

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1978 of 2021.

In the Matter of:

Petition under Section 86 read with Section 63 of the Electricity Act 2003 for approval of deviations from the Ministry of Power guidelines dated 30.01.2019 for procurement of electricity for medium term from power stations set up on Finance, Own & Operate basis.

Petitioner	:	Gujarat Urja Vikas Nigam Limited (GUVNL)
Represented By	:	Shri K. P. Jangid and Shri Sanjay Mathur
Objector No. 1	:	Shri K. K. Bajaj
Represented By	:	Shri K. K. Bajaj
Objector No. 2	:	Adani Enterprises Limited
Represented By	:	Shri Saket Maloo
Objector No. 3	:	Adani Power (Mundra) Limited
Represented By	:	Shri Saket Maloo

CORAM:

Mehul M. Gandhi, Member

S. R. Pandey, Member

Date: 12/07/2021.

DAILY ORDER

1. The present matter was heard on 07.07.2021 through virtual hearing by Video Conferencing on account of prevailing COVID 19 pandemic.
2. Heard the contentions/objections raised by Shri Saket Maloo on behalf of Objector No. 2 & 3 as well as Shri K. K. Bajaj and reply/response thereon by Shri K. P. Jangid on behalf of the Petitioner Gujarat Urja Vikas Nigam Limited (GUVNL) in the matter.
3. At the outset Shri K.P. Jangid, on behalf of the Petitioner GUVNL, submitted that suggestions/objections have been received from Objectors namely (i) Shri K.K. Bajaj and (ii) Adani Group companies i.e., Adani Enterprises Limited and Adani Power (Mundra) Limited which are similar. It is submitted that the Petitioner has already filed an affidavit in response to the objections raised by these objectors and also provided copy of same to them. It is also submitted that further objections raised by Shri K. K. Bajaj on 06.06.2021 are more or less similar to his earlier objections and are accordingly covered written reply filed by the Petitioner.
4. Shri Saket Maloo, on behalf Objector No.'s 2 & 3, reiterating the objections filed by them submitted that the tender issued by the Petitioner although allows bidders having any fuel source to participate but as per bid condition imposed on the bidders, assurance for supply of fuel is required to be submitted. It is argued that for fuel tied up through E-auction or for imported supply, there would be no documentary evidence which ensures continuous and assured fuel supply and hence, if all types of fuel sources are allowed by the Petitioner then there is no necessity to have such condition. Therefore, *per se* even if there is no FSA with any generator, the Petitioner can seek an

undertaking from the generator that the responsibility for arranging assured fuel supply and such undertaking can suffice the requirement of assured fuel supply.

- 4.1. It is further contended that clause added by the Petitioner in the bidding documents that the 'Utility' reserves the right to reject any application/bid in view of any pending litigation, the same is not provided in Standard Bidding documents. Even, otherwise the tender process is not affected by any pending litigation and cannot be made a ground to arbitrarily reject any bid submitted by bidders.

5. Objector No. 1 Shri K. K. Bajaj, submitted that procurement of 1000 MW power under medium term arrangement by the Petitioner is surprising when admittedly Gujarat is a power surplus State and why the Petitioner is not utilizing the capacity already tied up and operating power stations of GSECL at full capacity. It is argued that on one hand these plants are under shut down and paying for fixed cost but on other hand the Petitioner has now come out with the requirement to tie up 1000 MW power through medium term. He submitted that reply filed by the Petitioner is received just yesterday wherein the Petitioner has not replied as to why they are not starting their own lignite and gas based power plants. He also submitted that being power surplus State and running the plants at more than 70% PLF, then there is no need to import the power from other sources. He submitted that he has no objection for any short term power procurement undertaken by the Petitioner or procurement from other sources in case of deficit or during summer, but the Petitioner cannot shut down their power plants for which the burden is passed on to consumers who have to pay heavy fuel cost charges and fixed cost charges.
 - 5.1. He further submitted that plant load factor of GSECL's plants is only around 40%-45% and if the Commission allows the present procurement proposed by the Petitioner, it may further drop to 10% resulting in further decrease of 30%-35%. With regard to claim of GUVNL that they are intending to purchase cheaper power through present tender, but on the contrary, the consumers have to pay more fuel cost charges, fixed

cost charges. Therefore, it is not in the interest of the consumers rather it is in interest of the Petitioner or the power suppliers.

