

**JOINT ELECTRICITY REGULATORY COMMISSION  
FOR THE STATE OF GOA AND UNION TERRITORIES  
GURUGRAM**

**CORAM**

Shri M.K. Goel,  
Chairperson

**Petition No. : 54/2021  
Date of Hearing : 31.08.2021  
Date of Order : 09.09.2021**

**In the matter of:**

Petition under Section 86(1)(b) and 86(1)(e) of the Electricity Act, 2003 for redetermination/ revision of tariff of Grid connected Roof-top Solar PV Projects in Andaman and Nicobar Islands consequent to the revision of the Central Financial Assistance from Ministry of New and Renewable Energy, Government of India.

**And in the Matter of:**

Solar Energy Corporation of India Limited  
D-3, 1st Floor, Wing-A, Prius Platinum Building,  
District Centre, Saket, New Delhi - 110017

.... **Petitioner**

**Versus**

The Electricity Department,  
Andaman and Nicobar Islands,  
Port Blair- 744101.

...**Respondent**

**Present**

**For the Petitioner**

1. Mr M. G Ramachandran, Senior Advocate
2. Ms Tanya Sareen, Advocate
3. Ms Poorva Saigal, Advocate
4. Ms. Neha Singh, Legal Manager, SECI
5. Mr. Kaustav Roy General Manager, SECI
6. Ms. Anita Goel Senior Manager, SECI

**For the Respondents**

1. Shri B. Ajit Kumar, Superintending Engineer, Electricity Department, Andaman & Nicobar Islands

## ORDER

The Petitioner through this petition has prayed as under: -

Approve the procurement of power by Andaman and Nicobar Administration from 1 MW grid connected rooftop Solar PV Project owned by SECI in Union Territory of Andaman and Nicobar Islands at the revised Levellised tariff of Rs.6.24/ kWh on account of receipt of reduced amount of Central Financial Assistance from Ministry of New and Renewable Energy, Government of India.

The Commission heard both the Petitioner and the Respondent on dt. 31.08.2021.

The Petitioner's submissions are as under: -

1. That the Andaman and Nicobar Islands have been predominantly dependent upon diesel power which is not environment friendly. Therefore, the Andaman and Nicobar Administration vide letter dated 25.03.2014, had expressed their willingness for implementing the Rooftop Solar PV Projects on the roofs of Government buildings primarily located in Port Blair/South Andaman.
2. That, on 17.02.2015, the Andaman and Nicobar Administration and SECI executed a Memorandum of Understanding (hereinafter referred to as 'MoU') for setting up of Grid Connected Rooftop Solar PV Plants and Ground Mounted Solar PV Power Plants in the Andaman and Nicobar Islands. With regard to Central Financial Assistance to be received from MNRE, the MoU, inter-alia, reads as under:

*4.3 A& NA is designed as one of the special category State as per the clause 6.3 of the guidelines issued by the MNRE vide No.30/112012-13/NSM dated 26.6.14. According to that A&N Islands are eligible for availing CFA/subsidy upto 70%/30% of the benchmark cost or actual project cost for Government and/or commercial establishments. SECI shall arrange the applicable subsidy (as per the latest MNRE guidelines) from MNRE and shall disburse the subsidy (subject to MNRE approval).*

3. That in pursuance of the MoU, SECI conducted competitive bidding by issuing Request for Selection (RFS) Document on 27.02.2015 for setting up of Grid Connected Roof Top Solar PV Power Plants on Government Building aggregating to 1000 kWp Capacity in Andaman and Nicobar Islands. The rooftop solar systems were to be in the range between 1 kWp to 500 kWp.
4. That on 07.09.2015, SECI issued a Letter of Allocation to M/s Ujaas Energy Limited (hereinafter referred to as 'Ujaas Energy'), the EPC Contractor, for implementing 1 MWp Grid Connected rooftop solar PV Plants at a project cost of Rs.83.49/W, which was lower than the then prevailing MNRE benchmark cost of Rs. 90/W. As per the Letter of Allocation 'Total liability of SECI under this contract shall be limited to release of this 30% of L1 project cost or Rs.26/Wp, whichever is lower for the allocated capacity to the bidder letter of allocation'.
5. That as per the Guidelines dated 26.06.2014 for Grid Connected Rooftop and Small Solar Power Plant Programme issued by MNRE, the project is eligible for Central Financial Assistance (CFA) of 70% of MNRE benchmark cost or actual project cost, whichever is lower. As per the MNRE order No. 30/11/2012-13/NSM dated

