

Suo-Motu Petition No. 1654/2017

In the matter of: Suo-Motu proceedings to decide the extension of applicability of generic tariff Order No. 4 of 2016 dated 10.11.2016 in the matter of "Determination of Tariff and other terms & conditions for Procurement of Power by Distribution Licensees from Municipal Solid Waste to Energy Projects in the State of Gujarat.

- Respondents:
- 1) Energy & Petrochemicals Department,
Government of Gujarat
 - 2) Gujarat Urja Vikas Nigam Limited
 - 3) Dakshin Gujarat Vij Company Limited
 - 4) Madhya Gujarat Vij Company Limited
 - 5) Paschim Gujarat Vij Company Limited
 - 6) Uttar Gujarat Vij Company Limited
 - 7) Torrent Power Ltd. (Ahmedabad)
 - 8) Torrent Power Ltd. (Surat)
 - 9) Torrent Power Limited (Dahej)
 - 10) The MPSEZ Utilities Private Limited
 - 11) Kandla Port Trust
 - 12) Aspen Infrastructures Limited
 - 13) GIFT Power Company Limited
 - 14) Jubilant Infrastructure Limited

- 15) Gujarat Energy Development Agency
- 16) Utility Users' Welfare Association
- 17) JITF Urban Infrastructure Limited,
- 18) Abellon Clean Energy Limited
- 19) Dynagreen Environmental Protection Group Co. Ltd.
- 20) RGE Surat Private Limited
- 21) Essel utilities Distribution Company Limited
- 22) Smart Utilites Pvt. Ltd.
- 23) Rochem Green Energy Private Limited
- 24) Rajkot Municipal Corporation,
- 25) Gandhinagar Municipal Corporation
- 26) Bhavnagar Municipal Corporation
- 27) Surat Municipal Corporation,
- 28) Ahmedabad Municipal Corporation
- 29) Jamnagar Municipal Corporation,
- 30) Vadodara Municipal Corporation
- 31) Junagadh Municipal Corporation
- 32) Urban Development & Urban Housing Department

The Commission has passed an order No. 4 of 2016 dated 10.11.2016 and determined generic tariff for procurement of power by distribution licensees from Municipal Solid Waste to

energy projects in the State of Gujarat after following due process as specified in the Electricity Act, 2003 read with National Electricity Policy and Tariff Policy 2016.

After passing the order, the Commission received representation from Additional Secretary, E&PD, Government of Gujarat stating that the Government has notified Waste to Energy Policy 2016 in which it is specified that the project set up in the State within 5 years, i.e. from the date of notification 27.03.2021 are eligible to avail the benefit under said policy. The Commission passed an order dated 10.11.2016 and determined the tariff and commercial issues related with MSW projects. The Commission has specified the control period in the said order as the period starting from the order, i.e. 10.11.2016 to 31.03.2019. The provisions of the said order, shall be applicable to the MSW energy projects to be installed and commissioned on or after the date of issuance of the said order for which PPAs would be signed with GUVNL on or after the date of that order. Moreover, it has also been implied from the said order that various parameters and tariff prescribed in the order are applicable to the project commissioned during the control period of the said order.

It is also stated that some of the Waste to Energy project developers have approached the Government stating that they are facing the difficulty to commission the project on or before 31.03.2019, i.e. within the control period and they have also referred the uncertainty of applicability of tariff and other commercial issues. It is also stated that Waste to Energy projects take significantly longer time to commission the project and such uncertainty might result in non-signing of PPAs during the control period.

Based on above, it is suggested that the project developers, who have signed PPAs with DISCOMs during the control period specified by the Commission in the order should be allowed to be governed by the parameters and tariff of the order subject to condition that project be commissioned by 31st March, 2021 or commissioned beyond the last date of the control period specified in the order but within the period from zero date to the date of COD as assumed by the Commission. It is also stated that Government accords top priority to Waste to Energy projects for preservation of environment and as a measure which can contribute significantly in implementing Swachh Bharat Abhiyan.

The Commission has considered the aforesaid submissions of Government of Gujarat represented by Additional Secretary, E&PD, GoG. It is observed that the Order No. 4 of 2016

dated 10.11.2016 has been passed by the Commission for promotion of renewable energy based generation i.e. Waste to Energy based generation as envisaged in the Tariff Policy, 2016 as well as to facilitate the Government of India Policy of “Swachh Bharat Abhiyan” launched by the Central Government. The State Government has represented that the PPAs have not been executed between the project developers and licensees because the control period specified in the said order is from the date of order to 31st March, 2019. Moreover, the applicability of the order states as under:

“The Commission decides to retain the control period as proposed in the discussion paper i.e. from the date of issue of this order to 31.03.2019.”

Moreover, para 4.9 of the Order No. 4 of 2016 dated 10.11.2016 stated as under:

4.9 Applicability of the Order

The provisions under this order shall be applicable to the MSW to energy projects to be installed and commissioned on or after the date of issuance of this order for which PPAs would be signed with GUVNL on or after the date of this order.

As per the aforesaid decision the project which may be installed and commissioned during the aforesaid period are governed by the said order/decision. Therefore, the period available for signing the PPAs and commissioning the project to the project developer shall be only 2 years and 4 months. The State Government vide its representation dated 19.05.2017 stated that the commissioning of such projects need two and half year and with the generic tariff order coming to an end on 31.03.2019 there is uncertainty amongst the project developers and no PPAs have been signed by them with GUVNL and State Discoms. The Commission is therefore of view that the submission of the Government of Gujarat needs consideration with regard to the provisions of Tariff Policy and “Swachh Bharat Abhiyan” launched by the Government of India, which envisage specifically promotion of Waste to Energy Projects.

The Commission therefore decides to initiate Suo-Motu proceedings to decide the applicability of the said order and the control period with consideration of the commissioning time needed for setting up the plant by the project developer. It is therefore, necessary to hear the views of project developers, distribution licensees, Municipal Corporations, stakeholders and Government in this regard. It is also to clarify that the present proceeding

is initiated by the Commission with a limited issue of deciding the installation and commissioning of the project time frame considering nascent technology. The stakeholders/objectors are therefore hereby informed to offer their suggestions/objections in the matter on or before 30/06/2017 and attend the public hearing on 07/07/2017 at 11:30 AM at the Commission's office.

Sd/-
[Roopwant Singh, IAS]
SECRETARY
Gujarat Electricity Regulatory Commission

Date: 06/06/2017

Place: Gandhinagar.