

# Annexure- B

## BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION GANDHINAGAR

### Petition No.1802 of 2019

#### In the matter of:

Petition under Section 86 (1) (b) & (e) of the Electricity Act, 2003 and other applicable provisions of the Electricity Act, 2003 for procurement of power under the Government of Gujarat “Policy for Development of Small Scale Distributed Solar Projects – 2019”.

- Petitioner: Gujarat Urja Vikas Nigam Limited  
Sardar Patel Vidyut Bhavan, Race Course,  
Vadodara 390 007.
- Represented by : Learned Advocate Ms. Ranjitha Ramachandran with Shri  
Parthik Joshi
- Co-Petitioner No. 1: Madhya Gujarat Vij Company Limited  
Sardar Patel Vidyut Bhavan, Race Course,  
Vadodara – 390 007.
- Represented by: Ms. U. V. Parmar
- Co-Petitioner No. 2: Uttar Gujarat Vij Company Limited  
Registered & Corporate Office, Visnagar Road,  
Mehsana – 384 001.
- Represented by: Shri K. D. Barot
- Co-Petitioner No. 3: Paschim Gujarat Vij Company Limited  
Nana Mava Main Road,  
Laxmi Nagar, Rajkot – 360004.
- Represented by: Nobody was present.
- Co-Petitioner No. 4: Dakshin Gujarat Vij Company Limited  
Urja Sadan, Nana Varachha Road, Kapodara,  
Surat – 395 006.
- Represented by: Shri J. S. Kedaria

Objector No. 1: Rajkot Chamber of Commerce & Industry,  
Centre Point, Karansinhji Road,  
Rajkot.

Represented by: Shri N. R. Ramavat

Objector No. 2: Jan Kalyan Foundation,  
127 Heritage Bungalows, Opp. Science City,  
Bhadaj, Ahmedabad – 380 060.

Represented by: Nobody was present.

**CORAM:**

**Shri Anand Kumar, Chairman**  
**Shri K. M. Shringarpure, Member**  
**Shri P. J. Thakkar, Member**

**Date: 08.08.2019**

**ORDER**

1. The present Petition has been filed by M/s Gujarat Urja Vikas Nigam Limited with Madhya Gujarat Vij Company Limited (MGVCL), Uttar Gujarat Vij Company Limited (UGVCL), Paschin Gujarat Vij Company Limited (PGVCL) and Dakshin Gujarat Vij Company Limited (DGVCL) as Co-Petitioners for approval of the mechanism of applicable tariff for purchase of power under the Government of Gujarat (GoG) “Policy for Development of Small Scale Distributed Solar Projects – 2019”.
2. Facts mentioned in the Petition are detailed below:
  - 2.1. Government of Gujarat notified the 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 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.

- 2.2. 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, as per the re-organization scheme.
- 2.3. The 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.
- 2.4. The Petitioner on behalf of its four Distribution companies has been entering into Power Purchase Agreements amongst others with various Renewable Energy Generators for procurement of power from time to time.
- 2.5. Section 86 of the Electricity Act, 2003 provides the functions to be discharged by the State Commission. Section 86(1)(b) of the Electricity Act 2003 provides that the State Commission shall -  
*“(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.”*
- 2.6. Further, Section 86(1)(e) of the Electricity Act, 2003 provides that the State Commission shall -  
*“(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee.”*

- 2.7. Promotion of competition in the electricity industry in India is one of the key objectives of the Electricity Act 2003. The 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 of power and lead to reduction in prices of electricity and in significant benefits for consumers.
- 2.8. Section 61 and 62 of the Electricity Act 2003 empowers the State Commission to specify the terms and conditions for determination of tariff for generation, transmission, distribution and supply of electricity in their State. In order to promote further competition, Section 63 of the Electricity Act 2003 provides that the State Commission shall adopt such tariffs which have been determined through a transparent process of Competitive Bidding. Section 63 of the Electricity Act 2003 provides as under:  
*“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 Govt.”*
- 2.9. Ministry of Power (MoP), Government of India has formulated the National Tariff Policy, 2016 giving specific guidance on purchase of power generated from renewable energy sources. As per Section 6.4(2),  
*“States shall endeavor to procure power from Renewable Energy sources through Competitive Bidding to keep the tariff low, except from the waste to energy plants. Procurement of power by Distribution Licensee from renewable energy sources, from Solar PV Power Projects above the notified capacity, shall be done through Competitive Bidding Process, from the date to be notified by the Central Government. However, till such notification, any such procurement of power from Renewable Energy sources Projects, may be done under Section 62 of the Electricity Act, 2003.”*
- 2.10. The Distribution Licensees were earlier procuring power from Renewable Energy Projects at the feed-in-tariffs determined by the Commission from time to time. However, the Commission vide letter dated 18.03.2017 observed that as per the provisions of National Tariff Policy, procurement from Renewable Energy projects by the Distribution Licensees is recommended through Competitive Bidding to keep the tariff low. Further, it was observed by the Commission that the Government of India and various other State Governments have initiated Competitive Bidding

Process in which the discovered tariff has shown substantial reduction. This is also in public interest as the tariff to the end consumer would be lower as compared to the procurement at preferential tariff.

- 2.11. The Commission through aforementioned letter directed the Distribution Licensees to procure electricity from the wind and solar power projects through Competitive Bidding Process under Section 63 of the Act or by following the Competitive Bidding Process followed by SECI / MNRE etc. It was further directed that the tariff determined by the Commission in the respective category of renewable energy will act as ceiling tariff and the Distribution Licensees may approach the Commission for adoption of the tariff discovered through such Competitive Bidding Process.
- 2.12. Ministry of Power, Government of India 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”. These Guidelines are not applicable for Intra State Projects below 5 MW Solar PV Projects.
- 2.13. Ministry of New and Renewable Energy, Government of India referring to the Guidelines for procurement of power from Solar PV Projects through Competitive Bidding not being applicable to Intra State Projects below 5 MW Solar PV Projects, vide its letter dated 13.04.2018 has opined that States / Union Territories can consider procuring power from Solar PV Projects of less than 5 MW capacity as prescribed in MoP’s Guidelines through feed-in-tariff determined by the SERCs.
- 2.14. The feed-in-tariffs determined by the Commission being way too high as compared to the tariffs discovered through the Competitive Bidding Process, it is not envisaged to procure Solar power at the feed-in-tariff. Therefore, Government of Gujarat vide GR No. SLR/11/2019/51/B1, dated 06.03.2019 has notified “Policy for development of Small Scale Distributed Solar Projects - 2019” to facilitate development of Small Scale Distributed Solar Projects with size 0.5 MW and above but upto 4 MW in the Distribution Network of Licensees of Gujarat State with an aim to promote small scale distributed solar projects and at the same time the rate of power purchase is proposed at reasonable level.
- 2.15. As per the Government of Gujarat’s “Policy for development of Small Scale Distributed Solar Projects - 2019”, any individual, company or body corporate or

association or body of individuals, co-operative society of individuals / farmers whether incorporated or not, or artificial juridical person shall be eligible for setting up Small Scale Solar Projects exclusively for the purpose of sale to Obligated Entities i.e. Distribution Licensees for fulfillment of RPO of such Obligated Entities. Further, the Obligated Entities shall buy Solar Power under Government of Gujarat's "Policy for development of Small Scale Distributed Solar Projects - 2019" for meeting their RPO.

