RESPONSE TO REQUESTS FOR REVIEW

Bureau Veritas Certification had performed the validation of the CDM Project No. 1300 – "155 MW Gas based combined cycle power project at Hazira".

Subsequently, three requests for review, which are identical and reproduced below, are raised by EB in their meeting no 36.

We thank the CDM Executive Board and the Secretariat for giving us the opportunity to clarify about our considerations in validating the said project.

Reason for request for review:

Further information is required to justify the essential distinctions between the project activity and the current common practice based on the sub-step 4b of the additionality tool.

Response of Bureau Veritas Certification

Sub Steps 4(a) and 4(b) of the additionality tool Version 3 need to be satisfied and in order to justify that the project is additional we need to look into the development of power sector in India.

The validation team could access the publicly available documents and the following is our submission.

In 1991, the Government of India amended the Electricity Supply (Act) 1948 to allow the entry of private investors in power generation and distribution. A tariff notification issued in 1992, provided for a two-part tariff structure covering fixed and variable costs. It provided for a 16% rate of return on equity at 68.5% PLF for thermal plants and (coal / lignite/ gas) at 90% availability for hydro power plants. The achievement of higher efficiency levels translated into higher rate of return for investors. Refer Annexure 1

As per the new policy in 1991, for both Licensee and Generating Companies, the following was permitted: Refer Annexure 2a & 2b

1. Up to Hundred percent (100%) foreign equity participation can be permitted for projects set up by foreign private investors.
2. With the approval of the Government, import of equipment for power projects will also be permitted in cases where foreign supplier(s) or agency (ies) extends concessional credit.
3. All private companies entering the Power Sector hereafter will be allowed a debt-equity ratio of 4:1.

The specific incentives for Licenses were:

- Licenses of a longer duration of 30 years in the first instance and subsequent renewals of 20 years, instead of 20 and 10 years respectively prevailing at that time.

- Higher rate of return of 5% in place of the previous 2% above the RBI rate.
- Capitalisation of Interest During Construction (IDC) at actual cost (for expansion project also) as against 1% over RBI rate prevailing at that time.
- Special appropriations to meet debt redemption obligations.

These incentives in the 1991 policy were able to attract investments in the power sector in India.

The validation team could access and verify from the publicly available documents that there are only 14 power plants in the western region implemented using CCGT technology (source: CEA Database) up to 2004 – 05 prior the start date of this project activity. 7 out of the 14 CCGT were implemented when the Ministry of power, GOI announced the new policy during 1991, encouraging private participation and they enjoyed special status as being promoted by the State /Federal Government.
Of the remaining seven, which were implemented after the announcement of the policy in 1991, three of the projects (Essar GT, Dabhol GT and Paguthan) were with multi-fuel firing technology thereby having greater flexibility and reduced risk associated with fuel type. Hazira CCCP project is owned by Gujarat State Energy Generation Ltd, (GSEG) a State utility. Gandhar CCGT project was owned by NTPC a government organisation and also funded through Japanese ODA. The Reliance energy project is designed to run on Naphtha.

It is also to be noted that one more power project, which is an extension of Dhuvaran CCPP by Gujarat State utility, has been initiated in January 2004

The failure of Dabhol project in the year 2001 due to legal and regulatory issues, arbitration etc hindered the investment climate in the power sector with a number of foreign investors withdrawing their decisions of investment.

Subsequent policy notifications and changes brought about by the Electricity Regulatory Commissions Act 1998 and the Electricity Act 2003 removed the guaranteed cost plus regime, provision of escrows and a range of incentives that were provided earlier.

This establishes the fact that projects which were implemented after 1991–92 and prior to 2002 enjoyed a favourable investment scenario as compared to the private sector projects developed after 2002, when the major investors left India and the investment climate turned adverse compounded by the Dabhol Project failure. This situation is further confirmed by a news report in Times of India dated 4 Nov 2001. (Please refer Annexure 3 of PP's response)

Break up of the power projects implemented / being implemented can be seen from the table below (Summary of the table provided in the PP's response)

Scenario	Total	Public Sector Utilities		Private Sector Utilities	
		Multi Fuel	Gas	Multi Fuel	Gas
Prior to 2002	13	3	4	5	1
Post 2002	1	0	1	0	0
Being Implemented in 2004	1	0	1	0	0

Further it is to be noted that all these projects except the Dhuvaran CCPP project, are prior to 2002 and the Dhuvaran CCPP project is a Gujarat State owned utility.

The Dhuvaran CCPP project implemented post 2002 and the one under implementation in 2004 have been proposed as CDM project (Regn No 1352)
Thus, this "155 MW Gas based combined cycle power project at Hazira" (a private sector power project) has not enjoyed the benefits or favourable investment situations / government policies that others enjoyed making it distinct from the common practice prevailed.

Hence it is concluded that there are no other activities, similar to this project activity that satisfies Sub step 4(a) and consequently sub step 4(b) is not applicable to this project activity.

We have verified all the evidences provided by the PP and confirm that they are reliable and in accordance with the requirements of CDM Executive Board.

We hope that the explanation provided above is satisfactory and request you to kindly register the project.

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References

Annexure 1: ADB Institute Discussion paper No: 64, Policy Environment and Regulatory Reforms for Private and Foreign Investment in Developing Countries:
Annexure 2a & 2b: Department of Power, Annual Report 1991-92, Ministry of Power and Non-Conventional Energy Sources, Government of India, New Delhi, pp-28, 29: