

**Before the**  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
**World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005**  
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**CASE No. 311 of 2019**

Joint Petition filed by Maharashtra State Power Generation Company Limited & Maharashtra State Electricity Distribution Company Ltd. seeking approval to the Deviations in Competitive Bidding Process adopted for 184 MW AC Cumulative Capacity Solar PV Power Projects at Western, Northern, Vidarbha and Marathwada regions of Maharashtra under 'Mukhyamantri Saur Krishi Vaahini Yojana' for Procurement of Power through Competitive Bidding Process and for Adoption of Tariff Rate.

Maharashtra State Power Generation Company Limited	..... Petitioner
Maharashtra State Electricity Distribution Company Ltd.	..... Petitioner
M/s. Waaree Energies Limited	..... Respondent

**Coram**

**Anand B. Kulkarni, Chairperson**  
**I.M. Bohari, Member**  
**Mukesh Khullar, Member**

**Appearance**

For the Petitioner	: Smt. Kavita Gharat (Rep.)
	: Sh. Vijay Rathod (Rep.)
For the Respondent	: Sh. Sunny Agarwal (Rep.)

**ORDER**

**Date: 13 January, 2020**

1. Maharashtra State Power Generation Company Ltd. (MSPGCL) & Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) have jointly filed the present Case on 11 November, 2019 seeking approval to the deviations in Competitive Bidding Process adopted for 184 MW AC Cumulative Capacity Solar PV Power Projects at Western, Northern, Vidarbha and Marathwada regions of Maharashtra under 'Mukhyamantri Saur Krishi

Vaahini Yojana’ and for Adoption of Tariff Rate discovered through the bid process. They have also requested approval for utilizing such Solar Power to meet the MSEDCL's Solar Renewable Purchase Obligations (RPO).

2. Further, MSPGCL & MSEDCL have sought approval to the Deviations in the Draft Power Purchase Agreement (PPA) and Power Sale Agreement (PSA) with respect to the Standard Bidding Guidelines, issued by Ministry of New & Renewable Energy (MNRE), for Procurement of Power through Competitive Bidding Process.

3. **MSPGCL & MSEDCL’s main prayers are as follows:**

- a) *Approve the deviation in the Tendering process to carry out bidding process even when there was a single qualified bidder;*
- b) *Approve the adoption of Tariff rate of Rs. 3.23/kWh , if the developer submits the invoices for the payment of Safeguard duty and Rs. 3.05 /kWh if the successful bidder fails to submit invoices related to Safeguard duty paid , for 184 MW AC Cumulative Capacity Solar PV Power Projects of M/s. Waree Energies Limited at Western, Northern, Vidarbha and Marathwada regions of Maharashtra;*
- c) *Approve the draft PPA & PSA for 184MWAC cumulative capacity grid interactive Solar PV Projects.*

4. **MSPGCL & MSEDCL in their Case has stated as follows:**

4.1. Earlier, MSPGCL had filed Case No. 172 of 2017, for removal of difficulties in the matter of implementation of ‘Mukhyamantri Saur Krishi Vaahini Yojana’ and approval of PPA and PSA between MSPGCL and MSEDCL for the implementation of the scheme. In the said Case, MSPGCL had also mentioned that apart from the two pilot projects it has also identified agricultural feeders aggregating a capacity of 500 MW for which the same PPA / PSA methodology was proposed.

4.2. The Commission vide Order dated 16 October, 2018 in Case No. 172 of 2017 approved the modalities proposed by MSPGCL for PPA and PSA for all the solar projects being installed under “Mukhyamantri Saur Krishi Vaahini Yojana’ and also directed that MSPGCL and MSEDCL should approach the Commission jointly with deviations, if any, in the PPA and PSA. The relevant extract from the Order is as below:

*“The Commission provisionally approves the modalities proposed by MSPGCL for PPA and PSA for all the solar projects being installed under “Mukhyamantri Solar Agricultural Feeder Scheme” subject to the following conditions;*

*(i) MSPGCL and MSEDCL should approach the Commission jointly with deviations if any in the PPA and PSA.”*

4.3. As implementing agency for “Mukhyamantri Saur Krishi Vaahini Yojana”, MSPGCL had undertaken the development of solar projects by publishing tender ID 82974 dated 15 March, 2019 for setting up of 184 MW AC cumulative capacity grid interactive solar PV power plant at various regions in Maharashtra and including 25 years operation and maintenance of the same on PPP basis to cater to the Agricultural feeder load of various substations in Maharashtra. MSPGCL has identified the land at various sites for development of 184 MW AC cumulative solar power projects. Required land will be provided by MSPGCL at a lease rent of Rs. 1 per project. MSPGCL is providing developed land and basic infrastructure for the projects under the 184 MW tender and evacuation level is at 11 KV.