2.16. The tariff applicable under the Government of Gujarat's "Policy for development of Small Scale Distributed Solar Projects - 2019", shall be as per following mechanism:

- (i) The tariff contracted in the Competitive Bidding Process conducted by GUVNL at which PPAs are signed for procurement of Solar Power from projects located outside the Solar Park prevailing as on 31<sup>st</sup> March (computed based on simple average of such tariff discovered and contracted over six months ending on 31<sup>st</sup> March) of any given year with an addition of Rs. 0.20 per unit shall be the applicable tariff at which the PPAs shall be signed during the immediately succeeding period of April to September by the Obligated Entities with these Solar Projects under this policy and similarly the contracted tariff prevailing as on 30<sup>th</sup> September of any given year (computed based on simple average of such tariff discovered and contracted over six months ending on 30<sup>th</sup> September) with an addition of Rs. 0.20 per unit shall be the applicable tariff for PPAs to be signed during the immediately succeeding period of October to March.
- (ii) However, the above mechanism of applicable tariff shall be subject to approval of the Commission. The Obligated Entities shall take one-time approval of the Commission.
- (iii) The Rs. 0.20 per unit addition in tariff is allowed for Rs. 0.12 per unit for saving in transmission loss as power will be injected in distribution grid and Rs. 0.08 per unit is to compensate for expensive land cost, higher capital investment and maintenance cost due to small size of projects.
- (iv) The above-mentioned tariff shall be applicable for a PPA term of 25 years from the Commercial Operation Date of the Projects.

3. The Commission vide Daily Order dated 18.05.2019 for the hearing held on 14.05.2019 decided that since the petition is filed under Section 86(1)(b) & (e) and the other applicable provisions of the Electricity Act, 2003 seeking approval of the mechanism of applicable tariff for purchase of power under the Government of Gujarat “Policy for development of Small Scale Distributed Solar Projects – 2019”, a public hearing is required to be conducted to take into account the suggestions/objections/comments of the stakeholders. The Commission, therefore, vide said Daily Order directed the Petitioner to issue a public notice in two daily Gujarati Newspapers and one English Newspaper having wide circulation in the State and also upload the present petition with all relevant documents on its website and invite comments/suggestions/objections from the stakeholders on affidavit within 21 days from the date of issue of public notice stating that the stakeholders shall file their comments/objections/suggestions to the Secretary of the Commission in five copies. Further, the staff of the Commission was also directed to upload the petition along with all relevant documents on the Commission’s website after the public notice was issued and a copy thereof is provided by the Petitioner.
4. The Petitioner vide affidavit dated 17.06.2019 submitted that in compliance to the Commission’s aforesaid directives, it has issued a Public Notice in two daily Gujarati Newspapers viz. ‘Divya Bhaskar’ & ‘Sandesh’ and one English Newspaper viz. ‘Indian Express’ on 02.06.2019 and has also uploaded the present petition with all the relevant documents on its website inviting comments/suggestions/objections from the stakeholders on or before 23.06.2019. Copy of the same is also submitted along with the affidavit.
5. The petition along with all relevant documents was also uploaded on the Commission’s website. Moreover, the Commission also issued a Public Notice dated 25.06.2019 in two daily Gujarati Newspapers viz. ‘Sandesh’ & ‘Divya Bhaskar’ and one English Newspaper viz. ‘Business Standard’ on 27.06.2019 for knowledge of all the stakeholders about the public hearing of the present petition scheduled on 03.07.2019 at Commission’s office and inviting comments/suggestions/objections from the stakeholders stating that persons interested in filing suggestions/objections may file the same along with supporting documents, if any, in five sets duly supported by affidavit on or before 03.07.2019 and / or remain present during the public hearing for making their submissions.

6. Rajkot Chamber of Commerce & Industry filed its objections through its affidavit dated 22.06.2019 submitting as under:
  - 6.1. Determination of tariff under the Electricity Act, 2003 falls under the jurisdiction of the Commission and any other department cannot determine the tariff under policy since it is not in their jurisdiction.
  - 6.2. The objective of GoG Policy is to promote small and medium scale solar power developers but the fact is that they neither have financial capability nor have large bargaining power while buying the components of solar power project which makes their project cost higher. At present the solar power generation sector has become monopoly of big players and in the process of reverse auction bidding, although its intention may be good, there is no room for small and medium entrepreneur in solar energy sector which makes competition unfair. The Commission may review the number of PPAs signed in last two year by small and medium scale solar power developers after the competitive bidding policy is implemented which will reveal this fact.
  - 6.3. The Petitioner has submitted to pay extra Rs. 0.20 per unit to small and medium scale solar project as per GOG Policy but how the figure of Rs. 0.20 per unit has been arrived at is not mentioned in the policy and the said amount is not sufficient to encourage the small and medium scale project developer to invest in solar project.
  - 6.4. The Commission has determined renewable energy feed in tariff based on the estimated cost prevailing in the market in the last tariff Order No. 3 of 2015 wherein it is clearly mentioned by the Commission as to how the same has been arrived at which is transparent and fair but in the GOG Policy how Rs. 0.20 is arrived at is not given and hence it is not transparent.
  - 6.5. The Commission may consider the letter of the Ministry of New and Renewable Energy dated 13.04.2018 mentioning States / Union Territories to consider procuring power from Solar PV Projects of less than 5 MW capacity as prescribed in Ministry of Power's Guidelines through feed-in-tariff determined by the SERCs.
  - 6.6. MNRE has provided various capital incentives in the form of subsidy / providing concessional land for installing project in large MW scale range which has reduced



the rate of solar. These benefits were not available to small scale developer or third party seller which may be taken into consideration by the Commission while determining solar energy tariff for small and medium entrepreneur.

