

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Petition No. 1906 of 2020

In the matter of:

Petition under Section 63 read with Section 86 (1) (b) of the Electricity Act, 2003 seeking adoption of tariff discovered under Competitive Bidding process for procurement of power from 700 MW Solar PV Projects to be set up in 1000 MW Dholera Solar Park in Gujarat through RFS dated 18.03.2020 (Phase IX).

Petitioner: Gujarat Urja Vikas Nigam Limited
Sardar Patel Vidyut Bhavan, Race Course Circle,
Vadodara 390 007.

Represented by : Ms. Sailja Vachhrajani, Shri Parthik Joshi and Shri
Kandarp Mistry

CORAM:

**Shri Anand Kumar, Chairman
Shri Mehul M. Gandhi, Member
Shri S. R. Pandey, Member**

Date: 29.01.2021

ORDER

1. The present Petition has been filed by M/s Gujarat Urja Vikas Nigam Limited, with the prayer for adoption of the tariff discovered by the Petitioner under the transparent Competitive Bidding process conducted by the Petitioner through RFS No. GUVNL / 700 MW / Solar (Phase IX) dated 18.03.2020 for procurement of power from the 700 MW Solar PV Projects to be set in 1000 MW Dholera Solar Park within the time duration stipulated by Ministry of Power, Government of India under the amended guidelines.
2. Later on the Petitioner after thorough deliberations with the State Government and after their due consent filed its affidavit dated 27.01.2021 seeking following directives from the Commission:

- a) the Petitioner to initiate a separate re-tendering process for Dholera Solar Park in the light of latest price trends as substantial capacity of 700 MW out of 1000 MW is yet to be tied up and without any ceiling tariff.
 - b) Petitioner to tie up power at lowest tariff discovered out of the two tenders i.e. presently conducted tender vide RFS dated 18.03.2020 and fresh tendering process, considering only those bidders, in the case of tariff already discovered and Letter of Award issued, who agree to keep their bid validity as mentioned above, without prejudice to their right to participate in the fresh tendering process.
 - c) Petitioner to re-approach the Commission for adoption of tariff in a consolidated manner once the fresh tendering process is completed.
 - d) Pass any other Order as the Commission may deem fit and appropriate under the circumstances of the case.
3. Before proceeding the short facts of the Petition are required to be stated which are as under:
- 3.1. Government of Gujarat notified Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003 in May, 2003 for reorganization of the entire power sector in the State of Gujarat. Pursuant to this the Gujarat Electricity Industry Reorganization and Comprehensive Transfer Scheme, 2003 notified under the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003, erstwhile Gujarat Electricity Board was reorganized and its functions have been vested in different entities.
 - 3.2. The activities of Generation, Transmission, Distribution, Bulk power purchase and supply undertaken by erstwhile Gujarat Electricity Board have been entrusted to separate seven functional entities. The generation activity is assigned to Gujarat State Electricity Corporation Limited (GSECL), transmission activity is assigned to Gujarat Energy Transmission Corporation Limited (GETCO), and the distribution activity is assigned to four distribution companies viz. Uttar Gujarat Vij Company Limited (UGVCL), Madhya Gujarat Vij Company Limited (MGVCL), Dakshin Gujarat Vij Company Limited (DGVCL) and Paschim Gujarat Vij Company Limited (PGVCL). Further, the function of Bulk purchase and bulk sale of power is assigned

to the Petitioner, Gujarat Urja Vikas Nigam Limited (GUVNL), as per the re-organization scheme.

- 3.3. Distribution companies are mandated to procure power from Renewable Energy Sources as per the provisions of Section 86(1)(e) of the Electricity Act, 2003 and in terms of the GERC (Procurement of Energy from Renewable Energy Sources) Regulations, 2010 as amended from time to time.
- 3.4. The Petitioner on behalf of its four Distribution Companies has been entering into Power Purchase Agreement(s) amongst others with various Renewable Energy Generators for procurement of power from time to time.
- 3.5. Section 63 of the Electricity Act, 2003 provides that the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.
- 3.6. Section 86(1)(b) of the Electricity Act 2003 provides that the State Commission shall discharge following functions, namely:

“

Clause (b) – regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.

.....”

- 3.7. Ministry of Power (MoP), Government of India (GoI) on 03.08.2017, has notified the “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects”. However, Standard Bidding Documents are yet to be published by MoP, Government of India. Section 3.1.1 of the said Guidelines provides following conditions to be met by the Procurer for Competitive Bidding:

“.....

