

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 614/MP/2020
Along with
IA No. 1/IA/2022**

**Coram:
Shri P.K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri P.K. Singh, Member**

Date of Order: 21st February, 2022

In the matter of

Petition under Section 79(1)(f) of the Electricity Act, 2003 read with Article 3.2.4 of the Supplementary Power Purchase Agreement dated 5.12.2018 and Article 17.3 of the Power Purchase Agreement dated 6.2.2007 seeking adjudication of disputes qua unilateral amendment of the approved PPA/SPPA provisions and non-payment of actual cost incurred by Adani Power (Mundra) Limited to supply to Gujarat Urja Vikas Nigam Limited.

**And
In the matter of**

Adani Power (Mundra) Limited,
Shikhar, Near Mithakhali Circle,
Navrangpura,
Ahmedabad-380 009.

.....Petitioner

Vs.

Gujarat Urja Vikas Nigam Limited,
Sardar Patel Vidyut Bhawan,
Race Course Circle,
Vadodara-390 007.

.....Respondent

ORDER

The Petitioner, Adani Power (Mundra) Limited, has filed the present Petition along with the following prayers:

“(a) Admit the Petition.

(b) Direct GUVNL to comply with the terms of Bid-01 PPA as amended by the SPPA to pay to APMuL the entire energy charges owed for actual cost of coal incurred on account of spot procurement of coal without any deduction or adjustments, along with Late Payment Surcharge as per Bid-01 PPA.

(c) Direct GUVNL to account for the amounts unilaterally deducted from the monthly payments owed to APMuL in terms of Bid-01 PPA as amended by the SPPA since February 2020.

(d) Direct GUVNL to account for the amounts unilaterally deducted from the monthly payments owed to APMuL in terms of Bid-01 PPA as amended by the SPPA since February 2020 along with Late Payment Surcharge as per the said PPA.

(e) Direct GUVNL that during the pendency of present petition, to pay energy charges at least @ 85% in terms of Article 11.6.8 of the Bid-01 PPA including for the past period, subject to final outcome of this Petition.

(f) Direct GUVNL to consider the per unit energy charges paid in the previous month by GUVNL to APMuL for Merit Order to the extent of payment being made by it, during the pendency of the Petition.

(g) Pass such further or other orders as this Commission may deem just and proper in the circumstances of the case.”

2. The Petition is yet to be listed for final hearing. In the meantime, during the pendency of the Petition, Petitioner and the Respondent, Gujarat Urja Vikas Nigam Limited have jointly filed Interlocutory Application (IA) No. 1/IA/2022 in the present Petition with the following prayers:

“(a) Permit the parties to place on record the Settlement Deed dated 3.1.2022 between the parties contained in Annexure A to the present Application;

(b) Dispose of the Petition No. 614/MP/2020 in terms of the Settlement reached holding that the parties shall be governed and bound by the terms of the Settlement Deed; and

(c) Pass such further orders as this Commission may deem fit and appropriate.”

3. We note that pursuant to the Settlement Deed dated 3.1.2022 entered into by APMuL and GUVNL, both APMuL and GUVNL had filed a joint application, namely, I.A. No. 1421/2022 in the Curative Petition No.34 of 2020 before the Hon`ble Supreme Court for placing the Settlement Deed on record.

4. Hon`ble Supreme Court vide its order 8.2.2022 in I.A. No. 1421/2022 in Curative Petition No. 34 of 2020 has taken on record the Settlement Deed dated 3.1.2022 holding as under:

“During the pendency of the Curative Petition, the parties have settled the dispute.

The Petitioner and respondent No. 1 have filed a joint application, IA No. 1421/2022, to place on record the deed of settlement dated 03.01.2022 entered between them, regarding the subject matter of the present Petition. The Settlement Deed dated 3.1.2022 is taken on record.

In view of the above, we dispose of the present Curative Petition with the observation that the inter se relationship between the parties shall now be governed by the settlement deed dated 3.1.2022.

I.A.No. 1421/2022 and Curative Petition (C) No. 34 of 2020 are disposed of in the above terms.”

5. GUVNL vide its affidavit dated 14.2.2022 has placed on record the above order of the Hon'ble Supreme Court dated 8.2.2022 in I.A. No. 1421/2022 and Curative Petition No.34 of 2020.

6. Since the present IA has been filed jointly by APMuL and GUVNL seeking the same prayers, the Petition No.614/MP/2020 along with IA No.2/2022 are being decided by the Commission by circulation of the case file.

7. The Settlement Deed dated 3.1.2022 entered into by APMuL and GUVNL has been taken on record.

8. Accordingly, Prayer (a) in the IA No.1/2022 is allowed.

9. The second prayer in the IA is for disposal of Petition No.614/MP/2020 in terms of the Settlement Deed dated 3.1.2022 holding that the parties shall be governed and bound by the terms of the said Settlement Deed. Since Hon'ble Supreme Court in order dated 8.2.2022 has observed that the *inter se* relationship between the parties shall now be governed by the Settlement Deed dated 3.1.2022 entered between APMuL and GUVNL, reliefs prayed for by APMuL in Petition No. 614/MP/2020 have become infructuous. Accordingly, we hold that the relationship *inter se* between APMuL and GUVNL in so far as generation and supply of power from 1000 MW capacity of Unit 5 and Unit 6 of Mundra Power Project is concerned,

shall be governed in terms of the Settlement Deed dated 3.1.2022 and Petition No. 614/MP/2020 is being disposed of.

10. The Prayer (b) in the IA No.1/2022 is answered accordingly.

11. Petition No. 614/MP/2020 and I.A. No. 1/IA/2022 are disposed of in terms of the above. Any interim orders passed earlier in this Petition stand withdrawn.

Sd/-
(P.K.Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

sd/-
(P.K.Pujari)
Chairperson