- 6.7. The Commission is requested to determine the feed-in tariff for sell of solar power by small and medium scale project (0.5 MW to 5 MW) based on market rates which shall bring transparency and fairness in tariff determination which is the objective of the Electricity Act, 2003 and objective 2.4, 2.5 of GOG Policy can be achieved only if small and medium solar power projects are given feed in tariff. Large players have practically no contribution in strengthening the local grid and improving local voltage. For encouraging distributed generation, encouragement to small and medium scale solar project must be given.
- 6.8. The Objector has prayed not to approve the mechanism of applicable tariff for purchase of power under the GoG “Policy for development of Small Scale Distributed Solar Projects – 2019” but to determine feed-in-tariff for small and medium scale (0.5 MW to 5 MW) solar power project as per the methodology adopted in the Tariff Order No. 3 of 2015.
7. Jan Kalyan Foundation has filed its objections stating that while visiting the website of the Commission it is noticed that GUVNL has filed the present petition. The Commission is requested to appropriately decide the matter after taking in to consideration their representation and following suggestions:
  - 7.1. The Commission may decide as to whether it has the authority to admit the present petition or not?
  - 7.2. The Commission may decide under which Section of the Act and under which Rules made thereunder, the present petition is admitted and as to whether GUVNL has mentioned such Act or Rules in the petition and if the same is not mentioned whether the petition can be admitted?
  - 7.3. Whether the Commission has powers to hear such matters needs to be decided with reasoning?

- 7.4. The Commission may decide as to whether the termination of tariff for purchase and sale of power falls under the jurisdiction of the Commission or Government or GUVNL and decide the matter giving detailed reasoning.
- 7.5. The Commission may decide that as per the rules for generation and sale of electricity whether it is possible to determine the cost of generation in the absence of details such as project cost, loan amount and interest thereon, interest on working capital, maintenance cost etc. which the Commission has been doing in other matters.
- 7.6. Whether GUVNL has given the aforesaid details in the present petition and put forth before the consumers or generators and if the same is not provided then the Commission may decide giving reasons as to how the generation and sale tariff can be decided?
- 7.7. The Commission needs to decide the following for 500 KW up to 4 MW Solar Power Plant:
  - 7.7.1. What will be the cost of project?
  - 7.7.2. Which equipment's will be required and what is their market price?
  - 7.7.3. What will be the maintenance cost per month and how much loan will be required and what will be the interest amount thereon?
  - 7.7.4. How much Equity will be required, what will be the tax?
  - 7.7.5. What will be the cost of land?
  - 7.7.6. What will be the expenditure for generation and sale of electricity and without same how can the Commission determine tariff?
- 7.8. Whether the Commission is verifying above details in other matters pertaining to generation, purchase and sale of electricity?
- 7.9. Whether above details are necessary for determination of tariff or not needs to be decided giving reasons?
- 7.10. The Commission needs to decide as to whether the rate that is to be decided in the present matter has to be kept changing every six months giving reasons thereof?
- 7.11. GUVNL is seeking approval of rate which will get changed every six months as per the rates received under competitive bidding during previous six months. Whether the Commission believes or has knowledge that cost of solar power project and electricity generated is going to change every six months? Can it not change every month or three months needs to be decided by giving reasons thereon.

- 7.12. Why GUVNL is not purchasing power generated through other resources like coal, gas, wind on the lines of present matter and why the Commission is not deciding the same?
- 7.13. Whether the Commission has decided in the past and given any directions to purchase power as per above mechanism?
- 7.14. Whether the rate to be decided by the Commission in the present petition appears to be part of process for validating the decision of Government?
- 7.15. The Government's decision of devising mechanism for determining the cost of power purchase on the basis of actual rates received is bold and a welcome step in the interest of consumers which the Commission has not been able to do although being its function to do so and whether it is on account of lack of its resources or not having any information needs to be decided giving reasons.
- 7.16. Whether the rate for purchase of solar power as per the GoG policy is proper as per Regulations of the Commission and there cannot be any increase or decrease in same, which is evident from the said Regulations. In case the tariff determined by the Commission is more / less than the rate decided by GoG, in that case which tariff will be payable to the solar power producer also needs to be decided by the Commission giving reasoned Order.
- 7.17. The Commission is requested to give its opinion on the above issues and an opportunity to the consumers be given to submit their objections/suggestion on it including him as an objector.
8. The matter was finally heard on 03.07.2019.
9. Advocate Ms. Ranjitha Ramachandran alongwith Shri Parthik Joshi, on behalf of the Petitioner, reiterated the submissions as stated in para 2 above.
- 9.1. She submitted that as per Section 86(1)(b) of the Electricity Act, the Commission is required to regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating

companies for distribution and supply within the State. The distribution companies are mandated to procure power from renewable 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 as amended from time to time. Thus, the Commission has jurisdiction and hence the present petition is admissible and maintainable.

9.2. She further submitted that earlier the distribution licensees were procuring power from RE projects at the feed-in-tariff determined by the Commission but pursuant to the directive of the Commission, all the procurement of renewable energy including solar power is being done on the competitive bidding basis by the Petitioner. Although, Ministry of Power has published the “Guidelines for Tariff based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Projects” on 3.08.2017 but these Guideline are not applicable for Intra-State Solar PV Projects below 5 MW. Hence, Government of Gujarat vide GR No. SLR/11/2019/51/B1 dated 06.03.2019 has notified “Policy for development of Small Scale Distributed Solar Projects – 2019” to facilitate development of Small Scale Distributed Solar Projects having size of 0.5 MW and above but not exceeding 4 MW in the distribution network of licensees of Gujarat State with an aim to promote small scale distributed solar projects.

9.3. The period of applicability of the said policy is 5 years from the date of issuance i.e. from 06.03.2019. The policy also specifies that Rs. 0.20 per unit addition in tariff is allowed for Rs. 0.12 per unit towards saving in transmission loss since the power will be injected in distribution system and Rs. 0.08 per unit is to compensate for expensive land cost, higher capital investment and maintenance cost due to smaller size of the projects. Moreover, the mechanism of applicable tariff is subject to the approval of the Commission. Hence, the present petition has been filed seeking approval of the Commission of the mechanism of applicable tariff for purchase of power under the GoG “Policy for development of Small Scale Distributed Solar Projects - 2019”.

10. Shri N. R. Ramavat on behalf of Rajkot Chamber of Commerce & Industry reiterating the submissions as stated in para 6 above made following submissions:

10.1.

- (i) Referring the vision statement of the Petitioner regarding efficient power transmission system and article of two experts from USA and Australia in electrical grid mentioned that the longer the distance between a power plant and its customers the more electricity loss and Smart grid technological advancements allow for higher levels of renewable penetration in to the grid while improving its efficiency, resilience and energy security.
  
- (ii) Referring to objective 2.1, 2.4 & 2.5 of Government of Gujarat “Policy for development of Small Scale Distributed Solar Projects-2019” which state about facilitating and promoting speedier development of Solar Projects in multiple scattered pockets of barren and uncultivable land, strengthening the local grid and improving voltage by encouraging distributed generation and help utilize robust transmission and distribution network of State utilities for large scale integration of Solar Projects with the grid, he submitted that cost of land in the vicinity of urban areas is very high so small and medium scale project entrepreneur shall move towards remote land in village areas which shall improve the grid efficiency and local voltage level in village area whereas Ultra Mega scale project developers will not be interested in going for small project in distributed manner and if they go, then their price quote in reverse bidding shall also go on higher side. Thus, the vision statement of the Petitioner, Objectives of GoG Policy and larger interest of Smart and Efficient National Grid System can be best achieved only if encouragement for installation of solar power plants ranging from 500 kWp to 5 MWp is given as these are generally installed in barren and uncultivated land in distributed manner thereby promoting grid efficiency and improving voltage level. Hence, in order to do justice to such small and medium scale Solar project developer, feed in tariff needs to be provided for promoting the sector and large MW scale project tariff be determined through whatever may the best process for that scale project.