- a) *Prepare the bid documents in accordance with these Guidelines and Standard Bidding Documents (SBDs) [consisting of Model Request for Selection (RfS)*

Document, Model Power Purchase Agreement (PPA) and Model Power Sale Agreement (PSA)], notified by the Central Government, except as provided in sub-clause (c) below

- b) Inform the Appropriate Commission about the initiation of the bidding process*
- c) Seek approval of the Appropriate Commission for deviations, if any, in the draft RfS, draft PPA, draft PSA (if applicable) from these Guidelines and/or SBDs, in accordance with the process described in Clause 18 of these Guidelines.*
 - (i). However, till the time the SBDs are notified by the Central Government, for the purpose of clarity, if the Procurer while preparing the draft RfS, draft PPA and other Project agreements provides detailed provisions that are consistent with the Guidelines, such detailing will not be considered as deviations from these Guidelines even though such details are not provided in the Guidelines.*
 - (ii). Further, in case of an ongoing bidding process, if the bids have already been submitted by bidders prior to the notification of these Guidelines and/or SBDs, then if there are any deviations between these Guidelines and/or the SBDs and the proposed RfS, PPA, PSA (if applicable), the RfS, PPA and the PSA shall prevail.*

.....”

3.8. Pending the issuance of Standard Bidding Documents by Central Government, the Petitioner is conducting the Competitive Bidding process for procurement of Solar power from time to time based on Bid Documents prepared by the Petitioner containing detailed provisions that are consistent with the Guidelines and deviations approved by the Commission. The Guidelines dated 03.08.2017 issued by MoP have been amended from time to time i.e. on 14.06.2018, 03.01.2019, 09.07.2019, 22.10.2019 and recently on 25.09.2020.

3.9. As per the previously notified amendment dated 22.10.2019 in the Guidelines, various provisions relating to adoption of tariff by Appropriate Commission have been modified which are as under:

“.....”

Clause 10.4 – Subject to provisions of the Act, the distribution licensee or the Intermediary Procurer, as the case may be, shall approach the Appropriate Commission for adoption of tariffs by the Appropriate Commission in terms of Section 63 of the Act. In case, the Appropriate Commission does not decide

upon the same within sixty days of such submission, the tariffs shall be deemed to be have been adopted by the Appropriate Commission.

.....

Clause 12 (c) – It is presumed that in terms of Clause 10.4 of these Guidelines, the tariff will be adopted by the Appropriate Commission within 60 days of such submission. However, notwithstanding anything contained in these Guidelines, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days, shall entail a corresponding extension in financial closure.

.....

Clause 14 (iii) - It is presumed that in terms of Clause 10.4 of these Guidelines, the tariff will be adopted by the Appropriate Commission within 60 days of such submission. However, notwithstanding anything contained in these Guidelines, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days, shall entail a corresponding extension in scheduled commissioning date.”

- 3.10. In light of the above regulatory framework, the Petitioner on behalf of its four subsidiary Distribution Companies conducted tendering through Competitive Bidding process for procurement of 700 MW grid connected power from Solar PV projects to be set up in 1000 MW Dholera Solar Park followed by e-reverse auction through RFS No. GUVNL / 700 MW / Solar (Phase IX) dated 18.03.2020 under advance intimation to the Commission vide its letter dated 17.03.2020, which is filed with the present Petition.
- 3.11. It is submitted that, the site of Dholera Solar Park is silty, with clay and having high swelling, making it difficult to construct sustainable foundations without additional measures for structures and modules. Further, the site gets flooded often due to low lying land surrounded by rivers and coastal area near the Gulf of Cambay. The Ground Water depth is about 1.5 - 2.5 meters, containing high chlorides and sulphates and surrounding environment in the coastal area entails high corrosion effects which adds further costs and risks requiring superior quality of design, materials and processes. Accordingly, in view of special and challenging geographical conditions of Dholera Solar Park and for better participation and competition in the tender, a ceiling tariff of Rs. 2.92 per unit was specified in the tender by the Petitioner pursuant to approval of its Board of Directors.

3.12. The Petitioner had also published the 'Notice Inviting Tender' in two national newspapers having maximum readership regarding this tender. The tender documents were also hosted on the website of the Petitioner as well as on E-Bidding Portal "Electronic Tendering Engine" (ETS) developed by M/s Electronic Tender.com (India) Pvt. Limited who is approved by Ministry of Electronics and Information Technology, GoI vide certificate dated 31.07.2018. The copy of tender documents alongwith the copies of newspapers for 'Notice Inviting Tender' are filed with the present Petition.