4.4. The ceiling rate for the tender was fixed at Rs. 3.23 /kWh. Regarding the ceiling rate for competitive bidding, the Commission had directed that MSPGCL shall fix the ceiling rate as per its own due diligence and the prevailing market conditions.

4.5. Following are details of the project sites:

Sr. No.	Name of the Project	District	Proposed Solar plant Cap. in (MW)
<b>Northern Region</b>			
1.	Vadalibhoi, Tal.Chandwad	Nashik	7
2.	Vadgaon Pangu, Tal.Chandwad	Nashik	4
3.	Vinchur Tal. Niphad	Nashik	3
4.	Vadangali Tal.Sinnar	Nashik	5
5.	Bhutyane Tal.Chandawad	Nashik	10
6.	Kheldari, Tal.Chandawad	Nashik	2
7.	Shivaji Nagar (Jaitane) Taluka-Sakri	Dhule	9
8.	Malpur, Tal. Sakari	Dhule	8
9.	Wanoli, Tal. Yaval	Jalgaon	2
	<b>Total</b>		<b>50MW</b>
<b>Western Region</b>			
10.	Utagi, Tal. Jat	Sangli	4
11.	Umadi, Tal.Jat	Sangli	4
12.	Borgaon Taluka.- Barshi	Solapur	9
13.	Lahul (Gat No. 715, Tal. Madha	Solapur	5

Sr. No.	Name of the Project	District	Proposed Solar plant Cap. in (MW)
14.	Jadhavwadi, Tal. Madha	Solapur	5
15.	Lahul (Gat No. 416) Tal. Madha	Solapur	3
16.	Nijampur, Tal. Sangola	Solapur	4
17.	Anwali Tal. Pandharpur	Solapur	8
18.	Khed, Tal. Khandala	Satara	6
19.	Budh, Tal. Khatav	Satara	2
	<b>Total</b>		<b>50MW</b>
<b>Marathwada Region</b>			
20.	Chauka, Tal. Aurangabad	Aurangabad	3
21.	Hasuri Tal. Nilanga	Latur	3
22.	Thodaga, Tal. Ahmedpur	Latur	2
23.	Lanji, Tal. Ahmedpur	Latur	2
24.	Nathara, Tal. Parli, Beed.	Beed	3
25.	Waghe Babhulgaon, Tal. Kej	Beed	3
26.	Warvati, Tal. Ambejogai	Beed	2
27.	Kumbhephal, Tal. Kej	Beed	3
28.	Chincholi mali, Tal. Kej	Beed	3
29.	Shiradhon, Tal. Kalamb	Osmanabad	5
30.	Talni, Tal. Hadgaon	Nanded	5
31.	Sawangi Mahalsa, Tal. Jintur	Parbhani	5
32.	Pimpaldari Tal. Gangakhed	Parbhani	2
33.	Asegaon, Tal. Jintur	Parbhani	2
34.	Kodari, Tal. Gangakhed	Parbhani	3
35.	Ghordari Tal. Sengaon	Hingoli	2
36.	Sandas, Tal. Kalamnuri	Hingoli	2
	<b>Total</b>		<b>50MW</b>
<b>Vidarbha Region</b>			
37.	Nandgaonpeth -2 (shevati), Tal. Amravati	Amravati	5
38.	Anjangaon Bari, Tal. Amravati	Amravati	5
39.	Budhali, Tal. Chandur Rly.	Amravati	3
40.	Loni Takali, Tal. Nandgaon Kh	Amravati	5
41.	Yeoti, Tal. Yavatmal	Yavatmal	5
42.	Yerad, Tal. Yavatmal	Yavatmal	2
43.	Bhojapur Tal. Kuhi	Nagpur	2
44.	Sirso, Tal. Murtizapur	Akola	3
45.	Mangrulzanak, Tal. Risod	Washim	4
	<b>Total</b>		<b>34MW</b>
	<b>Grand Total</b>		<b>184MW</b>

