

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 2050 of 2022.

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 for Long Term Procurement of Electricity from Thermal Power Stations set up on Design, Build, Finance, Own and Operate basis and sourcing fuel as provided under Model Bidding Documents including allocation of coal under b (i), b (iii) and b (iv) of Shakti Policy.

Petitioner : Gujarat Urja Vikas Nigam Limited (GUVNL)
Represented By : Mr. K. P. Jangid, Mr. Sanjay Mathur and Mr. Pratik Joshi

CORAM:

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

Date: 14/03/2022.

DAILY ORDER

1. The present matter was heard on 07.03.2022.
2. Mr. K. P. Jangid, appearing on behalf of the Petitioner Gujarat Urja Vikas Nigam Limited submitted that the present Petition has been filed under Section 86 read with Section 63 of the Electricity Act, 2003 for approval of deviations from the Standard Model Bidding Documents in accordance with the Guidelines notified by Ministry of Power under Section 63 for procurement of electricity on long term basis from thermal power stations set up on Design, Build, Finance, Own and Operate (DBFOO) basis and sourcing fuel as provided under Model Bidding Documents including allocation of coal under B (I), B(III) and B(IV) of SHAKTI [Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India] Policy. It is submitted that the Commission has also notified the Guidelines for Procurement of Power by distribution licensees in 2013, wherein it is also stated

that approval of the Commission shall be sought in the event of any deviations sought from the bidding conditions contained in the MoP Guidelines.

- 2.1. It is submitted that although the Petitioner has been tying up power on long term, medium term as well as short term basis from time to time in order to ensure availability of adequate power as per the requirements at competitive rates in order to meet anticipated demand but situation that has arisen is that there is no capacity addition of conventional generation in pipeline. It is submitted that as on 31.12.2021, the Petitioner has tied up capacity of 19,099 MW from Conventional sources on long/medium term basis out of which around 2,645 MW capacity is Gas based capacity. It is further submitted that despite trying to tie-up gas, the Petitioner is unable to get competitive rates and since long we are using such gas based capacity whenever there is availability of gas at competitive rates. The peak power demand of State has considerably increased during 2021 and there is an increase in power demand during day period (5AM-9PM) due to shifting of additional load in phased manner in upcoming period. Moreover, it is anticipated that same will further increase due to day power demand to be catered by State DISCOMs.
- 2.2. It is also submitted that the Petitioner is having 4280 MW Wind capacity operational out of total 8969 MW wind capacity of the State and the Petitioner is having 3007 MW Solar capacity operational out of total 6158 MW Solar capacity of the State. The generation from wind and solar is contingent to wind velocity and solar irradiance and is infirm in nature. Accordingly, the same cannot be considered as firm capacity for meeting peak demand and adequate thermal generation capacity is required to be operated for balancing the grid requirement.
- 2.3. It is submitted that since there are no new thermal units/capacity under development stage in the State of Gujarat and the existing coal/lignite based capacity would have to be decommissioned/retired in phased manner during upcoming years and looking to the demand projections, in 2025 it is estimated that the demand is likely to be almost 25000 MW and in order to meet this demand, required capacity tie-up would be around 29,674 MW and considering 19500 MW capacity to be available at that time it is necessary that additional capacity is tied up because otherwise there will be shortage of power and hence, present Petition is

preferred. Another issue that is being presently faced is that in morning and evening hours, i.e. morning 5 to 9 and evening 5 to 9, there is huge shortage and it is not only in Gujarat but even the country as such is also facing that problem. Although, Renewable capacity is tied up wherein historically technology advancement has taken place but that also is helping upto limited point due to infirm nature.