3.13. The last date for submission of bids in this tender was 31.07.2020 and Technical Bid Opening was held on 04.08.2020 in the presence of Bid Evaluation Committee constituted by the Petitioner consisting of following members for technical evaluation:

Sr. No.	Name	Designation
1.	Shri K. P. Jangid	General Manager, Commerce
2.	Smt. Sailaja Vachhrajani	General Manager, IPP
3.	Shri Parthiv Bhatt	Company Secretary, GUVNL
4.	Shri J. N. Pancholi	Chief Finance Manager (F&A)

3.14. The Petitioner received online bids from 7 (seven) bidders offering aggregate capacity of 1300 MW, which were technically qualified. The Technical Evaluation Report signed by the Bid Evaluation Committee has been filed with the Petition. In accordance with the Technical Evaluation report, as recommended by the Bid Evaluation Committee, the Financial Bids of all the 7 bidders were opened on 13.08.2020 on e-bidding portal in the presence of Bid Evaluation Committee. As per the terms and conditions of tender, GUVNL conducted e - reverse auction for allocating the tendered capacity of 700 MW.

3.15. The Petitioner had specified the ceiling tariff of Rs. 2.92 per unit in the bidding documents against which the following prices were discovered at the closure of the e-reverse auction that was held on the e-bidding portal:

Sr. No.	Name of Bidder	Rs / Unit	Quoted Capacity (MW)	Allocated Capacity (MW)
1	Vena Energy Renewables Urja Pvt. Ltd	2.78	100	100
2	The Tata Power Company Ltd	2.78	100	100
3	ReNew Solar Power Private Ltd	2.79	200	200
4	SJVN Ltd	2.80	100	100
5	TEQ Green Power Private Ltd	2.81	500	200

3.16. The e-report generated on the e-bidding portal for the above e-reverse auction is also filed by the Petitioner with the Petition. The Petitioner has issued Letter of Awards (LoAs) on 09.10.2020 to the bidders mentioned in the above table at the corresponding rates quoted by them and allocated capacity. In case of M/s TEQ Green Power Pvt. Ltd, there is a partial capacity allocation of 200 MW as against their quoted capacity of 500 MW. Moreover, as per the terms and conditions of tender, the PPAs are to be signed with above successful bidders within 90 days from issuance of LOA.

3.17. In view of the above and in accordance with Section 63 read with 86(1)(b) of the Electricity Act, the Petitioner has filed the present Petition for adoption of above tariffs discovered by Petitioner in the transparent Competitive Bidding Process for procurement of power from Grid connected Solar PV projects in Gujarat conducted through RFS dated 18.03.2020 (Phase IX) before the Commission.

4. The matter was heard on 29.12.2020 through virtual hearing by Video Conferencing on account of prevailing COVID 19 pandemic.

4.1. During the aforesaid hearing, Ms. Sailaja Vachhrajani, General Manager, GUVNL on behalf of the Petitioner while reiterating the submissions as stated in para 3 above submitted that the present Petition has been filed for adoption of the tariffs discovered under the transparent competitive bidding process conducted by the Petitioner through RFS No. GUVNL/700MW/Solar (Phase IX) dated 18.03.2020 as per the stipulation made under the Ministry of Power (MoP), Government of India competitive bidding guidelines for procurement of Solar Power from 700 MW Solar PV Projects to be set up in 1000 MW Dholera Solar Park..

- 4.2. She submitted that the aforesaid competitive bidding process was carried out by the Petitioner on behalf of its four subsidiaries distribution companies by conducting tendering process followed by e-reverse auction for procurement of 700 MW Solar power through competitive bidding process from Solar PV projects to be set up in 1000 MW Dholera Solar Park.
- 4.3. She further submitted that the present tendering process conducted by the Petitioner is third round of competitive bidding for procurement of Solar power from the Solar PV projects to be set up at 1000 MW Dholera Solar Park. Earlier, the Petitioner had floated two separate tenders through RfS No. GUVNL/1000 MW/ Solar (Phase-V) dated 16.01.2019 for 1000 MW capacity and thereafter, RfS No. GUVNL/750 MW/Solar (Phase-VII) dated 24.06.2019 for 750 MW capacity for procurement of Solar Power Projects from the bidders. In first round of bidding process for 1000 MW capacity, the said tender was undersubscribed and the Petitioner had received online bids from 2 bidders viz. Tata Power Renewable Energy Limited offering 250 MW capacity and Gujarat Industries Power Company Limited offering capacity of 50 MW, totaling to 300 MW against the tendered capacity of 1000 MW. In the said bidding process, Tata Power Renewable Energy Limited was selected as successful bidder at the discovered tariff of Rs. 2.75 per unit and the same was adopted by the Commission. Thereafter, in second bidding process for the said Solar Park, the Petitioner received only single bid from Tata Power Renewable Energy Limited for 50 MW capacity wherein the bidder, Tata Power Renewable Energy Limited quoted the tariff of Rs. 2.75 per unit. The Commission approved and adopted the tariff discovered in these two bidding rounds vide its Order dated 23.10.2019 in Petition No. 1818 of 2019. Thus, the interest shown by the bidders to set up the Solar projects at Dholera Solar Park in earlier rounds of bidding processes conducted by the Petitioner was quite less which is evident from the bids received by the Petitioner therein, because in the first round of competitive bidding process, the Petitioner received bids for 300 MW capacity only from two bidders against offered capacity of 1000 MW and in second round of bidding, the Petitioner received single bid for 50 MW capacity against tender for 750 MW capacity. Therefore, the Petitioner was able to tie-up only 300 MW capacity in the previous two rounds of bidding and accordingly, in