4.6. Due to non-responsiveness, the last date of bid submission was initially extended to 18 June 2019 and further extended dates of bid submission for above- mentioned tender are as follows:

- i) 1<sup>st</sup> extended date of bid submission was 25 June 2019
- ii) 2<sup>nd</sup> extended date of bids submission was 3 July 2019
- iii) 3<sup>rd</sup> extended date of bids submission was 12 July 2019
- iv) 4<sup>th</sup> extended date of bids submission was 23 July 2019

On the last date of submission, one bidder i.e. M/s. Waaree Energies Limited (**WEL**), Mumbai had submitted the bid. Techno-commercial bid of this bidder was opened on 23 July 2019 and its evaluation carried out with the help of online and physical documents submitted by the bidder.

4.7. Since only one bidder had submitted its bid, the reverse auction could not take place. Competitive Bidding Guidelines have specific provision in case qualified bidders are less than two which is as under:

*“Clause no. 8.6, Page no. 28*

*To ensure competitiveness, the minimum number of qualified Bidders should be two. If the number of qualified bidders is less than two, even after three attempts of bidding, and the Procurer still wants to continue with the bidding process, the same may be done with the consent of the Appropriate Commission.”*

4.8. As due date for submission of bid was extended for more than 3 times and considering the fact that the land for the projects was already identified by MSPGCL two years back, even though only one bid has been received, to expedite the implementation of the scheme, MSPGCL decided to continue the bidding process and opened the price bid on 5 August 2019. The rates offered by the bidder in price bid for tender is as follows:

<b>Sr. No.</b>	<b>Tender code</b>	<b>Name of Bidders</b>	<b>Actual Rate Quoted in tender (Rs. /kWh)</b>
1	82974	WEL	Rs. 3.23/kWh

4.9. As there was only one bidder that qualified after opening techno-commercial bid , Reverse bidding was not carried out. Thus, the tariff in the bid for the tender of 184 MW AC Cumulative capacity of Solar Plants was finalized at Rs. 3.23/unit as quoted by WEL.

4.10. MSEDCL vide letter dated 26 September, 2019 has provided consent to MSPGCL’s proposal for tariff rate of Rs. 3.23/unit received for 184 MW AC Cumulative Capacity

Solar PV Power Projects at Western, Northern, Vidarbha and Marathwada regions of Maharashtra with connectivity at 11kV and metering at MSEDCL substation.

- 4.11. After multiple extensions as only one bidder has submitted its bid, the reverse auction could not take place. As the procedure adopted by MSPGCL is in deviation with the procedure mentioned in standard bidding guideline, MSPGCL has approached this Commission seeking approval to the selection of solar power developer done by MSPGCL without carrying out reverse auction.
- 4.12. MSPGCL submits that as per the MERC's Generic Tariff Order for FY 2019-20 (Case No. 52 of 2019), the Commission has adopted the latest competitive bidding Tariff of Rs. 3.29/kWh for Solar PV Projects, approved for MSEDCL in Order dated 15 February, 2019 in Case No. 7 of 2019, as the generic tariff for FY 2019-20. This Tariff is applicable for eligible projects where cost of land & evacuation infrastructure is included in Capital Cost of RE Project and not provided free of cost by the power purchaser and if no safeguard duty is paid by solar PV Project in spite of import from China & Malaysia, then Rs. 0.18/unit will be deducted from Generic Tariff.
- 4.13. In the present case, MSPGCL is providing developed land and basic infrastructure for 184 MW projects. Hence, for the purpose of fixation of ceiling tariff, impact of land and basic infrastructure was deducted from the latest approved tariff of Rs. 3.29 /kWh (inclusive of Rs. 0.18 /kWh towards 'Safeguard Duty', if applicable)
- 4.14. The notional impact considered for Land and other basic infrastructure is given below:

Sr. No.	Region	Average Land cost per Acres in Rs.
1	Vidarbha	273773
2	Western Maharashtra	159342
3	North Maharashtra	231134
4	Marathwada	196999
	<b>Average Land cost per Acres in Rs.</b>	<b>215212</b>
	<b>Land cost for 1MW ( considering 5 Acres per MW) in Rs.</b>	<b>1076060</b>

Considering Land cost as per Ready Reckoner, land development cost as per actual.