10.2. Although promotion of competition is one of the key objectives of the Electricity Act, 2003 as per Section 61(c) and Clause 4(d) of Tariff Policy, 2016 but it is not the only objective. Apart from competition other important factors like efficiency, economic use of resources, good performance, efficiency in operation and improvement in quality of supply are equally important which can be achieved by promoting

distributed solar power generation needs to be kept in view by the Commission while determining feed-in tariff for small and medium scale solar power project.

10.3. The Commission in its Order in Petition No. 1322 of 2013 in the matter of tariff determination for UNOSUGEN project has examined and addressed in detail the issue of whether the procurement of power is permissible only through competitive bidding process raised by the Objectors citing Section 62 and Section 63 of the Electricity Act, 2003 and mentioned at para 16.2.5 of the said Order that, “..... *Therefore, the contention of the Objector that the procurement of power is permissible only through Competitive bidding does not hold good and accordingly the same is not accepted.*” In the same way other than competitive bidding, Electricity Act, 2003 also provides importance to other factors like efficiency and quality of power supply, promoting renewable energy etc. and hence the Commission is prayed to grant feed-in tariff for small and medium scale solar power project.

10.4.

- (i) Determination of tariff for small and medium scale companies on basis of tariff discovered under competitive bidding / reverse auction is not proper but is unfair. Referring to the details of reverse auction carried out by SECI for 1200 MW wherein four bidders got selected, each for 300 MW at different rates ranging from Rs. 2.55 to 2.61 per Unit which are global companies and get soft funds at very lower interest rate from International level as well as CFA (Central Finance Assistance) is given by MNRE (MNRE Letter no. 30/26/2014-15/NSM dated 12.12.2014) to these very large scale projects. Thus, funding capability, bargaining power for purchasing all materials at very low rate, operating efficiency and experience to make project viable is different as compared to smaller companies who would find it difficult to match such tariff. Accepting the prayer of the Petitioner would lead to achieving Solar targets on compulsion basis and only from very large MW scale projects but other important objectives of GOG policy shall not be achieved unless the small and medium scale solar projects become viable by adopting feed-in tariff methodology based on the real data of cost of project.
- (ii) It is further submitted that Section 60 of the Electricity Act 2003 regarding market domination reads as:

*“The Appropriate Commission may issue such directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its dominant position or enters into a combination which is likely to cause or causes an adverse effect on competition in electricity industry.”*

The electricity industry includes small, medium and large scale players and in solar segment at present very large companies have dominant position which will not allow small scale companies and it is making adverse effect on competition. Reverse bidding methodology for tariff determination for very large MW scale projects to whom CFA is given is not opposed but for making fair competition in solar power generation segment, the Commission may determine feed-in tariff methodology which was adopted in the past.

#### 10.5.

- (i) As regards Competitive Bidding is not applicable for below 5 MW projects, the Objector submitted Section 63 of Electricity Act states that:

*“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.”*

- (ii) The National Tariff Policy, 2016 formulated by the Ministry of Power has given specific guidance on purchase of power generated from renewable energy sources. Clause 6.4(2) reads as:

*“States shall endeavour to procure power from Renewable Energy sources through Competitive Bidding to keep the tariff low, except from the waste to energy plants. Procurement of power by Distribution Licensee from renewable energy sources, from Solar PV Power Projects above the notified capacity, shall be done through Competitive Bidding Process, from the date to be notified by the Central Government. However, till such notification, any such procurement of power from Renewable Energy sources Projects, may be done under Section 62 of the Electricity Act, 2003.”*

- (iii) Central Government (Ministry of Power) has issued guidelines for tariff based competitive bidding process for procurement of power from Grid Connected Solar PV Power Projects vide no. 23/27/2017 -R &R dated 03.08.2017. Clause No. 2.1.1 mentions about applicability of Guideline which clearly states that this guideline is

for project of 5 MW and above. Thus, it is clear that this guideline is not applicable for project lower than 5 MW and accordingly whatever tariff is discovered in the competitive bidding process is not applicable for small and medium scale solar power project.

- (iv) Central Government (Ministry of New and Renewable Energy) has also reaffirmed vide their letter No. 8/7/2017-EFM dated 13.04.2018 that competitive bidding guidelines are not applicable for solar project below 5 MW and clearly directed that in order to accelerate deployment of solar and wind energy and facilitate investment in these sectors from small and medium entrepreneurs, State can consider procuring power from solar project of less than 5 MW through feed-in Tariff methodology.
- (v) Thus, Section 63 of the Electricity Act, 2003 and Tariff Policy 2016 say to follow Central Government guidelines and competitive bidding is not applicable below 5 MW as per Government Guidelines but to follow feed-in tariff method. Hence, the Commission needs to determine the same.

10.6. The Commission has sanctioned different tariff for same generating station of same technology in Tariff Order dated 24.04.2019 in Petition No. 1756 of 2018 for Dhuvaran CCPP 1 to 3 based on the cost and 14% return on investment basis. Each solar plant is a power generating company and tariff for each solar power plant is not demanded but to sanction feed-in tariff based on the cost and ensuring 14% return on investment for small and medium scale solar power project.

10.7. The methodology proposed by the Petitioner gives uncertainty to the new project developer considering to invest in solar project since what will be the rate after six months is not known to them. Tariff determination as per this method is complex and do not have any base of the Electricity Act, 2003. Policy determination and tariff determination are two different matters. After determining the policy, it has to be left to the Commission to determine the tariff and providing 20 paise or any other amount has to be determined based on the tariff methodology given in the Electricity Act, 2003. In the absence of any certainty about the applicable tariff as per proposal of the Petitioner, feed-in tariff needs to be provided.