26.06.2014, the MNRE benchmark cost for A&N Islands was Rs. 90/W. In this regard, the relevant extract of the Guidelines, inter-alia, reads as under:

- 6.3. *In Special Category states viz. North Eastern States, Sikkim, Jammu & Kashmir, Himachal Pradesh and Uttarakhand, Lakshadweep, AGN Islands etc. the CFA upto 70% may be provided. This subsidy pattern can be accessed ONLY by Central and State Government Ministries, Departments and their organizations, State Nodal Agencies, SECI and Local bodies. This will be applicable for the projects at Central and State Government Ministries and their organizations excluding PSU/Corporate buildings): government Educational Institutions, Hospitals, community centres, Anganwadis, Panchayat Ghars, State/Central Government Buildings, Municipal Corporation Buildings, Police Stations, Police Posts, vocational training centres, Government hostels etc. depending on requirement.*
- 6.9. *The present benchmark price for photovoltaic systems without battery back-up support is considered as Rs. 100/- per Wp for the systems upto 100 kWp and Rs. 90/- per kWp for the systems 100-500 kWp. This may be revised from time to time.*
6. That by sanction order dated 03.11.2014 dealing with Central Financial assistance for Off-grid and Decentralized Central and Solar Applications Programme for the year 2014-15, MNRE has provided for 90% capital subsidy in case of projects in Andaman and Nicobar Islands.
7. That the Notification dated 19.11.2015 of MNRE with respect to 'Installation of Grid Connected Solar Rooftop Power Plants-Central Financial Assistance (CFA) of MNRE' declared CFA patterns for the grid connected solar rooftop system for special category States including Andaman and Nicobar Islands as 70% of the cost.
8. That on 26.02.2015, SECI requested MNRE for sanctioning of CFA for the Grid Connected rooftop solar PV systems.
9. That on 16.12.2015, MNRE provided in-principal approval to Andaman and Nicobar Administration for implementation of Grid Connected Solar Rooftop Power Plants with Central Financial Assistance of 70% of the benchmark cost or actual project cost whichever is lower. The same was forwarded to SECI for further necessary action by the Power Secretary of the Andaman and Nicobar Islands. The Letter dated 16.12.2015 of MNRE, inter-alia reads as under:'

*3.0 A& N Administration will firm up the prices through transparent process and the maximum CFA will be limited to as per the provisions of the scheme based on the benchmark cost or the cost arrived through transparent process whichever is lower.*

*5.0 The subsidy pattern as enclosed vide letter no.5/34/2013-14/RT dated 19/11/2015 or amended as per time to time should be followed. The subsidy of 70% would be applicable only for the categories mentioned in para 6.3 of the 'Grid connected Rooftop and Small Power Plants Programme vide no.30/11/2012 -13/NSM dated 26<sup>th</sup> June 2014.*

*6.0. This "in-principal approval" has been given in advance for preliminary preparations and will be subject to approval of the cabinet.*

10. That on the request of the Andaman and Nicobar Administration and on the advise of MNRE, SECI decided to implement the project in Renewable Energy Service Company (RESCO) mode using (a) its own equity equivalent to the 30% of the project cost and (b) 70% of the project cost to be received from MNRE as Central Financial Assistance as per the letter dated 16.12.2015 of MNRE. The Investment Approval for the implementation of the 1 MWp Grid Connected Rooftop Solar Projects was approved by the Board of Directors of SECI in its 19<sup>th</sup> meeting dated 16.12.2015. The relevant extracts of the Minutes of the 19<sup>th</sup> Meeting are as under:

“After deliberations by the Board, the investment proposal was approved with the following: -

- 1) 70% subsidy from MNRE, as Central Financial Assistance (CFA) on the discovered project cost.
- 2) SECI's equity investment of Rs. 250.50 lakhs equivalent to 30% of the Project Cost.
- 3) Filing a petition before JERC for determination of Tariff based on completely discovered project cost of Rs. 8.35 Cr.”

