

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

Petition No. 70 of 2017
Date of Order: 30.07.2020

Petition for the approval of the Capital Investment Plan (CIP) and the Business Plan (BP) for 2x270 MW Goindwal Sahib Thermal Power Project for Multi Year Tariff (MYT) control period (FY 2017-18, 2018-19 and FY 2019-20) under Regulation 9 & 10 of the Punjab State Electricity Regulatory Commission (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations, 2014.

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, Punjab.

.. Respondent

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

ORDER

1. The Petitioner has filed the present petition for the approval of Capital Investment Plan (CIP) and Business Plan (BP) for 2x270 MW Goindwal Sahib Thermal Power Project for Multi Year Tariff (MYT) control period (FY 2017-18, 2018-19 and FY 2019-20) under Regulation 9 & 10 of the Punjab State Electricity Regulatory Commission (Terms and Conditions for determination of Generation, Transmission, wheeling and Retail Supply Tariff) Regulations, 2014.

1.1 The petition was admitted vide Order dated 22.01.2018 after condonation of delay. Notice was issued to PSPCL for filing its reply and GVK was directed to issue public notice inviting suggestions/objections from public as required under Regulation 67 of the PSERC (Conduct of Business) Regulations, 2015.

1.2 PSPCL vide letter no. 6468 dated 23.02.2018 requested the Commission to grant 6 weeks time for filing their reply. The matter was taken up for hearing on 26.02.2018 wherein it was observed by the Commission that the public notice for inviting suggestions/objections from the public could not be published as per the timeline given in the Order dated 22.01.2018 and the same was amended to the effect that the public notice shall be published by GVK by 15.03.2018. The petition was fixed for hearing as well as public hearing on 11.04.2018. The Public Notice inviting objections/suggestions was published in the newspaper "Ajit" and "Daily News Post" on 07.03.2018.

1.3 The matter was taken up for hearing and public hearing on 11.04.2018. Despite the issuance of public notice, nobody appeared in the public hearing except the concerned parties. GVK was directed to file information inter alia regarding detailed provisions in the PPA allowing Additional Capitalization after COD of the Project. PSPCL was directed to file its comprehensive reply to the petition. Vide letter dated 30.07.2018, GVK submitted the requisite information as per order dated 17.04.2018. PSPCL vide memo No. 5396 dated 06.08.2018 filed its reply.

1.4 The reply filed by PSPCL and the information submitted by GVK was taken on record by the Commission vide Order dated 23.08.2018. The Commission further directed GVK to file its rejoinder to the reply

filed by PSPCL alongwith a detailed estimate of each of the expenditure/works covered in the CIP.

1.5 The matter was taken up for hearing on 11.10.2018 wherein the Commission directed GVK to file the Capital expenditure for FY 2017-18 on the basis of audited accounts alongwith the relevant documents and the accounting statements and further observed that the proposal for the capital expenditure for FY 2018-19 and 2019-20 is required to be updated.

1.6 On 21.11.2018, the next date of hearing, the Commission took note of the fact that information is not being provided by GVK as per Order dated 17.10.2018 and GVK was again directed to furnish complete information.

1.7 Vide letter dated 17.12.2018 GVK filed an affidavit in response to the clarification sought by the Commission vide its order dated 22.11.2018. The Commission again vide order dated 06.02.2019 directed GVK to file a comprehensive reply along with the answers to the queries raised in the hearing on additional affidavit.

1.8 Vide memo no. 5578 dated 12.02.2019 PSPCL submitted its reply to the information filed by GVK vide its additional affidavit dated 17.12.2018. On 05.04.2019 a notice was issued to GVK to file certain information. The matter was taken up for hearing on 25.09.2019 wherein GVK was directed to submit the actual capital expenditure along with audited accounts for FY 2017-18 and 2018-19. GVK submitted an affidavit on 23.12.2019 in response to the order dated 01.10.2019 passed by the Commission. PSPCL vide memo no 5085 dated 16.01.2020 submitted its reply to the affidavit filed by GVK on 23.12.2019.

1.9 The matter was taken up for hearing on 06.02.2020 wherein the Commission observed certain deficiencies in the information filed by GVK. GVK was directed to file its reply to such deficiencies within two weeks. The matter was further taken up for hearing on 12.03.2020 wherein GVK was directed to submit the actual capital expenditure incurred in the FY 2019 -20 by 13.03.2020 and a comprehensive reply by 16.03.2020. GVK filed an affidavit on 17.03.2020 in response to the queries raised by the Commission vide Order dated 07.02.2020. The petition was taken up for final hearing on 24.06.2020 and after hearing the parties, the Order was reserved.

