

Chapter III

Compliance Audit Observations

Important audit findings that emerged from the test check of transactions of the Government of Gujarat Companies and Statutory Corporations are included in this Chapter.

Government Companies

Gujarat State Electricity Corporation Limited

3.1 Construction and Performance of Ukai Thermal Power Station Unit VI

Introduction

3.1.1 The Gujarat State Electricity Corporation Limited, Vadodara (Company) was incorporated in August 1993 as a wholly owned subsidiary of the erstwhile Gujarat Electricity Board (Board) to mobilise resources from the market for adding to the generation capacity of Gujarat and improving the quality and cost of generation. Post-unbundling of the Gujarat Electricity Board in April 2005, the Company became the generation arm of the erstwhile Board. In Ukai, the Company had five units (2x120 MW, 2x200 MW and 1x210 MW), with a total capacity of 850 MW. The Company proposed to install (2005) a 500 MW unit as Unit No VI in the existing land of the Ukai thermal power station which was commissioned in June 2013. With this unit, the installed capacity of the Company increased to 5,496 MW as on 31 August 2014 with nine¹ power stations (four coal based, two hydro-based, two gas-based and one lignite-based). This paragraph covers the construction and performance of the Unit VI of Ukai Thermal Power Station.

Execution of the Project

3.1.2 The Detailed Project Report and Project Estimates (DPR) of Unit VI, Ukai were prepared by Tata Consulting Engineers Limited (TCE) (March 2007). The project cost was estimated at ₹ 2,842.49 crore, including interest during construction (IDC) besides financial charges of ₹ 226.85 crore. PFC sanctioned (September 2007) loan of ₹ 1,775 crore for the project. The Engineering, Procurement and Construction (EPC) contract and the contract for spares were awarded in September 2007/July 2008 to Bharat Heavy Electricals Limited (BHEL) at a cost of ₹ 2,054.58 crore (₹ 1,950 crore EPC plus ₹ 104.58 crore for spares). Besides, other contracts for ₹ 91 crore were also awarded adding the total project cost to ₹ 2,145.58 crore. The major contract, being the EPC contract, was awarded to BHEL on nomination basis. The EPC contract awarded to BHEL was subsequently increased in scope

¹ **Ukai (coal)** – 6 units of 1350 MW, **Ukai Hydro** – 305 MW, **Gandhinagar (coal)** – 5 units of 870 MW, **Wanakbori (coal)** – 7 units of 1470 MW, **Sikka (coal)** – 2 units of 240 MW, **KLTPS (Lignite)** - 4 units of 290 MW, **Dhuvaran (Gas)** CCPP stage I -106.617 MW, **Dhuvaran (Gas)** CCPP stage II – 112.45 MW, **Utran (Gas)** CCPP I 135 MW, **Utran (Gas)** CCPP stage II – 375 MW and **Kadana Hydro** – 242 MW.

during 2009-2014 increasing the value of total contract cost to ₹ 2,177.72 crore.

The contractual completion schedule for Unit VI for the purpose of liquidated damages and other provisions of the contract was 5 February 2011 being 40 months from zero date of 6 October 2007. In this case, as the works of BHEL relating to Civil, Mechanical, Electrical and Control and Instrumentation in respect of the project were still in progress (October 2014), the Company neither conducted reliability run nor provisionally took over the unit with punch list items, but declared commercial commissioning on 8 June 2013. It was only on 6 July 2014 that the reliability run was conducted and provisional takeover of the unit was done. Though the Performance Guarantee Test has to be conducted within three months of provisional take over, the same was pending as some works were still pending (October 2014). The Company had provisionally levied the liquidated damages of ₹ 196.34 crore² on BHEL for delay in completion of project of which ₹ 93.84 crore was still to be recovered/adjusted (August 2014). Against the estimated project cost of ₹ 2,615.64 crore and IDC of ₹ 226.85 crore, the actual expenditure till 31 March 2014 was ₹ 2,357.83 crore and ₹ 655.59 crore respectively.

The major reasons for delay in completion of the project as cited by the Company were:

- Gradual release of sites by the Company to BHEL
- Delay in finalising agencies by BHEL.
- Delay in soil investigation by BHEL due to gradual site release.
- Delay in civil works due to inadequate resources of civil contractor of BHEL.
- Unidentified underground utilities³/impediments coming to notice during excavation resulting in re-routing/relocation of equipment/system.
- Delay in material supply by BHEL.

The Company stated (May 2014) that the activity-wise detailed analysis for the delay in completion of the project would be done at the time of finalisation of the time limit extension proposal of the project.

We observed that the Company was responsible for delayed release of sites to BHEL, which consequently led to delay in soil investigation by BHEL. Being brown field⁴ project, the Company needed to demolish existing godowns at the land where Unit VI was to be constructed for which the Company invited tender (12 January 2008) for demolishing 20 existing central stores and the construction of 20 new central stores at a different location after delay of six months from bid clarification meeting (August 2007). The order was placed on

² 10 per cent of EPC contract value ₹ 1963.69 crore (up to March 2014 excluding foreign currency transaction).

³ Pipelines, Drains, Cables etc.

⁴ The term brown field implies a land that at some point was occupied by a permanent structure.

M/s. Pooja Construction Company, Ahmedabad on 19 April 2008 at a total cost of ₹ 6.84 crore. The contract including the demolition and construction was to be completed by 15 October 2008. The Company could not get the work expedited and the same was completed only by February 2014 and that too after short-closing the contract by the Company after construction of 14 godowns. Thus, due to slow progress in the demolition work, the sites could not be released to BHEL in time. As such, the civil work of BHEL could start only by November 2008 after a delay of seven months. This being a controllable factor could have been better managed to avoid the cascading effect of this delay.

The Management stated (October 2014) that Ukai TPS was a brown field project requiring demolition of existing building/structure and diversion of several underground amenities/impediments. It was also stated that BHEL also abnormally delayed the execution and commissioning of the project, for which penalty of ₹ 102.50 crore had been deducted/adjusted from BHEL and ₹ 93.84 crore remained to be recovered as yet.

While acknowledging the action of the Company in levying penalty on BHEL, Audit would like to emphasise that the Company had past experiences in implementing brown field projects, and with better planning for release of sites to BHEL, initial delays could have been avoided. Further, Audit would like to recommend that the remaining ₹ 93.84 crore may be recovered early.

Operation of Unit VI of Ukai TPS

3.1.3 The Company entered into a Power Purchase Agreement (PPA) with Gujarat Urja Vikas Nigam Limited (GUVNL) on 1 January 2011 for sale of power from Unit VI of Ukai TPS. The scheduled commercial operation date (COD) of the Unit as per PPA was 60 months from the Zero date (6 October 2007) i.e., 5 October 2012. The Company could achieve COD only on 8 June 2013. The GUVNL recovered a penalty of ₹ 107 crore as liquidated damages (LD) from the Company for the delay in achieving COD.

As already mentioned in Paragraph 3.1.2 the Company had provisionally levied LD of ₹ 196.34 crore on BHEL out of which ₹ 93.84 crore was still to be recovered (August 2014). However the final amount of LD had to be determined after identifying the areas of delay. As stated by the Management, payment of LD to GUVNL was on account of BHEL not adhering to its contract conditions in spite of its rigorous follow-up. However, as observed by us in preceding paragraphs, the Company was also responsible for the overall delay in completion of the work of Unit VI due to belated and gradual release of sites to BHEL and improper assessment of works related to re-routing/re-location of equipment/system.

The Unit VI was commissioned in June 2013. The year-wise summary of generation of units I to VI of Ukai Thermal Power Plant is as under:

Table 3.1: Year wise generation of Ukai Thermal Power Plant (in MUs)

Year	Unit No.1	Unit No.2	Unit No.3	Unit No.4	Unit No.5	Total (Unit 1 to 5)	Unit No.6	Total
2012-13	494.00	607.73	1,342.45	1,481.82	1,445.75	5,371.75	0.00	5,371.75
2013-14	222.43	128.95	967.22	1,133.45	1,148.23	3,600.28	1,378.45	4,978.73

Source: MIS Report of generation of GSECL

Comparison of performance with GERC norms

3.1.4 The details of Energy Generated, Plant Load Factor, Plant Availability Factor, Auxiliary Consumption, Heat Rate and Oil consumption of the Unit VI, as against norms, are as under:

Table 3.2: Targets and achievements by Ukai Unit VI

Month	Energy Generated (MUs)	PLF ⁵ (per cent)	PAF ⁶ (per cent)	Auxiliary Consumption (per cent)	Heat Rate ⁷ (Kcal/Kwh)	Specific Oil Consumption (ml/Kwh)
GERC Norms			85	6	2,385	1
June 13	45.78	16.59	16.59	11.13	3,079	5.86
August 13	25.66	6.90	42.03	28.83	3,673	71.98
September 13	109.34	30.37	40.67	12.53	2,768	14.86
October 13	69.54	18.69	20.58	14.42	2,871	7.63
November 13	135.74	37.71	60.19	10.53	2,882	4.22
December 13	244.93	65.84	76.21	8.70	2,804	2.49
January 14	243.66	65.50	70.22	8.35	2,698	0.66
February 14	237.03	70.54	84.78	7.78	2,590	0.48
March 14	266.77	71.71	86.55	8.60	2,542	1.37
Total	1,378.45					

Source: MIS Report of generation of GSECL. In July 13, there was no operation.