the present round of bidding process, the Petitioner has invited bids for the balance unallocated capacity of 700 MW remaining at Dholera Solar Park.

- 4.4. She further submitted that availability of land for setting up solar projects in the State of Gujarat is becoming difficult. Further, it is preferable to utilize waste land for setting up solar projects and accordingly, Dholera Solar Park is conceived on account of availability of large waste land equivalent for setting up 5000 MW Solar power projects as a part of achieving target of 175 GW renewable energy projects of Government of India. She while referring to para-12 of the Petition submitted that the site at Dholera Solar Park remains water logged for almost nine months during a year, silty with clay and such wet soil makes it difficult to construct sustainable & strong foundations requiring additional measures for structures and modules. Further, the site gets flooded often due to low lying land surrounded by rivers and coastal area near the Gulf of Cambay. The depth of ground water is also about 1.5-2.5 meters having high chlorides and sulphates in water and surrounding environment on account of coastal area which entails high corrosion effects and further adds to costs and risks involved, requiring superior quality of Design, quality of materials and processes. Therefore, the cost to set up the Solar Power Projects at Dholera Solar Park is higher than the Solar Power Projects set up at any another place and as such Park based Solar projects are expensive compared to Non-Park based Solar projects.
- 4.5. She submitted that in the previous rounds of competitive bidding carried out by the Petitioner, it emerged that the interest shown by the bidders to set up solar projects at Dholera Solar Park is quite less, whereas; Ministry of Power, Government of India desires to develop Dholera as Special Investment Region (SIR) and also interested to develop Dholera Solar Park where 5000 MW Solar capacity installation is estimated. However, 1000 MW Solar capacity was planned to be set up under the competitive bidding process carried out by the Petitioner and in earlier bidding processes carried out by the Petitioner, only 300 MW capacity has been tied up by the Petitioner.
- 4.6. The tariff discovered under earlier competitive bidding process was Rs. 2.75 per unit and only one bidder viz. Tata Power Renewable Energy Limited has been

selected. Moreover, since the interest shown by the bidders was quite low in previous rounds of competitive bidding undertaken by the Petitioner, a meeting was held to identify the reasons for the less interest shown by the bidders and how to overcome the same, since Government of India is desirous to develop Dholera as Special Investment Region (SIR). In the said meeting, the representative of SECI, DIPP, GPCL and GUVNL were present and elaborate discussions regarding the low response from the bidders on the bids invited for setting up Solar Power Project at Dholera Solar Park were held, wherein it emerged that the reasons for less response from the bidders is due to geographical and geotechnical conditions of Dholera Solar Park with respect to land, water logging and climate conditions, which leads to requirement of higher capital cost of the Solar project as compared to the capital cost requirement for solar projects to be set up at other places. As per the discussions held, SECI estimated that the ceiling tariff of Rs. 2.75 per unit is quite low, which impediments the response from bidders and therefore, the same is required to be higher tariff. She submitted that SECI has worked out and proposed the tariff of Rs. 3.06 per unit and the same was verified by GUVNL from its end and ultimately came to the conclusion that the tariff of Rs. 2.92 per unit seems reasonable for Dholera Solar Park. As the response from the bidders was quite low in earlier two rounds of bidding process and in order to have competition amongst the bidders, the Petitioner had worked out the tariff with consideration of geographical & geotechnical conditions for solar projects to be set up at Dholera Park at maximum of Rs. 2.92 per unit. Therefore, the Petitioner provided a ceiling tariff of Rs. 2.92 per unit in the bidding documents for better participation and competition in the bidding process.

