BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION AT AHMEDABAD

Petition No.1047/2010

In the matter of:

In the matter of approval of PPA signed by Gujarat Urja Vikas Nigam Limited (GUVNL) with Gujarat Industries Power Company Limited (GIPCL).

Petitioner: Gujarat Urja Vikas Nigam Limited
Sardar Patel Vidyut Bhavan,
Race Course
Vadodara.

Respondent: Gujarat Industries Power Corporation Limited.
P.O.Petrochemical
Dist. Vadodara – 391346

CORAM:

Dr. P.K.Mishra, Chairman
Shri Pravinbhai Patel, Member (Tech)
Dr. M.K. Iyer, Member (Fin.)

ORAL ORDER

(1) The matter was kept for hearing on 19.10.2010. When the matter was called out, Smt. Shailaeja Vachhrajani and Shri Rakesh Soni were present on behalf of the petitioner. Shri P.N.Trivdedi and Shri S.P.Desai were present on behalf of the respondent at the time of hearing.

(2) Smt. Shailaeja Vachhrajani, on behalf of the petitioner, submitted that the petitioner had executed Power Purchased Agreement on 1st October, 2009 with the respondent for procurement of power generated from 2 × 125 MW Surat Lignite Power Project (SLLP- II) of Gujarat Industries Power Company Limited. The Power Purchase Agreement executed between the parties has tariff based on a cost plus mechanism. She further submitted that the Power Purchase Agreement is based on the norms of GERC/CERC. The Commission in the earlier petitions No. 982/2009, 983/2009 and 984 of 2009 had already decided that the Power Purchase Agreement executed between the parties should be on the basis of the approved norms of GERC. The GERC has no norms for the lignite based power projects with a capacity of 125 MW and hence, the norms prescribed by the CERC have been adopted in the present case. However, the petitioner has requested the respondent to amend the existing PPA based on the earlier PPAs approved by the Commission.

(3) Shri P.N.Trivedi, on behalf of the respondent No. 2 (GIPCL), submitted that the capacity of the power project of the respondent is 2 x 125 MW for which there are no specific norms prescribed by the GERC. The terms and conditions of Tariff Regulations, 2005 specify the norms for the power stations having unit sizes of 200 MW or more. Further the norm for O&M charges have been specified for the period upto 2008-09 only and there is no clarity on the norms beyond the above period. Further, there are no specific technical parameters prescribed for 125 MW lignite based power projects by the Commission. In the absence of any norms prescribed by GERC, it seems appropriate to take into consideration the norms prescribed by CERC. The CERC, in its Terms and Conditions of Tariff Regulations 2009, has notified the norms for 125 MW based lignite power project generation. He further submitted

that as per Section 61(a) of the Electricity Act, 2003 the GERC is required to be guided by the CERC norms and hence, they have proposed to keep GERC/CERC norms in the PPA.

(4) He further submitted that the CERC has determined the tariff for the NTPC power projects and other inter-state power projects as per the Terms and Conditions of Tariff Regulations prevailing at relevant times. The norms are fixed for a 5-year period only and the tariff is also allowed for the 5-year period only based on the prevailing tariff norms. Thereafter, the norms as revised by the CERC from time to time are applied to the generating stations and new tariff is allowed based on the new norms. The respondent has accordingly requested the petitioner to follow the CERC terms and conditions of tariff regulations for determination of tariff of their power plant for which PPA is executed between the parties.

(5) We have carefully considered the submission made by the parties. It is an admitted fact that the Power purchased Agreement dated 1st October, 2009 is executed between the parties for procurement/ supply of power generated from power projects of the respondent to the consumers of the distribution licensees of the state of Gujarat. Therefore, the approving authority for power purchase agreement is the State Commission only. The Commission has notified GERC (Terms and Condition of Tariff) Regulations, 2005 for technical and financial norms for determination of tariff of various types of power generating stations. It is a fact that the technical norms prescribed for thermal power projects is for power projects having unit size of 200/210 MW and above. There are no specific norms provided for 125 MW lignite based power projects. However, the regulations provide for prescribing norms for such projects, on specific applications. The Commission may allow such

norms based on the merits of the case. Thus, based on the technical parameters of the power project and based on the performance guarantee test and guaranteed parameters assured by the EPC contractor and supplier of the equipments the technical parameters have to be decided by the Commission as and when the petitioner approaches the Commission for deviating the norms prescribed in the tariff regulations by the Commission.

(6) Section 61(a) of the EA, 2003 provides that the norms specified by the CERC for the tariff determination of the generating station are to be a guiding factor for the State ERC. However, it is not mandatory for the SERC to adopt the same. The Commission is at liberty to decide its own norms. Thus, the plea of the respondent that the CERC norms are applicable to their power project is not maintainable. Hence, the same is not accepted.

(7) We direct to the parties that they may approach to the Commission to determine specific norms for the power project in question.

(8) Regarding the O & M expenses, the Terms and Conditions of Tariff Regulations, 2005 notified by the Commission prescribe the norms for O & M charges for lignite based projects with capacity of 200 MW or above at Rs. 12.17 lakhs/MW/year for the year 2008-2009. It is also provided in the Regulations that the normative O & M charges for units smaller than 210 MW shall be specified by the Commission. No norms have been provided for the subsequent period. It is also provided that the O & M charges specified for the period 2005 -2006 to 2008-2009 shall be escalated at the rate of 5 % per annum. Applying the same escalation rates, the O & M charges for the year 2009-10 works out to Rs. 12.77 lakhs/MW/year. The PPA submitted for the approval in this petition

specifies the O & M charges as Rs. 20 lakhs/MW/year in schedule 5. The norms in the Terms and Conditions of Tariff Regulations, 2009 of CERC provide for O &M Charges for lignite based generating units of 125 MW size for the year 2009-10 as Rs. 24 lakhs/MW/year. Thus, the parties have agreed in the PPA for O & M Charges which is higher than the amount worked out based on the GERC Terms and Conditions of Tariff Regulations, 2005 but less than the CERC norms. However, in order to examine the justification of this figure, the parties are directed to submit the details on the basis on which the O & M charges have been agreed.

(9) We clarify that the approving authority for the PPA is the GERC. Therefore, each of the parameters are required to be either in line with the norms prescribed by the Commission or specifically approved by the Commission. Therefore, use of the term CERC in their PPA is required to be deleted. We direct the parties to make necessary amendment/seek norms as mentioned above and submit the same for the approval of the Commission. Any other corrections by the Commission in the PPA shall be incorporated by the parties at the time of final disposal of the petition.

(10) We order accordingly.

(11) Next dated of hearing will be intimated separately.

Sd/-	Sd/-	Sd/-
(Dr.P.K.MISHRA) CHAIRMAN	(PRAVINBHAI PATEL) MEMBER (TECH)	(Dr.M.K.IYER) MEMBER (FIN)

Place: Ahmedabad

Date: 1/12/2010