As can be seen from the above table, none of the operational norms were achieved by Unit VI, Ukai excepting specific oil consumption during January and February 2014 and PAF during March 2014, though the company was closing in on the norms in the later months of the year. The outages during the period as mentioned below also contributed to the non-achievement of laid down norms. The plant remained shut down for 3,141 hours in the year 2013-14 mainly from 14 June 2013 to 6 August 2013 for completion of pending work, from 13 August 2013 to 4 September 2013 due to reserve shut down⁸, 3 October 2013 to 24 October 2013 due to boiler tube problem and 24 November 2013 to 3 December 2013 due to bottom ash clinker problem. The shut down period for other than reserve shut down was 2,487 hours.

The Management stated (October 2014) that there were many teething problems in Unit VI and the unit was either under planned or forced shut down for various technical reasons. They further stated that such problems were inevitable and unforeseen.

⁵ The ratio of the actual output of a power plant over a period of time and its output if it had operated at full capacity during that time period.

⁶ The availability factor of a power plant is the amount of time that it is able to produce electricity over a certain period, divided by the amount of the time in the period.

⁷ The amount of heat that has to be supplied in order to produce a specified generator power output.

⁸ Non- utilisation of available units due to their complete shutdown for want of load.

While the Unit VI is progressively narrowing the gap between its performance on various technical parameters and the norms set by GERC, it should be noted that PPA gives a stabilisation period during which lower norms are fixed considering the teething problems. The factors cited by the Company were already taken care of in the PPA and should have been anticipated.

Non availability of coal

3.1.5 It is evident from the Table 3.1 above that even after commissioning of Unit VI in June 2013; the total generation of the TPS in year 2013-14 remained less than the previous year. We observed that there was no additional receipt of coal after the commencement of Unit VI, as receipt of coal during July 2012 to June 2013 was 37.59 MTs which was reduced to 36.12 MTs during July 2013 to June 2014. There was backing down of generation of other units and Unit VI was operated with the available coal meant for those units, as separate allocation of coal to this unit had not materialised, as mentioned below.

3.1.5.1 As per the Detailed Project Report (DPR), the coal for the proposed plant was to be received from the Machhakata and Mahanadi coal blocks in Talcher area, Orissa. The Ministry of Coal (MoC) allocated the coal blocks in Orissa jointly to the Company and Maharashtra Power Generation Corporation Limited (MAHAGENCO) in February 2006. Both the Companies formed (November 2006) a new Joint Venture named MahaGuj Collieries Limited (MGCL) for development and exploration of the said blocks. The scheduled date for start of production for coal was 6 August 2009. However, the production had not started (November 2014) due to non availability of the forest clearance, environmental clearance and the completion of the land acquisition for the said coal block.

In the meantime, the Company had also approached South Eastern Coal Field Limited (SECL) (a subsidiary of Coal India Limited) for supply of fuel for Unit VI and got Letter of Assurance in August 2011. MoC directed (October 2013) SECL for supply of fuel to Unit VI of Ukai TPS for two years under agreement, which was also not finalised (July 2014). In absence of the fuel supply agreement, the Company was managing to run the Unit VI by utilising the coal available for other units of Ukai Thermal Power Plants as they are under backing down/reserve shut down.

The Management stated (October 2014) that the MoU for the coal linkage had been signed (August 2014) with SECL and that the supply would be commenced shortly. Further progress was awaited (November 2014). It was also stated that lower generation during 2013-14 as compared to 2012-13 was on account of backing down instructions from SLDC.

Conclusion and Recommendations

The main objective of constructing a new Unit VI in the Ukai TPS was to increase own generation capacity. However, we observed certain delays in the construction of the unit and deficiencies in the performance of the unit resulting in non-increase in overall generation as discussed below:

- The delay in the commissioning of Unit VI resulted in payment of liquidated damages to GUVNL whereas the amount recoverable from BHEL was still undecided as delays were on both sides.
- ***The Company may consider finalising the liquidated damages amount payable by BHEL in view of delays attributable to them in completion of the project. Further, the Company needs to tie up coal supply for Unit VI in order to increase the generation.***

The matter was reported to Government/Management (July 2014); Government replies have not been received. (December 2014).

3.2 Irregular waiver of penalty

The penalty of ₹ 62.89 lakh for delayed completion of work was irregularly waived extending undue benefit to a firm during May 2012.

The Kutch Lignite Thermal Power Station (KLTPS) of the Gujarat State Electricity Corporation Limited (Company) awarded (March 2006) the supply, erection, testing and commissioning work for Circulating Water (CW) system of Unit IV (1x 75 MW) to Kirloskar Brothers Limited (firm) for ₹ 15.76 crore. The scope of work *inter-alia* included application of polyurethane (PU) coating⁹/ corrocoat¹⁰ for all concrete walls, retaining walls, piers, basin slabs, raft slabs and MS pipe ducts inside surfaces which are in direct contact with brackish water¹¹. The scheduled date of completion of the contract was 11 October 2006.

As per clause 12 of the Work Order, penalty was leviable (not liquidated damages) at the rate of 0.5 *per cent* of the contract price of delayed supply/ works per week or part thereof subject to a maximum of 10 *per cent* of the contract value. The clause did not contain any provision for full or partial waiver of penalty for any reasons/ circumstances that may arise during the contract. We noticed that the main equipment of the CW system (Pumps A and B) were completed in July 2008. However, the performance guarantee test was taken on 8 September 2010 after completion of all the related works by the firm. The CW system completed in July 2008 was with a delay of 637 days of which 122 days were attributable to the firm and 515 days attributable to the Company. The Unit started commercial operation from December 2009.

The unit authorities noticed in February/March 2010 that the PU coating of the condenser cooling water inlet chamber had peeled out. As the incident occurred before the completion of performance guarantee period (i.e., up to September 2011), the firm was required to repair it free of cost as per clause 9 of the Work Order. After much persuasion, the firm agreed (February 2011) to take up the corrocoating work and the same was completed by April 2011. This caused shutting down the plant for two months. The Company

⁹ Polyurethane coating on metal provides a smooth durable finish that has superior resistance to corrosion, abrasion, and chemical exposure.

¹⁰ Corrocoating/PU coating is an anti corrosive coating which significantly increases the operating life of the metallic parts and critical plant and structures from corrosion attack and helps bottom line, through reduced repair, maintenance and replacement and downtime costs.

¹¹ Brackish water is water that has more salinity than fresh water, but not as much as sea water.

(June 2011) levied penalty of ₹ 125.78 lakh as per the Work Order. However, at the request (February 2012) of the firm, Board of Directors (BoD) of the Company decided (May 2012) to levy 50 *per cent* of the penalty amount and release the balance of ₹ 62.89 lakh to the firm on the considerations that CW system was ready before commissioning of Unit IV and that the firm had not charged any extra amount for the corrocoating work. Accordingly, the penalty of ₹ 62.89 lakh was released in June 2012.

We observed that in terms of clause 12 of the work order, penalty was leviable with reference to actual delay and not related to consequential losses. We noted that the corrocoating work was done during the guarantee period and had to be done free of cost as per Clause 9 as the same was necessitated owing to the poor PU coating work done by the firm. Consequently, the rectification work was carried out by keeping the plant shut down for two months which led to generation loss of 53.31 MUs¹² worth ₹ 11.62 crore¹³. Thus, waiver of penalty of ₹ 62.89 lakh on the grounds mentioned by the BoD was not justified and the Company extended an undue benefit to the firm to this extent.

The Management/ Government (July 2014) in their reply stated that the penalty was released as there was no financial loss to the Company and the firm carried out the corrocoating work free of cost. It also stated that the penalty clause in the tender is included basically to pressurise the supplier for adhering to the time schedule and protecting the interest of the Company hence releasing half the penalty was done as a business gesture.

The reply is not convincing as the penalty was leviable on account of delay in completion of the work hence, releasing the penalty on the ground that there was no financial loss to the Company, lacks justification. The corrocoating done free of cost by the firm was only as per terms of the tender and infact the poor workmanship resulting in the corrocoating repair had led to shut down and generation loss to the Company. Further, this decision sets a wrong precedence for the future, defeating the very purpose of provision of penalty clause.

Gujarat State Road Development Corporation Limited

3.3 Public Private Partnership road projects developed by the Gujarat State Road Development Corporation Limited

Introduction

3.3.1 Projects under Public Private Partnership (PPP), are based on a contract or a Concession Agreement (CA) between a Government or a statutory entity and a private sector entity for delivering an infrastructure service. The Government of Gujarat (GoG) formulated a “Road Policy” in December 1996. The policy enables private participation in the development, construction, repair, upgradation, management, operation and maintenance of roads within the State. The GoG set up Gujarat State Road Development

¹² 1440 hours (2 months) X 75MW X 1000 X 49.36 *per cent* PLF (PLF for May 2011 considered for valuation).

¹³ Valued at GERC approved fixed charges of ₹ 2.18 per unit for the year 2010-11.

Corporation Limited (Company) in May 1999, as a wholly owned Government undertaking with the objective to develop the road infrastructure projects in the State under PPP, besides other objectives.

The Government of India (GoI)¹⁴, introduced (July 2005) Viability Gap Funding (VGF) scheme¹⁵ for support to PPP in infrastructure projects. The scheme is confined to PPP projects taken up by the Government or its agencies, where the private sector is selected through open competitive public bidding.

Up to March 2014, the Company had taken up 10 road projects with 807.34 kilometers (km) under PPP mode on Build-Operate-Transfer (BOT) basis at a total cost of ₹ 3,876.85 crore. Out of that, eight road projects were completed and opened for public use between March 2003 and November 2012 and remaining two projects were yet to be completed (December 2014) as per details provided in **Annexure 3**.

We conducted (July 2013 and October 2013) audit of records of three road projects¹⁶ with 485 km road length (completed at a total cost of ₹ 2,598.81 crore and opened for traffic in the year 2012). These three projects constituted 95 *per cent* of the total project cost of eight completed projects.

Bidding Process and project details

3.3.2 The Company approved (March 2006) projects for four laning of three roads under VGF scheme of GoI on Built-Operate-Transfer basis and started process of tenderisation (October 2006). The Company carried out (January 2008) financial evaluation of the bids considering bidder quoting least VGF or the highest premium in fixed concession period and for fixed user fees.

L&T IDPL was the most responsive bidder for all three projects and quoted highest premium for undertaking these projects. The Company accepted (March 2008) offers of L&T IDPL for all the three projects and signed (September 2008) CAs with the Special Purpose Vehicles¹⁷ (Hereinafter referred to as concessionaires) formed by L&T IDPL for the development of each project for the concession period of 20/22 years. The concessionaires commenced the toll collection between February 2012 and November 2012.

The details of the projects are shown in **Table 3.3** below:

¹⁴ Ministry of Finance, Department of Economic Affairs.

¹⁵ In order to attract private capital as well as the techno-managerial efficiencies associated with it, the Government of India (GOI), Ministry of Finance, Department of Economic Affairs has introduced Viability Gap funding (VGF) scheme for support to PPP in infrastructure project in July 2005. The scheme is confined to PPP projects taken by the government or its agencies, where the private sector is selected through open competitive bidding. Under the scheme, GoI support is limited to 20 *per cent* of the cost of the project in the form of capital grant.

¹⁶ (i) Ahmedabad- Virangam-Maliya (AVM), (ii) Rajkot- Jamnagar-Vadinar (RJV), and (iii) Halol-Godhra-Shamlaji (HGS).

¹⁷ 1) L&T Ahmedabad-Maliya Tollway Private limited for AVM, 2) L&T Rajkot Vadinar Tollway Private limited for RJV and L&T Halol-Shamlaji Tollway private limited for HGS.

Table 3.3: Details of the projects

Project	Concession period (in years)	Project Cost (₹ in crore)	Road length (in km)	Premium quoted of the realisable fee ¹⁸ (in per cent)	Construction period (in days)	Financial Closure and Appointed date	Scheduled Completion date	Date of Commercial Operation (COD)
AVM	22	1,015.36	180.05	12.13	913	12-10-2009	12-04-2012	12-04-2012 to 22-11-2012 ¹⁹
RJV	20	774.80	131.65	12.95	820	12-09-2009	11-12-2011	01-02-2012
HGS	20	808.65	173.03	10.21	820	12-09-2009	11-12-2011	04-04-2012

Source: Information furnished by the Company

The premium *per cent* quoted above were for the first year from the date of COD and were to increase by additional one *per cent* as compared to the immediate preceding year for each subsequent year up to the end of the concession period. Based on the premium rate quoted and the subsequent increases in the premium amount on the realisable fee, the minimum premium receivable by the Company during the concession period was worked out by the Company as ₹ 2,513.36 crore, ₹ 1,736.71 crore and ₹ 1,771.58 crore respectively for the above three projects. The realisable fee being the higher of the projected and actual traffic, protected the interest of the Company and also entitled it to higher premium in case of actual traffic being more than projected. A software system was installed at 11 toll plazas for monitoring toll collection. The same was integrated with the system software at the Company.

Audit Findings

3.3.3 We have segregated our observations on the basis of certain project specific irregularities and also common irregularities related to all the three projects. These are discussed in the succeeding paragraphs.

Rajkot-Jamangar-Vadinar Road Project (RJV)

Recovery of dues due to dropping of a portion of work

3.3.3.1 Article 16.6 of the CA stipulates that if the Concessionaire fails to complete any construction work on account of Force Majeure or for reasons attributable to the Company, then the Concessionaire has to pay 85 *per cent* of the cost so saved within 90 days of such order to the Company.

The scope of the RJV Project included construction of a Railway Over Bridge (ROB) at Motikhavadi Railway Crossing in front of oil refinery owned by the Reliance Industries Limited (RIL), Mumbai. At the request of the RIL and considering the safety aspect of the refinery, the GoG directed (24 December 2009) the Company not to construct the ROB. Accordingly, the construction of the ROB was dropped by issue (December 2009) of “Change of Scope Notice”²⁰ and the Concessionaire was asked (August 2010) to pay 85 *per cent*

¹⁸ The **realisable fee** is the amount of fee collectible based on the projected passenger car units (PCUs) estimated to pass through the projects roads or the actual PCUs passed in a given point of time, whichever is higher.

¹⁹ Section-wise completion and toll collection started.

²⁰ Under Article 16.

of the saved amount to the Company. The concessionaire, however, did not prepare and submit the estimated cost for the dropped ROB to the company for Independent Engineer (IE) scrutiny till November 2011. Meanwhile, the delay in working out the cost and non recovery of the amount due as per Article 16.6 of the CA was also pointed out by audit in May 2011. The Concessionaire submitted (December 2011) estimated cost (₹ 8.55 crore) of the dropped work and deposited ₹ 7.27 crore (85 per cent) with the Company after two years (December 2011).

We observed that the IE also took nearly one year in scrutinising the estimates submitted by the Concessionaire and reported (November 2012) cost estimates of the dropped work as ₹ 19.18 crore. The Company calculated the savings of the cost of dropped work at ₹ 21.19 crore²¹ and directed the Concessionaire (February 2013) to deposit ₹ 18.01 crore (85 per cent of ₹ 21.19 crore) and applicable interest. Thus, the Company did not enforce recovery of saved amount as per Article 16.6.2, of ₹ 10.74 crore (₹ 18.01 crore less ₹ 7.27 crore) from the Concessionaire.

The Management stated (September 2014) that it has initiated (March 2014) the process for the amicable settlement which would be concluded shortly.

However, the fact remains that the Company did not expedite for the timely preparation of estimated cost of the dropped work by the Concessionaire and its scrutiny by the IE. Thus, ineffective follow-up led to non-recovery of ₹ 10.74 crore from the Concessionaire and consequential loss of interest income arising from delay in recovery.

Halol-Godhra-Shamlaji Road Project (HGS)

Partial reimbursement of dues and interest by the Concessionaire

3.3.3.2 Article 19.3 of the CA stipulates that the cost and expenses of the IE shall be reimbursed by the Concessionaire within 15 days of receiving a Statement of Expenditure from the Company. Further, under Article 29 of the CA, delay in reimbursement was subject to payment of interest by the Concessionaire.

The Company incurred ₹ 22.25 crore on the cost and expenses of the IE up to September 2014 inclusive of the expenses during O&M period against which the Concessionaire had reimbursed ₹ 16.27 crore only. Thus, ₹ 5.98 crore was outstanding as on September 2014.

The Management stated (September 2014) that it was pursuing the Concessionaire for reimbursement of fees.

The Company should expedite the recovery process.

²¹ The cost saved worked out by IE ₹ 19.18 crore + Maintenance Charges for the Concession period at 3 per cent ₹ 1.90 crore + Supervision charges for the maintenance work at 6 per cent ₹ 11.69 lakh.

Common irregularities in adherence to the provisions of CA

Revenue sharing arrangement

3.3.4.1 As per CA, the Concessionaire has to pay concession fee of ₹ one *per annum* to the Company. Further, the Concessionaires of AVM, RJV and HGS BOT Road projects had to pay to the Company for the first year of concession period, commencing from zero day from COD, a premium in the form of Additional Concession Fee (ACF)²² equal to 12.13 *per cent*, 12.95 *per cent* and 10.21 *per cent* respectively of the total realisable fee²³ during that year as brought out in Paragraph 3.3.2 above.

The user fee used for calculating the realisable fee is notified by the Government of Gujarat (GoG) annually every year in April as per the provision of the respective CAs. Further, the Concessionaire has to calculate the monthly ACF payable to the Company provisionally on the basis of total realisable fee for the immediately preceding month and pay it within seven days from the date of close of each month. This is again subject to final settlement within 120 days of completion of the respective accounting year based on the Audited Accounts of the Concessionaire.

We observed (October 2013) that the Company accepted ACF paid by the Concessionaire on the basis of his Monthly Fee Statements based on fee actually collected and did not carry out assessment of realisable fee even during the annual settlement within 120 days of completion of the respective accounting year 2011-12 to 2013-14 based on the Audited Accounts of the Concessionaire.

The year wise ACF receivable by the Company and actually received from date of COD to 2013-14 are shown in **Table 3.4** below:

Table 3.4: Difference of Premium (ACF) (₹ in crore)

Road Project	Year	Premium receivable as per realisable fee	Premium actually received	Difference
AVM	2012-13	12.56	10.74	1.82
	2013-14	20.61	16.50	4.11
RJV	2011-12	2.74	1.26	1.48
	2012-13	11.10	8.97	2.13
	2013-14	13.53	11.27	2.26
HGS	2012-13	11.52	9.52	2.00
	2013-14	13.70	10.23	3.47
Total		85.76	68.49	17.27

After we pointed out, the Company completed its assessments of ACF on realisable fee basis for the AVM, HGS and RJV Projects and instructed (May 2014) the Escrow bank to deposit differential realisable fee ₹ 5.93 crore,

²² ACF is the premium payable by the Concessionaire as a fixed percentage of the total realisable fee during the year.