- 4.7. She also submitted that the tariff quotes received in the present bidding process were in July-2020, since the extension of bidding was necessitated from March-2020 on account of imposition of country wide lock down due to COVID-19 pandemic. In the present bidding process, bids were received from 7 bidders offering aggregate capacity of 1300 MW and technical bids were opened on 04.08.2020. Technical Evaluation of the bids was carried by the Evaluation Committee constituted by the Petitioner and thereafter, the financial bids of the 7

(seven) qualified bidders were opened on 13.08.2020 on e-bidding portal. Thereafter, as per the terms and conditions of the tender, e-reverse auction amongst 5 (five) bidders from whom bids were received for 1000 MW quoted capacity was conducted by the Petitioner on e-bidding portal for allocating 700 MW capacity out of the total 1000 MW Dholera Solar Park. At the closure of e-reverse auction the tariff discovered under the aforesaid bidding process was Rs. 2.78 – Rs. 2.81 per unit quoted by different bidders for different capacities as stated in the Petition.

4.8. With regard to the ceiling tariff of Rs. 2.92 per unit stipulated by the Petitioner in the present bidding process, she submitted that the previous two rounds of bidding with the ceiling tariff stipulation of Rs. 2.75 per unit which were conducted by the Petitioner for Dholera Solar Park, failed in evincing interest amongst the bidders since the Petitioner was able to tie up only 300 MW out of 1000 MW on account of said ceiling tariff stipulation of Rs. 2.75 per unit. Therefore, as already submitted, meetings were held amongst SECI, DIPP, GPCL and Petitioner to assess the reasons thereof, wherein it emerged that the ceiling tariff of Rs. 2.75 per unit stipulated in earlier rounds of bidding was low and therefore, it was necessary that a feasible & tenable solution be worked out. She pointed out that the e-reverse auction itself demonstrates that competition took place, whereby tariff quotes in range of Rs. 2.78 – 2.81 per unit are discovered qua the ceiling tariff of Rs. 2.92 per unit and the tariff discovery in the present bidding is only slightly higher than Rs. 2.75 per unit discovered in earlier rounds of bidding for Dholera Solar Park.

4.9. She also submitted that the capital cost for solar projects to be set up at Dholera Solar Park is not comparable with the Solar Power Projects set up at other places in the State, where there are no geographical & geotechnical challenges like Dholera Solar Park. She submitted that the project developers are required to pay the upfront cost of land of about Rs. 13.88 lakhs per MW and also pay O&M cost of Rs. 4 lakhs/MW/year, which is escalated at the rate of 5% per year. Further, the present tender for 700 MW capacity for Dholera Solar Park was originally floated on 18.03.2020 but due to lockdown the same was extended and bidding was carried out on 13.08.2020. At that time, the discovered tariff in the tenders of the

SECI and other entities was almost about Rs. 2.50 to Rs. 2.67 per unit. She submitted that GPCL has allocated the land at Dholera Solar Park to successful bidders who have also paid the upfront fees and some of the successful bidders have even started the works for construction of the solar projects at their respective sites. Although, recently in separate bidding process carried out by the Petitioner in December 2020, the tariff discovered is Rs. 1.99 per unit but the same was not discovered at the time of bidding process for 700 MW carried out by the Petitioner.

- 4.10. She submitted that pursuant to the discovered tariff of Rs. 2.78 – Rs. 2.81 per unit after closure of e-reverse auction, the Petitioner has issued Letter of Award (LoAs) on 09.10.2020 to the bidders at the corresponding tariff quoted by them and allocated capacity. She further submitted that in case of M/s. TEQ Green Power Pvt. Limited, there is a partial capacity allocation of 200 MW as against their quoted capacity of 500 MW, since only 200 MW capacity remained after allocation to other four bidders at lower tariff. She further submitted that as per the terms and conditions of the tender, the PPAs are to be signed with above successful bidders within 90 days from the issuance of LoAs.
- 4.11. She submitted that the Petitioner has concluded the competitive bidding process wherein tariff discovered in ranging from Rs. 2.78 per unit to Rs. 2.81 per unit for the 700 MW allocated capacity after the Petitioner had advertised tender notices for giving wide publicity and followed transparent electronic e-reverse bidding process. She submitted that as the bidding process was carried out by the Petitioner under Section 63 of the Electricity Act, 2003 and PPAs to be signed by the Petitioner with successful bidders needs to be approved by the Commission under Section 86 (1) (b) of the Electricity Act, 2003 alongwith adoption of the tariff discovered in transparent bidding process carried out by the Petitioner the present Petition is filed by the Petitioner and the same may be allowed.
- 4.12. During the hearing, the Petitioner submitted to file an affidavit with detailed and comprehensive submissions with necessary documents on various issues, queries and other aspects with detailed reasons thereof on or before 10.01.2021. Therefore, the Commission vide its Daily Order dated 01.01.2021 decided and

directed that the Petitioner is required to file the detailed affidavit on or before 10.01.2021.

