

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION  
GANDHINAGAR**

**Petition No. 1824 of 2019**

**In the Matter of:**

**Miscellaneous Civil Application for direction to the opponent to grant approval for technical specification of ABT meter for solar captive power plant to be installed at M/s KPI Global Infrastructure Limited's Solar site or the Petitioner and to accept the application and grant all approvals which are applied for by the Petitioner and for direction to sign and approve the wheeling of solar power to the Petitioner.**

Petitioner: M/s. Shivram Dyeing and Printing Mill  
191/3, 191/4, 1165 C & DD,  
New Barmoli Road, Khatodara, Surat – 395002.

Represented by: Learned Advocate Ms. L. K. Bhaya

V/s.

Respondent: Torrent Power Limited  
Torrent House, Station Road, Surat – 395003.

Represented by: Shri Chetan Bundela with Ms. Luna Pal.

**CORAM:**

**Shri Anand Kumar, Chairman**

**Shri P. J. Thakkar, Member**

**Date: 04/06/2020**

**ORDER**

1. The present Petition has been filed by M/s Shivram Dyeing & Printing Mill seeking following reliefs:

(a) To admit and allow the petition;

(b) To hold that the control period of the GERC Tariff Order No.3 of 2015 dated 17.08.2015 for determination of tariff for procurement of power by Distribution Licensees and others from Solar Energy Projects for the State of Gujarat will continue till the Commission passes fresh Tariff Order; or in the

alternative to direct Torrent Power Limited (TPL) to give approval of technical specifications of ABT Meter for Solar Captive Power Plant to be installed at the solar power site of M/s KPI Global Infrastructure Limited and other requisite approvals and wheeling approval and sign the wheeling agreement to enable the Petitioner to avail solar power till the Commission passes new Tariff Order;

(c) Pending admission, hearing and final disposal of this petition, to pass interim order that the control period of earlier Tariff Order No. 3 of 2015 dated 17.08.2015 shall remain operative till the new Tariff order is passed by the Commission;

(d) Pending admission, hearing and final disposal of this Petition to pass an interim order and direct the Respondent TPL to give approval of technical specifications of ABT Meter for Solar Captive Power Plant to be installed at the solar power site of M/s KPI Global Infrastructure Limited and other requisite approvals and wheeling approval and sign the wheeling agreement to enable the Petitioner to avail solar power till the Commission passes fresh Tariff Order.

2. The facts mentioned in the petition are as under:

2.1. The Petitioner is engaged in the business of dyeing and printing at Khatodara, Surat and is a consumer of Torrent Power Limited (TPL) having consumer No. 500451941 under HTMD tariff with contract demand of 625 KVA.

2.2. The Petitioner in order to avail solar power to sustain in the competitive business by saving charges for consumption of electrical energy, has applied to Gujarat Energy Development Agency (GEDA) for registration of application for setting up Solar Ground Mounted Project under Gujarat Solar Power Policy, 2015 on 08.05.2019, which was registered as GMSPVIND23052019-25834 by GEDA on 23.05.2019. The drawings for electrical installation of Solar Power Plant were thereafter approved by Chief Electrical Inspector on 25.06.2019.

2.3. Thereafter, the Petitioner on 27.06.2019, applied to the Respondent TPL to grant approval of technical specification of ABT meter for Solar Captive Power Plant to be

installed at the solar power site of M/s. KPI Global Infrastructure Limited with an application seeking approval for wheeling of electricity.

- 2.4. Pursuant to the aforesaid application, the Respondent TPL vide its letter dated 16.07.2019 informed the Petitioner that it has referred the matter to the Commission, since the control period of GERC's Order No. 3 of 2015 dated 17.08.2015 has ended on 31.03.2018.
- 2.5. The Petitioner vide letter dated 17.07.2019 suggested the Respondent TPL that Dakshin Gujarat Vij Company Limited in its wheeling agreement for CPP has inserted the following clause:

*"The Control Period of GERC Order dated 17.08.2015 was for 3 years upto 31.3.2018 and Control Period for GoG Solar Policy is upto 31.3.2020 and as it is likely that GERC may extend Control Period of earlier Order (dated 17.08.2015) till the date of issuance of New Order for New Control Period or GERC may decide to make applicable new order retrospectively from 01.04.2018. Parties agree to execute this wheeling agreement as per GoG Solar Power Policy – 2015 and GERC Order dated 17.8.2015 on Provisional basis subject to terms and conditions as specified by GERC Order to be made applicable as on date of commissioning of the Project."*

- 2.6. The Petitioner also informed the Respondent that as solar power is environmental friendly source of energy, TPL may consider a similar Clause in the proposed wheeling agreement to facilitate the execution of the Solar project and accord approval of technical specification of ABT Meter. It is also submitted that the Petitioner made an application dated 17.07.2019 to GETCO regarding medium term Open Access for captive purpose.
- 2.7. GETCO vide letter dated 14.08.2019 demanded certain documents in order to grant permission for wheeling of 0.281 MW power under Medium Term Open Access and for signing Medium Term Open Access Agreement.
- 2.8. M/s KPI Global Infrastructure Limited vide letter dated 19.08.2019 informed Gujarat Energy Transmission Corporation Limited that when the Petitioner submitted the request for the approval of specification of ABT Meter to TPL, TPL

has referred the matter to the Commission as the control period of Tariff Order No. 3 of 2015 dated 17.08.2015 ended on 31.03.2018. It is submitted that thereafter the Petitioner has waited for the outcome of the request of Torrent Power Limited but till the date of filing petition there is no response. Hence the present petition has been filed by the Petitioner.

- 2.9. It is the policy of the Government of India and Government of Gujarat to encourage production of energy from alternative sources and the Government is giving all types of incentives for production of such energy.
- 2.10. The Order No. 3 of 2015 for determination of tariff for procurement of power by Distribution Licensees and others from Solar Energy Projects for the State of Gujarat was passed on 17.08.2015. Clause No. 4.16 thereof provides for control period as below:

***“4.16 Control Period***

*The control period proposed for the Solar Energy Tariff Order is from July 1, 2015 to March 31, 2018.”*

- 2.11. In the absence of Control Period beyond 31.03.2018, the stand taken by TPL that the activities of generation and distribution of solar power would become standstill is contrary to the intention of the Commission while passing the Tariff Order. It is submitted that when the Tariff Order No. 3 of 2015 dated 17.08.2015 was passed, the effect thereof was given with retrospective period i.e. from 01.07.2015 to 31.03.2018. The Petitioner submitted that there cannot be vacuum during the interregnum period from 31.03.2018 till the Commission passes new Tariff Order. Therefore, the control period has to continue till the next Tariff Order is passed by the Commission.
- 2.12. The Petitioner submitted that Dakshin Gujarat Vij Company Limited has been proceeding ahead in such cases by accepting the existing Tariff Order with clause in the agreement that terms and conditions of new GERC Tariff Order to be issued shall be binding to both the parties. Though, the Petitioner and M/s KPI Global Infrastructure Limited have made all efforts to pursue the respondent, there is no response from them.

- 2.13. The Petitioner is deprived of its right to use solar energy and thereby helping in conservation of environment and also availing lower tariff of Solar Energy on account of non-grant of approval of technical specifications of ABT meter for solar captive power plant to be installed at the solar power site of M/s KPI Global Infrastructure Limited and other requisite approvals and wheeling approval by TPL.
- 2.14. Based on the above, the Petitioner submitted that the Petitioner has strong and prima facie case and balance of convenience is in favour of the Petitioner. If the reliefs as prayed for is not granted, the Petitioner will suffer great hardship and inconvenience which cannot be compensated in terms of money. On the other hand, the Respondent is not likely to suffer any loss or hardships by grant of interim relief as prayed for by the Petitioner.
3. The matter was heard on 31.12.2019.
- 3.1. During the hearing held on 31.12.2019, Advocate Ms. Lilu K. Bhaya, on behalf of the Petitioner reiterated the facts as above stated at para 2 of this Order. She submitted that the present Petition is filed seeking directions to Torrent Power Limited to grant approval of technical specification of ABT meter for solar captive power plant of the Petitioner to be installed at Solar Power Project site of KPI Global Infrastructure Limited and other requisite approvals including wheeling approval and signing the wheeling agreement to enable availing solar power till the Commission passes a fresh Tariff Order.
- 3.2. She submitted that the Petitioner is a consumer of Torrent Power Limited (TPL), a distribution licensee having consumer No. 500451941 under HTMD tariff with contract demand of 625 KVA.
- 3.3. She further submitted that the Petitioner in order to avail solar power to sustain in the competitive business by saving charges for consumption of electrical energy applied to Gujarat Energy Development Agency (GEDA) for registration of application for setting up Solar Ground Mounted Project under Gujarat Solar Power Policy, 2015 on 08.05.2019 which was registered as GMSPVIND23052019-25834 by GEDA on 23.05.2019. The drawings for electrical installation of Solar Power

