

**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 UrjaV ikas Nigam Limited and Adani Power (Mundra) Limited for approval of amendments to the PPAs by way of Supplemental PPAs.

Date of Hearing : 23.1.2019

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

Petitioner : Gujarat Urja Vikas Nigam Limited (GUVNL)

Respondents : Adani Power (Mundra) Limited and Others

Parties present : Shri Hemant Sahai, Advocate, GUVNL  
Shri Nitish Gupta, Advocate, GUVNL  
Ms. Himangini Mehta, Advocate, GUVNL  
Shri Sanjay Mathur, GUVNL  
Shri S.K. Nair, GUVNL  
Ms. Poonam Verma, Advocate, AP(M)L  
Ms. Abiha Zaidi, Advocate, AP(M)L  
Shri M.G. Ramachandran, Advocate, Prayas  
Ms. Ranjitha Ramachandran, Advocate, Prayas  
Ms. Anushree Bardhan, Advocate, Prayas  
Ms. Poorva Saigal, Advocate, Prayas  
Shri Pulkit Agarwal, Advocate, Prayas  
Shri Shubham Arya, Advocate, Prayas  
Ms. Tanya Sareen, Advocate, Prayas  
Ms. Ashwini Chitnis, Prayas  
Shri Anil Kumar, Energy Watchdog  
Shri V. Shekhar, Senior Advocate on behalf of Ravi Shankar Kapoor  
Shri Vikas Malhotra, Advocate on behalf of Ravi Shankar Kapoor  
Shri Pankaj Sharma, Advocate on behalf of Ravi Shankar Kapoor

**Record of Proceedings**

Learned senior counsel appearing on behalf of Ravi Shankar Kapoor submitted that the Hon`ble Supreme Court vide its order dated 29.10.2018 had clarified that 'each of the consumer groups, who had appeared before us and who have appeared before us today, will be heard on all objections that may make to the proposed amendments to the PPA, after which, it will be open to the CERC to decide the matter in accordance with law.' Learned senior counsel submitted that despite the directions of the Hon`ble Supreme Court, the Petitioner, GUVNL has not impleaded him as a party in the Petition.

Learned senior counsel submitted that subsequent to the permission of the Commission, Shri Kapoor has filed his objection on the affidavit.

2. Learned counsel for the Petitioner submitted that Shri Kapoor, in his individual capacity, had filed a Miscellaneous Application before the Supreme Court for issuing the contempt notice against the bidders which was rejected by the Hon`ble Supreme Court vide order dated 29.10.2018. Learned counsel submitted that no directions have been issued by the Supreme Court to Shri Kapoor to file objections before CERC.

3. The Commission observed that in the light of the Hon`ble Supreme Court`s order dated 29.10.2018, Shri Kapoor cannot be impleaded as Respondent in this case. However, the Commission directed that keeping in view the past precedents, Shri Kapoor can make submission on the issues raised in the Petition. Accordingly, the Commission directed that the submissions already made by Shri Kapoor be taken on record. The Commission also permitted Shri Kapoor to make further submission, if any, within a period of two days.

4. Learned counsel for the Petitioner referred the report of High Power Committee (HPC), the GR of Govt. of Gujarat adopting the recommendations of HPC, the provisions of the draft amendment to Supplementary PPA and the direction of the Hon`ble Supreme Court in order dated 29.10.2018 and submitted that the consumer interest is paramount in the proposed amendment to the PPAs and requested the Commission to approve the same. Learned counsel submitted that he would meet the objections of the Respondents after the Respondents, namely Prayas Energy Group and Energy Watchdog, advanced their arguments.

5. Learned counsel for Adani Power submitted that APL is a signatory to the draft amendment to the PPAs and therefore, agree with all submissions made by the Petitioner.

6. Learned counsel for Prayas submitted that the proposed amendments are not maintainable on the grounds of protection of consumer interest, reliefs being inadmissible on account of judgment in Energy Watchdog Case, hardship to be considered with overall tariff neutrality under long term PPAs, importance of the Insolvency and Bankruptcy Code, implications of guidelines notified by the Central Government under Section 63 of the Electricity Act, 2003, burden to be shared by the promoter, namely Adani Enterprises Limited and PPAs amendment, if any, should be restricted to Indonesian Regulation impact.

7. Due to paucity of time, learned counsel for Prayas could not complete his arguments. The Commission directed to list the Petition for hearing on 4<sup>th</sup> February, 2019 at 14.30 hrs. If the arguments remain inconclusive, it shall continue on 5<sup>th</sup> February, 2019.

**By order of the Commission**

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