

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2013 of 2021.

In the Matter of:

Petition under Section 86(1)(b) and(e) of the Electricity Act 2003 for approval of power procurement and execution of Power Purchase Agreement(s) for procurement of power from Solar Projects to be established by GSECL under the Government of Gujarat's Scheme notified vide G.R No: JMN-3919-259-A1 dated 07.03.2019 for allocation of government wasteland in the vicinity of existing GETCO sub-stations to the PSUs operating under Energy & Petrochemicals Department.

Petitioner : Gujarat Urja Vikas Nigam Limited

Represented By : Ms. Sailaja Vachhrajani, Mr. Parthik Joshi and
Ms. Girija Dave

Respondent : Gujarat State Electricity Corporation Limited

Represented By : Ms. Kalpana Chadderwala, Mr. Dinkar M. Jethva and
Mr. Nitin B. Kansara

CORAM:

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

Date: 14/12/2021.

DAILY ORDER

1. The matter was kept for hearing on 22.11.2021.
2. Ms. Sailaja Vachhrajani, General Manager (IPP&RE) on behalf of the Petitioner GUVNL submitted that Revenue Department, Government of Gujarat vide G.R. No: JMN-3919-259-A1 dated 07.03.2019 has notified scheme for allocation of Government wasteland in the vicinity of existing GETCO sub-stations to the Public Sector Undertakings (PSUs) operating under Energy & Petrochemicals Department

of Government of Gujarat (GoG) for development of Solar Projects at the nominal lease of Rs. 1/- per hectare for a period of 30 years.

- 2.1. It is submitted that apart from vicinity of evacuation facility up to spare capacity available at existing substations of GETCO, the key objective of the above scheme is to entail the benefit of cheaper power to the end-consumers of the State by means of optimal utilization of resources viz. government waste-land and existing transmission infrastructure network created by GETCO having spare capacity for evacuation of power.
- 2.2. It is also submitted that Energy and Petrochemicals Department, Government of Gujarat vide G.R. No. SLR/11/2019/675/B1 dated 16.08.2019 has also resolved that the Respondent Gujarat State Electricity Corporation Ltd (GSECL) would develop 2500 MW solar capacity under the above Scheme in the ensuing years at an estimated project cost of Rs. 4 crore per MW, out of which 50% amount would be extended by the State Government as capital subsidy/grant to GSECL.
- 2.3. Based on above, the Respondent GSECL for developing / setting up Solar projects has already identified certain substations/locations in consultation with GETCO and also continuing for same. Apart from undertaking identification of land, the Respondent GSECL has also been undertaking feasibility analysis, necessary actions for allotment of land / land-lease, Competitive Bidding Process for award of EPC Contract, etc. for setting up Solar Projects.
- 2.4. It is further submitted that considering the land availability at token rate and grant of capital subsidy by the State Government equivalent to 50% to 60% of the project cost, it is envisaged that the resultant tariffs of the Solar Projects proposed to be set up by the Respondent GSECL under the aforesaid Scheme shall be very competitive and lower than the market tariffs discovered under the Competitive Bidding Process under Section 63 of the Electricity Act, 2003.
- 2.5. Moreover, the Petitioner is willing to purchase the solar generation from such projects being / to be set-up by the Respondent GSECL and accordingly, the present Petition has been filed under Section 86 (1) (b) and (e) of the Electricity Act 2003 for approval of this Commission for procurement of power and execution of Power Purchase Agreement(s) by the Petitioner for procurement of power from Solar

Projects to be established by GSECL under the above scheme of Government of Gujarat.

- 2.6. It is also submitted that the Petitioner has also filed Draft Power Purchase Agreement (PPA) to be executed with GSECL which has been prepared in line with the PPAs signed under Competitive Bidding Process and is almost identical to PPA approved by this Commission except the only modification proposed as stated in para 16 of the Petition is in the provision of 'Change in Law' whereby instead of reference to occurrence of any event mentioned in the PPA after the 'bid-deadline' as provided under the Competitive Bidding PPAs the draft PPA filed for approval refers to occurrence of any of the events mentioned in the PPA notified after the 'date of issuance of 'Notice to Proceed' i.e. letter regarding notice to proceed issued by the Respondent GSECL to their EPC Contractor for the Project. Other than above change, the whole PPA is identical to PPA executed under Competitive Bidding process.
- 2.7. Accordingly, it is requested that the Commission may grant 'In-principle' approval to the Petitioner as prayed for in the Petition.
- 2.8. In response to query of the Commission regarding quantum of power proposed to be procured, it is submitted that as stated in the Petition the total quantum proposed to be procured by the Petitioner is around 2500 MW and as per available information, the Respondent GSECL has identified land for more than 1100 MW and for 540 MW capacity, EPC contracts are awarded out of which one project is already commissioned, whereas; another five projects are likely to be commissioned shortly.
- 2.9. In response to details regarding tariff discovered in projects for which EPC contract is already awarded, Mr. Dinkar Jethva, Chief Engineer (Projects) on behalf of the Respondent GSECL submitted that in the 'Invitation to Bid' floated by GSECL, the bidders were required to quote their capital cost for the project but based on the formula for bid evaluation provided in the bidding documents, the 'Bid Evaluation Committee' of the Respondent GSECL has worked out the tariff after duly considering the capital subsidy to be provided by the Government as per the Scheme. Accordingly, as per the tariff worked out by the Respondent GSECL, location wise there are different tariffs e.g. for Haripur project tariff is around Rs.