- 10.8. Control period of Tariff Order No. 3 of 2015 in the matter of determination of Tariff for Procurement of Power by Distribution Licensees and Others from Solar Energy Projects for the State of Gujarat is over on 31.03.2018. Other than determination of levelized tariff, this tariff order also determines various charges like transmission charges, cross subsidy charges, banking charges, wheeling charges and various other guidance. Since the control period is over, new Tariff Order in the matter of determination of tariff for procurement of power by distribution licensees and others from Solar Energy Project having capacity less than 5 MW as per methodology adopted in Tariff Order No. 3 of 2015 covering all aspects requires to be issued. Also, allowing evacuation of power up to 4 MW in 11 kV grid as per the said Order may be continued since at present in many cases it has been observed that laying of separate 11 kV HT line from power plant to nearby GETCO substation is insisted which further increases the evacuation cost of solar power project.
- 10.9. He submitted that he will file further details including calculation of tariff for Small and Medium Scale Solar Power Plant Developer.
11. Rajkot Chamber of Commerce & Industry vide affidavit dated 08.07.2019 filed additional submission stating that considering the average capital cost of Rs. 4.21 Crore/MW for project in the range of 500 kW to 5 MW, reduced benefit of accelerated depreciation from 80% to 40% as per current circular, 2% cost towards O&M and keeping other factors same as per Tariff Order No. 3 of 2015, the tariff works out to Rs. 5.18 per unit without accelerated depreciation and Rs. 4.71 per unit with accelerated depreciation as per the methodology of the Commission which may be verified. The calculation sheet of same is also filed by the Objector. It is further submitted that the calculation of additional amount of Rs. 0.08 per unit towards compensation of land cost be reviewed considering higher cost of land, capital investment and maintenance. Following the proper method for determination of tariff as per Tariff Order No. 3 of 2015 which covers all aspects like current capital cost, interest cost, land cost, maintenance cost, levelized calculation of 25 years etc. will be justice to small and medium solar power project and fairness to consumers as envisaged in Section 61(d) of the Electricity Act, 2003 which permits recovery of the cost of electricity in a reasonable manner alongwith safeguarding of consumer interest. Any incentive over and above such levelized tariff given by Government of

Gujarat will not only boost investment in small and medium solar power project but also boost employment in rural area and shall fulfil all objectives of the GoG Policy.

12. The Petitioner vide its affidavit dated 11.07.2019 submitted its pointwise reply to the objections submitted by two objectors namely M/s Rajkot Chamber of Commerce & Industry and Jan Kalyan Foundation stating as under:
  - 12.1. The Commission vide oral order dated 18.05.2019 directed the Petitioner to issue a public notice inviting comments / suggestions / objections from the stakeholders within 21 days from the date of issue of public notice. In accordance with the directives of the Commission, the Petitioner had issued public notice on 02.06.2019 in the newspapers inviting comments / suggestions / objections from the stakeholders on or before 23.06.2019. In response to petitioner's public notice, objections were submitted by above referred objectors.
  - 12.2. The objectors have objected to purchase of power by the Petitioner at the rate determined by Government of Gujarat under the "Policy for development of Small Scale Distributed Solar Projects – 2019" (GoG Policy) on the grounds that power to determine tariff under the Electricity Act 2003 falls under the jurisdiction of the Commission and any other department cannot determine the tariff. On this aspect, the Petitioner submits that under the GoG Policy, the State Government has not determined the tariff but has determined a policy mechanism for applicability of tariff as under:

*"8. APPLICABLE TARIFF*

*The tariff applicable under the policy shall be as per following mechanism: The tariff contracted in the competitive bidding process conducted by GUVNL at which PPAs are signed for procurement of Solar Power from projects located outside Solar Park prevailing as on 31<sup>st</sup> March (computed based on simple average of such tariff discovered and contracted over six months ending on 31<sup>st</sup> March) of any given year with an addition of Rs 0.20 per unit shall be applicable tariff at which the PPAs shall be signed during the immediately succeeding period of April to September by Obligated Entities with these Solar Projects under this policy and similarly the contracted tariff prevailing as on 30<sup>th</sup> September of any given year (computed based on simple average of such tariff discovered and contracted over six months ending on*

*30<sup>th</sup> September) with an addition of Rs 0.20 per unit shall be the applicable tariff for PPAs to be signed during the immediately succeeding period of October to March. However, the above mechanism of applicable tariff shall be subject to approval of GERC. The Obligated Entities shall take one time approval of GERC. The Rs 0.20 per unit addition in tariff is allowed for Rs 0.12 per unit for saving in transmission loss as power will be injected in distribution grid and Rs 0.08 per unit is to compensate for expensive land cost, higher capital investment and maintenance cost due to small size of projects.”*

- 12.3. The above mechanism is subject to approval of the Commission for which the Petitioner has approached the Commission and not for approval of tariff. Hence, the objections regarding ingress of jurisdiction of the Commission by another department are misconceived. Further, the State Government under clause 19 of the policy has provided guidance to the Commission to frame rules, regulations and orders under the policy which reads as under.

*“19. Regulation*

*The Hon’ble Gujarat Electricity Regulatory Commission shall be guided by this Policy while framing its rules, regulations and orders”*

- 12.4. The objectors have stated that the addition of Rs 0.20 per unit in tariff is specified in the GoG Policy but how the figure of Rs 0.20 per unit has been arrived is not mentioned in the policy and have further apprehended that the amount is not sufficient to encourage small and medium scale project developer to invest in the solar project and lacks transparency. In this regard clause 8 of the policy mentions that the Rs 0.20 per unit addition in tariff is allowed for Rs 0.12 per unit for savings in transmission loss as power will be injected in distribution grid and Rs 0.08 per unit is to compensate for expensive land cost, higher capital investment and maintenance cost due to small size of projects. Thus, the intent of the State Government is clearly spelt out in the policy. The injection of power in the distribution network avoids the need for transmission of power and thus avoids the transmission losses. Hence, it can be inferred that the State Government intends to pass on the benefit of reduction in transmission losses to the Small Scale project developers and compensate them for the higher capital cost requirement.

- 12.5. Further, considering the landed cost of approximately Rs. 2.85 / unit at GETCO Periphery and the transmission losses of 4.25%, the saving in transmission losses can be worked out to Rs 0.12 per unit. Moreover, assuming increase in the capital cost to the tune of Rs 10 Lacs / MW and increase in the O&M expenses to the tune of Rs. 25,000 / MW / Annum due to smaller size of projects, the levelized per unit increase in cost works out to Rs 0.08 / unit. Thus, the addition of Rs 0.20 per unit specified by the State Government is adequate to encourage small and medium scale project developer to invest in the solar project. In any case, this addition is in the nature of policy incentive extended by the State Government over and above the base tariff - which adequately reflects the market prices discovered in the transparent competitive bidding process.
- 12.6. The objectors have requested the Commission to determine feed-in tariff for sale of solar power by small and medium scale solar projects of 0.5 MW to 5 MW based on market rate in order to bring transparency and fairness. It is submitted that the objectors' contention that the tariff determined under feed-in tariff is based on market rate is not correct and on the contrary, the tariff discovered under competitive bidding process better reflects the market trends and factors in capital cost prevalent in the market from time to time. Moreover, the review and recalculation of tariff on half yearly basis as envisaged in the GoG policy would safeguard the interest of developers as well as consumers, as the tariff would be aligned to market prices / capital cost prevailing in the market in this mechanism unlike the feed-in tariffs where the tariff once determined remains stagnant during the control period leaving scope of overpricing / under-pricing.
- 12.7. As regards the objection as to whether the Commission has taken into consideration various cost related parameters like land cost, capital cost, O&M Cost, interest charges, taxes etc. while determining tariff under the present petition or not, the Petitioner submitted that in the mechanism proposed under the GoG Policy, the tariff is not required to be determined by the Commission as the tariff discovered under competitive bidding process is taken as a base wherein the project developers consider all the cost parameters while quoting the tariff. The bidders quote the tariff in competitive bidding process after duly considering all the cost parameters / factors and quote a price only if it is affordable to them and the advantage of considering

price discovered through competitive bidding process is that lowest possible rate which is affordable to the bidders as well as most economical for buyer is obtained.

