (for this 3205 MW Bid)

Reasoning

Commission's Decision

Sl. No.	Clause as provided in Draft PPA (for this 3205 MW Bid)	Reasoning	Commission's Decision
47	<p>Period, the Parties shall continue to perform their respective obligations under this Agreement.</p> <p>If</p> <p>a) Procurer becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of <b>thirty (30) days</b>, or</p> <p><b>13.3 Procedure for cases of SPG Event of Default</b></p> <p>13.3.1 Upon the occurrence and continuation of any SPG Event of Default under Article 13.1, Procurer shall have the right to deliver to the SPG a notice stating its intention to terminate this Agreement (Procurer Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.</p> <p>13.3.2 Following the issue of Procurer Preliminary Default Notice, the Consultation Period of <b>sixty (60) days</b> or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall have to be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.</p> <p>13.3.3 During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.</p> <p>13.3.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the SPG Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, Procurer may terminate this Agreement by giving a written Termination Notice of <b>thirty (30) days</b> to the SPG.</p> <p>13.3.5 In addition to the levy of damages as aforesaid, subject to the terms of this Agreement, upon occurrence of a SPG Event of Default under this Agreement, the lenders in concurrence with UPPCL, may exercise their rights, if any, under Financing Agreements, to seek substitution of the SPG by a selectee for the residual period of the amount from the SPG and performing the obligations of the SPG. However, in the event the lenders are unable to substitute the defaulting SPG within the stipulated period, UPPCL may terminate the PPA and acquire the Project assets for an amount equivalent to 90% of the debt due or less as mutually agreed, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets.</p>	<p>To reduce the time period of the DISCOM claim in case of default by SPG.</p>	<p>Approved.</p>
47	<p>13.3.5 In addition to the levy of damages as aforesaid, subject to the terms of this Agreement, upon occurrence of a SPG Event of Default under this Agreement, the lenders in concurrence with UPPCL, may exercise their rights, if any, under Financing Agreements, to seek substitution of the SPG by a selectee for the residual period of the amount from the SPG and performing the obligations of the SPG. However, in the event the lenders are unable to substitute the defaulting SPG within the stipulated period, UPPCL may terminate the PPA and acquire the Project assets for an amount equivalent to 90% of the debt due or less as mutually agreed, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets.</p>	<p>In accordance with the UPERC Order dated 30.10.2023</p>	<p>Approved. However, in second proviso the following change must be incorporated:</p> <p>"Provided that any substitution under this Agreement can only be made with the prior consent of UPPCL including the</p>

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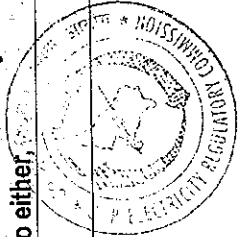


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Clause as provided in Draft PPA (for this 3205 MW Bid)		Reasoning	Commission's Decision
Sl. No.	<p>Provided further that in case of any liquidation of assets of the solar power plant prior to completion of PPA period, the first charge shall be towards recovery of proportionate CFA granted to the project by MNRE.</p> <p>Provided that any substitution under this Agreement can only be made with the prior consent of UPNCL/ UPNEDA including the condition that the selectee meets the eligibility requirements of Request for Selection (RFS) issued by UPNEDA and accepts the terms and conditions of this Agreement.</p> <p>Provided further that in addition to the above, in the event SPG fails to perform its obligation under the PPA and in case the substitution of the selectee also fails, then the CFA provided by the Central Government and Viability Gap Funding provided by the State Government, may be recoverable as arrears of land revenue with interest @ SBI one-year MCLR.</p>		condition that the selectee meets the eligibility requirements of Request for Selection (RFS) issued by UPNEDA and accepts the terms and conditions of this Agreement."
48	<p><b>13.3 Procedure for cases of SPG Event of Default</b></p> <p>13.3.7 The land lease rights would be further transferred to a new developer. The new developer would be responsible for payment all land dues i.e. rent and arrears to Government or Private landowners.</p>	To ensure that the dues of Public and Private Landowners is not lost.	Approved.
49	<p><b>13.4 Procedure for cases of Procurer Event of Default</b></p> <p>13.4.2 Following the issue of a SPG Preliminary Default Notice, the Consultation Period of sixty (60) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.</p>	To reduce the time period of the SPG claim in case of default by DISCOM.	Approved.
50	<p><b>13.4 Procedure for cases of Procurer Event of Default</b></p> <p>13.4.4 After a period of seven (7) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or Procurer Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, the SPG shall be free to sell the Contracted Capacity to any third party of the SPG's choice.</p> <p>Provided further that at the end of three (3) months period from the period mentioned in this Article 13.4.4, this Agreement may be terminated by the SPG and at its discretion require the defaulting Procurer to either,</p>	To reduce the time period the Solar Power Plant would be idle even after consultation.	Approved.