1.33 per unit. Moreover, for Babarzar project of 210 MW the tariff worked out is Rs. 1.09 per unit.

2.10. With regard to the Capacity Utilisation Factor (CUF) considered by the parties while working out the above tariff, it is submitted that CUF for various locations is different.

2.11. It is further submitted that above tariffs that are worked out are tentative because it is for the Commission to undertake determination and approval of the tariff under Section 62 of the Electricity Act, 2003 under separate Petitions to be subsequently filed in this regard.

3. We have considered the submissions made by the parties. We note that the present Petition has been filed by the Petitioner GUVNL under Section 86 (1) (b) and (e) of the Electricity Act, 2003 for approval regarding power procurement and execution of Power Purchase Agreement(s) for procurement of power from Solar Projects to be established by GSECL under the Government of Gujarat's Scheme notified vide G.R. No: JMN-3919-259-A1 dated 07.03.2019 for allocation of government wasteland in the vicinity of existing GETCO sub-stations to the PSUs operating under Energy and Petrochemicals Department.

3.1. Also, the Draft Power Purchase Agreement (PPA) to be executed by the Petitioner GUVNL with the Respondent GSECL has been filed. It is submitted that the said Draft PPA is similar to the PPA signed by the Petitioner under Competitive Bidding Process except 'Change in Law' provision.

3.2. We also note that neither the Petitioner GUVNL nor the Respondent GSECL have filed necessary documents in support of Petition. Also, details regarding tender documents etc. is not filed. Hence, the Petitioner GUVNL is directed to file on affidavit all such necessary details with supporting documents.

3.3. During the hearing, the representative of GUVNL submitted that procurement of power from Solar Projects to be carried out by the Petitioner under Section 62 of the Electricity Act, 2003, where the tariff has to be determined by the Commission, since the projects are situated at different locations and having different cost/pricing quoted by the EPC Contractor with different CUF etc. and accordingly,

the Petitioner, GUVNL or the Respondent GSECL, will approach the Commission for determination and approval of the tariff under Section 62 of the Electricity Act, 2003 for different Solar power projects since, the Respondent GSECL has undertaken the tendering process for such Solar power project and has awarded or will be awarding EPC work by entering into separate agreements with successful EPC contractors to whom EPC work is allocated. It is also admitted that different subsidy amount received for such different projects from the Government of Gujarat by GSECL. Hence, approval of tariff under Section 62 is necessary from the Commission. Moreover, the Petitioner GUVNL requires to seek approval of the Commission under Section 86(1)(b) for procurement of power, its quantum, tariff etc. which will be undertaken separately. We record the aforesaid submissions of the Petitioner and direct that as and when the project(s) is/are commissioned and power procurement with the tariff from such power projects is carried out by it, appropriate Petition/Application under Section 62 of the Act as well as for approval of quantum of procurement, its tariff etc. under Section 86(1)(b) of the Act will be filed separately before the Commission.

- 3.4. During the hearing the Commission raised a query to the Petitioner and Respondent as to what is the status of the Solar Projects allocated to the EPC contractor by the Respondent GSECL against the envisaged capacity of 2500 MW in the Solar Policy by the State Government. In response to the aforesaid query, the representative of GSECL submitted that GSECL has identified various land for execution of the projects under the aforesaid Government Policy. Such land identified is at present about 1199 MW. Out of the said identified land and capacity, GSECL has carried out Competitive Bidding and awarded 540 MW capacity to the selected Bidder(s) for execution of the project and out of such awarded capacity, one project is already commissioned and remaining are under different stages of construction etc.
- 3.5. On a query of the Commission as to how the EPC Contractors have been selected and ascertained the tariff rate discovered under different biddings carried out by the Respondent GSECL, the representative of GSECL submitted that the tariff discovered under different Biddings in different tenders at different locations are different and with consideration of Government subsidy. The tariff is also varying between Rs. 1.09 per kWh to Rs. 1.44 per kWh.

