

**Before the  
GUJARAT ELECTRICITY REGULATORY COMMISSION**

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**Suo Moto Petition No. 2171 of 2023**

In the matter of:

Fixation of Threshold limit for development of Intra-State Transmission projects under Tariff Based Competitive Bidding in accordance with the Clause 5.3 of the Tariff Policy dated 28<sup>th</sup> January 2016

Suo Motu Petition Under Regulations 23 and 24 of the GERC (Conduct of Business) Regulations, 2004

MOST RESPECTFULLY SHOWETH:

1. The revised Tariff Policy as notified by the Central Government vide ref no. 23/2/2005-R&R (Vol-IX) dated 28/01/2016 under the Section 3 of the Electricity Act 2003 states that the development of Intra-State Transmission System shall be executed through competitive bidding route provided for the projects costing above a Threshold Limit, which shall be decided by the State Commission. The guideline 5.3 of the Policy provides that-

*“5.3 The tariff of all new generation and transmission projects of company owned or controlled by the Central Government shall continue to be determined on the basis of competitive bidding as per the Tariff Policy notified on 6 January, 2006 unless otherwise specified by the Central Government on case*

*to case basis. Further, intra-state transmission projects shall be developed by State Government through competitive bidding process for projects costing above a threshold limit which shall be decided by the SERCs.”*

2. National Electricity Policy as notified vide resolution no. 23/40/2004-R&R (Vol-II) dated 12/02/2005, encourages private investment and their partnership in Transmission sector to meet the need of rapidly growing sector and provides that:

*“5.3.10 Special mechanisms would be created to encourage private investment in transmission sector so that sufficient investments are made for achieving the objective of demand to be fully met by 2012.”*

*“5.8.9 Role of private participation in generation, transmission and distribution would become increasingly critical in view of the rapidly growing investment needs to develop workable and successful models for public private partnership. This would also enable leveraging private investment with the public sector finances. Mechanisms for continuous dialogue with industry for streamlining procedures for encouraging private participation in power sector need to be put in place.”*

3. Recently Hon’ble Supreme Court through its judgement dated 23<sup>rd</sup> November 2022 in the Civil Appeal No. 1933 of 2022 directed that-

*“130. ....”We are cognizant of the fact that in matters dealing with electricity regulation, the regulatory commissions and the transmission utilities are usually bogged down by factors such as technological uncertainty, requirement of heavy investment and issues of right of way. The ad-hoc functioning*

*of the transmission utilities is also attributable to the lacunae in the regulations guiding the exercise of their functions. The Electricity Act 2003 was enacted with the objective of providing the States with sufficient flexibility to regulate the intra-state electricity system and simultaneously provided the regulatory commissions with the power to determine tariffs. Though the Government, both at the Centre and in the States, have framed statutory policies and guidelines regulating the electricity sector, we have noticed that the Regulatory Commissions have not framed the necessary regulations to put into effect the principles prescribed under the Act.*

***131. We direct all State Regulatory Commissions to frame Regulations under Section 181 of the Act on the terms and conditions for determination of tariff within three months from the date of this judgment. While framing these guidelines on determination of tariff, the Appropriate Commission shall be guided by the principles prescribed in Section 61, which also includes the NEP and NTP. Where the Appropriate Commission(s) has already framed regulations, they shall be amended to include provisions on the criteria for choosing the modalities to determine the tariff, in case they have not been already included. The Commissions while being guided by the principles contained in Section 61 shall effectuate a balance that would create a sustainable model of electricity regulation in the States. The Regulatory Commission shall curate to the specific needs of the State while framing these regulations. Further, the regulations framed must be in consonance with the objective of the Electricity Act 2003, which is to enhance the***

*investment of private stakeholders in the electricity regulatory sector so as to create a sustainable and effective system of tariff determination that is cost efficient so that such benefits percolate to the end consumers.*

4. The Gujarat Electricity Regulatory Commission (hereinafter, 'the Commission') has been notifying the Tariff Regulations from time to time specifying the terms and conditions for the determination of tariff, with the most recent of them after following due process as specified under the Act, is last the GERC (Multi-Year Tariff) Regulations, 2016 notified on 29.03.2016.

5. It is also noted that the State Transmission Utility, GETCO were directed to submit the proposal for 'adoption of Tariff Based Competitive Bidding for Intra-State Transmission Projects and its latest compliance report, the GETCO has submitted that-

GETCO had organised one day conference on "360° Review on TBCB Route for Transmission Projects" and based on insights from various stakeholders it is proposed that the Project Costs of INR 250 Crore can be considered as threshold limit and Intra-State Transmission Projects of above this cost shall be developed through Tariff Based Competitive Bidding in accordance with the Regulations and Guidelines in this regard.

6. Regulations 23 and 24 of the GERC (Conduct of Business) Regulations, 2004 that the Commission may initiate any proceedings Suo-motu or on a Petition filed by any affected person, and pass an appropriate order on it.

7. In view of the background and reasons mentioned above and looking to the requirement of compliance within the three months period from the date of Judgement of Hon'ble Supreme Court, the Commission proposes to initiate Suo Motu proceedings for fixation of Threshold limit for development of Intra-State Transmission projects under Tariff Based Competitive Bidding in accordance with the Clause 5.3 of the Tariff Policy dated 28th January 2016.

8. In view of the above, it is proposed that- In exercise of powers conferred under Sections 181 read with sections 61, 66 & 86 of the Electricity Act, 2003 and in pursuance to Clause 5.3 of the Tariff Policy 2016 the Gujarat Electricity Regulatory Commission (GERC) to fix the threshold limit of INR 250 Cr for Intra State transmission projects. Above this threshold limit, all new and augmentation of Intra-State Transmission projects shall be developed through Tariff Based Competitive Bidding (TBCB) in accordance with the guidelines issued by the State Transmission Utility (STU). Further it is also proposed to direct the State Transmission Utility to frame guidelines in this regard within two months from the issue of final Order on this Suo Motu proceedings after approval of the Commission.

Provided that the mode of execution of transmission project (TBCB or cost plus basis) of strategic importance, as identified by STU in consultation with Government of Gujarat and/or Government of India may be executed on cost plus basis.

9. STU in consultation with Government of Gujarat take steps for bundling/packaging of projects to be executed under TBCB, creation of Payment Security Mechanism (PSM), development of single

window clearance mechanism, formulation of Standard Bidding Documents (SBD) and selection of Bid Process Coordinator (BPC) in line with SBD and guidelines issued by Ministry of Power, GoI from time to time. STU shall frame guideline in this regard and notify the same.

10. The Commission reserves right that it may revise a threshold limit through Order or Regulations as and when required based on suggestion from STU/Government of Gujarat through consultative process as per the provision of law.

11. The Commission invites comments / views from the stakeholders in this regard and the interested persons are informed to file their comments / views to the Secretary, Gujarat Electricity Regulatory Commission, 6<sup>th</sup> Floor, GIFT ONE, Road 5-C, Zone 5, GIFT City, Gandhinagar – 382 255 on or before 10<sup>th</sup> February, 2023.

**-Sd-**  
(Roopwant Singh, IAS)  
Secretary  
Gujarat Electricity Regulatory Commission  
Gandhinagar

Place: Gandhinagar  
Date: 10/01/2023