2. Commission's Observations & Findings

The Commission has examined the averments made by GVK in the petition, the reply filed by PSPCL, the documents adduced on the record by the parties as well as the arguments submitted by the parties.

Capital Investment Plan

GVK's Submissions

The year wise details of the Capital investment to be incurred during the Control Period FY 2017-18 to FY 2019-20 was submitted by GVK in the petition as under:

Table 1: CIP as submitted in the petition

(Rs. crore)

S. No.	Head	FY 2017-18	FY 2018-19	FY 2019-20	Total
1.	Buildings	57	0	0	57
2.	Plant & Machinery				
	- Initial capital spares	66	0	0	66
	- Balance BOP works	53	0	0	53
	- Balance BTG works	4	0	0	4
3.	Topping of Roads	50	0	0	50
	Total	230	0	0	230

3. In its submissions dated 11.10.2018, GVK revised the Capital Investment Plan as under:

Table 2: Revised CIP as submitted on 11.10.2018

(Rs. crore)

S. No.	Head	FY 2017-18	FY 2018-19	FY 2019-20	Total
1.	Buildings	0	0	57	57
2.	Plant & Machinery				
	- Initial capital spares	12.90	0	53.10	66
	- Balance BOP works	0	0	53	53
	- Balance BTG works	0	0	4	4
3.	Topping of Roads	0	0	50	50
	Total	12.90	0	217.10	230

4. The details of the works were submitted as under:

I. Buildings: Rs. 57 crore

- (i) Rs. 7 cr. : Pending BOP works
- (ii) Rs. 12 cr. : Pending Non-EPC civil works
- (iii) Rs. 4 cr. : Green belt and water arrangement
- (iv) Rs. 4 cr. : Area cleaning by removing and levelling excess earth
- (v) Rs. 2 cr. : Drains
- (vi) Rs. 23 cr. : Claim from Punj Lloyd Ltd., BOP contractor
- (vii) Rs. 5 cr. : Improvement of coal handling and ash handling system

II. Plant and Machinery: Rs. 123 crore

- (i) Rs. 53 cr. : Initial capital spares of BTG
(Order placed for 54.43 crore out of which spares worth Rs. 1.62 crore were received as on COD and included in the completed capital cost of the project)
- (ii) Rs. 13 cr. : Initial capital spares of BOP
- (iii) Rs. 53 cr. : Balance electrical, mechanical and control & instrumentation works (Rs. 33 crore: for supply of material and Rs. 20 crore for services)

(iv) Rs. 4 cr. : Balance BTG works

III. Topping of roads : Rs. 50 crore

- (i) Rs. 19 cr. : Topping of main plant internal roads
- (ii) Rs. 12 cr. : Construction of peripheral roads
- (iii) Rs. 10 cr. : Drains and Peripheral Road
- (iv) Rs. 2 cr. : Main entrance
- (v) Rs. 1.50 cr.: Compound Wall
- (vi) Rs. 3 cr. : Guard Ponds (2 Nos.)
- (vii) Rs. 2.50 cr.: Security Towers and Street lighting along the peripheral road.

5. In its submissions dated 17.12.2018, GVK further revised the aforementioned Capital Investment Plan wherein the audited expenditure for FY 2017-18 is stated, as under:

Table 3: Revised CIP as submitted on 17.12.2018

(Rs. crore)

S. No.	Head	FY 2017-18	FY 2018-19	FY 2019-20	Total
1.	Buildings	0	1	56	57
2.	Plant & Machinery				
	- Initial capital spares	12.91	0	53	66
	- Balance BOP works	0.12	3	50	53
	- Balance BTG works	0	0	4	4
3.	Topping of Roads	0	0	50	50
4.	Office equipments	0.08	0	0	0
	Total	13.11	4	213	230

6. In the submissions dated 23.12.2019, GVK has submitted as under:

- (i) Spares: Rs. 12.90 crore

GVK had placed a letter of intent for BTG spares worth Rs. 45.50 crore, which would cost approximately Rs. 53 crore after including freight, transit insurance, excise duty and CST. Out of this amount Rs. 1.62 crore has already been included in the completed Capital cost of the project.

During FY 2017-18, BTG spares of Rs. 12.90 crore out of Rs. 45.50 crore were procured.

(ii) Coal Testing Laboratory: Rs. 0.84 crore

An expenditure of Rs. 0.84 crore as additional capitalization has been incurred in FY 2018-19 towards setting up of the Coal Testing Laboratory in compliance of the Commission's Order dated 06.03.2019 in Petition No. 68 of 2017.

