

Formation of High Power Committee for finding solutions in respect of power supply by Imported Coal based Power Projects to the procurer States, for reviewing the report of Working Group and obtaining the recommendations of such High Power Committee.

**Government of Gujarat,**  
Resolution No.CGP-12-2018-166-K,  
**Energy and Petrochemicals Department,**  
Sachivalaya, Gandhinagar.  
Dated the **13 JUL 2018**

Ministry of Power, Govt. of India has notified National Tariff Policy in 2006 mandating procurement of power by Distribution Companies on long term basis from Private developers only through competitive bidding process. Subsequently, Power Finance Corporation, nodal agency of Govt. of India had initiated competitive bids for setting up Ultra Mega Power Projects with an objective to ensure availability of power to all. Pursuant to Bidding process initiated by PFC, Coastal Gujarat Power Ltd. (SPV of Tata Power), was selected for setting up of 4000 MW imported coal based UMPP at Mundra, Gujarat. The procurers of the Mundra UMPP are State Distribution Utilities of Gujarat, Maharashtra, Punjab, Rajasthan & Haryana.

Gujarat Urja Vikas Nigam Ltd, for & on behalf of Gujarat State Distribution Companies, invited bids for procurement of long term power through tariff based competitive bidding process. GUVNL has signed following Power Purchase Agreements (PPA) on long term basis through competitive bidding:

- i. Coastal Gujarat Power Ltd. - 1805 MW share – PPA dated 22.4.2007 at levelised tariff of Rs. 2.26/unit
- ii. Adani Power Ltd. Bid 1 - 1000 MW – PPA dated 06.02.2007 at levelised tariff of Rs. 2.89/unit
- iii. Adani Power Ltd. Bid 2 - 1000 MW – PPA dated 02.02.2007 at levelised tariff of Rs. 2.3495/unit
- iv. Essar Power Gujarat Ltd. - 1000 MW – PPA dated 26.02.2007 at levelised tariff of Rs. 2.40/unit

In addition to above, other States have allocation from Mundra UMPP i.e. Maharashtra (760 MW), Punjab (475 MW), Rajasthan (380 MW) & Haryana (380 MW) while in case of Adani Power, Haryana Distribution Utilities are having PPA for 1424 MW.

In view of the promulgation of Indonesian regulations about the pricing mechanism of coal and resultant financial implication of the same on cost of generation of power, the Developers i.e. M/s. APL and M/s. CGPL filed petitions before Hon. CERC and M/s. EPGL had approached Hon. GERC for seeking relief from the hardship by way of revision in tariff. An Expert Committee was formed in respect of the directives of Hon. CERC to compute relief that can be permitted in case of CGPL/APL. Based on the Expert Committee's opinion, Hon. CERC gave its order in February-2014 (supporting increase in tariff) and subsequently, APTEL gave its order in April-2016 in the matter allowing relief considering Change in Indonesian Regulation as "Force Majeure", while waiting for some clarity to emerge, Hon. GERC had kept its order reserved in case of EPGL. The litigation process continued for a long period and judgment was delivered by the Hon. Supreme Court on 11<sup>th</sup> April, 2017 in case of CGPL/ APL, ruling out increase in tariff.

Due to non-allowance of any relief on account of promulgation of Indonesian Coal Regulation as a "force majeure" or "Change in Law", the States of Gujarat, Maharashtra, Rajasthan, Haryana and Punjab are in receipt of numerous representations from the power generators that they are suffering from huge financial losses and have shown their inability to honour the PPA obligation with full capacity. They have represented that this situation has not only wiped out their net worth but they are also unable to service the bank debt without further capital infusion.

On the other side, the States having total tied up capacity of 8224 MW (Gujarat 4805 MW, Haryana 1804 MW, Punjab 475 MW, Rajasthan 380 MW, Maharashtra 760 MW) with such power procurers, are facing the shortage of Power available at levelised tariff. Resultantly, all these States are required to purchase/generate the power at higher cost/rates. Thus, due to prevailing conditions the consumers of these States are to be put to pay much higher cost of power.

It is also pertinent to mention here that after the decision of the Hon. Supreme Court of India, these Power Project Developers either do not supply or supply less quantum of Power than as agreed in the PPA for sustainability of their financial resources. Due to non-availability of power under these PPAs, there is a huge financial implication on procurer States in respect of power purchased/generated at the cost much higher than the PPA rates which is putting these States under heavy stress.

Subsequently, on referring the matter to Govt. of India by Govt. of Gujarat for early resolution of issue, Ministry of Power, Govt. of India convened a meeting on 20th June 2017 for discussing the above issue wherein it was

decided to constitute a Working Group for evaluating the options for ensuring sustained operations of stressed imported coal based generation projects. Working Group was formed comprising of representatives from Procurers States and State Bank of India (being lead banker). SBI circulated the Report of Working Group on 10 January 2018 to all the Procurer states after undertaking due diligence on Technical, Legal & Financial aspects of above projects. Further, SBI has requested to form a High Power Committee for reviewing the Report and resolutions of issues. Pursuant to series of meetings & discussions and as advised by Ministry of Power, Govt. of India, it was decided by all the procurer States that the Gujarat being a lead procurer should initiate action for resolution of the issues related to these projects.