5. Thereafter, the Commission received request from the Petitioner seeking further time period of 30 days for filing the affidavit as directed by the Commission vide its letter dated 11.01.2021.
6. In response to aforesaid letter from the Petitioner requesting for granting additional time of 30 days for filing the affidavit in the present matter, the Commission vide its letter dated 21.01.2021 directed that the Petitioner needs to file their reply/ affidavit/response on or before 27.01.2021.
7. Thereafter, the matter was listed for hearing before the Commission on 28.01.2021.
 - 7.1. During the aforesaid hearing, Ms. Sailaja Vachhrajani, appearing on behalf of the Petitioner submitted that the Petitioner has filed an affidavit dated 27.01.2020 before the Commission. She further submitted that the Petitioner be permitted to initiate a separate re-tendering process for 700 MW capacity at Dholera Solar Park in the light of latest price trends without ceiling tariff as substantial capacity of 700 MW out of 1000 MW is yet to be tied up and in the fresh tendering process, the Petitioner to tie up power at lowest tariff discovered out of the two tenders i.e. presently conducted tender vide RFS dated 18.03.2020 and fresh tendering process, considering only those bidders, in the case of tariff already discovered and Letter of Award issued, who agree to keep their bid valid, without prejudice to their right to participate in the said fresh tendering process. Thereafter, the Petitioner to re-approach the Commission for adoption of tariff in a consolidated manner once the fresh tendering process is completed.
 - 7.2. She further submitted that the Petitioner is seeking permission of the Commission for allowing re-tendering of the present tender in light of the latest price trends, wherein discovered tariff is at Rs 1.99 per unit in Non-Park based tender as against the tariffs of Rs 2.78 - 2.81 per unit discovered in the present tender is significantly lower. Hence, need to review the necessity to look into the consumer interest before approving the procurement and thus subsequent to the issue of

the Letter of Award it has been revealed that the capital cost and other expenses for Solar Projects may have significantly reduced and resulting in much reduced solar power quoted tariff in a competitive bid process. Since, the PPAs for 700 MW capacity out of 1000 MW are yet to be approved by the Commission and the tie up of same at higher tariff of Rs. 2.78 - 2.81 per unit for 25 years may have substantial financial implication, the matter has been considered by the Petitioner and the State Government and therefore, the Petitioner is now intending to invite fresh tenders for Dholera Solar Park wherein, the successful bidders of the present tender will be requested by the Petitioner to extend the validity period of their bid till the finalisation of the fresh bid and/or at their option participate in the fresh bidding process, as they may consider appropriate.

7.3. She further submitted that the Petitioner has filed the present affidavit seeking re-tendering since the tariffs of Rs 2.78 - 2.81 per unit discovered are quite higher and the Petitioner in the interest of consumers at large for better tariff is desirous of inviting fresh bids. She submitted that the Petitioner will abide to the decision and directions of the Commission.

8. We note that the Petitioner referring to Order dated 29.12.2020 passed by the Commission has filed an affidavit dated 27.01.2021 submitting as under:

8.1. With regard to the query of fixing ceiling tariff of Rs. 2.92 per unit when the tariff discovered in earlier rounds of bidding process carried out by the Petitioner for Dholera Solar Park was Rs. 2.75 per unit, it is submitted that GUVNL had issued the Request for Selection (RFS) on 16.01.2019 for development of Solar Projects in 1000 MW Dholera Solar Park with a ceiling tariff of Rs 2.75 per unit but this tender failed to attract response of bidders and GUVNL had to issue multiple extensions in bid deadline. Finally in May-19, GUVNL received only two bids for 300 MW capacity which included 250 MW by Tata Power and 50 MW by GIPCL. As per the conditions of RFS, GUVNL issued LOA to M/s Tata on 25.07.2019 at Rs. 2.75 per unit for 250 MW against bids received of 300 MW as M/s Tata was L1. Subsequently, GUVNL vide RFS dated 24.06.2019 had issued another tendering process for balance 750 MW capacity. In this tender also, no other bids were submitted except for 50 MW bid by M/s Tata for which LOA was issued by GUVNL

on 07.11.2019 after receipt of due approval of the Commission for accepting the single bid received. Thus, 700 MW capacity in Dholera Solar Park still remained unallocated after the above processes .

