

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION**  
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

**Petition No. 54 of 2017**  
**Date of Hearing: 18.07.2019**  
**Date of Order: 19.07.2019**

In the matter of : Petition for determination of Tariff under Sections 62 and 86 of the Electricity Act, 2003 read with (a) Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2005; (b) the Central Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2014; and (c) Amended and Restated Power Purchase Agreement dated 26.05.2009 executed between Petitioner (Goindwal Sahib) Limited and Punjab State Power Corporation Limited (formerly known as Punjab State Electricity Board) (Capacity 540 MW).

AND

In the matter of: GVK Power (Goindwal Sahib) Limited, Paigah House, 156-159, Sardar Patel Road, Secunderabad-540003.

... Petitioner

Versus

Punjab State Power Corporation Limited, The Mall, Patiala.

... Respondent

Present: Ms. Kusumjit Sidhu, Chairperson  
Sh. S.S. Sarna, Member  
Ms. Anjali Chandra, Member

GVK Power Limited: Sh. Janmali Manikala, Advocate  
Sh. Vineet Kumar Singh, Advocate  
Ms. Prama Mohana Rao, AVP  
Sh. Oliver Tyagi, AVP  
Sh. T. Srinivas Reddy, GM

PSPCL: Ms. Suparna Srivastava, Advocate  
Sh. Bhupinder Sharma, CE/ARR& TR  
Sh. Manjit Singh, DY.CE/IPC  
Sh. V.P.S Kailay, SE/TR-2  
Sh. Mukesh Kumar, ASE/TR-5  
Sh. Daljit Singh, ASE/IPC  
Sh. Rajan Gupta, CAO

**ORDER**

The hearing dated 18.07.2019 was preponed from 24.07.2019 at a short notice to ask GVK Power (Goindwal Sahib) Ltd. (GVK) to explain the discrepancies in the amounts claimed as capital cost of the project in the various affidavits submitted by them to the Commission. PSPCL counsel stated that she would not be in position to comment as the latest affidavit came to her by a link sent through email. The link could not be opened and in spite of her asking the opposing counsel for a hard copy a month ago, no papers had been supplied to

her. GVK counsel was directed to supply a hard copy of the recent submissions to PSPCL immediately.

It was pointed out that GVK had filed the present petition on 09.02.2018 for determination of tariff for the year 2016-17 claiming Capital Cost of the project as Rs. 4562.33 crore and further praying for determining the provisional tariff of the power plant till the final tariff is determined. The Commission notes that pursuant to its Order dated 01.02.2016 common to both petition nos. 33 of 2015 and 65 of 2013, the COD of the project as per GVK was achieved on 16.04.2016. GVK instead of filing a petition before the Commission after the COD of the project on 16.04.2016 for determination of tariff, approached PSPCL, which determined the fixed charge for the project as Rs.1.926 per kWh. The Commission observed that PSPCL has calculated the said fixed cost on the basis of capital cost of the project approved provisionally at Rs.2963.81 crore by the Hon'ble APTEL vide its Order dated 08.04.2009 in Appeal no. 104 of 2008. The same has also been provided in the amended and restated PPA dated 26.05.2009.

On 23<sup>rd</sup> March, 2018 GVK had made an urgent plea for provisional tariff to be determined on the basis of 95% of the cost plus IDC of the completed project cost. GVK had pleaded urgency in view of the RBI circular dated 12.02.2018 tightening the existing guidelines for resolution of stressed assets. GVK had mentioned that the lenders are insisting that GVK must provide for a Resolution Plan alongwith the probable provisional tariff that may be fixed by the Commission. In view of the urgency shown, the Commission without going into the details furnished in respect of capital expenditure, allowed the provisional capacity charges of Rs.2.20 per kWh vide its Order dated 28.03.2018 subject to the final decision of the petition no. 54 of 2017 as interim relief keeping in view the enhanced capital cost submitted in the petition.

After scrutiny of the details furnished, GVK was asked to furnish certain information and in the hearing on 23.08.2018, the two parties were allowed to exchange information and were asked to furnish their comments/reply within two weeks. On 04.09.2018, the Commission asked both PSPCL and GVK to submit the jointly audited capital cost as per provision in the PPA. After the hearing on 31.10.2018 on this issue and seeing the delay on the part of both parties, the Commission again vide its Order dated 02.11.2018 directed GVK and PSPCL to appoint auditors jointly to certify the actual capital cost of the project upto the date

of COD, as provided in the definition of 'Capital Cost' in the PPA and submit the report by 05.12.2018. Again, after much delay on the part of both parties, PSPCL vide memo no. 5111 dated 10.05.2019 informed that GVK and PSPCL have appointed M/s. B. Ratan and Associates as a joint auditor to certify the actual capital cost of the project upto the date of COD. The report has not been submitted till date. In the hearing on 18.07.2019, the parties explained that the report is likely to be available by the end of this month.

The Commission vide notice dated 02.04.2019 had directed GVK to provide clarifications and detailed documentary proof of all the expenditure above Rs.10 lakh claimed in the petition, by 08.04.2019. GVK filed its reply on 27.06.2019 and stated therein that the officials of the Commission alongwith representative of PSPCL may be deputed to GVK's office at Hyderabad to verify the details. The Commission directs that these documents/information be produced before or on 24<sup>th</sup> July, 2019.

In its reply GVK has submitted that it has made payment of Rs.1043.97 crore to BHEL against BTG package whereas in the petition it has claimed Rs.1166.48 crore. GVK stated that it is not claiming an amount of Rs.111.11 crore out of Rs.1043.97 crore as a part of its completed capital cost for the BTG package and will approach the Commission as and when it discharges the said liability. Thus, it appears that GVK has claimed expenditure in excess of what it has actually incurred. GVK is directed to give documentary proof of payments made.

The Commission deputed two of its officers to visit the GVK plant At Goindwal Sahib earlier on 26.04.2019 and then on 05.07.2019 for verification of the facts as given by GVK in its affidavits. The said officers noted that some of the works related to BOP (EPC) and Non-EPC are incomplete or not in use. Thus it appears that the expenditure on this account has been claimed in excess of payments actually made. The counsel was also asked to explain why the Hydrogen shed and Dozer shed costing an additional Rs. 57.78 crore was not included in the original BOP package. The counsel for GVK stated that the scope for BOP was enhanced due to the requirement for the High Concentration Slurry Disposal system as per MOEF's stipulation. The Commission asked (a) how the scope could have been changed in a competitive bid and (b) how had this not been included in the original cost. Further, when questioned on the requirement of working capital margin amounting to Rs.107.52 crore claimed by it, GVK stated that they would not

press for this amount. On a query raised by the Commission on the increase in cost of spares from Rs.39.65 crore to Rs. 66 crore (BTG & BOP), the counsel of the petitioner stated that this increase took place in consultation with BHEL. GVK is directed to produce the proof of the said correspondence with BHEL. The counsel for GVK could not give a reply on the question of the insured value of the project and therefore was asked to provide copies of all the insurance policies taken by it upto and after the date of COD. GVK's counsel was asked to explain the difference in quantities claimed in the various affidavits and also to give on affidavit a statement of expenditure incurred/payments made against each item of the provisional cost approved by the Hon'ble APTEL.

The visit of the officers and scrutiny of the site maps indicated that land for which payment has been claimed is much more than required for a thermal project of this size as per norms of CEA/MOEF. GVK has developed the ash dykes/ponds (larger than required) at a distance from the plant, leaving a huge tract of clear land in the middle of the plant site. This has resulted in extra long pipes, roads and boundary wall. The Railway facilities for coal receipt and facilities for coal storage have also been constructed for a much higher capacity plant than the existing plant. GVK was asked to explain why this increase should be allowed when the agreement between the two parties was only for 2 x 270 MW capacity . PSPCL's counsel stressed that the decision to limit the capacity to 2 x 270 MW was taken as far back as 2008/2009. GVK had no satisfactory reply to the same.

It is evident from the information submitted and the above discussion that the capital cost is likely to be much less than what has been claimed in the petition. Therefore, keeping in view the interest of the consumers, the Commission is constrained to revise the provisional fixed charges from Rs. 2.20 to Rs.1.926 per kWh as agreed between PSPCL and GVK based on Hon'ble APTEL's Order dated 08.04.2009 with immediate effect, till the final decision of the petition.

The next date of hearing will be intimated separately.

Sd/-  
**(Anjali Chandra)**  
Member

Sd/-  
**(S.S. Sarna)**  
Member

Sd/-  
**(Kusumjit Sidhu)**  
Chairperson

Chandigarh  
Dated: 19.07.2019