11. That the e-mail dated 22.12.2015 from SECI to Andaman & Nicobar Administration (with copy to MNRE) also states that SECI will avail 70 % of the subsidy on the project. The relevant extract of the email, inter-alia, reads as under:

We are thankful to you for agreeing the following after detailed deliberations, which are also acceptable to MNRE:

2. SECI will own the project and avail 70% subsidy from MNRE
3. MNRE will sanction the 70% subsidy on project cost (discovered through open competitive process) to SECI through issuance of a letter specific to 1 MW capacity of A&N for which SECI has finalized the vendor under CAPEX @ 30% Subsidy.

12. That accordingly, the projects were stated to be eligible for Central Financial Assistance for 70% of the Project cost from MNRE. The MNRE benchmark cost for the Andaman and Nicobar Islands was at Rs.90/W and the actual project cost is Rs.83.49/W. Therefore, the eligible subsidy for the proposed project was Rs.584.43 lakhs and the balance 30% of the project cost i.e. Rs. 250.47 lakhs was decided to be invested by the SECI through Equity.

13. That vide email dated 23.12.2015, MNRE provided an Action Plan for the implementation of 1 MW solar roof-top Solar PV plants in Andaman and Nicobar Islands to SECI, wherein it was stated that CFA of 70% of the capital cost shall be provided for the project.

14. That with respect to communication dated 23.12.2015 of MNRE, SECI by its letter dated 01.01.2016 to Department of Power, Andaman and Nicobar Administration has, inter-alia, stated as under:

- “2. As agreed, SECI will offer tariff of Rs. 5.50\*/kWh to the department of Power, Andaman and Nicobar Islands by availing 70% “subsidy from MNRE and sign a long-term power purchase agreement for a period of 25 years (\* Subject to financial concurrence)

3. *Keeping in view that the open competitive bids were invited under CAPEX mode only and a project cost with 5 years O&M was discovered, the tariff being offered to A&NA is derived from the project cost (so discovered) based on tariff norms of CERC/JERC/ Thus, the derived tariff may require approval of Joint Electricity Regulatory Commission, for which a petition shall be filed shortly.*

*We have already taken up the matter with MNRE for sanction and release of 70% subsidy against 1 MWp which works out to about Rs. 6.00 crores and the same is awaited. We will also be submitted a draft copy of PPA to be signed between Department of Power, A&N Administration and SECI shortly for your review and acceptance.”*

The same was also forwarded by SECI to MNRE vide email dated 01.01.2016. By Letter dated 30.12.2015, SECI requested MNRE to release 70% of the project cost as subsidy for the implementation of 1 MW rooftop project.

15. That on 24.05.2016, a Letter of Award (LoA) was issued to Ujaas Energy at a project cost of Rs.8.349 crores for the work of “Design, Engineering, Manufacture, Supply, Storage, Civil Work, Erection, Testing and Commissioning, Operation and Maintenance for a period of 5 years etc. for grid connected rooftop solar PV systems of an aggregate capacity of 1 MWp on the roofs of the government buildings of Andaman and Nicobar Islands.