- 2.4. It is submitted that Govt. of Gujarat had requested Ministry of Power, Govt. of India for allocation of domestic coal under SHAKTI scheme to enable State to invite competitive bids for around 4000 MW capacity for meeting future power requirements and accordingly, Ministry of Power has recommended Ministry of Coal, Govt. of India to assign coal quantity of 19.712 MTPA to Gujarat of Grade 13 quality which is equivalent to around 3915 MW capacity.
- 2.5. It is further submitted that Coal India has conveyed that supply of coal would commence from the year 2022-23 based on coal availability at different collieries during that period. It is submitted that with implementation of Kisan Suryodaya Yojana, it is anticipated that aggregate load may witness incremental load (due to load shift) of around 4250 MW by 2022-23 assuming power is supplied in two shifts during a day. This incremental load during day period would be in addition to growth of demand for other category of consumers. Therefore, it necessary to have in-place adequate conventional generation capacity available as balancing generation for meeting base / peak load and ensuring uninterrupted power supply to the consumers of the State at economical rates more specifically when Renewable Generation is unavailable.
- 2.6. It is submitted that domestic coal linkage allocated by Ministry of Coal under SHAKTI Policy to the Petitioner wherein coal supply is envisaged from 2022-23 onwards can be put to use by tying up coal based capacity on long term basis through tariff based competitive bidding for meeting future power demand of State DISCOMs. In respect of domestic coal allocation, M/s Coal India has confirmed that coal supply would be based on coal availability at different collieries during relevant period at trigger level of model Fuel Supply Agreement (FSA). In case, coal availability is less, requirement may be met from other coal companies, where coal is available. Therefore, in order to meet the power requirement of its subsidiary

DISCOMs and to meet its long term demand-forecast, the Petitioner intends to procure power through competitive bidding process on long term basis (15 years) for the period from 2023 onwards.

- 2.7. It is submitted that Ministry of Power vide its Resolution dated 06.03.2019 has issued Guidelines for long term Procurement of Electricity from Thermal Power Stations set up on Design, Build, Finance, Own and Operate basis and sourcing fuel as provided under Model Bidding Documents including allocation of coal under B (i), B(iii) and B (iv) of Shakti Policy. The Commission vide Notification No. 2/2013 has also notified the Guidelines for Procurement of Power by distribution licensees wherein it is also stated that approval of the Commission shall be sought in the event of any deviations from the bidding conditions contained in the MoP Guidelines.
- 2.8. It is further submitted that the proposed quantum of capacity for which tender is to be floated by the Petitioner is within the projected additional forecast for the next three years following the year of expected commencement of supply under the aforesaid tender based on SHAKTI coal i.e. 2023. In accordance with MoP Guidelines, the Petitioner has started the initiation of stakeholders consultation process for tie up of upto 3000 MW power on long term basis.
- 2.9. It is submitted that the Petitioner had prior to filing this Petition, published a Notice Inviting Tender in two National newspapers and one newspaper of vernacular language on 25.08.2021 and also uploaded the Draft Bid Documents (RFQ, RFP & PSA) on DEEP Portal of Ministry of Power and Petitioner's website to accord its wider publicity. It is submitted that as per the Guidelines, the Petitioner has invited the suggestions/queries from the prospective bidders and accordingly the Petitioner has received queries/comments/suggestions from various bidders and the Petitioner has also provided clarifications to the queries of bidders. The Petitioner has prepared draft bidding documents based on Model Bid Documents of Ministry of Power with certain deviations from Model Bidding Documents in order to ensure commercial clarity in respect of contractual provisions and to safeguard the interest of the Petitioner as well as prospective bidders. Further, certain modifications in the Bid Documents are proposed in order to align contractual terms in accordance with prevailing Rules & Regulations and taking into

consideration the concessional fuel being allocated to 'Seller' by the Petitioner and to avoid undue cost implication on the end consumers. The proposed deviations are intended to provide clarity to both parties i.e. the Procurer GUVNL and the generator(s) as Seller.

2.10. It is submitted that one major change sought is deviation in respect of Delivery Point to be GETCO periphery because generally it is envisaged that the power has to be evacuated by the procurer from bus-bar of generator but in case when plant is located outside Gujarat then arrangement through open access has to be made till GETCO periphery involving transmission charges & losses. Hence, in order to provide clarity and uniformity in evaluation, the generator to be made responsible to deliver power upto Gujarat periphery. Moreover, in absence any such clarity regarding transmission charges and/or losses, when there are lot of changes in same, it is necessary that relevant information be provided by the Petitioner to enable bidders to quote their tariff. Hence, in order to deal with the transmission charge and transmission losses, the Petitioner will indicate that these are the charges and losses to be considered by the bidders while quoting. Also, on 24.08.2021, the Petitioner has already initiated pre-consultative process by intimating regarding draft documents to the parties and sought their views and comments and based on certain requests and clarifications provided, the Petitioner has prepared draft bidding documents for approval of the Commission. Other deviations that are sought in RfQ, RfS and PSA are detailed in the Petitioner with necessary explanation for seeking same including Bid Security document which are as per previous bidding.