- 5.2. He also submitted that looking to power demand in the Gujarat throughout the year, there is no requirement of 1000 MW power throughout the year. He submitted that as there is difference in the day time load and night time load of around 5000 MW, there is no need of 1000 MW power as all the power plants of GSECL are backed down in the night hours. It is submitted that if the Petitioner operates their own power plants at more than 80% PLF, then there is no need to source 1000 MW power from other sources. He submitted that currently the Petitioner is running their plants at 40% PLF and they have not mentioned about any coal shortage, shortage of man power etc. in its Petition.
- 5.3. He submitted that the Petitioner is having lignite-based power plants generating the power at 20% PLF having tariff of less than Rs. 3 per unit. He has been raising this issue since last 6 months and has written several letters but the situation is not improving but further deteriorating.
- 5.4. He also submitted that he has no objections in respect of signing of the PPA on short term basis when there is demand of power, particularly during the summer months. He submitted that the Commission may allow the PPA for procurement of power during October to May in the year because in monsoon season the demand is only of 8000-9000 MW and the Hydro plants can also operate at full capacity and during such time, they may carry out a maintenance of other conventional plants and for remaining period they should run for 8 months continuously on weighted capacity of around 70% to 80% and there is no need to go to sign any agreement for proposed 1000 MW capacity.

- 5.5. He submitted that if any emergency arises, the Petitioner may procure the power from Power Exchanges at the cheaper rates. Therefore, the Commission may allow the short term PPA rather to allow the PPA on medium term basis.
6. Shri K. P. Jangid, on behalf of the Petitioner GUVNL, submitted that with regard to objections of Objectors No. 2 & 3 in respect of eligibility criteria of bidders of not having FSA and supply of coal through e-auction/imports and no documentary proof for assured supply of fuel is concerned, he submitted that the said provisions is in accordance with MoP guidelines and Model Bidding documents. In the case the assured supply of fuel is not available with the bidder, then after being selected and PPA signed, the bidder may not be able to fulfill its obligation of supplying contracted capacity under the agreement or may seek reprieve from its obligation citing non-availability of fuel. He submitted that the aforesaid provisions are adopted by the Petitioner as per Model Bidding Documents which are in interest of Petitioner and consumers are at large to ensure availability of assured power during the period.
- 6.1. He further submitted that with regard to objection of rejection/accepting of bid by 'Utility' is concerned, the said provision has been incorporated to safeguard the interest of the Petitioner in pending litigations while ensuring procurement of power at competitive rates under the proposed tender. He requested that the Commission may not accept the suggestions given by the Objectors No. 2 & 3. He submitted that all these aspects are covered by the affidavit submitted by the Petitioner.
- 6.2. With regard to objections of Shri K. K. Bajaj, he submitted that the Petitioner is having adequate power ties up and there is no shortage of power. He submitted that out of 18453 MW capacity, 2645 MW capacity is gas based capacity. At present cheaper gas is available only for operating meagre capacity and as market prices of RLNG being very high, the capacity cannot be utilized fully as generation cost is very high. Therefore, the Petitioner wants to replace the power with cheaper generation available and thereby optimize the overall power procurement cost. Even, the Commission has directed time

and again in various orders, that efforts need to be made by the Petitioner and its subsidiary distribution licensees to arrange cheaper power and thereby optimize power procurement cost

- 6.3. He submitted that in respect of contention of low PLF of GSECL's thermal plant, PLF of all thermal plants over the country have drastically reduced due to increase in renewable energy which is only supplementary to conventional energy but does not meet the base load / demand. He also submitted that the demand of the Petitioner is increasing every year by around 1000 MW. Therefore, the Petitioner requires such power through medium term basis. He requested the Commission to allow the Petitioner to procure the power through competitive bidding on medium term basis
7. We have considered the submissions made by the parties. We note that all the parties have completed their submissions and arguments in the present matter at length and accordingly, the matter is now reserved for Order. All the parties are at liberty to file their written submissions, if any, within three days from the date of this order.
8. We order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.

Date: 12/07/2021.