Plant were thereafter approved by Chief Electrical Inspector on 25.06.2019. Thereafter, the Petitioner on 27.06.2019 applied to the Respondent Torrent Power Limited to grant approval of technical specification of ABT meter for solar captive power plant to be installed at the solar power site of M/s. K.P.I. Global Infrastructure Limited with an application seeking approval for wheeling of electricity.

- 3.4. She further submitted that pursuant to the aforesaid application, Respondent TPL vide its letter dated 16.07.2019 informed that it has referred the matter to the Commission since the control period of GERC's Order No. 3 of 2015 dated 17.08.2015 has ended on 31.03.2018.
- 3.5. She submitted that in response to the above letter of the Respondent, the Petitioner addressed a letter dated 17.07.2019 stating that Dakshin Gujarat Vij Company Limited in its wheeling agreement for CPP has inserted the following clause:

*“The Control Period of GERC Order dated 17.08.2015 was for 3 years upto 31.3.2018 and Control Period for GoG Solar Policy is upto 31.3.2020 and as it is likely that GERC may extend Control Period of earlier Order (dated 3 17.08.2015) till the date of issuance of New Order for New Control Period or GERC may decide to make applicable new order retrospectively from 01.04.2018. Parties agree to execute this wheeling agreement as per GoG Solar Power Policy – 2015 and GERC Order dated 17.8.2015 on Provisional basis subject to terms and conditions as specified by GERC Order to be made applicable as on date of commissioning of the Project.”*

- 3.6. She submitted that the control period of GERC Order No. 3 of 2015 dated 17.08.2015 was upto 31.03.2018, which has since expired and there needs to be a provisional Order during the interregnum period till new Tariff Order is passed by the Commission. She further submitted that the Respondent can as well have a similar clause in the proposed wheeling agreement to facilitate the execution of the solar project and accord approval of technical specification of ABT Meter. However, despite having made all efforts to pursue the Respondent, the matter is not resolved. Therefore, the Petitioner has preferred filing the present petition.
4. On a query from the Commission as regards what is being done by subsidiary distribution licensees of GUVNL in this regard, Advocate Ms. Lilu Bhaya submitted

that they are signing wheeling agreement incorporating terms & conditions as per GERC Order No. 3 of 2015 dated 17.08.2015 on provisional basis and which are subject to new Tariff Order of the Commission.

5. Shri Chetan Bundela, on behalf of the Respondent submitted that having perused the Petition it is not clear under which provisions of the Electricity Act, 2003 or Regulations made thereunder the Petitioner has filed the present Petition.
- 5.1. He submitted that the Petitioner is seeking extension of the control period of GERC Order No. 3 of 2015 dated 17.08.2015 through present petition. He referred para 4.16 of the said Order which reads as under:

“ .....  
4.16 Control Period  
  
The control period proposed for the Solar Energy Tariff Order is from July, 1, 2015 to March 31, 2018.  
.....”
- 5.2. He further submitted that admittedly the control period decided by the Commission was upto 31.03.2018 in terms of above Clause 4.16 of Tariff Order No. 3 of 2015. The Respondent is therefore, at present unable to agree regarding terms & conditions of wheeling in absence of any Order of the Commission since it may eventually become *fait accompli* for the Respondent.
- 5.3. He further submitted that if the Commission directs the Respondent to sign the agreement in view of the fact that as GERC Order No. 3 of 2015 dated 17.08.2015 was expired on 31.03.2018 and that distribution licensees of GUVNL are signing wheeling agreement incorporating terms & conditions as per GERC Order No. 3 of 2015 dated 17.08.2015 on provisional basis which are subject to new Tariff Order of the Commission, the Respondent TPL is also willing to sign the agreement with the Petitioner in line with the same. He further requested the Commission to allow the Respondent to file its reply within a week time in the matter.
6. We note that thereafter, the Respondent TPL has filed its submissions vide affidavit dated 06.01.2020 pursuant to hearing held on 31.12.2019, which are enumerated as under:

- (a) Torrent Power Limited is a Company incorporated under the Companies Act, 1956 and filing this submission as distribution licensee of Surat License area.
- (b) The Petitioner, Shivram Dyeing has filed a present petition before the Hon'ble Commission to give a direction to the Respondent to grant approval for technical specification of ABT meter for Solar Captive Power Plant and to accept the application & grant all approvals which are applied for by the Petitioner and for direction to sign and approve the wheeling of solar power to the Petitioner.
- (c) The Petitioner has not referred to any provision of the Act or Regulation under which the present petition has been filed and reliefs sought. Accordingly, the cause title of the petition is required to be amended.
- (d) The Respondent being a distribution licensee is governed by the Electricity Act, 2003 as well as the Regulations and Orders of the Hon'ble Commission.
- (e) The Hon'ble Commission, in exercise of the powers conferred under the Electricity Act, 2003 had issued the Order No. 3 of 2015 dated 17<sup>th</sup> August, 2015 for determination of tariff for Procurement by Distribution Licenses and others from Solar Energy Projects for the State of Gujarat. The control period for the Solar Energy Tariff Order was from July 1, 2015 to March 31, 2018.
- (f) The Petition filed by the Petitioner amounts to seeking amendments in the Solar Tariff Order No. 3 of 2015 dated 17<sup>th</sup> August, 2015, which is not permissible.
- (g) Further, since the control period of the Solar Energy Tariff Order has expired, the Respondent vide its email dated 11<sup>th</sup> July, 2019 referred the case of the Petitioner to the Commission and sought guidance in respect of such applications since clarity is required about various commercial terms and conditions related to wheeling/transmission charges, banking, energy accounting and energy settlement, etc. Therefore, in the absence of clarity regarding various terms and conditions of the agreement having commercial implications, the Respondent TPL had not signed the agreement.
- (h) During the hearing on 31.12.2019, the Petitioner has requested the Commission to direct the Respondent to sign the wheeling agreement on



provisional basis subject to the Commission's Order to be passed regarding applicability of various commercial terms and conditions pertaining to wheeling of solar power for captive consumption and as directed by the Commission, the Respondent has agreed to sign the Agreement with the Petitioner. It is submitted that the Respondent will submit the copy of duly signed agreement upon receipt of the same from the Petitioner.

7. We have considered the submissions made by the parties. We note that the Petitioner is a consumer of Respondent TPL having consumer No. 500451941 under HTMD tariff with contract demand of 625 KVA. The Respondent TPL is a distribution licensee and the Petitioner has sought directions from the Commission to Respondent Torrent Power Limited to grant approval of technical specification of ABT meter for solar captive power plant of the Petitioner and other requisite approvals including wheeling approval and signing the wheeling agreement so as to enable the Petitioner to avail solar power till the Commission passes a fresh Tariff Order.
- 7.1. The Petitioner submitted that it applied to Gujarat Energy Development Agency (GEDA) for registration of application for setting up Solar Ground Mounted Project under Gujarat Solar Power Policy, 2015 on 08.05.2019, which was registered as GMSPVIND23052019-25834 on 23.05.2019 by GEDA. Moreover, as per Petitioner's submission, the drawings for electrical installation of Solar Power Plant were thereafter approved by Chief Electrical Inspector on 25.06.2019.
- 7.2. The Petitioner also submitted that it approached the Respondent TPL on 27.06.2019 for granting the approval of technical specification of ABT meter for Solar Captive Power Plant to be installed at the solar power site of M/s. KPI Global Infrastructure Limited with an application seeking approval for wheeling of electricity. However, the Respondent TPL vide its letter dated 16.07.2019 informed the Petitioner that it has referred the matter to the Commission since the control period of GERC's Order No. 3 of 2015 dated 17.08.2015 has ended on 31.03.2018.
- 7.3. The Petitioner vide a letter dated 17.07.2019 suggested the Respondent that Dakshin Gujarat Vij Company Limited is signing the wheeling agreement incorporating terms & conditions as per GERC Order No. 3 of 2015 dated

17.08.2015 on provisional basis subject to new Tariff Order of the Commission. The Petitioner also requested the Respondent to consider a similar Clause in the proposed wheeling agreement to facilitate the execution of the Solar project and accord approval of technical specification of ABT Meter.