- 8.2. Moreover, a meeting was held on 20.02.2020 headed by Secretary, DPIIT at Gandhinagar, wherein it was discussed that the ceiling tariff of Dholera Solar Park may be reviewed by SECI, GUVNL and GPCL on account of special and challenging geographical conditions of Dholera Solar Park. Accordingly, the ceiling tariff was increased by GUVNL from Rs 2.75 per unit in previous tender to Rs 2.92 per unit considering additional efforts required for the site of Dholera Solar Park against which the discovered tariffs are in the range of Rs 2.78 – Rs 2.81 per unit.
- 8.3. With regard to course of action in light of the recent tariff discovered under the competitive bidding carried out by the Petitioner for procurement of 500 MW Solar power from project developer is Rs. 1.99 per unit, it is submitted by the Petitioner that the matter was reviewed for further course of action in light of concern that higher tariff discovered in the present tender than recently discovered tariff of Rs. 1.99 per unit, if adopted will ultimately have to be borne by consumers at large and accordingly, GUVNL had sought the advice of State Government in this regard. Further, the latest tariff of Rs. 1.99 per unit discovered in the recent tender as against the tariffs of Rs. 2.78 -2.81 per unit discovered in the present tender is significantly lower, it is necessary to review the necessity to look into the consumer interest before approving the procurement. Thus subsequent to the issue of the Letter of Award, it has been revealed that the capital cost and other expenses for Solar Projects may have significantly reduced and resulting in much reduced solar power quoted tariff in a competitive bid process. Since the PPAs for 700 MW capacity out of 1000 MW are yet to be approved by the Commission and the tie up of same at higher tariff of Rs 2.78 - 2.81 per unit for 25 years may have substantial financial implication, the matter has been considered by the Petitioner and the State Government and in view of above, GUVNL with due consent of State Government proposes that a separate tendering process may be initiated for Dholera Solar Park in light of latest price trends. Further, it is proposed that if the tariff discovered in such re-tendering is higher than the presently discovered tariff, GUVNL may tie up power at lowest

tariff discovered out of two tenders. In the meanwhile the successful bidders of the present tender will be requested to extend the validity period of the bid till the finalisation of the fresh bid and/or at their option participate in the fresh bidding process, as they may consider appropriate, in view of the above developments.

- 8.4. As regards the break-up of Rs. 2.92 per unit worked out by the Petitioner and that proposed by SECI, it is submitted that according to GUVNL's calculation, the tariff for Dholera Solar Park based on project cost of Rs 4.65 Crs / MW considering high electrical and civil costs due to challenging geographical conditions worked out to Rs 2.92 per unit, instead of Rs 2.95 per unit calculated by SECI and filed the calculations.
- 8.5. In response to the letter dated 05.03.2020 issued by Ministry of Power to Central PSUs, it is submitted by the Petitioner that the said letter was only an advisory in nature and not as part of the Competitive Bidding Guidelines issued by the Ministry of Power. Further, GUVNL proceeded with the issuance of tender on 18.03.2020 with ceiling tariff in line with discussions with DPIIT and SECI prior to receipt of aforesaid letter issued by MoP to CPSUs. Accordingly and with a view to safeguard the interest of consumers against discovery of higher tariff the ceiling tariff of Rs 2.92 per unit was stipulated by GUVNL. It was also felt that since the ceiling tariff of Rs 2.92 per unit is higher than Rs 2.75 per unit specified previously, it will encourage better participation and competition in the tender. However, in case of re-tendering process as proposed at above para, no ceiling tariff may be specified.
- 8.6. As regards the charges to be recovered by GPCL, it is submitted that it includes land charges of Rs 10000 / Hectare / Year with increment of 15% every 3 years. Further, the O&M charges of GPCL are Rs. 0.90 Lakhs / MW / annum with increment of 5% every year which the developers are required to consider while quoting the tariff which will increase the tariff.

