

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2217 of 2023.

In the Matter of:

Petition under Section 63 read with 86 (1) (b) of the Electricity Act 2003 for seeking adoption of tariff discovered under Competitive Bidding Process conducted vide RFS No. GUVNL/600 MW/Solar (Phase XVII) dated 29.09.2022 issued by GUVNL for procurement of power from 600 MW Grid connected Solar Photovoltaic Power Projects located in 600 MW Solar Park at Khavda (GSECL Stage 1) with Greenshoe option of additional upto 600 MW.

Petitioner : Gujarat Urja Vikas Nigam Limited

Represented By : Mr. H.N. Shah and Mr. Parthik Joshi

CORAM:

**Anil Mukim, Chairman
Mehul M. Gandhi, Member
S. R. Pandey, Member**

Date: 31/07/2023.

ORDER

1. This Petition has been filed by the Petitioner Gujarat Urja Vikas Nigam Limited (GUVNL), under Section 63 read with Section 86(1)(b) of the Electricity Act 2003 *interalia* seeking following prayers:
 - (a) To admit the present petition.
 - (b) To adopt the tariff discovered by the Petitioner as stated in para 20 of the Petition, in the transparent procurement process conducted by the Petitioner through RFS No. GUVNL/600 MW/Solar (Phase XVII) dated 29.09.2022 within the time duration stipulated by the Ministry of Power, Govt. of India under the

Guidelines dated 03.08.2017 and subsequent amendments made thereto.

- (c) To allow the Petitioner to sign Power Purchase Agreement with the project developers for the capacity and tariffs as stated in para 20 of the Petition.
- (d) To condone any inadvertent omissions/errors/shortcomings and permit the Petitioner to make addition/change/modification to this Petition as may be required.
- (e) The Petitioner craves relief of the Commission to allow further submissions, prayers, additions and alterations to this Petition as may be necessary from time to time.
- (f) Pass any other Order as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case, to avoid further delay and in the interest of justice.

2. The Petitioner has filed this Petition under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003 seeking adoption of tariff by the Commission and hence it is necessary to refer aforesaid Sections as under:

“.....

Section 63:

Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government;”

.....”

As per above Section, whenever transparent competitive bidding process is conducted under Section 63 of the Electricity Act, 2003 in accordance with the guidelines issued by the Central Government, the tariff discovered under such bidding has to be adopted by the Commission.

“.....

Section 86(1) The State Commission shall discharge the following functions, namely: -----

(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.”
.....”

As per the aforesaid provision, the Commission has to regulate the power procurement of the Distribution Licensees, including the procurement process, the price at which electricity shall be purchased from the generating company or the Licensees or through other sources through agreement for purchase of power for distribution and supply within the State.

3. This Petition filed by the Petitioner is within the purview of the jurisdiction of this Commission and in terms of the powers vested by the Electricity Act, 2003 and Regulations framed thereunder, the Commission admits the present Petition.
4. Facts mentioned in the Petition in brief are as under:
 - 4.1. It is stated that the Government of Gujarat has notified the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003 in May, 2003 for reorganization of the entire power sector in the State of Gujarat and pursuant thereof, the Gujarat Electricity Industry Reorganization and Comprehensive Transfer Scheme, 2003 has been notified under the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003, whereby, erstwhile Gujarat Electricity Board was reorganized and its functions have been vested in different entities.
 - 4.2. As per the above re-organization scheme, the activities undertaken by erstwhile Gujarat Electricity Board of Generation, Transmission, Distribution, Bulk Power Purchase and Supply have been entrusted to separate seven functional entities. The generation activity is assigned to Gujarat State Electricity Corporation Limited (GSECL), transmission activity is assigned to Gujarat Energy Transmission Corporation Limited (GETCO) and the distribution activity is assigned to four distribution companies viz. Uttar Gujarat Vij Company Limited (UGVCL), Madhya Gujarat Vij Company Limited (MGVCL), Dakshin Gujarat Vij Company Limited (DGVCL) and Paschim Gujarat Vij Company Limited (PGVCL). Further, the function of bulk purchase and bulk sale of power is assigned to the Petitioner, Gujarat Urja Vikas Nigam Limited.