- 7.4. The Petitioner further submitted that an application was made to GETCO on 17.07.2019 regarding medium term Open Access for captive purpose. GETCO vide letter dated 14.08.2019 demanded certain documents in order to grant permission for wheeling of 0.281 MW power under Medium Term Open Access and for signing Medium Term Open Access Agreement.
- 7.5. Thereafter, M/s KPI Global Infrastructure Limited vide letter dated 19.08.2019 informed GETCO that when the Petitioner submitted the request for the approval of specification of ABT Meter to TPL, TPL has referred the matter to the Commission as the control period of Tariff Order No. 3 of 2015 dated 17.08.2015 expired on 31.03.2018 and therefore the Petitioner is awaiting the outcome of the request of Torrent Power Limited, which is not received and hence, the present petition has been filed by the Petitioner.
- 7.6. We note that the Respondent during the hearing on 31.12.2019 initially contended that the Petitioner has not referred to any provision of the Act or Regulation under which the present petition has been filed and reliefs sought and accordingly, the cause title of the petition is required to be amended. It is further submitted that the Respondent being a distribution licensee is governed by the Electricity Act, 2003 as well as the Regulations and Orders of the Commission. It is further submitted that the Commission, in exercise of the powers conferred under the Electricity Act, 2003 issued Tariff Order No. 3 of 2015 dated 17<sup>th</sup> August, 2015 for determination of tariff for Procurement by Distribution Licenses and others from Solar Energy Projects for the State of Gujarat wherein the control period for the said Tariff Order was specified from July 1, 2015 to March 31, 2018, which has expired. Therefore, the Petition filed by the Petitioner amounts to seeking amendments in the Solar Tariff Order No. 3 of 2015 dated 17<sup>th</sup> August, 2015, which is not permissible and hence, the Respondent vide its email dated 11<sup>th</sup> July, 2019 referred the case of the Petitioner to the Commission and sought guidance and clarity about various commercial terms and conditions related to wheeling/transmission charges,

banking, energy accounting and energy settlement, etc. Therefore, in the absence of any such clarity regarding various terms and conditions of the agreement having commercial implications, the Respondent TPL had not signed the agreement. However, when the Petitioner pointed out that subsidiary distribution companies of GUVNL are executing wheeling agreement for wheeling of solar power generated from CPP incorporating terms & conditions as per GERC Order No. 3 of 2015 dated 17.08.2015 on provisional basis subject to new Tariff Order of the Commission, Respondent TPL agreed to sign the wheeling agreement incorporating terms & conditions as per GERC Order No. 3 of 2015 dated 17.08.2015 on provisional basis subject to new Tariff Order of the Commission in line with wheeling agreement executed by subsidiary distribution companies of GUVNL. We also note that thereafter, the Respondent TPL has filed its submissions vide affidavit dated 06.01.2020 wherein it has agreed to sign the wheeling agreement with the Petitioner similar to wheeling agreement executed by subsidiary distribution companies of GUVNL.