²³ The realisable fee is the amount of fee collectible based on the projected passenger car units (PCUs) estimated to pass through the projects roads or the actual PCUs passed in a given point of time whichever is higher.

₹ 5.47 crore and ₹ 5.87 crore respectively. However, the Concessionaire had disputed (June 2014) the claim.

The Management stated (September 2014) that it had not taken harsh steps to recover the ACF in the interest of the Project.

However, fact remains that the acceptance of the ACF by the Company based on actual collection of user fee, without an assessment of realisable fee, led to short recovery of ACF of ₹ 17.27 crore for the year 2011-12, 2012-13 and 2013-14 and consequential interest loss thereon to the Company.

Recovery of cost of punch list items not completed

3.3.4.2 The terms of the CA stipulates that the IE may issue a Provisional Certificate (PC) for completion of the project at the request of the Concessionaire even if certain works or things forming part of the project are not completed provided the highway can be legally, safely and reliably placed in commercial operation. In such an event, a list of outstanding items of work called as Punch List is prepared and signed jointly by the IE and the Concessionaire and shall be appended with the PC of completion.

The items shown in the punch list were required to be completed within 90 days from the date of issue of PC of completion. Thereafter also, further time extension of 90 days in case of RJV and HGS projects and 120 days in AVM Road project were admissible but subject to payment of damages as per CA clause²⁴.

Our scrutiny revealed that pending completion of some of the major works viz., construction of Toll Plaza, ROB, widening of existing bridges etc., the PCs of completion were issued and the left out major works were brought under punch list items defeating the very purpose of issuing the PC. Further, in none of the cases under the three projects, the Concessionaire could complete all punch list items even in extended time as indicated in the **Table 3.5** below:

Table-3.5: Details showing the punch list items not completed

Project/particulars	AVM road project	RJV Road project	HGS Road project
Numbers and Description of type of works in punch list	50 items such as ROB, widening of existing bridges, construction of pedestrian under passes, lining of drains, stone pitching, rain water harvesting, plantation on median and in avenue, bus shelters, emergency call booths.	56 items such as Toll plaza, Bus shelters, widening of major bridges and ROB, truck lay bays.	31 items such as widening of existing bridges, construction of pedestrian under passes, bus bays, rain water harvesting, cattle crossings, truck lay bays, service road and fencing in urban areas.
Our remarks	The Company instead of imposing penalty signed (November 2012) a supplementary agreement (SA) for completion of major eight items of the Punch List by giving fresh time schedule of 180 days to 540 days.	The Concessionaire was liable to pay damages of ₹ 6.97 crore to the Company on 26 July 2012 i.e., on completion of 180 days.	The Company imposed damages of ₹ 19.73 crore for delays up to 05 May 2013 for completion of the project; however, recovery was not made.

²⁴ For AVM Road project, lower of (a) 0.1 per cent of the Performance Security, and (b) 0.2 per cent of the cost of completing such items as estimated by the IE for each day of delay until all items are completed and for RJV and HGS road projects, ₹ 0.01 per cent of the total project cost per day on account of any delay.

The Company in respect of AVM road project stated (September 2014) that it was regularly forcing the Concessionaire to complete the punch list items. The Company further stated that once it was established that no further execution was possible after best possible efforts, it would conclude its view on final pending items of punch list.

For RJV project, the Management stated (September 2014) that most of the items were completed except some items due to land constraints, obstruction from local populace *etc.* In case of HGS Road Project, the Company stated (October 2013) that it had also written to the Concessionaire for the recovery of damages for non-widening of the bridges.

Notwithstanding the response of the Company, the facts remain that the Company should not have included major works as punch-list items as considering the time limit provided for completion of these items it is evident that they can only be petty works. Inclusion of major item such as ROB, widening of bridge etc in the punch list was not justifiable. Further in this particular case, the Company had also not recovered the penalty of ₹ 26.70 crore as brought out in the table above. The Company could have considered recovering the penalty for non-completion of punch list items from Escrow account by approaching the Escrow banker.

Recovery of cost towards the services of safety consultant

3.3.4.3 The Company appointed (September 2009) Mott Macdonald Private Limited as safety consultant for carrying out safety audit of all the three Project Highways in accordance with the safety requirement set forth in CA.

As per the provisions of the CAs, all cost and expenses arising out of or relating to safety requirement were to be borne by the Concessionaire to the extent such cost and expenses form part of the works and services included in the scope of the project. We noticed (October 2013) that the Company incurred ₹ 1.14 crore for AVM, ₹ 1.21 crore for HGS and ₹ 0.81 crore for RJV Road project on hiring services of the Safety Consultant for the period from September 2009 to June 2012 and demanded ₹ 1.33 crore for AVM, ₹ 1.02 crore for HGS and ₹ 0.41 crore for RJV Road projects. But, the Concessionaires did not reimburse the expenses of the Safety Consultant (September 2014). Further, the Company did not raise demand for interest on the non-payment also.

The Management stated (October 2013) that as the Concessionaires had not reimbursed the expenses despite raising demands, it did not raise demand for recovery of interest. However, it would follow up with them again for depositing the amount with interest. If they fail, necessary action would be taken to recover the same from Escrow account.

However, the fact remains that even after lapse of 15 months (from October 2013), the amount was not recovered by the Company.

Compliance to the conditions of the Environment Clearance

3.3.4.4 As required under the provisions of the Environment Protection Act

and Rules as incorporated in the respective CAs, the Union Ministry of Environment and Forests accorded (May 2008) Environment Clearance (EC) for the construction of additional two lanes for RJV and AVM Projects as the above projects fell under category 'A' being located within 10 kms of bird/wild life sanctuary. The EC to the above road projects had 17 special conditions and 22 general conditions in addition to providing rainwater harvesting structures at an interval of 500 meter alternatively on either side of the road.

For HGS project, the EC was accorded (September 2006) by the State Level Environment Impact Assessment Authority, Gujarat being a project under B category (not within 10 kms of any wildlife sanctuary²⁵). The EC to the above road project had 57 conditions under specific and general conditions.

We observed that the Concessionaire did not take various measures *viz.*, construction of rain water harvesting structures, avenue and median plantations *etc.*, as per the conditions stipulated in the EC. The plantation in median was necessary to avoid glare from the vehicle coming from opposite direction. Further, avenue plantation improves the aesthetic appearance of highways in addition to keep environmental protection. Since, AVM and RJV road projects being located in semi-arid zone of Gujarat, providing rainwater harvesting facilities was necessary to recharge ground water by utilising the runoff water.

However, the Concessionaires did not complete various items related to the EC. Moreover, the Company did not initiate any action against the Concessionaire for non-fulfilment of EC conditions.

The Management stated (September 2014) that except in AVM project, water harvesting system had been laid. In AVM project, works related to water harvesting could not be done due to local hindrance and land constraints. The Company further stated that the Concessionaire had been persuaded to develop median and avenue plantation.

The non-fulfilment of EC conditions by the Concessionaire was causing recurring adverse impact on environment and depriving the benefit of recharging the ground water areas adjacent to the project highways.

Conclusion and Recommendations

The Company by entering into PPP contracts completed four-laning of three road projects of 485 km within three years with investment of ₹ 2,598.81 crore made by the concessionaires. The Company was assured of a minimum premium of ₹ 6021.65 crore during the concession period of 20 to 22 years from the three projects. The following deficiencies were noticed in the implementation of the agreements:

- The instances of non-adherence to the provisions of Concession Agreements both by the Company and by the Concessionaires were

²⁵ Besides this there were also other criteria for categorising the project under Category B as per GoI notification of June 2006.

observed, which included delay in assessment and recovery of Additional Concession Fees by the Company and non-completion of punch list items by the Concessionaire. In RJV, cost of dropping of ROB work had not been recovered fully. The conditions of environmental clearance were also not complied with.

- *The Company should avoid inclusion of the major works such as ROB, widening of bridge etc., in the punch list as it defeats the very purpose of issue of provisional certificate of completion.*
- *The Company may consider developing a mechanism for timely assessment of the ACF and also ensure adherence to the terms and conditions of the Environment Clearance by the Concessionaire.*

The matter was reported to Government (August 2014); their replies were awaited (December 2014).

3.4 Excess payment of price variation

Incorrect calculation of value of work done by the Gujarat State Road Development Corporation Limited led to excess payments of price variation of ₹ 4.76 crore to the contractors during January 2011 to March 2014.

As per clause 59 of the tender for award of various road works, the amounts payable towards price variation (PV) to the contractor for the work done shall be adjusted for increase or decrease in the rates of labour, materials and Petroleum, Oil & Lubricants (POL) as per the prescribed formula²⁶. The PV on labour, material and POL is to be calculated on value of work done (defined as 'R' in the PV formula) during the quarter under consideration after excluding the value of extra items. A further deduction is also done for cost of material supplied from the Departmental store to the contractor at fixed rate as specified in Schedule-A and value of cement, steel and asphalt brought by the contractor valued at star rate²⁷ plus increase decrease for which PV is paid as per clause 59-A.

Regarding the payment of PV for the work done involving the use of cement, steel and asphalt brought by the contractor, the same is regulated as per the provisions of clause 59 A of the tender.