In support, GVK has submitted the certificates issued by the Chartered Accountants dated 05.07.2018 and 15.11.2019 in respect of expenditure of Rs. 12.90 crore for spares and Rs. 0.84 crore for setting up of the Coal Testing Laboratory, respectively. Further vide submissions dated 17.03.2020 GVK has submitted that an expenditure of Rs. 0.6986 crore has been incurred up to 29.02.2020 during FY 2019-20 in respect of the Coal Testing Laboratory, in support of which certificate issued by the Chartered Accountants dated 12.03.2020 for expenditure of Rs. 0.6986 crore has been submitted. GVK has requested that the Commission may consider the expenditure of Rs. 12.90 crore for spares incurred by it in FY 2017-18 and Rs.0.84 crore and Rs. 0.6986 crore for setting up of the Coal Testing Laboratory in FY 2018-19 and FY 2019-20 respectively. Further, GVK has sought leave of the Commission to approach the Commission as and when the balance additional capital expenditure of Rs. 217.10 (230-12.90) crore, as originally envisaged, is incurred.

Table 4: Revised CIP as submitted on 23.12.2019

(Rs. crore)

Head	FY 2017-18	FY 2018-19	FY 2019-20	Total
BTG Spares	12.90	Nil	Nil	12.90
Total	12.90	Nil	Nil	12.90

Table 5: Expenditure incurred beyond the CIP

Head	(Rs. crore)			
	FY 2017-18	FY 2018-19	FY 2019-20	Total
Coal Testing Laboratory	Nil	0.84	0.6986	1.5386
Total	Nil	0.84	0.6986	1.5386

PSPCL's Submissions

7. a) In its submission dated 06.08.2018, PSPCL submitted that the auditor certificate dated 05.07.2018 certifies an amount of Rs. 12.90 crore incurred towards procurement of capital spares from BHEL in FY 2017-18.

b) For the remaining amount of Rs. 217.10 crore claimed by GVK as additional expenditure on capital cost of the project, PSPCL submitted that the Commission may consider the same after careful scrutiny and prudence check as the same is based on mere projections with no verifiable data on record. PSPCL further submitted that since the COD of the project was achieved on 06.04.2016 (1st unit) and 16.04.2016 (2nd unit), the cut-off date for the same would be 31.03.2019, thus, any approval of additional capitalization claimed by GVK is to be restricted to capital expenditure incurred or projected to be incurred upto 31.03.2019 only. Further, any capitalization for additional work/services is to be admitted by the Commission only if the same has not been included in the original project cost.

In its submissions dated 16.01.2020, PSPCL stated that Regulation 18.1 (e) of PSERC MYT Regulations, 2014 provides that the capital expenditure, incurred after COD up-to the cut-off date for procurement of initial capital spares in the original scope of work, may be admitted subject to a ceiling of 2.5% of the related project cost in case of

the coal based generating plant as mentioned in regulation 17.2. PSPCL further submitted that since the coal testing lab has been established by GVK in compliance to the Commission's Order dated 06.03.2019 in Petition No. 68 of 2017, the same may be admitted subject to the prudence check by the Commission.

8. DECISION OF THE COMMISSION

In the petition filed in 2017, GVK had proposed a Capital Investment Plan of Rs. 230 crore for the MYT period. GVK has delayed furnishing the complete information so much that the Commission had to call for the actual Capital expenditure for the three years. Notwithstanding that, considering the averments and various submissions made by the parties and the relevant Regulations, the Commission decides as under:

Capital Investment Plan

a) GVK has requested the Commission to allow the amount of Rs. 12.90 crore incurred for procurement of BTG spares in FY 2017-18 out of the Capital Investment Plan of Rs. 230 crore for the MYT Control Period FY 2017-18 to 2019-20. Further, GVK has requested to allow the additional investment of Rs. 0.84 crore incurred by it in the FY 2018-19 and Rs. 0.6986 crore in FY 2019-20 for setting up of the Coal Testing Laboratory as directed by the Commission in its Order dated 06.03.2019 in Petition No. 68 of 2017.

b) Considering the submissions, the Commission provisionally allows investment of Rs. 12.90 crore for procurement of BTG spares in FY 2017-18 subject to submission of the audited accounts by GVK including all invoices/bills of the expenditure incurred and payment receipts during the true-up. As GVK has neither incurred

any expenditure nor claimed any investment for FY 2018-19 and FY 2019-20 in its revised submissions of 23.12.2019 out of the Capital Investment Plan of Rs. 230 crore originally submitted by it for approval, the Commission considers the same as Nil.