- 7.7. We note that the Petitioner by way of present petition has approached the Commission for issuing the direction to the Respondent TPL to grant of approval of technical specifications of ABT Meter for Solar Captive Power Plant to be installed at the solar power site of M/s KPI Global Infrastructure Limited and other requisite approvals and wheeling approval and sign the wheeling agreement to enable the Petitioner to avail solar power till the Commission passes new Tariff Order. Further, the Petitioner pointed out that Dakshin Gujarat Vij Company Limited is signing the wheeling agreement incorporating terms & conditions as per GERC Order No. 3 of 2015 dated 17.08.2015 on provisional basis subject to new Tariff Order of the Commission and requested that the Respondent needs to consider incorporating a similar Clause in the proposed wheeling agreement to facilitate the execution of the Solar project and accord approval of technical specification of ABT Meter. Thus the issue involved in the present Petition is related to wheeling of Solar power by the Petitioner from Solar Captive Power Plant to its consumption premises in license area of Respondent TPL and corresponding wheeling approval and signing the wheeling agreement by the Respondent on provisional basis incorporating the commercial terms & conditions as per Commission's Solar Tariff Order No. 3 of 2015 dated 17.08.2015 which shall be subject to new Tariff Order to be passed by

the Commission so as to enable the Petitioner to avail solar power. Hence, the Commission has jurisdiction to decide the issue involved in the present petition and accordingly the present petition is admitted.

- 7.8. We note that during the hearing on 31.12.2019 and subsequently vide affidavit dated 06.01.2020, Respondent TPL has agreed with the Petitioner's proposal to sign the wheeling agreement with the Petitioner in line with the wheeling agreement that is being entered in to by distribution licensees of GUVNL incorporating terms & conditions as per GERC Order No. 3 of 2015 dated 17.08.2015 on provisional basis and which shall be subject to new Tariff Order of the Commission. Further, the Respondent vide its affidavit dated 06.01.2020 also submitted that the copy of duly signed agreement will be submitted upon receipt of the same from the Petitioner. However, till date, the Respondent has not filed the duly signed agreement between the parties in the present matter.
- 7.9. We note that the Petitioner filed the present Petition seeking directions from the Commission to Respondent TPL to give approval of technical specifications of ABT Meter for Solar Captive Power Plant to be installed at the solar power site of M/s KPI Global Infrastructure Limited and other requisite approvals and wheeling approval and sign the wheeling agreement to enable the Petitioner to avail solar power till the Commission passes new Tariff Order.
- 7.10. We note that during the pendency of the decision by the Commission in the present Petition, the Commission issued "Tariff Framework for procurement of power by Distribution Licensees and others from Solar Energy Projects and other Commercial issues for the State of Gujarat" vide Order No. 03 dated 08.05.2020. The said Order is issued by the Commission in exercise of the powers conferred under Sections 3 (1), 61 (h), 62 (1) (a), and 86 (1) (b) & (e) of the Electricity Act, 2003, National Electricity Policy, 2005, and Tariff Policy, 2016 and all other powers enabling it in this behalf and after following the due process. The Commission published the Draft Discussion Paper, issued public notice inviting comments/suggestions/objections from various stakeholders and conducting public hearing on the same. The said Order contains various provisions including Metering and wheeling of Solar power regarding which the directions were sought by the Petitioner through present Petition and therefore, the contention of the Respondent that it is unable to agree

regarding terms & conditions of wheeling in absence of any Order of the Commission is no more valid.

- 7.11. Accordingly, we decide that the dispute between the Petitioner and Respondent as regards technical specifications of ABT Meter for Solar Captive Power Plant to be installed at the solar power site of M/s KPI Global Infrastructure Limited and other requisite approvals and wheeling approval and signing the wheeling agreement to enable the Petitioner to avail solar power does not survive any longer and the Commission is not required to decide any dispute between the parties as prayed by the Petitioner.
8. As regards the impleadment application dated 30.12.2019 of Shri J. S. Chavda on behalf of the Jan Kalyan Foundation to be impleaded as party Respondent to the present petition filed 30.12.2019, we note that pursuant to issuance of the “Tariff Framework for procurement of power by Distribution Licensees and others from Solar Energy Projects and other Commercial issues for the State of Gujarat” vide Order No. 03 dated 08.05.2020 by the Commission the dispute between the parties does not survive as stated above. Hence, the request for impleadment filed by Shri J. S. Chavda on behalf of Jan Kalyan Foundation does not survive and the same is rejected.
9. With this Order, the present petition stands disposed of.
10. We order accordingly.

**Sd/-**  
**(P. J. THAKKAR)**  
**MEMBER**

**Sd/-**  
**(ANAND KUMAR)**  
**CHAIRMAN**

Place: Gandhinagar.

Date: 04/06/2020.