- 8.7. The report on sample soil investigation at Dholera Solar Park sought by the Commission, the Petitioner submitted the report carried out by GPCL through external agency.
- 8.8. In view of above, the Petitioner has submitted that considering the public interest involved, the Commission may be pleased to direct:
- (a) the Petitioner to initiate a separate re-tendering process for Dholera Solar Park in the light of latest price trends as substantial capacity of 700 MW out of 1000 MW is yet to be tied up and without any ceiling tariff.
 - (b) Petitioner to tie up power at lowest tariff discovered out of the two tenders i.e. presently conducted tender vide RFS dated 18.03.2020 and fresh tendering process, considering only those bidders, in the case of tariff already discovered and Letter of Award issued, who agree to keep their bid validity as mentioned above, without prejudice to their right to participate in the fresh tendering process.
 - (c) Petitioner to re-approach the Commission for adoption of tariff in a consolidated manner once the fresh tendering process is completed.
 - (d) Pass any other Order as the Commission may deem fit and appropriate under the circumstances of the case.
9. We have carefully considered the submissions made by the Petitioner. The Petitioner in the Petition filed before the Commission has originally sought adoption of tariffs in the range of Rs. 2.78 – Rs. 2.81 per unit discovered in the transparent bidding process conducted by the Petitioner through RFS No. GUVNL/700 MW/Solar (PHASE-IX) dated 18.03.2020.
- 9.1. The Petitioner has now filed an affidavit dated 27.01.2021 for allowing them to initiate a separate re-tendering process for 700 MW capacity to be set up at 1000 MW Dholera Solar Park in the light of latest price trends, wherein discovered tariff is at Rs 1.99 per unit in another Non-Park based tender of the Petitioner. It appears to the Petitioner that the financial implication of higher tariffs in range of Rs 2.78 – 2.81 per unit for 700 MW capacity if tied up for a period of 25 years would be substantial. Accordingly, the Petitioner with due consent of State Government and considering the public interest involved has proposed in the

aforesaid affidavit that a separate fresh tendering process be undertaken and the Petitioner to tie up power at lowest tariff discovered out of the two tenders and thereafter approach the Commission for adoption of tariff in a consolidated manner once the fresh tendering process is completed.

9.2. We note that Petitioner desires re-tendering by way of inviting fresh bids on following reasons:

- a) financial implication of higher tariffs in range of Rs 2.78 – 2.81 per unit for 700 MW capacity if tied up for a period of 25 years' capacity at Dholera Solar Park being substantial with consideration of recent price trends wherein discovered tariff is at Rs 1.99 per unit in another Non-Park based tender of the Petitioner,
- b) interest of consumers at large and public interest for better tariffs.

10. We have also considered that while filing this latest affidavit dated 27.01.2021, the Petitioner has also consulted the State Government and after thorough deliberations and with due consent of the State Government for re-tendering, which clearly appears to be for public good and common good. This shows bonafide intention on the part of the Petitioner. The ultimate beneficiary is the public at large, if lowest tariffs are found.

11. This Petition has been filed by the Petitioner under Section 63 read with Section 86 (1) (b) of the Electricity Act, 2003, which are reproduced as under:

“
Section 63. (Determination of tariff by bidding process): Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.
.....

Section 86. (Functions of State Commission): --- (1) The State Commission shall discharge the following functions, namely: -

- (a) xxxx xxxx xxx

(b) *regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;*
.....”

12. Thus, under the above provisions, the Commission is required to regulate the power procurement contract. Here in this case, the Petitioner has filed an affidavit dated 27.01.2021 stating that since lower rates of Rs. 1.99 per unit have been discovered under another bidding conducted by the Petitioner recently and on account of significant financial implication on the licensee as well as consumers at large with the tariff under the present bid it has requested the Commission for directing to undertake re-tendering afresh separately. In this connection it would be profitable to refer to Clause 1.1.1 of the ‘Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects’ issued by the Ministry of Power, which reads as under:

“.....

1.1 Background

1.1.1 Promotion of competition in the electricity industry in India is one of the key objectives of the Electricity Act, 2003. Power purchase costs constitute the largest cost element for distribution licensees. Competitive procurement of electricity by the distribution licensees is expected to reduce the overall cost of procurement power and facilitate development of power markets. Internationally, competition in wholesale electricity markets has led to reduction in prices of electricity and in significant benefits for consumers.

.....”

13. In view of the affidavit dated 27.01.2021, the Petitioner does not want this Commission to approve adoption of tariff as prayed for in the Petition and has requested to give necessary direction for re-tendering.

14. In view of the above, considering the facts and circumstances we decide that as the Petitioner has not pressed the original prayer filed in the present Petition and desires the relief as per affidavit dated 27.01.2021 and accordingly, without further entering into merits of the present matter we pass the following order:

ORDER

The Petition stands disposed of. The Petitioner is at liberty to approach the Commission for adoption of tariff afresh after taking appropriate actions regarding bidding in accordance with law.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul. M. Gandhi]
Member

Sd/-
[Anand Kumar]
Chairman

Place: Gandhinagar.

Date: 29.01.2021