Sr. No.	Parameter	Value	Impact in Rs./kWh
1	Project Size ( in MW)	1	

Sr. No.	Parameter	Value	Impact in Rs./kWh
2	Expected units generated per year (in Rs.)	1660000 (19% CUF)	
<b>A</b>	<b>Land Impact</b>		
i	Cost of the land (in Rs.)	1076060.00	
ii	Factorization in terms of tariff for 25 years	1076060/(1660000x25)	<b>0.025</b>
<b>B</b>	<b>Civil Construction</b>		
i	Average Infrastructure Development cost per MW (in Rs.)	12,00,000.00	
ii	Factorization in terms of tariff for 25 years	12,00,000/(1660000x25)	<b>0.028</b>
	<b>Total Cost (Land Cost+ Civil Construction) (in Rs.) (notional)</b>	<b>2276060</b>	<b>0.053</b>

4.15. After deducting the land and civil infrastructure cost of Rs.0.053/unit from the latest approved tariff of Rs. 3.29 /kWh, the resultant tariff shall be Rs. 3.29 - 0.053= Rs.3.237/unit. Accordingly, MSPGCL had decided to keep the ceiling tariff at Rs. 3.23/unit for the tender for 184 MW projects. This ceiling tariff was inclusive of the 18 paise per unit compensation towards safeguard duty, if paid.

4.16. The discovered tariff of Rs. 3.23/kWh is inclusive of 18 paise per kWh for the Safeguard duty provided that the developer submits the invoices for the payment of Safeguard duty. Otherwise, if the successful bidder fails to submit invoices related to Safeguard duty paid, Rs. 0.18/kWh will be deducted from tariff and the resultant tariff shall be Rs. 3.23-0.18= Rs. 3.05/kWh.

4.17. Following is the summary of various orders recently passed by the Commission for adoption of Tariff under “Mukhyamantri Saur Krishi Vaahini Yojana”.

Petitioner	Order No.	Date of Order	Quantity	Location	Bidder	Tariff discovered	Remarks
MSEDCL	Case No. 7 of 2019	15-Feb-19	10	Solapur	M/s. IBC Solar	3.29	Land & evacuation are responsibility of Developer, inclusive of Safeguard Duty impact upto Rs. 0.18
			10	Buldhana		3.29	
			10	Osmanabad		3.29	
			50	Satara	M/s. Giriraj Renewables Pvt. Ltd	3.30	
			50	Buldhana		3.30	
			50	Jalgaon		3.30	

Petitioner	Order No.	Date of Order	Quantity	Location	Bidder	Tariff discovered	Remarks
							/kWh
MSEDCL	184 of 2019	11-09-2019	7		M/s. Gro Solar Energy Pvt. Ltd.	3.10	Land & evacuation are responsibility of Developer , Safeguard Duty impact separately allowable

4.18. As seen from the above table, for the projects under “Mukhyamantri Saur Krishi Vaahini Yojana”, the Commission has already approved rates upto Rs. 3.29/unit. After considering the land costs and safeguard duty impact, the discovered tariff of Rs. 3.23/unit for the 184 MW tender is comparable with the tariff approved by the Commission.

4.19. MSPGCL had also approached the Commission to seek approval to the tender document and draft PPA for development of 184 MW AC cumulative capacity grid interactive Solar PV Project. MSPGCL had also sought approval to the following deviations to the Standard Bidding Guidelines.

- i) Minimum bid capacity revised from 5 MW to 2 MW
- ii) Revision in Off-take Constraint Compensation due to grid unavailability to 75% of PPA tariff if grid availability is for less than 98%.
- iii) Performance Bank Guarantee amount as Rs. 20 Lakhs/MW instead of 4% of Project cost

Vide order dated 29 July 2019 in Case No. 141 of 2019, the Commission had accorded approval to these deviations.