The Gujarat State Road Development Corporation Limited (the Company) working under the administrative control of the Roads and Buildings Department awarded (January/March/June 2011) three works for widening

²⁶ Price variation (VI) = $0.75 \times \{p/100 \times R \times i-io/io\}$, where in, **P** is the percentage of Labour/Materials/POL (petrol, oil and lubricants), **R** is the value of work done in rupee during the quarter under consideration, **io** is the average price index of the quarter in which tender was opened and **i** the average price index of the quarter under consideration.

²⁷ The price of steel/cement per MT prevailing in the month in which draft tender papers (DTP) are approved and the price of asphalt of Koyli Refinery prevailing on the date on which estimate is prepared is specified in the tender as 'star rate' which is to be adopted for calculation and payment of price variation.

and strengthening of various roads²⁸ to three different contractors at a total cost of ₹ 281.44 crore. These works were scheduled for completion during June to December 2012. However, the execution of all the three works was in progress (June 2014). The Company had paid PV of ₹ 9.20 crore on labour, material and POL to the contractors under clause 59 for the works executed up to March 2014.

We observed (October 2013) that during January 2011 to March 2014, the Company while working out value of 'R' for each quarter for the payment of PV on labour, material and POL under clause 59 had not deducted PV amount paid under clause 59 A on cement, steel and asphalt brought by the contractors. Thus, the incorrect working of 'R' value and the subsequent payments of PV under clause 59 based on the incorrect 'R' value led to excess payment of PV of ₹ 4.76 crore is shown in **Table 3.6** below:.

Table 3.6: Over-payment to contractors on account of Price Variation

(₹ in crore)

Name of work	Work order	Tender Cost	Period	"R" value worked out by GSRDC	"R" value as per tender provisions	Total Excess PV paid by the GSRDC
Sarkhej Dholka Vataman Pipli Dholera Bhavnagar	January 2011	54.04	January 2012 to June 2013	20.67	14.44	0.34
Bharuch Dahej Road (SH-6)	March 2011	119.63	April 2012 to June 2013	21.27	11.01	1.46
Sarkhej Dholka Vataman Pipli Dholera Bhavnagar	June 2011	107.77	October 2012 to March 2014	15.82	4.8	2.96
Total		281.44		57.76	30.25	4.76

(Source: Information furnished by the Company and RA bills)

The Management stated (February/September 2014) that it had referred the matter of excess payments of PV as pointed out in audit to the State Government for getting necessary clarifications/directions.

As tender provisions are clear for deriving value 'R', there was no necessity for seeking any clarifications/directions in this regard. Deriving an incorrect value of 'R' for calculation of PV led to overpayment of ₹ 4.76 crore.

The matter was reported to the Government in May 2014; their reply had not been received (October 2014).

²⁸ (i) Sarkhej-Dholka-Vataman-Pipli-Dholera-Bhavnagar Road Km. 133/2 to 168/8 awarded to M/s. Ketan Construction Limited (ii) Bharuch-Dahej road (SH-6) Km. 200 to 225 including ROB approaches awarded to M/s. Welspun Projects Limited and (iii) Sarkhej-Dholka-Vataman-Pipli-Dholera-Bhavnagar Road Km. 16/8 to 133/2 (Section-1) awarded to M/s. SMS Infrastructure Limited, Nagpur.

3.5 Short recovery of consultancy expenses

Inordinate delay in issue of demand notice to the concessionaire for recovery of expenses incurred on Independent Consultant led to short recovery of ₹ 1.02 crore (including interest of ₹ 0.49 crore).

The Gujarat State Road Development Corporation Limited (Company) entered into a Concession Agreement (CA) (November 2005) with M/s. MSK Projects Private Limited (the Concessionaire) for improvement and widening of Kim-Mandavi Section of State Highway-65 on Build, Operate and Transfer (BOT) basis. As per Article 19.1 of CA, the Company could appoint a Consultant to act as an Independent Consultant (Consultant) for implementation of this BOT project. Further, Article 19.4 of CA stipulated that the remuneration, cost and expenses of the Consultant shall be initially paid by the Company and the Concessionaire shall reimburse the same to the Company within 15 days of receipt of statement of expenditure (SOE) from the Company.

Accordingly, the Company appointed (May 2006) Consultant²⁹ to the project for a period of four years (up to May 2010: one year construction period and three year operation and maintenance period) at a cost of ₹ 40.76 lakh³⁰ (excluding service tax). The Company extended (March 2010) the construction period³¹ up to June 2010 at an additional payment of ₹ 42.55 lakh (excluding service tax) to the consultant. The Consultant issued (July 2010) provisional completion certificate to the project and commercial operation started from August 2010.

We noticed (October 2013) that the Company incurred an expenditure of ₹ 86.95 lakh (inclusive of service tax) between May 2006 to July 2010. However, the Concessionaire had reimbursed ₹ 28.81 lakh in July 2008/ April 2009. The Company did not raise demand notice after August 2009 to the Concessionaire to reimburse the expenses. However, on being pointed out by audit, the Company issued (October 2013) demand notice for ₹ 58.14 lakh for expenses and ₹ 30.80 lakh towards interest. The Concessionaire further reimbursed ₹ five lakh in March 2014. Thus, non-initiation of timely action against the Concessionaire to reimburse the expenditure incurred by the Company on Independent Consultant led to short recovery of ₹ 53.14 lakh.

The Management stated (March/ September 2014) that the Concessionaire had not paid the amount and the matter was taken up (March 2014) with the Escrow Account Manager³² to pay the remuneration, cost and expenses incurred for the Consultant. Now the Company was in process of recovery of reimbursement.

However, the fact remains that the inordinate delay in issue of demand notice and lack of follow up action of the Company led to short recovery of

²⁹ M/s. Frischmann Prabhu (India) Private Limited.

³⁰ Construction period ₹ 35.66 lakh and operation and maintenance ₹ 5.10 lakh.

³¹ The work of operation and maintenance will be carried out by the Company.

³² State Bank of India, Indore.

₹ 1.02 crore (₹ 53.14 lakh unreimbursed expenses and interest of ₹ 49.09 lakh³³ from May 2009 to September 2014) from the Concessionaire.

The matter was reported to Government (August 2014); their replies were awaited (December 2014).

Gujarat State Petroleum Corporation Limited

3.6 Avoidable payment due to non obtaining forest clearance

The Company did not obtain forest clearance for use of reserve forest area resulting in avoidable standby charges of ₹ 541.68 crore.

The Government of India, Ministry of Petroleum and Natural Gas (GoI-MoPNG) awarded an offshore area of approximately 1850 sqkm off the east coast of India identified as KG-OSN-2001/3 block Krishna and Godavari basin (KG block) to a consortium comprising of Gujarat State Petroleum Corporation Limited (GSPC), Jubilant Enpro Limited and Geo Global Resources (India) for exploration, development and production of petroleum. A Production Sharing Contract (PSC) was entered (4 February 2003) between GoI-MoPNG and the above three consortium members. GSPC holding 80 *per cent* participating interest was appointed as the operator in the PSC. Based on the discovery of gas in the south west of KG block for 17 sqkm (Deen Dayal West Field), GSPC awarded (June 2011) the contract for the Submarine Pipe line Project (SPP) connecting the Well Head Off shore Platform³⁴ (WHP) with the On Shore Gas Processing plant³⁵ (OGP) to M/S Punj Lloyd Limited (PLL) at a lump sum price of USD 95.314 million plus ₹ 400.479 crore. The SPP interconnecting the WHP and OGP was for a distance of twenty two Kms offshore and three Kms onshore. The SPP was to be commissioned by April 2013.

The Ministry of Environment and Forest (MoEF) granted environment clearance³⁶ for the entire project consisting of the WHP, OGP and SPP in September 2008 under the Environment (Protection) Act, 1986. GSPC believed that there was no reserve forest area in the vicinity and as such, it did not apply for prior permission of the Government of Andhra Pradesh (GoAP) and the Government of India (GoI) under Andhra Pradesh Forest Act, 1967 and Forest (Conservation) Act of 1980³⁷ respectively for use of reserve forest area for non forest purpose.

The Forest department of the GoAP issued three notices during the progress of the work to GSPC (May/September 2012) for laying of pipe lines in the reserve forest area of Rathikalava without prior permission of GoAP and GoI

³³ Calculated at SBI PLR plus 2 *per cent* (ranged from 13.75 to 16.75 *per cent*).

³⁴ The contract for construction of WHP was separately awarded to M/S Larson and Tubro.

³⁵ The contract for construction of OGP was separately awarded to M/S Engineers India Limited.

³⁶ As per the procedure prescribed in the EIA notification of 2006, the above project being a Category A project had to be given environment clearance by the Central Government.

³⁷ This central Act laid down that notwithstanding anything contained in any other law, any area categorized as reserved forest area within the State law cannot be permitted to be used for non forest purpose without the prior approval of the Central Government.

under Forest (Conservation) Act, 1980 and unauthorised digging in Coringa wildlife sanctuary without permission under the Wildlife Protection, Act 1972. Consequently, the work was stopped and GSPC applied (November 2012) for permission for diversion of 19.44 hectares of Rathikalava reserve forest for non forest purpose under Forest (Conservation) Act, 1980. GSPC also applied (January 2013) to the GoAP for permission under the Wild Life (Protection) Act, 1972 as the pipe line was passing through the Coringa wild life sanctuary. Stage I forest clearance was received from GoI–MoEF (January 2014) and final clearance was awaited. Permission under the Wild life Protection Act was also received (January 2014). Consequently, date of completion of the pipeline work was provisionally extended up to January 2014.

