

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
AT GANDHINAGAR**

PETITION NO. 1559 OF 2016

In the matter of:

Petition under Section 62 of the Electricity Act, 2003 and GERC (MYT) Regulations, 2011 for approval of tariff of BECL 2x250 MW Lignite based Thermal Power Project at Bhavnagar

Petitioner : Bhavnagar Energy Company Limited (BECL)
Represented by : Shri Atul A. Singh

v/s

Respondent : Gujarat Urja Vikas Nigam Limited (GUVNL)
Represented by : Ms. Sailaja Vachhrajani and Shri S.S. Mistry

CORAM:

**Shri Anand Kumar, Chairman
Shri K. M. Shringarpure, Member
Shri P. J. Thakkar, Member**

Date: 18/07/2019

ORDER

1. Bhavnagar Energy Company Limited (hereinafter referred to as BECL or the Petitioner), a Generation Company, filed its petition for determination of provisional tariff for FY 2015-16 and FY 2016-17, which will form basis for BECL to charge tariff from GUVNL till final capital cost is approved by the Commission after COD of the plant on the basis of audited accounts.
 - 1.1. The Petitioner, Bhavnagar Energy Company Ltd (BECL) is incorporated under the provisions of the Companies Act, 1956 as special purpose vehicle (SPV) and is a Joint Venture Company of various public sector undertakings of the State of Gujarat. BECL has set-up 2x250 MW lignite based thermal power project at village Padva in Bhavnagar district of Gujarat. A Power Purchase agreement

(PPA) has been signed with Gujarat Urja Vikas Nigam Limited (GUVNL) on 17th November, 2010. The PPA has been approved by Gujarat Electricity Regulatory Commission (herein after referred as “GERC” or “Commission”) after minor changes vide its Order dated 27th June, 2011 in Petition No. 1074 of 2011.

GERC directed to sign an amendment agreement with respect to certain modifications advised by the Commission vide letter dated 27th June, 2011. Accordingly, an Amendment Agreement was executed on 10th December, 2014 and the same was submitted to the Commission on 19th December, 2014.

In terms of Sections 61, 62, 64 and 86 of Electricity Act, 2003, the tariff for the generation and sale of electricity by BECL to GUVNL is regulated by the State Commission.

The Petitioner has filed a petition for approval of provisional tariff of the plant which will form the basis for BECL to charge tariff from GUVNL till final capital cost is approved by the Commission after COD of the plant on the basis of audited accounts.

- 1.2. BECL has sought approval of provisional tariff for FY 2015-16 and FY 2016-17 through the present petition. After preliminary analysis, the petition was registered as Case No.1559 of 2016 on 22nd January, 2016.

In accordance with Section 64 of the Electricity Act, 2003 the Commission has directed BECL to publish the application in the newspapers having wide circulation in the State in order to ensure public participation.

The public notice was issued in the following newspapers inviting objections / suggestions from the stakeholders on the Petition filed by it.

Sr. No.	Particulars	Language	Date of Publication
1.	Times of India	English	18.02.2016
2.	Gujarat Samachar	Gujarati	18.02.2016

The Petitioner also placed the public notice and the petition on its website (www.becl.in) for inviting objections / suggestions thereon.

The interested parties / stakeholders were asked to file their objections / suggestions on the Petition on or before 18th March, 2016.

The Commission received objections / suggestions from one stakeholder i.e. Gujarat Urja Vikas Nigam Limited (GUVNL). The Commission examined the objections / suggestions received and fixed the date of public hearing for the

petition on 13th May, 2016 at the Commission's Office, Gandhinagar and subsequently a communication was sent to the objector to take part in the public hearing process for presenting their views in person before the Commission. The public hearing was conducted in Commission's Office in Gandhinagar as scheduled on the above date.

1.3. BECL's prayer to the Commission:

- a. Admit this tariff petition for 2 x 250 MW Lignite based Thermal Power Plant at Bhavnagar.
- b. Consider determination of tariff for FY 2015-16 and FY 2016-17 on the basis of actual capital expenditure of Rs 4124.94 Crore as on 31st October, 2015.
- c. Allow recovery of tariff as per provisions of the GERC (MYT) Regulations, 2011 and PPA signed between BECL and GUVNL.
- d. Condone any inadvertent omissions/errors/shortcomings and permit BECL to add/change/ modify/alter this filing and make further submissions as may be required at a future date.

2. The Commission conducted the hearing in the matter on 13th May, 2016.

2.1. In its Daily Order dated 7th July, 2016, the Commission noted the objections / suggestion submitted by GUVNL and BECL's reply to them. GUVNL argued that PPA contains tariff parameters and detail methodology for working out tariff. During the course of hearing, GUVNL was directed to submit the calculation of tariff made at their end based on the PPA with BECL.

2.2. Subsequently, GUVNL submitted calculation of tariff based on the PPA parameters and other assumptions in compliance to the Commission's Order dated 7th July, 2016.

2.3. Moreover, the Commission asked for certain additional details from BECL and GUVNL which were submitted by them on 27th December, 2016 and 7th March, 2017, respectively.