Therefore, a High Power Committee (HPC) comprising of Individuals with proven expertise drawn from Judiciary, Banking and Power Sector (with Regulatory Knowledge) is needed to be formulated to review the Report of the Working Group of the lenders and suggest means for early resolution of the issues relating to these Projects.

Keeping in view the observations as mentioned above and looking to the urgency and importance of the issue, the State Government has considered to form a High Power Committee comprising of the eminent persons from Judiciary, Power Sector and the field of Finance. Such Committee will come up with its report by considering the suggestive Terms of Reference (ToR) formulated based on suggestions of procurer States before formulation of HPC.

**Resolution:-**

After careful consideration, the Government of Gujarat is, therefore, pleased to form a High Power Committee comprising of the following, for reviewing the report of working group and obtaining its recommendations, with regard to resolution of the issues of the Imported Coal based Power Projects, located in the State of Gujarat:

(i)	Hon. Mr. Justice R. K. Agrawal, Former Justice of Chairman Supreme Court	
(ii)	Shri S. S. Mundra, Former Deputy Governor, RBI	Member
(iii)	Dr. Pramod Deo, Former Chairman, CERC	Member

SBI Caps- Mumbai shall provide secretarial support to the Committee.

**Suggestive terms of reference for High Power Committee:**

- (i) The Committee should examine and analyze all the relevant documents related to the Projects.

- (ii) Analyze and ascertain any hardship faced by these projects– If yes, mode and manner for mitigating the hardship faced by the Projects on account of Indonesian Regulations and subsequent orders/judgements in the matter.
- (iii) Call relevant parties for submission of details/clarification as required by the Committee.
- (iv) Contribution by each Stakeholders viz. Banks, Project Developers & Procurers by way of concessions for mitigating hardship.
- (v) Any other relevant issues which Committee would like to discuss and Study.
- (vi) Suggest sustainable solution(s) - for resolving the issue.
- (vii) The Committee may suggest any other measure for overall reduction in the cost of Generation of Power in the interest of the consumers.

The Committee should finalize its recommendations as early as possible, preferably within two months' time. The Committee is empowered to have assistance of NTPC, SBI Caps-Mumbai, Legal / Techno- commercial experts etc., who had participated in the Working Group formed by SBI Caps-Mumbai.

Government has further decided that on behalf of Government of Gujarat, an officer from Energy & Petrochemicals Department shall act as a Nodal Officer, for the purpose.

Notwithstanding anything contained in this GR, the State Government reserves its right to recourse to any further action, as deemed fit, at any point of time.

This issues with the concurrence of Finance Department, vide its note dated 11.06.2018 in this Department's file of even number.

By order and in the name of Governor of Gujarat,



(K. L. Bachani)

Officer on Special Duty (Power)  
Energy and Petrochemicals Department.

Copy forwarded with compliments to:

- (1) The Principal Secretary to the Governor of Gujarat, Raj Bhavan, Gandhinagar.
- (2) The Chief Principal Secretary to the Hon. C.M., "SS-I", Gandhinagar.
- (3) The ACS to Govt, Finance Department, Sachivalaya, Gandhinagar.
- (4) The Secretary, Ministry of Power, New Delhi.
- (5) The Secretary, Central Electricity Regulatory Commission, New Delhi.

- (6) The Secretary, Gujarat Electricity Regulatory Commission, Gandhinagar.
- (7) Chairman and Members of the Committee.
- (8) The PS to the Hon. Minister (Energy), "SS-I", Gandhinagar.
- (9) The PS to the Hon. MoS (Energy), "SS-II", Gandhinagar.
- (10) The DS to the Chief Secretary, O/o the Chief Secretary, Sachivalaya, Gandhinagar.
- (11) The Principal Secretary (Power), Govt. of Maharashtra, Secretariat, Mumbai.
- (12) The Principal Secretary (Power), Govt of Rajasthan, Mantralaya, Jaipur.
- (13) The Principal Secretary (Power), Govt of Punjab, Secretariat, Chandigarh,
- (14) The Principal Secretary (Power), Govt of Haryana, Chandigarh.
- (15) The Managing Director, Maharashtra State Electricity Dist. Company Ltd, Mumbai.
- (16) The Managing Director, Jaipur Vidyut Vitran Nigam Ltd, Jaipur.
- (17) The Managing Director, Ajmer Vidyut Vitran Nigam Ltd, Ajmer.
- (18) The Managing Director, Jodhpur Vidyut Vitran Nigam Ltd, Jodhpur, Rajasthan.
- (19) The Managing Director, Gujarat Urja Vikas Nigam Limited, Vadodara.
- (20) The Managing Director, Uttar Haryana Bijli Vitran Nigam Ltd, Haryana.
- (21) The Managing Director, Dakshin Haryana Bijli Vitran Nigam Ltd, Haryana.
- (22) The Managing Director, Punjab State Power Corporation Ltd, Chandigarh, Punjab.
- (23) SBI Caps, Mumbai.
- (24) Select file.