We observed that as per clause 2.2.2.2 and 5.3.3 of the contract PLL was entitled to appropriate extension of time and compensation for the marine spread³⁸ deployed at the off shore site in case access to the site was denied to the contractor. In view of the stoppage of work owing to non availability of forest clearance and other factors *viz.*, fishermen agitation and heavy rains from September 2011 onwards, PLL claimed standby charges (November 2013) from GSPC based on Independent Engineer's Report (Engineers India Limited, a Government of India undertaking) amounting to 136.47 million USD of which 97.09 million USD was on account of non-receipt of Forest and Wild Life permissions. Meanwhile, with the approval of Project Committee (August 2013), GSPC released 79.25 million USD (₹ 442.20 crore) to PLL as an 'on account payment' subject to final decision on the standby charges. Further, BoD of GSPC constituted a new committee (December 2013) to review the above claims.

Had GSPC done due diligence and applied in time for forest and wild life clearance, the incidence of standby charges would have been avoided/minimised on this account as pipeline work was awarded only in June 2011. Thus, payment of ₹ 442.20 crore and a future liability of ₹ 99.48 crore was avoidable.

The Government/Management stated (July 2014) that no separate application was made for forest and wildlife clearance under the bonafide belief that the pipeline did not traverse through any environmentally protected area based on the observations and report of Government recognised agencies like NEERI and NIO. It was further stated that the standby charges occasioned only on account of doubts and divides amongst the Forest authorities regarding boundaries of protected areas.

The reply is not convincing as in a project of this nature, three clearances are important and critical *viz.*, environment clearance under Environment (Protection) Act, 1986; Forest clearance under Forest (Conservation) Act, 1980 and wild life clearance under Wild Life (Protection) Act, 1972. The Company applied for permission only under the first Act. NEERI though a government agency was required to prepare only an environment impact assessment report for the specific purpose of obtaining environment clearance.

³⁸ Marine spread refers to barges/vessels/equipments which are brought by the contractor for the purpose of the work and can be used both offshore and onshore.

Their maps cannot be the basis for deciding reserve forest area under the other two Acts, as for that the government records of the respective forest department have to be taken into consideration, which was not done in this case leading to violation of two out of the three Acts stated above. Further, the Company had a period of over two years after the date of environment clearance to apply for the permission under the two Acts violated.

Gujarat State Petronet Limited

3.7 Non-recovery of interest

The Company did not raise the supplementary bills for recovery of interest from RIL and TPL in violation of the decision of its Board of Directors and suffered loss of ₹ 1.71 crore during May/June 2012.

The Gujarat State Petronet Limited (Company) is engaged in laying a gas grid and the transmission network for transportation of natural gas through pipeline from supply points to demand centres since December 1998. The Petroleum and Natural Gas Regulatory Board (PNGRB) issued (27 July 2012) authorisation to GSPL for laying, building, operating, or expanding the High Pressure Gujarat Grid Natural Gas Pipeline Network (HPGN)³⁹ in Gujarat state.

On the application of the Company for determination of tariff for HPGN, PNGRB vide its Tariff regulations⁴⁰, notified uniform provisional tariff on 11 September 2012 which was further apportioned zone wise⁴¹ on 19 February 2013. Both the orders stipulated that the differential tariff would be applicable retrospectively from 20 November 2008 i.e., the date from which the PNGRB (Tariff) regulations came into force.

Reliance Industries Limited (RIL), one of the HPGN customers of the Company, filed an appeal (No 222 of 2012) against PNGRB order of September 2012 in Appellate Tribunal for Electricity (APTEL) regarding retrospective application of tariff from 20 November 2008 instead of 27 July 2012 (date of authorization). Considering the appeal filed with APTEL, the Company issued (March 2013) the supplementary bills for the period from 27 July 2012 to 15 February 2013 instead of from 20 November 2008, as stipulated in PNGRB order, to RIL and Torrent Power Limited (Sugen) (TPL) for ₹ 83.59 crore and ₹ 31.88 crore respectively. On the requests from RIL and TPL, the Company allowed (April 2013) RIL to release their payments in four instalments ending on 20 June 2013 and TPL to pay ₹ 31.88 crore in two instalments ending on 20 May 2013. GSPL received ₹ 105.62 crore out of total instalments of ₹ 115.47 crore from RIL and TPL up to 20 June 2013. TPL was allowed to adjust ₹ 9.85 crore against its other receivables.

³⁹ The network which carries maximum allowable operating pressure of 95 barg.

⁴⁰ PNGRB (Authorising entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution networks) Regulations, 2008.

⁴¹ Zone 1- ₹ 18.49, Zone 2- ₹ 27.80 and Zone 3 ₹ 37.02 per MMBTU.

We observed that in terms of Gas Transmission Agreement (GTA), interest⁴² shall mean a charge for late payment on the amount remaining unpaid. The Company proposed to the Board of Directors (BoD) (May 2013) to grant post facto approval for payment in instalments and waiver of interest for the instalments granted. The BoD did not approve the proposal for waiver of interest and resolved (May 2013) that the Company ask RIL and TPL to make payment of balance amount expeditiously. However, the Company did not raise any invoice for recovery of interest either on RIL or TPL on account of payments made by them in instalments during 26 April to 20 June 2013. Thus, the Company suffered loss of interest of ₹ 1.71 crore.

The Government /Management (June 2014) in their reply stated that GTA deals with routine invoicing of the fortnightly bills and is silent on the eventuality of a supplementary invoice arising out of a regulatory order and that too with retrospective effect. The Management also stated that the applicable rate for interest calculation in case of RIL is two *per cent* above PLR and not three *per cent* above PLR as worked out by the audit.

The reply of Management is not based on facts regarding the applicability of interest since the BoD had rejected the proposal for waiver of interest and asked the Company to recover the remaining amount from RIL and TPL expeditiously. Further, three *per cent* rate of interest has been correctly worked out in respect of RIL as long term GTA was in force during the period.

Thus, the action of the Company in not raising supplementary bills for recovery of interest undermined the authority of BoD.

Naini Coal Company Limited

3.8 De-allocation of mine due to contravention of allotment terms

Contravention of terms of allotment resulted in de-allocation of mine and invocation of performance guarantee of ₹ 16.25 crore in January 2013. Further, capital expenditure of ₹ 9.02 crore was rendered unfruitful.

The Union Ministry of Coal (MoC) allocated (25 July 2007) the Naini Coal Block (500 Million Tonnes reserves) in Odisha to Gujarat Mineral Development Corporation Limited (GMDC) and Pondicherry Industrial Promotion Development and Investment Corporation Limited (PIPDICL) for setting up a 1,500 MW power plant at Angul in Odisha or Dumka in Jharkhand and another 1,500 MW power plant at the pithead of the mine. As per the condition of allotment, both Companies furnished (23 October 2007) a bank guarantee (BG) of ₹ 65 crore; being 50 *per cent* towards achievement of milestones and 50 *per cent* towards guaranteed production. Further, as per the condition of allotment, the exploration was required to be done by a Government Company. Accordingly, GMDC and PIPDICL formed a new company *viz.*, Naini Coal Company Limited (NCCL) in October 2009 with

⁴² Interest rate equivalent to State Bank of India Prime Lending rate plus three *per cent* in both cases *i.e.* RIL and TPL.

equal stake holding total paid up capital ₹ 5 lakh⁴³. The delay in the formation of the NCCL was due to delay in obtaining approvals from the respective Government of the promotees. The target date for starting coal production, as fixed by MoC, was January 2013.

In the meantime, GoG directed (February 2009) that since the coal extracted from the Naini block by NCCL to the extent of GMDC's share was to be supplied to M/S Adani Enterprises Limited and Torrent Power limited for the 1500 MW power plant to be set up by them and both the power developers had shown their intention to set up the plants in Gujarat instead of Angul (Odisha) or Dumka (Jharkhand), the coal was to be transported to Gujarat for the above plants. Though this was in violation of the terms of allotment, GMDC requested (August 2009) MoC to approve the setting up of the 1500 MW plant in Gujarat instead of Odisha or Jharkhand. Reminders were issued in October 2009, July 2010 and June 2011. In response to it, the MoC directed (April 2012) the GoG to pursue the matter with the Union Ministry of Power (MoP) and Government of Odisha and obtain their consent. Though the MoP acceded to the request (3 May 2012) for setting up the power plant in Gujarat, Government of Odisha rejected the request (September 2012) as it violated the terms of the allocation.

The MoC subsequently de-allocated (December 2012) the block as even five years after the allocation, application for prospecting licence was pending and no progress in respect of end use power project had been reported by NCCL. The MoC invoked (December 2012) 50 per cent of the BG of ₹ 32.50 crore for non-achievement of milestones, of which the share of GMDC was ₹ 16.25 crore. Aggrieved by this decision, the GMDC filed (March 2013) a Special Civil Application (SCA) 2013 in the Gujarat High Court against the de-allocation and invoking of BG. Simultaneously, GMDC treated the amount as an advance recoverable from NCCL.

Thus, a period of three years was lost by GMDC/NCCL upon the insistence of the GoG in attempting to change the location of the proposed power plant from Odisha to Gujarat which was in contravention to the allotment terms. Further, due to non-achievement of the milestones, the block had been de-allocated resulting in invocation (January 2013) of BG of ₹ 16.25 crore for GMDC, which has been passed on to NCCL. Further, the capital expenditure of ₹ 9.02 crore⁴⁴ and revenue expenditure of ₹ 13.61 lakh incurred till date by NCCL on the project became unfruitful as on date. NCCL stated (May 2014) that it had now intimated the MoC that the power plant would be set up in Odisha itself.