c) Further, as sought by GVK, the balance capital investment of Rs. 217.10 (230-12.90) crore shall be considered by the Commission as per the applicable Regulations on merits as and when GVK approaches the Commission for the same.

d) The Commission also provisionally allows investment of Rs. 1.5386 crore for setting up of the Coal Testing Laboratory in FY 2018-19 (0.84 crore) and FY 2019-20 (0.6986 crore) by GVK (as additional capital investment) as the Commission had directed GVK to set up coal testing laboratory in its Order dated 06.03.2019 in petition No. 68 of 2017 subject to submission of the audited accounts including invoices/bills of the expenditure incurred and payment receipts at the time of true-up.

Table 6: Capital Investment Provisionally allowed by the Commission

(Rs. crore)

Head	FY 2017-18	FY 2018-19	FY 2019-20	Total
BTG Spares	12.90	Nil	Nil	12.90
Coal Testing Laboratory	Nil	0.84	0.6986	1.5386
Total	12.90	0.84	0.6986	14.4386

9. BUSINESS PLAN

As per Regulation 10 of the PSERC MYT Regulations, 2014, the Applicant shall file for approval of the Commission, a business plan for

its generation, transmission or distribution businesses, as the case may be, on or before 1st April of the year preceding the first year of the control period, for a duration covering at least the entire control period. The business plan shall cover details for each year of the control period.

Key requirements of Business Plan

Regulation 10 of the MYT Regulations, 2014 relates to the Business Plan, which is reproduced below:

“10. BUSINESS PLAN

10.1. The Applicant shall file for approval of the Commission a business plan for its generation, transmission or distribution businesses, as the case may be, on or before 1st April of the year preceding the first year of the control period for a duration covering at least the entire control period. The business plan shall cover details for each year of the control period.

10.2.....

10.3.....

10.4. The business plan for transmission business shall be based on proposed generation capacity addition and future load forecasts of the State and shall contain among other things the following: (i) Future plans of the company including efficiency improvement measures proposed to be introduced and technical requirement such as meeting reactive power requirements; (ii) Plan for reduction in transmission losses;

(iii) Plan for improvement in quality of transmission service and reliability; (iv) Metering arrangements; (v)

Financial statements (which includes balance sheet, profit and loss statement and cash flow statement)- current and projected (at least for the control period duration) along with basis of projections; (vi) Any other new measure to be initiated by the licensee, e.g. automation, IT initiatives etc.

10.5.

10.6. *The Commission shall scrutinize and approve the business plan taking into consideration the additional information provided by the applicant, if any, and the objections/ suggestions of the key stakeholders.*

10.7. *The Applicant shall submit all information/data as required by the Commission for necessary approval of the business plan.*

10.8. *The business plan shall be approved within a period of 90 days from the date of its filing or submission of complete information, whichever is later.*

10.9. *For the purpose of first control period, the timeline for submission of the business plan by the Applicant shall be as specified in regulation 63.”*

GVK has submitted Business Plan for the First Control Period along with the petition which includes the following components of the Business Plan.

- a) Generation forecast and future performance targets
- b) Proposed efficiency improvement measures
- c) Saving in operating costs
- d) Financial Statements of the last Audited Balance Sheet
- e) Financial Statements for the Control Period

On the scrutiny of the above, it has been observed that incomplete data/details have been furnished in the Business Plan. However, GVK has submitted some details pertaining to the same in the petition No.69 of 2017 for determination of Tariff for 1st MYT Control Period FY 2017-18 to FY 2019-20, wherein the same will be considered by the Commission separately.

GVK was required to file the Capital Investment Plan as well as Business Plan with the Commission on or before 1st April of the preceding year of the first year of the Control Period, i.e. on or before 01.04.2016, for all three years of Control Period from FY 2017- 18 to FY 2019-20. The Petition was not filed within the stipulated time. Though the delay was condoned while admitting the petition subsequently GVK has delayed providing complete information to the Commission to the extent that the Capital Investment Plan is being approved now after the expenditure has been made. In this scenario, approval of Business Plan would be of no consequence at this stage.

The Commission in this Order provisionally approves the Capital Investment for the control period as brought out in table No.6.

The petition is disposed of in terms of above.

Sd/-

(Anjuli Chandra)
Member

Sd/-

(S.S. Sarna)
Member

Sd/-

(Kusumjit Sidhu)
Chairperson

Chandigarh

Dated: **30.07.2020**