16. That in pursuance to the above, on 14.06.2016, SECI filed Petition being No. 208/2016 before this Hon’ble Commission for the approval of tariff of 1 MW Grid connected Rooftop Solar PV Project in Andaman and Nicobar Islands. In the said Petition, SECI has considered that the project is eligible for availing Central Financial Assistance of 70% of the actual project cost i.e. Rs. 5.844 Crores from MNRE. In this regard, the relevant extract of the Petition is reproduced as under:

*1.2.9. The project is supported by the Ministry of New and Renewable Energy (MNRE) with CFA (Central Financial Assistance) of 70% on the Project Cost i.e. Rs. 8.349 Cr/MWp.*

#### *4.1 Project Capital Cost*

*As per the guidelines of the Ministry of New and Renewable Energy dated 26/06/2014, the project is eligible for Central Financial Assistance (CFA) of 70% of MNRE benchmark cost or actual project cost, whichever is lower. As per the MNRE order no. No. 30/11/2012-13/NSM dated 26.06.2014, the MNRE benchmark cost for A&N Islands is Rs. 90/Wp and the actual project is Rs. 83.49/Wp. Therefore, the eligible subsidy for the proposed project will be Rs. 584.43 lakh and the balance 30% of the project cost i.e. Rs. 250.47 Lakhs shall be invested by the petitioner (SECI) through Equity. Board of Directors in its 19<sup>th</sup> Board meeting has also approved.*

*8.1 MNRE had given in principle approval for sanctioning of subsidy vide sanction no 03/73/2015-16/GCRT dated 18.12.2015 for 1MWp grid connected roof top solar power plants. However, EDA&N vide their D.O. No EL/PL/1-38/2014/1457 dated 25-03-2014 has requested SECI to include in its roof top scheme. In response to which, SECI had considered the project under Roof top Phase IV-Part-2 scheme and invited the bids on project cost basis.*

8.2 As per the MNRE guidelines and in reference to para 8.1 above, SECI has requested MNRE vide letter no. SECI/PS/RTPV /A7NA/ 2015/2407 dated 26-02-2015 for sanctioning of CFA for 1MWp Grid connected rooftop Solar PV systems.

10. Debt to Equity Ratio: The Petitioner has considered 30% of the project cost i.e., Rs. 250.50 lakh as Equity and balance 70% is to be availed by MNRE as CFA

17. That on 26.08.2016, the Hon'ble Commission passed Order in Petition No. 208/2016 of SECI. The Hon'ble Commission approved the levelized tariff of Rs.4.64/kWh (if Accelerated Depreciation benefit is not availed) and Rs. 4.45/kWh (if Accelerated Depreciation benefit is availed) for the aggregate capacity of 1 MW Grid connected Roof-top Solar PV Project in Andaman and Nicobar Islands for a period of 25 years.

In terms of the above, on 27.12.2017, SECI and the Andaman Nicobar Administration entered into a Power Purchase Agreement (hereinafter referred to as 'PPA') for purchase and sale of solar power from the grid connected rooftop solar power plant of aggregate capacity of 1 MW at the Levellised tariff of 4.64/kWh.

18. That on 17.03.2017, MNRE notified the benchmark cost for grid connected Rooftop Plants for the FY 2017-18, according to which the MNRE CFA for Andaman and Nicobar Islands was 60% of the MNRE Benchmark Cost, MNRE subsequently notified amendment to Achievement linked incentive/ Award scheme on 30.03.2017 for implementing rooftop projects on government building. A copy of the Notification dated 17.03.2017 of MNRE Benchmark Cost and Amendment dated 30.03.2017 for Achievement linked incentives and Award.
19. That on 31.03.2017, MNRE sanctioned Central Financial Assistance of Rs. 5,25,00,000/- (Rupees five crores and twenty-five lakhs only) for the implementation of grid connected Solar Rooftop Plants of aggregate capacity of 1 MWp to be established in Andaman and Nicobar Islands. MNRE also sanctioned the release of Rs. 52,50,000/- (Rupees fifty-two lakh and fifth thousand only) to SECI as a first instalment.
20. That the aggregate capacity of 1 MW grid connected rooftop solar power plants commissioned in parts namely (a) on 28.04.2017, 686.26 kw of the project was commissioned and (b) the balance 314.34 kW was commissioned on 30.06.2017.
21. That SECI requested MNRE, vide letter dated 27.06.2017, for revision of Central Financial Assistance to Rs.5.8443 crores (as per the benchmark cost applicable during the FY 2014-15, 2015-16 and 2016-17) instead of the amount Rs.5.25 crores sanctioned by order dated 31.03.2017 of MNRE.
22. That further, MNRE, vide order dated 18.12.2017, sanctioned release of balance incentives of Rs. 3,97,50,0000/- for implementation of an aggregate capacity of 1 MW Grid connected Solar Roof Top Projects.
23. That in terms of the above, MNRE revised the sanction of CFA amount to Rs.4.50 crores against the eligible CFA of Rs.5.84 crores to be released to SECI.
24. That SECI by its letter dated 20.08.2018 requested MNRE to reconsider the revision of CFA and grant Rs.5.844 crores instead of Rs.4.5 crores.
25. That on 14.09.2018, at the 38th meeting of the SECI's Board of Directors it was decided as under:

## 26. Impact on Equity IRR

The reduction of CFA resulted in increased equity investment of SECI of the order of Rs. 1.344 crore (Rs. One crore thirty-four lakh forty thousand only).

At the time of the 19<sup>th</sup> Board Meeting, the indicative Levellised tariff of Rs. 5.5 per kWh was considered for projecting the RoE for the project which was subjected to the actual fixation by JERC and the calculated post-tax Equity IRR was 18.28%.

As per approval accorded during 19<sup>th</sup> Board meeting, SECI filed a petition to JERC on 14.06.2016 for tariff fixation with a total cost of Rs. 8.349 Cr for 1 MWp Grid Connected Rooftop Solar Project. JERC approved the tariff of Rs. 4.64/kWh (if Accelerated Depreciation benefit if not availed) and Rs. 4.45/kWh (if Accelerated Depreciation benefit if availed) for the project vide their order dated 26/08/2016.

The equity IRR at JERC approved tariff was calculated considering 100% equity investment of Rs. 2.505 Crore by SECI and keeping major parameters unaltered. The calculated post-tax Equity IRR was 14.08%.

The equity IRR has now been calculated considering the impact of reduction in CFA by Rs. 1.344 Crore on equity IRR. The calculated post tax-Equity IRR is 7.72%

## 27. PPA Provision

The page 3/43 of the PPA signed between SECI and A&N Administration states that:

“In this regard, SECI will take a separate approval from its Board for investing the balance amount of Rs. 59.43 lakhs. As the increase in the equity investment by SECI, due to reduction in CFA amount, will also impact the tariff of the PPA. Therefore, SECI may file a Petition for Tariff revision to JERC as per the provisions of JERC. In this case, if the tariff is revised through petition, the same shall be acceptable to A&N Administration for the entire term of PPA.”

Accordingly, as per the terms of PPA, SECI shall approach, A&N Administration for accepting the revised tariff.

## 28. That the petitioner vide its letter no. SECI/PSD/105(13)/II/2017 dated 20/8/2018, has also requested MNRE that

"The total CFA released by MNRE against the project was Rs.4.500 Cr only against the CFA of Rs. 5.844 Cr considered for the project at the time Board Approval. The reduction in the CFA resulted in total deficit of funds of Rs. 1.344 Cr, which has been considered revenue loss to SECI by C&AG Auditors during Transaction Audit of SECI for the period 2013-14 to 2017-18. We understand that the benchmark prices are falling every year due to change in module however, SECI did not get the benefit of reducing prices as the project was implemented in RESCO mode by SECI wherein the EPC cost was fixed in 2015 therefore, the reduction of CFA of Rs. 1.344 Cr is impacting SECI's financial.

At the time of In-principle approval by MNRE, there was no such separate guidelines for government buildings, therefore the same was not considered by SECI in its investment decision. MNRE has conveyed eligible CFA of 70% of

the project cost for A&N Islands vide their letter dated 16/12/2015 which was reduced to 60% resulted in the reduction of CFA to SECI.

In view of above, it is proposed that SECI will take up the matter with MNRE for re-consideration of the proposal and revise the CFA to Rs. 5.844 Cr instead of Rs. 4.500 Cr as per the MNRE benchmark prevailing at the time of In-principle approval of the project and release the balance CFA of Rs. 1.344 Cr to SECI."