4.20. Further, MSPGCL and MSEDCL are jointly seeking approval to the draft PPA and PSA for 184MW of Solar Power Project.

5. At the hearing held on 3 December 2019, the representative of MSPGCL and MSEDCL reiterated their submission. The Commission sought certain clarification regarding the rates mentioned in the Petition and reference to 18 paise/unit as Safeguard Duty. MSPGCL & MSEDCL sought time to respond to the query raised by the Commission.

6. On 23 December 2019, MSPGCL made the following additional submissions:

6.1. In the original Petition it has been submitted as below:



*“The discovered tariff of Rs. 3.23 /kWh is inclusive of 18 paise/kWh for the safeguard duty provided that the developer submits the invoices for the payment of Safeguard duty. Otherwise, if the successful bidder fails to submit invoices related to Safeguard duty paid, Rs. 0.18/kWh will be deducted from tariff and the resultant tariff shall be Rs. 3.23-0.18= Rs. 3.05 / kWh.”*

Thus, for 184 MW Solar Projects the applicable tariff excluding any impact of safeguard duty is Rs. 3.05/kWh.

- 6.2. The impact of safeguard duty, if any paid by the developer, will be on the basis of invoices submitted by the developer and will be subjected to the approval of the Commission.
- 6.3. MSPGCL requests the Commission to approve the tariff of Rs. 3.05/kWh, excluding safeguard duty, for 184 MW AC Solar PV projects proposed to be developed through WEL as the Solar Power Developer.
7. Further, MSPGCL by its Email dated 3 January 2020 has filed letter from WEL stating as below:

“.....

*We hereby confirm that we accept the tariff price of Rs. 3.05 per unit “excluding SDG”.*

*We hereby also confirm that if there is any financial impact on the project due to extension in the SDG by the government or introduction, extension or modification of any taxes, duties cess or levies, then we will approach MERC with the related documents confirming the impact on the project via petition for MERC to calculate and compensate us accordingly under the clause of “change in law” and “relief for change in law”*  
.....”

### **Commission’s Analysis and Rulings**

8. The Commission by its Order in Case No. 172 of 2017 dated 16 October, 2018 approved the modalities proposed by MSPGCL for PPA and PSA for all the solar projects being installed under ‘*Mukhyamantri Saur Krishi Vaahini Yojana*’ and also directed that MSPGCL and MSEDCL should approach the Commission jointly with deviations if any in the PPA and PSA.

9. The Commission notes that MSPGCL being an implementing agency for ‘*Mukhyamantri Saur Krishi Vaahini Yojana*’, had undertaken the development of solar projects by publishing tender ID 82974 dated 15 March, 2019 inviting interested parties for setting up of 184 MW AC cumulative capacity grid interactive solar PV power plant at various region in Maharashtra to cater to the Agricultural feeder load of various substations. Further, MSPGCL identified the land at various sites and proposed that land will be provided by MSPGCL at a lease rent of Rs. 1 per project. The ceiling rate for the tender was fixed at Rs. 3.23 /kWh.
10. The Commission further notes that due to non/poor response from the bidders, the bid submission date was extended four times. In spite of these extensions, only one bidder i.e. WEL participated in the bid.
11. The Commission underscores that as per MNRE’s Competitive Bidding Guidelines, if the minimum qualified bidders are less than two and the Procurer wants to continue with the bidding process, it has to get the consent from the respective Commission. The relevant Clause from the Guidelines is reproduced below:

**“8. BID SUBMISSION AND EVALUATION**

.....

*8.6. To ensure competitiveness, the minimum number of qualified Bidders should be two. If the number of qualified bidders is less than two, even after three attempts of bidding, and the Procurer still wants to continue with the bidding process, the same may be done with the consent of the Appropriate Commission.”*