- 3.6. The Commission has also raised query as to what is the cost of the project and CUF considered by the Bidders for arriving at aforesaid tariff rates, whether the cost of the project proposed by it/stated by the Bidder is justified and comparable with the prevailing market price of such project cost. Moreover, as to whether the Evaluation Committee has been constituted and such Committee has verified and evaluated the Bids etc. and recommended for the tariff of the project. Moreover, what are the different conditions provided in the Bid Documents for inviting Bids for EPC contract etc. Further, whether the Petitioner, GUVNL, who procures the power at different tariff under the Competitive Bidding process carried out for selection of Developer and tariff discovered under such Competitive Bidding process has been verified with the cost/price quoted by the EPC contractor and computation of tariff with consideration of same and found to be reasonable and valid with consideration of prevailing market price for such project cost etc. In reply to aforesaid queries, the representative of GUVNL submitted that the aforesaid details will be provided by the Petitioner and the Respondent. Also, in response to further query of the Commission that as the Petitioner desires approval of draft PPA stating that the provisions of draft PPA are prepared with consideration of the provisions of PPA executed by the Petitioner under Competitive Bidding process except one difference stated at para 16 of the Petition. Therefore, the Petitioner is directed to provide comparative chart detailing out various provisions of the same and specifying the clauses of the proposed draft PPA versus clauses of the PPA of the Competitive Bidding process.
- 3.7. The Respondent is directed to provide details of the Bidding process carried out by it for selection of EPC contractor along with the details of tendering documents, EPC contract executed with selected Bidders and price quoted by it and Government subsidy available on such project and effective tariff of it. Moreover, justification of the EPC cost with consideration of prevailing market price and its comparison with discovered tariff at the relevant time of such Bidding carried out by the GUVNL or other Licensees in the State.
- 3.8. Moreover, the Respondent GSECL is directed to provide details of various locations where such projects are proposed to be set up by it and status of the same. GSECL is also directed to provide complete details about EPC contractor, selection of work carried out by it with status of such projects and what is the CUF quoted by the

project developer, what is the cost of the project, whether any delay in the project or not, whether any provision is made for imposition of LD etc. for compensation provided in the Bid Documents. If the project is delayed in that case whether such penalty is recovered from the project developer or not.

- 3.9. The Respondent GSECL is directed to provide the aforesaid details within 15 days of the date of this Order. Moreover, the Petitioner GUVNL and the Respondent GSECL apart from the above directives are also directed to provide status of the Solar projects envisaged under the Scheme against which how much capacity is allocated at present and what is the anticipated time frame for allocation of other projects.
- 3.10. We also direct the Petitioner GUVNL to implead the distribution licensees and file amended memo of parties on affidavit. The newly impleaded distribution licenses are at liberty to file their submissions on affidavit after receipt of respective submissions and details from the Petitioner and the Respondent GSECL alongwith all necessary / supporting documents.
- 3.11. Moreover, the present matter is filed under Section 86(1) (b) and (e) of the Electricity Act, 2003 for approval of power procurement and execution of Power Purchase Agreement(s) for procurement of power from Solar Projects to be established by the Respondent GSECL under the Government of Gujarat's Scheme notified vide G.R No: JMN-3919-259-A1 dated 07.03.2019 for allocation of government wasteland in the vicinity of existing GETCO sub-stations to the PSUs operating under Energy & Petrochemicals Department. Since, the matter pertains to approval for procurement of the power by the Petitioner GUVNL from Solar Power Projects of the Respondent GSECL, this Commission has the jurisdiction to decide the same. Hence, we decide to admit the present Petition.
- 3.12. Moreover, as noted above the matter pertains to approval of power procurement and execution of Power Purchase Agreement(s) for procurement of power from Solar Projects to be established by the Respondent GSECL, it is necessary to conduct a public hearing to take into consideration the views/comments of stakeholders before deciding the matter. The Petitioner is, therefore, directed to issue a public notice in two daily Gujarati Newspapers and one English Newspaper having wide circulation in the State/National level stating that they have filed Petition No. 2013

of 2021 before the Commission under Section 86(1) (b) and (e) of the Electricity, Act, 2003 for approval of power procurement and execution of Power Purchase Agreement(s) for procurement of power from Solar Projects to be established by the Respondent GSECL under the Government of Gujarat's Scheme notified vide G.R No: JMN-3919-259-A1 dated 07.03.2019 for allocation of government wasteland in the vicinity of existing GETCO sub-stations to the PSUs operating under Energy & Petrochemicals Department. The Petitioner is also directed to upload the present Petition with all the documents on its website and invite comments and suggestions from the stakeholders on the Petition on affidavit within 21 days from the date of issuance of public notice. The Petitioner shall also state in the public notice that the stakeholders/objectors shall file their objections/suggestions in the Petition to the Secretary, Gujarat Electricity Regulatory Commission, 6th Floor, GIFT ONE, Road 5C, Zone 5, GIFT City, Gandhinagar - 382355 in five copies along with affidavit in support of their submissions with a copy to the Petitioner. The staff of the Commission is also directed to upload the Petition along with all relevant documents on the website of the Commission after compliance affidavit of issuing public notice and uploading of Petition is filed by the Petitioner along with copy of public notices issued by the Petitioner is filed with the Commission alongwith aforesaid affidavit and invite comments/suggestions from the stakeholders.

4. The next date of hearing will be intimated separately.
5. We order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 14 /12/2021.