

**BEFORE THE GUJARAT ELECTRICITY REGULATORY
COMMISSION
GANDHINAGAR**

Petition No. 1876 of 2020.

In the Matter of:

Petition under Section 86 of the Electricity Act, 2003 for recovery of termination compensation under the Power Purchase Agreement (PPA) dated 15.09.2008.

Petitioner : Gujarat Urja Vikas Nigam Limited

Represented By : Learned Advocates Ms. Ranjitha
Ramachandran, Ms. Anushree Bardhan and Ms.
Srishti Khindaria alongwith Ms. Sailaja
Vachhrajani, Ms. Girija Dave and Shri Kandarp
Mistry

V/s.

Respondent : M/s S D Kulkarni

Represented By : Nobody was present.

CORAM:

Mehul M. Gandhi, Member

S. R. Pandey, Member

Date: 29/06/2021.

Daily Order

1. The present matter was listed for hearing on 24.06.2021 through virtual hearing by Video Conferencing on account of prevailing COVID 19 pandemic.
2. Heard Ld. Advocate Ms. Ranjitha Ramachandran, on behalf of the Petitioner GUVNL. She submitted that an affidavit of service dated 22.06.2021 is filed demonstrating that Petition was sent to the Respondent by RPAD on address as per memo of parties of the Petition and the same has been duly delivered to the Respondent. Even, scanned copy of the Petition as well as hearing intimation was also emailed at the email address sdk_iit@yahoo.co.in to the Respondent as per available record with the Petitioner and the same has not bounced back. She submitted that although the service of Petition is complete but the Petitioner has not

received any reply from the Respondent. and also filed the affidavit of service in the matter on 22.06.2021.

- 2.1. She further pointed out that in the aforesaid affidavit, the Petitioner has inadvertently mentioned the Respondent S. D. Kulkarni to be company but in fact he is an individual with whom the Power Purchase Agreement (PPA) dated 15.09.2008 was executed and on account of O&M default on part of the Respondent, 'Termination Notice' was issued. She further submitted that during the last hearing held on 08.06.2021, the Respondent was not present and even today the Respondent or his authorised representative has not appeared, which clearly shows that the Respondent has chosen not to remain present before the Commission. She submitted that the matter may be adjourned one last time by the Commission on account of non-appearance by the Respondent for providing one last opportunity of hearing to the Respondent and thereafter, the matter may be disposed ex-parte by the Commission. She also submitted that the Respondent not filed any reply in the matter despite being provided with adequate time and opportunity and therefore, the Commission may foreclose the stage of filing reply by the Respondent
- 2.2. With regard to filing written submission, she requested that the Commission may grant two weeks' time to the Petitioner for filing the same.
3. We have considered the submissions of the Petitioner GUVNL. We note that the matter was earlier kept for hearing on 08.06.2021 during which nobody remained present on behalf of the Respondent. The Commission passed Daily Order dated 10.06.2021 for the said hearing, deciding to adjourn the matter so as to provide an opportunity of hearing to the Respondent. The matter was thereafter listed for hearing today but the Respondent or his authorised representative has neither remained present during today's proceedings nor made any written communication about their inability to remain present, despite being served the hearing notice which was sent to both the Petitioner and the Respondent by Speed Post and even the Petitioner forwarded the same to the Respondent through email at the Email-ID as available on the record of the Petitioner.
 - 3.1. We have also noted the submission of the Petitioner that copy of the Petition is served to the Respondent by RPAD on address on memo of parties of the Petition and the affidavit of service in this regard has been filed before the Commission.
 - 3.2. As the Respondent has not remained present today and as submitted by the Petitioner that one last opportunity of hearing may be provided to the Respondent by the Commission prior to deciding the matter ex-parte. Hence, we decide to grant one last opportunity of

hearing to the Respondent prior to deciding the matter and accordingly, decide to adjourn the matter on account of non-appearance of the Respondent. We direct the Respondent to remain present during the next date of hearing or to communicate its inability to remain present in case of unavoidable circumstances in advance. We also note that the Respondent has not filed any reply in the present Petition till date despite being provided with adequate time & opportunity and therefore, the Petitioner sought that the Commission to foreclose the stage of filing reply by the Respondent. We decide to grant a last opportunity to file its reply with a copy to the Petitioner, failure to which tantamount to close the stage of reply to be filed by the Respondent. Moreover, as agreed, the Petitioner is directed to file their written submissions, within two weeks' from the date of this Order with a copy to the Respondent.

- 3.3. We also note that the Respondent is already provided two opportunities of hearing by the Commission to enable making submissions and advancing oral arguments but nobody has remained present during these hearings. We therefore, make it clear and decide that, if the Respondent does not remain present during the next date of hearing or does not communicate in advance its inability to remain present on the next date of hearing due to unavoidable circumstances, the Commission will proceed ex-parte in the matter based on the records of the present Petition.
- 3.4. We also direct staff of the Commission to provide copy of this Daily Order by post to the Respondent at all the addresses of the Respondent as per affidavit of service filed by the Petitioner before the Commission and also email scanned copy of this Daily Order and hearing intimation notice at the email address sdk_iit@yahoo.co.in of the Respondent.
4. The next date of hearing will be intimated separately.
5. We order accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.
Date: 29/06/2021.