

BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR
PETITION NO. _____ OF 2023

IN THE MATTER OF:

Petition under Section 86 (1) (b) and (e) of the Electricity Act 2003 for approval of amendments to the Power Purchase Agreement dated 19.02.2000 read with Supplementary Agreement dated 17.12.2014 for procurement of power from 2X125 MW lignite based thermal power plant established by GMDC at Akrimota, Kutch, Gujarat.

Gujarat Urja Vikas Nigam Limited
Sardar Patel Vidyut Bhavan
Race Course,
Vadodara - 390 007

Petitioner

Versus

Gujarat Mineral Development Corporation Limited
Khanij Bhavan, 132 Feet Ring Road,
Near Gujarat University Ground, Vastrapur,
Ahmedabad, Gujarat 380 052 (Address)

Respondent

PETITION UNDER SECTION 86 (1) (B) OF THE ELECTRICITY ACT 2003 FOR APPROVAL OF AMENDMENTS TO THE POWER PURCHASE AGREEMENT DATED 19.02.2000 READ WITH SUPPLEMENTARY AGREEMENT DATED 17.12.2014

MOST RESPECTFULLY SHOWETH:

1. The Government of Gujarat had notified the Gujarat Electricity Industry (Reorganization and Regulation) Act 2003 in May 2003 for the reorganization of the State Electricity utilities in the State of Gujarat. Pursuant to the Gujarat Electricity Industry Reorganization and Comprehensive Transfer Scheme, 2003 notified under the Gujarat Electricity Industry (Reorganization and Regulation) Act 2003, erstwhile Gujarat Electricity Board has been reorganised and its functions have been vested in different entities. The function of Bulk purchase and Bulk sale of power is assigned to the Petitioner - Gujarat Urja Vikas Nigam Ltd. (GUVNL) as per the re-organization scheme.
2. The Power Purchase Agreements entered into by erstwhile Gujarat Electricity Board had been vested in the GUVNL. One Such PPA was with the Respondent, Gujarat Mineral Development Corporation (hereinafter

“GMDC”) dated 19.02.2000 in relation to their 250 MW lignite based thermal power plant located at Akrimota, Kutch, Gujarat (hereinafter “Akrimota Thermal Power Station” or “ATPS”). A copy of the PPA dated 19.02.2000 is attached hereto and marked as Annexure A. The commencement of supply of power from ATPS started from May 2006.

3. The PPA was on cost plus tariff basis and the PPA, inter alia, provided for the parameters and formula for determination of tariff for sale of electricity.
4. The Hon’ble Gujarat Electricity Regulatory Commission (GERC), under its Order dated 10.10.2000 in case No. 19/1999 directed the GUVNL to attempt to reduce the cost of power purchase from the Independent Power Producers (IPPs) through consultative approach. The Government of Gujarat initiated actions in this regards by writing a letter dated 14.03.2002 to all IPPs including GMDC, emphasizing the need to reduce the cost of power being purchased by GUVNL from their Power Projects in the larger interests of the end users of electricity and also constituted a Negotiating Team to discuss various parameters of the PPAs with the IPPs. The Negotiating Committee constituted by the Government of Gujarat and GMDC discussed all issues relating to and / or arising from the PPA including but not limited to the claims / disputes of GMDC as also areas / parameters on which agreement can be reached between the Parties with a view to reduce tariff.
5. The Government of Gujarat constituted a second Negotiating Committee in order to further reduce the cost of power purchase by revising the tariff parameters under the PPA. Subsequent to discussions between the Negotiating Team and GMDC, understandings have been reached on the modifications of certain parameters of the PPA and resolution of the PPA related issues. The Negotiating Committee submitted their report to the Government of Gujarat and the same was approved by Government of Gujarat with certain modifications vide their letter No.PPA-2005-2949-K dated 6-10-2006.
6. Accordingly, both GUVNL and GMDC have agreed to revise the certain technical parameters stated in the PPA and thereafter, the Supplementary Agreement was executed between the parties on 17.12.2014. A copy of the

Supplementary Agreement dated 17.12.2014 is attached hereto and marked as Annexure B.

7. It is submitted that power from the ATPS is amongst the lowest of lignite based stations in Gujarat as per the merit order despatch, the availability from the project is not optimal leading to GUVNL to procure electricity from other sources. GUVNL is required to procure the shortfall in power from incremental costlier sources such as marginal generating stations, short term markets including power exchanges which results in increase in overall power purchase cost which burdens the end consumers. If there is improvement in the plant performance, the resultant increase in incremental generation by the GMDC will be cheaper power and GUVNL can avoid buying costlier power from other sources.
8. GMDC had filed a petition being Petition No. 2127 of 2022 in regard to the approval of the additional capital expenditure in relation to the compliances with the Notification dated 07.12.2015 issued by the Ministry of Environment, Forest and Climate Change (MOEFCC) notifying the Environment (Protection) Amendment Rules, 2015 and subsequent amendments thereto. The Hon'ble Commission passed the Order dated 17.01.2023 in the Petition no. 2127 of 2022 granted in principle approval for one time capital expenditure with certain directions including transparent and competitive procurement process.
9. That GMDC in the said Petition had raised certain issues in regard to the inability of the station to achieve the desired parameters and that GMDC has suffered substantial loss. In this regard, GMDC had stated that it would approach Government of Gujarat with respect to normative performance parameters and accordingly
10. GMDC had approached the Government of Gujarat and various meetings was held between GMDC and GUVNL officials under the Chairmanship of the Principal Secretary, Energy and Petrochemical Department, Government of Gujarat, regarding additional capitalization and renegotiation of the PPA entered into between GMDC and GUVNL.
11. GMDC informed that it is not able to achieve its stipulated availability / generation and is barely able to supply 40-50% of the intended power supply in a year which would lead to GUVNL purchasing costlier power from other