- 4.3. The Distribution companies are mandated to procure power from Renewable Energy Sources as per the provision of Section 86(1)(e) of the Electricity Act, 2003 and in terms of the GERC (Procurement of Energy from Renewable Energy Sources) Regulations, 2010, as amended from time to time.
- 4.4. The Petitioner on behalf of its four Distribution companies has been entering into Power Purchase Agreement(s) amongst others with various Renewable Energy Generators for procurement of power from time to time.
- 4.5. Section 63 of the Electricity Act, 2003 provides that the Appropriate Commission shall adopt the tariff, if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government. Also, as per Section 86 (1) (b) of the Electricity Act, 2003, the Commission to 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.
- 4.6. The Ministry of Power (MoP) on 03.08.2017, has notified the “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects”. However, Standard Bidding Documents are yet to be published by MoP, Government of India. Clause 3.1.1 of the said Guidelines provides following conditions to be met by procurer:
- a) *Prepare the bid documents in accordance with these Guidelines and Standard Bidding Documents (SBDs) [consisting of Model Request for Selection (RfS) Document, Model Power Purchase Agreement and Model Power Sale Agreement], notified by the Central Government, except as provided in sub clause (c) below.*
 - b) *Inform the Appropriate Commission about the initiation of the bidding process.*
 - c) *Seek approval of the Appropriate Commission for deviations, if any, in the draft RfS draft PPA, draft PSA (if applicable) from these Guidelines and/ or SBDs, in accordance with the process described in Clause 18 of these Guidelines.*
 - (i). *“However, till the time the SBDs are notified by the Central Government, for purpose of clarity, if the Procurer while preparing the draft RfS, draft PPA, draft PSA and other Project agreements provides detailed provisions that*

are consistent with the Guidelines, such detailing will not be considered as deviations from these Guidelines even though such details are not provided in the Guidelines.

(ii). Further, in case of an ongoing bidding process, if the bids have already been submitted by bidders prior to the notification of these Guidelines and/or SBDs, then if there are any deviations between these Guidelines and/or the SBDs and the proposed RfS, PPA, PSA (if applicable), the RfS, PPA and the PSA shall prevail.

4.7. The above referred Guidelines dated 03.08.2017 issued by MoP have been amended from time to time on 14.06.2018, 03.01.2019, 09.07.2019, 22.10.2019 and lastly on 25.09.2020.

4.8. It is submitted that pending the issuance of the Standard Bidding Documents by the Central Government, the Petitioner is conducting the competitive bidding process for procurement of Solar power from time to time based on the bid documents containing detailed provisions that are consistent with the Guidelines as amended from time to time read with the deviations approved by the Commission vide Order dated 15.03.2018 in Petition No. 1706 of 2018, Order dated 13.01.2020 in Petition No. 1848 of 2019, Order dated 19.05.2022 in Petition No. 2069 of 2022, and Order dated 07.03.2023 in Petition No. 2139 of 2022 & IA No. 01 of 2013.

4.9. As per the amendment vide Resolution dated 22.10.2019 (notified on 23.10.2019) in the Guidelines, various provisions relating to adoption of tariff by Appropriate Commission have been modified and relevant provisions of the same are as under.

“Clause 10.4 – “Subject to provisions of the Act, the distribution licensee or the Intermediary Procurer, as the case may be, shall approach the Appropriate Commission for adoption of tariffs by the Appropriate Commission in terms of Section 63 of the Act. In case, the Appropriate Commission does not decide upon the same within sixty days of such submission, the tariffs shall be deemed to be have been adopted by the Appropriate Commission”.

Clause 12 (c) – “It is presumed that in terms of Clause 10.4 of these Guidelines, the tariff will be adopted by the Appropriate Commission within 60 days of such submission. However, notwithstanding anything contained in these Guidelines, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days, shall entail a corresponding extension in financial closure.”

Clause 14 (iii) - "It is presumed that in terms of Clause 10.4 of these Guidelines, the tariff will be adopted by the Appropriate Commission within 60 days of such submission. However, notwithstanding anything contained in these Guidelines, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days, shall entail a corresponding extension in scheduled commissioning date."