2.11. In response to the Commission as to whether any similar process has been undertaken in other States by filing Petition before other States Commissions, it is submitted that there is one Petition filed by developers in the State of Madhya Pradesh but bidding documents are different from bid documents filed herein due to location of coal mines being far as compared to Madhya Pradesh. Moreover, as per present bidding documents there is no restriction for submission of bid by generator/developer located outside Gujarat and the Petitioner has also taken up the matter regarding reconsideration of enhancing drawl limit at State periphery by Central Government. Moreover, project/unit, which are already commissioned can also participate in bidding process. Thus, both type of plants/units i.e. plants which

are commissioned and plants which are likely to be commissioned can participate in bidding process.

3. We have considered the submissions made by the Petitioner. We note that the Petitioner is a licensee carrying out bulk purchase and bulk sale of electricity on behalf of the State-owned distribution licensees. The present Petition is filed under Section 63 read with Section 86(1)(b) of the Electricity Act, 2003 for approval of deviations from Guidelines of MoP, Govt. of India for procurement of electricity on LTOA basis from Thermal Power Stations set up on Design, Build, Finance, Own and Operate basis and sourcing fuel as provided under Model Bidding documents including allocation of coal under Shakti Policy. The Commission has also heard Mr. Jangid on other relevant issues.
 - 3.1. We note that Section 62 of the Electricity Act, 2003 empowers the Commission to determine the tariff in accordance with the provisions of this Act. Section 86 (1) (b) states that the State Commission shall regulate the power procurement of the Distribution Licensees, including (i) the procurement process, (ii) the price at which electricity shall be purchased and (iii) agreement for purchase of power and such power supply to the distribution licensees of the State by the generating company or the licensees or other sources. Thus, it is apparent that the Commission has jurisdiction to decide the matter and accordingly we decide to admit the Petition.
 - 3.2. We note that the present Petition has been filed by the Petitioner seeking approval of deviations from Ministry of Power Guidelines dated 05.03.2019 for long term procurement of electricity from power stations set up on Design, Build, Finance, Own and Operate basis. Hence, we are of view that it is necessary for the Petitioner to issue public notice in two daily newspapers, one in English language and one in vernacular language i.e., Gujarati, inviting suggestions and objections on the present Petition from the stakeholders and thereafter, the Commission shall decide the matter after considering the suggestions/objections received from the public.
 - 3.3. Accordingly, we hold that a public hearing shall be conducted to take into consideration the views/comments/suggestions/objections of the stakeholder before deciding the present matter. The Petitioner is, therefore, directed to issue a public notice in one daily Gujarati Newspaper and one English Newspaper having

wide circulation in the State/National level stating that they have filed Petition No. 2050 of 2022 before the Commission for approval of deviations from the Ministry of Power Guidelines dated 05.03.2019 for procurement of electricity on long term basis from power stations set up on Design, Build, Finance, Own and Operate basis. 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 on or before 15 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, 3 Zone 5, GIFT City, Gandhinagar - 382355 in five copies along with affidavit in support of their submissions with a copy to the Petitioner within 15 days from the date of issuance of public notice and also mention in the public notice that the date of hearing is scheduled by the Commission is on 12.04.2022 at 11:30 A.M. Upon receipt of the comments/views/objections/suggestions from the stakeholders, the Petitioner is at liberty to file its reply, if any, to the Commission. 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 provided to the Commission and invite comments/suggestions from the stakeholders.

3.4. We also direct the staff of the Commission to provide the copy of representation, if any, received in the present matter to the Petitioner to enable filing reply/response to the same and to inform/issue hearing notice for the present Petition to such stakeholders/objectors who file their submissions/objections/comments before the Commission in the matter.

3.5. The next date of hearing will be on 12.04.2022 at 11:30 A.M.

4. We order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Sd/-
[Anil Mukim]
Chairman

Place: Gandhinagar.

Date: 14/03/2022.