The Management stated (September 2014) that the High Court of Gujarat has granted an interim order stating inter alia that till the final disposal of the SCA filed by GMDC, the coal block in question will not be re-allocated to anyone else. Final decision on SCA was awaited (November 2014).

⁴³ As on 31 March 2014.

⁴⁴ Administrative expenditure, fee paid for geological /topography studies, exploration fees paid etc.

The matter was reported to Government (July 2014), their replies are awaited (December 2014).

Statutory Corporations

Gujarat State Road Transport Corporation

3.9 The fulfilment of basic passenger requirements by GSRTC

Introduction

3.9.1 The Corporation had a fleet of 7,914 buses as on 31 March 2014 and operated 28 lakh kilometers (kms) per day carrying on an average 22 lakh passengers everyday during 2013-14. The Corporation has finalised its annual accounts upto 2010-11 registering accumulated loss of ₹ 1978 crore as at the end of March 2011. The accounts for the subsequent years are in arrears. The Corporation operates both mofussil⁴⁵ and city routes⁴⁶. Only the services between Ahmedabad and Gandhinagar are classified as city routes and all others as mofussil routes. The mofussil routes consist of local and express trips. The day-to-day operations of the Corporation involves operation of the schedules and trips with the available fleet and cancellation thereof when there is shortage of crew or diversion of vehicles. Further, the Corporation provides basic amenities viz., parking facility, water coolers, pay-and-use toilets, canteens and housekeeping of bus stations for the benefit of the passengers using the bus depot. The present compliance audit was done to assess the adequacy, reliability and the effectiveness with which basic services and amenities were provided to the passengers at the bus depots.

We reviewed (February 2014 to April 2014) records of Corporate Office and collected relevant information from selected eight⁴⁷ out of 16 divisions and 20⁴⁸ out of 125 depots covering the period 2011-12 to 2013-14. Of these, records of five depots were scrutinised in details. The audit findings are discussed in subsequent paragraphs.

Passenger service in terms of reliability and accessibility

3.9.2 The public transportation service of the Corporation was analysed in terms of Corporation's coverage of villages, and extent of uncovered villages, cancellation of trips, delayed trips in view of limited alternate source of transport in rural areas. Further, passenger satisfaction was also ascertained through questionnaire to the passengers.

⁴⁵ Mofussil routes – All routes other than city routes.

⁴⁶ City routes include urban routes operated within the Corporation or Municipal limits of a city or sub urban routes operated to link two urban areas.

⁴⁷ Ahmedabad Godhra, Himmatnagar, Junagadh, Nadiad, Rajkot, Vadodara and Valsad. These covered all geographical zones of the State.

⁴⁸ Ahmedabad, Ahwa, Bilimora, Chandola, Chhota Udepur, Dahod, Godhra, Himmatnagar, Idar, Jashdan, Junagadh, Khambhat, Nadiad, Petlad, Rajkot, Vadodara, Valsad, Veraval, Viramgam and Wakaner.

Access of services to villages

3.9.3 The overall fleet position of the Corporation increased from 7,805 buses to 7,914 buses and overage buses reduced from 1,122 to 147 during the period from 2011-12 to 2013-14 improving the overall availability of buses. Nevertheless, there was no improvement in the number of villages covered by the Corporation as evidenced from the data given below:

Table No. 3.7 : Details of service provided by the Corporation in rural area

Particulars	2011-12	2012-13	2013-14
No. of Villages	18,408	18,408	18,408
No. of Villages served	17,974	17,976	17,976
Uncovered Villages	434	432	432
No. of Villages served throughout year	16,961	16,963	NA
No. of passengers travelled in mofussil (in lakhs)	8,351	8,205	7,885

(Source: As per the Corporation records)

In this regard, we observed the following:

- Despite increase in availability of buses, only 2 villages were added for providing the transportation and the number of villages uncovered remained at 432.
- Number of passengers travelled decreased by 5.6 per cent during 2013-14 as compared to 2011-12; though fleet increased by 1.4 per cent during the same period.
- The Corporation has not updated its record with regard to total number of villages which has increased to 18,584 as per census 2011.

Cancellation of local trips

3.9.4 The Corporation operated under the mofussil routes, two kinds of trips viz., Express⁴⁹ and Local⁵⁰. We observed that during 2012-13 (20 depots) and 2013-14 (19 depots⁵¹), maximum cancellation was done in the local trips as compared to express trips, as summarised below:

Table No. 3.8 : Details of cancellation of local trips as compared to express trips

Particulars	2012-13			2013-14		
	Express	Local	Total	Express	Local	Total
Total Trips	3,94,020	25,47,357	29,41,377	4,17,466	22,76,741	26,94,207
Cancelled Trips	20,885	4,26,597	4,47,482	10,021	3,98,367	4,08,388
Percentage of cancelled to total	5.30	16.75	15.21	2.40	17.50	15.16

(Source: As per the Corporation records)

During 2013-14, while cancellation of express service decreased from 5.30 per cent in 2012-13 to 2.40 per cent, cancellation of local trips increased from 16.75 per cent to 17.50 per cent during the same period. Considering that the

⁴⁹ Express Trip – It covers two points with limited stoppages mainly to cater to long distance passengers.

⁵⁰ Local Trip – It covers two points with more stoppages mainly to cater to all types of passengers.

⁵¹ Junagadh depot has not furnished the classification of trips between express and local for the year 2013-14.

local trips cater to the smaller towns and villages, increased cancellation may have adversely affected the commuting of rural people.

The Management/Government stated (September/October 2014) that since profitability was higher in express service, cancellation was more in local services. However, the fact remains that higher cancellation of local trips adversely affects the villages not on the express route as the passengers have to traverse distances to reach the nearest stops on the express route.

Regularity in arrival and departure of trips

3.9.5 Quality and reliability of services can be measured in terms of regularities in arrival/departure of buses at bus stands and the effectiveness of public address system available there. **Table 3.9** below shows the incidence of delays in arrival and departure of buses at bus stands:

Table No. 3.9: Regularities in arrival and departure of buses (in per cent)

Name of Division	2011-12		2012-13		2013-14	
	Arrival delays ⁵²	Departure delays	Arrival delays	Departure delays	Arrival delays	Departure delays
Himmatnagar	1.01	1.99	0.39	1.24	0.66	1.14
Ahmedabad	2.80	3.82	1.45	1.35	2.41	1.60
Vadodara	2.39	2.69	1.61	1.69	1.53	1.59
Godhra	4.05	5.54	6.70	7.87	11.19	10.70
Junagadh	2.66	2.46	1.06	0.83	1.37	0.75
Nadiad	2.57	2.87	3.17	3.00	3.30	3.00
Valsad	4.02	4.76	2.07	2.46	1.82	2.33
Rajkot	1.64	1.64	1.04	0.93	1.19	1.04

(Source: As per the Corporation records)

In terms of percentage it can be seen from the above table that the delays are nominal; however, it was seen that the above data was compiled by the Statistics Department at Corporate Office, based on manual control registers maintained at the Depot level. In absence of any cross verification of the manual data and absence of computerisation of the Depot Management System, the reliability of above data cannot be ensured. Our survey of 300 passengers revealed that, 26 per cent felt there should be more reliable and punctual services of buses. Even as per the above compiled data the incidents of delays are comparatively much higher in Godhra division, which needs to be addressed by the Corporation.

Further, providing information to passengers about arrival/departure and cancellation of trips is one type of passenger service. In absence of computerisation of depots, there was no online availability of information as to whether a bus arriving at a depot would be on time or late so that passengers could be accordingly informed. Further, on a review of 16 depots, we observed that the information about cancelled trips was not displayed in any form in seven depots, though in three out of seven depots LCDs were installed. In remaining depots, it was displayed either at the enquiry office or near the timetable. At the time of unit visit of five depots, it was also observed that four out of five depots have displayed old time table in which time

⁵² In the table, percentage shows that how many trips (in per cent) were delayed division and year wise.

schedule had not been changed as per new schedule. This leads to inconvenience to the passengers. Our survey of 300 passengers revealed that 18 per cent passengers felt that there should be better information system at bus stations.

The Management/Government stated (September/October 2014) that instructions were issued to the divisions for displaying time schedule board at bus station.

Survey on Passenger satisfaction

3.9.6 We conducted (July 2014) a survey of 300 passengers in five depots to ascertain why they did not prefer the Corporation's bus services and elicit their opinion on steps to be taken for betterment of the services of the Corporation. In response to the survey, 24 per cent passengers opined that they did not prefer to travel by the Corporation's buses as it did not run enough trips and 30 per cent passengers felt that buses were over crowded. In respect of the suggestions for improvement of the Corporation's service, 45 per cent passengers suggested increase in frequency of trips and 26 per cent passengers desired more reliability and punctuality in services.