13. We have carefully considered the submissions made by the parties. The present petition is for seeking approval of the mechanism of applicable tariff for purchase of power under the Government of Gujarat “Policy for development of Small Scale Distributed Solar Projects - 2019”.
- 13.1. We note that the Commission has vide its letter dated 18.03.2017 informed the distribution licensees to procure the power from renewable sources specifically wind and solar by following competitive bidding process as the tariff discovered under the competitive bidding process was quite lower than the preferential tariff (feed-in-tariff) determined by the Commission. The benefit of lower tariff for procurement of power by the distribution licensee will be helpful in reducing the overall power procurement cost of the licensee and tariff of the consumers. The Government of India has also emphasised on procurement of power through competitive bidding process as the tariff discovered under the same is lower and attractive.
- 13.2. The petition is filed u/s 86(1)(b) and 86(1)(e) of the Electricity Act, 2003 wherein the Commission has been assigned the function (i) to regulate electricity purchase and procurement process of a DISCOM including the price at which such electricity shall be procured from generating company and (ii) to promote generation of electricity from renewable sources. Therefore, the Commission is within its statutory function to decide upon the petition of GUVNL in respect of its proposal for approval of the mechanism of applicable tariff for purchase of electricity from distributed Solar PV projects of capacity less than 4 MW.
- 13.3. The Commission is of the view that this is not a tariff determination exercise under Section 62 wherein cost of the plant and various other heads of expenditures are to be looked into. It is an application wherein licensee is proposing to approve the mechanism of applicable tariff for purchase of electricity from Distributed Small Solar PV generators under the State Government “Policy for development of Small Scale Distributed Solar Projects - 2019” at the tariff discovered through Competitive Bidding process in past six months plus Rs. 0.20 per unit.

- 13.4. As pointed out by some objectors that the Commission is required to determine feed-in tariff based on the actual cost of the plant and their operation and other charges, it is clarified that such process comes under a separate exercise which is not the case in the present petition.
- 13.5. The Commission has fixed RPO targets for each DISCOM of the State. In order to fulfil the aggressive solar RPO target, the licensees are required to purchase solar energy substantially. The intent of the Act, Policies and Regulations is also to prefer competitive bidding for renewable energy in future so as to maintain reasonable and competitive tariff. It is, therefore, in the interest of the consumers that such solar energy is procured by the licensees at the most competitive rates.
- 13.6. Based on the provisions of the Government of Gujarat Policy dated 06.03.2019, the Petitioner has proposed to procure the power from the small scale distributed solar projects having size of 0.5 MW and above but not exceeding 4 MW. The procurement price of energy is at the rate of tariff discovered under the competitive bidding process in different time period of 6 months of the year plus additional 20 paise per unit thereon for the projects located outside the solar park as under:
1. The average of tariff discovered under the competitive bidding process over 6 months ending on 31<sup>st</sup> March of any year plus 20 paise for the projects commissioned from 1<sup>st</sup> April to 30<sup>th</sup> September of the respective year.
  2. The average of tariff discovered under the competitive bidding process over 6 months ending on 30<sup>th</sup> September of any year plus 20 paise for the projects commissioned from 1<sup>st</sup> October to 31<sup>st</sup> March of the respective year.
- 13.7. The issues raised by the Objector that since the aforesaid tariff is not determined by the Commission under Section 62 of the Act, the present Petition is not admissible and maintainable. The Objectors have also objected that details pertaining to the cost of project, debt and interest, equity component and return on equity, land cost, CUF etc. are not stated in the Petition. In the absence of aforesaid details, it is not permissible to accept the tariff proposed by the Petitioner. It is also contended by the Objectors that the actual cost of the Solar Power Projects and cost of generation of such project is quite higher than the proposed tariff for procurement of power by the Petitioner. We note that the aforesaid contentions of the Objectors with regard to determination of tariff if it is carried out by the Commission under Section 62 of the Act then these are

valid. However, in the present case, there is no determination of tariff being carried out by the Commission u/s 62. The present petition is regarding approval of mechanism of applicable tariff for procurement of power from Small Scale Distributed Solar projects having size of 0.5 MW and above but not exceeding 4 MW in the distribution network. We note that the present Petition is filed based on the Government of Gujarat Policy for Development of Small Scale Distributed Solar Power Projects, 2019 notified vide GR No. SLR/11/2019/51/B1 dated 06.03.2019. The relevant portion of the applicable tariff for procurement of power by the distribution licensee stated in Clause 8 of the said policy is reproduced below:

***“ Applicable Tariff***

***Tariff applicable under this Policy shall be as per following mechanism:***

*The tariff contracted in the competitive bidding process conducted by GUVNL at which PPAs are signed for procurement of Solar Power from projects located outside Solar Park prevailing as on 31st March (computed based on simple average of such tariff discovered and contracted over six months ending on 31st March) of any given year with an addition of Rs. 0.20 per unit shall be the applicable tariff at which the PPAs shall be signed during the immediately succeeding period of April to September by Obligated Entities with these Solar Projects under this policy and similarly the contracted tariff prevailing as on 30th September of any given year (computed based on simple average of such tariff discovered and contracted over six months ending on 30th September) with an addition of Rs. 0.20 per unit shall be the applicable tariff for PPAs to be signed during the immediately succeeding period of October to March. However, the above mechanism of applicable tariff shall be subject to approval of GERC. The obligated entities shall take one time approval of GERC. The Rs. 0.20 per unit addition in tariff is allowed for Rs. 0.12 per unit for saving in transmission loss as power will be injected in distribution grid and Rs. 0.08 per unit is to compensate for expensive land cost, higher capital investment and maintenance cost due to small size of projects*

*The above mentioned tariff shall be applicable for a PPA term of 25 years from Commercial Operation Date of the Projects.”*

As per the aforesaid Policy the applicable tariff for procurement of power by the licensee from the small scale distributed solar PV projects shall be different during different period of time during the year depending upon the tariff discovered under the

competitive bidding process conducted by GUVNL and that the same shall remain valid for a PPA term of 25 years from the commercial date of operation of the projects. Moreover, the licensees (obligated entities) are required to obtain one-time approval of the said mechanism. The Policy also provides for incentive of Rs. 0.20 per unit towards savings in transmission loss of Rs. 0.12 per unit and Rs. 0.08 per unit as compensation towards high cost of land, high capital cost and higher maintenance cost due to small size of the projects.

