

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 374/MP/2018**

Subject : Petition under Section 79 (1)(b) of the Electricity Act, 2003 read with Article 18.1 of the Power Purchase Agreements (PPAs) dated 6.2.2007 and 2.2.2007 under 1000 MW Bid-1 and 1000 MW Bid-2 respectively, executed between Gujarat Urja Vikas Nigam Limited and Adani Power (Mundra) Limited for approval of amendments to the PPAs by way of Supplemental PPAs.

Date of Hearing : 20.12.2018

Coram : Shri P. K. Pujari, Chairperson  
Dr. M. K. Iyer, Member

Petitioner : Gujarat Urja Vikas Nigam Limited

Respondents : Adani Power (Mundra) Limited & Ors.

Parties present : Shri Hemant Sahai, Advocate, GUVNL  
Shri Nitish Gupta, Advocate, GUVNL  
Shri K.N. Chudasama, GUVNL  
Shri M.G. Ramachandran, Advocate, Prayas  
Ms. Ranjita Ramachandran, Advocate, Prayas  
Shri Anil Kumar, Energy Watchdog  
Shri Ashwini Chitni, Prayas  
Shri Jagnish Langalia, APML

**Record of Proceeding**

Learned counsel for the Petitioner submitted that the present petition has been filed for approval of amendments to the PPAs by way of Supplemental PPAs in pursuance of the judgment of the Hon`ble Supreme Court dated 29.10.2018 in M.A. Nos. 2705-2706 of 2018 in Civil Appeal Nos. 5399-5400 of 2016. Learned counsel further submitted as under:

(a) After the judgment of the Hon`ble Supreme Court dated 11.4.2017, the Government of Gujarat vide Resolution No. CGP-12-2018-166-K dated 3.7.2018 constituted High Power Committee (HPC) to obtain its recommendations with regard to resolution of the issues of the imported coal based Power Projects located in the State of Gujarat.

(b) The HPC analysed the report and made recommendations considering 'consumer interest' as paramount. The extract of the recommendations of HPC is as under:

(i) Reduction of capacity charge on account of sacrifice by lenders;

(ii) Past losses to be borne by Developers and the financial resolution plan being applicable from a prospective cut-off date of 15th October 2018;

(iii) Option for extension of PPA tenure by another period of 10 years after the completion of the PPA tenure of 25 years;

(iv) Offer for tie-up of free capacity; and

(v) Sharing of profit from the Indonesian mines.

(c) Before implementing the recommendations of HPC, the Petitioner filed Miscellaneous Application No. 2705-2706 of 2018 in CA No. 5399-5400 of 2016 to obtain clarification of the Hon'ble Supreme Court on the concerns raised by the Consumer Organizations that in the face of the judgment of the Hon'ble Supreme Court dated 11.4.2017 in CA No. 5399-5400 of 2016, any amendment would be illegal and contrary to the said judgment. The Hon'ble Supreme Court vide its order dated 29.10.2018, clarified that the parties can approach the Commission for approval of proposed amendment and that Judgment dated 11.04.2017 will not stand in the way of such amendment.

(d) Subsequently, the Government of Gujarat, vide its Policy directions contained in Resolution No. CGP-12-2018-166-k (Policy GR) dated 1.12.2018, accepted the recommendations of the HPC with modifications as stated in Policy GR, decided to implement the same and consequently directed the Petitioner to amend the PPA and to approach CERC in the light of the decision of the Hon'ble Supreme Court dated 29.10.2018.

(e) Subsequently, the Petitioner has entered into two supplementary PPAs with Adani Power (Mundra) Ltd for Bid 01 and Bid 02 PPAs and the same has been submitted for approval of the Commission.

2. Learned counsel for Prayas submitted that in Pages 628, 629 and 623 of the Petition, wording is not clear and requested to direct the Petitioner to clarify the same. Learned counsel for Prayas and representative of Energy Watchdog sought ten days time to file their replies.

3. After hearing the learned counsels for the Petitioner, Prayas and the representative of Energy Watchdog, the Commission admitted the Petition and directed to issue notice to the Respondents. The Commission directed the Prayas to indicate the provisions which are required to be clarified by the Petitioner.

4. The Commission directed the respondents to file their replies by 7.1.2019, with an advance copy to the Petitioner, who may file its rejoinder, if any, by 14.1.2019. The Commission directed that due date of filing the replies and rejoinder should be strictly complied with. No extension shall be granted on that account.

5. The Petition shall be listed for hearing in due course for which separate notice will be issued.

**By order of the Commission**

**Sd/-  
(T. Rout)  
Chief (Law)**