12. Accordingly, MSPGCL in this Petition has requested the Commission to grant approval for going ahead with single bidder. The Commission notes that MSPGCL has conducted transparent process of competitive bidding for procurement of Solar power. However, even after allowing four extension it has received only one bid. As discovered rate is within the ceiling rate, the Commission thinks it fit to consider the same.
13. With respect to the rates, the tariff quoted by WEL is Rs. 3.23/kWh. MSPGCL in its Petition stated that if the bidder fails to submit invoices related to Safeguard duty, the quoted tariff of Rs. 3.23/kWh will be reduced by 18 Paise/kWh and the revised tariff will be Rs. 3.05/kWh. MSPGCL, in its reply dated 23 December 2019 submitted that tariff of Rs. 3.05/kWh excludes any impact of Safeguard Duty and requested the Commission to approve the tariff of Rs. 3.05/kWh, excluding safeguard duty, for 184 MW AC Solar PV projects. MSPGCL also submitted the letter from WEL confirming tariff of Rs. 3.05/kWh ‘excluding Safeguard Duty’ to execute the project. WEL submitted that it will approach the Commission only if there is a financial impact on the project due to extension in Safeguard Duty by the

Government or introduction, extension or modification of any taxes, duties cess or levies only.

14. The Commission underscores that the Ministry of Finance (**MoF**) notified the imposition of Safeguard Duty with effect from 30 July, 2018 vide Notification No.01/2018-Customs (SG) dated 30 July, 2018 under the powers conferred by Customs Tariff Act, 1975. As per the notification the Safeguard Duties would be levied in the following manner:

*“Now, Therefore, in exercise of the powers conferred by sub-section (1) of section 8B of the Customs Tariff Act, read with rules 12, 14 and 17 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997, after considering the said findings of the Directorate General of Trade Remedies and subject to the provisions of paragraph 2, hereby imposes on subject goods falling under heading 8541 or tariff item 8541 40 11 of the First Schedule to the Customs Tariff Act, when imported into India, a safeguard duty at the following rate, namely:-*

*(a) twenty five per cent. ad valorem minus anti-dumping duty payable, if any, when imported during the period from 30th July, 2018 to 29th July, 2019 (both days inclusive);*

*(b) twenty per cent. ad valorem minus anti-dumping duty payable, if any, when imported during the period from 30th July, 2019 to 29th January, 2020 (both days inclusive); and*

*(c) fifteen per cent. ad valorem minus anti-dumping duty payable, if any, when imported during the period from 30th January, 2020 to 29th July, 2020 (both days inclusive).*

*2. Nothing contained in this notification shall apply to imports of subject goods from countries notified as developing countries vide notification No. 19/2016-Customs (N.T.) dated 5th February, 2016, except China PR, and Malaysia.”*

15. It is evident that the Safeguard Duty provision was implemented from 30 July 2018 for a period of 2 years. MSPGCL floated the tender for 184 MW AC cumulative capacity on 15 March 2019 which is subsequent to the date of notification of Safeguard Duty Notification. Therefore, for all the bids invited after the Safeguard Duty notification date, the bidders are required to factor-in the impact of Safeguard Duty in their bids. There cannot be two separate rates (with and without Safeguard Duty) for such bids which are invited after the Safeguard Duty notification date as there is no implication of ‘Change in Law’ condition pertaining to imposition of Safeguard Duty. If in case, the MoF or Govt. of India decides to extend the period of implication of Safeguard Duty and that has an impact on the Financial Position of the bidders, it may be dealt separately at that time. However, since the ground rules were clear at the time of bidding, the Commission is of the view that there cannot be

categorization of 'tariff with or without Safeguard Duty'. Incidentally, the Commission in its Order dated 29 July, 2019 in Case No. 141 of 2019 filed by MSPGCL itself has clarified this aspect as follows:

*“13. MSPGCL has also sought approval for Ceiling tariff which they have worked out by adjusting impact of land & civil construction cost and also by reduction of Rs. 0.18/kWh, in case bidder is not able to provide documentary evidence of payment of safeguard duty. In this regard, the Commission notes that in its various Orders, it has been categorically stated that the ceiling rate shall be fixed by the procurer at its own due diligence and the Commission will see the competitiveness of final discovered tariff only at the time of tariff adoption. Hence, the Commission is not inclined to go into the details of the ceiling tariff proposed by MSPGCL. At the same time, for avoiding any future complications in bidding process, the Commission would like to clarify that its decision of reducing Rs. 0.18/kWh from discovered tariff was based on the facts as were applicable to that matter. In the present case, MSPGCL would be conducting fresh bidding process, wherein prospective bidders would be quoting tariff after considering all applicable taxes, duties, law etc on cut off date. Hence, such condition of reducing Rs. 0.18/kWh for non-submission of proof of actual payment of safe-guard duty may not be relevant in this fresh bidding process.”*