29. That SECI requested MNRE for the revision of CFA to Rs. 5.844 from Rs. 4.5 crore to MNRE benchmark prevailing at the time of in-principal approval of the project and to release balance amount of CFA for implementation of the project.
30. That SECI has not been paid the balance amount of CFA i.e. Rs.1.344 crores in terms of the in-principal approval dated 16.12.2015 of MNRE and the subsequent communications as quoted hereinabove. SECI is required to get the servicing of an additional amount of Rs.1.344 crores invested by SECI in the project, for which SECI has not been provided the CFA amount by the MNRE, Government of India. Such servicing has to be through tariff applicable for the said amount over and above the tariff of Rs.4.64/kWh decided by the Hon'ble Commission in the earlier order dated 26.08.2016.
31. That the procurement of power from the 1 MW grid connected rooftop solar power plants at the revised levelized tariff of Rs.6.24/kWh as per the terms and conditions contained in the PPA would be consistent with the scheme and provisions of the Electricity Act, 2003 as provided in the preamble, Section 61(h) and 86 (1)(e) of the Electricity Act, 2003, the National Electricity Policy and National Tariff Policy notified by the Central Government under section 3 of the Electricity Act, 2003.
32. That SECI and A&N Administration signed PPA dated 27.12.2017 which, inter-alia, provided as under:

WHEREAS

The Purchaser has agreed to purchase the entire Solar Power of the Project on the terms and conditions contained in this Agreement. MNRE has provided an In-principal approval to A&N Administration vide their letter 03/73/2015 dated 16/12/2015 for implementation of 1 MW Grid connected rooftop solar power plant with 70% subsidy that shall be made available to the Power Producer.

WHEREAS:

*Initial CFA envisaged was Rs. 584.43 lakhs (70% of the discovered project cost (Rs.83.49/Wp), lower than the MNRE benchmark cost valid at the time of In-principal approval of MNRE vide letter No. 03/73/2015-16/GCRT dated 16/12/2015. However, at the time of issuance of sanction and release order by MNRE, the Benchmark cost was revised to Rs.75/Wp, which is lower than the discovered project cost, therefore MNRE has reduced the CFA to Rs. 525 lakhs. Which resulted in a gap of Rs.59.43 lakhs which is proposed to be met by SECI's internal resources as SECI is the owner of the project. In this regard, SECI will take a separate approval from its Board for investing the balance amount of Rs. 59.43 lakhs. As the increase in the equity investment by SECI, due to reduction in CFA amount, will also impact the tariff of the*



*PPA. Therefore, SECI may file a Petition for Tariff revision to JERC as per the provisions of JERC. In this case, if the tariff is revised through petition, the same shall be acceptable to AGN Administration for the entire term of PPA.*

*10.2 MNRE has provided an In-principal approval to A&N Administration vide their letter 03/73/2015 dated 16/12/2015 for implementation of 1 MW Grid connected rooftop solar power plant with 70% subsidy. The Purchaser shall endeavour to provide the 70% subsidy amount to SECI directly through MNRE or if the Purchase receives the 70% subsidy from MNRE against this 1000 KW project as per MNRE letter, shall pass the 70% Subsidy directly to SECI towards implementation of this project.*