3. During the pendency of the present petition, Government of Gujarat decided to merge BECL with Gujarat State Electricity Corporation Limited (GSECL) and issued Notification dated 27th August, 2018 in this regard, the relevant portion of which is reproduced below:

“Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003

No. GHU-2018-(66)-BEC-12-2018-3332-K: In exercise of the powers conferred

by sub-sections (1), (2), (3), (8) and (12) of Section 28 of the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003 (Guj. 24 of 2003) read with sub-sections (1) and (2) of section 131 and sub-section (3) of section 185 of the Electricity Act, 2003 (36 of 2003), the Government of Gujarat hereby makes the following Scheme for the purpose of providing and giving effect to the transfer and vesting of the undertakings of Bhavnagar Energy Company Limited (a subsidiary of Gujarat Power Corporation Limited which is a wholly owned Government of Gujarat undertaking), a company incorporated under the provisions of Companies Act, 1956 and a Company controlled by Government of Gujarat, in the Government of Gujarat and re-vesting by the Government of Gujarat in the Gujarat State Electricity Corporation Limited and for determining the terms and conditions on which such transfer shall be made and effective.”

4. GSECL filed Tariff Petition No. 1756 of 2018 for true up of FY 2017-18 and determination of tariff for FY 2019-20 for its various generating stations and also submitted to determine and approve fixed and variable cost (tariff) for the erstwhile Bhavnagar Energy Company Ltd. (BECL), since it is now part of GSECL.
 - 4.1. GSECL submitted that BECL is merged with it vide the GoG notification dated 27th August, 2018. The effective date of transfer is 1st April, 2018 as per the notification. Accordingly, the Assets and Liabilities of BECL are transferred to GSECL. The date of commissioning for Unit 1 is 16th May, 2016 and Unit 2 is 27th March, 2017.
 - 4.2. GSECL submitted the fixed cost and variable cost for Bhavnagar Lignite Thermal Power Station (BLTPS) (erstwhile BECL) for FY 2019-20 based on the PPA approved by the Commission for BLTPS between GUVNL and GSECL.
5. The Commission has issued the Tariff Order of GSECL in Petition No. 1756 of 2018 on 24th April, 2019 and mentioned as below for BLTPS (BECL):

“As per the powers conferred under Regulation 46.2 (a) as stated below, the Commission hereby determines the provisional tariff for Bhavnagar Lignite Thermal Power station (BLTPS) (erstwhile BECL) for FY 2019-20 based on the present petition filed by GSECL.

Regulation 46.2 (a) of the GERC (MYT) Regulations, 2016:

“46.2 The Commission shall be guided by the Regulations contained in this Chapter in determining the tariff for supply of electricity by a Generating Company to a Distribution Licensee

in the following cases:

- a) where such tariff is pursuant to a power purchase agreement or arrangement entered into subsequent to the date of effectiveness of these Regulations; or
.....”*

GSECL has requested to approve the tariff for Bhavnagar Lignite thermal power Station which is as per the approved PPA between BECL (GSECL) and GUVNL. In this petition for the first time GSECL has submitted the PPA of BECL which is merged with the GSECL with its effect from 1st April, 2018. GSECL has submitted the following documents:

- 1. PPA between BECL (GSECL) and GUVNL.*
- 2. Notification dated 27th August, 2018 issued by Government of Gujarat for transfer and vesting of BECL in the Government of Gujarat and re-vesting by the Government of Gujarat in GSECL.*
- 3. CoD Certificates issued by SLDC dated 19.05.2016 and 04.04.2017 for declaration of CoD of Unit 1 (250 MW) as 16th May, 2016 and CoD of Unit 2 (250 MW) as 27th March, 2017.*

Capital Cost of Rs. 3,615 Crore has been considered as per Schedule 5.2 of the PPA dated 17th November, 2010 executed between BECL and GUVNL wherein it is stated that Project Cost not to exceed Rs. 7.23 / MW. Total Fixed Cost works out to be Rs. 690.26 Crore based on above capital cost and as per the parameters in the PPA submitted by GSECL which is as mentioned below:

Table 7.9: Approved Fixed Cost for FY 2019-20 (Provisional)

Particulars	Actual claimed	Approved by the Commission
<i>Depreciation</i>	<i>190.87</i>	<i>190.87</i>
<i>Interest on Loan</i>	<i>158.31</i>	<i>158.31</i>
<i>Return on Equity</i>	<i>151.83</i>	<i>151.83</i>
<i>Interest on Working Capital</i>	<i>29.80</i>	<i>29.51</i>
<i>O&M Cost</i>	<i>159.50</i>	<i>159.50</i>
<i>SLDC Charges</i>	<i>0.24</i>	<i>0.24</i>
<i>Income Tax</i>	<i>32.72</i>	<i>0.00</i>
Total Fixed Cost	723.27	690.26

The Commission has worked out the Variable Cost / Fuel Cost of Rs.

2.60 / kWh for BLTPS in Annexure C based on the fuel price of lignite as submitted by GSECL and the operating parameters such as SHR, Auxiliary Consumption, PAF, PLF, Transit loss submitted in the PPA. The Commission approves the same for the ensuing FY 2019-20.”

- 5.1. In the aforesaid Order, the Commission has decided the Capital Cost of Rs. 3615 Crore as per Schedule 5.2 of the PPA dated 17.11.2010 and determined the fixed cost for FY 2019-20 (Provisional). The aforesaid order has not been challenged by any party till date therefore it attains finality.
- 5.2. GSECL shall approach the Commission for approval of Tariff for BLTPS (erstwhile BECL) as per the PPA and GERC (MYT) Regulations, 2016 for the subsequent years.
6. We order accordingly.
7. With this order, the present petition is disposed of.

Sd/-
(P. J. THAKKAR)
Member

Sd/-
(K. M. SHRINGARPURE)
Member

Sd/-
(ANAND KUMAR)
Chairman

Place: Gandhinagar

Date: 18/07/2019