16. However, it is observed that even though MSPGCL filed Case No. 141 of 2019 for approval of deviation in bidding for 184 MW cumulative Solar Capacity, it had in parallel continued with bidding process for 184 MW. Therefore, above quoted Order dated 29 July 2019 in Case No. 141 of 2019 directing MSPGCL to remove the specific clause relating to the condition of reducing Rs.0.18/kWh for non-submission of proof of actual payment of safeguard duty was not implemented. The Commission's dispensation was given with a view to avoid any complication with regard to the Safeguard duty, which has remained unaddressed in the tender.
17. WEL has subsequently clarified that it accepts the tariff of Rs. 3.05/kWh 'excluding Safeguard Duty' and if there is a financial impact on the project due to extension in Safeguard Duty by the government or introduction, extension or modification of any taxes, duties, cess or levies then only it will approach the Commission with relevant documents under the 'Change in Law' provision.
18. Although, WEL has shown readiness to accept tariff of Rs. 3.05/kWh (3.23-0.18), it states it is 'excluding Safeguard Duty'. Therefore, for the time being, the Commission is considering Rs. 3.05/kWh for adoption. If WEL claims any compensation towards safeguard duty which as per bid conditions is subject to ceiling of Rs. 0.18/kWh, then parties should approach the Commission separately for approval.

19. The Commission underscores that it has recently adopted the rate of Rs. 2.99/kWh for 50 MW of Solar Power in its Order dated 23 December 2019 under Case No. 310 of 2019 which was jointly filed by MSPGCL and MSEDCL. The rate of Rs. 3.05/kWh which is transparently discovered through Competitive bidding is in the vicinity of this adopted rate. Accordingly, the Commission thinks it fit to adopt the Tariff of Rs 3.05/kWh discovered through competitive bidding under Section 63 of the EA, 2003 for procurement of 184 MW of Solar power on long term basis (for the period of 25 years) discovered by MSPGCL under ‘Mukhyamantri Saur Krishi Vahini Yojana’ for meeting MSEDCL’s Solar RPO fulfilment.
20. As far as approval for deviation related to minimum bid capacity, compensation for off-take constraints and performance security is concerned, same has been already approved by the Commission in Order dated 29 July, 2019 in Case No. 141 of 2019 filed by MSPGCL seeking deviation in bidding document for procurement of 184 MW Solar power. Relevant part of the Order is reproduced below:
- “2) The Commission allows following deviation sought by Maharashtra State Power Generation Co. Ltd. from Competitive Bidding Guideline for procurement of 184 MW of Solar Power under Mukhyamantri Saur Krishi Vahini Yojana:*
- a. Reduction in minimum bid capacity from 5 MW to 2 MW*
- b. Allowing Off-take Constraint Compensation as dealt in para 11 above.*
- c. Performance Bank Guarantee to be considered for Rs. Twenty Lakh per MW.”*
21. Based on the above ruling, the Commission thinks it fit to direct MSPGCL and MSEDCL to make the necessary changes in the PPA and PSA.
22. Hence, the following Order:

### **ORDER**

- 1. The Case No. 311 of 2019 is allowed.**
- 2. Maharashtra State Power Generation Company Ltd and Maharashtra State Electricity Distribution Company Ltd. are allowed to procure 184 MW Solar Power at the rate of Rs. 3.05/kWh discovered through Competitive bidding under Section 63 of the Electricity Act, 2003 from M/s Waaree Energies Limited for 25 Years under Mukhyamantri Saur Krishi Vahini Yojana.**

3. Maharashtra State Power Generation Company Ltd and Maharashtra State Electricity Distribution Company Ltd. to make necessary changes in the Power Purchase Agreement and Power Sale Agreement and submit the same to the Commission.
4. The Solar Power procured from these projects shall be counted towards fulfilment of Maharashtra State Electricity Distribution Company Ltd.'s Solar RPO for the respective periods.

Sd/-  
(Mukesh Khullar)  
Member

Sd/-  
(I.M. Bohari)  
Member

Sd/-  
(Anand B. Kulkarni)  
Chairperson