33. That further, on 18.12.2017, MNRE sanctioned release of balance incentive of Rs.3,97,50,000, thereby, further reducing Central Financial Assistance to Rs.4.50 Crores (@ 60% of Rs.75/Wp) against eligible Central Financial Assistance of Rs.5.84 Crores. Accordingly, the Central Government has reduced the Central Financial Assistance by an aggregate amount of Rs.1.34 Crores. As a consequence, the tariff to be recovered from A&N Administration has been worked out as Rs.6.24/kWh (levelized).
34. That SECI is not asking for any additional capital cost approval than what has been considered in the order dated 26.08.2016 of the Hon'ble Commission. The development which has arisen subsequent to the above order dated 26.08.2016 is on account of the decision by the Central Government on the quantum of Central Financial Assistance to be provided for the project. The revised allocation of the Capital Cost to be serviced through tariff is only as a consequence of the decision of the Central Government on the quantum of Central Financial Assistance.
35. That, as this Hon'ble Commission has already passed the order dated 26.08.2016 and the present Petition being only in regard to the consequence of the decision of the Central Government of reducing the proposed Central Financial Assistance, it will be appropriate for the Hon'ble Commission to consider and approve the same.
36. That In this regard, as mentioned hereinabove, in terms of Section 86 (1) (b) of the Electricity Act read with Rule 8 of the Electricity Rules 2005, this Hon'ble Commission has the necessary jurisdiction, function and power to deal with the Petition filed by SECI and pass the appropriate order. The approval of this Hon'ble Commission is necessary as the procurement of power and the price thereof has to be approved by this Hon'ble Commission.

The submissions of respondents are as under:

1. That the hike in the tariff from Rs. 4.64 per unit to Rs. 6.24 per unit will have a bearing on the UT budget whereas the plant will continue to cause a saving of around Rs. 6.37 Cr.
2. That the PPA Signed with SECI is for 25 years for the RTS that have been functional for last 3 years since 2017 and has a remaining life of 22 years. With the increase in tariff the yearly requirement of budget shall increase from Rs. 1.46 Cr. to Rs. 1.96 Cr. for making payment of the energy charges i.e. the increase, shall be around Rs. 50.00 lakhs per year.

3. That the increase in tariff will cause additional burden on the consumers as the hike in tariff of purchase of power will also reflect in consumer's tariff. Both will be fixed by the same regulatory body i.e., JERC.
4. That the PPA was signed by both the parties in the year 2017 and approved by competent authority for the tariff @ Rs. 4.64/unit.
5. That, Electricity Department contests against SECI's Petition, since SECI is to receive the 70% subsidy from MNRE and balance amount of Rs. 1.34 cores should be met by the funds provided by MNRE and due to non-receipt of the subsidy SECI cannot claim the fund deficit from A&N Administration in the form of tariff hike.
6. That A&N Administration will continue to abide by the tariff rate as earlier approved by JERC @ Rs. 4.64 / unit and any hike will not be acceptable.

The Commission has considered the submissions of Petitioner and Respondent in depth. It has also examined the Petition and the entire records placed before it. The Commission also examined the specific relevant provisions of the Electricity Act, 2003 and the rules and regulations made thereunder.

The Commission intends to rely on the following provisions of the Electricity Act, 2003.

Section 62 provides as under:

*(1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for –*

*(a) supply of electricity by a generating company to a distribution licensee:*

*Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity;*

*(b) transmission of electricity ;*

*(c) wheeling of electricity;*

*(d) retail sale of electricity:*

*Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission may, for promoting competition among distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity.*

*(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.*

Section 79 provides as under:

- (1) *The Central Commission shall discharge the following functions, namely: -*
  - (a) *to regulate the tariff of generating companies owned or controlled by the Central Government;*
  - (b) *to regulate the tariff of generating companies other than those owned or controlled by the Central Government specified in clause (a), if such generating companies enter into or otherwise have a composite scheme for generation and sale of electricity in more than one State;*

Section 86. Provides as under:

*“Section 86. (Functions of State Commission): ---*

- (1) *The State Commission shall discharge the following functions, namely: -*
  - (a) *determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State: Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;*
  - (b) *regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;*
  - (c) *facilitate intra-State transmission and wheeling of electricity;*
  - (e) *promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;*
  - (j) *fix the trading margin in the intra-State trading of electricity, if considered, necessary; and*
  - (k) *discharge such other functions as may be assigned to it under this Act.*

Rule 8 of Electricity Rules, 2005 provides as under:

*“Tariffs of generating companies under section 79.- The tariff determined by the Central Commission for generating companies under clause (a) or (b) of subsection (1) of section 79 of the Act shall not be subject to re-determination by the State Commission in exercise of functions under clauses (a) or (b) of sub-section (1) of*