57

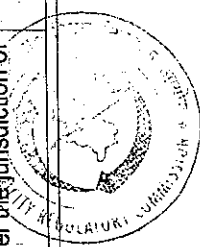






Sl. No.	Clause as provided in Draft PPA (for this 3205 MW Bid)	Reasoning	Commissioner's Decision
51	<p>(i) takeover the Project assets by making a payment of the termination compensation equivalent to the amount of the debt due and 150% (one hundred and fifty per cent) of the adjusted equity or,</p> <p>(ii) pay to the Solar Power Generator, damages, equivalent to six (6) months, or balance PPA period whichever is less, of charges for its contracted capacity, with the Project assets being retained by the Solar Power Generator.</p> <p><b>13.4 Procedure for cases of Procurer Event of Default</b></p> <p>.....</p> <p>13.4.5 In the event of termination of PPA, damages or charges payable to the STU/CTU, for the connectivity of the plant, shall be borne by the Procurer for six months only.</p> <p>13.4.6 In the event of default by the Developer the land lease rights to be transferred to lender(s) or UPNEDA which would be further transferred to a different developer. The new developer would be responsible for payment all land dues i.e. rent and arrears to Government or Private landowners.</p>	<p>To ensure that the dues of Public and Private Landowners is not lost.</p>	<p>Approved.</p>
52	<p><b>ARTICLE 14: LIABILITY AND INDEMNIFICATION</b></p> <p><b>14.1 Indemnity</b></p> <p>14.1.1 The SPG shall indemnify, defend, and hold Procurer harmless against:</p> <p>a) any and all third-party claims against Procurer for any loss of, or damage to property of such third party, or death or injury to such third party, arising out of a breach by the SPG of any of its obligations under this Agreement; and</p> <p>b) any and all losses, damages, costs, and expenses including legal costs, fines penalties and interest actually suffered or incurred by Procurer from third party claims arising by reason of:</p> <ul style="list-style-type: none"> <li>• breach by the SPG of any of its obligations under this Agreement, (provided that this Article 14 shall not apply to such breaches by the SPG, for which specific remedies have been provided for under this Agreement), or</li> <li>• any of the representations or warranties of the SPG, if any made under this Agreement, being found to be inaccurate or untrue.</li> </ul>	<p>This clause has been included to indemnify the DISCOM in the event the SPG makes representations which are inaccurate or not true.</p>	<p>Approved.</p>
54	<p><b>ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION</b></p> <p><b>16.1 Governing Law</b></p> <p>16.1.1 This Agreement shall be governed by and construed in accordance with the Laws of India. Any legal proceedings in respect of any matters, claims or disputes arising out of or in connection with this Agreement shall be under the jurisdiction of courts in Lucknow.</p>	<p>This clause has been included to provide clarity to the SPG and Procurer on the Governing law and dispute resolution process.</p>	<p>Approved.</p>

by





Commission's Decision

Reasoning

Clause as provided in Draft PPA (for this 3205 MW Bid)

Sl. No.	Reasoning	Commission's Decision
55	<p><b>17.8 Restriction of Shareholders/Owners' Liability</b> 17.8.1 Parties expressly agree and acknowledge that none of the shareholders of the Parties hereto shall be liable to the other Parties for any of the contractual obligations of the concerned Party under this Agreement. Further, the financial liabilities of the shareholder/s of each Party to this Agreement shall be restricted to the extent provided in the <b>Indian Companies Act, 1956</b> or the Companies Act, 2013 as applicable.</p>	<p>To include all applicable law to Companies.</p> <p>Amendment proposed is not Approved, since 'Indian Companies Act, 1956' has been repealed.</p>
56	<p>The <b>Schedules 1-10</b> have been inserted</p>	<p>Schedules have been included to record all the details of the Developers. The same provision was also provided in 150 MW RfS.</p> <p>Approved.</p>



by