4.10. The Commission has notified the GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 dated 17.04.2010. Thereafter, the said Regulations have been amended vide First Amendment dated 03.03.2014, Second Amendment dated 20.04.2018 and Third Amendment dated 08.04.2022. In accordance with the GERC (Procurement of Energy from Renewable Sources) (Third Amendment) Regulations, 2022 dated 08.04.2022, the stipulated RPO percentage targets for the obligated entities of Gujarat from FY 2021-22 onwards are as under:

Year	Minimum Quantum of Purchase (%) from RE Sources				
	Wind RPO (%)	Solar RPO (%)	Large Hydro HPO (%)	Other RPO% (Biomass, Bagasse & Bio-fuel Cogeneration, MSW and Small/Mini/Micro Hydel) (%)	Total (%)
2021-22	8.25	8.00	-	0.75	17.00
2022-23	8.25	8.00	-	0.75	17.00
2023-24	8.40	9.50	0.05	0.75	18.70
2024-25	8.55	11.25	0.10	0.80	20.70

4.11. Considering the fact that the generation benefit from the PPAs executed under Competitive Bidding shall be made available after a lapse of about 18-24 months and that the same shall be useful in achieving RPO compliance of ensuing years which are in increasing trend as notified by the Commission and MoP as well as for keeping overall power purchase cost under control as the tariffs of thermal power is on increasing trend whereas the tariffs of RE power are fixed for the period of 25 years, the Petitioner GUVNL on behalf of its subsidiary distribution companies had invited Tender dated 29.09.2022 through Competitive Bidding Process followed by e-reverse auction for procurement of 600 MW grid connected power from Solar PV projects located in 600 MW solar park at Khavda (GSECL Stage 1) with Greenshoe option of additional capacity upto 600 MW through Competitive Bidding Process followed by e-reverse auction vide RfS No. GUVNL/600 MW/Solar (Phase XVII) dated 29.09.2022 in accordance with intimation of initiation of said bidding process to the Commission and pursuant to approval granted in Order dated 28.09.2022 in Petition No. 2139 of

2022 passed by the Commission.

- 4.12. The Petitioner had also published a public notice dated 30.09.2022 of 'Notice Inviting Tender' in two national newspapers regarding the aforesaid tender.
- 4.13. It is stated that the Tender/Bid Documents viz. RfS and PPA were hosted on the website of GUVNL for information as well as on e-bidding portal for downloading the official copy of the Tender Documents for participation in bidding procedure including e-reverse auction. Further, the Petitioner also held a Pre-Bid Meeting through video conference on 02.11.2022 at GUVNL, Vadodara, wherein key bid parameters, provisions of bid documents & timelines were discussed. The Minutes of Pre-bid meeting were also issued and hosted on websites of GUVNL and on e-bidding portal. The copy of Notice Inviting Tender with relevant extract of newspapers, Bid Documents including RfS, Draft PPA, Corrigendum & Addendums are filed with the Petition.
- 4.14. The last date of bid submission in the tendering process initially was 15.11.2022 and the same was extended up to 24.04.2023. The Technical Bid Opening was held on 27.04.2023 in presence of the Bid Evaluation Committee constituted by the Petitioner GUVNL consisting of (i) Shri H.N. Shah, General Manager (RE), (ii) Smt. Bhavani Ghattamaneni, Chief Finance Manager (Trading), (iii) Shri Parthiv Bhatt, Company Secretary, and (iv) Shri Nilay D. Joshi, COA, (F&A) as members for technical evaluation. The report of the Bid Evaluation Committee signed by the members is also filed with the Petition. The Petitioner had received online bids from 10 bidders offering aggregate capacity of 2600 MW, which were technically qualified by the Bid Evaluation Committee.
- 4.15. These 10 bidders who had submitted bids were technically qualified as per the report of the Bid Evaluation Committee and in accordance with the said report, the Financial Bids of all 10 bidders were opened on 03.05.2023 on e-bidding portal in presence of the Bid Evaluation Committee.
- 4.16. As per terms and conditions of tender, 7 bidders with aggregate capacity of 2100 MW qualified for e-reverse auction and e-reverse auction was conducted by the Petitioner GUVNL on 03.05.2023. Accordingly, the Petitioner GUVNL conducted e-reverse

auction for allocating 600 MW capacity from amongst 2100 MW capacity qualified for e-reverse auction out of the capacity of 2600 MW for which bids were received.

- 4.17. The e-auction report generated at the Bharat-electronic tender's portal is also filed with the Petition. Following prices at CTU periphery were discovered at the closure of e-reverse auction held on Bharat-electronic tender's portal:

Rank	Bidder's Name	Rate (Rs. / KWH)	Quoted Capacity (MW)	Eligible Capacity (MW)
L1	NHPC Limited	2.73	200	200
L2	SJVN Green Energy Limited	2.88	200	200
L3	NTPC Renewable Energy Limited *	2.89	400	200
Total			800	600

** NPTC has quoted 400 MW capacity and is eligible for 200 MW.*

- 4.18. It is stated that as per terms and conditions of the tender, there is allocation of additional 600 MW capacity through Greenshoe Option at L1 tariff to organizations owned / controlled by Government of Gujarat who have participated in the tender for setting up the solar projects in any solar park at Khavda developed by the Gujarat Government owned or controlled organizations under Mode 8 of UMREPP Guidelines. It is also stated that no organization owned/ controlled by Government of Gujarat except Gujarat Industries Power Company Limited (GIPCL) has participated in the tender. Therefore, the Petitioner GUVNL vide letter dated 04.05.2023 had requested GIPCL to convey their willingness for availing 600 MW capacity under Greenshoe Option at L1 tariff of Rs. 2.73 / unit. In response to the same, GIPCL vide letter dated 04.05.2023 has given their consent for 600 MW Greenshoe Capacity at tariff of Rs 2.73 / unit to be set up in their own Solar Park at Khavda being developed under Mode 8 of UMREPP Guidelines.
- 4.19. It is stated that after taking into consideration the Base Capacity of 600 MW at Rs 2.73 – 2.89/unit and Greenshoe Capacity of 600 MW at Rs 2.73 / unit, the weighted average tariff for 1200 MW capacity works out to Rs 2.7817 / unit at CTU Periphery. Further, after considering the impact of 4% transmission losses to the tune of 11-12 paisa / unit, the landed tariff at GETCO Periphery works out in the range of Rs 2.84 – 3.01 / unit with weighted average rate of Rs 2.8929 / unit.
- 4.20. Accordingly, the Petitioner GUVNL has issued Letter of Intents (LoIs) to L1, L2, and

L3 Bidders at the tariff of Rs. 2.73-2.89 per unit and additional 600 MW capacity under Greenshoe Option at L1 tariff of Rs. 2.73 per unit. In view of above, the total allotment of 1200 MW capacity under the tender is as under:

Rank	Bidder's Name	Base Capacity (MW)	Tariff (Rs/Unit)
L1	NHPC Limited	200	2.73
L2	SJVN Green Energy Limited	200	2.88
L3	NTPC Renewable Energy Ltd	200	2.89
Greenshoe Option	Gujarat Industries Power Company Limited	600	2.73
Total		1200	

4.21. In addition to the above, the Petitioner GUVNL also submitted the following aspects to be considered in relation to tie up of Solar Power from the projects to be set up in Solar Park at Khavda:

4.23.1. The RPO stipulated by the Commission is a minimum requirement and there is no restriction in buying power in excess of RPO taking into consideration various techno-commercial aspects. In fact, if there is surplus RE power in future, the Petitioner can sell RE power in open market/power exchanges for creating additional revenue streams as the Commission has already provide a separate consumer category and tariff for exclusive RE supply. The demand from various industrial consumers for exclusive supply RE power is increasing as the same entails various benefits such as availability of green funding, increased brand value etc. The future economic growth is expected to be woven around green energy on account of increasing focus on climate change at global as well as national level. However, for achieving the above objectives and for long term sustainability, rapid increase in RE capacity addition by staying aligned to market trends, would be required.

4.23.2. The Petitioner GUVNL also stated some of the aspects of KSY Scheme and solar power requirement are as under.

- a. Government of Gujarat has come out with Kisan Suryoday Yojana – a scheme for supplying solar power to Agricultural Consumers in the State of Gujarat during solar hours through comparatively cheaper solar power.