*section 86 of the Act and subject to the above the State Commission may determine whether a Distribution Licensee in the State should enter into Power Purchase Agreement or procurement process with such generating companies based on the tariff determined by the Central Commission.”*

The Commission has noted that the Petitioner is mainly aggrieved due to the reduction in the benchmark of the Project Cost from Rs 90/Wp to Rs 75/ Wp which causing an impact of Rs 59.43 Lacs and further the central finance assistance (CFA) has been reduced from 70% to 60% of the project cost by the MNRE, Government of India which causing an impact of Rs 75 Lacs. Thereby, the total impact of short sanction of the CFA to the petitioner is worked out at Rs 1.34 Cr.

Initially MNRE accorded in principal approval for central finance assistance (CFA) to the tune of 70% of the total cost of the 1 MW Grid connected Roof-top Solar PV Project. However, the MNRE finally has reduced the benchmark cost and sanctioned only 60% of the total cost of the said project as central finance assistance (CFA) for the petitioner. The petitioner owned this project and executed the said project with 70% central finance assistance (CFA) from the MNRE. Accordingly, it issued letter of allocation to construct this 1 MW Grid connected Roof-top Solar PV Project to M/s Ujaas Energy Limited as EPC contractor at the cost of Rs.8.349 crores. The Petitioner obtained the approval from its board for investment of 30% of the total cost of the project. With the reduction in the benchmark cost of the project from Rs 90/Wp to Rs 75/ Wp and revision of central finance assistance (CFA) by the MNRE from 70% to 60% of the total project cost left the petitioner with no option but to make an additional investment of Rs. 1.34 crore to complete this said project.

The Petitioner has made many requests to MNRE to provide central finance assistance (CFA) to the tune of 70% of the total actual cost of the said project as per in-principle approval accorded earlier by the MNRE. But the MNRE did not yield to the repeated requests of the Petitioner to restore the central finance assistance (CFA) to 70% of the total cost of the said project.

The Commission is not convinced with the arguments advanced by the Petitioner. It is of the considered opinion that the Petitioner has agreed to execute this said Project as owner and accordingly, awarded this to M/s Ujaas Energy Limited as EPC contractor at a total cost Rs.8.349 crores. The Petitioner must have after proper financial appraisal of the said Project has decided to invest 30% of the total project cost while availing 70% central finance assistance (CFA) granted by MNRE. The reduction in benchmark cost of the project and the further reduction of the central finance assistance (CFA) from 70% to 60% compelled the Petitioner to make additional investment in this project. The Commission is of the opinion that this is a common business risk to the owner and there is no reason to seek revision of the tariff on the ground that MNRE has reduced central finance assistance (CFA) for the project executed by the petitioner thereby cause additional burden to the consumers.

The Ld. Council for the Petitioner advanced the arguments that as per PPA duly executed between the Petitioner and the Respondent, the reduction in central finance assistance (CFA) would be borne by the Respondent. However, the Respondent opposed the said contention of the Petitioner.

In view of the above the Commission is not inclined to accept any of the arguments advanced by the Petitioner for revision of the tariff which will create additional burden on the consumers. Once the repeated request of the Petitioner to the MNRE to grant 70% of total project cost as central finance assistance (CFA) in place of 60% was rejected by the MNRE, the Petitioner filed this Petition to recover this additional investment on their part as revision of tariff as an afterthought. Further, the PPA as mentioned above by the Petitioner does not have the approval of the Commission, therefore the Commission is not taking any cognizance of the said PPA. The Commission is of the view that the arguments of the Petitioner are illogical and legally not sustainable and there is no logic to revise the levelized tariff fixed for a period of 25 years by its Order in Petition No. 208/2016 dated 26.08.2016.

In view of the above the Commission dismiss this Petition.

Ordered accordingly.

**-Sd-**

**(M.K. GOEL)**

**Chairperson**

Place: Gurugram

Date: 09<sup>th</sup> September 2021

(Certified Copy)



**(Rakesh Kumar)**

**Secretary**