

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
AT GANDHINAGAR**

PETITION NO. 2004 OF 2021

In the matter of:

Petition under Sections 86 (1)(b) and 86(1)(f) of the Electricity Act, 2003 for approval of amendments to the PPA between Gujarat Urja Vikas Nigam Ltd. (GUVNL) and Essar Power Gujarat Ltd. (EPGL) by way of Supplemental PPA dated 12.08.2021 pursuant to the Order dated 27.04.2020 of the Commission and Government of Gujarat GR and Letter dated 12.06.2020 and Government of Gujarat GR dated 05.06.2021.

Petitioner : Gujarat Urja Vikas Nigam Limited,
Sardar Patel Vidyut Bhawan,
Race Course, Vadodara – 390007.

Represented by : Shri Sanjay Mathur, Shri K. N. Chudasama and Shri
Prerak Khamar

V/s

Respondent No. 1 : Essar Power Gujarat Ltd.,
44 KM Milestone, Jamnagar - Okha Highway,
P.O. Box No. 07, Khambhalia P.O.,
Dist. Devbhumi Dwarka - 361 305.

Represented by : Sr. Adv. Shri Mihir Thakore, Adv. Shri Raheel
Patel and Adv. Ms. Aditi Sharma

Respondent No. 2 : Energy Watchdog,
B 5/51, Paschim Vihar,
New Delhi.

Represented by : Nobody was present

Respondent No. 3 : Prayas (Energy Group),
Unit III A&B, Devgiri,
Joshi Railway Museum Lane,
Kothurd Industrial Area,
Kothurd, Pune - 411 038

Represented by : Nobody was present

Objector : Utility Users Welfare Association,
Laxmi Ginning Compound,
Opp. Union Co. Op. Bank Ltd.,
Naroda, Ahmedabad – 382330.

Represented by : Nobody was present

CORAM:
Mehul M Gandhi, Member
S. R. Pandey, Member

Date: 11/11/2021

DAILY ORDER

1. The matter was heard on 09.11.2021.
2. Ld. Senior Adv. Mr. Mihir Thakore, on behalf of the Respondent No. 1, submitted that although earlier objections were raised by the Respondent No. 1 vide its additional affidavit dated 06.10.2021 for giving effect for the ceiling price of 90 USD/MT for HBA index as specified in Clause 3.2.4 (II) of the SPPA dated 12.08.2021 and four different pricing mechanism provided by the Petitioner but now the Respondent No. 1 is not objecting to aforesaid issues and it is clarified that there is no objection to the said clauses and the Respondent No.1 has accepted the said clauses as per the SPPA dated 12.08.2021. Hence, it needs to be taken on record that the aforesaid objections raised in their submission dated 06.10.2021 stand withdrawn. It is further submitted that the Respondent No. 1 is facing severe financial issues and therefore, the Commission is requested to approve the SPPA and decide the matter.
3. Mr. Sanjay Mathur, on behalf of the Petitioner GUVNL, submitted that in compliance to the directives of the Commission vide its Daily Order dated 29.09.2021, the Petitioner has issued public notice in English and Gujarati newspapers and invited comments/suggestions/objections from the stakeholders and also upload the present Petition alongwith all relevant documents on its website. In response to the said public notice, the Petitioner has received comments only from one objector viz. Utility Users Welfare Association on 29.10.2021 and thereafter, the Petitioner has filed reply on same vide affidavit dated 02.11.2021.

4. The office of the Commission has received an e-mail communication from Objector Utility Users Welfare Association dated 09.11.2021 seeking adjournment on the ground that the Objector had not enough time to study the reply dated 02.11.2021 filed by GUVNL and submit rejoinder in reply due to holidays of Diwali and New year festivals.
5. In response to the aforesaid submission of Objector, UUWA dated 09.11.2021, Mr. Sanjay Mathur, on behalf Petitioner GUVNL submitted that the Petitioner has already replied and dealt with the issues raised by Objector UUWA in detail vide its submission dated 02.11.2021. Therefore, the Commission may decide the matter and approve the SPPA as early as possible since, the Petitioner is in need of power.
6. Ld. Senior Adv. Mr. Mihir Thakore, on behalf of the Respondent No. 1, submitted that Respondent EPGL has not received any e-mail/copy from Utility Users Welfare Association for adjournment. However, after perusing aforesaid e-mail, it is submitted that as regards the issues raised by the Objector on merits of the case, the same are dealt by the Commission and covered in earlier Order dated 27.04.2021 in Petition No. 1807 of 2019. Referring para 10.2 of the said Order, it is submitted that the Commission has already decided the matter and passed detailed order on these issues. It is further submitted that even the Petitioner, GUVNL vide its submission dated 02.11.2021 as dealt with the issues in detail regarding (i) revocation of G.R. dated 01.12.2018 and Guidelines dated 12.06.2021, (ii) Whether the Commission is bound by the Government directions or not, (iii) Gujarat High Court Order dated 24.09.2007 in SCA No. 2186 of 2007, (iv) legal status of the Petitioner, GUVNL. Moreover, the issues raised by Objector UUWA in present matter are identical to issues raised earlier in Petition No. 1807 of 2019 and the Commission has already dealt with same from para 22 onwards in its Order dated 27.04.2021 in Petition No. 1807 of 2019. Further, the present Petition is an inter-se fresh matter pertaining to signing of SPPA between the Petitioner and Respondent EPGL pursuant to the Order dated 27.04.2020 of the Commission and Government of Gujarat GR and Letter dated 12.06.2020 and Government of Gujarat GR dated 05.06.2021. Therefore, the Commission may decide the matter accordingly.
7. On query from the bench, regarding the issue raised by the Objector, UUWA vide its above e-mail dated 09.11.2021 regarding non-joining of the parties by GUVNL who have participated in Petition No. 1807 of 2019 as per Civil Procedure Code 1908 and violation

of principle of natural justice, Mr. Sanjay Mathur, on behalf Petitioner GUVNL, submitted that the Petitioner has followed the procedure as directed by the Commission vide Daily Order 29.09.2021 and issued public notice for inviting comments/objections from the stakeholders to which UUWA filed its submissions and GUVNL has already filed its reply on same, which is also consented by the Respondent No.1, EPGL.

8. Heard the parties. We note that the Petitioner has followed the directions given in Daily Order dated 29.09.2021 and invited comments and suggestions from the stakeholders by issuing public notice in widely circulated newspapers and also uploaded the Petition on its website. Also, the staff of the Commission uploaded the Petition and other documents on website of the Commission. In response comments/suggestion dated 29.10.2021 have been filed by Utility Users Welfare Association only. We also note that the Petitioner has also replied to the objections raised by the Utility Users Welfare Association vide its submission dated 02.11.2021.
9. We note that nobody was present on behalf of Objector, Utility Users Welfare Association. We also note that the Objector, Utility Users Welfare Association has sought an adjournment vide e-mail dated 09.11.2021 on the ground of not getting enough time to study and submit rejoinder on the reply of GUVNL dated 02.11.2021. We also note that the Petitioner and the Respondent have opposed the adjournment sought by the Objector, UUWA and also submitted that these objections were already dealt within earlier Petition.
10. We keep this matter on 16.11.2021 at 11:30 A.M., so as to provide an opportunity to UUWA for any submission, and thereafter the matter would be for order.

Sd/-

(S. R. PANDEY)
MEMBER

Sd/-

(MEHUL M. GANDHI)
MEMBER

Place: Gandhinagar

Date: 11/11/2021