Analysis of Adequacy of amenities

3.9.7 The Corporation has to provide basic amenities viz., parking facility, water coolers, pay-and-use toilets and/or free toilets, canteens and housekeeping of bus stations to the passengers at bus depots. The availability of basic amenities in eight divisions (covering all depots) as on 31 March 2014 is tabulated below:

Table No. 3.10: Details of availability of basic amenities division wise

Division	Total No. of Depots	Pay and Use toilets	Vehicle parking	Water cooler	House keeping contract awarded	Canteens ⁵³
Nadiad	11	6	2	4	8	19
Himmatnagar	9	8	1	9	7	18
Junagadh	9	9	2	5	9	25
Godhra	7	7	3	7	7	12
Valsad	6	3	4	5	2	13
Vadodara	7	7	0	6	7	9
Ahmedabad	10	10	3	7	8	12
Rajkot	9	7	2	9	9	23
Total	68	57	17	52	57	131

(Source: As per the Corporation records)

We observed that out of 68 depots, vehicle-parking facility was available only in 17 depots (25 per cent), water coolers in 52 depots and housekeeping facility in 57 depots. Over and above free toilets, Pay-and-Use toilets were available in 57 depots. Absence of facilities in remaining depots resulted in inconvenience to the passengers. Test check of these facilities by Audit in five depots revealed the following:

⁵³ There is more than one canteen in a depot; hence, the number of canteens is more than the number of depots.

Water coolers in unhygienic surroundings

3.9.8 All the five depots visited had amenity of water coolers but in four⁵⁴ out of five depots, water coolers were functioning in unhygienic surroundings and therefore unfit for use.



Himmatnagar Depot

Poor condition of canteens

3.9.9 In bus stands where space for setting up canteen exists, the Corporation invites tenders from interested parties for running canteens in the depot premises under a leave and licence agreement⁵⁵. The licence holder has to sell the items at prescribed rates and pay monthly rent to the Corporation. We observed (July 2014) that four⁵⁶ out of five depots had canteens of which three⁵⁷ were in very poor and unhygienic conditions. The licence holder is required to keep the premises clean. As per leave and licence agreement, the authorised representative of the Corporation is required to check the canteens at regular intervals. However, there was no record of any such inspection being done.

We noticed in the Himmatnagar depot that pan masala and gutkha were being sold at one stall in violation of the ban on the items. In the Godhra depot canteen was not cleaned, dustbins were open and kept near eating tables. Food also was not covered. In this regard, depot manager had issued notice in February 2014. But, still no improvement was visible. Similarly, in Rajkot depot also the food was not covered.



Himmatnagar Depot

⁵⁴ Godhra, Himmatnagar, Rajkot and Valsad.

⁵⁵ A leave and license agreement is an instrument/agreement wherein the licensor allows the licensee to temporarily occupy and use one portion of immovable property for carrying on his business.

⁵⁶ Godhra, Himmatnagar, Rajkot and Valsad.

⁵⁷ Godhra, Himmatnagar and Valsad.



Poor condition of Pay and Use toilets

3.9.10 In all the five depots, contracts were awarded for Pay-and-Use toilets. We observed that the toilets were in very poor conditions in case of four⁵⁸ out of five depots. This filthy condition of toilets not only deprived the passengers of a vital amenity but also created an unhygienic environment at bus stand premises. Further, it was observed that the rate card was not displayed by the agency in Ahmedabad and Rajkot depot and this may leave scope for the contractors to collect unauthorised charges from the passengers.

Use of parking area in excess of allotted area

3.9.11 The Corporation provides vehicle parking space to the passengers at bus stand for which a contract is awarded in each depot. We observed that two⁵⁹ contractors were using more space than allotted. Rate chart at the parking place was not displayed in two⁶⁰ out of five depots. However, no action had been taken by the management in this regard.

In Rajkot depot, no contract was awarded for vehicle parking since July 2012 though the space was available. This resulted in absence of secured parking to passengers (1,30,000 daily passengers, on an average) as well as loss to the Corporation. Our survey of passengers revealed that 11 *per cent* passengers felt that parking was difficult at bus station and eight *per cent* passengers suggested better parking facilities at bus stands. Remaining passengers did not respond in this regard.

Inadequacy of First Aid Kit in Buses

3.9.12 As per rule 164 of Motor Vehicle Rules 1989, every public service vehicle shall carry a dust proof first aid kit containing sterilized dressings, cotton wool, tincture iodine, antiseptic cream etc. On a review of 19 selected⁶¹ depots having a fleet of 1,436 buses, we observed that 12 depots⁶² having a fleet of 860 buses did not have first-aid kit in any of the buses. The remaining seven depots having a fleet of 576 buses had first-aid kit in 135 buses only. The Corporation has no monitoring system for availability of first aid kit in buses and there is no system of addition/replacement of medicines in first-aid

⁵⁸ Ahmedabad, Godhra, Himmatnagar and Rajkot.

⁵⁹ Ahmedabad and Himmatnagar.

⁶⁰ Ahmedabad and Godhra.

⁶¹ Information from Godhara awaited.

⁶² Ahwa, Chhota Udepur, Dahod, Himmatnagar, Idar, Jashdan, Junagadh, Khambat, Nadiad, Petlad, Rajkot, Wakaner.

kit.

Ineffective housekeeping services

3.9.13 In the three⁶³ out of five depots selected for detailed scrutiny, House Keeping Contracts were awarded for cleaning the bus station. As per housekeeping Contract, a register was to be maintained by supervisor at depot and certified daily by depot manager. On verification, we observed that no such register was maintained in these three depots for monitoring. In remaining two depots wherein housekeeping contracts were not awarded, no register was maintained for monitoring the work of departmental sweepers.

In Ahmedabad depot the bus stand was not cleaned properly and dustbins were not emptied as per requirement in spite of issuing many notices to the housekeeping contractor. The contract stipulated that mopping and cleaning was to be done twice during the peak hours, however, the same was not carried out even once during the day. Notices for improper cleaning to contractors were also issued in respect of Rajkot depot since award of contract in 2011.



In Himmatnagar depot, the bus stand was not cleaned properly by the housekeeping contractor and there was no dustbin at the bus station. In Godhra depot, which did not have a housekeeping contract, we observed that dustbins were kept inside a room and not at the bus stand. It reflects inadequate monitoring of housekeeping.

Passenger Grievances

3.9.14 Assessing the grievances of passengers helps to improve the quality of the service provided by the Corporation for which it has a system of receiving complaints from passengers/local bodies/authorities/Government etc., at the depot, division and the Corporate Office levels. Besides, passengers can register complaints on the website. The divisional heads of the Corporation directly dispose of complaints received online. A complaint book is also to be kept with the conductor of each bus. The cause-wise analysis of complaints received for last three years are tabulated below.

⁶³ Ahmedabad, Himmatnagar and Rajkot.

Table No. 3.11 : Statement showing complaint received for last three years

Nature of complaint	2011-12	2012-13	2013-14 ⁶⁴
Fare and refund	18	49	22
Irregularities in timings	158	151	49
Unsuitability of timing	10	6	10
Break-down	8	8	9
Expectations of travelling facility	81	60	57
Rude behavior	174	147	145
Loss or damage to property	0	2	2
Grievances relating to the administration of the Corporation	45	51	52
Others	474	502	336
Total	968	976	682

As per the Corporation's General Standing Order (GSO), a final reply to any complainant must be given within one month. We reviewed 117 out of the 618 complaints (January 2011 to December 2013) received at the Corporate Office to assess the timeliness in disposal of the complaints. The time taken for disposal of these complaints ranged from one month to 12 months in 95 cases⁶⁵. Only in 22 cases, disposal was done within one month. The number of complaints, though, has come down in 2013-14 *vis-à-vis* the previous year.

A general review of the system of dealing with complaints revealed that no system existed for monitoring the action taken on complaints to its finality. The complaints received were entered in register and individually disposed of by forwarding it to the concerned divisions. Once a division head stated that action had been taken on a complaint, the case was closed without verifying the actual action taken.

Further, we reviewed 35 cases out of 186 complaints of rude behavior received at the Corporate Office. Five cases were of serious nature like beating up passenger, misbehavior, smoking, etc. by crew. In all the 35 cases, the complaints were settled on the basis of assurance from the division that action would be taken against the driver/conductor by transferring them to another route. No follow-up was done by the Corporate Office to ensure that actual action was taken against the driver/conductor. In one of the above cases, actual action was taken (March 2012) after 23 months from the date of receipt of complaint and that too at the instance of RTI filed (January 2011) by the complainant for knowing the status of action taken. Out of 53 complaints received at the Corporate Office regarding irregular timing/non-stopping of buses, 20 cases were reviewed by us. Out of these, 10 cases were regarding non-stopping of buses at bus stops and other 10 cases were regarding non-observing the time schedules. In all these cases, only instructions were issued by the Corporate Office to take necessary action against the errant staff and follow-up was absent.

We observed that in the 17 depots which were selected for review, only 1,978 out of 2,279 conductors had complaint books, which also violated the requirement prescribed in General Standing Order-107.

⁶⁴ Provisional figure.

⁶⁵ 1-3 months - 47 cases, 3-6 months - 34 cases and more than 6 months - 14 cases.

Conclusion and Recommendations

The Corporation had a fleet of 7,914 buses as on 31 March 2014 and operated 28 lakh kilometres per day carrying on an average 22 lakh passengers every day during 2013-14. An analysis of the services of the Corporations in terms of coverage, cancellation, delays and provision of passenger amenities revealed the following concerns, which need to be addressed:

- There were more cancellations of local trips than express trips.
 - *While cancelling the trips, the effect on the larger public needs to be kept in mind.*
- The amenities provided by the Corporation at various depots were in poor condition and were found to be in unhygienic conditions.
 - *The Corporation needs to be more passenger-centric and pay more attention to various amenities and convenience available, so as to increase passenger satisfaction.*



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Countersigned



(SHASHI KANT SHARMA)

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