- b. As per the data submitted by SLDC, vide email dated 25.04.2023 for the period from January to April 2023, DISCOMs are serving agricultural demand of 4000 MW power during morning peak and around 2500 MW power during evening peak.
- c. The evening peak load of agricultural consumers is planned to be shifted to day time/solar hours under the scheme for bringing entire agricultural load during solar hours.
- d. These objectives of the scheme are expected to reduce the peak/non-solar hour power requirement as the cost of power during peak/non-solar hours is generally high.
- e. To meet the above objectives of catering Agriculture demand during day time through comparatively cheaper solar generation, extensive solar capacity addition is required.
- f. It is to mention that presently GUVNL is purchasing 1000 MW RTC Power on Medium term basis at the rate of Rs. 3.61/unit in addition to purchase of costlier power on short term basis with tariff above Rs. 6/unit.

4.23.1. It is stated that the projects to be set up in the Khavda RE park are proposed to be interconnected with grid through CTU Network. In terms of CERC Sharing Regulations 2020 notified by CERC, the ISTS transmission charges are waived for those renewable energy projects which are commissioned before 30.06.2025. Thereafter the transmission charges are proposed to be levied @25% of normal charges from July, 2025 to June, 2026, 50% during July, 2026 – June, 2027, 75% during July, 2027–June, 2028 and 100% from July, 2028 onwards. The estimated ISTS transmission charges normally applicable are to the tune of Rs. 3,50,000 per MW per month which works out to Rs. 0.61/unit at 80% PLF and Rs. 1.94/unit at 25% CUF. Although there is waiver of ISTS transmission charges, the ISTS transmission losses are not waived and are applicable for conveyance of power through CTU Network which results into implication of about 11-12 paise per unit considering estimated transmission losses @4%.

4.23.2. The Petitioner GUVNL also stated the tariff discovered in the e-RA in last three (3) non-park based tender as under:

Sr. No.	Phase	Tender capacity (Base + Greenshoe) (MW)	Capacity tied up (MW)	Tariff discovered in e-RA (INR/kWh)	Month of E-RA
1.	XIV	500+500	1000	2.30 - 2.31	June-22
2.	XVI	750+750	520	2.49 - 2.66	Sept - 22
3.	XVIII	500+500	860	2.51 - 2.52	Jan-23
4.	XIX	500+500	Pending	2.71 - 2.75	April-23

- 4.23.3. The Petitioner GUVNL had floated tender vide RFS dated 18.03.2020 (Phase IX) for 700 MW capacity from Dholera Solar Park in which tariffs of Rs 2.78 – 2.81/unit were discovered in August, 2020. GERC raised various queries and concerns particularly on discovery of higher tariffs in light of tariff of Rs. 1.99/unit discovered at that time in non-park based tender and held that if this tariff is adopted, the burden of higher tariff will be loaded on the consumers of State. Therefore, in consultation with State Government and pursuant to the Commission's Order dated 29.01.2021, it was decided to undertake fresh tendering for 700 MW Solar Capacity at Dholera Solar Park and to tie up the power at lower tariffs discovered out of both the tenders. However, the matter went into litigations and is presently pending before APTEL.
- 4.23.4. It is also stated that the tariffs of Rs 2.78–2.81/unit discovered in Dholera tender were without implication of BCD & GST. Also, tariffs tied up by the Petitioner GUVNL for projects in Raghnesda and Dholera Solar Park through competitive bidding were in the range of Rs. 2.65-2.75/unit. Thereafter, the Basic Custom Duty of 40% on Modules and solar inverters have been imposed and GST has also increased from 5% to 12% which impacts about 55 paisa and 10 paisa respectively.
- 4.23.5. The delivery point in all tenders previously issued by the Petitioner GUVNL for non-park based projects was at GETCO Periphery. Further, in the tenders for Dholera Solar Park the delivery point was at GETCO Periphery as the park is inter-connected with GETCO Network. In case of Raghnesda Solar Park although the park is connected with ISTS Network, the delivery point was kept at GETCO Periphery as there was waiver of ISTS transmission charges and losses at the relevant time. In case of present tender for setting up of solar projects in Khavda Solar Park, the delivery point is at the 220 KV bus bar of the 220 / 400 KV Sub-station of CTU at Khavda i.e. at CTU Periphery.