13.8. It is also necessary to refer Clause 19 of the aforesaid Policy which reads as under:

*“.....19. Regulation:*

*The Hon’ble Gujarat Electricity Regulatory Commission shall be guided by this Policy while framing its rules, regulations and orders. ...”*

Thus, the provisions of the Policy are guiding factors for the Commission while framing its Rules, Regulations and Orders.

13.9. The competitive bidding guidelines dated 03.08.2017 framed by the Central Government under Section 63 of the Act with regard to the procurement of power from solar power projects consists of the provisions with regard to applicability of the said guidelines which provides that the same is applicable for the project having capacity of 5 MW and above, the relevant portion of the said guidelines is reproduced below:

*“.....2.1 applicability of guidelines*

*2.1.1*

*These guidelines are being issued under the provisions of Section 63 of the Electricity Act, 2003 for long term procurement of electricity by the ‘Procurers’ from grid – connected Solar PV Power Projects (‘Projects’) having size of 5 MW and above, through competitive bidding.....”*

Thus, as per the Guidelines issued by MNRE, small scale solar projects having less than 5 MW capacity are not eligible to participate in the competitive bidding process.



- 13.10. We note that in view of above restriction on participation in competitive bidding process the policy is framed by the Government of Gujarat for promotion of small scale solar power projects having capacity of 0.5 MW and above but upto 4 MW. The policy will help the small investors to set up such plants on their own land or the land purchased by them and inject the energy generated by their plants into the grid. Since such small generators are not eligible to participate in the competitive bidding process carried out by the distribution licensees, the Policy is aimed at addressing this issue and directing the obligated entities to purchase power through a structured mechanism of tariff discovery from such small scale developers.
- 13.11. In the present case the procurement of power is at the tariff which consists of the tariff rate discovered under the competitive bidding process plus additional 20 paisa per unit. Thus, it is not a tariff discovered under Section 63 of the Act or the bidding carried out under aforesaid Section. It is also not a tariff determined by the Commission under Section 62 of the Act where the capital cost of the project, loan, interest on loan, working capital, interest on working capital, O&M charges etc. are considered on normative basis or on the basis of actual cost of the project. But the tariff is based on the tariff discovered under the competitive bidding process conducted during the past 6 months plus 20 paisa additional to be payable to the project developer by the procurer licensee. Thus, Petition is filed under Section 86 (1) (b) and (e) of the Electricity Act, 2003 for approval of power procurement including rate from small scale solar distributed generators by the distribution licensees.
- 13.12. We also note that the procurement of power at the tariff discovered under the competitive bidding carried out by the Petitioner for the different period i.e. from 1<sup>st</sup> April to 30<sup>th</sup> September of the year or for the period from 1<sup>st</sup> October to 31<sup>st</sup> March of the next year for procurement of power is required to be approved by the Commission. The tariff discovered under the aforesaid period will be adopted by the Commission under Section 63 of the Act. Further, the additional Rs. 0.20 per unit benefit given to the project developer consists of Rs. 0.12 per unit towards savings in transmission losses as there is no utilisation of transmission network for evacuation of power by the project developer who requires to supply power at 11 kV. The addition of Rs. 0.08 per unit is to compensate project developer for expensive land cost, higher capital investment and maintenance cost due to small size of the project. Thus, the policy has

addressed the concerns of small project developers with the objective of facilitating and promoting speedier development of solar projects in multiple small packets of barren and uncultivable land in the State. This will also achieve the other objectives of the policy viz.

- i. Provide visibility about available tariff for sale of power to small solar power project developers who cannot participate in competitive bidding.
- ii. Mobilize local resources, enhance skill development and create employment opportunities in Solar Energy Sector by promoting small scale entrepreneurs.
- iii. Help utilize the robust transmission and distribution network of State Utilities for large scale integration of Solar Projects with the grid.
- iv. Strengthen the local grid and improve local voltage by encouraging distributed generation.
- v. Encourage growth of local manufacturing facilities in line with the 'Make in India' programme.

Hence, the tariff mechanism seems to be appropriate and valid for procurement of power from the small scale distributed solar PV projects by the distribution licensees.

13.13. The Objector has raised the issue that the present petition is neither under Section 62 nor under Section 63 of the Act and therefore it cannot be approved. We note that the present Petition is filed by the licensee to seek approval of the Commission under Section 86 (1) (b) & (e) of the Electricity Act, 2003 for the mechanism applicable for power procurement from the small scale distributed solar generators. Therefore, it is not a case where the tariff has to be determined or discovered under Section 62 or 63 of the Act. The Objection is therefore not acceptable and the same is rejected.

13.14. The Objector has raised the issue that Section 61 (c) and (d) of the Act provides that while framing the tariff Regulations the factors which would encourage competition, efficiency, economical use of resources, good performance and optimum investment as well as safeguarding the consumers interest and at the same time, recovery of the cost of electricity in a reasonable manner need to be considered by the Commission. We note that the mechanism of applicable tariff proposed for approval by the Petitioner based on Government of Gujarat policy dated 06.03.2019 addresses the issues of competition, efficiency, economical use of resources, good performance and optimum investment as well as allowing recovery of the cost of electricity. Since, the tariff

discovered under the competitive bidding process for above 5 MW projects fulfill the criteria of Section 61(c) of the Act and the additional 20 paisa per unit protects the interest of generators. Thus, the reasonable returns are available to the Project Developers. Hence, the principles specified in Section 61 (c) and (d) are not violated in the present case.

13.15. The Objector has raised various other issues as stated in para 7 above including the admissibility and maintainability of the Petition. We note that the present Petition is under Section 86 (1)(b) and (e) of the Electricity Act, 2003 read with GoG Policy for Development of Small Scale Distributed Solar Power Projects – 2019. It is therefore necessary to refer the same as reproduced below:

“ .....  
86. (1) *The State Commission shall discharge the following functions, namely:*  
-  
.....  
*(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;*  
.....”

As per aforesaid provision, the State Commission is mandated to regulate the electricity purchase and procurement process of distribution licensees including

- (i) Price at which electricity shall be purchased from the generating company or licensee or other sources by the distribution licensee,
- (ii) Process for procurement of power,
- (iii) Purchase of power done through agreement by the distribution licensee.

“ .....  
86. (1) *(e)*  
.....  
*(e) promote congenration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licence;*  
.....”

As per aforesaid provision, the State Commission is required to promote the co-generation and generation of electricity from renewable sources by providing suitable connectivity with the grid for the renewable energy generators, sale of electricity to any person and also to specify the renewable purchase obligation of the obligated entities by specifying the percentage of total consumption of electricity in the area of distribution licensee. Thus, the Act mandates the State Commission to promote the renewable energy by way of aforesaid measures.

