

sources and GMDC itself is suffering heavy loss as it unable to recovery its actual cost of generation. GMDC sought relaxation in order to improve its performance and availability and supply more reliable and continuous power to GUVNL.

12. The submissions of GMDC as recorded in one the Minutes of Meeting is reproduced herein:

“GMDC submitted that the power supply from their plant is cheapest in merit order in the state and their plant is one of the best machines available for lignite based power generation. However, stringent norms of PPA executed with GUVNL and certain technical constraints lead to techno commercial issues which impacted the availability of their station. As a consequences, GMDC was not able to recover its Fixed Charges and at the same time GUVNL had to rely on costly power purchase from marginal supplier. GMDC has submitted broad summary of their proposal and compared various operational & tariff parameters of their plant with other lignite based power plants in the state. A statement showing comparison of parameters of different lignite based power plants, GMDC's request and applicable GERC norms was submitted by GUVNL.”

13. On 12.08.2022, in the meeting held between GMDC and GUVNL officials under the Chairmanship of the Principal Secretary, Energy and Petrochemical Department, Government of Gujarat, various issues on the renegotiation of the terms of the PPA was discussed. A copy of the Minutes of Meeting dated 12.08.2022 is attached hereto and marked as Annexure C.
14. In the meeting, discussions were held on additional capital expenditure claimed by GMDC wherein it was agreed that the GMDC shall approach this Hon'ble Commission for approval which is the subject matter of Petition No. 2127 of 2022. Further in regard to renegotiation of the PPA, various parameters were discussed and the agreement was reached for revision on certain parameters whereas revision of other parameters were not accepted. The parameters to be revised were as under:
- a. Operation and Maintenance expenditure
 - b. Return on Equity
 - c. Station Heat Rate
 - d. Auxiliary Consumption

15. It was agreed that GUVNL and GMDC shall seek approval of the Board of Directors and sign the Supplementary Agreement which shall be subject to the approval of this Hon'ble Commission. The Minutes also recorded as under:

"Hon'ble Principal Secretary, EPD stated that GMDC shall endeavor to improve the performance parameters as well as the availability of the plant and bring them to better than normative levels in order to justify the additional capital cost and to increase the quantum of reliable power supply from Akrimota plant to GUVNL."

16. The Order dated 17.01.2023 in the Petition No. 2127 of 2022 also records the Minutes of Meeting held on 12.08.2022 and it was held that the parties may approach the Hon'ble Commission for approval of the Supplementary Agreement:

"8.43. We note that the 'Minutes of Meeting-MoM' for meeting held on 12.08.2022 in presence of senior officials of the (i) the Energy & Petrochemicals Department, (ii) the Petitioner GMDC and (iii) the Respondent GUVNL is filed by the Petitioner. It is submitted during the hearing by the Respondent GUVNL that aforesaid MoM dated 12.08.2022 is forwarded to Government of Gujarat for approval, which is awaited. It is also admitted / consented on behalf of both the parties that the decision in said MoM dated 12.08.2022 is with their consent and is acceptable to both parties. Thus, it has so emerged in present matter that both parties are ready & willing to abide as per the decision recorded in Minutes of Meeting held on 12.08.2022 post approval of same by the Government of Gujarat, wherein it is recorded that as against the request of GMDC for allowance of one-time additional capital expenditure of Rs. 293 Crores, it has been agreed that GMDC shall approach GERC for approval of same. Further, regarding renegotiation of the PPA, it has been decided that both parties will seek approval of their respective Board of Directors and accordingly sign Supplementary Agreement, which shall be subject to approval by GERC for which GUVNL shall file Petition before GERC for approval of said Supplementary Agreement signed with the Petitioner GMDC. Pending filing of such Petition, if any, it is premature to express any views or decision on it. The parties may approach the Commission for the same, if so desired."

17. That subsequent to the approval of the Board of Directors of GUVNL, the above revisions agreed in the Minutes of Meeting were sent to Government of Gujarat, Energy and Petrochemical Department for approval vide Letter dated 23.09.2022 and the Government of Gujarat vide Letter dated 06.01.2023 has stated as under:

"2. Accordingly, Government has accorded an approval to the proposal of GUVNL regarding Modification of terms of Power Purchase Agreement executed between GMDC and GUVNL for GMDC's Akrimota Thermal Power Station (ATPS) subject to the

approval of Hon'ble Gujarat Electricity Regulatory Commission(GERC).

Further, in implementation of the the same, any direct or indirect financial assistance towards increase in the project cost will not be provided by the State Government”

A copy of the Letter dated 06.01.2023 is attached hereto and marked as Annexure D.

18. That Article 19.1 of the PPA dated 19.02.2000 recognises that the PPA can be amended by written agreement. Article 19.1 reads as under:

“19.1 Amendments

This PPA shall not be amended except by written agreement between the Parties and no other purported amendment shall be effective.”

19. Accordingly the Supplementary Agreement is entered into by GUVNL and GMDC on 06-09-2023 for amendments of the PPA dated 19.02.2000 read with Supplementary Agreement dated 17.12.2014. A copy of the Supplementary Agreement is being submitted for approval of this Hon'ble Commission which is attached hereto and marked as Annexure E.

20. The details of the revision of the parameters are as under:

(A)Operation and Maintenance Expenses

21. The existing clause in the PPA dated 19.02.2000 read with Supplementary Agreement dated 17.12.2014 was as under:

10.5.4 O&M Expenses and Insurance Expenses

The O&M Expenses and Insurance Expenses in any month “m” shall be calculated as under:

$$OME = \sum \left(\frac{CCu \times 0.02 \times d \times F_{ESC}}{365} \right) \times F_{ESC} + INS$$

$$\text{Such that } OME \leq \frac{(0.03 \times CCu) \times d \times F_{ESC}}{365}$$

$$INS \leq \frac{(0.01 \times CCu) \times d}{365}$$

$F_{ESC} = 1$ for the first full Year of operation after the Entry into Commercial Service of each Unit and

$F_{ESC} = (0.7WPI_n + 0.3CPI_n) \div (0.7WPI_b + 0.3CPI_b)$ or $(1.1)^{p-1}$ whichever is lower for each succeeding Year