- 13.16. In pursuance of the above mandate the Commission has notified the renewable purchase obligation for the obligated entities in the State of Gujarat through GERC (Procurement of Energy from Renewable Sources) Regulations, 2010 and subsequent amendments thereto. Vide Second Amendment, 2018 the Commission has specified the trajectory for renewable purchase obligation of the obligated entities in terms of energy in kWh as under:

| Year    | Minimum Quantum of purchase (in %) from renewable energy sources (in terms of energy in kWh). |           |                            |           |
|---------|-----------------------------------------------------------------------------------------------|-----------|----------------------------|-----------|
|         | Wind (%)                                                                                      | Solar (%) | Others (Biomass, Bagasse,) | Total (%) |
| (1)     | (2)                                                                                           | (3)       | (4)                        | (5)       |
| 2018-19 | 7.95                                                                                          | 4.25      | 0.50                       | 12.70     |
| 2019-20 | 8.05                                                                                          | 5.50      | 0.75                       | 14.30     |
| 2020-21 | 8.15                                                                                          | 6.75      | 0.75                       | 15.65     |
| 2021-22 | 8.25                                                                                          | 8.00      | 0.75                       | 17.00     |

From the above, it is clear that the obligated entities are required to comply with the renewable purchase obligation by consumption of different percentage of energy from wind, solar and other sources of their total consumption during different financial years.

- 13.17. The total consumption of the four distribution licensees of the Petitioner, i.e. DGVCL, PGVCL, MGVCL, UGVCL for FY 2018-19 to FY 2020-21 has been estimated in MYT Orders dated 31.03.2017 as under:

*Approved GUVNL Cost from FY 2018-19 to FY 2020-21*

(Rs Crores)

| <i>Sr. No.</i> | <i>Particulars</i>          | <i>FY 2018-19</i> | <i>FY 2019-20</i> | <i>FY 2020-21</i> |
|----------------|-----------------------------|-------------------|-------------------|-------------------|
| <i>1</i>       | <i>Energy handled (MUs)</i> | <i>91973</i>      | <i>96426</i>      | <i>101205</i>     |

Taking into consideration the above requirement of energy and the RPO targets as stated in the previous paragraph. Thus, the Petitioner is required to procure substantial quantum of renewable energy specifically from solar during 2018-19 to 2020-21. The said quantum would further increase in FY 2021-22 in view of increased RPO targets. Thus, the energy requirement from solar projects during the period up to FY 2021-22 has to be met by the Petitioner through procurement of power from the renewable energy sources which include solar energy which is the subject matter of the present Petition. We, therefore, decide the procurement of energy from small scale distributed Solar PV Projects as per the mechanism of applicable tariff proposed by the Petitioner in term of the GoG Policy dated 06.03.2019 would help the obligated entities in achieving their targets.

- 13.18. The present Petition is under Section 86(1)(b) and 86(1)(e) read with GoG policy for development of Therefore, the contention of the Objector that the present Petition is not maintainable is not accepted and the same is rejected.
- 13.19. The Objector has raised the issue as to whether the determination of tariff for purchase and sale of power falls under the jurisdiction of the Commission or Government. It is clarified that the determination of tariff of distribution licensee, transmission licensee and generation company is the function of the Commission as specified under Section 62, 64 and 86 (1)(a) of the Electricity Act, 2003, where the Commission determines the tariff based on the Regulations framed under Section 61 of the Act. The Commission is also empowered to adopt the tariff discovered under Section 63 of the Act. The Petitioner and the State Government are not having any jurisdiction to decide the same and the Petition also does not envisage so. The GoG policy dated 06.03.2019 as referred above also recognised that the mechanism of applicable tariff for procurement from power for Solar PV power projects of 0.5 MW to 4 MW is subject to the approval of the Commission. Therefore, it is undoubted that determination of tariff for the purchase and sell of power by the distribution licensee falls within

jurisdiction of the Commission and not in the jurisdiction of the Government or GUVNL.

- 13.20. The Objector has raised the issue as to whether it is possible to determine the cost of generation in the absence of details such as project cost, loan amount, interest on loan, loan, interest on working capital, maintenance cost etc. which Commission has been doing in other cases. We clarify that the tariff determination under Section 62 read with Section 86(1)(a) and 64 is done under the tariff Regulations notified by the Commission under Section 61 and is based on normative parameters i.e. period of loan, interest on loan, working capital, interest on working capital, O&M charges, income tax, capital cost, depreciation, energy generation from the project etc. The Commission may also determine the tariff of the generating company by considering actual project cost, actual loan & interest thereon, actual working capital & interest thereon, actual O&M charges, depreciation, income tax, energy generation etc. The Commission may also adopt the tariff discovered under the competitive bidding process where the tariff is quoted by the bidders and the lowest bidder is selected and its tariff is adopted by the Commission under Section 63. Thus, the tariff determination has two options where the final approval of the Commission is necessary.
- 13.21. As stated above, all the relevant issues connected with the matter are dealt with by the Commission in earlier para. Accordingly, the Commission has decided to allow the Petition of GUVNL as per the Government of Gujarat Policy dated 06.03.2019.
- 13.22. We further clarify that the procurement of power by the distribution licensee from small distributed generators of 0.5 to 4 MW capacity under the Government Policy dated 06.03.2019 is an optional scheme where the generator and the licensees are eligible to sell and/or purchase the energy if they wish to do the same. The scheme is for promotion of distributed solar energy generation in the State where the small generators have an option to set up the plant and sell the energy to the distribution licensees at a rate which is comparatively higher than the rate discovered under the competitive bidding process. Thus, it is an option given to the small solar generators who desire to sell the energy at the tariff discovered under competitive bidding process plus Rs. 0.20 per unit additional. It is not compulsory for the generators to accept the tariff if it is not economically viable for them.

14. In view of the above, we decide to approve the mechanism of applicable tariff for purchase of power under the Government of Gujarat Policy for development of Small Scale Distributed Solar Projects – 2019 as proposed by the Petitioner with the following directives:

1. The Petitioner shall place on its website the applicable tariff on which it will buy the energy generated from Small Scale Distributed Solar Power Projects of the capacity of 0.5 to 4 MW.
2. The rate will be updated every 6 months.
3. The Petitioner shall submit a statement showing the details of PPAs executed with the Small Scale Distributed Solar Power Projects Generators to the Commission at the end of every quarter beginning from 01.04.2020 onwards.

15. We order accordingly.

16. With this order the present petition stands disposed of.

**Sd/-**  
**[P. J. THAKKAR]**  
**Member**

**Sd/-**  
**[K. M. SHRINGARPURE]**  
**Member**

**Sd/-**  
**[ANAND KUMAR]**  
**Chairman**

Place: Gandhinagar.  
Date: 08.08.2019.